

## Peter K. Curran

---

**From:** Peter K. Curran  
**Sent:** Monday, December 11, 2006 3:37 PM  
**To:** 'lkreppel@benensoncapital.com'  
**Subject:** FW: Scanned from GL00804C400074 [CURRAN]

**Attachments:** 2006.12.11.PDF



2006.12.11.PDF  
(359 KB)

Another try with I think the correct e-mail address.

-----Original Message-----

**From:** Peter K. Curran  
**Sent:** Monday, December 11, 2006 3:14 PM  
**To:** 'lkreppel@benensoncapital.com'  
**Cc:** markbuhler@stephensre.com  
**Subject:** FW: Scanned from GL00804C400074 [CURRAN]

Attached is a copy of my letter of 11/29 and enclosures. The requested easement is to service the property just to the east which is being sold for multifamily use. It is my understanding the years ago when your company replatted utility easements were vacated that would have serviced our clients' property. The City of Lawrence now says the space across your property is the only easement course which will be adequate to service our clients' property, after exploring all other alternatives. Please let me know if we can proceed to agreement, or if you have any further questions. Time being of the essence, I will appreciate hearing from you within 10 days.

-----Original Message-----

**From:** Stevens & Brand, L.L.P. Multifunction Copier [mailto:toshiba@stevensbrand.com]  
**Sent:** Monday, December 11, 2006 2:21 PM  
**To:** Peter K. Curran  
**Subject:** Scanned from GL00804C400074 [CURRAN]

## Peter K. Curran

---

**From:** System Administrator  
**To:** Kreppel, Leonard  
**Sent:** Monday, December 11, 2006 3:37 PM  
**Subject:** Delivered: FW: Scanned from GL00804C400074 [CURRAN]

Your message

**To:** lkreppel@benensoncapital.com  
**Subject:** FW: Scanned from GL00804C400074 [CURRAN]  
**Sent:** 12/11/2006 3:37 PM

was delivered to the following recipient(s):

Kreppel, Leonard on 12/11/2006 3:47 PM

# STEVENS & BRAND<sup>LLP</sup>

ATTORNEYS AT LAW  
US BANK TOWER

900 MASSACHUSETTS, SUITE 500  
POST OFFICE BOX 189  
LAWRENCE, KANSAS 66044-0189  
TELEPHONE: (785) 843-0811  
FAX: (785) 843-0341  
WWW.STEVENSBRAND.COM

RICHARD B. STEVENS  
1899-1891

JOHN W. BRAND  
1907-1971

JOHN W. BRAND, JR.  
WEBSTER L. GOLDEN  
PETER K. CURRAN  
WINTON A. WINTER, JR.  
EVAN H. ICE  
SHERRI E. LOVELAND  
MOLLY M. WOOD  
CHRISTOPHER F. BURGER\*  
BRADLEY R. FINKELDEI  
MATTHEW H. ROY\*  
LESLIE M. MILLER  
SHANNON C. OURY†  
EMILY A. DONALDSON  
REBECCA J. WEMPE

November 29, 2006

\*ADMITTED IN KANSAS AND MISSOURI  
†ADMITTED IN KANSAS AND COLORADO

2300 Louisiana Co., LLC  
c/o Leonard J. Kreppel  
The Benenson Capital Partners  
708 Third Avenue  
New York, NY 10017

## Re: Sanitary Sewer Easement

Dear Mr. Kreppel:

The owners of the real estate immediately to the northeast of your property described as Lot 1 in Block 1 in Lewis Subdivision in the City of Lawrence, Kansas, are interested in acquiring the right to a sanitary sewer easement along the east and south boundaries of Lot 1. We represent the owners, Joan McBride Ogden, Sherry McBride, and Mary Kay Stephens.

Enclosed is a Utility Easement Exhibit which shows the easement area on your property, including a temporary construction easement. The easements would be granted to the City of Lawrence which operates the sewer system, but the compensation to you would be paid by the property owners benefiting from the easement. Proposed Agreement and easement documents are also enclosed.

