

#1455

AMENDMENT TO EASEMENT

Right of way is located on a 30
foot strip of land in the NE
quarter, section 30, township
37 north, range 3 east. (Nohl
and Betty Lueneburg)

AMENDMENT TO EASEMENT AND RIGHT OF WAY

Whereas, Nohl A. Lueneburg and Betty R. Lueneburg granted an Easement and Right of Way to the Civil City of South Bend, Indiana (hereinafter "South Bend") for the purpose of constructing, maintaining and repairing water lines and sewer lines; said easement being dated October 31, 1973 and recorded November 27, 1973 in Deed Record 779, Page 79 in the Office of the Recorder of St. Joseph County, Indiana. Said Easement and Right of Way is located on a Thirty (30) foot strip of land in the Northeast Quarter, Section Thirty (30), Township Thirty-seven (37) North, Range Three (3) East in the County of St. Joseph, State of Indiana and said 30 foot strip being 15 feet either side of a line described as follows:

Commencing at a point 40 feet north and 685.37 feet west of the southeast corner of said northeast 1/4, said point being on the north line of Ireland Road, 15 feet east of the southwest corner of that tract of land described in Deed Record Book 766, Page 433; thence north parallel with the east line of said northeast 1/4 a distance of 398.00 feet; thence east parallel with the south line of said northeast 1/4, a distance of 175.00 feet; thence northeasterly on a line deflecting 45°00' left with respect to the aforesaid line, a distance of 25 feet, more or less to an east line of said described tract, said point being the point of termination for said easement.

ST. JOSEPH CO. RECORDER
 FILE NO. _____
 MARIANNE SEACH
 RECORDER
 Oct 9 9 23 AM '90
 ST. JOSEPH CO.
 INDIANA
 FILED FOR RECORD

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Whereas, Niemann Foods, Inc., an Illinois corporation, has entered into an Agreement to Purchase the following described real estate:

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CITY OF SOUTH BEND
 DEPARTMENT OF ENGINEERING

A part of the Southeast Quarter of the Northeast Quarter of Section 30, Township 37 North, Range 3 East, Centre Township, City of South Bend, St. Joseph County, Indiana, described as follows: Beginning at a point on the South line of the Northeast Quarter of said Section 30, a distance of 660.37 feet West of the Southeast corner of the Northeast Quarter of Section 30; thence North parallel with the East line of the Northeast Quarter of said Section, 570.42 feet; thence East parallel with the South line of the Northeast Quarter of said Section, 130.00 feet; thence South parallel with the East line of said Northeast Quarter, 180.00 feet; thence East parallel with the South line of said Northeast Quarter 55.00 feet; thence North parallel with the East line of said Northeast Quarter, 30.00 feet; thence West parallel with the South line of said Northeast Quarter, 25.00 feet; thence North parallel with the East line of said Northeast Quarter, 420.42 feet; thence West parallel with the South line of said Northeast Quarter, 553.58 feet to a point 265.10 feet East of the West line of the East Half of said Northeast Quarter; thence South parallel with the East line of said Northeast Quarter, 840.84 feet to the South line of said Northeast Quarter; thence East along said South line 393.21 feet to the point of beginning, excepting therefrom the following:

Part of the East Half of the Northeast Quarter of Section 30, Township 37 North, Range 3 East, Centre Township, St. Joseph County, Indiana, described as follows: Commencing at the Southeast corner of the Northeast Quarter of Section 30, Township 37 North, Range 3 East; thence West, on the South line of the Northeast Quarter of Section 30, a distance of 1011.20 feet to the point of beginning; thence North, parallel with the East line of the Northeast Quarter of Section 30, a distance of 840.84 feet; thence West, parallel with the South line of the Northeast Quarter of Section 30, a distance of 42.38 feet, to a point that is 265.10 feet East of the

West line of the East Half of the Northeast Quarter of Section 30; thence South, parallel with the East line of the Northeast Quarter of Section 30, a distance of 840.84 feet, to the South line of the Northeast Quarter of Section 30; thence East, a distance of 42.38 feet, to the point of beginning.

