

1688

Corrective Grants  
Agreement

Key 25-1023-068101

18-2109-4060

NIC TO Bendix Drive N.  
of LWW

GRANT OF EASEMENT

WHEREAS, the City of South Bend, Indiana, by and through its Board of Public Works, has custody and control of all streets and rights-of-way in the City of South Bend, Indiana, including the street commonly known as Bendix Drive; and

WHEREAS, the Northern Indiana Commuter Transportation District (NICTD) requires an easement across Bendix Drive north of Lincolnway West for the placement of railroad tracks and associated equipment and the operation of a railway; and

WHEREAS, the grant of such easement is necessary to effectuate the relocation of the South Shore Terminal to the Michiana Regional Airport, which relocation is desired and supported by the City of South Bend; and

WHEREAS, the City of South Bend, by and through its Board of Public Works, has the power to grant an easement across and over said street.

NOW, THEREFORE, BE IT ORDAINED by the Board of Public Works of the City of South Bend, Indiana, as follows:

1) That the City of South Bend, by and through its Board of Public Works, hereby grants to the Northern Indiana Commuter Transportation District an easement for the placement, installation, construction, and maintenance of railroad tracks, including all equipment and facilities incident thereto, and the operation of a railway, in, upon, over and under a portion of Bendix Drive, located in the City of South Bend, St. Joseph County, State of Indiana, more particularly described as follows:

NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT  
GRADE CROSSING AT BENDIX DRIVE - SOUTH BEND, INDIANA

Key Nos. 25-1023-068101 and 18-2109-4060

A tract of land situated in the Southwest Quarter of Section 34, Township 38 North, Range 2 East of the Second Principal Meridian, St. Joseph County, Indiana.

Beginning at a point that is 345' Northerly of the point defined by the West Right of Way line of the Northern Indiana Commuter Transportation District (also known as East line of Bendix Avenue) and the intersection of the East West centerline of Section 34, Township 38 North, Range 2 East;

Thence Northwesterly a distance of 168' along a line that is concentric with and 20' Southerly from the center of NICTD's main track, to a point on the West line of Bendix Avenue;

Thence Northerly along aforesaid West line of Bendix Avenue a distance of 50' more or less to a point that is 20' North of and concentric with the center of NICTD's main track;

Thence Southeasterly a distance of 168' along a line that is concentric with and 20' Northerly from the center of NICTD's main track, to a point on the West Right of Way line of the NICTD (also known as the East line of Bendix Avenue);

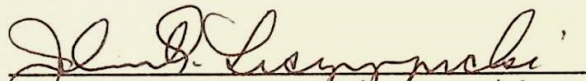
Thence Southerly a distance of 50', more or less, along aforesaid West Right of Way line of NICTD to the point of beginning.

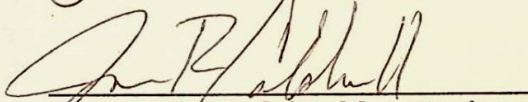
2) This easement is granted for the sole purpose set out above. Should NICTD cease the operation of railroad trains on and over the easement granted herein for a period of five (5) years, all rights granted herein shall revert to the City of South Bend.

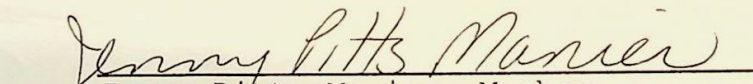
3) Neither this easement nor any rights and privileges granted herein are assignable.

Dated this 4TH day of January, 1994.

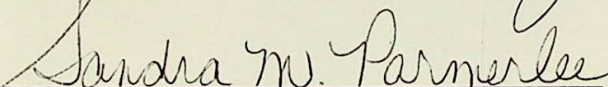
CITY OF SOUTH BEND  
BOARD OF PUBLIC WORKS

  
\_\_\_\_\_  
John E. Leszczynski, President

  
\_\_\_\_\_  
James R. Caldwell, Member

  
\_\_\_\_\_  
Jenny Pitts Manier, Member

ATTEST:

  
\_\_\_\_\_  
Sandra M. Parmerlee, Clerk

This Instrument was Prepared by: Mary Hall Mueller, Assistant City Attorney, 1400 County-City Building, South Bend, IN 46601.

c:easement.bpw



City of South Bend

Joseph E. Kernan, Mayor

## Department of Law

Richard A. Nussbaum, II, City Attorney

January 4, 1994

Mr. Bjarne R. Henderson  
District Counsel  
Northern Indiana Commuter  
Transportation District  
33 E. U.S. Highway 12  
Chesterton, Indiana 46304

Re: Easement for Grade Crossing at  
Bendix Drive, South Bend, Indiana

Dear Bjarne:

Please find enclosed a fully executed Grant of Easement from the City of South Bend to NICTD for the grade crossing at Bendix Drive. Also enclosed is a sales disclosure form which must be filed with the County Auditor when the Easement is recorded.