You will be able to use and enjoy the land within the easement the same as you do now except for any uses which would jeopardize the operation, maintenance, repair of the line. No permanent building or stockpile could be erected or stored on the easement, but you could do other activities which are non-conflicting with a City sewer line easement.

The above-named adjacent owners offer to acquire the permanent easement and temporary construction easement for \$5,000.00 pursuant to the terms of the Proposed Agreement.

2300 Louisiana Co., LLC  
c/o Leonard J. Kreppel  
The Benenson Capital Partners  
November 29, 2006  
Page 2

We would be pleased to consider any relevant information or documentation you believe has not been properly considered in valuing the easements. Our clients desire to fairly negotiate and agree on all matters of concern acquiring the sewer easements

If we cannot agree on the terms and just compensation for a purchase of the easement, our clients will have no choice but to have the City of Lawrence acquire the needed easement for their system through the eminent domain process. In that event a court will determine just compensation for the easement.

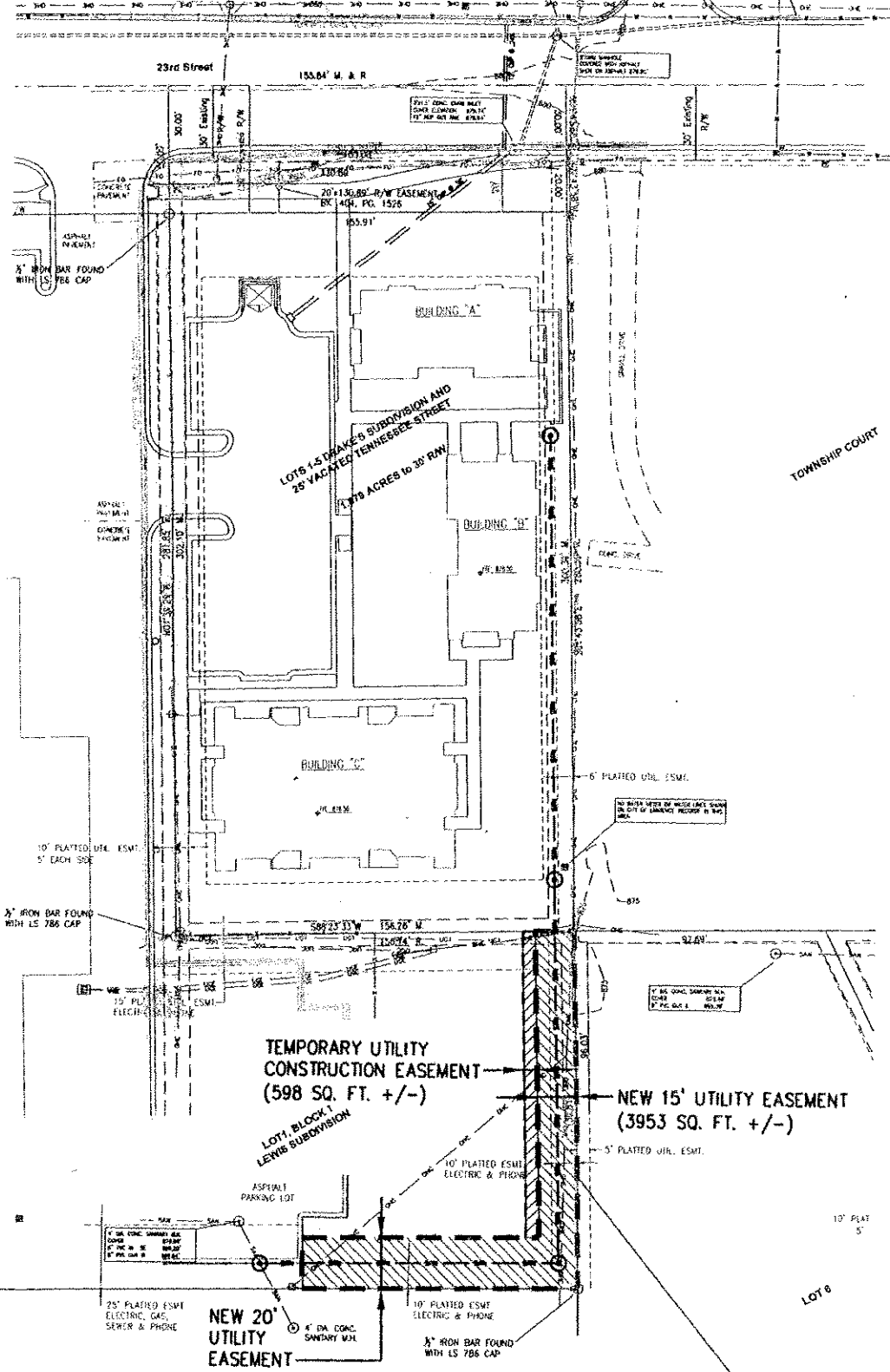
I will contact you sometime within the next 10 days to discuss purchasing the easements on your property.

