

COUNTER BIG G.E. PB  
 VERIFY BIG JS BIG  
 PROOF \_\_\_\_\_  
 FEES \$ 70.00  
 CHECK# 6620  
 CHG \_\_\_\_\_ CASH \_\_\_\_\_  
 REFUND \_\_\_\_\_ CREDIT \_\_\_\_\_  
 SHORT \_\_\_\_\_ NCR \_\_\_\_\_

FILED SARPY COUNTY NEBRASKA  
 INSTRUMENT NUMBER

2018-23646

10/05/2018 2:43:10 PM

*Clay J. Dowling*

REGISTER OF DEEDS



(Space above line for recording information)

**FIRST AMENDMENT TO AMENDED AND RESTATED EASEMENT AGREEMENT**

THIS FIRST AMENDMENT TO AMENDED AND RESTATED EASEMENT AGREEMENT is made this 3 day of October, 2018 (this "Amendment"), by and among PREMIUMS BUILDING GROUP, LLC, a Nebraska limited liability company ("PBG"), LUND SOUTHPORT 14, LLC, a Nebraska limited liability company ("Lund"), and MICHAEL J. MCDERMOTT AND JOHN L. HOICH (together, "M&H").

WHEREAS, M&H are the owners of that certain real property legally described as Lots 1 and 4, Southport East Replat Nine, an Addition to the City of LaVista, as surveyed, platted and recorded in Sarpy County, Nebraska (herein referred to as "Lot 1" and "Lot 4"), Lund is the owner of that certain real property legally described as Lot 3, Southport East Replat Nine, an Addition to the City of LaVista, as surveyed, platted and recorded in Sarpy County, Nebraska (herein referred to as "Lot 3"), and PBG is the owner of that certain real property legally described as Lot 2, Southport East Replat Nine, an Addition to the City of LaVista, as surveyed, platted and recorded in Sarpy County, Nebraska (herein referred to as "Lot 2").

WHEREAS, M&H, PBG (as successor-in-interest to M&H), and Lund are parties to that certain Amended and Restated Easement Agreement recorded with the Sarpy County Register of Deeds on March 26, 2018 as Instrument No. 2018-06271 (the "Agreement") wherein the parties granted certain mutual access and utility easements and agreed to obligations and cost sharing arrangements with respect to the construction/installation of the improvements described in the Agreement and the ongoing maintenance of such improvements.

WHEREAS, the parties wish to make certain amendments to the Agreement to document the fact that PBG, as the owner of Lot 2, and not M&H, as the owner of Lot 1, will be responsible for the initial costs of constructing, installing, and maintaining the storm sewer lines referenced on Exhibit "F" to the Agreement, to clarify the obligation of M&H, as the owner of Lot 1 and 4, to reimburse PBG for a pro-rata share of those costs upon utilization of those improvements, and to grant

- 1 -

*RJR*  
*Fullenkamp*

A

additional sanitary sewer easements on, under, over and across Lot 4 for the benefit of Lot 1, in the locations depicted on Exhibit "G-1" and Exhibit "G-2" attached hereto.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties declare as follows:

1. Amendments to Agreement. The parties hereby amend the Agreement as follows:

a. Section 7(C) of the Agreement shall be deleted in its entirety and shall be replaced with the following:

C. Grant of Easement for Storm Sewer Line. Lund and subsequent owners of Lot 3, and M&H and subsequent owners of Lot 1 and Lot 4, hereby grant to Lund, M&H, PBG, and the subsequent owners of Lots 1, 2, 3, & 4, as applicable, a perpetual twenty (20) foot wide easement (as originally noted by the Southport East Replat Nine) for a storm sewer line to be located as generally depicted and legally described on Exhibit "F" attached hereto and incorporated herein by this reference. The parties further agree that the owner of Lot 2 shall bear the initial cost of the design, installation, and maintenance of the storm sewer line situated within the easement, subject to the reimbursement provisions contained herein. Notwithstanding the foregoing, if, during the period commencing on the date hereof and ending on a date which is five (5) years thereafter, Lund or a subsequent owner of Lot 3 actually utilizes/benefits from the use of the storm sewer line within this storm sewer easement, then Lund or subsequent owner of Lot 3 shall pay to M&H, PBG, or the subsequent owners of Lots 1, 2 & 4, on a prorata basis (as described below), an amount equal to twenty-two percent (22%) of the cost of the design, installation, and maintenance of the storm sewer line situated within the easement. In addition, in the event that M&H or a subsequent owner of Lot 1 and/or Lot 4 actually utilizes/benefits from the storm sewer line within this storm sewer easement, then M&H or subsequent owner of Lot 1 and/or Lot 4 shall reimburse PBG or the subsequent owner of Lot 2 for its prorata share of the total costs incurred by PBG for the design, installation, and maintenance of the storm sewer line situated within the easement. The parties anticipate that the total costs related to the storm sewer line will be approximately \$46,324.00 and that each parties' liability for such costs shall be determined on a prorata basis based upon total square feet in each Lot, as follows:

(1)	Lot 1 - (121,418 square feet):	\$19,873.00	(42.90%)
(2)	Lot 2 - (68,340 square feet):	\$11,182.62	(24.14%)
(3)	Lot 4 - (93,277 square feet):	<u>\$15,268.38</u>	<u>(32.96%)</u>
	(283,035 sq. feet)	<b>\$46,324.00</b>	100%

B

The foregoing provisions of this Section 7C set forth the intent and understanding of the parties with respect to this storm sewer easement.

b. The Agreement is hereby amended by adding the following as Sections 7(E) and 7(F), respectively:

“E. Lot 1/Lot 4 Sanitary Sewer Easements. M&H, the owner of Lot 4, hereby grants to M&H and all subsequent owners of Lot 1, two (2) separate permanent thirty foot (30’) wide easements in the locations depicted on Exhibit “G-1” and Exhibit “G-2” attached hereto and incorporated herein by this reference, and as legally described on Exhibit “G-1” and Exhibit “G-2”, together with the right of access for the purpose of constructing, inspecting, maintaining, operating, repairing, and/or replacing a sanitary sewer line, and appurtenances thereto, to be located on Lot 4 for the benefit of Lot 1. The parties further agree that the owner of Lot 1 shall bear the cost of the design, construction/installation, and maintenance of the easement and the sanitary sewer line situated thereon.

F. Reimbursement; Interest. In the event reimbursement obligations are incurred by M&H or the subsequent owners of Lot 1 and/or Lot 4 pursuant to the terms of Section 7(c) hereof, PBG shall submit to M&H, or the subsequent owner of Lot 1 and/or Lot 4, as applicable, a statement of costs and expenses reasonably incurred, together with reasonably supporting documentation therefore and M&H, or the subsequent owner of Lot 1 and/or Lot 4, as applicable, shall, within thirty (30) days following the receipt of any reasonable written invoice from PBG, reimburse PBG pursuant to the applicable terms hereof. In the event such amount is not paid when due, PBG shall give the non-paying party written notice of such failure to pay as required herein. In the event the unpaid amount is not paid in full within ten (10) days after such notice is given, such unpaid amount shall begin to accrue interest at an annual rate of ten percent (10%) per annum.”

2. No Other Amendment. Except as amended herein, all of the terms, conditions and provisions of the Agreement are ratified and confirmed and remain in full force and effect.

3. Counterparts. This Amendment may be executed in counterparts, all of which taken together shall constitute one agreement.

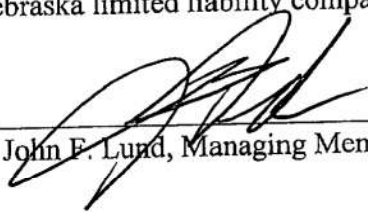
[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK; EXECUTION PAGE FOLLOWS]

C

IN WITNESS WHEREOF, LUND, M&H, and PBG, for themselves and their successors and assigns, have caused this instrument to be executed on the day and year first above written.

