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PERMANENT EASEMENT FOR SEA WALL

THIS AGREEMENT was entered into on the 19th day of April, 1948, by and between the AMERICAN SMELTING AND REFINING COMPANY, a corporation organized under the laws of the State of New Jersey, (hereinafter sometimes referred to as "Grantor"), and EAST OMAHA DRAINAGE DISTRICT, a municipal corporation organized under the provisions of Article IV, Chapter 31, Revised Statutes of Nebraska, 1943, (hereinafter sometimes referred to as "Grantee").

In consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the Grantor does hereby grant unto the Grantee, its successors and assigns, an easement in perpetuity to construct and maintain an earthen sewer levee and sewer on, over, and across the property hereinafter referred to as Tract #1, and an easement in perpetuity to construct and maintain a reinforced concrete flood or sea wall on, over and across the property hereinafter described as Tract #2, said tracts being more particularly described as follows:

TRACT #1

A triangular tract of land in Sections 14 and 23, Township 15 North, Range 13 East, Douglas County, Nebraska, designated as Tract #1 on Exhibit "A", attached to and by reference made a part of this instrument, adjoining the South line of Cass Street, now vacated, more particularly described as follows:

Beginning at a point on the South line of Cass Street (now vacated) which is North $87^{\circ} 53' 23''$ East 180.04 feet from the Southeast Corner of 7th & Cass Streets (now vacated),

Thence South $44^{\circ} 40' 08''$ East 385.00 feet, more or less, to the low water right bank of the Missouri River,

Thence Northerly following the low water right bank of the Missouri River to the South line of Cass Street (now vacated),

Thence South $87^{\circ} 53' 23''$ West along the South line of Cass Street (now vacated), a distance of

240.00 feet, more or less, to the point of beginning, containing 0.78 Acres, more or less.

(NOTE: All alignment surveys used for the foregoing descriptions were made by the Corps of Engineers, U.S. War Department and Bearings shown are referred to Nebraska (South) Lambert Grid as established by the U.S. Coast and Geodetic Survey 1927 American Datum.)

TRACT #2

An irregular tract of land to be used as permanent right-of-way for the construction of a reinforced concrete sea-wall for flood protection purposes across vacated blocks 33, 66, 67, 96 and 97 and across vacated Chicago, Davenport, Capitol, Dodge and Sixth Streets, City of Omaha, more particularly described as follows:

Beginning at a point where the Westerly right-of-way line herein described intersects the South line of Cass Street (now vacated) which point is North $87^{\circ} 53' 23''$ East, a distance of 5.31 feet from the East line of 7th Street (now vacated),

Thence South $80^{\circ} 39' 13''$ East a distance of 0.78 feet to a point of angle in said right-of-way line,

Thence South $38^{\circ} 32'$ East a distance of 24.42 feet to a point of angle in said Westerly line of right-of-way,

Thence South $31^{\circ} 01'$ East a distance of 3.93 feet to a point of angle which is 16.25 feet Southwest from and at right angles to the center line of proposed sea-wall at Station 1+23.5,

Thence North $58^{\circ} 59'$ East a distance of 6.25 feet to a point which is 10.00 feet Southwest from Station 1+23.5 measured at right angles to said center line of proposed sea-wall,

Thence following a line which is parallel with and 10.00 feet Southwest of, measured at right angles to said center line of proposed sea-wall South $31^{\circ} 01'$ East a distance of 211.00 feet to a point opposite Station 3+34.5,

Thence South $58^{\circ} 59'$ West a distance of 4.25 feet to a point which is 14.25 feet Southwest of, measured at right angles to the said center line of proposed sea-wall at Station 3+34.5,

Thence parallel with said center line of proposed sea-wall and 14.25 feet Southwest therefrom South $31^{\circ} 01'$ East a distance of 28.00 feet,

Thence North $58^{\circ} 59'$ East a distance of 4.25 feet to a point which is 10.00 feet from the center line of proposed sea-wall at Station 3+62.5,

Thence South $31^{\circ} 01'$ East along a line which is parallel with and 10.00 feet Southwest from the center line of proposed sea-wall for a distance of 111.67 feet to a point of angle,

