

CITY OF OMAHA

COUNCIL CHAMBER

Omaha, Nebr. May 2 1947

RESOLVED

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

That the Mayor be, and he hereby is, authorized to accept and agree on behalf of The City of Omaha and the City Clerk is hereby authorized and directed to attest an agreement between the City of Omaha and the Union Stock Yards Company of Omaha (Ltd) and record same, relative to a right-of-way or easement for the purpose of constructing, maintaining and operating reinforced concrete sanitary and storm sewers thru the attached described property, marked (A), (B), (C) and (D) and by this reference made a part hereof.

I hereby certify that the foregoing is a true and correct copy of the original document now on file in the City Clerk's office.

[Signature] CITY CLERK

By A. J. Weaver

Adopted May 13, 1947

G. W. Leeman Mayor and President City Council

Attest M. J. Dineen, Jr. City Clerk

No. 1827

Initiation by Mr. Weaver

Authorizing Mayor to execute agreement with Union Stock Yards Co. for right-of-way or easement for the purpose of construction sanitary and storm sewer 1540 between 21st and "B" Sts and Dahlman Ave. and "D" Sts.

Presented to City Council

May 13 1947

Adopted

M. J. Dineen, Jr. City Clerk

RIGHT OF WAY

WHEREAS, the City of Omaha, a municipal corporation, is desirous of acquiring from the Union Stock Yards Company of Omaha, (Ltd.) the right to construct and maintain a sanitary and storm sewer across certain property of said Company, including the right to tunnel under certain railroad tracks upon property owned by said Company.

NOW, THEREFORE, in consideration of the covenants herein contained to be kept on the part of the said City of Omaha, said Union Stock Yards Company of Omaha, (Ltd.), a Nebraska corporation, hereby grants unto the said City of Omaha, Nebraska, a right-of-way for the purpose of constructing, maintaining and operating thereon a reinforced concrete sanitary and storm sewer, said sewer to be constructed beneath the surface of the ground included within said right-of-way, except as specifically provided to the contrary herein; said right-of-way being specifically described as follows -

- 1) As set forth in Exhibit "A" attached hereto and made a part hereof and as outlined in yellow on Exhibits "A-1", "A-2" and "A-3" attached thereto.
- 2) As set forth in Exhibit "B" attached hereto and made a part hereof and as outlined in yellow on the blue print attached thereto marked Exhibit "B-1".
- 3) As set forth in Exhibit "C" attached hereto and made a part hereof and as outlined in yellow on Exhibit "C-1" attached thereto.

(Note: That part of Exhibit "C-1" commencing at a point on the westerly line of the Omaha Belt Railway, i.e., Missouri Pacific Railroad Corporation in Nebraska, 748.6 feet east of the center of Sec. 4, Twp. 14 North, R. 13 East of the 6th P.M. and outlining in yellow the right-of-way herein granted running generally in a north-westerly direction, is an enlargement of the commencement of the right-of-way as heretofore set forth in Exhibit "A-1" with more details indicated thereon.)

- 4) As set forth in Exhibit "D" attached hereto and made a part hereof and as outlined in yellow and dark yellow on the blue prints marked Exhibits "D-1" and "D-2" attached thereto, said outline on Exhibit "D-1" to be changed from that in yellow to that indicated in dark yellow as hereinafter more specifically set out.

Said sewer, except as hereinafter provided, shall be a closed sewer constructed of reinforced concrete, the top of which shall be below the surface of the ground at the distance shown in the blue prints attached hereto. Said City of Omaha shall construct and maintain said sewer and at all times keep it in good and safe condition and repair at its own cost and expense.

It Is Further Understood and Agreed that where the Union Stock Yards Company of Omaha, (Ltd.) maintains railroad tracks, the said grant of Right-of-way is limited to the right to tunnel under said tracks at the depth and grade set forth in the blue prints attached hereto; and It Is Understood and Agreed that said sewer shall be so constructed and repaired that during such work of construction and repair, the full operation and enjoyment of the railroad tracks, rolling stock and property of said Union Stock Yards Company of Omaha, (Ltd.) shall not be in any way impeded or interfered with, and said City of Omaha shall operate and maintain said sewer in such a manner and under such circumstances as not to interfere in any manner whatever with the full operation of the tracks, rolling stock and property of the said stock yards company, and said City of Omaha shall, at its own sole cost and expense, save, protect and keep harmless said Union Stock Yards Company of Omaha, (Ltd.) from any loss, damage or injury which may result to it, its tracks, trains, rolling stock or property or in any manner whatsoever by reason of the location, operation or maintenance of the sewer under Company's tracks

or by reason of the failure of said City of Omaha faithfully to keep any of the stipulations herein contained.