**LUND:**

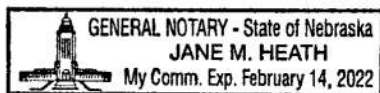
LUND SOUTHPORT 14, LLC,  
a Nebraska limited liability company

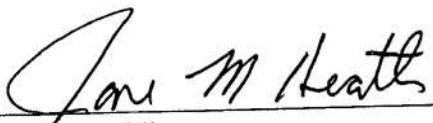
By:   
John F. Lund, Managing Member

STATE OF NEBRASKA    )  
  ) ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me on the 3<sup>rd</sup> day of October, 2018, by John F. Lund, Managing Member of Lund Southport 14, LLC, as his voluntary act and deed.

WITNESS my hand and notarial seal the day and year last above written.



  
Notary Public

D

M&H:

Michael J. McDermott  
Michael J. McDermott

John L. Hoich  
John L. Hoich

STATE OF Missouri )  
COUNTY OF Platte ) ss.  
)

The foregoing instrument was acknowledged before me on the 29<sup>th</sup> day of September, 2018, by Michael J. McDermott, as his voluntary act and deed.

WITNESS my hand and notarial seal the day and year last above written.

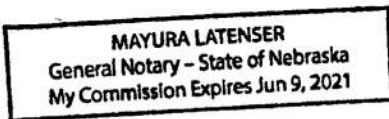


[Signature]  
Notary Public

STATE OF NEBRASKA )  
) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me on the 1<sup>st</sup> day of October, 2018, by John L. Hoich, as his voluntary act and deed.

WITNESS my hand and notarial seal the day and year last above written.



[Signature]  
Notary Public

E

PBG:

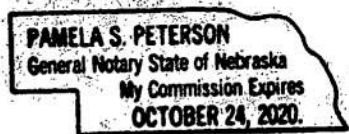
PREMIUMS BUILDING GROUP, LLC, a  
Nebraska limited liability company

By: *Mike Esson*  
Name: MIKE ESSON  
Its: MANAGING MEMBER

STATE OF NEBRASKA    )  
  ) ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me on the 2 day of October,  
2018, by Mike Esson, the Managing Member Premiums Building Group, LLC, a  
Nebraska limited liability company, as his voluntary act and deed on behalf of the limited liability  
company.

WITNESS my hand and notarial seal the day and year last above written.



