

**RESTRICTIVE COVENANT**

The City of Olathe, Kansas \_\_\_\_\_ is (are) the owner(s) in fee simple of certain real property located in the county of Johnson \_\_\_\_\_ and is more particularly described by the following legal description which is illustrated in the attached drawing and is sealed by a Kansas-licensed Professional Land Surveyor, and includes the area or areas of the tract or tracts being described (in addition, a street address is included if available):

Tracts 1, 2, 3, 4, 5, 6, 7, 8 & 9 encompassing 100.99 acres as shown and described in the attached Certificate of Survey. The Certificate of Survey is intended to serve as the legal property descriptions and is incorporated by reference to be part of this document.

This space reserved for Register of Deeds

by virtue of a deed dated \_\_\_\_\_, \_\_\_\_\_, recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, in the Office of the Register of Deeds, Johnson \_\_\_\_\_ County, Kansas.

## **1. PROPERTY USE AND MAINTENANCE**

The property is at the date of filing in use as a solid waste disposal area under Permit # 548 issued by the Kansas Department of Health and Environment. After closure of the landfill, the property shall be used in a manner consistent with the following restrictions:

Water Well Field, Public Recreation, Public Park Land, Parking Lot, Driveway, Lime Residuals Disposal Area, and Agricultural Purposes.

## **2. PROTECTION OF SYSTEMS, MARKERS**

All future land uses shall be conducted in a manner which will protect and preserve the integrity of the environment and all waste containment and monitoring systems designed, installed, and operated during the operation of the disposal areas or during the post-closure period.

All present and future owners and tenants of this property must preserve and protect all permanent survey markers and benchmarks and all environmental monitoring stations installed on the property.

## **3. CONSTRUCTION: APPROVAL**

Any subsequent property owners and/or tenants are required to consult with KDHE during planning of any improvement to the property and to obtain approval from KDHE in Topeka, Kansas before any work is done to any monitoring devices or systems, before improvement of this site is performed, or before any excavation or construction of permanent structures, drainage ditches, changes to the contours or dirt work, changes in the vegetation grown, production or sale of food chain crops, or removal of any security fencing, signs or devices installed to restrict public access to waste storage or disposal areas.

## **4. EASEMENT TO KDHE**

The Kansas Department of Health and Environment, its successors or assigns and any duly authorized agents or contractors employed by or on behalf of KDHE are hereby granted a permanent easement to enter or come upon the property to perform the following actions:

- a. Complete any work necessary which may be specified in or be a part of a closure plan required to be submitted to the department;
- b. Perform any maintenance or monitoring of any of the waste disposal area during the statutorily required post-closure period;
- c. Sample, repair or reconstruct any environmental monitoring stations constructed as a requirement for operating or post-closure care.

## **5. DISCLOSURE**

Any offer or contract for the conveyance, sale, lease or other interest in the property must contain full and complete disclosure of all terms, conditions and requirements for long term care and land use which is imposed by current statutes, rules and regulations or the site permit existing at the time of the offer or contract. The offer or contract must also contain provisions for proper and continued maintenance of the waste containment system and testing of the monitoring systems.

## **6. BINDING TERMS**

These limitations, restrictions, easements, conditions and covenants shall be permanent and shall run with the land and shall be binding on all parties now having or hereafter acquiring any right, title or interest in the property or any part thereof. These covenants, easement and all related documents can be extinguished only by written agreement between the property owner and the Kansas Department of Health and Environment.

## **7. DURATION, MODIFICATION, ENFORCEABILITY AND TERMINATION**

This Restrictive Covenant/Easement shall be permanent and extend in perpetuity, unless extinguished by agreement between the property owner and the Secretary of KDHE. The restrictions and other requirements described in this Restrictive Covenant/Easement shall run with the land and be binding upon, and inure to the benefit of the Property owner and the owner's successors, assigns, heirs and lessees and their authorized agents, employees, contractors, representatives, agents, lessees, licensees, invitees, guests, or persons acting under their direction or control and to the benefit of KDHE.

This Restrictive Covenant/Easement shall not be amended, modified, or terminated without KDHE's prior written approval. Within thirty (30) calendar days of executing an amendment, modification, or termination of the Restrictive Covenant/Easement, the Property owner shall record such amendment, modification, or termination with the Johnson County Register of Deeds.

Within thirty (30) calendar days thereafter, the Property owner shall provide a copy of the recorded amendment, modification, or termination and corresponding survey map to KDHE that bears the seal and/or notarized signature of the Register of Deeds. If any portion of this Restrictive Covenant/Easement or other term set forth herein is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions or terms of this Restrictive Covenant/Easement shall remain in full force and effect if such portion found invalid had not been included herein.

