

PERPETUAL EASEMENT AGREEMENT

This agreement made and entered into this 24th day of April, 1951, by and between Hills Farm, Inc., a corporation created under the laws of the State of Nebraska, hereinafter called "OWNER", and the City of Fremont, Dodge County, Nebraska, a municipal corporation, hereinafter called the "CITY", WITNESSETH.

Recitals

A. The OWNER owns land in Sections 26 and 35, Twp. 17 N., R. 8 E. of the 6th P.M., Dodge County, Nebraska, west of and contiguous to the Chicago, Burlington & Quincy Railroad Company's railroad right of way and bounded on the north by the City Limits, and on the south by the north margin of the Platte River.

B. The CITY first informed the OWNER some months ago that it was desirous of constructing (or causing to be constructed) an open ditch or drain, tile drain, or both, and thereafter to operate and maintain (or caused to be operated and maintained) the same over and on a part of OWNER'S land, and for the purpose of affording surface and storm water drainage as to the southwest portion of Fremont, and condenser water disposal from the Hormel Plant and to construct (or caused to be constructed) and thereafter operate and maintain (or caused thereafter to be operated and maintained) a pumping plant or lift station at or near the south line of South Street in the Southeast Quarter of said Section 26 to raise drain water over or through the dike of the Farmland, Fremont, and Railroad Drainage District.

C. The CITY now informs the OWNER that it wants to install pipe lines on said right of way, for the purpose of using it and as a conduit for polluted material including sanitary sewage. It is the opinion of the owner that the city is confronted with an emergency from the standpoint of taking care of its sewage needs, and by reason thereof the OWNER is willing to give to the CITY its consent to use said right of way, and said enclosed pipe lines for the purposes, for the length of time and as expressed in Paragraph Three (3) hereof.

D. The OWNER is willing to grant unto said CITY its said original desire as set forth in Paragraph "B" hereof, and to thereafter have the right in perpetuity to operate and maintain (or caused to be operated and maintained) the same upon said parts of OWNER'S land as herein after more particularly described, and subject to the

provisions, covenants, and conditions hereinafter set forth to be observed, kept, and performed.

E. NOW THEREFORE, IT IS HEREBY AGREED:

1. That for and in consideration of \$1,000 and other valuable consideration, receipt whereof is hereby acknowledged, and upon the conditions hereinafter set forth, the OWNER grants unto said CITY the right in perpetuity to construct or reconstruct (or caused to be constructed or reconstructed) and thereafter to maintain (caused to be maintained) an open ditch or drain, and enclosed pipe lines, and pumping plant or lift station on that part of OWNER'S land on Exhibit "A" attached hereto and by reference made a part hereof.

2. The CITY shall at its sole cost and expense, construct, reconstruct, maintain and keep in repair (or cause to be constructed, reconstructed, maintained and kept in repair), said open ditch or drain and enclosed pipe lines over and on said Easement Right of Way, and keep the same clean, and rebuild (or cause to be rebuilt) such portions thereof as may be necessary, which shall include all of the land lying within the margins of said Right of Way, such as the shoulders, embankments, and slopes; the aforesaid shall be of such character and sufficient size as to make a proper and sufficient outlet, forever, for any drainage area or industry, which the CITY elects to serve as to the escape of surface or storm water or condenser water.

3. It is specifically understood and agreed that on the City Building the said enclosed pipe lines extending clear to the Platte River so as its outlet shall empty therein, the same may be used as a conduit for polluted material including sanitary sewage, and until the CITY is able to provide means for its disposition through some other agency, but in any event not to exceed a term of 20 years from date hereof and thereafter any material which will not create a nuisance or be detrimental to public health.

4. The construction of said ditch, drain or pipe line, shall be in such a manner so as to enable ingress and egress, thereto, to be confined to the limits of said Right of Way, for all purposes, including its maintenance and the destruction of weeds growing within the margins of said Right of Way. The OWNER shall have the joint right to use the Right of Way as means of ingress and egress from its land to a public highway, the CITY to build and maintain providing

for the same, and the OWNER shall have the further right to bridge said right of way for the purpose of making available to it, railway trackage and suitably grading and drainage.