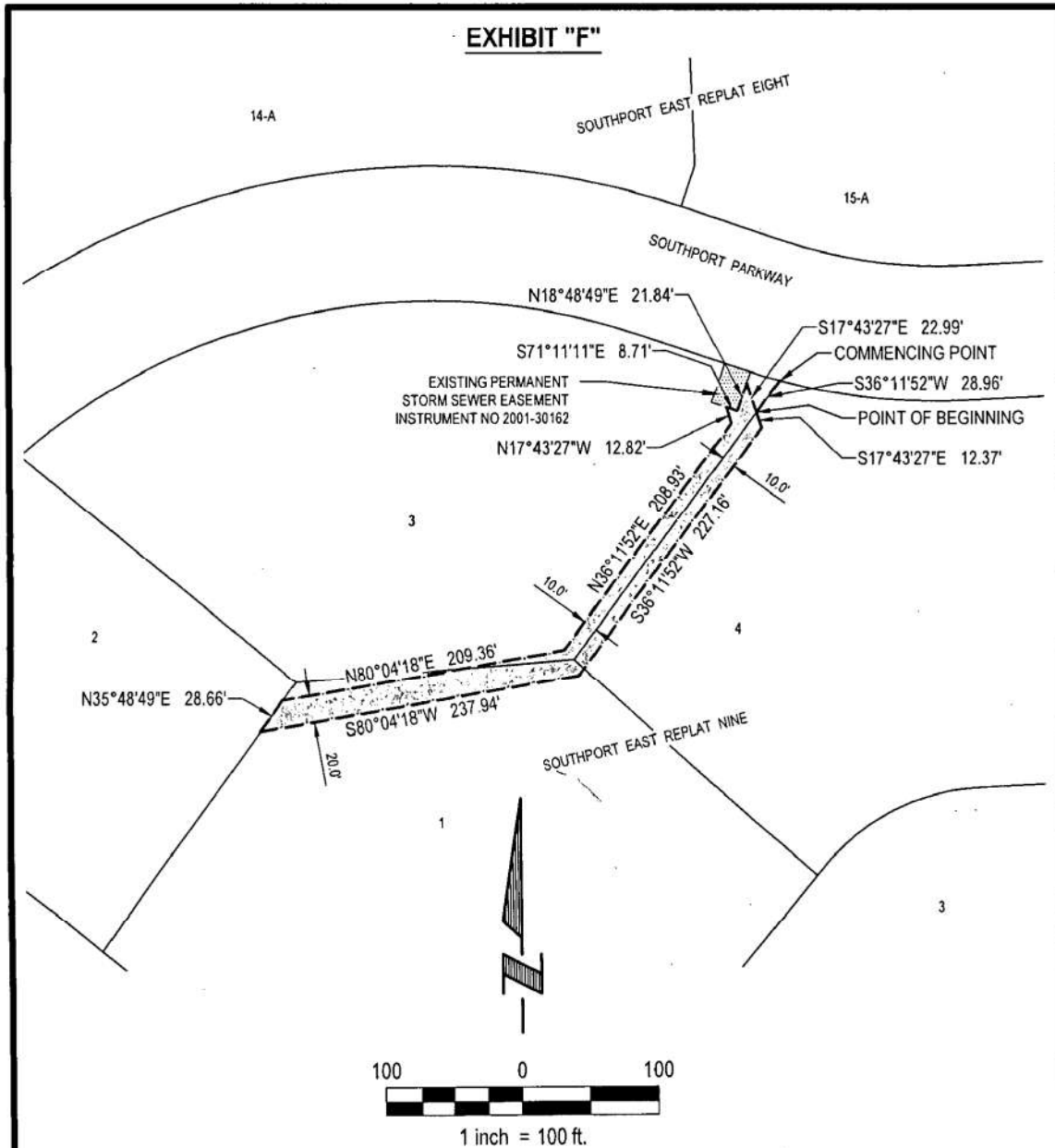
*Pamela S. Peterson*  
Notary Public

F

**Exhibit "F"**  
**Attached**

G

**EXHIBIT "F"**



**LEGAL DESCRIPTION**

A STORM SEWER EASEMENT LOCATED LOTS 1, 3 AND 4, SOUTHPORT EAST REPLAT NINE, A SUBDIVISION LOCATED IN THE SE 1/4 OF SECTION 18, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 3, SOUTHPORT EAST REPLAT NINE, SAID POINT ALSO BEING THE NORTHWEST CORNER OF SAID LOT 4, SOUTHPORT EAST REPLAT NINE, SAID POINT ALSO BEING ON THE SOUTHERLY LINE RIGHT-OF-WAY LINE OF SOUTHPORT PARKWAY; THENCE S36°11'52"W (ASSUMED BEARING) ALONG THE EAST LINE OF SAID LOT 3, SOUTHPORT EAST REPLAT NINE, SAID LINE ALSO BEING THE WEST LINE OF SAID LOT 4, SOUTHPORT EAST REPLAT NINE, A DISTANCE OF 28.96 FEET TO THE POINT OF BEGINNING; THENCE S17°43'27"E, A DISTANCE OF 12.37 FEET; THENCE S36°11'52"W, A DISTANCE OF 227.16 FEET; THENCE S80°04'18"W, A DISTANCE OF 237.94 FEET TO A POINT ON THE WEST LINE OF SAID LOT 1, SOUTHPORT EAST REPLAT NINE, SAID POINT ALSO BEING ON THE SOUTH LINE OF LOT 2, SAID SOUTHPORT EAST REPLAT NINE; THENCE N35°48'49"E ALONG SAID WEST LINE OF LOT 1, SOUTHPORT EAST REPLAT NINE, SAID LINE ALSO BEING SAID SOUTH LINE OF LOT 2, SOUTHPORT EAST REPLAT NINE, A DISTANCE OF 28.66 FEET; THENCE N80°04'18"E, A DISTANCE OF 209.36 FEET; THENCE N36°11'52"E, A DISTANCE OF 208.93 FEET; THENCE N17°43'27"W, A DISTANCE OF 12.82 FEET; THENCE S71°11'11"E, A DISTANCE OF 8.71 FEET; THENCE N18°48'49"E, A DISTANCE OF 21.84 FEET; THENCE S17°43'27"E, A DISTANCE OF 22.99 FEET TO THE POINT OF BEGINNING.