Very truly yours,  
STEVENS & BRAND, L.L.P.



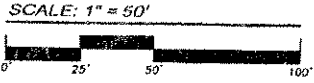
Peter K. Curran  
*pcurran@stevensbrand.com*

PKC:vs  
Enclosures



# UTILITY EASEMENT EXHIBIT

LOT 1, BLOCK 1 - LEWIS SUBDIVISION



**Peridian Group, Inc.**

- COMMUNITY PLANNING
- CIVIL ENGINEERING
- LANDSCAPE ARCHITECTURE
- LAND SURVEYING

285 N. STONE CREEK DRIVE  
GARDNER, KANSAS 66030  
TEL (913) 856-7899 FAX (913) 856-7844

## AGREEMENT

THIS AGREEMENT is made this \_\_\_ day of \_\_\_\_\_, 2006, by and between 2300 LOUISIANA CO., LLC, a Delaware limited liability company ("SELLER"), and JOAN MCBRIDE OGDEN, SHERRY MCBRIDE and MARY KAY STEPHENS (hereinafter "BUYERS").

### RECITALS

SELLER is the owner of certain real property legally described as follows:

**Lot 1 Block 1, in Lewis Subdivision, a Subdivision in the City of Lawrence,  
Douglas County, Kansas; and**

BUYERS desire to connect to the sanitary sewer system of the City of Lawrence ("the City") on and through the SELLER'S above-described real property, and has determined that in order to properly design, construct and maintain such system it is necessary to acquire certain real property rights from SELLER for the City, as more fully described herein; and

SELLER is willing to sell and BUYERS are willing to purchase SELLER'S real property interests described herein for the City, and by this written Agreement the parties desire and intend to set forth the terms and conditions of their agreement in writing.

### AGREEMENT

In consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. SELLER agrees to sell and BUYERS agree to purchase the following real property interests for the City:
  - a. A Utility Easement, in the form set forth in Exhibit A, which is attached hereto and incorporated herein by reference, over and across that portion of SELLER'S real property as set out in the attached Utility Easement Exhibit, Exhibit B.
  - b. A Temporary Construction Easement in the form set forth in Exhibit C.
  
2. Purchase Price. The purchase price for such real property interests is \$5,000.00, payable by BUYERS to SELLER within 30 days of the execution and delivery of this Agreement and the Easements described in Paragraph 1 above from SELLER to the City.

3. Title. Contemporaneously to the delivery of this Agreement, SELLER agrees to deliver to BUYERS and the City the executed Utility Easement and Temporary Construction Easement described herein and attached as Exhibits A and C. Upon delivery from BUYERS to SELLER of the consideration contained herein SELLER and City shall record such Easement with the Douglas County Register of Deeds.

