

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS**

IN THE MATTER OF THE VACATION OF THAT CERTAIN
PERMANENT GREENSPACE AND PEDESTRIAN AND
RECREATIONAL PATH EASEMENT LOCATED ON, UPON,
UNDER, OVER AND THROUGH PORTIONS OF THE
SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF
SECTION 20, TOWNSHIP 12 SOUTH, RANGE 19 EAST OF THE
6th P.M.; AND THE NORTHEAST QUARTER OF THE
SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 12
SOUTH, RANGE 19 EAST OF THE 6th P.M., ALL IN DOUGLAS
COUNTY, KANSAS

RECEIVED
DOUGLAS COUNTY CLERK
LAWRENCE, KANSAS
2016 MAY 23 PM 3 45

PETITION

COMES NOW, the undersigned and petition the Board of County Commissioners of Douglas County, Kansas, for an order vacating the Permanent Greenspace and Pedestrian and Recreational Path Easement which was created as a part of that Certain Permanent Utility Easement and Permanent Greenspace and Pedestrian and Recreational Path Easement dated April 15, 2008, and recorded in Book 1035, Page 5207, Office of the Register of Deeds, Douglas County, Kansas, a copy of the amendment being attached hereto as Exhibit "A" together with that certain Permanent Utility Easement and Permanence Greenspace and Pedestrian and Recreational Path Easement dated December 18, 2007, and recorded January 4, 2008, in Book 1031, Page 4269, Office of the Register of Deeds, Douglas County, Kansas, a copy of which is attached hereto as Exhibit "B".

IN SUPPORT OF THEIR PETITION, the undersigned state and allege as follows;

1. That the petitioners, other than the City of Lawrence, Kansas, are the fee owners of the real estate located in Douglas County, Kansas, upon which, and adjacent on both sides to, those portions of the Permanent Utility Easements and Permanent Greenspace and Pedestrian and Recreational Path Easements sought to be vacated are located. That the

petitioner, City of Lawrence, Kansas, was, and so remains, the Grantee of the easements described in Exhibits "A" and "B", hereto.

2. That the Permanent Utility Easements, which are a part of the Permanent Utility Easements and Permanent Greenspace and Pedestrian and Recreational Path Easements, Exhibits "A" and "B" hereto, are to remain in full force and effect, notwithstanding the vacation of the Permanent Greenspace and Pedestrian and Recreational Path Easement.

3. That this petition is made pursuant to the authority of K.S.A 58-2613, et seq.,

4. That no private rights will be injured or endangered by such vacation.

5. That the public will suffer no loss or inconvenience by said vacation.

6. That the Order of Vacation should reserve unto Douglas County, Kansas the City of Lawrence, Kansas, and the owners of any lesser property rights for all public service utilities, right-of-ways and easements for all public service facilities now in existence and use.

WHEREFORE, the petitioners pray that the Board of County Commissioners of Douglas County, Kansas, after due and legal notice and a public hearing, order the vacation of that certain Permanent Greenspace and Pedestrian and recreational Path Easement which was created as a part of the Permanent Utility Easement and Permanent Greenspace and Pedestrian and Recreational Path Easement, Exhibits "A" and "B" hereto, and described as follows, to-wit;

Tract "A"

A strip of land 40 feet wide in the Northeast Quarter of the Southeast Quarter of Section 20, Township 12 South, Range 19 East of the Sixth Principal Meridian, Douglas County, Kansas, said strip lying 20 feet on each side of the centerline of a sanitary sewer pipeline as laid, said centerline described as follows:

Commencing at the Northeast Corner of said Southeast Quarter; thence along the east line of said Southeast Quarter on an assumed bearing of S01°45'02"E, 696.84 feet to the Point of Beginning of said centerline; thence S63°06'22"W, 80.78 feet; thence S64°53'40"W, 420.00 feet; thence S22°58'26"W, 305.00 feet; thence S48°42'49"W, 229.76 feet to a point on the south line of the Northeast Quarter of said Southeast Quarter 763.50 feet

west of the Southeast Corner of said Northeast Quarter and being the point of termination of said centerline; the sidelines of said strip being extended or shortened to terminate at the south and east lines of said Northeast Quarter; except existing East 1000 Road right-of-way from said strip.

The above described strip contains 39,908 square feet, more or less.

