

#1402

RIGHT-OF-WAY FOR WATER AND SEWER
LINES from Sisters of the Holy
Cross, Inc. (CLAY UTILITIES)

RIGHT-OF-WAY FOR WATER AND SEWER LINES

26492

FOR AND IN CONSIDERATION of the sum of Two Thousand Six Hundred and No/100 (\$2,600.00) Dollars, receipt of which is hereby acknowledged, SISTE OF THE HOLY CROSS, INC., an Indiana corporation, (hereinafter referred to as "Grantor"), does hereby warrant and convey unto CLAY UTILITIES, INC., an Indiana corporation, its successors and assigns, (hereinafter referred to as "Grantee" the right to construct, maintain, inspect, operate, protect, repair, replace, or remove a sewer and water line over and through the following described real estate situated in Section 26, Township 38 North, Range 2 East, in St. Joseph County, Indiana, to-wit:

Beginning two thousand eighty-eight (2088) feet South and one hundred sixty-six and three tenths (166.3) feet west of the Northeast corner of Section 26, Township 38 North, Range 2 East, thence west on a line at an angle of 90° with the East line of Section 26, Township 38 North, Range 2 East three thousand one hundred and thirty-three and seven tenths (3133.7) feet to the East water edge of the St. Joseph River to be used as the center line of a right of way easement by Clay Utilities, Inc. for the purpose of placing sewer and water lines beneath the surface of the ground.

Said right of way to be ten feet on either side of said center line for the purpose of placing said sewer and water line and twenty feet on either side of the center line for working purpose during construction only, said twenty foot easement to contain 1.438 acres, and the forty foot easement contains 2.876 acres, including 1.438 acres in 20' easement.

together with the right of ingress and egress to and from said line or lines, or any of them, for the purposes aforesaid.

Grantor shall have the right to fully use and enjoy the above-described premises, except as to the rights herein granted; and Grantor agrees not to build, create, or construct, any obstruction, building, engineering works, or other structure over said line or lines, nor permit same to be done by others. Grantee agrees to pay any damages to growing crops, pasturage,

ST. JOSEPH CO.
INDIANA

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EDWIN A. KALCZYNSKI
RECORDER

fences, drain tile, or buildings of Grantor resulting from the exercise of the rights herein granted, said damages, if not mutually agreed upon, to be ascertained and determined by three disinterested persons, one thereof to be appointed by Grantor, one by Grantee, and the third by the two so appointed, and the written award of such three persons shall be final and conclusive.

The rights herein granted may be assigned in whole or in part.

The terms, conditions, and provisions of this right-of-way contract or any contract resulting from the exercise thereof shall extend to and be binding upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the Grantor herein, by its duly authorized officers, has executed this contract, this 24 day of May, 1966.

SISTERS OF THE HOLY CROSS, INC., Grantor

By Mother Kathryn Marie Jese
Mother Kathryn Marie, President

ATTEST:

Sister M. Bertrand C.S.C.
Sister M. Bertrand, Secretary

STATE OF INDIANA, ST. JOSEPH COUNTY) SS:

Before me, a Notary Public in and for St. Joseph County, Indiana, personally appeared Mother Kathryn Marie and Sister M. Bertrand, the President and Secretary, respectively, of SISTERS OF THE HOLY CROSS, INC., Grantor, and acknowledged the execution of the above and foregoing Right-of-Way, this

24th day of May, 1966.

Helen Sawyer
Notary Public

My commission expires:

January 8, 1970.

S.B. Deed of Starks

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AMENDMENT TO

RIGHT-OF-WAY FOR WATER AND SEWER LINES

WHEREAS, on May 24, 1966, Sisters of the Holy Cross, Inc., an Indiana Corporation, (hereinafter referred to as "Grantor"), and Clay Utilities, Inc., an Indiana Corporation, (hereinafter referred to as "Grantee"), entered into a contract entitled "A Right-of-Way for Water and Sewer Lines Improvement", which Agreement was recorded in the St. Joseph County Recorder's Office on September 10, 1967 as a permanent record of such office in Deed Book 692, Pages 555 and 556; and

WHEREAS, the City of South Bend entered into a Lease with Clay Utilities, Inc. on October 9, 1984, which was recorded in the St. Joseph County Recorder's Office on February 28, 1985 as Document No. 8503480; and

WHEREAS, the City of South Bend entered into an Amendment of Lease with Clay Utilities, Inc. on the February 28, 1985, which was recorded in the St. Joseph County Recorder's Office on February 28, 1985 as Document No. 8503483; and

