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EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made and entered into this 19th day of August, 1993, by and between CHILDRENS MEMORIAL HOSPITAL FOUNDATION ("Grantor") and SANITARY AND IMPROVEMENT DISTRICT NO. 367 OF DOUGLAS COUNTY, NEBRASKA ("Grantee").

1. **Easement Areas.** Grantor is the owner of the real estate described on Exhibit "A" attached hereto (the "Permanent Easement Area") and the real estate described on Exhibit "B" attached hereto (the "Temporary Easement Area", and with the Permanent Easement Area, the "Easement Areas").

2. **Sewer System.** Grantee covenants and agrees to construct and/or install upon the Permanent Easement Area, at Grantee's cost, a sanitary sewer system and related improvements and landscaping (the "Sewer System"), all as specified in, and in accordance with, those certain plans and specifications prepared by Elliott & Associates (civil and structural) and Ferris Engineering (mechanical and electrical) more particularly described on Exhibit "C" attached hereto (the "Plans and Specifications"). Grantee agrees to fully complete the construction and/or installation of the Sewer System in accordance with the Plans and Specifications and this Agreement on or before April 15, 1994, free and clear of all liens, claims and encumbrances. Grantee acknowledges and agrees that the Plans and Specifications provide for stub-ins to the Sewer System which shall benefit other real estate owned by Grantor and as more fully hereinafter set forth.

3. **Temporary Easement.** Subject to the terms and conditions set forth herein, Grantor grants to Grantee a nonexclusive temporary construction easement (the "Temporary Easement") over the Temporary Easement Area for, and only for, the purpose of Grantee's construction and installation of the Sewer System within the Permanent Easement Area.

4. **Permanent Easement.** Subject to the terms and conditions set forth herein, Grantor grants to Grantee a nonexclusive permanent easement (the "Permanent Easement") over the Permanent Easement Area for, and only for, the purpose of operating, maintaining, repairing and replacing the Sewer System.

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into this 19th day of August, 1993, by and between CHILDRENS MEMORIAL HOSPITAL FOUNDATION ("Landlord") and SANITARY AND IMPROVEMENT DISTRICT NO. 367 OF DOUGLAS COUNTY, NEBRASKA ("Tenant").

1. Leased Premises. Subject to the terms and conditions set forth herein, Landlord hereby demises and leases to Tenant, and Tenant hereby takes and leases from Landlord, for a term of Two (2) years commencing with the date hereof (the "Term"), that certain real estate described on Exhibit "A" attached hereto (the "Leased Premises").

2. Improvements. Tenant covenants and agrees to construct and/or install upon the Leased Premises, at Tenant's cost, a lift station and related improvements and landscaping (the "Improvements"), all as specified in, and in accordance with, those certain plans and specifications prepared by Elliott & Associates (civil and structural) and Ferris Engineering (mechanical and electrical) more particularly described on Exhibit "B" attached hereto (the "Plans and Specifications"). Tenant agrees to fully complete the construction and/or installation of the Improvements in accordance with the Plans and Specifications on or before April 15, 1994, free and clear of all liens, claims and encumbrances. Title to the Improvements shall vest in Landlord upon their construction and/or installation by Tenant (or any earlier termination of this Agreement) and shall thereafter constitute a part of the Leased Premises.

3. Use. Tenant may occupy and use the Leased Premises for the purpose of constructing, operating, maintaining, repairing and replacing a sanitary sewer lift station and sanitary sewer system and for no other purpose whatsoever.

4. Title and Condition. The Leased Premises are leased subject to the existing state of title, including all covenants, restrictions and conditions of record, any state of facts which an accurate survey or physical inspection of the Leased Premises may show, and all present and future laws which may be applicable to the Leased Premises or to the use, occupancy, possession, operation, maintenance, alteration, repair or reconstruction of the

Leased Premises, and including but not limited to, all zoning laws, ordinances and buildings codes (collectively the "Legal Requirements"). Without limiting the foregoing, Tenant acknowledges that Tenant takes and will take the Leased Premises "AS IS" and that Landlord has not made and will not make, and shall not ever be deemed to have made, any warranty or representation, express or implied, with respect to any of the Leased Premises, including any warranty or representation as to the Improvements or their fitness, design, condition for any particular use or purpose, value, quality of material or workmanship, existence of any defect, compliance with the Plans and Specifications, merchantability, durability or operation, and all risks incident thereto shall be borne by Tenant.

5. Rent. Tenant shall pay Landlord, as annual basic rent for the Leased Premises the sum of Six Thousand Three Hundred Dollars (\$6,300.00). Landlord acknowledges receipt of the basic rent for the first year of the Term, and Tenant acknowledges that none of such basic rent shall be refundable to Tenant for any reason. Tenant shall further pay and discharge before the same become delinquent all other amounts and obligations which Tenant assumes or agrees to pay or discharge pursuant to this Agreement.

6. Impositions. Tenant shall, before interest or penalties are due thereon, pay and discharge all taxes of every kind and nature, including real and personal property, income, sales, use, franchise, withholding, capital gains, profits and gross receipt taxes, all charges for or respecting any easement maintained for the benefit of any of the Leased Premises, all general and special assessments, permits, levies, inspection and license fees, all water and sewer rents and charges, all charges for utility and communication services relating to any of the Leased Premises, and all other public, quasi-public or private charges, whether of a like or different nature, even if unforeseen or extraordinary, imposed or assessed against Tenant, any of the Leased Premises, or Landlord as a result of or arising in respect to the ownership of the Leased Premises by Landlord (exclusive of any federal, state or local income, excess profits or other taxes, if any, of Landlord levied or assessed on the basis of its net income).

7. Maintenance and Repair. Tenant shall at all times maintain the Leased Premises in good repair, order, condition and appearance. Without limiting the foregoing, Tenant shall promptly make all alterations, repairs or replacements of every kind and nature, whether foreseen or unforeseen, which may be required to be made upon or in connection with any of the Improvements in order to keep the Improvements fit for their intended use and maintain the Improvements in as good repair and appearance as they are on the date of their initial construction and/or installation. Landlord shall not be required to make any alterations, repairs or replacements, whether foreseen or unforeseen, or to maintain any of the Leased Premises in any way, and Tenant hereby expressly waives any right which may be provided for in any law now or hereafter in effect to make such alterations, repairs or replacements at the expense of Landlord.

8. Condemnation. Subject to the provisions of this paragraph, Tenant hereby irrevocably assigns to Landlord any award or payment to which Tenant is or may be entitled by reason of any condemnation, whether the same shall be paid or payable for Tenant's leasehold interest hereunder or otherwise; but nothing in this Agreement shall impair Tenant's right to any award or payment on account of Tenant's leasehold interest, trade fixtures, equipment or other tangible property which are not part of the Leased Premises, moving expenses or loss of business, if available, to the extent that and so long as: (i) Tenant shall have the right to make, and does make, a separate claim thereof against the condempnor, and (ii) such claim does not in any way reduce the amount of the award payable to Landlord for the condemnation of Landlord's interest in the Leased Premises. If the entire Leased Premises, or any substantial portion thereof such that the remaining portion thereof is rendered unusable for the purpose intended hereby, shall be taken by condemnation or under threat thereof, then either Landlord or Tenant may terminate this Agreement; provided, nothing contained herein shall require Landlord to return any rent theretofore paid by Tenant. In the event any insubstantial portion of the Leased Premises, such that the remaining portion thereof remains

usable for the purpose intended hereby, shall be taken by condemnation, this Agreement shall not terminate and Tenant shall restore the Leased Premises to the extent necessary to continue such use.

