

## CITY OF OMAHA

COUNCIL CHAMBER

BOOK 389 PAGE 557

Omaha, Nebr. October 30, 1962

RESOLVED

(7)

WHEREAS, easement from the East Omaha Drainage District, a Nebraska Corporation, is necessary for the construction and maintenance of South Interceptor Sewer No. 2182, and the East Omaha Drainage District has submitted such easement, copy of which is attached hereto; and,

WHEREAS, it is in the best interests of the City of Omaha that said easement be accepted and agreed to by the City of Omaha.

NOW, THEREFORE, BE, AND IT HEREBY IS, RESOLVED:

That James J. Dworak, Mayor of the City of Omaha be, and he hereby is, authorized and empowered to execute the easement, copy of which is attached hereto, and the City Clerk be, and she hereby is, authorized and empowered to attest the easement and attach the corporate seal of the City of Omaha, and either of them or the Department of Public Works is authorized to deliver duplicate original or originals thereof to the East Omaha Drainage District or its representative.

IT IS FURTHER RESOLVED that the Departments of the City of Omaha are authorized and empowered to do all things necessary to comply with and perform in accordance with the terms and provisions of said easement.

By Henry J. ... Councilman

Adopted

OCT 30 1962

Approved

Mary J. Galligan City Clerk  
James J. Dworak Mayor



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.

Mary J. Galligan CITY CLERK

NO. 41294

Resolution by Mr. \_\_\_\_\_

That James J. Dworak, Mayor of the City of Omaha be, and he hereby is, authorized and empowered to execute the easement, copy of which is attached hereto, and the City Clerk be, and she hereby is, authorized and empowered to attest the easement and attach the corporate seal of the City of Omaha, and either of them or the Department of Public Works is authorized to deliver duplicate original or originals thereof to the East Omaha Drainage District or its representative. IT IS FURTHER RESOLVED that the Departments of the City of Omaha are authorized and empowered to do all things necessary to comply with and perform in accordance with the terms and provisions of said easement.

Presented to City Council

19

Adopted

City Clerk.

(7)

E A S E M E N T

THIS INDENTURE, made this 15th day of October, 1962, between East Omaha Drainage District, a Nebraska Corporation, hereinafter also referred to as District, and the City of Omaha, a Municipal Corporation of the Metropolitan Class in the State of Nebraska, hereinafter called City, witnesseth:

In consideration of the payment by the City of Omaha of the sum of \$ 712.23 to District for services of E. I. Myers, Consulting Engineer, employed by the District, payment of which is hereby acknowledged, said District does hereby grant, sell, convey and confirm unto said City and its assigns forever, the right to use, construct, build, lay, maintain, repair and reconstruct a sanitary or storm sewer pipe or both for the passage of sewer water and sewage in, through, over and under the parcel of land described as follows, to-wit:

Beginning at the centerline of the East Omaha Drainage District Levee, at Abbott Drive and Nicholas Street extended, thence Southeasterly through the Northwest and the Southwest Quarter (NW&SW 1/4) of Section Fourteen (14), Township Fifteen (15) North, Range Thirteen (13) East of the Sixth (6th) Principal Meridian in Douglas County, Nebraska, to the Burt-Izard Sewer; thence Southerly parallel more or less to the West Bank of the Missouri River along the East Toe of the Floodwall and Levee of the East Omaha Drainage District right-of-way, through the following Sections all in Douglas County, Nebraska: The Northwest and the Southwest Quarter (NW&SW 1/4) of Section Twenty-three (23), the Northwest, Northeast and Southeast Quarters (NW-NE & SE 1/4) of Section Twenty-six (26), the Northeast and Southeast Quarter (NE&SE 1/4) of Section Thirty-five (35), all in Township Fifteen (15) North, Range Thirteen (13) East of the Sixth (6th) Principal Meridian, also the Northwest and Northeast and Southeast Quarters (NW-NE&SE 1/4) of Section Three (3), the Northwest Quarter (NW 1/4) of Section Two (2), the Northeast Quarter (NE 1/4) of Section Ten (10), all in Township Fourteen (14) North, Range Thirteen (13) East of the Sixth (6th) Principal Meridian, in Douglas County, Nebraska; thence Southwesterly in the last described Section to the Sewage Treatment Plant on the West Bank of the Missouri River on "R" Street extended, all in the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska;

and does also grant, sell, convey and confirm unto said City the right to use, construct, build, lay, maintain, repair and reconstruct a hard-surface road riverward or landward from the levee and on the levee and ramp or ramps for ingress or egress, all subject to the following conditions and provisions:

A.