In addition, KDHE shall be deemed beneficiary of the Restrictive Covenant/Easement, a procedure necessary to protect the public health and environment pursuant to K.S.A. 65-3401 *et seq.* KDHE shall have the right to sue for and obtain injunction, prohibitive or mandatory or any other legal or equitable relief to prevent the breach of, or enforce the restrictions set forth herein, and/or recover damages for such violation.

**ACKNOWLEDGEMENT**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

STATE OF KANSAS)

COUNTY OF                    ) ss:  
                                      )

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came \_\_\_\_\_, an authorized representative of \_\_\_\_\_ company, who is personally known to be such person who executed the above document on behalf of said company, and such person duly acknowledged the execution of the same to be his/her act and deed.

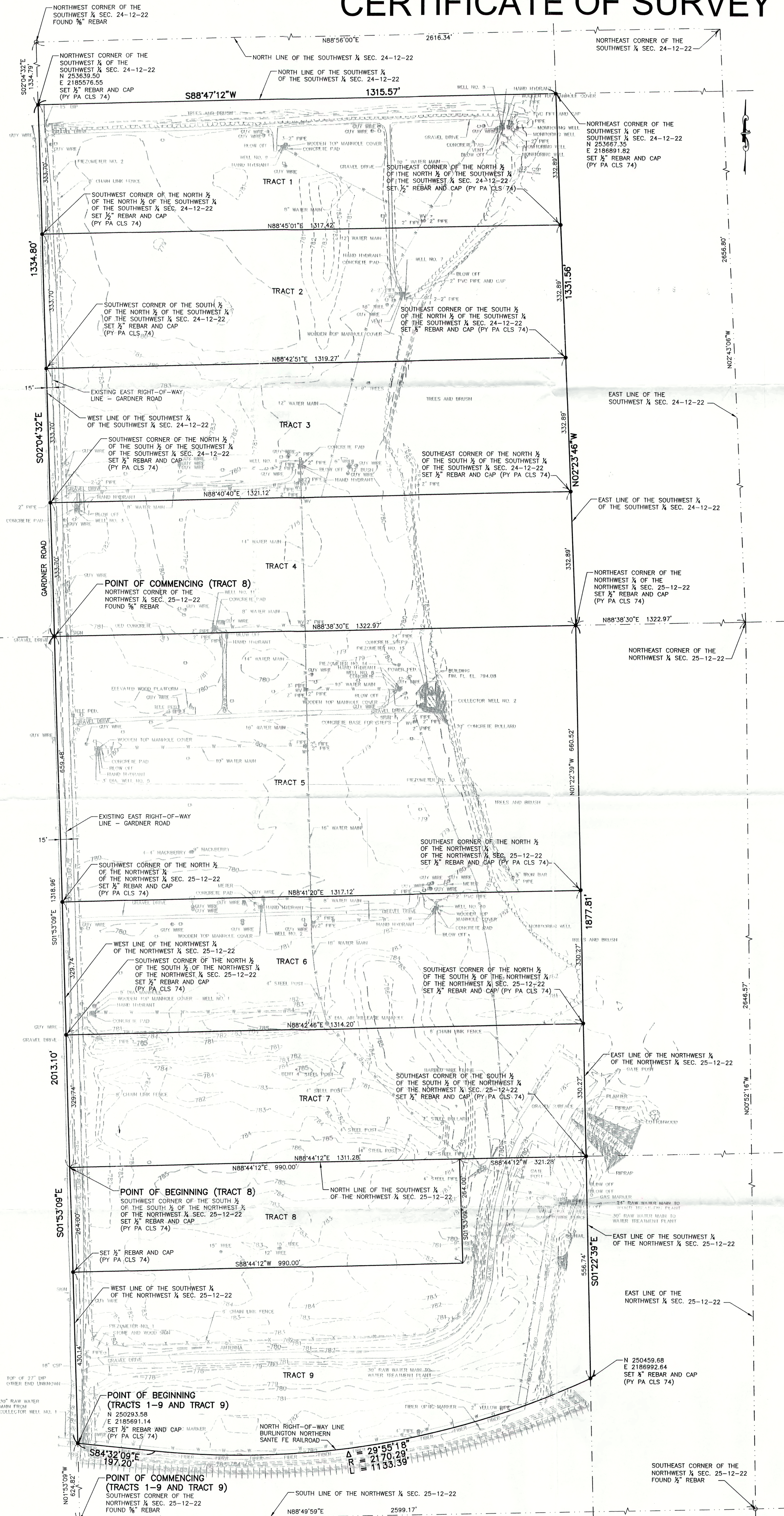
IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my official seal the day and year written above.

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

My term expires:



# CERTIFICATE OF SURVEY



## DESCRIPTIONS:

### TRACT 1

The North 1/2 of the North 1/2 of the Southwest 1/4 of Section 24, Township 12 South, Range 22 East, Johnson County, Kansas, except that part in existing road right of way.

