

ORDINANCE NO. 2686

AN ORDINANCE APPROVING THE DESCRIPTION AND SURVEY OF LANDS NECESSARY FOR CONSTRUCTING, RECONSTRUCTING AND MAINTAINING OF PUBLIC UTILITY IMPROVEMENTS, DESIGNATED IN RESOLUTION 2074 AND AUTHORIZING THE INSTITUTION OF EMINENT DOMAIN PROCEEDINGS.

WHEREAS, the City of Gardner, Kansas owns and operates a sanitary sewer system for the public benefit of treating wastewater for residents and customers of the City's wastewater system;

WHEREAS, it is necessary to acquire easements on, over, through and under private properties for the construction of certain public improvements in support of the City's sanitary sewer improvements, which properties are situated both within and outside of the corporate city limits in Johnson County, Kansas;

WHEREAS, the City is authorized to exercise eminent domain for the purpose of acquiring such easements pursuant to Article 12, Section 5 of the Kansas Constitution, K.S.A. 26-201, K.S.A. 12-845, K.S.A. 12-622 and K.S.A. 12-867, for the purposes herein stated;

WHEREAS, the Governing Body of the City adopted Resolution No. 2074 declaring it necessary to acquire by condemnation the aforementioned easements and directing that a survey and description of the lands or interests to be acquired be prepared by the City Engineer and filed with the City Clerk;

WHEREAS, surveys describing temporary construction easements and permanent easements have been completed and filed as directed by Resolution No. 2074.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS:

SECTION ONE: The description and survey of lands necessary to acquire a temporary construction easement for the purpose to enter upon, excavate, fill, grade, locate, construct, and install or authorize such activities for the location, and construction of utility lines, sanitary sewer facilities, conduits, pipes, ducts, couplings, connectors, reinforcements, supports, protective devices, fittings, valve boxes, manholes, vents, pipeline marker posts and other facilities and appurtenances, constructing, grading, improving, reconstructing and inspecting the project shown by the plans of said proposed improvement, together with the right of access to said easement and over said easement for said purposes as prepared by the City Engineer or designee and filed with the City Clerk pursuant to Resolution No. 2074, adopted by the Governing Body of the City of Gardner, Kansas, is hereby approved.

SECTION TWO: The description and survey of lands necessary to acquire a permanent and perpetual easement for the purpose to enter upon, excavate, fill, grade, locate, construct, install and maintain, or authorize such activities for the location, construction or maintenance, and use of utility lines and sanitary sewer facilities, conduits, pipes, ducts, couplings, connectors,

reinforcements, supports, protective devices, fittings, valve boxes, manholes, vents, pipeline marker posts and other facilities and appurtenances, including the right to clean, repair, replace, and care for said facilities, together with the right of access to said easement and over said easement for said purposes as prepared by the City Engineer or designee and filed with the City Clerk pursuant to Resolution No. 2074, adopted by the Governing Body of the City of Gardner, Kansas, is hereby approved.

SECTION THREE: The action of the Governing Body of the City of Gardner, Kansas in acquiring the temporary construction easement and the permanent easement as herein described has been declared necessary by the Governing Body.

SECTION FOUR: The acquisition of the temporary construction easement and the permanent easement as herein described for the construction, reconstruction and maintenance of certain public improvements in support of the City's sanitary sewer facilities is all in accordance with and under the provisions of Chapter 26 of the Kansas Statutes Annotated.

SECTION FIVE: That there is hereby declared to be public necessity to acquire by eminent domain proceedings for the purpose of construction, reconstruction and maintenance of certain public improvements in support of the City's sanitary sewer utility the lands described in Exhibit A hereto.

SECTION SIX: The City Attorney for the City of Gardner, Kansas is hereby directed, authorized and instructed to make proper application to a Judge of the District Court of Johnson County, Kansas, for the acquisition of the aforementioned temporary construction and permanent easements for the purpose of construction, reconstruction and maintenance of certain public improvements in support of the City's sanitary sewer system, praying for condemnation thereof and the appointment of three disinterested residents of the County to assess and to determine the damages and compensation resulting from such compensation and for such other proceedings as may be required by law.

SECTION SEVEN: This Ordinance shall take effect and be in force from and after its passage and publication as provided by law.

PASSED by the Governing Body this 7th day of December, 2020.

SIGNED by the Mayor this 7th day of December, 2020.

_____/s/_____
Steve Shute, Mayor

{SEAL}

ATTEST:

_____/s/_____
Sharon Rose, City Clerk

APPROVED AS TO FORM:

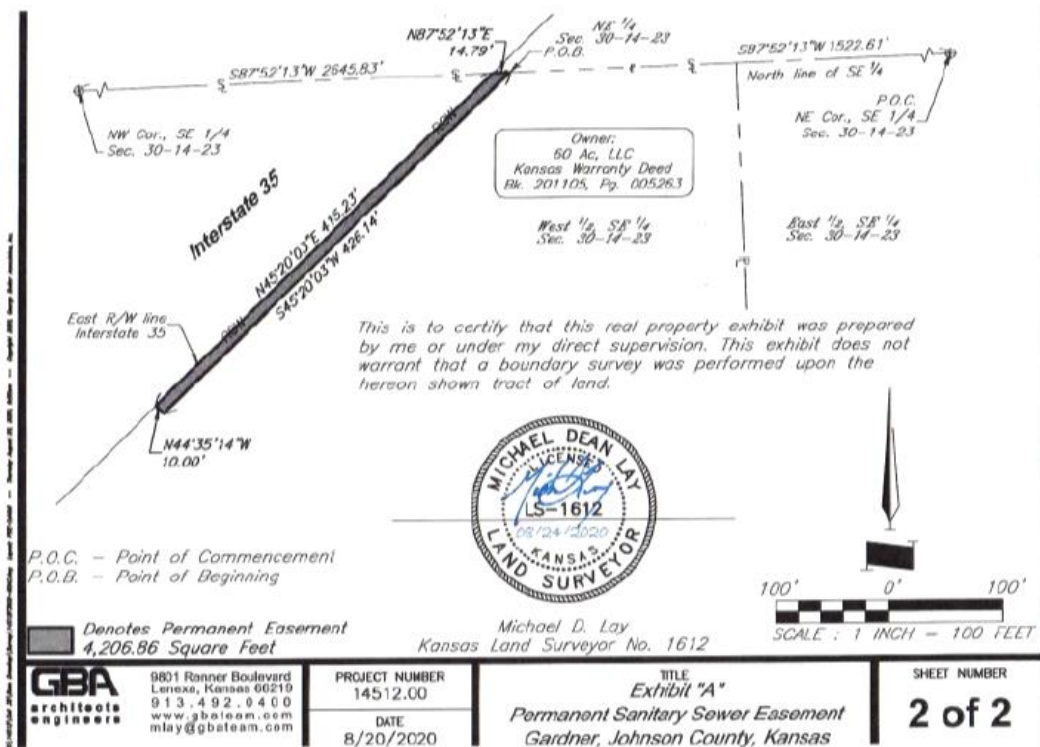
/s/
Ryan B. Denk, City Attorney

Exhibit A

Tract No. 1:

Fee Simple Owner: 60 Ac., LLC

Legal Description of the Real Property to be acquired for Permanent Easement:

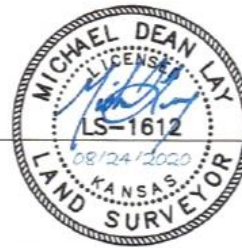


PERMANENT SANITARY SEWER EASEMENT:

A Permanent Sanitary Sewer Easement over part of the West Half of the Southeast Quarter of Section 30, Township 14 South, Range 23 East of the 6th P.M., in the City of Gardner, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter; thence South 87°52'13" West, along the North line of said Southeast Quarter, a distance of 1,522.61 feet, to the Point of Beginning; thence South 45°20'03" West, departing said North line, a distance of 426.14 feet; thence North 44°35'14" West, a distance of 10.00 feet, to a point on the East Right-of-Way line of Interstate 35, as now established; thence North 45°20'03" East, along said East Right-of-Way line, a distance of 415.23 feet, to a point on said North line; thence North 87°52'13" East, departing said East Right-of-Way line, along said North line, a distance of 14.79 feet, to the Point of Beginning, containing 4,206.86 square feet or 0.10 acres, more or less.

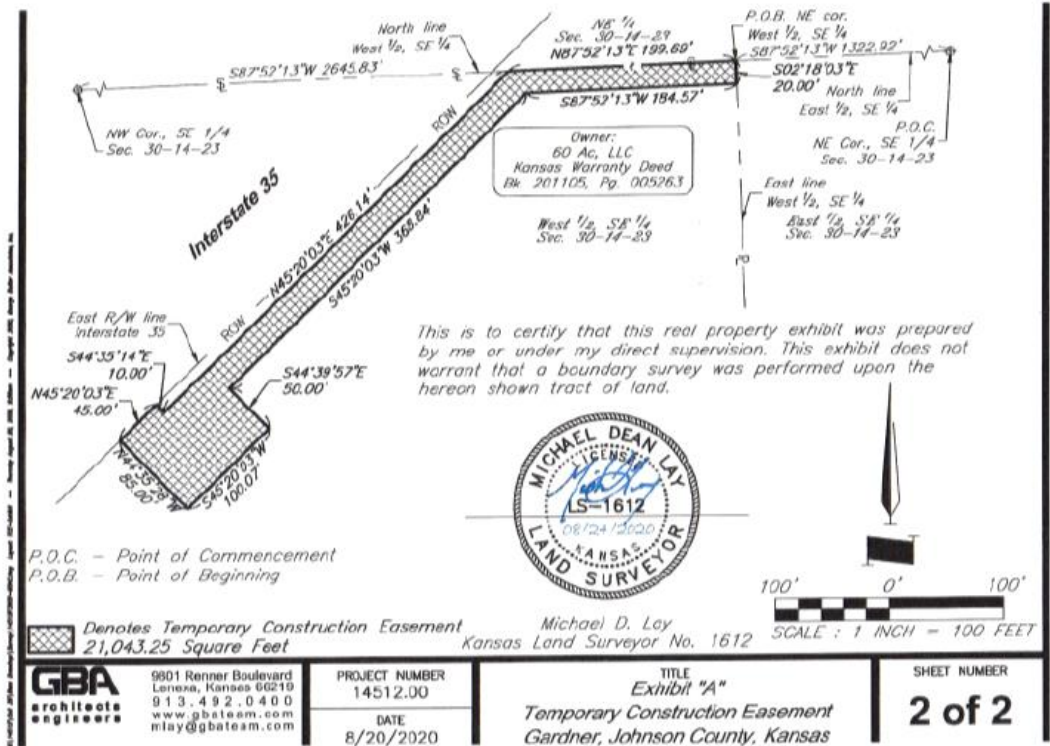
This is to certify that this real property legal description has been prepared by me or under my direct supervision.