Tract "B"

A strip of land 40 feet wide in the Southwest Quarter of the Southeast Quarter of Section 20, Township 12 South, Range 19 East of the Sixth Principal Meridian, Douglas County, Kansas, said strip lying 20 feet on each side of the centerline of a sanitary sewer pipeline as laid, said centerline described as follows:

Commencing at the Northeast Corner of said Southwest Quarter, thence along the east line of the Southwest Quarter on an assumed bearing of S01°57'59"E, 183.31 feet to the Point of Beginning of said centerline; (Course One) thence S46°09'24"W, 150.79 feet; (Course Two) thence S37°18'33"W, 220.00 feet; (Course Three) thence S53°15'03"W, 270.00 feet; (Course Four) thence S83°03'23"W, 420.00 feet; (Course Five) thence S05°40'19"W, 220.00 feet; (Course Six) thence S33°39'13"W, 365.00 feet; (Course Seven) thence S44°54'18"W, 170.00 feet; (Course Eight) thence N80°58'01"W, 98.32 feet to a point on the west line of said Southwest Quarter 76.14 feet north of the Southwest Corner of said Southwest Quarter and being the point of termination of said centerline; the sidelines of said strip being extended or shortened to terminate at the east and west line of said Southwest Quarter; together with:

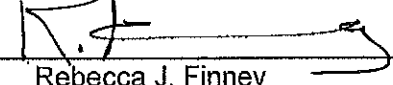
A strip of land 40 feet wide in the Southwest Quarter of said Southeast Quarter, said strip lying 20 feet on each side of a sanitary sewer pipeline as laid, said centerline described as follows:

Beginning at the point of termination of Course Six as described above; thence S16°59'27"E, 180.26 feet to a point on the south line of said Southwest Quarter 267.90 feet east of the Southwest Corner of said Southwest Quarter and being the point of termination of said centerline; the sidelines of said strip being extended or shortened to terminate at said south line and at the easterly line of the above described strip.

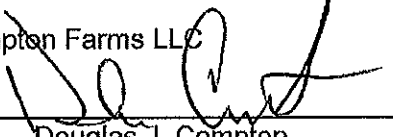
The above described strips together contain 1.903 acres, more or less.

It is further prayed that the Permanent Utility Easement portion of the above-described Permanent Utility Easement and Permanent Greenspace and Pedestrian and Recreational Path Easement, set forth and described in Exhibits "A" and "B" hereto, remain in full force and effect, notwithstanding, the vacation of the Permanent Greenspace and Pedestrian and Recreational Path Easement.

Rebecca J. Finney
Revocable Trust
Dated March 26, 1993

By: 
Rebecca J. Finney

Compton Farms LLC

By: 
Douglas J. Compton,
Manager

City of Lawrence, Kansas
a Municipal Corporation

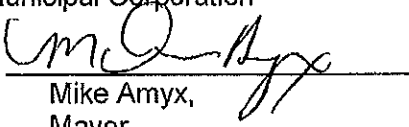
By: 
Mike Amyx,
Mayor

Exhibit A

AMENDED PERMANENT UTILITY EASEMENT
AND
PERMANENT GREENSPACE AND PEDESTRIAN AND RECREATIONAL PATH
EASEMENT

THIS CONVEYANCE is made this 15th day of April, 2008, by and between Rebecca J. Finney, Trustee of the Rebecca J. Finney Revocable Trust dated March 26, 1993, (hereinafter "Grantor"), and the City of Lawrence, Kansas, a municipal corporation organized and existing under the laws of the State of Kansas (hereinafter "Grantee") for the purpose of amending the legal description of the Permanent Utility Easement and Permanent Greenspace and Pedestrian and Recreational Path Easement recorded at the Douglas County, Kansas, Register of Deeds at Book 1032 and Page 0516.

WITNESSETH, that Grantor, for and in consideration of the sum of \$1 and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has sold, and by these present hereby GRANTS, BARGAINS, SELLS AND CONVEYS to the Grantee and its successors and assigns, a Permanent Utility Easement and a Permanent Greenspace and Pedestrian and Recreational Path Easement over, upon, across and below the surface of the following described real property:

See Exhibit "A", which is attached hereto and incorporated by reference.