(hereinafter "Niemann Tract")

in order to enable it to construct its supermarket, and it desires that the Civil City of South Bend modify said Easement and Right of Way as hereinaftermentioned;

In consideration of the sum of One Dollar (\$1.00), the receipt and sufficiency of which is hereby acknowledged and other valuable consideration, the undersigned hereby agrees to modify aforesaid Easement and Right of Way as follows:

1. That South Bend agrees to exercise its rights under said Easement and Right of Way, including, but not limited to, construction, maintenance and/or repairs of water lines and sewers and the right of access to aforescribed real estate, in such a way as to not disturb or prevent the construction and existence of any and all improvements, including, but not limited to, buildings and retaining walls and footings and foundations related thereto and located on the Niemann Tract as long as any and all improvements are located at least five (5) feet from the location of any all such water lines and sewers existing under, over, upon and across said Easement and Right of Way on the date written below.

2. That South Bend shall not construct or allow to be constructed any water lines, sewer lines and/or other utility facilities other than such utility facilities in existence under,

over, upon and across aforescribed Easement and Right of Way on the date written below.

This amendment to Easement and Right of Way shall be binding on the City of South Bend, its successors and assigns.

IN WITNESS WHEREOF, South Bend has hereto set its hand and seal this 13th day of August, 1990.

WITNESSETH:

CIVIL CITY OF SOUTH BEND, INDIANA
By and through its Board of Public Works

By: Sandra M. Parmerlee
Sandra M. Parmerlee, Clerk
Board of Public Works

By: John Leszczynski
John Leszczynski

By: Katherine Humphreys
Katherine Humphreys

By: Patricia DeClercq
Patricia DeClercq

By: Joseph E. Kernan
Joseph E. Kernan, Its Mayor

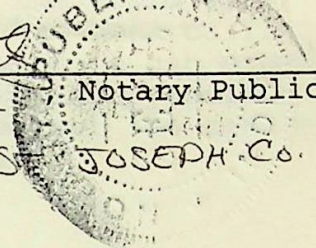
STATE OF INDIANA)
)SS:
COUNTY OF ST. JOSEPH)

I, MARYROSE PUTZ, a notary public in and for said County and State do hereby certify that John Leszczynski, Katherine Humphreys, Patricia DeClercq, Sandra Parmerlee and Joseph E. Kernan, the Mayor of the Civil City of South Bend, Indiana, personally known to me to be the same persons whose names are subscribed to the foregoing instrument appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act and as the act of the Civil City of South Bend, Indiana for the uses and purposes therein setforth.

Given under my hand and notarial seal this 13 day of AUGUST, 1990.

My Commission Expires:
2-18-93

Maryrose Putz
MARYROSE PUTZ, Notary Public
RESIDENT OF ST. JOSEPH CO.



This instrument was prepared by:
Ted M. Niemann
of Schmiedeskamp, Robertson,
Neu & Mitchell
232 N. Sixth Street
Quincy, IL 62301
(217) 223-3030

**LEGAL DEPARTMENT
INTEROFFICE MEMORANDUM**

TO : SANDRA M. PARMERLEE **DATE :** OCTOBER 29, 1990
CLERK
BOARD OF PUBLIC WORKS

FROM : JENNY PITTS MANIER
CHIEF ASSISTANT CITY ATTORNEY

RE : AMENDMENT TO LUENEURG EASEMENT AND RIGHT OF WAY

Ted Niemann, the attorney at whose request the Board of Public Works amended the above-referenced easement, has been calling, understandably, fairly frequently to inquire as to when he can expect to receive a copy of the easement modification. I would appreciate any effort you could make to determine when we can expect the return of the easement amendment from the recorder's office.

Many thanks.