9. Insurance. Tenant shall maintain at its sole cost and expense the following insurance on or in connection with the Leased Premises:

- (a) Insurance against loss or damage to the Improvements by fire and other risks from time to time included under standard and additional extended coverage policies, including vandalism and malicious mischief, windstorm, explosion, earthquake and flood insurance (with respect to any of the Leased Premises located in a flood zone), in amounts not less than the actual replacement value.
- (b) General public liability insurance against claims for bodily injury, death or property damage occurring in or about any of the Leased Premises in an amount not less than \$2,000,000 for bodily injury or death for any one person, not less than \$5,000,000 for any one accident, and not less than \$1,000,000 for property damages.
- (c) Workers' compensation insurance covering all persons employed in connection with any work done on or about any of the Leased Premises for which claims for death or bodily injury could be asserted against Landlord, Tenant or any of the Leased Premises.
- (d) Such other insurance on or in connection with the Leased Premises as Landlord may reasonably require or which at any time is otherwise commonly obtained in connection with properties similar to the Leased Premises.

All insurance required by this paragraph shall be written by companies of recognized financial standing which are approved by Landlord. Such insurance policies shall name Landlord and Tenant as insured parties as their respective interests may appear. Tenant shall pay all premiums for the insurance required by this paragraph and shall renew or replace each policy and deliver to Landlord evidence of the payment of the full premium therefor at least twenty (20) days prior to the expiration date of such policy.

10. Casualty. In the event of any casualty (whether or not insured against) resulting in damage to any of the Improvements, the Term shall, notwithstanding such casualty, continue and there

shall be no abatement, reduction or return of any rent or any other sums payable by Tenant hereunder, and promptly after such casualty, Tenant shall commence and diligently pursue the restoration of the Improvements as nearly as possible to the value, condition and character immediately prior to such casualty. In the event of any insured casualty, the proceeds of any insurance policy in connection therewith shall be made available to Tenant for such restoration purposes.

11. No Liens. Tenant shall not, directly or indirectly, create, or permit to be created or remain, and shall promptly discharge or remove, any lien on any of the Leased Premises other than any charge or encumbrance created by or resulting solely from any act or omission of Landlord. Without limiting the foregoing, Tenant shall have no right to mortgage, pledge or otherwise encumber the leasehold estate created hereby. Notice is hereby given that Landlord shall not be liable for any labor, services or materials furnished or to be furnished to Tenant or to or for the benefit of the Leased Premises.

12. Alterations. Except as otherwise provided in paragraphs 2 and 7 above, Tenant shall not make any alterations to or of the Leased Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld.

13. Indemnification. Tenant agrees to pay, protect, indemnify, save and hold harmless Landlord and its successors and assigns from and against any and all liabilities, losses, damages, penalties, costs and expenses (including all reasonable attorney fees and expenses), causes of action, suits, claims, demands or judgments of any nature whatsoever, howsoever caused, arising from:

- (a) any matter pertaining to any of the Leased Premises or the ownership, use, nonuse, occupancy, operation, condition, design, construction, maintenance, repair or replacement of any of the Improvements or the Leased Premises;
- (b) any injury to or death of any person or any loss of or damage to any property in any manner arising from the Leased Premises or from any matter described in subparagraph (a) above, or connected therewith, or occurring thereon, whether or not Landlord has or should have had knowledge or notice of the defect or

condition, if any, causing or contributing to said injury, death, loss, damage or other claim;

- (c) any violation by Tenant of any provision of this Agreement; or
- (d) the deposit, storage, disposal, burial, dumping, injecting, spilling, leaking or any other placement or release by Tenant in or on the Leased Premises of any hazardous or toxic substance, matter or waste as defined in any law, rule, regulation, statute or ordinance.

In case any action or proceeding is brought against Landlord by reason of any such claim, Tenant covenants upon notice from Landlord to resist or defend such action or proceeding by counsel reasonably satisfactory to Landlord, and Landlord will cooperate and assist in the defense of such action or proceeding if reasonably requested to do so by Tenant. The obligations of Tenant under this paragraph shall survive any termination of this Agreement.

14. Default. The occurrence of any one or more of the following shall constitute an "Event of Default" under this Agreement:

- (a) any failure by Tenant to make (regardless of the pendency of any bankruptcy, reorganization, receivership, insolvency or other proceedings in law or in equity or before any administrative tribunal which has or might have the effect of preventing Tenant of complying with the provisions of this Lease) any payment of rent or other sum herein required to be paid by Tenant;
- (b) any failure by Tenant to complete the construction and/or installation of the Improvements in accordance with the Plans and Specifications on or before April 15, 1994;
- (c) any failure by Tenant to duly perform and observe, or a violation or breach of, any of the provisions hereof not otherwise specifically described in this paragraph, and the continuation of such failure, violation or breach for a period of thirty (30) days after written notice from Landlord to Tenant (provided that if the nature of such failure, violation or breach is such that it cannot be cured within such thirty day period, then such failure, violation or breach shall not be considered an Event of Default if Tenant commences the cure of same within such thirty day period and thereafter proceeds diligently and in good faith with such cure to the satisfaction of Landlord);

- (d) Tenant shall voluntarily or involuntarily be adjudicated a bankrupt or insolvent, or seek or consent to the appointment of a receiver or trustee for itself, or file a petition seeking relief under bankruptcy or similar laws of the United States or any state or other jurisdiction, make a general assignment for the benefit of creditors, or be unable to pay its debts as they mature.

Upon the occurrence of an Event of Default, Landlord shall have the right, at its option and in addition to any and all other remedies allowed by law, to do any one or more of the following without demand upon or notice to Tenant:

- (e) terminate this Agreement and all of Tenant's rights hereunder without releasing or discharging Tenant from liability for such default, or
- (f) specifically enforce this Agreement against Tenant.

15. Additional Rights of Landlord. No right or remedy herein conferred upon or reserved to Landlord is intended to be exclusive of any other right or remedy, and each and every right or remedy shall be cumulative and in addition to any other right or remedy given hereunder or now or hereafter existing by law or in equity. Upon the occurrence of any Event of Default, Landlord shall have the right (but not the obligation) to perform any act required of Tenant hereunder, whether as agent for Tenant or otherwise, and the reasonable cost thereof shall be paid by Tenant to Landlord together with interest thereon at the rate of sixteen percent (16%) from the date such cost is incurred. Tenant acknowledges that time is of the essence in the performance of its obligations under this Agreement. No failure of Landlord to insist at any time upon strict performance of any provision of this Agreement, or to exercise any option, right or remedy contained in this Agreement, shall be construed as a waiver, modification or relinquishment thereof.

16. Assignment. This Agreement, and the rights of Tenant hereunder, may not be sold, assigned, transferred or conveyed, nor the Leased Premises subleased by Tenant, whether voluntarily, involuntarily or by operation of law, to anyone except The City of Omaha, Nebraska (the "City"), and then only on the condition that the City shall assume all of the obligations of Tenant hereunder,

including obligations, actual or contingent, of Tenant which may have arisen on or prior to the date of such assignment, by a written instrument delivered to Landlord at the time of such assignment. In the event of the assignment of this Agreement to the City, Landlord grants to the City the option, exercisable at any time within one (1) year after such assignment, to purchase the Leased Premises from Landlord for the total sum of One Hundred Dollars (\$100.00). Any such sale of the Leased Premises to the City shall be made "AS IS" and without warranty or representation of any kind or nature.

