

After Recording Return To:  
**Robert W. Rieke, Esq.**  
500 Energy Plaza  
Omaha, NE 68102

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[FOR RECORDING PURPOSES]

### PERMANENT EASEMENT AGREEMENT

KENT, INC ("Grantor"), and CHILDREN'S HOSPITAL ("Grantee"), hereby agree as follows:

Grantor, as the owner of the following described real estate:

That part of the Northwest Quarter of the Northwest Quarter (NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>) of Section 23, Township 15 North, Range 12 East of the 6th P.M., in the City of Omaha, in Douglas County, Nebraska, more particularly described as follows: Beginning at a point where the North line of Beverly Hills Addition intercepts the right-of-way taken for Highway 30-A; thence Westerly, along the North line of Beverly Hills Addition, a distance of 215.5 feet; thence at an angle of 90° to the right, a distance of 100 feet, more or less, to the South line of the right-of-way of Nebraska State Highway 30-A; thence Southeasterly, along said South line of highway right-of-way, a distance of 237.5 feet, more or less, to the Place of Beginning (the "Grantor Real Estate"),

for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants and conveys to Grantee, as the owner of the following described real estate:

All of Lots 11, 12, <sup>mkls</sup> 13 and 14, and all of Lot 15, except the West 17 feet thereof, in Block 1, Beverly Hills, an Addition to the City of Omaha, as surveyed, platted and recorded, Douglas County, Nebraska (the "Grantee Real Estate"),

and Grantee's successors and assigns, as an easement appurtenant to the Grantee Real Estate, a permanent perpetual easement with right of access thereto, over and through that part of the Grantor Real Estate depicted on Exhibit "A" attached hereto (the "Easement Area") for the purpose of operating, maintaining, repairing and/or replacing a retaining wall, including landscaping and related sprinkler system, within the Easement Area (collectively the "Retaining Wall").

Grantor covenants and agrees that it will not construct any buildings, structures or other improvements upon the Easement Area.

Grantee covenants and agrees to repair and maintain the Retaining Wall in good condition, to replace the Retaining Wall, if necessary, and to keep the Retaining Wall landscaped and free from weeds and debris.

In the event Grantee fails to keep the Retaining Wall properly landscaped and free from weeds and debris as required herein, Grantor shall have the right, but not the obligation, to notify Grantee in writing of any such failure on the part of Grantee. In the event Grantee does not cure such failure within two (2) days after receipt of such written notification from Grantor, Grantor shall have the right, but not the obligation, to perform, or incur expenses for the performance of, such landscaping and/or weed and debris removal on behalf of Grantee, and Grantee shall immediately reimburse Grantor for any such expenses incurred after written demand thereof by Grantor. In the event the Retaining Wall requires repairs or replacement in whole or part, Grantor shall have the right, but not the obligation, to provide written notice thereof to Grantee. For purposes of this paragraph, the Retaining Wall will be deemed to require repairs or replacement in the event and to the extent a licensed engineer designated by Grantor shall determine, in his professional opinion, such repairs or replacement are necessary. In the event Grantee fails to perform such repairs or replacement within ten (10) days after receipt of such written notification, Grantor shall have the right, but not the obligation, to perform, or incur expenses for the performance of, such repairs or replacement on behalf of Grantee, and Grantee shall reimburse Grantor for any such expenses incurred immediately after written demand thereof by Grantor. For purposes of this paragraph, the term "Retaining Wall" shall mean the entire Retaining Wall, including that portion of the Retaining Wall located on the Grantee Real Estate, and Grantor shall be allowed access over and across such portion of the Grantee Real Estate as is necessary to perform the maintenance and repairs or replacement described herein.

Grantee, its grantees, successors and assigns, agree to protect, indemnify and hold harmless Grantor, its successors and assigns, from and against all liability, loss, cost, damage and claims of every kind and character due to injury to or death of any person whomsoever, or loss or damage to any property whatsoever, arising directly or indirectly out of or incident to the design, construction, maintenance, existence, use or condition of the Retaining Wall, and regardless of Grantee's negligence or fault, but excluding the negligence or willful misconduct of Grantor or its successors and assigns.

Grantor and Grantee covenant and agree to coordinate any necessary access to the Easement Area to avoid disruption or interference to Grantor's business at the Grantor Real Estate.

Grantor represents that it is the lawful owner of the Grantor Real Estate and that it is free from liens, that it has good and lawful authority to make the within grant of permanent easement, and that it will warrant and defend the same against the claims of all persons asserting any right, title or interest contrary to the within grant of permanent easement.

This Permanent Easement shall run with the land and shall be binding upon Grantor and all subsequent owners of the Grantor Real Estate and inure to the benefit of Grantee and all subsequent owners of the Grantee Real Estate.

Dated: 6-2-99, 1999.

KENT, INC.

By [Signature]  
Title: Pres.

