

## EASEMENT

WHEREAS, the Congress of the United States has by various public Acts, established a long-term plan designed to control the waters of the Missouri River as an aid to navigation and prevent damage by flood waters; and

WHEREAS, the Corps of Engineers, United States War Department, is the governmental agency executing said plan and as such has built earthen dikes or levees along the west bank of said river adjacent to the City of Omaha, Nebraska, and pursuant to said plan desires to continue said construction over the hereinafter described real estate owned by the City of Omaha but in the exclusive control of the Metropolitan Utilities District of Omaha, a quasi municipal corporation of the State of Nebraska; and

WHEREAS, said Acts of Congress require local agencies adjacent to said river to acquire and furnish the necessary right of way for said dikes or levees without cost to the United States Government; and

WHEREAS, the East Omaha Drainage District, a quasi municipal corporation of the State of Nebraska, organized and existing to drain the land adjacent to said city and the Missouri River, has requested said Metropolitan Utilities District of Omaha, to grant a right of way over its land, which is not within said drainage district, in order to permit said Corps of Engineers to build an earthen dike or levee thereon pursuant to the plan hereto attached and marked "Exhibit A"; and

WHEREAS, said levee will interfere with the access of said Utilities District to its premises and the facilities thereon which are essential to the performance of its public duties;

NOW, THEREFORE, the Metropolitan Utilities District, a quasi municipal corporation of the State of Nebraska, hereinafter called the "Utilities District" and the East Omaha Drainage District, a quasi municipal corporation of the State of Nebraska, hereinafter called the "Drainage District", in consideration of the following mutual and reciprocal covenants and agreements, do hereby agree as follows:

1. Said Utilities District does hereby grant to said Drainage District, its successors and assigns, an easement over and upon the following described real estate, to-wit:

Part of Government Lots 3 and 4 in the Southwest One-quarter (SW $\frac{1}{4}$ ) Section 14, Township 15 North, Range 13 East of the Sixth Principal Meridian in Douglas County, Nebraska, as follows:

Beginning at the Northwest corner of the Metropolitan Utilities District property which point is 725 feet North of the line between Government Lots 3 and 4, measured along the East line of Union Pacific Railway Company property (the East line of Blocks 529 Q and P now vacated),

Thence East along the North property line of the Metropolitan Utilities District, a distance of 133.62 feet to the Easterly line of right of way

Thence following the said Easterly line of levee right of way South  $13^{\circ} 37' 20''$  West a distance of 231.95 feet to a point of curve,

Thence along a curve to the left having a radius of 1095.91 feet through a central angle of  $10^{\circ} 31' 55''$  a distance of 201.45 feet to the point of tangent of said curve,

Thence South  $3^{\circ} 05' 24''$  West a distance of 84.67 feet to a point of curve,

Thence along a curve to the right having a radius of 2341.83 feet through a central angle of  $5^{\circ} 31' 6''$  a distance of 225.55 feet to the point of tangent of said curve,

Thence South  $3^{\circ} 38' 30''$  West a distance of 84.32 feet to a point which is 72 feet South of the line between Government Lots 3 and 4 in the Southwest One-quarter (SW $\frac{1}{4}$ ) Section 14, Township 15 North, Range 15 East (the South property line of Metropolitan Utilities District tract),

Thence West along the South property line 16.31 feet more or less to the property line between Union Pacific Railway Company and Metropolitan Utilities District,

Thence North along the East line of Blocks 360, 328 and 329 now vacated which line is the East property line of Union Pacific Railway Company property a distance of 797 feet more or less to the point of beginning. Excepting from the above described tract that part situated across the irregular tract of land described by Deed Record - see Book 256, page 550, on file in the Register of Deeds Office.

The right of way herein described contains 1.066 acres and is approximately 87 feet wide at the North property line of said District and for a distance of approximately 210 feet South thereof, but the width from this point south gradually reduces until it is approximately 16 feet wide at the South line of the property of said District.

Said easement is granted for the sole and only purpose of erecting and maintaining an embankment of earth thereon to be used as a levee and for no other purpose and is to continue only so long as said levee is used and maintained for the purpose herein described.

2. In consideration of the aforesaid grant, said Drainage District agrees that it will at all times maintain said levee without cost to the Utilities District in such manner and form as to serve the purpose intended; that it will at no time remove earth from or create a "borrow pit" on the premises of said Utilities District adjacent to said levee, and that it will at no time attempt to cause all or any part of the premises of said Utilities District, occupied by said levee or adjacent thereto to be incorporated within said drainage district, nor assert any right to levy, assess or demand any special assessment, tax or other exaction from said Utilities District.
3. Said Utilities District does hereby also grant to said Drainage District an easement upon its land and upon

which there shall be constructed by said Drainage District a semi-circular levee, similar to the main levee, and extending from said main levee around the existing oil tank of the Utilities District, situated on the same piece of property, both ends of which semi-circular levee shall be connected with the main levee, be of the same type of construction and approximately of the same width and height as the main levee, and if at some time in the future the need for this secondary levee, which is created solely for the protection of said Utilities District in its present use of said tank, should be no longer useful, then this secondary easement may be terminated by said Utilities District and said secondary levee be removed at the expense of said Utilities District. The secondary easement granted in this paragraph and the secondary levee to be constructed thereon is described as follows:

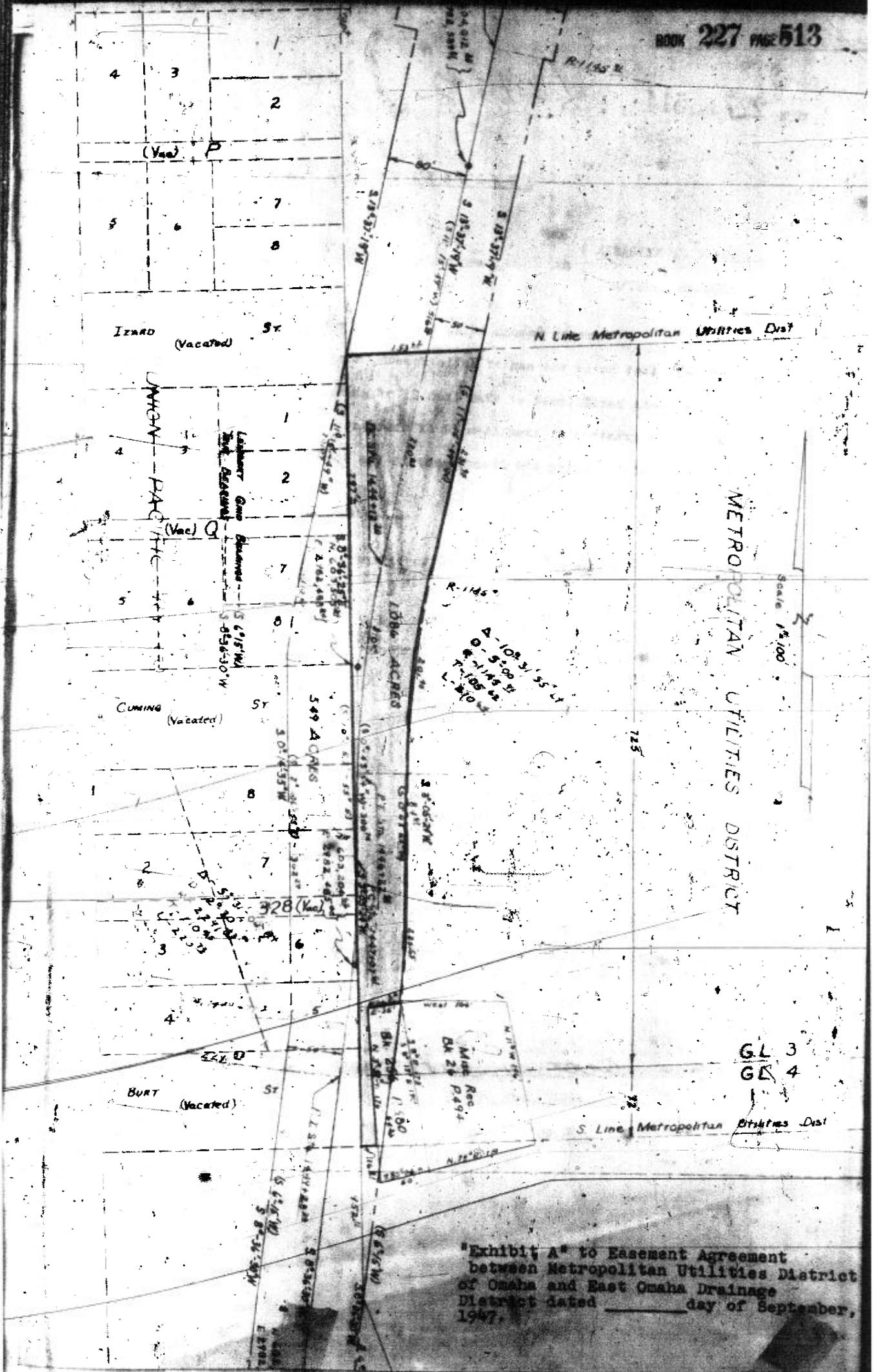
The outside toe of said secondary levee to commence at a point on said main levee described as approximately 205 feet south of the North property line of the Utilities District and approximately 90 feet east of the West property line of said Utilities District and then extending East around said oil tank on a radius of approximately 130 feet from the center line of said tank, and the outside toe of said levee to connect with said main levee to the South of said tank at a point described as approximately 330 feet North of the South property line of said Utilities District and 100 feet East of the West property line of said Utilities District. The inside toe of said secondary levee to not be closer than 20 feet from the base of said oil tank at any point.

4. Said Utilities District now and for many years last past has had access to its premises and the facilities thereon by means of a public highway extending from approximately 9th and Davenport Streets in the City of Omaha northeasterly to the property of said District and also along the East side of its property and across the railroad track to the East thereof and to the river bank to the East of its property.

Said Drainage District agrees that it will not permit the use of any land which it owns, controls or has easements over and upon, to be so used as to unreasonably obstruct, deprive, block or interfere with the use by said Utilities District of the aforesaid described means of access to its premises and the use of its facilities thereon.

Attached hereto and marked "Exhibit A" is a plat which is made a part of this instrument by reference showing the location of the easement herein granted and the location and elevation of the proposed levee.

IN WITNESS WHEREOF, these presents have been signed on behalf of the Metropolitan Utilities District of Omaha by its General Manager on this 10 day of September, 1947, and



"Exhibit A" to Easement Agreement  
 between Metropolitan Utilities District  
 of Omaha and East Omaha Drainage  
 District dated \_\_\_\_\_ day of September,  
 1947.