*Michael D. Lay
Kansas Land Surveyor No. 1612*

GBA architects engineers 9801 Renner Boulevard Lenexa, Kansas 66219 913.492.0400 www.gbateam.com mlay@gbateam.com	PROJECT NUMBER	TITLE	SHEET NUMBER
	14512.00	Exhibit "A" Perm. Sanitary Sewer Esmt. Gardner, JoCo, Kansas	1 of 2
	DATE		
	8/20/20		

Legal Description of the Real Property to be acquired for Temporary Construction Easement:



TEMPORARY CONSTRUCTION EASEMENT:

A Temporary Construction Easement over part of the West Half of the Southeast Quarter of Section 30, Township 14 South, Range 23 East of the 6th P.M., in the City of Gardner, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter; thence South 87°52'13" West, along the North line of the East Half of said Southeast Quarter, a distance of 1,322.92 feet, to the Point of Beginning, said point also being the Northeast corner of said West Half; thence South 02°18'03" East, departing said North line, along the East line of said West Half, a distance of 20.00 feet; thence South 87°52'13" West, departing said East line, a distance of 184.57 feet; thence South 45°20'03" West, a distance of 368.84 feet; thence South 44°39'57" East, a distance of 50.00 feet; thence South 45°20'03" West, a distance of 100.07 feet; thence North 44°35'28" West, a distance of 85.00 feet, to a point on the East Right-of-Way line of Interstate 35, as now established; thence North 45°20'03" East, along said East Right-of-Way line, a distance of 45.00 feet; thence South 44°35'14" East, departing said East Right-of-Way line, a distance of 10.00 feet; thence North 45°20'03" East, a distance of 426.14 feet, to a point on the North line of said West Half; thence North 87°52'13" East, along said North line, a distance of 199.69 feet, to the Point of Beginning, containing 21,043.25 square feet or 0.48 acres, more or less.

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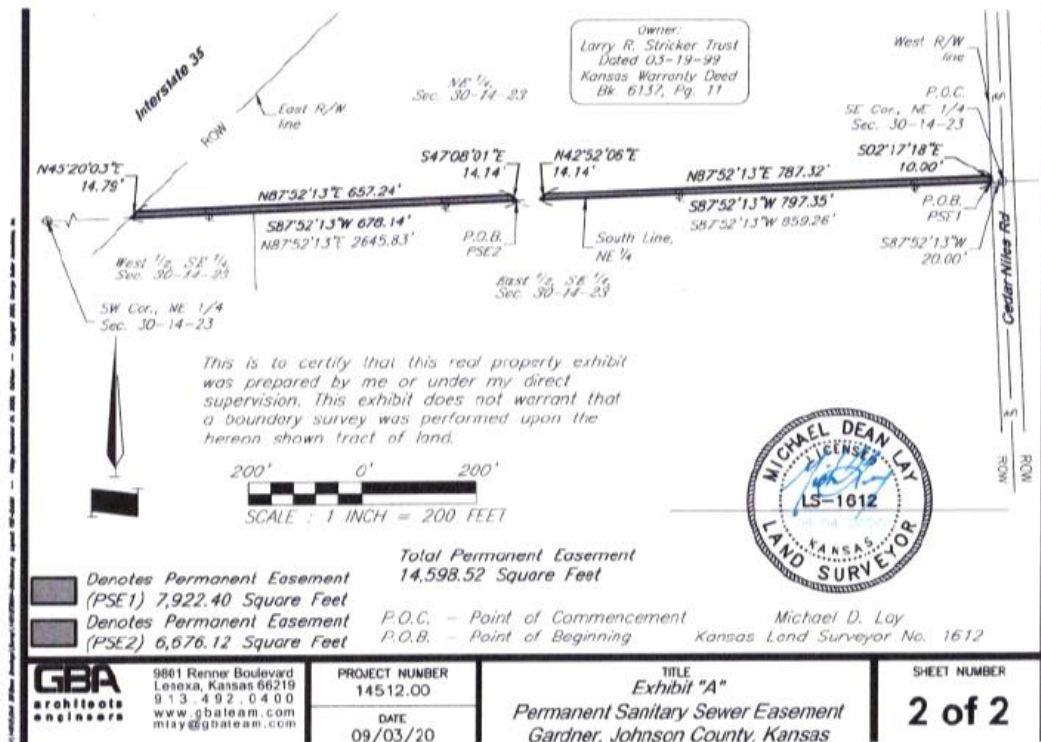


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	14512.00	Exhibit "A" Temp. Construction Esmt. Gardner, JoCo, Kansas	1 of 2
	DATE		
	8/20/20		

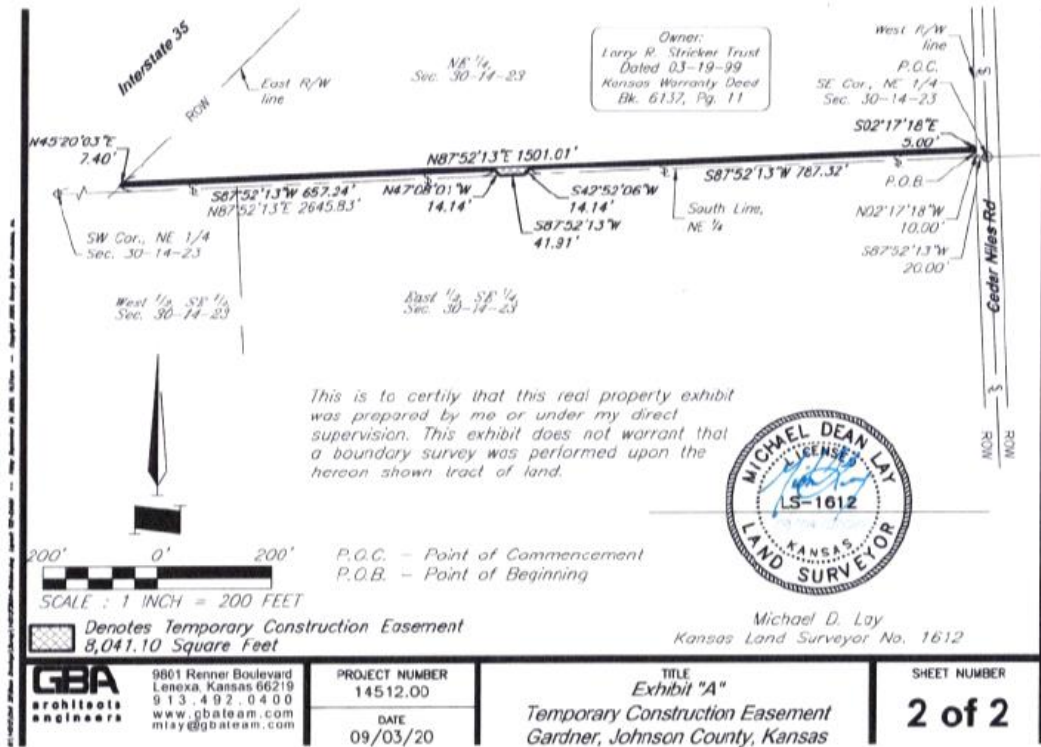
Tract No. 2:

Fee Simple Owner: Larry R. & Carrie E. Stricker Trust

Legal Description of the Real Property to be acquired for Permanent Easement:



Legal Description of the Real Property to be acquired for Temporary Construction Easement:



9801 Renner Boulevard
Lenexa, Kansas 66219
913.492.0400
www.gbateam.com
mlay@gbateam.com

PROJECT NUMBER
14512.00

DATE
09/03/20

TITLE
Exhibit "A"
Temporary Construction Easement
Gardner, Johnson County, Kansas

SHEET NUMBER
2 of 2

TEMPORARY CONSTRUCTION EASEMENT:

A Temporary Construction Easement over part of the Northeast Quarter of Section 30, Township 14 South, Range 23 East of the 6th P.M., in the City of Gardner, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Southeast corner of said Northeast Quarter, thence South 87°52'13" West, along the South line of said Northeast Quarter; a distance of 20.00 feet, to a point on the West Right-of-Way line of Cedar Niles Road, as now established; thence North 02°17'18" West, departing said South line, along said West Right-of-Way line, a distance of 10.00 feet, to the Point of Beginning; thence South 87°52'13" West, departing said West Right-of-Way line, a distance of 787.32 feet; thence South 42°52'06" West, a distance of 14.14 feet, to a point on said South line; thence South 87°52'13" West, along said South line, a distance of 41.91 feet; thence North 47°08'01" West, departing said South line, a distance of 14.14 feet; thence South 87°52'13" West, a distance of 657.24 feet, to a point on the East Right-of-Way line of Interstate 35, as now established; thence North 45°20'03" East, along said East Right-of-Way line, a distance of 7.40 feet; thence North 87°52'13" East, departing said East Right-of-Way line, a distance of 1,501.01 feet, to a point on said West Right-of-Way line; thence South 02°17'18" East, along said West Right-of-Way line, a distance of 5.00 feet, to the Point of Beginning, containing 8,041.10 square feet or 0.18 acres, more or less.

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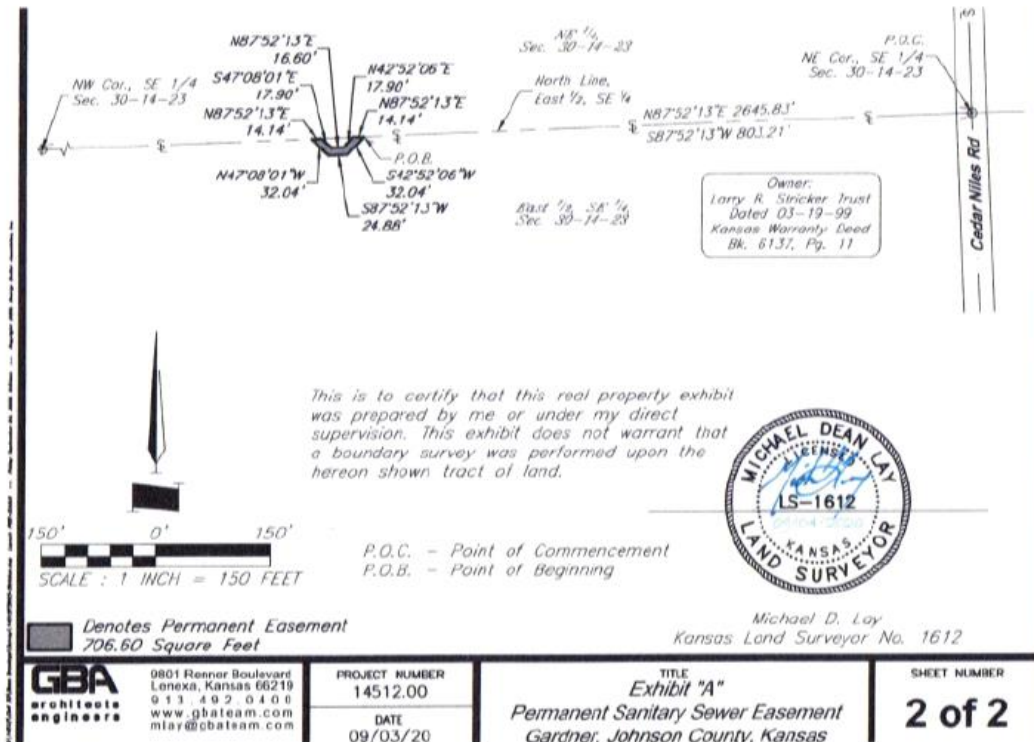
Michael D. Lay
Kansas Land Surveyor No. 1612

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	14512.00	Exhibit "A" Temp. Construction Esmt. Gardner, JoCo, Kansas	1 of 2
	DATE		
	09/03/20		