After construction of said sewer, the City of Omaha shall fill up any ditch or trench made in the construction of said sewer and level off same. The City of Omaha shall so maintain and operate said sewer as in no way to hinder or prevent the proper use of the tract through which this Right-of-way is granted for other purposes, including the right on the part of the stock yards company to use the surface above said sewer, and the right, if necessary, to operate and construct additional railroad tracks thereon or roadways or other facilities thereon.

The City of Omaha shall have the right of ingress and egress for the purpose of constructing, maintaining and repairing said sewer. It Is Agreed that Union Stock Yards Company of Omaha, (Ltd.) shall bear no part of the expense of construction or maintenance of said sewer.

Union Stock Yards Company of Omaha, (Ltd.) reserves the right to determine what safeguards are necessary for the protection of its railroad tracks and other facilities during the construction or repair of said sewer, which said safeguards shall be constructed at the sole cost and expense of the City of Omaha, it being expressly understood that the said stock yards company shall not be subjected to any costs, charges or expenses either for the original construction or the subsequent repair of said sewer, or to any cost, damage or other expense by reason of the existence, construction or repair of said sewer, but that all such damage, cost or expense shall be borne and paid for by the City of Omaha.

It Is Mutually Understood and Agreed that the City of Omaha shall use the Right-of-way herein granted, subject to

the rights and necessities of the Union Stock Yards Company of Omaha, (Ltd.), and that the rights herein granted by said Company shall not in any wise prevent said Company from using its railroad tracks in any manner which it may deem necessary, proper or convenient in the conduct of its business, and said City of Omaha assumes all damage and injury which may be occasioned to said sewer through such use.

It Is Understood that the grant of this Right-of-way is subject to a lease to a part of said property held by the South Omaha Terminal Railway Company, and that the full operation and enjoyment of the property so leased by said Company shall not be in any way impeded or interfered with by the construction and maintenance of said sewer, and said City of Omaha agrees to operate and maintain said sewer in such a manner and under such circumstances as not to interfere in any manner whatever with the full operation of the tracks, rolling stock and trains of said Lessee located upon said property.

City of Omaha understands and agrees that the Right-of-way granted to it over the property set forth in Exhibit "D" is a 50-foot right-of-way for the construction of a closed sewer for 250 feet additional to that shown on Exhibit "D-1"; that is, the right-of-way shall be as described in Exhibit "D" and shall be as outlined on Exhibit "D-1", except that the 50-foot right-of-way to construct a closed sewer shall extend 250 feet in addition in a southeasterly direction towards the Missouri River, and the 150-foot right-of-way shall commence and extend from the southeastern terminus of said 250 feet additional 50-foot right-of-way, and

the said grant of 150 feet right-of-way for the purpose of maintaining an open sewer shall be 250 feet shorter at its northwesterly end than that outlined in yellow on Exhibit "D-1"; it being understood that the 250 feet addition to the 50-foot right-of-way for the purpose of constructing a closed sewer is as outlined on Exhibit "D-1" as an extension of the 50-foot right-of-way and is marked "250-foot additional".

It Is Agreed that the blue prints attached were prepared by the City of Omaha and that they are to be considered together to determine the course of said right-of-way granted by the stock yards company, and that the details indicated on said blue prints governing the depth of said sewer below the surface of the ground shall be binding upon the City of Omaha.

The exhibits, other than the blue prints, have likewise been prepared by the City of Omaha, and the City of Omaha consents to the changes made in Exhibit "D" made necessary by the extension of said 50-foot right-of-way for a distance of 250 feet.

It Is Further Agreed that the said City shall not at any future time make any diggings or excavations for the purpose of constructing, renewing or repairing said sewer until it shall have notified the stock yards company of its intention so to do.

It Is Agreed that the City of Omaha shall save, protect and hold harmless said stock yards company and indemnify it against any loss, damage or injury which may hereafter result to said stock yards company and to third parties or their property by reason of the location,

operation or maintenance of said sewer or by reason of the failure of said City of Omaha to faithfully keep the stipulations herein contained.

DATED this 22 day of April, 1947.

UNION STOCK YARDS COMPANY OF OMAHA, (LTD.)

By

*[Handwritten signature]*

Attest -

*[Handwritten signature]*  
Secretary.

Accepted and Agreed To -

CITY OF OMAHA

By

*[Handwritten signature]*

Attest - *[Handwritten signature]*  
City Clerk

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INDEXED IN NUMERICAL INDEX AND RECORDED IN THE REGISTER OF DEEDS OFFICE OF SERRAS COUNTY, MERRICK  
7 June 1947 10:27 A.M. THOMAS L. O'CONNOR, REGISTER OF DEEDS

2.50