For purposes of this conveyance, the term "Permanent Utility Easement" shall mean "an easement without expiration over, across, above, below, and upon the surface of the described lands for the location, construction, reconstruction, expansion, repair, maintenance, operation and use of a public sanitary sewer collection and main system, City of Lawrence water utility lines, stormwater facilities and structures, and City of Lawrence underground data and communication lines, and all necessary above and below ground ancillary fixtures and equipment as may be necessary for the operation and maintenance of such facilities."

For purposes of this conveyance, the term "Permanent Greenspace and Pedestrian and Recreational Path Easement" shall mean "an easement without expiration over, across, above, below, and upon the surface of the described lands for public recreational activities including, but not limited to, biking, hiking, running, and walking, and for the preservation of the natural environment and habitat. Grantee reserves the right to locate, construct, reconstruct, expand, repair, maintain and operate a permanent, biking, hiking, running or walking trail or path with all necessary ancillary facilities and accommodations including a recreational path and all other uses appurtenant thereto. Public access for motorized vehicles shall be prohibited except for authorized emergency vehicles and as permitted by Grantee." Notwithstanding the foregoing to the contrary, Grantee agrees that no part of the easement shall be improved with pavement or impervious or common sidewalk materials, including, without limitation, concrete and asphalt, without Grantor's prior written consent.

Grantor, their successors or assigns, shall not erect any permanent structures within said easement area, including, but not limited to sheds, outbuildings, barns, fences or any other encroachment, without the express written permission of the Grantee, except for the Access Road (defined below) across the easement area as more fully set forth in this Agreement.

Grantor, their successors or assigns, shall not clear cut, excavate, harvest for timber or remove trees and riparian habitat or make improvements to any water tributaries or stream crossings within said easement without the express written permission of the Grantee.

Grantor reserves the right to fully use and enjoy the land within the easement, provided that such use shall not unreasonably interfere with or jeopardize the rights conveyed to Grantee herein. Notwithstanding the foregoing to the contrary, Grantor hereby reserves the right of free and unimpeded access across the easement area granted under this Agreement to and from Grantor's land on both sides of the easement area. Furthermore, Grantor hereby reserves the right to construct one or more driveways or roadways or streets (collectively, the "Access Road") across the easement area to provide for such access with the consent of the Grantee, which consent shall not be unreasonably withheld. For purposes of the foregoing sentence, the City's consent shall be deemed to be unreasonably withheld if the City makes any requirement that (i) increases the cost to Grantor in constructing the Access Road or (ii) makes the location or use of the Access Road impractical or inconvenient to the Grantor. The parties acknowledge that the foregoing items shall not be deemed to be exclusive, as there may be other ways in which the City's withholding of consent may be deemed to be or found to be unreasonable. Grantor reserves the right to construct, maintain, replace and improve such Access Road with gravel, concrete, asphalt or other common roadway surface materials. Grantor's reserved rights shall at all times, be construed as appurtenant to the land, run with the land, and be for the joint and nonexclusive use and benefit of the owner or owners of Grantor's land, and their successors, assigns, tenants, employees, agents, contractors, and invitees and all persons claiming by, through, or under them.

Grantee shall save and hold harmless, defend and indemnify the Grantor, their legal representatives, heirs, successors, assigns, servants and agents from any loss, cost and expense, including attorney fees, which Grantor incurs arising from suits, claims, actions, liabilities, damages, judgments and causes of action of any kind or nature arising from or attributed to either (i) Grantee's breach of this Agreement, or (ii) the negligence of the Grantee or its officials, officers, directors, shareholders, employees, agents, sub-contractors, or servants or invitees occurring on the easement, provided however, that Grantee shall not be liable to Grantor for losses, costs or expenses caused by, arising out of or attributed to the negligence of the Grantor. Said indemnification shall be limited to the purposes, rights and uses granted pursuant to said easement and for the duration of the term of the Easement.

Grantor and Grantee reserve the right to vacate said Easement with the platting of Grantor's property.

Grantee shall be obligated, at the City's cost and expense, to maintain the easement area in good condition, including without limitation, the trimming of trees and vegetation, removal of all natural debris and removal of all litter, paper, debris and refuse to the extent reasonable to keep the easement area and Grantor's adjacent land in clean and orderly condition. If Grantee installs or places trash receptacles in the easement area, Grantee shall have the obligation to regularly empty such receptacles to prevent the spillage of litter and waste on the easement area and Grantor's adjacent land. Grantee further agrees to adequately mark the easement area to indicate the limits of the easement area and Grantor's adjacent land, and such markings shall be regularly maintained so they are visible at all times by the persons using the easement area.