### TRACT 2

The South 1/2 of the North 1/2 of the Southwest 1/4 of Section 24, Township 12 South, Range 22 East, Johnson County, Kansas, except that part in existing road right of way.

### TRACT 3

The North 1/2 of the South 1/2 of the Southwest 1/4 of Section 24, Township 12 South, Range 22 East, Johnson County, Kansas, except that part in existing road right of way.

### TRACT 4

The South 1/2 of the South 1/2 of the Southwest 1/4 of Section 24, Township 12 South, Range 22 East, Johnson County, Kansas, except that part in existing road right of way.

### TRACT 5

The North 1/2 of the Northwest 1/4 of Section 25, Township 12 South, Range 22 East, Johnson County, Kansas, except that part in existing road right of way.

### TRACT 6

The North 1/2 of the South 1/2 of the Northwest 1/4 of Section 25, Township 12 South, Range 22 East, Johnson County, Kansas, except that part in existing road right of way.

### TRACT 7

The South 1/2 of the South 1/2 of the Northwest 1/4 of Section 25, Township 12 South, Range 22 East, Johnson County, Kansas, except that part in existing road right of way.

### TRACT 8

All that part of the Southwest 1/4 of the Northwest 1/4 of Section 25, Township 12 South, Range 22 East, Johnson County, Kansas, more particularly described as follows:

Commencing at the Northwest corner of said Northwest 1/4; thence South 01°53'09" East, along the West line of said Northwest 1/4, a distance of 1318.96 feet to the Northwest corner of the Southwest 1/4 of said Northwest 1/4; thence North 88°44'12" East, along the North line of the Southwest 1/4 of said Northwest 1/4, a distance of 990.00 feet; thence South 01°53'09" East and parallel to the West line of the Southwest 1/4 of said Northwest 1/4, a distance of 264.00 feet; thence South 88°44'12" West and parallel to the North line of the Southwest 1/4 of said Northwest 1/4, a distance of 990.00 feet to a point on the West line of the Southwest 1/4 of said Northwest 1/4; thence North 01°53'09" West along said West line, a distance of 264.00 feet to the Point of Beginning, except that part in existing road right of way.

### TRACT 9

All that part of the Southwest 1/4 of the Northwest 1/4 of Section 25, Township 12 South, Range 22 East, Johnson County, Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southwest 1/4 of said Northwest 1/4; thence North 01°53'09" West, along the West line of said Northwest 1/4, a distance of 624.82 feet to a point on the existing North right of way line of the Burlington Northern Santa Fe Railroad and the Point of Beginning; thence South 84°32'09" East, along said North right of way line, a distance of 197.20 feet; thence along a curve to the left having a radius of 2,170.29 feet, a central angle of 29°55'18", an arc distance of 1133.39 feet to a point on the East line of the Southwest 1/4 of said Northwest 1/4; thence North 01°53'09" West along the East line of the Southwest 1/4 of said Northwest 1/4, a distance of 556.74 feet to a point on the North line of the Southwest 1/4 of said Northwest 1/4; thence South 88°44'12" West, along the North line of the Southwest 1/4 of said Northwest 1/4, a distance of 321.28 feet; thence South 01°53'09" West and parallel to the West line of the Southwest 1/4 of said Northwest 1/4, a distance of 264.00 feet; thence South 88°44'12" West and parallel to the North line of the Southwest 1/4 of said Northwest 1/4, a distance of 990.00 feet to a point on the West line of the Southwest 1/4 of said Northwest 1/4; thence South 01°53'09" East, along the West line of the Southwest 1/4 of said Northwest 1/4, a distance of 430.14 feet to the Point of Beginning, except that part in existing road right of way.