WHEREAS, under the terms of the Lease and Amendment thereto the City of South Bend is now the operator of the water and sewer lines which run across the property of Grantor and which is the subject of the above-referenced document of May 24, 1966; and

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WHEREAS, Parties agree that it is in the mutual best interest of the parties that any improvements made by the Grantee or the City of South Bend be better protected against and not invite vandalism; and

WHEREAS, Parties agree that it is in their mutual best interest and that it would minimize the possibility of accidental interference with the other property of Grantor if the Grantee and its Successor in Interest were to have clear and easy access to any improvements Grantee or the City of South Bend has already made upon the land owned by Grantor pursuant to the Right-of-Way Agreement referenced above.

NOW THEREFORE, in consideration for the mutual benefits as set forth above, it is agreed that:

1. Grantee, at its own expense, shall construct and maintain an access road from the currently existing siphon chamber along the most convenient and economical route to the nearest paved roadway, whether public or private, on Grantor's land;
2. Grantee, at its own expense, shall furnish, install and maintain a gate to control access to the road mentioned in Paragraph (1) and to the currently existing siphon chamber;
3. Grantee, at its own expense, shall furnish, install and maintain around the currently existing siphon chamber an eight-foot (8') high chain link security fence, on the top of which shall be three (3) strands of barbed wire and which fence shall have a locked gate.

- 4. Except as herein specifically modified, the Right-of-Way Agreement referred to above shall remain in full force and effect; and
- 5. This document shall remain binding upon all Assigns and Successors in Interest.
- 6. Grantee, at its own expense, shall furnish, install and maintain solid covers on the siphon chamber acceptable to the Grantor so as to eliminate any odors as much as possible.

IN WITNESS WHEREOF, the Grantor and Grantee herein, by their duly authorized officers, have executed this contract, this 29 day of December, 1986.

ATTEST:

SISTERS OF THE HOLY CROSS, INC.
Grantor

By: Sister Jeanette Fettig, csc By: Sister Francis Bernard, csc
 Sister Jeanette Fettig, Secretary Sister Francis Bernard, President

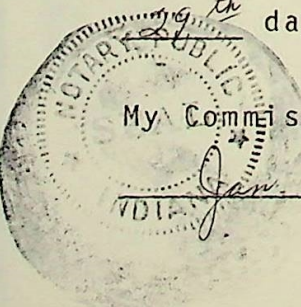
STATE OF INDIANA)
)SS:
 ST. JOSEPH COUNTY)

Before me, a Notary Public in and for St. Joseph County, Indiana, personally appeared Sister Francis Bernard and Sister Jeanette Fettig, the President and Secretary, respectively, of Sisters of the Holy Cross, Inc., Grantor, and acknowledged the execution of the above and foregoing Amendment to Right-of-Way, this 29th day of December, 1986.

My Commission Expires:

Jan. 8, 1990

Helen Dwyer
Notary Public



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CLAY UTILITIES, INC., (GRANTEE)
BY CITY OF SOUTH BEND
BOARD OF PUBLIC WORKS

John E. Leszczynski
John E. Leszczynski

Patricia E. DeClercq
Patricia E. DeClercq

Michael L. Vance
Michael L. Vance

ATTEST:

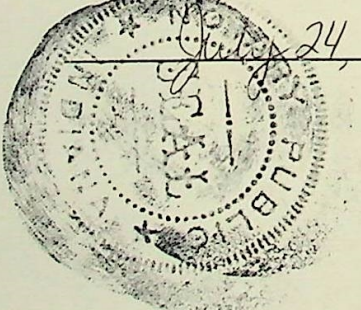
Sandra M. Parmerlee
Sandra M. Parmerlee, Clerk

STATE OF INDIANA)
) SS:
ST. JOSEPH COUNTY)

Before me, a Notary Public in and for St. Joseph County, Indiana, personally appeared John E. Leszczynski, Patricia E. DeClercq and Michael L. Vance, known to me as the members of the City of South Bend Board of Public Works, and acknowledged the execution of the above and foregoing Amendment to Right-of-Way, this 31st day of March, 1987.

Sandra M. Parmerlee
Sandra M. Parmerlee, Notary Public
Resident of St. Joseph County

My Commission Expires:
July 24, 1988



This document was prepared by Thomas L. Bodnar, Chief Deputy City Attorney, 1400 County-City Building, South Bend, IN 46601