SAID STORM SEWER EASEMENT CONTAINS 9,221 SQUARE FEET OR 0.212 ACRES, MORE OR LESS.

 <p><b>E &amp; A CONSULTING GROUP, INC.</b> Engineering • Planning • Environmental &amp; Field Services 10909 Mid Valley Road, Suite 100 • Omaha, NE 68154 Phone: 402.895.4700 • Fax: 402.895.3599</p>	<p><b>E &amp; A CONSULTING GROUP, INC.</b></p>		<p><b>STORM SEWER EASEMENT</b> LOTS 1, 3 &amp; 4, SOUTHPORT EAST REPLAT NINE SARPY COUNTY, NEBRASKA</p>
	<p>Drawn by: CJV   Chkd by: _____   Date: 11-01-2017</p>	<p>Job No.: P2016.058.001</p>	

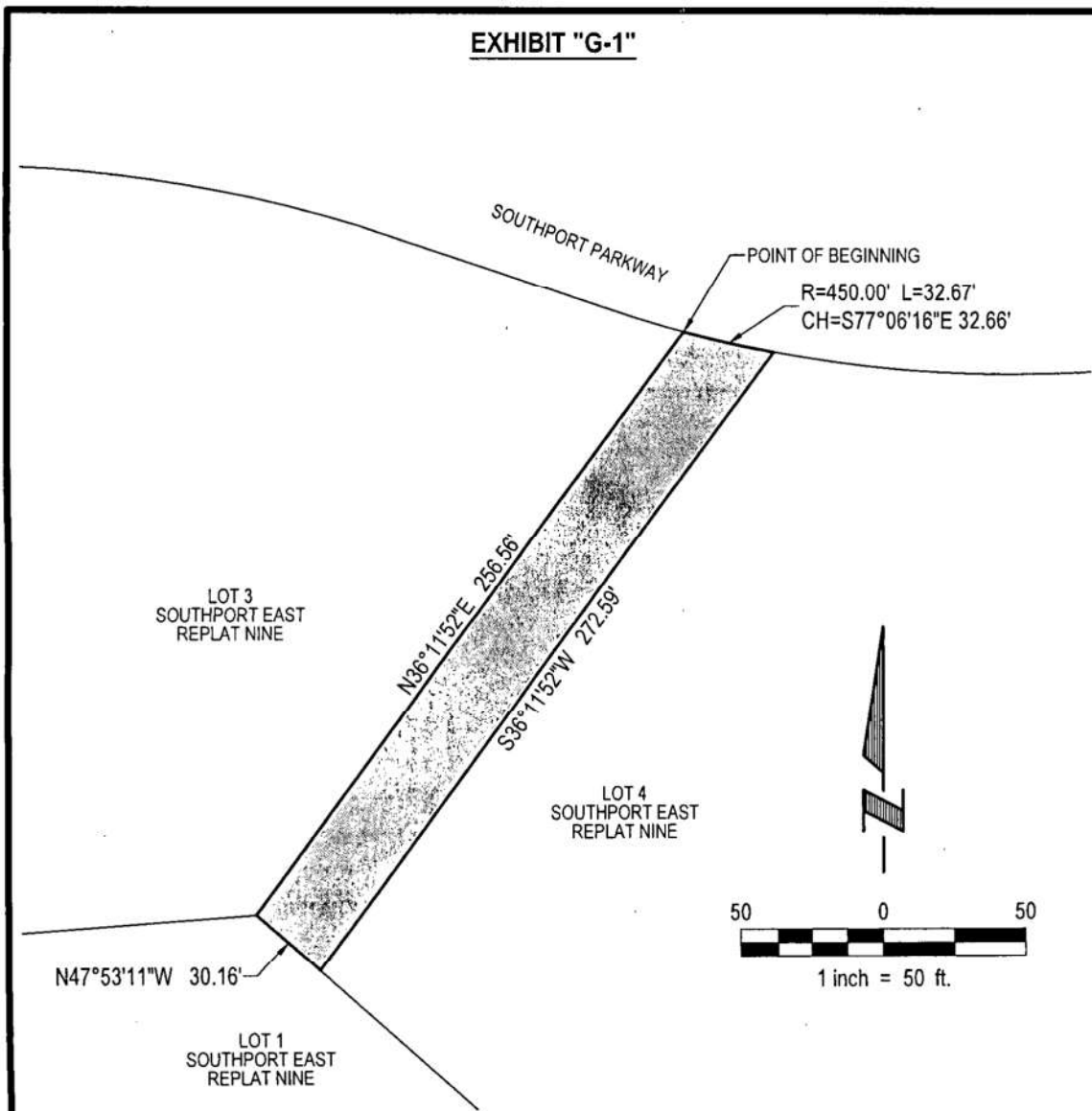


H

**Exhibit "G"**  
**Attached**

I

**EXHIBIT "G-1"**



**LEGAL DESCRIPTION**

A TRACT OF LAND LOCATED IN PART LOT 4, SOUTHPORT EAST REPLAT NINE, A SUBDIVISION LOCATED IN THE SE1/4 OF SECTION 18, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