4. Closing Costs. BUYERS agree to pay the costs of recording all instruments tendered to them.

5. Real Estate Commissions. The parties represent that neither has engaged the services of a real estate agent or broker in relation to this transaction, and that to the best of their respective knowledge no person or entity has a claim for any commission or fees in connection with this transaction. In the event that any person or entity claims a commission or fee from SELLER for services provided to SELLER in relation to this transaction, such commissions or fee are the sole responsibility of SELLER. SELLER agrees to indemnify and hold BUYERS harmless from and against any and all liability, costs and expenses, including reasonable attorneys' fees, arising out of or pertaining in any manner to any claim for any such commission or fee claimed from SELLER. In the event that any person or entity claims a commission or fee from BUYERS for services provided to BUYERS in relation to this transaction, such commissions or fees are the sole responsibility of BUYERS. BUYERS agree to indemnify and hold SELLER harmless from and against any and all liability, costs and expenses, including reasonable attorneys' fees, arising out of or pertaining in any manner to any claim for any such commission or fee claimed from BUYERS.

6. Notices. The delivery of any documentation or notices as provided hereunder shall be made with respect to SELLER to \_\_\_\_\_ at \_\_\_\_\_ and with respect to BUYERS to \_\_\_\_\_ at \_\_\_\_\_, or at such other places as the parties shall hereinafter designate in writing.

7. Authority to Execute Agreement. Each of the persons executing this Agreement on behalf of the respective parties represents and warrants that they have the authority to bind the party on behalf of whom they sign this Agreement, and that all acts requisite to the authorization to enter into this Agreement have been taken and completed.

8. Choice of Law. The laws of the State of Kansas shall govern the rights of the parties with respect to this Agreement.

9. Entire Agreement. This Contract contains the entire agreement between the parties regarding the subject matter of this agreement. All prior oral or written statements relating to the subject matter of this Agreement are merged into this written Agreement, and no promise or agreement not herein expressed has been made by the parties. None of the provisions contained in the Agreement may be changed except by an instrument in writing signed by all of the parties hereto.

10. Agreement Binding. This agreement, and the obligations of the parties, are joint and several obligations of the respective parties, and shall be binding upon the heirs, executors, successors or assigns of the respective parties.

2300 LOUISIANA CO., LLC  
SELLER

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
 ) :SS  
COUNTY OF \_\_\_\_\_ )

BE IT REMEMBERED that on this \_\_\_\_\_ day of \_\_\_\_\_, 2006 before me, the undersigned, a notary public in and for the county and state aforesaid, came \_\_\_\_\_, a corporate officer of 2300 LOUISIANA CO., LLC, and who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same for the purposes and consideration therein expressed on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

\_\_\_\_\_  
Notary Public  
My appointment expires:



BUYERS:

\_\_\_\_\_  
JOANN MCBRIDE OGDEN

\_\_\_\_\_  
SHERRY MCBRIDE

\_\_\_\_\_  
MARY KAY STEPHENS

**ACKNOWLEDGMENT**

STATE OF KANSAS            )  
  ) :SS  
COUNTY OF DOUGLAS        )

BE IT REMEMBERED that on this \_\_\_\_\_ day of \_\_\_\_\_, 2006 before me, the undersigned, a notary public in and for the county and state aforesaid, came JOAN MCBRIDE OGDEN, SHERRY MCBRIDE and MARY KAY STEPHENS who are personally known to me to be the same persons who executed the within instrument of writing and such person duly acknowledged the execution of the same for the purposes and consideration therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

My appointment expires:

\_\_\_\_\_  
Notary Public

\*\*\*\*\*

# EXHIBIT A

## UTILITY EASEMENT

THE UNDERSIGNED, for and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, receipt of which is hereby acknowledged, hereby grant, sell, convey, and deliver unto the City of Lawrence, Kansas, a municipal corporation, a permanent and perpetual fifteen (15) foot utility easement for the construction and maintenance of utilities over, under, and across the following described tract of real estate situated in the City of Lawrence, Douglas County, Kansas, to-wit:

A PORTION OF LOT ONE, BLOCK ONE IN LEWIS SUBDIVISION IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS DESCRIBED AS FOLLOWS:

THE SOUTH 20.00 FEET OF SAID LOT ONE LYING EAST OF THE PLATTED 25' UTILITY EASEMENT (ELECTRIC, GAS, SEWER & PHONE) AND THE EAST 15.00 FEET OF SAID LOT ONE, CONTAINING 3953 SQUARE FEET, MORE OR LESS.