Carl Littrell confirmed that NICTD has completed all of the items set out in his letter to you of October 29, 1992, with the exception of the construction of the cul-de-sac for Hartzler Street. However, since the City has not yet accomplished right-of-way acquisition for the construction, it does not seem appropriate for us to hold up the Grant of Easement to NICTD for this item. However, we are relying upon your representation that the cul-de-sac construction for Hartzler Street will be undertaken by NICTD when the City has acquired the proper right-of-way.

Thank you very much for your efforts in working with the City to resolve the problems arising from the construction of the railroad right-of-way to the Michiana Regional Airport. My best wishes to you for a healthy and prosperous New Year.

Very truly yours,

Mary Hall Mueller  
Assistant City Attorney

MHM\sb  
Encs.  
cc: Carl Littrell w/Encs.

lhenderson

1400 County-City Building • South Bend, Indiana 46601 • 219/235-9241 • TDD (219) 235-5567

Thomas L. Bodnar

John E. Broden

Anne E. Bruneel

Aladean M. DeRose

Jeffrey M. Jankowski

Jenny Pitts Manier

Mary Hall Mueller

Robert C. Rosenfeld



# EXEMPT TRANSACTIONS

Prescribed for use in St. Joseph County (8/93)

## PRIVACY NOTICE

Notwithstanding IC 5-14-3, a sales disclosure form is not a public record and may only be used by the State Board of Tax Commissioners or persons acting on behalf of the State Board of Tax Commissioners.

### PART I - TO BE COMPLETED BY SELLER OR BUYER

GRANTOR  
SELLER

First Name <b>CITY OF SOUTH BEND, INDIANA</b>	M.I.	Last Name
Social Security number or Federal ID number (optional)		

Address (number and street) <b>14th Flr., County-City Bldg.</b>	City, Town or Post Office <b>South Bend</b>	State <b>IN</b>	Zip Code <b>46601</b>
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GRANTEE  
BUYER

First Name <b>NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT</b>	M.I.	Last Name
Social Security number or Federal ID number (optional)		

Address (number and street) <b>33 E. U.S. Highway 12</b>	City, Town or Post Office <b>Chesterton</b>	State <b>IN</b>	Zip Code <b>46304</b>
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ADDRESS OF  
PROPERTY  
CONVEYED

Address (number and street) <b>Crossing at Bendix Drive north of Elwood Avenue</b>	City, Town or Post Office <b>South Bend</b>	State <b>IN</b>	Zip Code <b>46628</b>
Parcel or Key number <b>25-10230068101 and 18-2109-4060</b>			

County <b>St. Joseph</b>	Township name
-----------------------------	---------------

Property class code (check one)

<input type="checkbox"/> Residential	<input type="checkbox"/> Commercial	<input checked="" type="checkbox"/> Industrial
<input type="checkbox"/> Mineral	<input type="checkbox"/> Agricultural	<input type="checkbox"/> Other (specify) _____

### EXEMPT TRANSACTIONS

Does the transaction qualify as an exempt transaction? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, specify the number of the exemption and skip to the signature section below. (To determine the number of the exemption see section entitled "Exempt Transactions" below)	Reason number <u>11</u>
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#### Exempt Transactions

If the document to be recorded clearly indicates that it is an exempt transaction, please certify that the transaction is exempt and provide the reason number.