Thence South $27^{\circ} 30'$ East a distance of 29.19 feet to a point which is 10.00 feet Southwest of, measured at right angles to, the center line of sea-wall at Station 5+04.00,

Thence South $62^{\circ} 30'$ West a distance of 20.00 feet to a point which is 30.00 feet Southwest of, measured at right angles to, the center line of sea-wall at Station 5+04.00,

Thence South $27^{\circ} 30'$ East a distance of 20.00 feet,

Thence North $62^{\circ} 30'$ East a distance of 20.00 feet to a point which is 10.00 feet Southwest of, measured at right angles to, the center line of sea-wall at Station 5+24.00,

Thence South $27^{\circ} 30'$ East a distance of 406.00 feet to a point which is 10.00 feet Southwest of, measured at right angles to the center line of the sea wall at Station 9+30.00,

Thence South $62^{\circ} 30'$ West a distance of 5.00 feet to a point which is 15.00 feet Southwest of, measured at right angles to the center line of sea-wall at Station 9+30.00,

Thence South $27^{\circ} 30'$ East a distance of 30.60 feet to a point of angle,

Thence South $56^{\circ} 13'$ West along a line parallel with and 8.00 feet Westerly from the center line of sea-wall, a distance of 29.79 feet to a point 8.00 feet Westerly from, measured at right angles at center line of sea-wall at Station 10+11.00,

Thence South $33^{\circ} 47'$ East a distance of 2.00 feet to a point 6.00 feet Westerly from, measured at right angles to the center line of sea-wall at Station 10+11.00,

Thence South $56^{\circ} 13'$ West along a line which is parallel with and 6.00 feet Westerly from the center line of sea-wall, a distance of 44.81 feet to a point of angle,

Thence South $32^{\circ} 00'$ East along a line which is parallel with and 10.00 feet Westerly from the center line of sea-wall, a distance of 156.04 feet to a point of angle,

Thence South $58^{\circ} 00'$ West a distance of 10.00 feet to a point which is 20.00 feet Southeasterly from, measured at right angles from the center line of the sea-wall at Station 11+96.18,

Thence South $32^{\circ} 00'$ East a distance of 28.00 feet,

Thence North $58^{\circ} 00'$ East a distance of 9.61 feet to a point 10.00 feet Westerly from, measured at right angles to the center line of the sea-wall at Station 12+25.64,

Thence South $15^{\circ} 59'$ East along a line which is parallel with and 10.00 feet Westerly from, measured at right angles to the center line of the sea-wall, a distance of 346.39 feet,

Thence North $74^{\circ} 01'$ East a distance of 2.00 feet to a point which is 8.00 feet Westerly from, measured at right angles to the center line of sea-wall at Station 15+74.00,

Thence South $15^{\circ} 59'$ East a distance of 9.30 feet to a point of angle,

Thence South $2^{\circ} 30'$ East a distance of 1.80 feet to a point which is 8.00 feet Westerly from, measured at right angles to the center line of the sea-wall at Station 15+87.00,

Thence South $87^{\circ} 30'$ West a distance 2.00 feet to a point which is 10.00 feet Westerly from, measured at right angles to the center line of sea-wall at Station 15+87.00,

Thence South $2^{\circ} 30'$ East a distance of 35.35 feet to a point of angle,

Thence South $47^{\circ} 00'$ West along a line which is parallel with and 10.00 feet Northwesterly from, measured at right angles to the center line of the sea-wall, a distance of 64.94 feet to a point of angle,

Thence South $1^{\circ} 55'$ East along a line which is parallel with and 10.00 feet Westerly from the center line of sea-wall, a distance of 226.12 feet to a point of angle,

Thence North $87^{\circ} 03'$ East a distance of 22.68 feet to a point of angle which point bears South $42^{\circ} 03'$ West 14.14 feet from the center of sea-wall at Station 19+25.85 back $\frac{1}{2}$ 19+19.88 ahead,

Thence South $2^{\circ} 57'$ East along a line which is parallel with and 10.00 feet Westerly from the center line of the sea wall, a distance of 21.94 feet to a point 10.00 feet Westerly from Station 19+52.00,