Grantee and all other public utility companies shall have the right of ingress and egress upon the above-described easement for the purpose of installing, maintaining, repairing, or replacing public utilities, and otherwise make all uses of said easement and do all things necessary or proper for the use of said easement for public utilities.

Grantor shall do or cause nothing to be done to interfere with the Grantee's right of use of said easement for the purposes herein stated.

THE UNDERSIGNED FURTHER WARRANTS that they have good and lawful right to convey said easement, and will forever warrant and defend the title thereto.

THIS AGREEMENT is and shall be binding and obligatory upon the heirs, administrators, executors, personal representatives, successors and assigns of the parties hereto,

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

2300 LOUISIANA CO., LLC.

By: \_\_\_\_\_

Name: \_\_\_\_\_

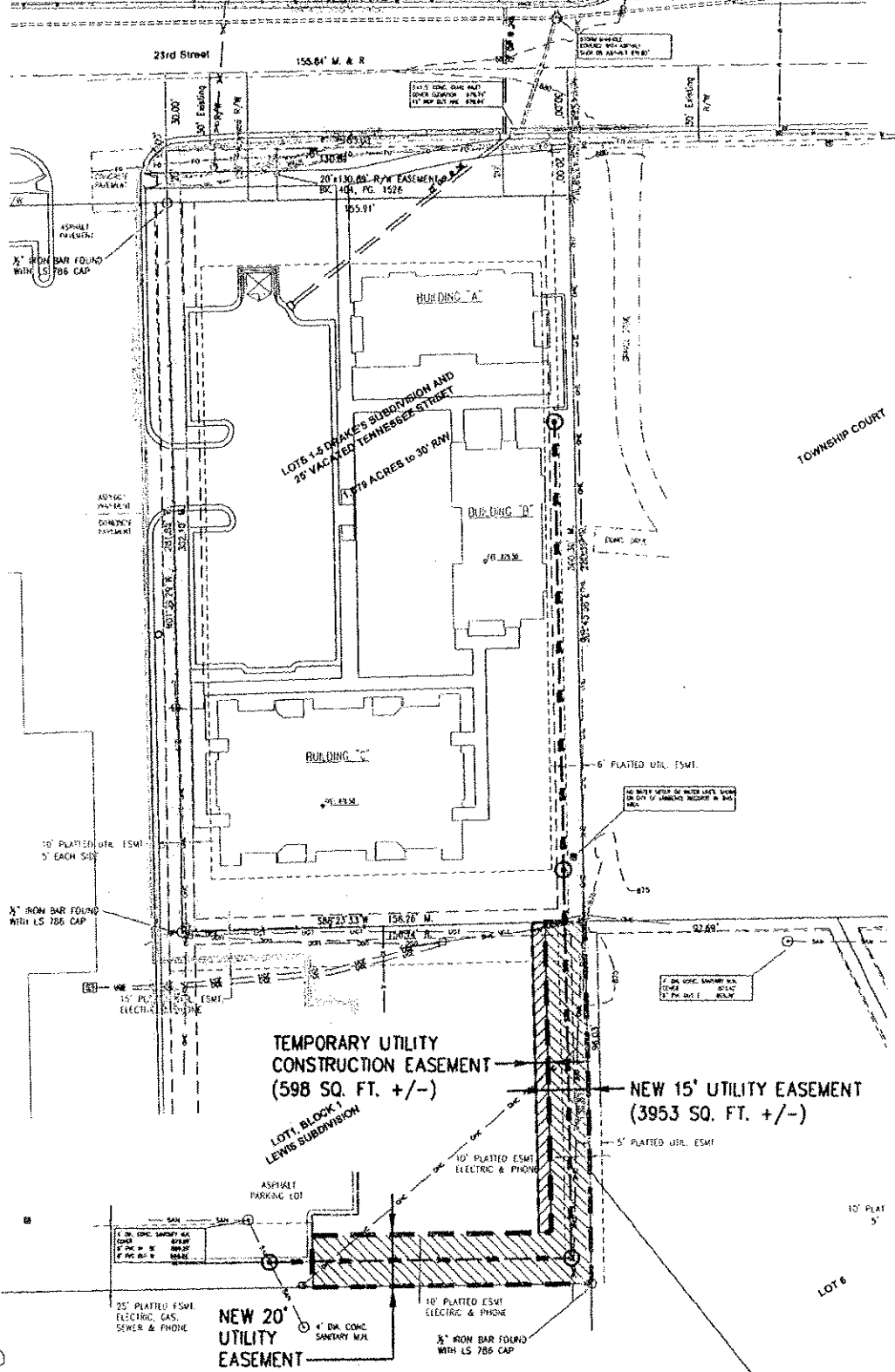
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