1. Said Easement is granted upon the expressed condition that if any changes, repairs or alterations are necessary to be made at any time or if any portion of any sewer needs to be reconstructed after the lots are filled or improved, the City shall make good or cause to be made good to the owner or owners of the above property any damage that may be done by said changes, alterations, repairs or reconstruction in the way of damage to trees, grounds, buildings or other improvements thereon, including crops, vines, gardens and lawns, caused by work and construction done by the City.
2. Said City shall cause any trench made on foresaid realty to be properly refilled, and shall cause grass seed to be sown over said trench, and shall cause the premises to be left in a neat and orderly condition. This Easement is also for the benefit of any contractor, agent, employee and representative of the City in any of said construction and work.
3. The District for itself and its successors confirms with the said City and its successors that it, the District, is either well seized in fee of the above described property, or has an easement thereon and thereto, and it has the right to grant and convey this Easement in the manner and form herein provided, and it will, and its successors, shall warrant and defend this Easement to said City and its successors against the lawful claims and demands of all persons as to the ownership and rights of the District.
4. The consideration recited includes damages for change of grade, if any, and any and all claims for damage arising from change of grade or grading are hereby waived.

## B.

5. To the extent applicable law permits, the City agrees to indemnify or to cause to be indemnified the District for any damage done to the levee in connection with the construction, operation and maintenance of said system.

6. To the extent applicable law permits, the City agrees to indemnify and hold harmless, or to cause to be indemnified or held harmless, the District against the claims of any third persons for personal injuries or property damage occasioned by the construction, operation and maintenance of said sewer.

7. If, in the opinion of the District, it becomes necessary to change the height or alignment of its levee, the District shall not be liable for any damage such change may cause to the City's Interceptor Sewer System, it being understood that this waiver does not apply to negligence and conduct causing damages and does not apply as to the negligence and conduct of third parties.

8. The rights herein granted to City are conditioned upon the City also obtaining applicable rights from the owners of the fee title of the real estate above referred to to be used by the City for each and any of the above stated uses and purposes.

9. The District has no objection to the City constructing a hard-surface road on the levee for the use by the City from Missouri Avenue South to the Sewer Disposal Plant, but no ramps shall be constructed or maintained from said hard-surface road riverward or landward from the levee without prior written approval by the District, except that permission is here granted the City to construct or have constructed a ramp for ingress or egress to the Sewer Disposal Plant provided that the shoulders of said ramp shall be no steeper than three feet on the horizontal to one foot on the vertical and the same shall be seeded with brom grass.

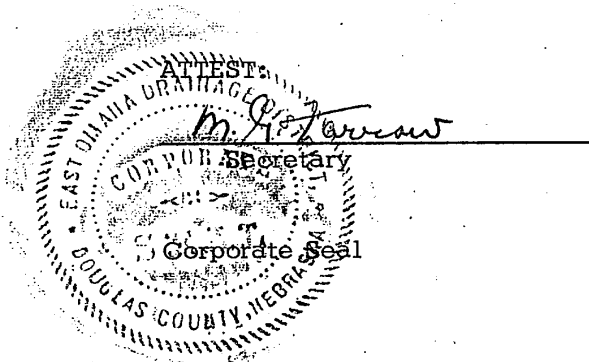
10. The City shall construct or have constructed a road barricade or chain at Missouri Avenue and at the City's ramp in the vicinity of the Sewer Disposal Plant if the District so requests.

C.

The City agrees that it is and shall be bound to comply with the requirements of the United States Army Engineers set forth in the letter of June 25, 1962 by S. L. Price, Chief, Construction Division of the United States Army Engineers, addressed to Mr. E. B. Crofoot, Attorney for the District, which provisions and requirements are:

- a. That the levee, floodwall and other facilities of the flood protection project damaged as a result of the construction be restored to their original condition.
- b. That excavations through the levee embankments be made with side slopes no steeper than 1 on 3. The backfill for the excavation must be compacted to a density equal to that of the surrounding undisturbed earth.
- c. That all necessary advance preparations be made to close opening in the levee or floodwall in the event that high water occurs during the construction. Ring levees of adequate cross section must be provided at each pipe crossing while the levee is open. The ends of the ring levees should be tied into the landside of the permanent levee.
- d. That the Omaha Office of the United States Army Engineers be notified at least forty-eight hours prior to the time openings are made in the levee or floodwall.
- e. That the Omaha Office of the United States Army Engineers be furnished "as built" drawings of the construction when it has been completed.