17. **Notices.** All notices, demands, requests, approvals, consents, offers, statements, and other instruments of communication required or permitted to be given pursuant to the provisions of this Agreement, shall be in writing and shall be deemed to have been given when delivered in person, by Federal Express or other 24-hour delivery service, or three (3) business days after being deposited in the United States mail by certified mail, return receipt requested, postage prepaid, addressed to the other party at its address hereinbelow set forth:

IF TO TENANT: Sanitary and Improvement District
No. 367 of Douglas County, Nebraska
1231 GOLDEN GATE DR.
PAPILLION NE 68046
Attn: MR. JAMES CRIFE

IF TO LANDLORD: Childrens Memorial Hospital
8301 Dodge
Omaha, Nebraska 68114
Attn: President

WITH A COPY TO: FRASER, STRYKER, VAUGHN, MEUSEY,
OLSON, BOYER & BLOCH, P.C.
500 Energy Plaza
409 South 17th Street
Omaha, Nebraska 68102
Attn: Robert L. Freeman

For the purposes of this paragraph, any party may substitute its address by giving fifteen (15) days notice to the other party in the manner provided above.

18. **Surrender of Leased Premises.** Upon the expiration or earlier termination of this Agreement, Tenant shall peaceably leave

and surrender the Leased Premises to Landlord in the same condition as the Leased Premises were originally received from Landlord at the commencement of this Agreement and, as to the Improvements, in the same condition as initially constructed and/or installed by Tenant, except as the same may have been repaired, rebuilt, restored, altered, replaced or added to as permitted or required by any provision of this Agreement, and except for ordinary wear and tear.

19. Risk of Loss. The risk of loss or of decrease in the enjoyment and benefit or the use of any of the Leased Premises in consequence of the damage or destruction thereof by fire, the elements, casualties, thefts, riots, wars or otherwise, is assumed by Tenant and Landlord shall in no event be answerable or accountable therefor. Except as otherwise specifically provided in this Agreement, none of the events mentioned in this paragraph shall entitle Tenant to any abatement, reduction or return of any rent.

20. Ownership Transfer. Tenant agrees to expeditiously process (with Landlord's cooperation) an application to have the Leased Premises subdivided into a separate lot which can be conveyed by deed from Landlord to Tenant (the "Conveyance"). Tenant shall bear all costs associated with the Conveyance, including, but not limited to, professional fees of architects, surveyors and attorneys, and all administrative and recording costs. The Conveyance shall be effected by delivery of a deed to Tenant within thirty (30) days following receipt of administrative approval of the required lot split. All covenants contained in the Lease Agreement shall survive the Conveyance, and Landlord may, at its sole option, elect to require Tenant to execute such other and further covenants or instruments as it may determine, including, but not limited to, complete hold harmless and indemnification provisions coextensive with the provisions of paragraph 13 hereof.

21. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.

CHILDRENS MEMORIAL HOSPITAL
FOUNDATION

By

Title:

SANITARY AND IMPROVEMENT DISTRICT NO.
367 OF DOUGLAS COUNTY, NEBRASKA

By

Title:

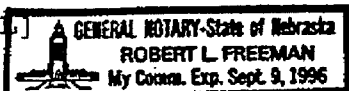
CHAIRMAN

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 20th day of August, 1993, before me, a notary public in and for said county and state, personally came Jere W. Fonda, Chairman of CHILDRENS MEMORIAL HOSPITAL FOUNDATION, known to me to be the identical person who signed the foregoing Agreement and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said Foundation.

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

[SEAL]



Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

NOTARIAL SEAL AFFIXED
REGISTER OF DEEDS

On this 19th day of AUG., 1993, before me, a notary public in and for said county and state, personally came JOHN C. ALLEN, CHAIRMAN of SANITARY AND IMPROVEMENT DISTRICT NO. 367 OF DOUGLAS COUNTY, NEBRASKA, known to me to be the identical person who signed the foregoing Agreement and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said S.I.D. 367.

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

[SEAL]



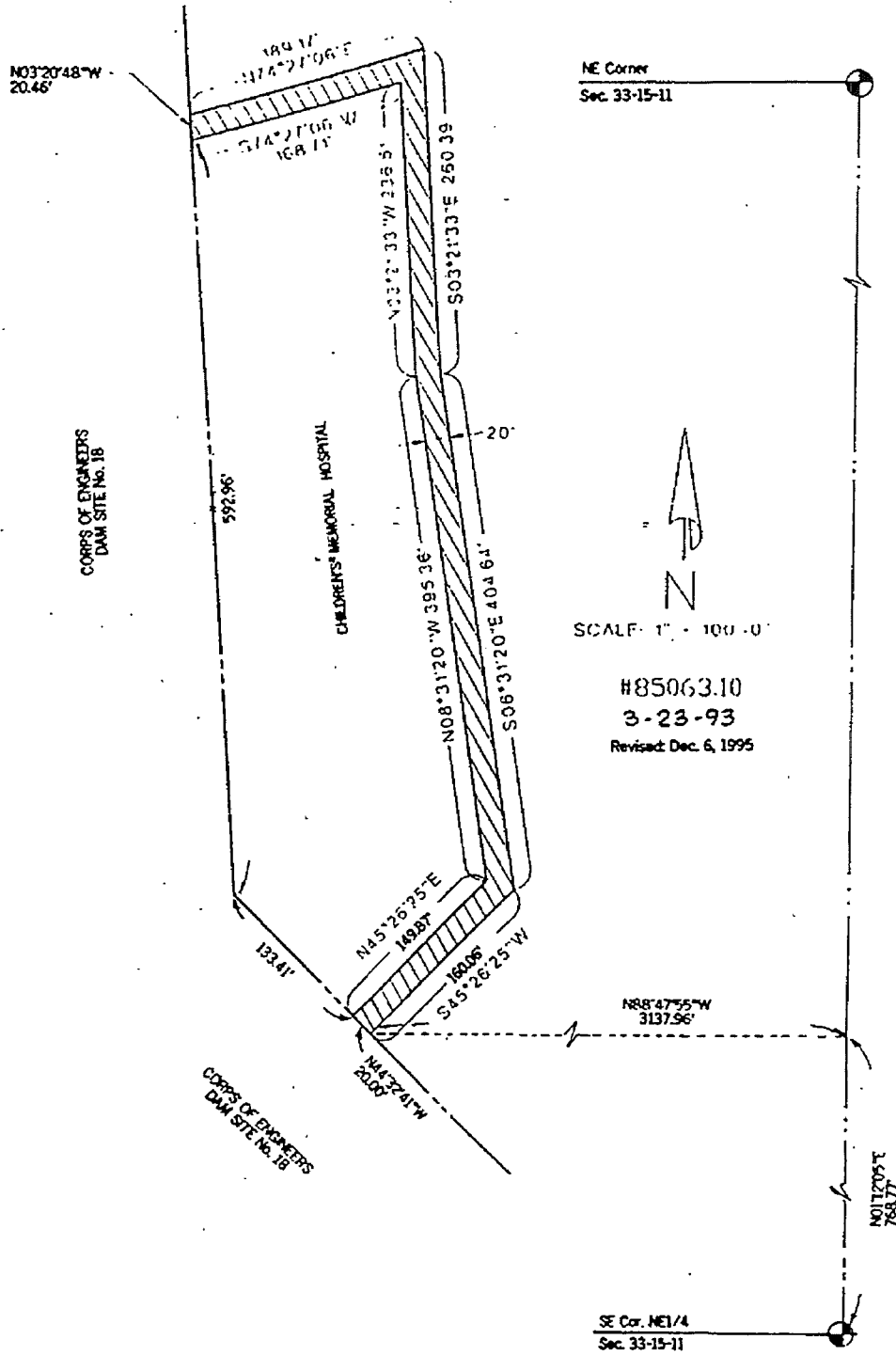
Notary Public

RWR:ces

Exhibit "A" - Legal Description
Exhibit "B" - Plans and Specifications

NOTARIAL SEAL AFFIXED
REGISTER OF DEEDS

EXHIBIT "A"
 PERMANENT SANITARY
 INTERCEPTOR SEWER EASEMENT
 PARCEL "A"
 DOUGLAS COUNTY, NEBRASKA



Easterly

Within lots 88-95

CHILDREN'S MEMORIAL HOSPITAL PERMANENT EASEMENT, PARCEL "A"