Thence South $87^{\circ} 03'$ West a distance of 15.00 feet to a point which is 25.00 feet Westerly from, measured at right angles to the center line of the sea-wall at Station 19+52.00,

Thence South $2^{\circ} 57'$ East along a line which is parallel with and 25.00 feet Westerly from the center line of sea-wall, a distance of 28.00 feet,

Thence North $87^{\circ} 03'$ East a distance of 17.00 feet to a point which is 8.00 feet Westerly from, measured at right angles to the center line of sea-wall at Station 19+80.00,

Thence South $2^{\circ} 57'$ East along a line parallel with and 8.00 feet Westerly from, measured at right angles to the center line of the sea-wall, a distance of 74.77 feet to a point of angle opposite Station 20+54.25,

Thence continuing along a line which is parallel with, and 8.00 feet Southwesterly from, measured at right angles to the center of proposed sea-wall South $10^{\circ} 23'$ East a distance of 16.00 feet to a point on the North line of Douglas Street said point being 497.72 feet East measured along the South line of said Douglas Street and 100.00 feet North at right angles to said South line of Douglas Street from an iron pipe property corner located at the Southeast Corner of 7th and Douglas Streets,

Thence North $88^{\circ} 06' 52''$ East along the North line of Douglas Street a distance of 8.09 feet to the center line of the proposed sea-wall at Station 20+70.92,

Thence continuing North $88^{\circ} 06' 52''$ East along the North line of Douglas Street a distance of 67.00 feet, more or less, to the high right bank of the Missouri River,

Thence following the right high bank of the Missouri River across vacated Lots 10, 3, Block 97, Dodge Street, and Lots 8, 7, and 2, Block 96, along the following approximate courses and distances:

North $2^{\circ} 57'$ West	225.00 feet,
North $10^{\circ} 17' 41''$ West	180.02 feet,

North $2^{\circ} 55'$ West 158.9 feet to a point where the Easterly right-of-way line leaves the high bank of the Missouri River,

Thence South $74^{\circ} 01'$ West a distance of 30.00 feet to a point which is 10.00 feet Easterly from, measured at right angles to the center line of the sea-wall at Station 14+77.00,

Thence North $15^{\circ} 59'$ West along a line which is parallel with and 10.00 feet Easterly from, measured at right angles to the center line of the sea-wall, a distance of 254.18 feet to a point of angle,

Thence North $32^{\circ} 00'$ West a distance of 169.95 feet to a point of angle,

Thence North $56^{\circ} 13'$ East along a line which is parallel with and 10.00 feet Southerly from, measured at right angles to the center line of the sea-wall, a distance of 78.27 feet to a point of angle,

Thence North $27^{\circ} 30'$ West along a line which is parallel with and 10.00 feet Easterly from, measured at right angles to the center line of the sea-wall, a distance of 501.77 feet to a point of angle at Station opposite 4+74.50,

Thence North $31^{\circ} 01'$ West along a line which is parallel with and 10.00 feet Easterly from, measured at right angles to the center line of sea-wall, a distance of 313.31 feet to a point of angle opposite Station 1461.50,

Thence North $58^{\circ} 59'$ East a distance of 91.86 feet to a point on the South line of Cass Street (now vacated),

Thence South $87^{\circ} 53' 23''$ West along the South line of Cass Street (now vacated), a distance of 138.29 feet to the point of beginning,

all located in Sections 14 and 23, Township 15 North, Range 13 East in Douglas County, Nebraska.

The above tract as described contains 1.635 Acres.

(NOTE: All alignment surveys used for the foregoing descriptions were made by the Corps of Engineers, U.S. War Department and Bearings shown are referred to Nebraska (South) Lambert Grid as established by the U.S. Coast and Geodetic Survey 1927 American Datum.)

TO HAVE AND TO HOLD unto the Grantee and its successors and assigns in perpetuity for the purposes herein specified.