- |  |  |
|--|--|
| 1. Security interest document such as mortgage and trust deeds   | 7. Transfer for no consideration or gift   |
| 2. Leases that are for a term of less than ninety (90) years   | 8. Documents involving the partition of land tenants in common, joint tenants or tenants by the entirety |
| 3. Document for compulsory transactions as a result of foreclosure or express threat of foreclosure, divorce, court order, condemnation or probate | 9. Re-recording to correct prior recorded document   |
| 4. Transfer to a charity   | 10. Deeds placed in escrow prior to July 1, 1993   |
| 5. Agreements and other documents for mergers, consolidations and incorporations involving solely nonlisted stock                                  | 11. Easements / Right of Way Grants for no consideration   |
| 6. Quitclaim deeds not serving as a source of title  | 12. Documents executed prior to July 1, 1993, but not previously recorded                                |

### Signature and Verification Section

The parties to a real property conveyance document are required to file this form and attest in writing and under the penalties of perjury that the information contained herein is true and correct. A person who knowingly and intentionally falsifies any information required on this form commits a Class C misdemeanor.

Under Penalties of Perjury, I hereby certify that this Sales Disclosure, to the best of my knowledge and belief, is true, correct and complete as required by law, and is prepared in accordance with IC 6-1.1-5.5, "Real Property Sales Disclosure Act".

For an exempt transaction only one signature (seller, buyer or either's representative) is required.

Signature of seller or representative <i>Marydale Mueller, Esq. Attorney</i>	Telephone number <b>(219) 235-9241</b>	Date signed (month, day, year) <b>1-4-94</b>
Signature of buyer or representative	Telephone number <b>( )</b>	Date signed (month, day, year)

### TO BE COMPLETED BY THE AUDITOR AND RECORDER

COUNTY AUDITOR

STAMP HERE

COUNTY RECORDER

STAMP HERE

LEGAL DEPARTMENT  
INTEROFFICE MEMORANDUM

**TO:** SANDRA M. PARMERLEE  
CLERK, PUBLIC WORKS

**DATE:** DECEMBER 29, 1993

**FROM:** MARY HALL MUELLER *Mary*  
ASSISTANT CITY ATTORNEY

**RE:** GRANT OF EASEMENT -- NORTHERN INDIANA COMMUTER  
TRANSPORTATION DISTRICT

Please find attached original and one copy of a Grant of Easement from the City of South Bend to NICTD for the grade crossing at Bendix Drive. NICTD has now completed all of the improvements required by the City for the granting of this easement, and I recommend its approval by the Board of Public Works.

Please put this easement on the Board's agenda for Tuesday, January 4, 1994. Thank you.

Encs.

2parmerlee.mhm

CORRECTIVE GRANT OF EASEMENT

WHEREAS, on January 4, 1994, the City of South Bend, Indiana, by its Board of Public Works, executed a Grant of Easement to provide for the Northern Indiana Commuter Transportation District railroad crossing over Bendix Drive north of Lincolnway West; and

WHEREAS, said Grant of Easement was recorded on January 13, 1994, with the St. Joseph County Recorder as Document No. 9401862; and

WHEREAS, it has later been determined that the legal description on said Easement was incorrect and the granting of a corrective easement would be appropriate; and

WHEREAS, the City of South Bend, Indiana, by and through its Board of Public Works, has custody and control of all streets and rights-of-way in the City of South Bend, Indiana, including the street commonly known as Bendix Drive; and

WHEREAS, the Northern Indiana Commuter Transportation District (NICTD) requires an easement across Bendix Drive north of Lincolnway West for the placement of railroad tracks and associated equipment and the operation of a railway; and

WHEREAS, the grant of such easement is necessary to effectuate the relocation of the South Shore Terminal to the Michiana Regional Airport, which relocation is desired and supported by the City of South Bend; and

WHEREAS, the City of South Bend, by and through its Board of Public Works, has the power to grant an easement across and over said street.

NOW, THEREFORE, BE IT ORDAINED by the Board of Public Works of the City of South Bend, Indiana, as follows:

1) That the City of South Bend, by and through its Board of Public Works, hereby grants to the Northern Indiana Commuter Transportation District an easement for the placement, installation, construction, and maintenance of railroad tracks, including all equipment and facilities incident thereto, and the operation of a railway, in, upon, over and under a portion of Bendix Drive, located in the City of South Bend, St. Joseph County, State of Indiana, more particularly described as follows:

NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT  
GRADE CROSSING AT BENDIX DRIVE - SOUTH BEND, INDIANA

Key Nos. 25-1023-068101 and 18-2109-4060

A tract of land situated in the Northeast Quarter of Section 33 and the Northwest Quarter of Section 34, Township 38 North, Range 2 East of the Second Principal Meridian, St. Joseph County, Indiana.