This conveyance and the easement granted under this Agreement shall be strictly limited to and for the purposes expressly provided in this Agreement and may not be expanded without the prior written consent of Grantor.

This conveyance shall be permanent, shall run with the land, and shall be binding upon Grantor's successors and assigns.

IN WITNESS WHEREOF, the Grantor has set its hand the day and year first above written.

[Remainder of page intentionally blank. Signatures on following pages.]



Douglas County Register of Deeds
Book: 1035 Page: 5207

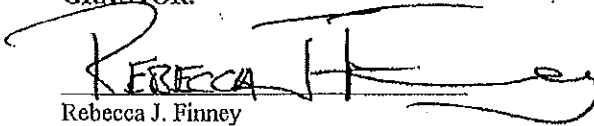
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Recording Fee: \$32.00
Authorized By: *Kay Parnell*

Date Recorded: 1/25/2008 8:49:11 AM



GRANTOR:



Rebecca J. Finney

Trustee of the Rebecca J. Finney Revocable Trust dated March 26, 1993

ACKNOWLEDGMENT

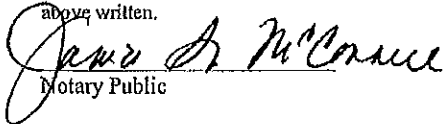
STATE OF KANSAS

)
) ss.
)

COUNTY OF DOUGLAS

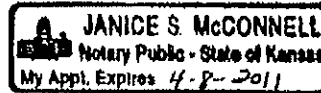
BE IT REMEMBERED that on this 15th day of April, 2008, before me, the undersigned, a notary public in and for the county and state aforesaid, came Rebecca J. Finney who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same for the purposes and consideration therein expressed.

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:

April 8, 2011



GRANTEE:

THE CITY OF LAWRENCE, KANSAS

Signature:

By:

Title:

[Signature]

DAVID L. CORLISS

CITY MANAGER

ACKNOWLEDGMENT

STATE OF KANSAS

)

) SS

COUNTY OF DOUGLAS

)

BE IT REMEMBERED that on this 24 day of April, 2008 before me, the undersigned, a notary public in and for the county and state aforesaid came, David L. Corliss, who is personally known to me to be the same person(s) 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.

[Signature]
Notary Public

My appointment expires: April 18, 2012

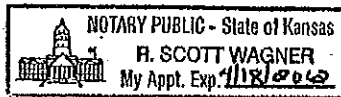


Exhibit "A"

Legal Description of Real Property Subject to the Amended Permanent Utility Easement and Permanent Greenspace and Pedestrian and Recreational Path Easement:

A strip of land 40 feet wide in the Southwest Quarter of the Southeast Quarter of Section 20, Township 12 South, Range 19 East of the Sixth Principal Meridian, Douglas County, Kansas, said strip lying 20 feet on each side of the centerline of a sanitary sewer pipeline as laid, said centerline described as follows:

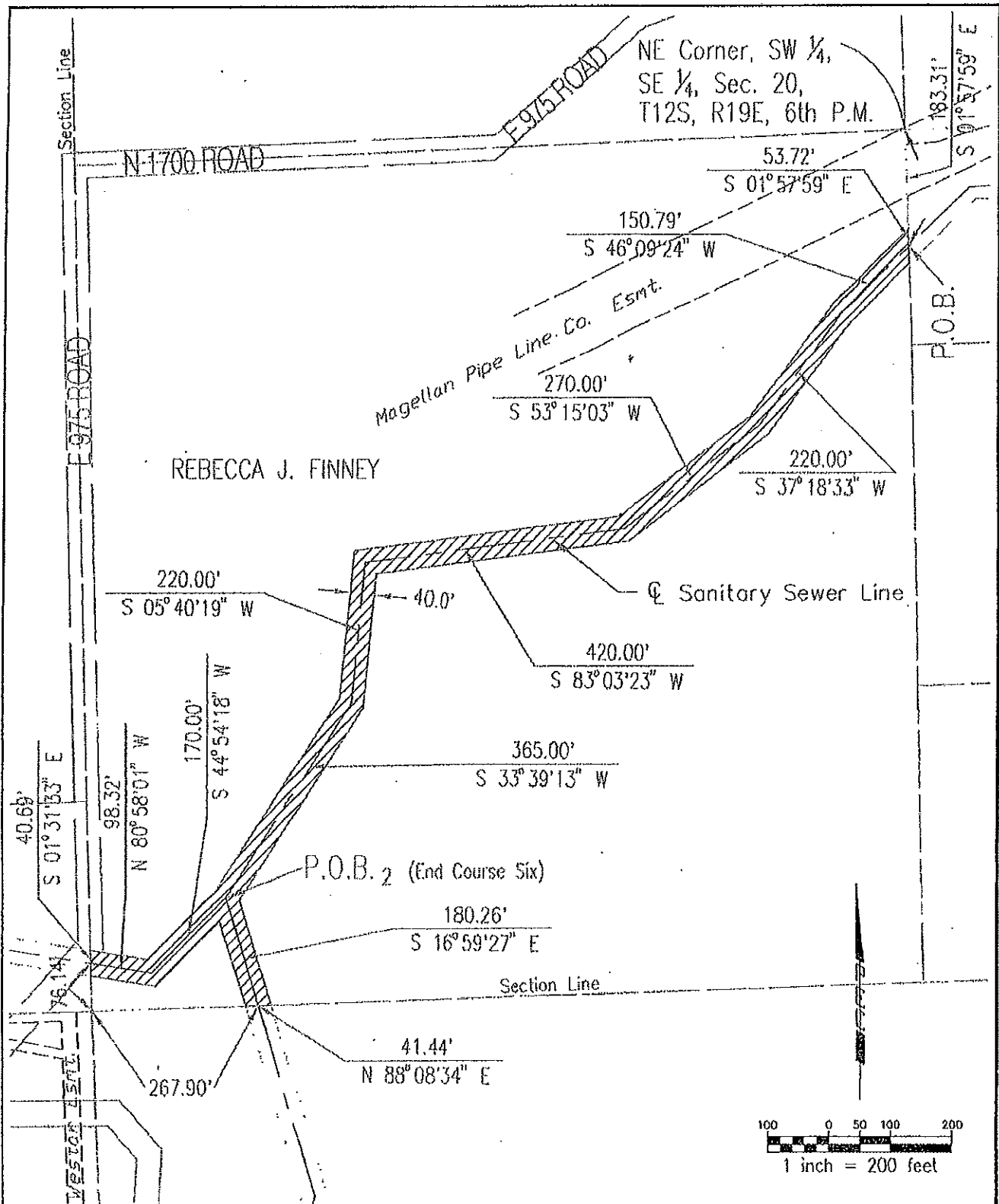
Commencing at the Northeast Corner of said Southwest Quarter; thence along the east line of the Southwest Quarter on an assumed bearing of S01°57'59"E, 183.31 feet to the Point of Beginning of said centerline; (Course One) thence S46°09'24"W, 150.79 feet; (Course Two) thence S37°18'33"W, 220.00 feet; (Course Three) thence S53°15'03"W, 270.00 feet; (Course Four) thence S83°03'23"W, 420.00 feet; (Course Five) thence S05°40'19"W, 220.00 feet; (Course Six) thence S33°39'13"W, 365.00 feet; (Course Seven) thence S44°54'18"W, 170.00 feet; (Course Eight) thence N80°58'01"W, 98.32 feet to a point on the west line of said Southwest Quarter 76.14 feet north of the Southwest Corner of said Southwest Quarter and being the point of termination of said centerline; the sidelines of said strip being extended or shortened to terminate at the east and west line of said Southwest Quarter.

TOGETHER WITH

A strip of land 40 feet wide in the Southwest Quarter of said Southeast Quarter, said strip lying 20 feet on each side of a sanitary sewer pipeline as laid, said centerline described as follows:

Beginning at the point of termination of Course Six as described above; thence S16°59'27"E, 180.26 feet to a point on the south line of said Southwest Quarter 267.90 feet east of the Southwest Corner of said Southwest Quarter and being the point of termination of said centerline; the sidelines of said strip being extended or shortened to terminate at said south line and at the easterly line of the above described strip.