5. All roads shall be destroyed (or caused to be destroyed) twice each year by the CITY before going to seed, the first time to be not later than July 1st, and the second time not later than September 15th.

6. A hog and sheep tight fence shall be installed and perpetually maintained (or caused to be installed and caused to be perpetually maintained) by the CITY and on the margin of said Right of Way, adjacent to OWNER'S land, including gates so as to provide ingress and egress to OWNER'S land and as set forth in Paragraph 4 hereof.

7. In the event the CITY fails to perform any of the conditions upon its part to be kept and performed and after a thirty day written notice has been served upon it, by delivery to the City Clerk, the OWNER may thereupon proceed to have said covenant performed and the expense thereof shall be paid by the CITY.

8. The CITY agrees to indemnify and save harmless the said OWNER from and against all claims, demands, judgments, loss, costs and expenses for injury to or death of any person, or loss of or damage to the property of any person or persons whomsoever, including the parties hereto and their employees, arising from or growing out of, in whole or in part, the construction, maintenance, repair, existence or use of said open ditch or waterway and pumping plant or lift station, whether the same shall be caused or contributed to by the negligence of said OWNER, its agents or employees, or otherwise.

9. The CITY agrees that it will surrender and deliver without cost to said OWNER, its successors or assigns, possession of the premises hereinabove described, in case the same shall be abandoned for the uses or purposes for which said easement is given, provided the CITY may within a period of 120 days after said abandonment, at its option and at its own expense, remove its pipe lines.

IN WITNESS WHEREOF, Hills Farm, Inc., has caused its corporate name to be hereunto signed by its President and its corporate seal to

to be hereunto affixed this 2nd day of May, 1951.

HIPPLIS FARM, INC.

By [Signature]

Attest:

[Signature]
Secretary

STATE OF NEBRASKA

SS

County of Dodge

On this 2nd day of May, 1951, before me, a Notary Public duly commissioned and qualified in and for said County, personally came the above named R. H. Richards, Sr., President, and Fred H. Richards, Jr., Secretary of Hipplis Farm, Inc., who are personally known to me to be the identical persons whose names are affixed to the above agreement as President and Secretary of said Corporation, and they acknowledged the instrument to be their voluntary act and deed, and the voluntary act and deed of said corporation.

Witness my hand and official seal at Fremont, in said County,

on the date aforesaid.



[Signature]
Notary Public

My Commission Expires 3-28-1953.

The terms, stipulations and conditions, all and singular, of the above easement are hereby accepted.

CITY OF FREMONT, STATE OF NEBRASKA

By [Signature]

Attest:



City Clerk

[Signature]
Asst. Clerk

EXHIBIT 11

That part of the $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 26, Township 17 N., Range 8 E., of the 6th P.M., Dodge County, Nebraska, bounded and described as follows:

"Commencing at a point on the north margin of the NE $\frac{1}{4}$ of said Section 26, where it is bisected by the west line of the Chicago, Burlington & Quincy Railroad Company's right of way; thence southerly on said west line to the south margin of said quarter section; thence westerly or and 70 feet distant from and parallel to said west line of said Railroad Company's right of way to the north margin of said NE $\frac{1}{4}$; thence easterly on said north margin 70 feet to the point of beginning; enclosed description covering two thirds of land of 2.12 acres each for a total of 4.24 acres.

and

That part of the $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 26 and the $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 35 and in Township 17 N., Range 8 E., of the 6th P.M., Dodge County, Nebraska, bounded and described as follows:

"Commencing at a point in the south margin of South Street of south Fremont, Dodge County, Nebraska, as platted and recorded and as shown on Plat No. 226 in the Register of Deeds office of said county where it is bisected by the west line of the Chicago, Burlington & Quincy Railroad Company's right of way; thence southerly and southwesterly on said west line of said Railroad right of way to the Platte River; thence westerly and at a right angle to said right of way line a distance of 50 feet; thence northeasterly and northerly 50 feet distant from and parallel to said west line of said right of way to the south line of said South Street; thence easterly on the south margin of South Street a distance of 50 feet more or less to the point of beginning; said tract containing 4.3 acres.