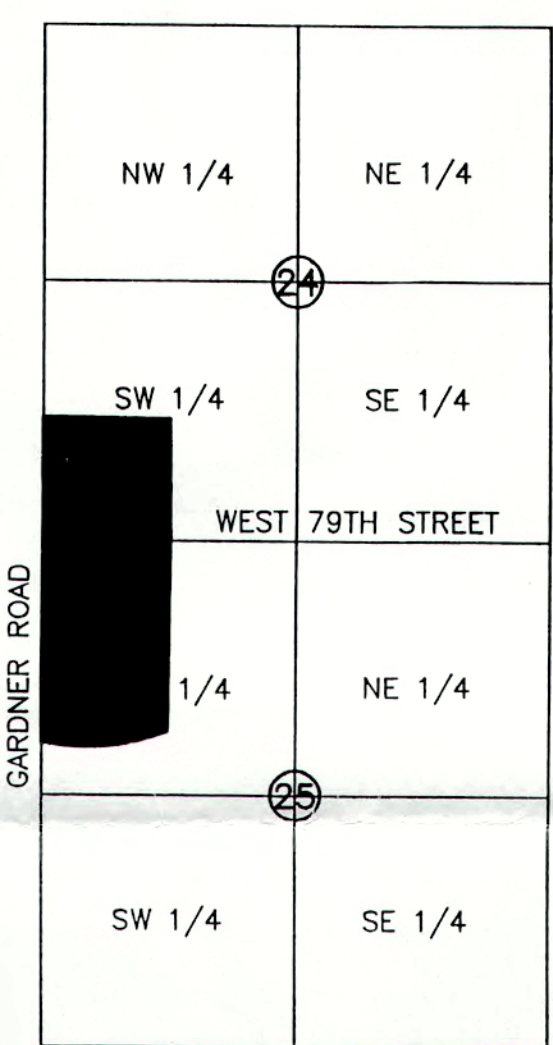
### TRACTS 1-9

All that part of the Southwest 1/4 of the Southwest 1/4 of Section 24, Township 12 South, Range 22 East and all that part of the Northwest 1/4 of Section 25, Township 12 South, Range 22 East, all in Johnson County, Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Northwest 1/4 of said Section 25; thence North 01°53'09" West, along the West line of said Northwest 1/4, a distance of 624.82 feet to a point on the existing North right of way line of the Burlington Northern Santa Fe Railroad and the Point of Beginning; thence South 84°32'09" East, along said North right of way line, a distance of 197.20 feet; thence along a curve to the left having a radius of 2,170.29 feet, a central angle of 29°55'18", an arc distance of 1133.39 feet to a point on the East line of the Southwest 1/4 of said Northwest 1/4; thence North 01°53'09" West along the East line of the Southwest 1/4 of said Northwest 1/4, a distance of 556.74 feet to a point on the North line of the Southwest 1/4 of said Northwest 1/4; thence South 88°44'12" West, along the North line of the Southwest 1/4 of said Northwest 1/4, a distance of 321.28 feet; thence South 01°53'09" West and parallel to the West line of the Southwest 1/4 of said Northwest 1/4, a distance of 264.00 feet; thence South 88°44'12" West and parallel to the North line of the Southwest 1/4 of said Northwest 1/4, a distance of 990.00 feet to a point on the West line of the Southwest 1/4 of said Northwest 1/4; thence South 01°53'09" East, along the West line of the Southwest 1/4 of said Northwest 1/4, a distance of 430.14 feet to the Point of Beginning, except that part in existing road right of way. Containing 100.9916 acres more or less.

## LEGEND

- EXISTING SECTION LINE
- PROPOSED PROPERTY LINE
- EXISTING CENTERLINE
- EXISTING 5' CONTOUR
- EXISTING 1' CONTOUR
- EXISTING WATER LINE
- EXISTING FIBER OPTIC CABLE
- EXISTING FENCE (SIZE AND TYPE NOTED)
- EXISTING RAILROAD
- EXISTING OVERHEAD POWER
- EXISTING SIGN
- EXISTING WATER VALVE
- EXISTING FIRE OR HAND HYDRANT
- EXISTING MANHOLE
- EXISTING POWER POLE
- EXISTING GUY WIRE
- EXISTING POWER PEDESTAL
- EXISTING TELEPHONE PEDESTAL
- EXISTING TREE (SIZE, TYPE NOTED)
- EXISTING BUSH (SIZE NOTED)
- FOUND 1/2" REBAR WITH 2" ALUMINUM CAP
- FOUND REBAR OR PIPE
- SET 1/2" REBAR AND CAP (PY PA CLS 74)



SECTION 24-12-22 AND SECTION 25-12-22  
LOCATION MAP  
1"=2000'

## REFERENCE BEARING:

THE BASIS OF BEARING FOR THIS SURVEY IS GRID NORTH, KANSAS NORTH ZONE DERIVED FROM JOHNSON COUNTY SURVEY CONTROL NETWORK, 1998

PREPARED BY:  
PONZER YOUNGQUIST, P.A.  
227 E. DENNIS AVENUE  
OLATHE, KANSAS 66061  
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FAX: (913) 782-0109

PREPARED FOR:  
OLATHE MUNICIPAL SERVICES  
1385 S. ROBINSON STREET  
OLATHE, KS 66061  
PHONE: (913) 971-9311

I HEREBY CERTIFY: that the within plat is based on an actual survey made by me or under my direct supervision and that said survey meets or exceeds the minimum Standards for Property Boundary Surveys, as adopted by the Kansas Board of Land Surveyors, latest amendment - on October 23, 1998.

DATE: 3/06/07 BY: JOHN W. BRANN III, R.L.S. - 1183

DRAWN BY	SECTION	TOWNSHIP	RANGE	COUNTY	STATE	JOB NUMBER
JWT	25	12	27	JOHNSON	KAN	706027.2