CHILDREN'S HOSPITAL

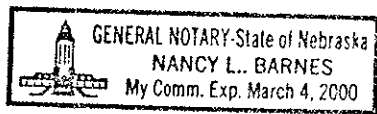
By [Signature]  
Title: President

STATE OF NEBRASKA    )  
  ) ss.  
COUNTY OF DOUGLAS    )

On this 2<sup>nd</sup> day of June, 1999, before me, a notary public in and for said county and state, personally came Arthur Lewis, President of KENT, INC., known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said corporation.

WITNESS my hand and notarial seal at Omaha, in said county and state, the day and year last above written.

[SEAL]



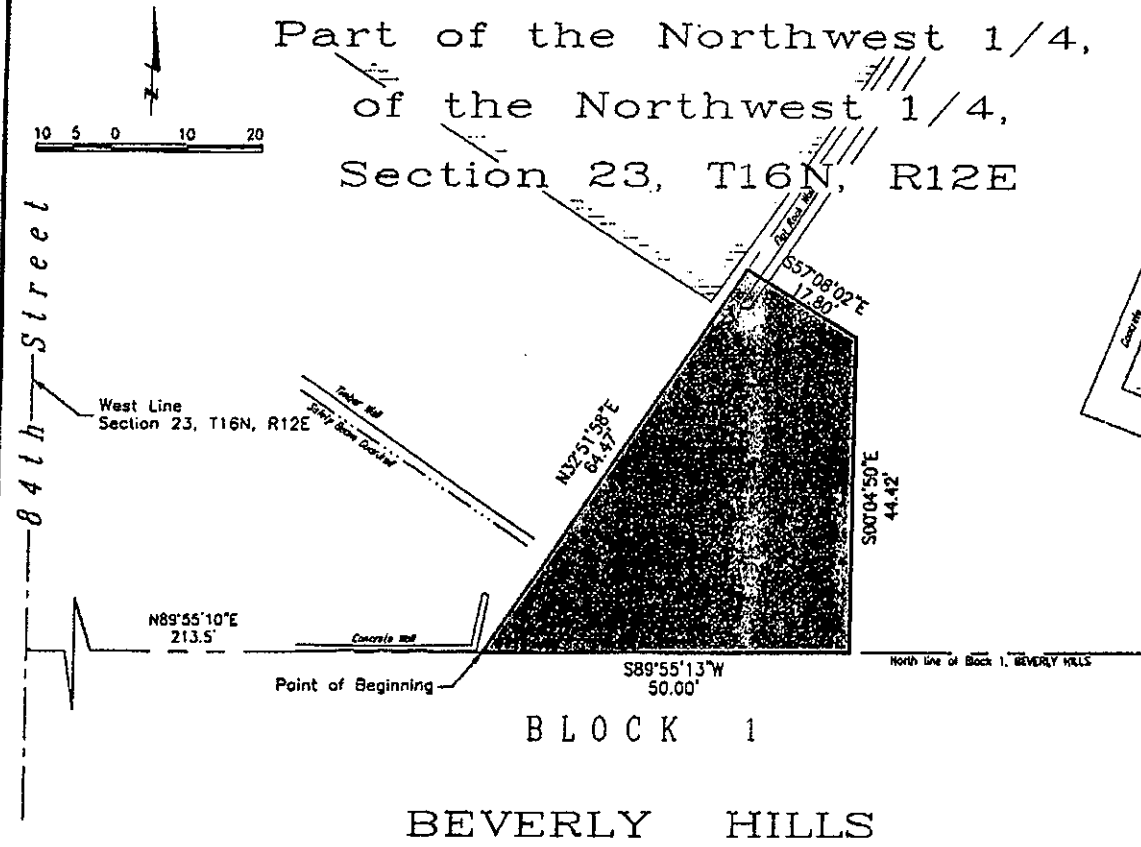
Nancy L. Barnes  
Notary Public



**LEGAL DESCRIPTION**

A permanent easement for the construction and maintenance of a retaining wall system over that part of the Northwest Quarter of the Northwest Quarter of Section 23, Township 15 North, Range 12 East of the 6th P.M., Douglas County, Nebraska, described as follows:

Beginning at a point on the north line of Block 1, BEVERLY HILLS, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska, (said line bearing North 89°55'10" East assumed) and 213.5 feet east of the west line of said Section 23;  
 Thence North 32°51'58" East for 64.47 feet; Thence South 57°08'02" East for 17.80 feet; Thence South 00°04'50" East for 44.42 feet to the north line of said Block 1, BEVERLY HILLS; Thence South 89°55'13" West for 50.00 feet to the Point of Beginning. Contains 1,684 square feet.



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**lamp, rynearson & associates, inc.**  
 engineers surveyors planners  
 14710 west dodge road, suite 100 omaha, nebraska 68164-2029  
 ph 402-498-2488 fax 402-498-2730