LEGAL DESCRIPTION
SANITARY INTERCEPTOR SEWER EASEMENT - PARCEL "A"
CHILDREN'S MEMORIAL HOSPITAL PROPERTY

A permanent sanitary interceptor sewer easement located in the North 1/2 of Section 33, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Commencing at the Southeast corner of the Northeast 1/4 of said Section 33; thence N01°12'05"E (assumed bearing) along the East line of said Section 33, a distance of 768.77 feet; thence N88°47'55"W, a distance of 3,137.96 feet to a point on the Northeasterly property line of the Corps of Engineers Dam Site No. 18, said point also being the point of beginning; thence N44°32'41"W along said Northeasterly property line of the Corps of Engineers Dam Site No. 18, a distance of 20.00 feet; thence N45°26'25"E, a distance of 149.87 feet; thence N08°31'20"W, a distance of 395.36 feet; thence N03°21'33"W, a distance of 236.51 feet; thence S74°26'06"W, a distance of 168.71 feet to a point on said Northeasterly property line of the Corps of Engineers Dam Site No. 18; thence N03°20'48"W along said Northeasterly property line of the Corps of Engineers Dam Site No. 18, a distance of 20.46 feet; thence N74°27'06"E, a distance of 189.17 feet; thence S03°21'33"E, a distance of 260.39 feet; thence S08°31'20"E, a distance of 404.64 feet; thence S45°26'25"W, a distance of 160.06 feet to the point of beginning.

SE } NW
NE }

The above-described tract of land contains an area of 19,647 square feet or 0.451 acres, more or less.

#85063.10

1/18/93

Revised 3/22/93

Revised 11/10/95

Revised 12/6/95

E & A CONSULTING GROUP
12001 "Q" STREET
OMAHA, NE 68137

EXHIBIT "C"

PLAN AND SPECIFICATION SUMMARY

The project plans and specifications are entitled "Sanitary Sewer Outfall, SOS 5114" consisting of sheets 1 through 17, prepared by Elliott & Associates, 5316 South 132nd Street, Omaha, NE, dated December 10, 1992 including all revisions, amendments, and additions thereto including but not limited to revised Sheet 5 of 17 dated July 28, 1993. The plans and specifications generally detail the construction of a 30" RCP sanitary interceptor sewer from approximately 168th and "B" Streets to 187th and West Center Road. The plans and specifications have been reviewed and approved by the City of Omaha Public Works Department and a full set of documents is on file.

LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT - PARCEL "A"
CHILDREN'S MEMORIAL HOSPITAL PROPERTY

A temporary construction easement located in the north half of Section 33, Township 15 North, Range 11 East of the Sixth Principal Meridian, Douglas County, Nebraska, more particularly described as follows:

Commencing at the southeast corner of the northeast quarter of said Section 33; thence N01°12'05"E (assumed bearing), along the east line of said Section 33, a distance of 15.16 feet; thence N88°47'55"W, a distance of 2364.10 feet to the Point of Beginning; thence N44°33'35"W, a distance of 392.69 feet; thence N44°33'23"W, a distance of 717.48 feet; thence N45°26'25"E, a distance of 144.78 feet; thence N08°31'20"W, a distance of 390.72 feet; thence N03°21'33"W, a distance of 224.57 feet; thence S74°27'06"W, a distance of 158.48 feet; thence N03°20'48"W, a distance of 51.16 feet; thence N74°27'06"E, a distance of 209.62 feet; thence S03°21'33"E, a distance of 284.27 feet; thence S08°31'20"E, a distance of 413.92 feet; thence S45°26'25"W, a distance of 120.25 feet; thence S44°32'41"E, a distance of 280.47 feet; thence N63°44'45"E, a distance of 140.14 feet; thence N17°42'22"E, a distance of 109.59 feet; thence S44°33'35"E, a distance of 208.00 feet; thence S20°54'09"W, a distance of 253.05 feet; thence S44°35'31"E, a distance of 362.97 feet; thence S59°22'57"E, a distance of 32.96 feet; thence S31°25'33"E, a distance of 35.92 feet; thence S48°08'59"W, a distance of 26.00 feet; thence S16°11'21"E, a distance of 51.16 feet to the Point of Beginning.

The above described tract of land contains an area of 3.560 acres, more or less.

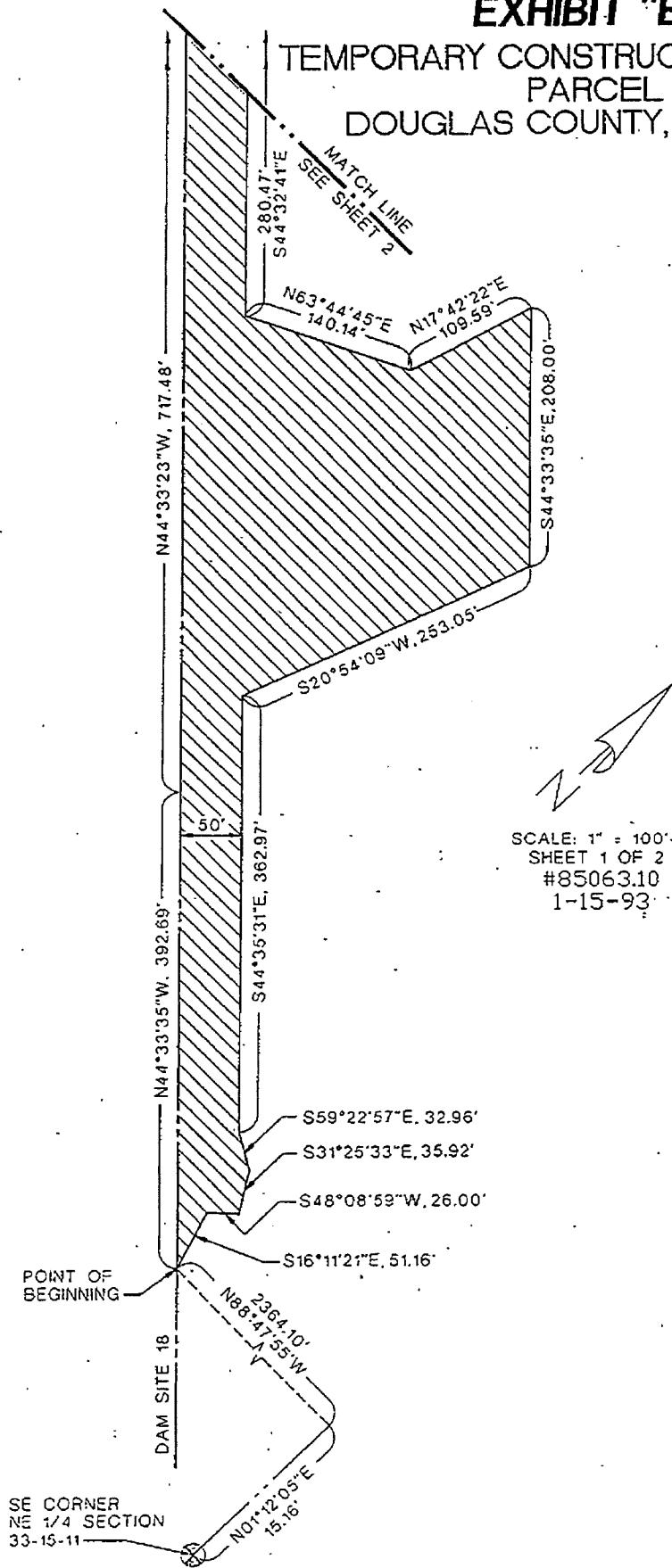
SW NE
SE NW

#85063.10
January 18, 1993

Prepared By:
Elliott & Associates
5316 South 132nd Street
Omaha, Nebraska, 68137

EXHIBIT "B"