Tract No. 3:

Fee Simple Owner: Larry R. & Carrie E. Stricker Trust

Legal Description of the Real Property to be acquired for Permanent Easement:



PERMANENT SANITARY SEWER EASEMENT:

A Permanent Sanitary Sewer Easement over part of the East Half of the Southeast Quarter of Section 30, Township 14 South, Range 23 East of the 6th P.M., in the City of Gardner, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter; thence South 87°52'13" West, along the North line of said East Half, a distance of 803.21 feet, to the Point of Beginning; thence South 42°52'06" West, departing said North line, a distance of 32.04 feet; thence South 87°52'13" West, a distance of 24.88 feet; thence North 47°08'01" West, a distance of 32.04 feet, to a point on said North line; thence North 87°52'13" East, along said North line, a distance of 14.14 feet; thence South 47°08'01" East, departing said North line, a distance of 17.90 feet; thence North 87°52'13" East, a distance of 16.60 feet; thence North 42°52'06" East, a distance of 17.90 feet, to a point on said North line; thence North 87°52'13" East, along said North line, a distance of 14.14 feet, to the Point of Beginning, containing 706.60 square feet or 0.02 acres, more or less.

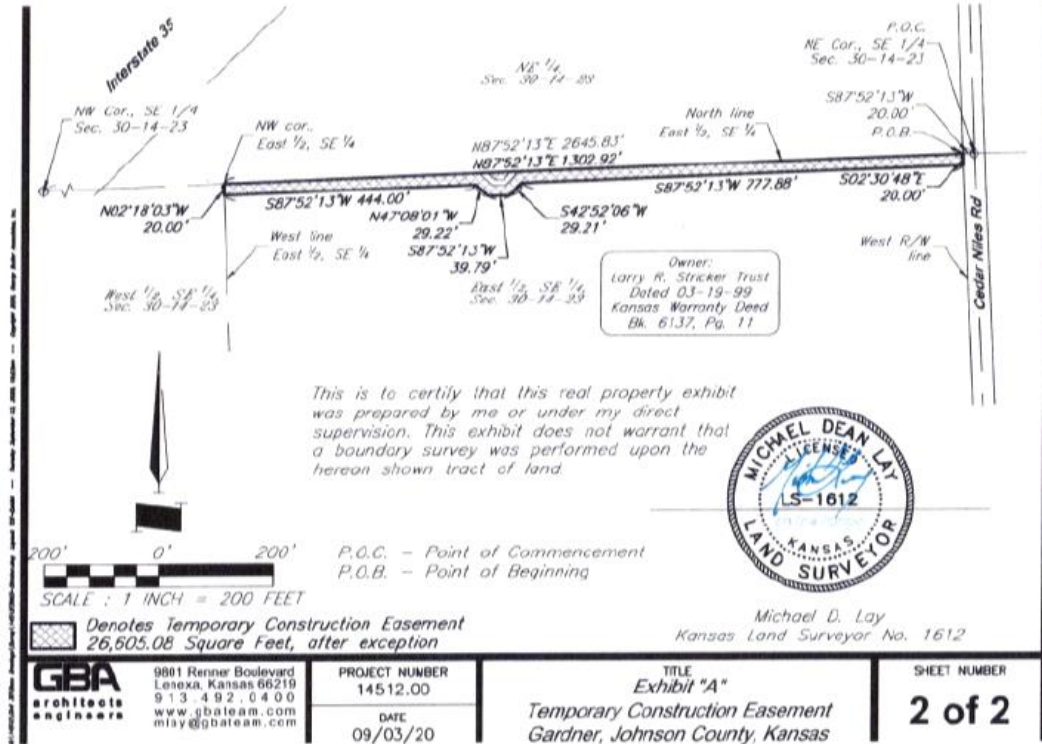
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	14512.00	Exhibit "A" Perm. Sanitary Sewer Esmt Gardner, JoCo, Kansas	1 of 2
	DATE		
	09/03/20		

Legal Description of the Real Property to be acquired for Temporary Construction Easement:



TEMPORARY CONSTRUCTION EASEMENT:

A Temporary Construction Easement over part of the East Half of the Southeast Quarter of Section 30, Township 14 South, Range 23 East of the 6th P.M., in the City of Gardner, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter, thence South 87°52'13" West, along the North line of said East Half, a distance of 20.00 feet, to the Point of Beginning, said point also being on the West Right-of-Way line of Cedar Niles Road, as now established; thence South 02°30'48" East, departing said North line, along said West Right-of-Way line, a distance of 20.00 feet; thence South 87°52'13" West, departing said West Right-of-Way line, a distance of 777.88 feet; thence South 42°52'06" West, a distance of 29.21 feet; thence South 87°52'13" West, a distance of 39.79 feet; thence North 47°08'01" West, a distance of 29.22 feet; thence South 87°52'13" West, a distance of 444.00 feet, to a point on the West line of said East Half; thence North 02°18'03" West, along said West line, a distance of 20.00 feet, to the Northwest corner of said East Half; thence North 87°52'13" East, departing said West line, along said North line, a distance of 1,302.92 feet, to the Point of Beginning, except that part in the proposed Permanent Sanitary Sewer Easement, containing 26,605.08 square feet or 0.61 acres, more or less, after exception.