Beginning at a point that is 345' Northerly of the point defined by the West Right of Way line of the Northern Indiana Commuter Transportation District (also known as East line of Bendix Avenue) and the intersection of the East West centerline of Sections 33 and 34, Township 38 North, Range 2 East;

Thence Northwesterly a distance of 168' along a line that is concentric with and 20' Southerly from the center of NICTD's main track, to a point on the West line of Bendix Avenue;

Thence Northerly along aforesaid West line of Bendix Avenue a distance of 50' more or less to a point that is 20' North of and concentric with the center of NICTD's main track;

Thence Southeasterly a distance of 168' along a line that is concentric with and 20' Northerly from the center of NICTD's main track, to a point on the West Right of Way line of the NICTD (also known as the East line of Bendix Avenue);

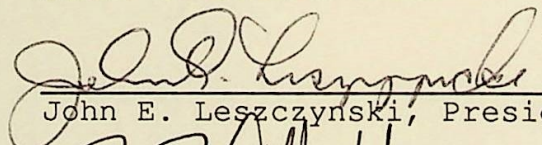
Thence Southerly a distance of 50', more or less, along aforesaid West Right of Way line of NICTD to the point of beginning.

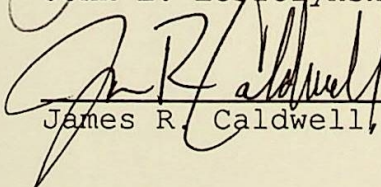
2) This easement is granted for the sole purpose set out above. Should NICTD cease the operation of railroad trains on and over the easement granted herein for a period of five (5) years, all rights granted herein shall revert to the City of South Bend.

3) Neither this easement nor any rights and privileges granted herein are assignable.

Dated this 21<sup>ST</sup> day of FEBRUARY, 1994.

CITY OF SOUTH BEND  
BOARD OF PUBLIC WORKS

  
\_\_\_\_\_  
John E. Leszczynski, President

  
\_\_\_\_\_  
James R. Caldwell, Member

\_\_\_\_\_  
Jenny Pitts Manier, Member



ATTEST:

Sandra M. Parmerlee  
Sandra M. Parmerlee, Clerk

City of South Bend  
Public Works Department

Board of Public Works

This Instrument was Prepared by: Mary Hall Mueller, Assistant  
City Attorney, 1400 County-City Building, South Bend, IN 46601.

c:easement.bpw

TO THE HONORABLE BOARD OF PUBLIC WORKS  
OF THE CITY OF SOUTH BEND, INDIANA  
FROM THE CITY ATTORNEY  
RE: CORRECTIVE GRANT OF EASEMENT

Dear Mr. Boardman:

At its meeting held on February 21, 1954, the Board of Public Works approved a Corrective Grant of Easement to the Northern Indiana Commuter Transportation District. It is the Board's understanding that the original Grant of Easement which was approved by the Board on January 4, 1954 contained an incorrect legal description.

For your information, I have enclosed the Corrective Grant of Easement and would appreciate your having this document "reopened" with the St. Joseph County Recorder. I would appreciate your providing to this office a copy of the corrected document when it becomes available.

If I can be of any further assistance to you in this matter, please do not hesitate to contact my office.

Sincerely,  
Sandra M. Parmerlee  
Sandra M. Parmerlee, Clerk



City of South Bend

Joseph E. Kernan, Mayor

## Board of Public Works

February 23, 1994

MR. BJARNE R. HENDERSON  
SENIOR ATTORNEY  
NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT  
33 East U.S. Highway 12  
Chesterton, Indiana 46304

RE: CORRECTIVE GRANT OF EASEMENT

Dear Mr. Henderson:

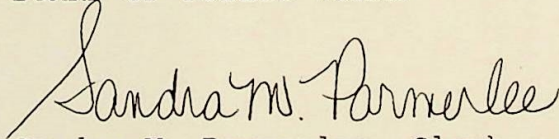
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For your information, I have enclosed the Corrective Grant of Easement and would appreciate your having this document "recorded" with the St. Joseph County Recorder. I would appreciate your providing to this office a copy of the recorded document when it becomes available.

If I can be of any further assistance to you in this matter, please do not hesitate to contact this office.

Sincerely,

BOARD OF PUBLIC WORKS

  
Sandra M. Parmerlee, Clerk

smp  
Enc.