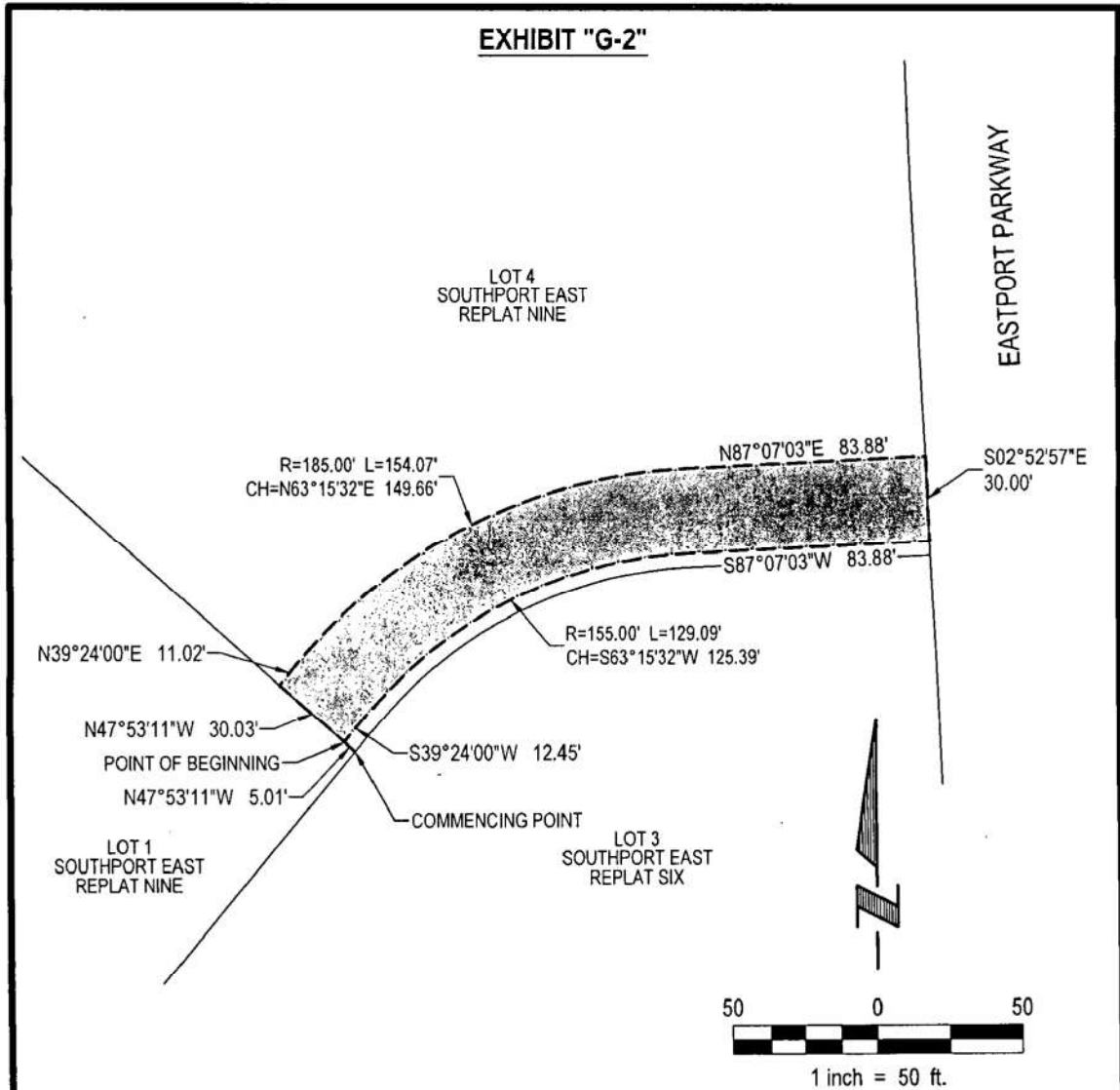
BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 4, SOUTHPORT EAST REPLAT NINE, SAID POINT ALSO BEING THE NORTHEAST CORNER OF LOT 3, SAID SOUTHPORT EAST REPLAT NINE, AND ALSO BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SOUTHPORT PARKWAY; THENCE SOUTHEASTERLY ALONG THE NORTHERLY LINE OF SAID LOT 4, SOUTHPORT EAST REPLAT NINE, SAID LINE ALSO BEING SAID SOUTHERLY RIGHT-OF-WAY LINE OF SOUTHPORT PARKWAY ON A CURVE TO THE LEFT WITH A RADIUS OF 450.00 FEET, A DISTANCE OF 32.67 FEET, SAID CURVE HAVING ALONG CHORD WHICH BEARS S77°06'16"E (ASSUMED BEARING), A DISTANCE OF 32.66 FEET; THENCE S36°11'52"W ALONG A LINE BEING 30 FEET SOUTHEASTERLY OF AND PARALLEL WITH THE WESTERLY LINE OF SAID LOT 4, SOUTHPORT EAST REPLAT NINE, SAID LINE ALSO BEING THE EASTERLY LINE OF SAID LOT 3, SOUTHPORT EAST REPLAT NINE, A DISTANCE OF 272.59 FEET TO A POINT ON SAID WESTERLY LINE OF SAID LOT 4, SOUTHPORT EAST REPLAT NINE, SAID POINT ALSO BEING ON THE EASTERLY LINE OF LOT 1, SOUTHPORT EAST REPLAT NINE; THENCE N47°53'11"W ALONG SAID WESTERLY LINE OF LOT 4, SOUTHPORT EAST REPLAT NINE, SAID LINE ALSO BEING SAID EASTERLY LINE OF LOT 1, SOUTHPORT EAST REPLAT NINE, A DISTANCE OF 30.16 FEET TO THE NORTHEAST CORNER OF SAID LOT 1, SOUTHPORT EAST REPLAT NINE, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SAID LOT 3, SOUTHPORT EAST REPLAT NINE; THENCE N36°11'52"E ALONG SAID WESTERLY LINE OF LOT 4, SOUTHPORT EAST REPLAT NINE, SAID LINE ALSO BEING SAID EASTERLY LINE OF SAID LOT 3, SOUTHPORT EAST REPLAT NINE, A DISTANCE OF 256.65 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 7,931 SQUARE FEET OR 0.182 ACRES, MORE OR LESS.