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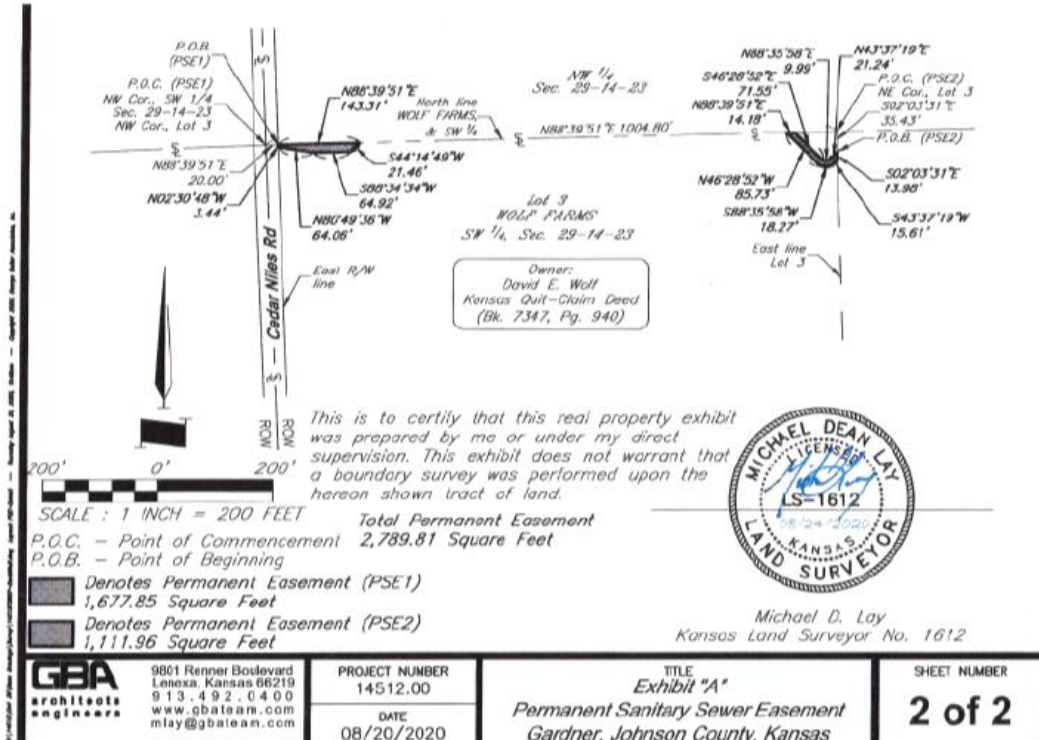


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	14512.00	Exhibit "A" Temp. Construction Esmt. Gardner, JoCo, Kansas	1 of 2
	DATE		
	09/03/20		

Tract 4:

Fee Simple Owner: David E. Wolf

Legal Description of the Real Property to be acquired for Permanent Easement:



PERMANENT SANITARY SEWER EASEMENT (PSE1):

A Permanent Sanitary Sewer Easement over part of Lot 3, WOLF FARMS, a subdivision located in the Southwest Quarter of Section 29, Township 14 South, Range 23 East of the 6th P.M., in the City of Gardner, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter; thence North 88°39'51" East, along the North line of said Southwest Quarter, a distance of 20.00 feet, to the Point of Beginning, said point also being on the East Right-of-Way line of Cedar Niles Road, as now established; thence North 88°39'51" East, continuing along said North line, and along the North line of said Lot 3, a distance of 143.31 feet; thence South 44°14'49" West, departing said North lines, a distance of 21.46 feet; thence South 88°34'34" West, a distance of 64.92 feet; thence North 80°49'36" West, a distance of 64.06 feet, to a point on said East Right-of-Way line; thence North 02°30'48" West, along said East Right-of-Way line, a distance of 3.44 feet, to the Point of Beginning, containing 1,677.65 square feet or 0.04 acres, more or less.

PERMANENT SANITARY SEWER EASEMENT (PSE2):

A Permanent Sanitary Sewer Easement over part of Lot 3, WOLF FARMS, a subdivision located in the Southwest Quarter of Section 29, Township 14 South, Range 23 East of the 6th P.M., in the City of Gardner, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northeast corner of said Lot 3, said corner being on the North line of said Southwest Quarter; thence South 02°03'31" East, along the East line of said Lot 3, a distance of 35.43 feet, to the Point of Beginning; thence South 02°03'31" East, continuing along said East line, a distance of 13.98 feet; thence South 43°37'19" West, departing said East line, a distance of 15.61 feet; thence South 88°35'58" West, a distance of 18.27 feet; thence North 46°28'52" West, a distance of 85.73 feet, to a point on the North line of said Southwest Quarter, and the North line of said Lot 3; thence North 88°39'51" East, along said North lines, a distance of 14.18 feet; thence South 46°28'52" East, departing said North lines, a distance of 71.55 feet; thence North 88°35'58" East, a distance of 9.99 feet; thence North 43°37'19" East, a distance of 21.24 feet, to the Point of Beginning, containing 1,111.96 square feet or 0.03 acres, more or less.

