

DRAINAGE EASEMENT AGREEMENT

This agreement made in triplicate and entered into this 28th day of April, 1960 between Samuel W. McClary and Ida Belle McClary, husband and wife, Hugh W. McClary and Maude G. McClary, husband and wife, hereinafter called "Owners", and the City of Fremont, Nebraska, a municipal corporation, hereinafter called "Licensee".

RECITALS

A. Owners own that land located in the N $\frac{1}{2}$  of Section 13, Township 17 North, Range 8 East of the 6th P. M., Dodge County, Nebraska and as shown and reflected on the plat attached hereto and made a part of this agreement.

B. The licensee has and maintains a storm sewer system in the City of Fremont, Nebraska and at the present time there is a natural drainage way running in a South-Easterly direction across the above described real estate and as shown and designated on said plat.

C. Licensee proposes to construct a new drainage way across owner's property to the new Rawhide Ditch and the parties are desirous of making this drainage easement agreement to provide for said new drainage way.

D. IT IS THEREFORE AGREED AS FOLLOWS:

1. Owners do hereby grant to City a perpetual drainage easement for storm sewer drainage way across the owner's land and as shown on said plat, said description appearing as Exhibit 2 and attached hereto.
2. City will build said ditch with a 8 foot bottom, 24 foot top and with a to one slope which will be maintained so as to enable the owner's tenants to cross thru and over said ditch.
3. The spoiled dirt coming from the new ditch will be used to fill up the drainage way which will be done by and at the expense of the City.
4. The sole cost and expense of maintenance, construction and keeping in repair of said ditch shall be that of the City.



5. The use of said ditch will be limited to storm sewer water and which is serving and draining the present area and no new water sheds will be tapped in the future to enter therein.

6. A proper protective construction in the nature of a spillway will be made to prevent erosion as to the point of release of the water from the new ditch into the new Rawhide Ditch to offset the fall.

7. The City shall destroy the weeds twice a year growing within the easement margins on or before July 1 and on or before September 1.

8. The City agrees to indemnify and save harmless the owners from and against all claims and demands for loss or damage to property or persons including the parties hereto and their employees arising from or growing out of in whole or in part, the construction, repair, existence or use of said open ditch.

9. In the event that the City ceases to use said right of way for the purposes herein expressed and for a continuous period of three years and by official action of the City said right of way shall be deemed to have been abandoned for the uses or purposes for which said easement is given and on the termination of said easement, the City shall surrender and deliver without cost to owners, its successors or assigns, possession of the premises herein above described and said easement right of way shall revert to owners.

10. That the land covered by this agreement may be used by owner for all farming purposes.

This easement is executed by the Mayor and City Clerk by virtue of a resolution of the City Council of said City, which resolution was passed on the 28<sup>th</sup> day of June, 1960.

Samuel W. McClary  
(Samuel W. McClary)

Ida Belle McClary  
(Ida Belle McClary)

Hugh W. McClary  
(Hugh W. McClary)

Maude G. McClary  
(Maude G. McClary)

ATTEST  
Carey Olson  
City Clerk

CITY OF FREMONT, a municipal corporation  
Ernest C. Brooks  
Mayor





STATE OF N.C. )  
COUNTY OF Craw ) SS.

On this 24 day of May, 1960, before me, the undersigned, a Notary Public, duly commissioned, qualified for and residing in said county personally came Samuel W. McClary and Ida Belle McClary, husband and wife, to me known to be the identical persons whose names are affixed to the foregoing instrument and who acknowledge the same to be their voluntary act and deed.

Witness my hand and Notarial Seal the day and year last above mentioned.

Mrs. Laura B. Lillard  
Notary Public

My Commission expires July 20, 1960

STATE OF Nebraska )  
COUNTY OF Dodge ) SS.

On this 28th day of April, 1960, before me, the undersigned, a Notary Public, duly commissioned, qualified for and residing in said county personally came Hugh W. McClary and Maude G. McClary, husband and wife, to me known to be the identical persons whose names are affixed to the foregoing instrument and who acknowledge the same to be their voluntary act and deed.

Witness my hand and Notarial Seal the day and year last above mentioned.

Fred H. Richards, Jr.  
Notary Public

(STATE OF NEBRASKA )  
(FRED H. RICHARDS, JR. )  
(GENERAL NOTARIAL SEAL )  
(COMMISSION EXPIRES )  
My Commission expires 5-15-1963.

STATE OF NEBRASKA )  
COUNTY OF DODGE ) SS.

On this 30 day of June, 1960, before me, a Notary Public, duly commissioned and qualified for and residing in said county, personally came the above named George E. Svoboda, Mayor and Carl F. Olson, City Clerk of said City of Fremont, Nebraska, to me known to be the identical persons and officers who executed the foregoing easement for and on behalf of the City of Fremont, Nebraska, and they acknowledged said instrument to be their voluntary act and deed, and the voluntary act and deed of said corporation, and that the corporate seal of the said City of Fremont, Nebraska, was thereto affixed by its authority.

Witness my hand and Notarial Seal the date aforesaid.  
My Commission



EXHIBIT TWO

South 28 feet of the  $NE\frac{1}{4}NW\frac{1}{4}$  and the South 28 feet of the West 309.8 feet of Tax Lot 2 of the  $NW\frac{1}{4}NE\frac{1}{4}$  of said Tax Lot 2 being all that portion of said 40 acre tract lying West of the Chicago & Northwestern Railway right-of-way now abandoned all in Section 13, Township 17 North, Range 8 East of the 6th P. M., Dodge County, Nebraska as platted and recorded.



PLAT OF PART OF THE NORTH HALF OF SECTION 13, TOWNSHIP 17 NORTH, RANGE 9 EAST OF THE 6TH R.M., SHOWING A PROPOSED DRAINAGE EASEMENT ACROSS THE SOUTH 28 FEET OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE SOUTH QUARTER LYING WEST OF THE C.O.M.W. R.R. RIGHT OF WAY, AND OVER AND ON MCCLARY PROPERTY.

*James D. Clark*  
Reg. Land Surveyor

SCALE 1" = 200'  
MAY 5, 1960