The above described strips together contain 1.903 acres, more or less.



Professional Engineering Consultants, P.A.
 1263 SW. TOPEKA BLVD. • TOPEKA, KANSAS 66612
 785-233-8300 • FAX 785-233-8855

**PERMANENT SANITARY SEWER EASEMENT
 FINNEY PROPERTY**

EXHIBIT "A"

TOPEKA, KANSAS
 (LEGAL COUNSEL)

**PERMANENT UTILITY EASEMENT
AND
PERMANENT GREENSPACE AND PEDESTRIAN AND RECREATIONAL PATH
EASEMENT**

THIS CONVEYANCE is made this 18th day of December 2007, by and between Douglas J. Compton and Lara C. Compton, husband and wife, (hereinafter "Grantor"), and the City of Lawrence, Kansas, a municipal corporation organized and existing under the laws of the State of Kansas (hereinafter "Grantee").

WITNESSETH, that Grantor, for and in consideration of the sum of \$1 and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has sold, and by these presents hereby GRANTS, BARGAINS, SELLS AND CONVEYS to the Grantee and its successors and assigns, a Permanent Utility Easement and a Permanent Greenspace Easement over, upon, across and below the surface of the following described real property:

See Exhibit "A", which is attached hereto and incorporated by reference.

For purposes of this conveyance, the term "Permanent Utility Easement" shall mean "an easement without expiration over, across, above, below, and upon the surface of the described lands for the location, construction, reconstruction, expansion, repair, maintenance, operation and use of a public sanitary sewer collection and main system, City of Lawrence water utility lines, stormwater facilities and structures, and City of Lawrence underground data and communication lines, and all necessary above and below ground ancillary fixtures and equipment as may be necessary for the operation and maintenance of such facilities."

For purposes of this conveyance, the term "Permanent Greenspace and Pedestrian and Recreational Path Easement" shall mean "an easement without expiration over, across, above, below, and upon the surface of the described lands for public recreational activities including, but not limited to, biking, hiking, running, and walking, and for the preservation of the natural environment and habitat. Grantee reserves the right to locate, construct, reconstruct, expand, repair, maintain and operate a permanent, biking, hiking, running or walking trail or path with all necessary ancillary facilities and accommodations including a sidewalk, recreational path and all other uses appurtenant thereto. Public access for motor vehicles shall be prohibited except for authorized emergency vehicles and as permitted by Grantee."

Grantor, their successors or assigns, shall not erect any permanent structures within said easement area, including, but not limited to sheds, outbuildings, barns, fences or any other encroachment, without the express written permission of the Grantee.

Grantor, their successors or assigns, shall not clear cut, excavate, harvest for timber or remove trees and riparian habitat or make improvements to any water tributaries or stream crossings within said easement without the express written permission of the Grantee.

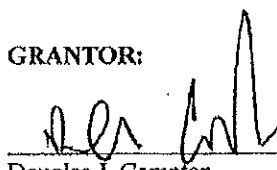
Grantor reserves the right to fully use and enjoy the land within the easement, provided that such use shall not interfere with or jeopardize the rights conveyed to Grantee herein.

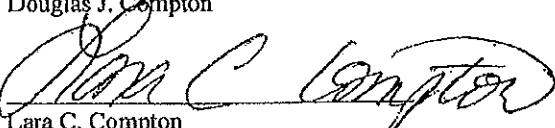
This conveyance shall be permanent, shall run with the land, and shall be binding upon Grantor's successors and assigns.

IN WITNESS WHEREOF, the Grantor has set its hand the day and year first above written.

[Remainder of page intentionally blank. Signatures on following pages.]

GRANTOR:


Douglas J. Compton


Lara C. Compton

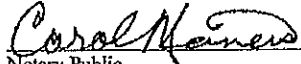
ACKNOWLEDGMENT



STATE OF Kansas)
COUNTY OF Douglas) ss.

BE IT REMEMBERED that on this 18 day of December, 2007, before me, the undersigned, a notary public in and for the county and state aforesaid, came Douglas J. Compton and Lara C. Compton who are personally known to me to be the same persons who executed the within instrument of writing and such persons 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.