 <b>E &amp; A CONSULTING GROUP, INC.</b> <small>Engineering Answers</small>	<b>E &amp; A CONSULTING GROUP, INC.</b> <small>Engineering • Planning • Environmental &amp; Field Services</small> <small>10909 M &amp; Valley Road, Suite 100 • Omaha, NE 68154 Phone: 402.895.4700 • Fax: 402.895.3599</small>		<b>30' WIDE</b> <b>SANITARY SEWER EASEMENT</b> <b>LOT 4, SOUTHPORT EAST REPLAT NINE</b> <small>SARPY COUNTY, NEBRASKA</small>
	<small>Drawn by: FCE</small>   <small>Chkd by:</small>	<small>Date: 09/21/2018</small>	
<small>Job No.: P2000.030.147</small>			

2018-23646 J

**EXHIBIT "G-2"**



**LEGAL DESCRIPTION**

A TRACT OF LAND LOCATED IN PART LOT 4, SOUTHPORT EAST REPLAT NINE, A SUBDIVISION LOCATED IN THE SE 1/4 OF SECTION 18, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 4, SOUTHPORT EAST REPLAT NINE, SAID POINT ALSO BEING THE NORTHEAST CORNER OF LOT 1, SAID SOUTHPORT EAST REPLAT NINE, AND ALSO BEING ON THE WESTERLY LINE OF LOT 3, SOUTHPORT EAST REPLAT SIX, A SUBDIVISION LOCATED IN SAID SE 1/4 OF SECTION 18; THENCE N47°53'11"W (ASSUMED BEARING) ALONG THE WEST LINE OF SAID LOT 4, SOUTHPORT EAST REPLAT NINE, SAID LINE ALSO BEING THE NORTHERLY LINE OF SAID LOT 1, SOUTHPORT EAST REPLAT NINE, A DISTANCE OF 5.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N47°53'11"W ALONG SAID WEST LINE OF LOT 4, SOUTHPORT EAST REPLAT NINE, SAID LINE ALSO BEING SAID NORTHERLY LINE OF LOT 1, SOUTHPORT EAST REPLAT NINE, A DISTANCE OF 30.03 FEET; THENCE N39°24'00"E, A DISTANCE OF 11.02 FEET; THENCE NORTHEASTERLY ON A CURVE TO THE RIGHT WITH A RADIUS OF 185.00 FEET, A DISTANCE OF 154.07 FEET, SAID CURVE HAVING A LONG CHORD WHICH BEARS N63°15'32"E, A DISTANCE OF 149.66 FEET; THENCE N87°07'03"E, A DISTANCE OF 83.88 FEET TO A POINT ON THE EAST LINE OF SAID LOT 4, SOUTHPORT EAST REPLAT NINE, SAID POINT ALSO BEING ON THE WEST RIGHT-OF-WAY LINE OF EASTPORT PARKWAY; THENCE S02°52'57"E, A DISTANCE OF 30.00 FEET ALONG SAID EAST LINE OF LOT 4, SOUTHPORT EAST REPLAT NINE, SAID LINE ALSO BEING ON SAID WEST RIGHT-OF-WAY LINE OF EASTPORT PARKWAY; THENCE S87°07'03"W, A DISTANCE OF 83.88 FEET; THENCE SOUTHWESTERLY ON A CURVE TO THE LEFT WITH A RADIUS OF 155.00 FEET, A DISTANCE OF 129.09 FEET, SAID CURVE HAVING A LONG CHORD WHICH BEARS S63°15'32"W, A DISTANCE OF 125.39 FEET; THENCE S39°24'00"W, A DISTANCE OF 12.45 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 7,116 SQUARE FEET OR 0.163 ACRES, MORE OR LESS.

 <b>E &amp; A CONSULTING GROUP, INC.</b> <small>Engineering Answers</small>	<b>E &amp; A CONSULTING GROUP, INC.</b> <small>Engineering • Planning • Environmental &amp; Field Services</small> <small>10909 Mill Valley Road, Suite 100 • Omaha, NE 68154 Phone: 402.895.4700 • Fax: 402.895.3599</small>		<b>30' WIDE</b> <b>SANITARY SEWER EASEMENT</b> <b>LOT 4, SOUTHPORT EAST REPLAT NINE</b> <small>SARPY COUNTY, NEBRASKA</small>
	<small>Drawn by: CJV</small> <small>Chkd by:</small>	<small>Date: 10/04/2018</small>	
<small>Job No.: P2000.030.147</small>			