TEMPORARY CONSTRUCTION EASEMENT PARCEL "A" DOUGLAS COUNTY, NEBRASKA



SCALE: 1" = 100'-0"
SHEET 1 OF 2
#85063.10
1-15-93

CHILDREN'S MEMORIAL HOSPITAL TEMPORARY EASEMENT, PARCEL "A"

SHEET 1

EXHIBIT "B"
TEMPORARY CONSTRUCTION EASEMENT
PARCEL "A"
DOUGLAS COUNTY, NEBRASKA

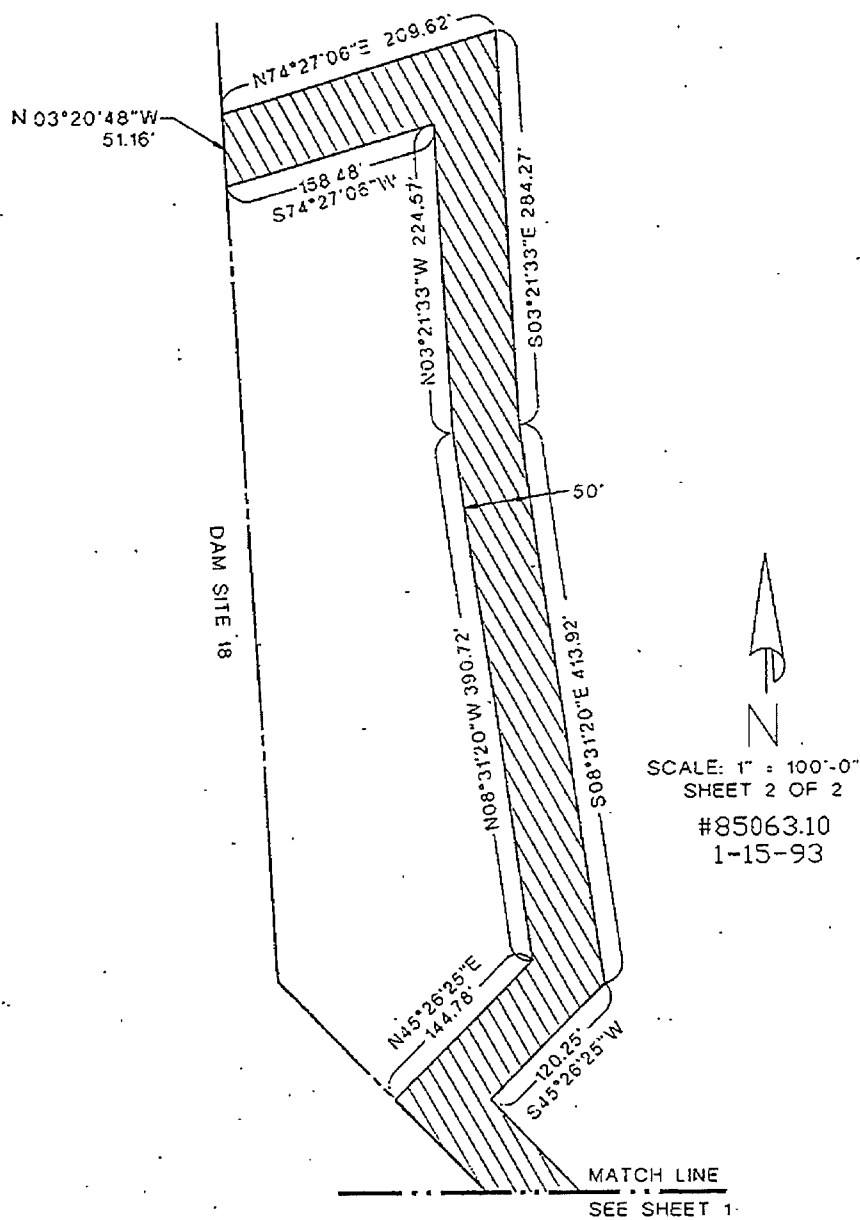
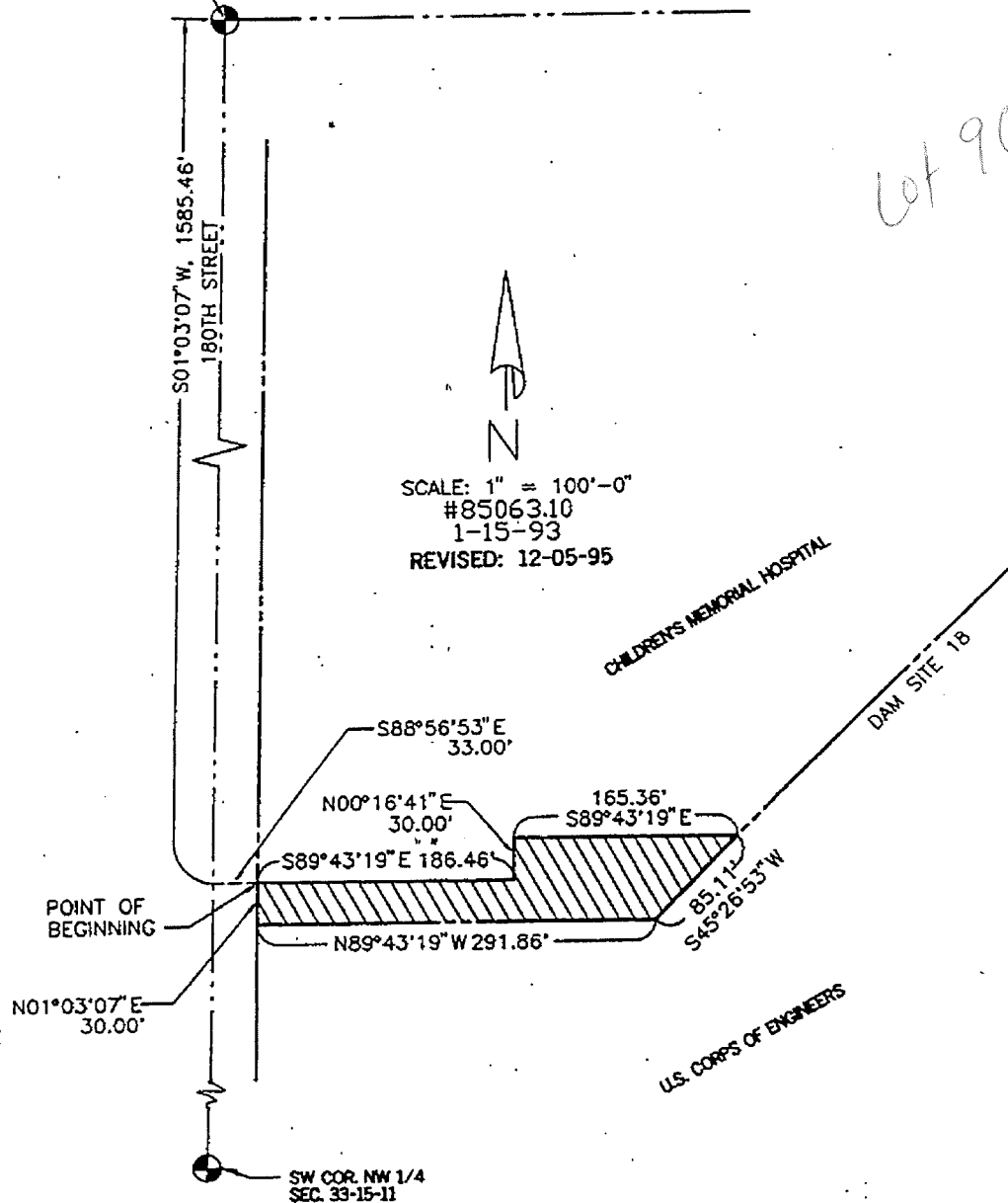