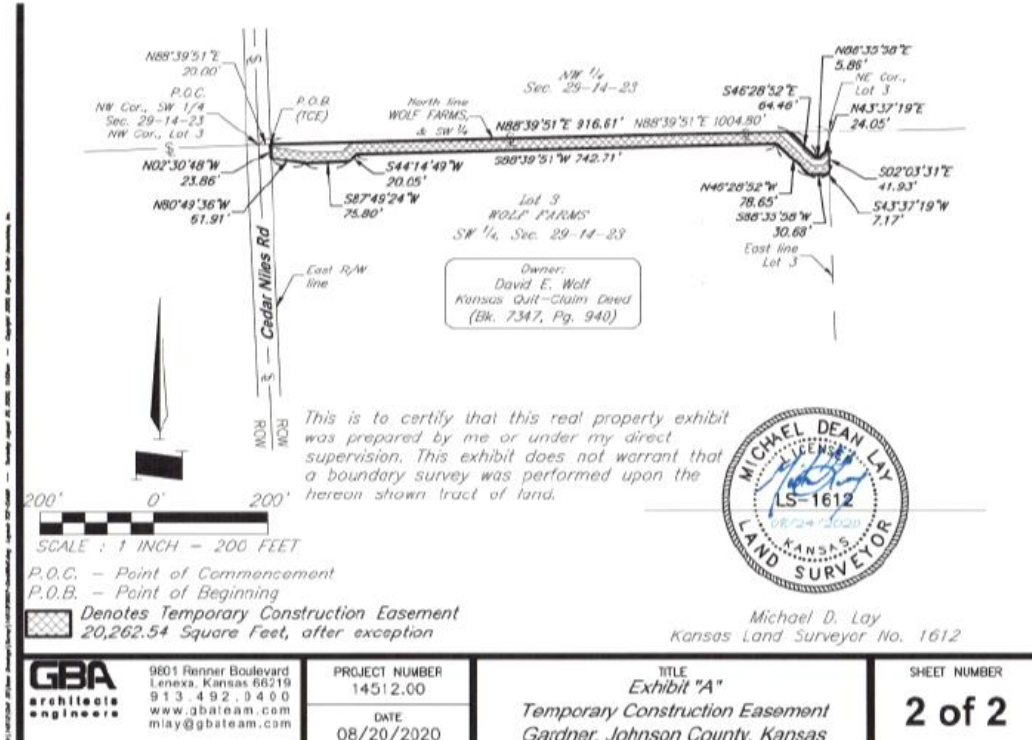
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Michael D. Lay
Kansas Land Surveyor No. 1612

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	14512.00	Exhibit "A" Perm. Sanitary Sewer Esmt. Gardner, JoCo, Kansas	1 of 2
	DATE		
	8/20/20		

Legal Description of the Real Property to be acquired for Temporary Construction Easement:



TEMPORARY CONSTRUCTION EASEMENT:

A Temporary Construction Easement over part of Lot 3, WOLF FARMS, a subdivision located in the Southwest Quarter of Section 29, Township 14 South, Range 23 East of the 6th P.M., in the City of Gardner, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter; thence North 88°39'51" East, along the North line of said Southwest Quarter, a distance of 20.00 feet, to the Point of Beginning, said point also being on the East Right-of-Way line of Cedar Niles Road, as now established; thence North 88°39'51" East, continuing along said North line, and along the North line of said Lot 3, a distance of 916.61 feet; thence South 46°28'52" East, departing said North lines, a distance of 64.46 feet; thence North 88°35'58" East, a distance of 5.86 feet; thence North 43°37'19" East, a distance of 24.05 feet, to a point on the East line of said Lot 3; thence South 02°03'31" East, along said East line, a distance of 41.93 feet; thence South 43°37'19" West, departing said East line, a distance of 7.17 feet; thence South 88°35'58" West, a distance of 30.68 feet; thence North 46°28'52" West, a distance of 78.65 feet; thence South 88°39'51" West, a distance of 742.71 feet; thence South 44°14'49" West, a distance of 20.05 feet; thence South 87°49'24" West, a distance of 75.80 feet; thence North 80°49'36" West, a distance of 61.91 feet, to a point on said East Right-of-Way line; thence North 02°30'48" West, along said East Right-of-Way line, a distance of 23.86 feet, to the Point of Beginning, except that part in the proposed Permanent Sanitary Sewer Easement, containing 20,262.54 square feet or 0.47 acres, more or less, after exception.

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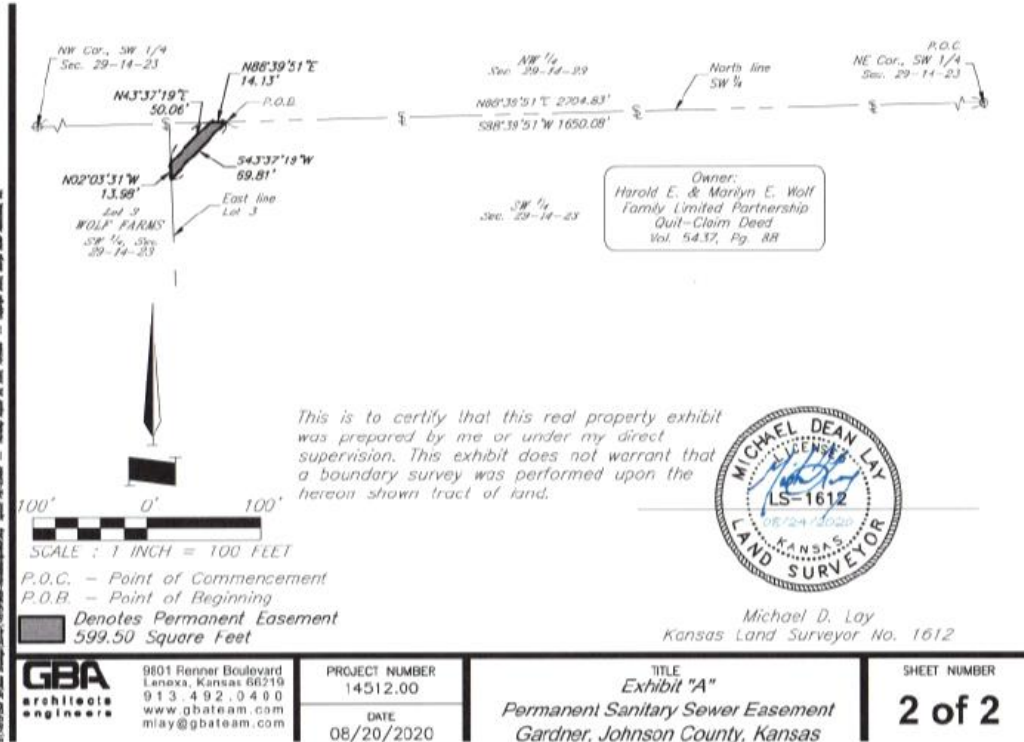
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	14512.00	Exhibit "A" Temp. Construction Esmt. Gardner, JoCo, Kansas	1 of 2
	DATE		
	08/20/20		