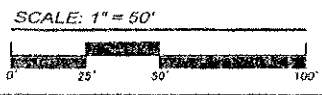
BE IT REMEMBERED that on this \_\_\_\_ day of \_\_\_\_\_ 2006,  
before me, the undersigned, a Notary Public in and for the County and State aforesaid came  
who is personally known to me to be the person who executed the within and foregoing  
instrument of writing, and duly acknowledge the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my official  
seal the day and year last above mentioned.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_



**UTILITY EASEMENT  
EXHIBIT**  
LOT 1, BLOCK 1 - LEWIS SUBDIVISION





**Peridian Group, Inc.**

- COMMUNITY PLANNING
- CIVIL ENGINEERING
- LANDSCAPE ARCHITECTURE
- LAND SURVEYING

265 N. STONE CREEK DRIVE  
GARDNER, KANSAS 66030  
TEL (913) 656-7898 FAX (913) 656-7644

2006 COPYRIGHT

# EXHIBIT C

## TEMPORARY CONSTRUCTION EASEMENT

THE UNDERSIGNED, for and in consideration of the sum of One Dollar (\$1.00) and other valuable considerations, receipt of which is hereby acknowledged, hereby grant, sell, convey and deliver unto the City of Lawrence, Kansas, a municipal corporation, a temporary construction easement for the construction and maintenance of A SANITARY SEWER and related facilities over, under and across the following described property in the City of Lawrence, Douglas County, Kansas to-wit; this Temporary Construction Easement Will expire UPON THE COMPLETION OF CONSTRUCTION AND THE ACCEPTANCE BY THE CITY:

Name: 2300 LOUISIANA CO., LLC.

### TEMPORARY EASEMENT DESCRIPTION:

A STRIP OF LAND LYING IN LOT ONE, BLOCK ONE LEWIS SUBDIVISION IN THE CITY OF LAWRENCE, DOUGLAS COUNTY KANSAS DESCRIBED AS FOLLOWS:

THE WEST 5.00 FEET OF THE EAST-MOST 20.00 FEET OF SAID LOT ONE, EXCEPT THE SOUTH 20 FEET THEREOF, CONTAINING 598 SQUARE FEET, MORE OR LESS.

Notwithstanding anything contained herein to the contrary, execution of this document shall not waive or relinquish Grantor's right to recover any costs of expenses incurred by Grantor for any physical damage to Grantor's property due to construction on this project.

THE UNDERSIGNED FURTHER WARRANT that they have good and lawful right to convey said easement, and will forever warrant and defend the title thereto.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2006.

2300 LOUISIANA CO., LLC.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )ss.

BE IT REMEMBERED that on this \_\_\_\_ day of \_\_\_\_\_ 2006, before me, the undersigned, a Notary Public in and for the County and State aforesaid came \_\_\_\_\_ who is personally known to me to be the person who executed the within and foregoing instrument of writing, and duly acknowledge the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my official seal the day and year last above mentioned.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_