EXHIBIT 'A'
LIFT STATION SITE
DOUGLAS COUNTY, NEBRASKA

NW COR.
SEC. 33-15-11

U.S. HWY. 275
(WEST CENTER ROAD)



SANITARY SEWER LIFT STATION SITE

1

LEGAL DESCRIPTION
SANITARY SEWER LIFT STATION SITE
IN NORTHWEST QUARTER SECTION 33-15-11

nnnw

A tract of land located in the NW 1/4 of Section 33, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Commencing at the Northwest corner of said Section 33; thence S01°03'07"W (assumed bearing), along the West line of said Section 33, a distance of 1585.46 feet; thence S88°56'53"E, a distance of 33.00 feet to a point on the East right-of-way line of 180th Street, said point also being the point of beginning; thence S89°43'19"E, a distance of 186.46 feet; thence N00°16'41"E, a distance of 30.00 feet; thence S89°43'19"E, a distance of 165.36 feet to a point on the Northwestern property line of the Corps of Engineers Dam Site No. 18; thence S45°26'53"W along said Northwestern property line of the Corps of Engineers Dam Site No. 18, a distance of 85.11 feet; thence N89°43'19"W along the Northerly property line of said Corps of Engineers Dam Site No. 18, a distance of 291.86 feet to a point on said East right-of-way line of 180th Street; thence N01°03'07"E, along said East right-of-way line of 180th Street, a distance of 30.00 feet to the point of beginning.

The above-described tract of land contains an area of 13,711 square feet or 0.315 acres, more or less.

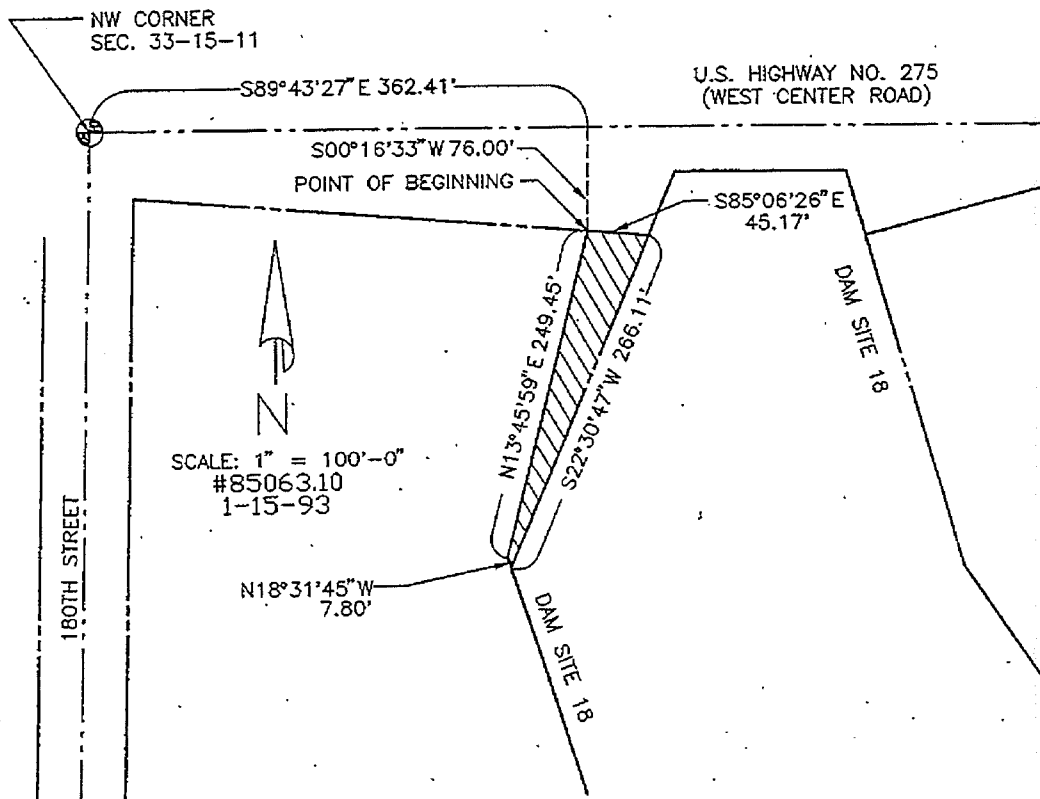
SW NW

#85063.10
1/1993
Revised 12/5/95

E & A CONSULTING GROUP
12001 "Q" STREET
OMAHA, NE 68137

EXHIBIT "B"
TEMPORARY CONSTRUCTION EASEMENT
PARCEL "B"
DOUGLAS COUNTY, NEBRASKA

lot 96



CHILDREN'S MEMORIAL HOSPITAL TEMPORARY EASEMENT PARCEL "B"

LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT - PARCEL "B"
CHILDREN'S MEMORIAL HOSPITAL PROPERTY

A temporary construction easement located in the northwest quarter of Section 33, Township 15 North, Range 11 East of the Sixth Principal Meridian, Douglas County, Nebraska, more particularly described as follows:

Commencing at the northwest corner of said Section 33; thence S89°43'27"E (assumed bearing), along the north line of said Section 33, a distance of 362.41 feet; thence S00°16'33"W, a distance of 76.00 feet to a point on the south right-of-way line of U.S. Highway No. 275, said point also being the Point of Beginning; thence S85°06'26"E, along said south right-of-way line of U.S. Highway No. 275, a distance of 45.17 feet; thence S22°30'47"W, a distance of 266.11 feet; thence N18°31'45"W, a distance of 7.80 feet; thence N13°45'59"E, a distance of 249.45 feet to the Point of Beginning.

The above described tract of land contains an area of 6,248 square feet or 0.143 acres, more or less.

#85063.10
January 18, 1993

NW NW

Prepared By:
Elliott & Associates
5316 South 132nd Street
Omaha, Nebraska, 68137

5. Title and Condition. Grantee's use of the Easement Areas as permitted herein is and shall be subject to the existing state of title, including any and all other easements now or hereafter existing across or through the Easement Areas, and all covenants, restrictions and conditions of record, any state of facts which an accurate survey or physical inspection of the Easement Areas may show, and all present and future laws which may be applicable to the Easement Areas or to the use, operation, maintenance, repair or replacement of the Sewer System, and including but not limited to, all zoning laws, ordinances and buildings codes (collectively the "Legal Requirements"). Without limiting the foregoing, Grantee acknowledges that Grantor has not made and will not make, and shall not ever be deemed to have made, any warranty or representation, express or implied, with respect to any of the Easement Areas or the Sewer System, including any warranty or representation as to fitness, design, condition for any particular use or purpose, value, quality of material or workmanship, existence of any defect, compliance with the Plans and Specifications, merchantability, durability or operation, and all risks incident thereto shall be borne by Grantee.

6. Termination. Notwithstanding the foregoing, the Temporary Easement shall terminate and be of no force or effect on the thirtieth day following completion of the Sewer System. The Temporary Easement and the Permanent Easement shall terminate and be of no force or effect if the Sanitary Sewer is not fully completed by Grantee in accordance with the Plans and Specifications and this Agreement on or before April 15, 1994. The parties specifically agree that the provisions of paragraphs 8, 9, 10 and 12 shall survive any termination of this Easement Agreement.