The foregoing grants are made on the express condition that the following gates in the sea--wall will be constructed and remain open, except in times of high water, in order to enable the Grantor, its successors and assigns, to have ingress and egress to the portions of the property now owned by the Grantor, located riverward of said concrete flood and sea-wall, to-wit:

- GATE #1: Width 20 feet at Station 0+94.
- GATE #2: Width 20 feet at Station 3+26.91 or at such other location as Grantor may request.
- GATE #3: Width 10 feet at Station 12+27.59.
- GATE #4: Width 10 feet at Station 21+59.25,

as indicated and located on the plat, Exhibit "A", attached hereto.

The Grantor warrants that it is the owner of the property described in this easement and that it is free and clear of any liens and encumbrances, save and except easements and encumbrances

of record, and that Grantor has a good and lawful right to convey and defend same and it will warrant unto the Grantee, its successors and assigns, against the claims of all persons whomsoever claiming under, by or through the Grantor.

Grantee in consideration for the grant of this easement agrees to and does hereby indemnify Grantor against any loss, damage, liability and claims for injury to person or property including said Grantor's property and the person of its employees as well as the person and property of third parties, arising out of or caused by the construction, operation and maintenance of the Flood Protection Works.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their respective Presidents or a Vice-President, and their Corporate Seals to be affixed and attested by their respective Secretaries or Assistant Secretaries on the 19th day of April, 1948.

AMERICAN SMELTING AND REFINING COMPANY,

By H. J. Walker
PRESIDENT

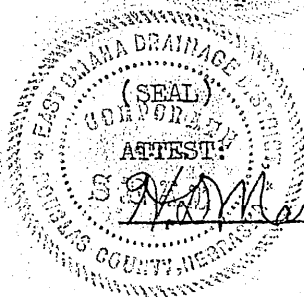
(SEAL)

ATTEST:

[Signature]
SECRETARY

EAST OMAHA DRAINAGE DISTRICT,

By [Signature]
President



(SEAL)

ATTEST:

[Signature]
Secretary

Approved as to form
LEGAL DEPARTMENT

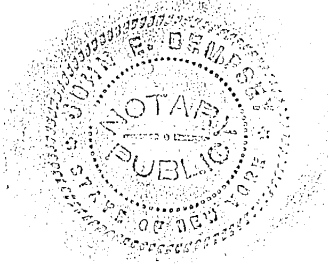
Nov 11/19/48

OK as to form
Leah Gall

STATE OF NEW YORK,)
COUNTY OF NEW YORK.) SS.