Tract 5:

Fee Simple Owner: Harold E. and Marilyn E. Wolf

Legal Description of the Real Property to be acquired for Permanent Easement:



PERMANENT SANITARY SEWER EASEMENT:

A Permanent Sanitary Sewer Easement over part of the Southwest Quarter of Section 29, Township 14 South, Range 23 East of the 6th P.M., in the City of Gardner, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northeast corner of said Southwest Quarter; thence South 88°39'51" West, along the North line of said Southwest Quarter, a distance of 1,650.08 feet, to the Point of Beginning; thence South 43°37'19" West, departing said North line, a distance of 69.81 feet, to a point on the East line of Lot 3, WOLF FARMS, a subdivision in said Southwest Quarter; thence North 02°03'31" West, along said East line, a distance of 13.98 feet; thence North 43°37'19" East, departing said East line, a distance of 50.06 feet, to a point on said North line; thence North 88°39'51" East, along said North line, a distance of 14.13 feet, to the Point of Beginning, containing 599.50 square feet or 0.01 acres, more or less.

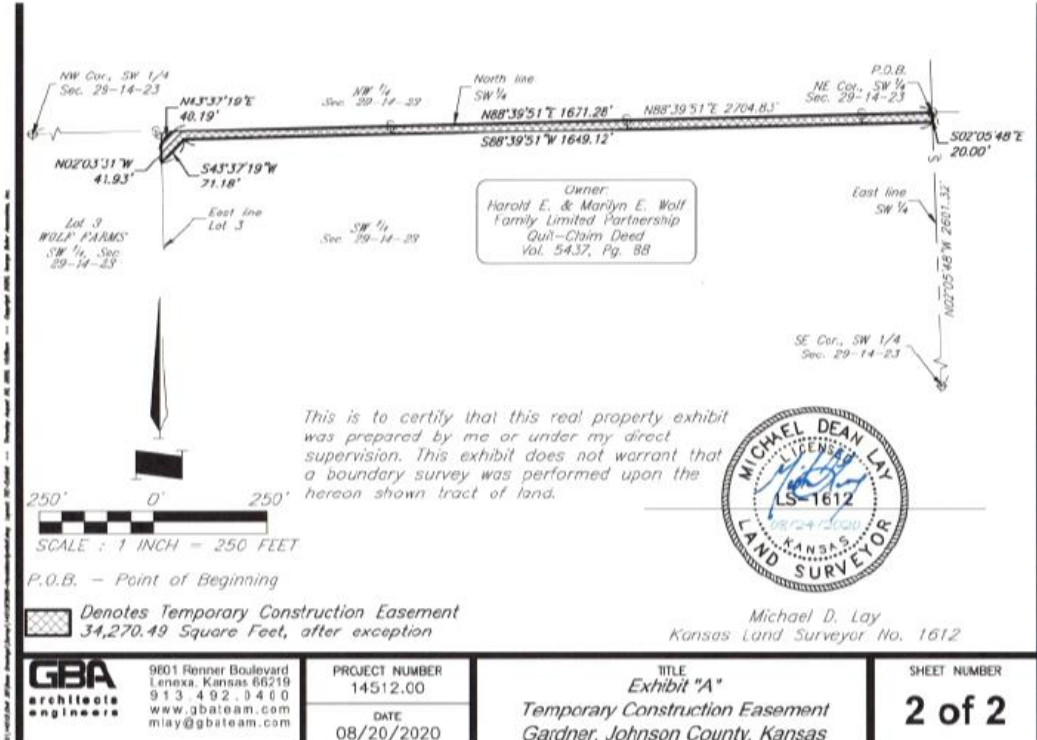
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		DATE 8/20/20		

Legal Description of the Real Property to be acquired for Temporary Construction Easement:



TEMPORARY CONSTRUCTION EASEMENT:

A Temporary Construction Easement over part of the Southwest Quarter of Section 29, Township 14 South, Range 23 East of the 6th P.M., in the City of Gardner, Johnson County, Kansas, being more particularly described as follows:

Beginning at the Northeast corner of said Southwest Quarter; thence South 02°05'48" East, along the East line of said Southwest Quarter, a distance of 20.00 feet; thence South 88°39'51" West, departing said East line, a distance of 1,649.12 feet; thence South 43°37'19" West, a distance of 71.18 feet, to a point on the East line of Lot 3, WOLF FARMS, a subdivision in said Southwest Quarter; thence North 02°03'31" West, along said East line, a distance of 41.93 feet; thence North 43°37'19" East, departing said East line, a distance of 40.19 feet, to a point on the North line of said Southwest Quarter; thence North 88°39'51" East, along said North line, a distance of 1,671.28 feet, to the Point of Beginning, except that part in the proposed Permanent Sanitary Sewer Easement, containing 34,270.49 square feet or 0.79 acres, more or less, after exception.

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*Michael D. Lay
Kansas Land Surveyor No. 1612*

GBA <small>architects engineers</small>	<small>9801 Renner Boulevard Lenexa, Kansas 66219 913.492.0400 www.gbateam.com mlay@gbateam.com</small>	PROJECT NUMBER 14512.00	TITLE <i>Exhibit "A"</i> <i>Temp. Construction Esmt.</i> <i>Gardner, JoCo, Kansas</i>	SHEET NUMBER 1 of 2
		DATE 08/20/20		