7. Consideration. In consideration of the grant of the Temporary Easement and the Permanent Easement, Grantee hereby pays to Grantor the sum of \$16,445.00, receipt of which is hereby acknowledged by Grantor; such sum shall be nonrefundable notwithstanding any termination of the Temporary Easement and the Permanent Easement as provided herein.

8. Grantor Improvements. Upon completion of construction of the Sewer System, Grantor, its successors and assigns shall have the right to construct or cause to be constructed upon or within the Easement Areas, or grant easements, licensors or other rights respecting the Easement Areas so as to permit such roads, streets, parking areas or other pavement or concrete improvements, any gas, electric, water, storm sewer, telephone, cable, or any other type of utility lines, pipes, conduits or systems, and such landscaping as Grantor may deem necessary or appropriate in its sole discretion (collectively the "Grantor Improvements"). Any construction of Grantor Improvements shall be effected so as not to unreasonably interfere with the normal operation of the Sewer System. Upon the termination of the Temporary Easement, Grantor, its successors and assigns may construct or cause to be constructed upon that portion of the Temporary Easement Area not included within the Permanent Easement Area any buildings, structures, fixtures or other improvements, including any exterior improvements, as Grantor may deem necessary or appropriate in its sole discretion.

9. Maintenance and Repair. Grantee shall at all times maintain the Sewer System in good repair, order and condition. Without limiting the foregoing, Grantee shall promptly make all alterations, repairs or replacements of every kind and nature, whether foreseen or unforeseen, which may be required to be made upon or in connection with the Sewer System in order to keep the Sewer System fit for its intended use. Grantor, its successors and assigns shall not be required to make any alterations, repairs or replacements, whether foreseen or unforeseen, or to maintain any of the Sewer System in any way.

10. Relocation. Grantor, its successors and assigns shall have the right at any time to relocate, at its cost, all or any portion of the Sewer System provided any such relocation shall be effected so as not to unreasonably interfere with the normal operation of the Sewer System and provided that Grantor (or its successors and assigns) shall grant or cause to be granted to Grantee a permanent non-exclusive easement upon terms consistent herewith over the property in which the Sewer System is relocated.

11. Construction Covenants. In connection with construction, operation, repair, maintenance and/or replacement of the Sewer System, Grantee covenants and agrees that, prior to April 15, 1994:

- (a) prior to commencement of the construction, Grantee shall obtain the written consent of any other holder(s) of easements on, across or through the Easement Areas to the construction of the Sewer System, all in form acceptable to Grantor;
- (b) the Sewer System shall be constructed and installed by Grantee in a good and workmanlike manner and in accordance with all legal requirements;
- (c) all embankment placed within fill areas shall be placed in accordance with Section 203.04 entitled "Compaction of Embankments" of the City of Omaha Specifications for Public Works Construction (1989 Ed.) effecting a ninety percent maximum density as determined by ASTM D698;
- (d) immediately following completion of construction of the Sewer System, Grantee shall seed the Easement Areas in accordance with Section 803 of the City of Omaha Specifications for Public Works Construction (1989 Ed.) using Type "B" mix and applied at a minimum rate of 200 pounds pure live seed per acre;
- (e) for each existing tree four inches in diameter or smaller damaged or destroyed by Grantee as a result of, or in connection with, the construction of the Sewer System, Grantee shall plant a one inch to two inch diameter tree of like species at a location designated by Grantor and for each existing tree greater than four inches in diameter damaged or destroyed by Grantee as a result of, or in connection with, the construction of the Sewer System, Grantee shall plant three (3) one inch to two inch diameter trees of like species at locations designated by Grantor;
- (f) Grantee shall exactly replace (using identical products and quality) any chain link fence or other fencing removed or damaged by Grantee as a result of, or in connection with, its construction of the Sewer System, including but not limited to, replacement of all below grade concrete; and
- (g) Grantee shall erect and continuously maintain a well-staked snow fence during construction of the Sewer System and shall, upon completion of construction, remove such snow fence as well as all other trash, rubbish, debris and construction

materials from the Easement Areas and any adjacent property of Grantor.

(h) Grantor (and its successors and assigns) shall have the right to use the Sewer System to tie into and make appropriate discharges into the Sewer System; and to have its discharges occupy and use the Sewer System without any further consents, licenses, easements or other permissions being required and without any fees, costs or charges to Grantee of any kind; and Grantee (and its successors and assigns) covenant and agree that they shall execute any documents and take such further actions as shall be reasonably required to enable Grantor to enjoy the benefits of free use of the Sewer System as set forth in this paragraph.

(i) Grantee shall be responsible for, and timely remedy, any problems related to erosion which are to any extent caused by Grantee or its agents. Grantee shall take all steps reasonably required to alleviate erosion problems during the construction of the Sewer System, and to completely eliminate such problems following completion of the Sewer System (except to the extent any such erosion problems existing prior to the date of this Agreement).

12. Indemnification. Grantee agrees to pay, protect, indemnify, save and hold harmless Grantor and its successors and assigns from and against any and all liabilities, losses, damages, penalties, costs and expenses (including all reasonable attorney fees and expenses), causes of action, suits, claims, demands or judgments of any nature whatsoever, howsoever caused, arising from:

- (a) any matter pertaining to the use of the Easement Areas by Grantee or the operation, condition, design, construction, maintenance, repair or replacement of the Sewer System by Grantee, including any injury to or death of any person or any loss of or damage to any property;
- (b) any violation by Grantee of any provision of this Agreement; or
- (c) the deposit, storage, disposal, burial, dumping, injecting, spilling, leaking or any other placement or release by Grantee in or on the Easement Areas of any hazardous or toxic substance, matter or waste as defined in any law, rule, regulation, statute or ordinance.

In case any action or proceeding is brought against Grantor by reason of any such claim, Grantee covenants upon notice from Grantor to resist or defend such action or proceeding by counsel reasonably satisfactory to Grantor, and Grantor will cooperate and assist in the defense of such action or proceeding if reasonably requested to do so by Grantee. The obligations of Grantee under this paragraph shall survive any termination of this Agreement.

13. Default. The occurrence of any one or more of the following shall constitute an "Event of Default" under this Agreement:

- (a) any failure by Grantee to complete the construction and/or installation of the Sewer System in accordance with the Plans and Specifications and this Agreement and fulfill each of the covenants of paragraph 11 on or before April 15, 1994;
- (b) any failure by Grantee to duly perform and observe, or a violation or breach of, any of the provisions hereof not otherwise specifically described in this paragraph, and the continuation of such failure, violation or breach for a period of thirty (30) days after written notice from Grantor to Grantee (provided that if the nature of such failure, violation or breach is such that it cannot be cured within such thirty day period, then such failure, violation or breach shall not be considered an Event of Default if Grantee commences the cure of same within such thirty day period and thereafter proceeds diligently and in good faith with such cure to the satisfaction of Grantor).

Upon the occurrence of an Event of Default, Grantor shall have the right, at its option and in addition to any and all other remedies allowed by law, to terminate the Temporary Easement and the Permanent Easement and all rights of Grantee to the Easement Areas.

14. Time of Performance. Grantee acknowledges that time is of the essence in the performance of its obligations under this Agreement. No failure of Grantor to insist at any time upon strict performance of any provision of this Agreement, or to exercise any option, right or remedy contained in this Agreement, shall be construed as a waiver, modification or relinquishment thereof.