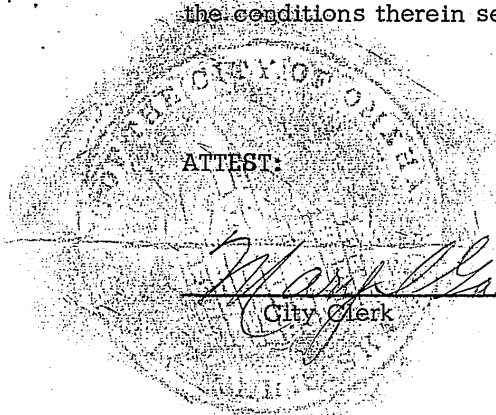
This Easement and its provisions are binding upon the undersigned, and representatives, and successors and constitute covenants running with the land.



EAST OMAHA DRAINAGE DISTRICT,  
A Nebraska Corporation,

H. D. Marshall  
President

The City of Omaha hereby accepts the above Easement and  
the conditions therein set forth.



CITY OF OMAHA, a Municipal  
Corporation in the State of  
Nebraska,

By James J. Bivens  
Mayor

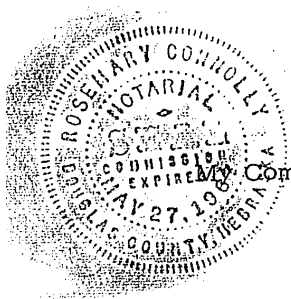
Corporate Seal.

STATE OF NEBRASKA )  
 ) SS.  
COUNTY OF DOUGLAS )

On this 15<sup>th</sup> day of October, 1962,

before me, the undersigned, a Notary Public in and for said County,  
personally came H. D. Marshall, President  
of East Omaha Drainage District, a Nebraska Corporation, and  
M. G. Farrow, Secretary of said  
Corporation, to me personally known to be the President and Secretary  
respectively of said Corporation and the identical persons whose names  
are affixed to the foregoing instrument, and acknowledged the execution  
thereof to be their respective voluntary act and deed as such officers  
and the voluntary act and deed of said Corporation, and the Corporate  
Seal of said Corporation to be thereto affixed by its authority.

WITNESS my hand and Notarial Seal at Omaha in said County  
the day and year last above written.



Rosemary Connolly  
Notary Public

Commission expires May 27, 1967.

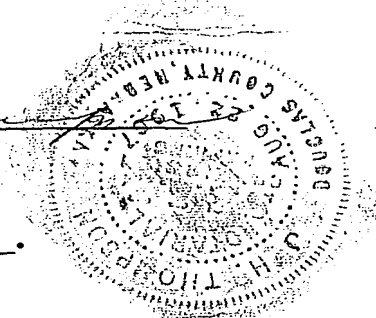
STATE OF NEBRASKA )  
 ) SS.  
COUNTY OF DOUGLAS )

On this 1 day of November, 1962 before me, the undersigned, a Notary Public in and for said County, personally came JAMES J. DWORAK, Mayor of the City of Omaha, and MARY I. GALLIGAN, City Clerk of the City of Omaha, a Municipal Corporation, to me personally known to be the Mayor and City Clerk and the identical persons whose names are affixed to the above instrument, and acknowledged the execution thereof to be their voluntary act and deed as such officers and the voluntary act and deed of the said CITY OF OMAHA, a Municipal Corporation, and that the Corporate Seal of the said CITY OF OMAHA was thereto affixed by its authority.

WITNESS my hand and Notarial Seal at Omaha in said County the day and year last above written.

J. H. Shumaker  
Notary Public

My Commission expires Aug 22, 1967.



APPROVED AS TO FORM:

Beverly E. Vandehey  
Deputy Asst. CITY ATTORNEY

RECEIVED

1962 NOV 15 PM 2 13

THOMAS J. GUNNOR  
REGISTER OF DEEDS  
DOUGLAS COUNTY, NEBR.

THE STATE OF NEBRASKA

Entered in numerical index and filed for Record in the office of the Register of Deeds of said County and recorded in Book 389 of Mac

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Thomas J. Gunnor  
Register of Deeds

By Mary I. Galligan  
City of Omaha  
City Clerk

14-15-13  
1300

23-15-13  
26-15-13  
35-15-13  
3-14-13  
2-14-13  
10-14-13