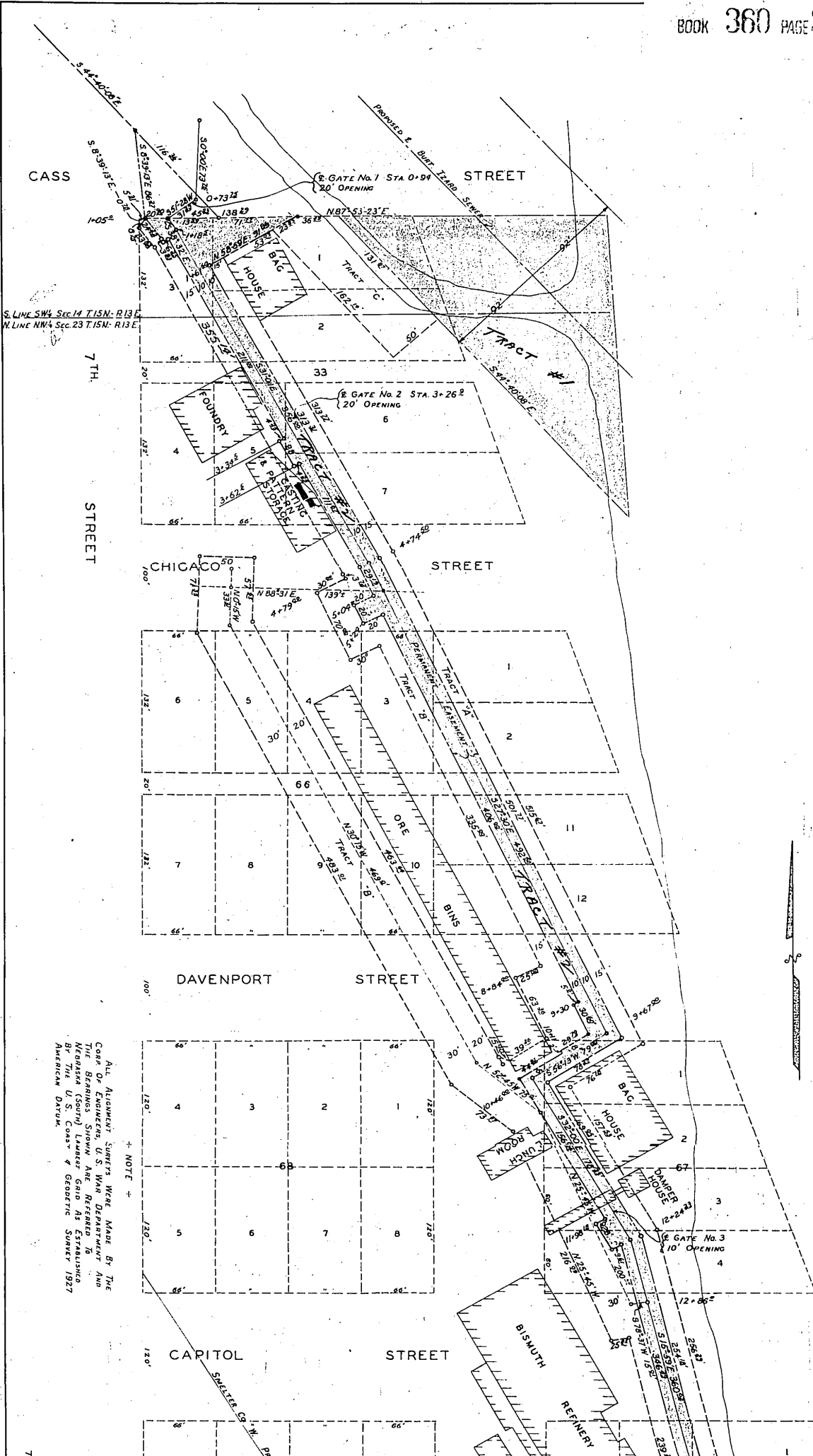
H. Y. Walker, being first duly sworn, states that he is President of American Smelting and Refining Company; that he has executed the foregoing instrument, and that it is the free and voluntary act and deed of the American Smelting and Refining Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal this 19th day of April, 1948.