**LEGAL DEPARTMENT  
INTEROFFICE MEMORANDUM**

**TO:** SANDRA M. PARMERLEE  
CLERK, PUBLIC WORKS

**DATE:** FEBRUARY 11, 1994

**FROM:** MARY HALL MUELLER *Mary*  
ASSISTANT CITY ATTORNEY

**RE:** GRANT OF EASEMENT TO NORTHERN INDIANA  
COMMUTER TRANSPORTATION DISTRICT

Please find enclosed two originals of a Corrective Grant of Easement to the Northern Indiana Commuter Transportation District. Also, enclosed is a copy of the original Grant of Easement which was executed by the Board on January 4, 1994. As it turns out, NICTD provided the City with an incorrect legal description, which has necessitated the grant of a corrective easement.

Please put this easement on the agenda for the next Board of Works meeting. After execution, one copy should be sent to Bjarne R. Henderson, Senior Attorney, Northern Indiana Commuter Transportation District, 33 E. U.S. Highway 12, Chesterton, Indiana 46304, with instructions for him to record the same. Please let me know if you have any questions or comments. Thanks for your help, as always. I'll miss you.

Encs.

2parmerlee.mhm

*Mail Home Document*

9401862

GRANT OF EASEMENT

Transfer 13255  
Taxing Unit Sb/SbGerm  
Date 1-13-94

2

WHEREAS, the City of South Bend, Indiana, by and through its Board of Public Works, has custody and control of all streets and rights-of-way in the City of South Bend, Indiana, including the street commonly known as Bendix Drive; and

WHEREAS, the Northern Indiana Commuter Transportation District (NICTD) requires an easement across Bendix Drive north of Lincolnway West for the placement of railroad tracks and associated equipment and the operation of a railway; and

WHEREAS, the grant of such easement is necessary to effectuate the relocation of the South Shore Terminal to the Michiana Regional Airport, which relocation is desired and supported by the City of South Bend; and

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*Legal description  
See Certificate  
dated 2-14-94*

NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT  
GRADE CROSSING AT BENDIX DRIVE - SOUTH BEND, INDIANA

Key Nos. 25-1023-068101 and 18-2109-4060

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Thence Northwesterly a distance of 168' along a line that is concentric with and 20' Southerly from the center of NICTD's main track, to a point on the West line of Bendix Avenue;

Jan 13 9 27 AM 1994

DULY ENTERED FOR TAXATION  
BEVERLY D. CRONE  
AUDITOR

Thence Northerly along aforesaid West line of Bendix Avenue a distance of 50' more or less to a point that is 20' North of and concentric with the center of NICTD's main track;

Thence Southeasterly a distance of 168' along a line that is concentric with and 20' Northerly from the center of NICTD's main track, to a point on the West Right of Way line of the NICTD (also known as the East line of Bendix Avenue);

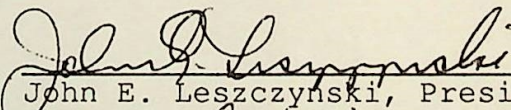
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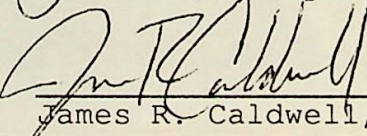
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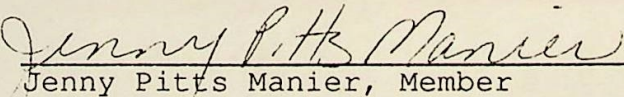
3) Neither this easement nor any rights and privileges granted herein are assignable.

Dated this 4<sup>TH</sup> day of January, 1994.

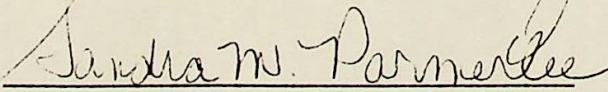
CITY OF SOUTH BEND  
BOARD OF PUBLIC WORKS

  
\_\_\_\_\_  
John E. Leszczynski, President

  
\_\_\_\_\_  
James R. Caldwell, Member

  
\_\_\_\_\_  
Jenny Pitts Manier, Member

ATTEST:

  
\_\_\_\_\_  
Sandra M. Parmerlee, Clerk

This Instrument was Prepared by: Mary Hall Mueller, Assistant City Attorney, 1400 County-City Building, South Bend, IN 46601.

c:easement.bpw