15. Notices. All notices, demands, requests, approvals, consents, offers, statements, and other instruments of communication required or permitted to be given pursuant to the provisions of

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 20th day of August, 1993, before me, a notary public in and for said county and state, personally came Jere W. Fonda of Childrens Memorial Hospital Foundation, known to me to be the identical person who signed the foregoing Agreement and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said Foundation.

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

[SEAL] 

Robert C. Freeman
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

NOTARIAL SEAL AFFIXED
REGISTER OF DEEDS

On this 19th day of AUG, 1993, before me, a notary public in and for said county and state, personally came JOHN C. ALLEN, CHAIRMAN of SANITARY AND IMPROVEMENT DISTRICT NO. 367 OF DOUGLAS COUNTY, NEBRASKA, known to me to be the identical person who signed the foregoing Agreement and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said S.I.D. 367.

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

[SEAL] 

Homer R. Hunt
Notary Public

RWR:ces
Exhibit "A" - Legal Description - Permanent Easement
Exhibit "B" - Legal Description - Temporary Easement
Exhibit "C" - Plans and Specifications (Recordable Summary)

NOTARIAL SEAL AFFIXED
REGISTER OF DEEDS

this Agreement, shall be in writing and shall be deemed to have been given when delivered in person, by Federal Express or other 24-hour delivery service, or three (3) business days after being deposited in the United States mail by certified mail, return receipt requested, postage prepaid, addressed to the other party at its address hereinbelow set forth:

IF TO GRANTEE: Sanitary and Improvement District
No. 367 of Douglas County, Nebraska
1231 GOLDEN GATE DRIVE
PAPILLION, NE 68046
Attn: MR. JAMES CRIFE

IF TO GRANTOR: Childrens Memorial Hospital
8301 Dodge
Omaha, Nebraska 68114
Attn: President

WITH A COPY TO: FRASER, STRYKER, VAUGHN, MEUSEY,
OLSON, BOYER & BLOCH, P.C.
500 Energy Plaza
409 South 17th Street
Omaha, Nebraska 68102
Attn: Robert L. Freeman

For the purposes of this paragraph, any party may substitute its address by giving fifteen (15) days notice to the other party in the manner provided above.

16. Binding Effect. This Agreement shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.

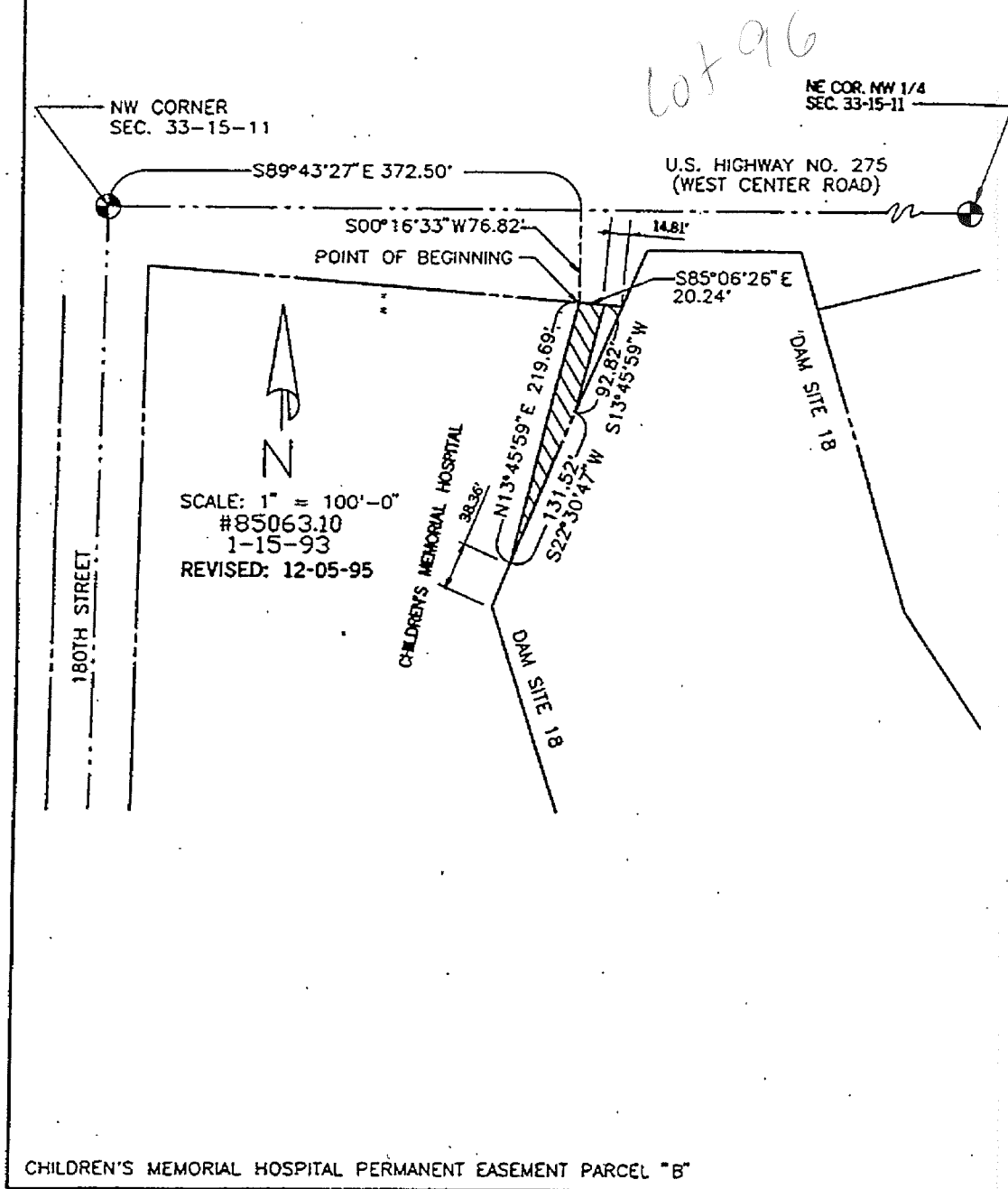
CHILDRENS MEMORIAL HOSPITAL
FOUNDATION

By 
Title:

SANITARY AND IMPROVEMENT DISTRICT NO.
367 OF DOUGLAS COUNTY, NEBRASKA

By 
Title: CHAIRMAN

EXHIBIT "A"
PERMANENT SANITARY
INTERCEPTOR SEWER EASEMENT
PARCEL "B"
DOUGLAS COUNTY, NEBRASKA



LEGAL DESCRIPTION
PERMANENT SANITARY INTERCEPTOR SEWER EASEMENT - PARCEL "B"
CHILDREN'S MEMORIAL HOSPITAL PROPERTY

A permanent sanitary interceptor sewer easement located in the NW 1/4 of Section 33, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Commencing at the Northwest corner of said Section 33; thence S89°43'27"E (assumed bearing) along the North line of said Section 33, a distance of 372.50 feet; thence S00°16'33"W, a distance of 76.82 feet to a point on the South right-of-way line of US Hwy No. 275, said point also being the point of beginning; thence S85°06'26"E along said South right-of-way line of US Hwy No. 275, a distance of 20.24 feet; thence S13°45'59"W, a distance of 92.82 feet to a point on the Northwesterly property line of the Corps of Engineers Dam Site No. 18; thence S22°30'47"W along said Northwesterly property line of the Corps of Engineers Dam Site No. 18, a distance of 131.52 feet; thence N13°45'59"E, a distance of 219.69 feet to the point of beginning.

NW NW

The above-described tract of land contains an area of 3,125 square feet or 0.072 acres, more or less.

#85063.10
1/18/93
Revised 12/5/95

E & A CONSULTING GROUP
12001 "Q" STREET
OMAHA, NE 68137