Notary Public

My appointment expires: 4-18-2010

20-12-19 SE



Douglas County Register of Deeds
Book: 1031 Page: 4269

Receipt #: 381282
Pages Recorded: 5
Cashier Initials: rec

Recording Fee: \$24.00
Authorized By: 

Date Recorded: 1/4/2008 8:52:58 AM



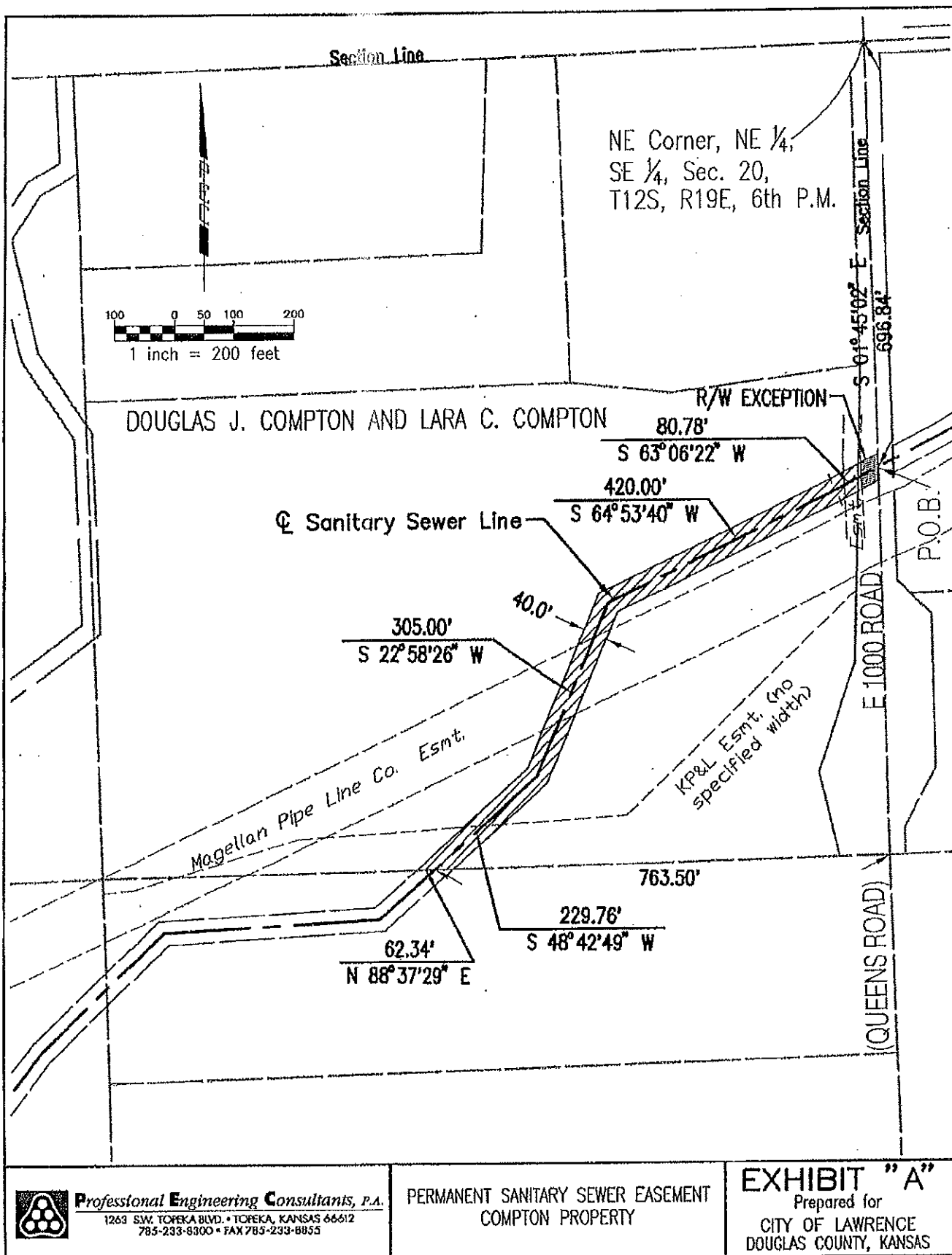
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PERMANENT SANITARY SEWER EASEMENT
COMPTON PROPERTY

EXHIBIT "A"

Prepared for
CITY OF LAWRENCE
DOUGLAS COUNTY, KANSAS