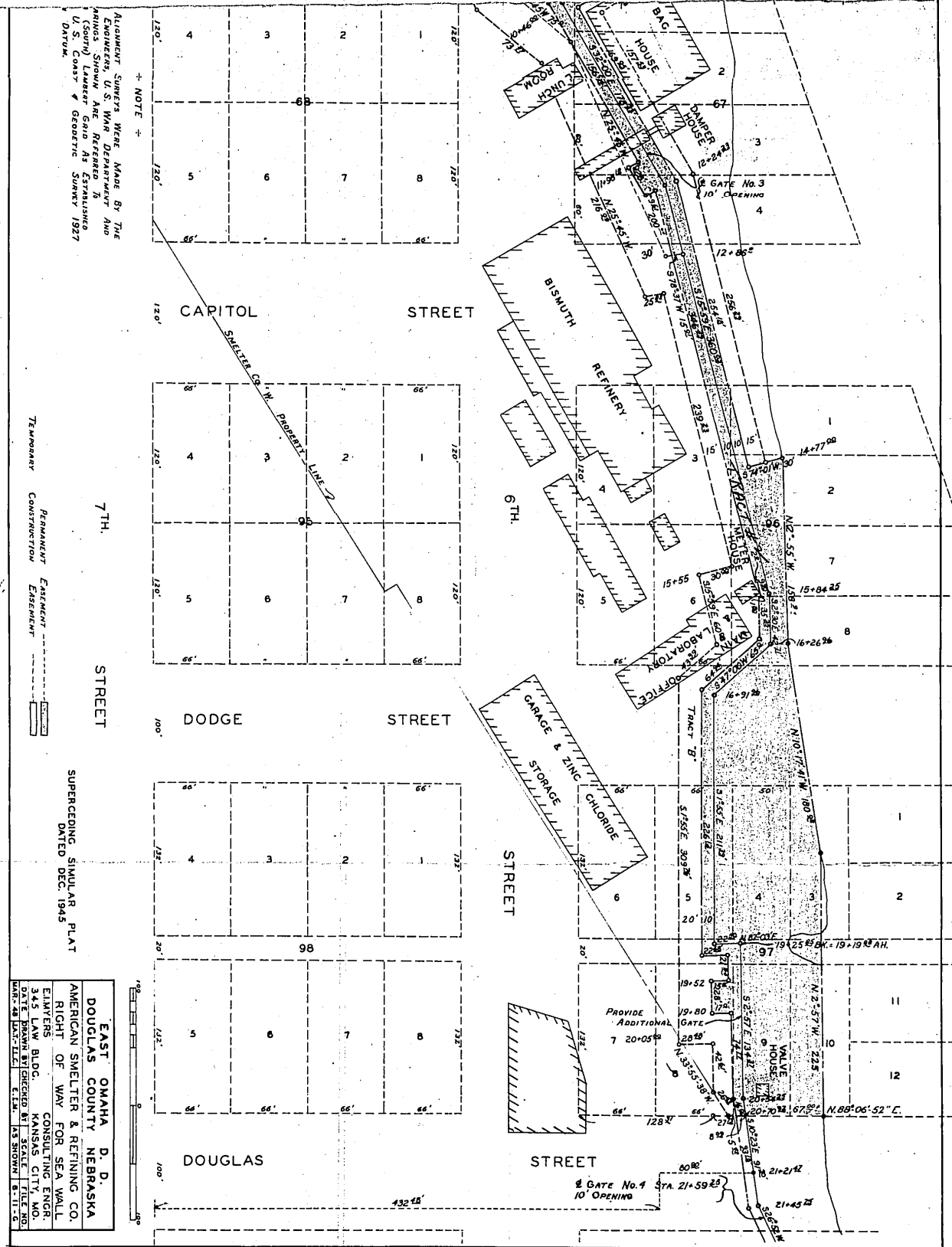
John E. Dempsey

JOHN E. DEMPSEY
NOTARY PUBLIC, STATE OF NEW YORK
Residing in Queens County
Queens Co. Clk's No. 203, Reg. No. 56-D-0
Certificate Filed in
N. Y. Co. Clk's No. 8, Reg. No. 71-D-0
Commission Expires March 30, 1953



S. Line SW4 Sec 14 T. 15N. R. 13E
 N. Line NW4 Sec 23 T. 15N. R. 13E

NOTE
 All Alignment Surveys were made by the
 Corp. of Engineers, U.S. War Department and
 the Bearings shown are referred to
 Meridian (South) Lambert Grid as established
 by the U.S. Coast & Geodetic Survey 1927
 American Datum.



ALLOCATION SURVEYS WERE MADE BY THE ENGINEERS, U.S. WAR DEPARTMENT AND ARMS SHOWS ARE REFERRED TO (SOUTH) LATITUDE GAID AS ESTABLISHED U.S. COAST & GEODETIC SURVEY 1927 DATUM.

7TH STREET
 PERMANENT EASEMENT
 TEMPORARY CONSTRUCTION

SUPERSEDING SIMILAR PLAT
 DATED DEC. 1945

EAST OMAHA, D. D.
 DOUGLAS COUNTY, NEBRASKA
 AMERICAN SMELTER & REFINING CO.
 RIGHT OF WAY FOR SEA WALL
 ENGINEERS CONSULTING ENGR.
 345 LAW BLDG. KANSAS CITY, MO.
 DATE DRAWN BY CHECKED BY SCALE FILE NO.
 MAR-48 J.M.T. E.L.M. 1/8" = 1'-0"

EXHIBIT "A"

765

17 ENTERED IN NUMERICAL INDEX AND RECORDED IN THE REGISTER OF DEEDS OFFICE IN DOUGLAS COUNTY, NEBRASKA
 23 DAY Nov 1920 AT 4:25 P.M. THOMAS J. O'CONNOR, REGISTER OF DEEDS