FILED SARPY CO. NE. INSTRUMENT NUMBER 12003 - 24994

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REGISTER OF DEEDS

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This Instrument Drafted by And To Be Returned To: Right-of-Way Department Northern Natural Gas Company PO. Box 3330 Cmaha, Nebraska 68103

48001-32, 48401-0, 48401-1

## ENCROACHMENT AGREEMENT

This instrument made and entered into this 12th day of MARCH, 2003, by and between NORTHERN NATURAL GAS COMPANY, a Delaware corporation, (hereinafter referred to as "Northern"), with principal offices at P.O. Box 3330, Omaha, Nebraska 68103-0330, and SANITATION IMPROVEMENT DISTRICT NO. 208 (hereinafter referred to as "SID #208").

## WITNESSETH THAT:

WHEREAS, Northern is the holder of an Easement granted by Laura LaDuke, et al, on December 16, 1931, and an Easement granted by Francis Miller on January 30, 1939, covering the following described premises in Sarpy County, Nebraska:

The East Half of the Southeast Quarter of Section 21, Township 14 North, Range 13 East, except the North 3 rods thereof; and

which Easements were recorded January 22, 1932, in Book 8 of Misc. at Page 240, and February 1, 1939, in Book 10 of Misc. at Page 52, respectively; and Northern is the holder of a third casement granted by Mollie Fritz and Fred Fritz on June 24, 1938, recorded July 9, 1938 in Book 9 of Misc. at Page 655, covering the following described premises in Sarpy County, Nebraska:

Tax Lot 7A1 and the West Half of the Southeast Quarter of Section 21, Township 14 North, Range 13 East; and

said easements have been defined to a 70-foot wide strip and to an 86-foot wide strip by a Modification and Amendment of Easement Grant executed July 22, 1994, recorded August 26, 1994, as document 94-10902, all in the Office of the Register of Deeds for Sarpy County, Nebraska (hereinafter collectively referred to as "Easement"); and

WHEREAS, pursuant to the authority contained in said Easements, Northern has constructed and currently operates and maintains a 16-inch pipeline (NEB 48001) in its 86-foot wide strip and a 4-inch pipeline (NEB 48401) in its 70-foot wide strip, along with the right to install additional pipelines and facilities from time to time (hereinafter referred to as "Pipeline Facilities"), across and through the above described premises; and

WHEREAS, SID #208 is the present owner of the following described real property, with Pipeline Facilities situated upon the following described land in Sarpy County, Nebraska (hereinafter referred to as the "Owned Premises"):

The SID #208's Right-of-Way within Sunrise Addition, Lots 340 thru 448, inclusive, being a platting of part of the Southeast Quarter (SE¼) of Section 21, Township 14 North, Range 13 East of the 6<sup>th</sup> P.M., and

WHEREAS, SID #208 plans to construct a sanitary sewer, storm sewer and five street crossings known as 28<sup>th</sup> Avenue, 28<sup>th</sup> Street, 27<sup>th</sup> Avenue, 27<sup>th</sup> Street and 26<sup>th</sup> Avenue, as depicted on Exhibit "A" (hereinafter referred to as "Encroachment") upon and within a portion of the confines of Northern's 70-foot wide strip under the Easement, with this written consent; and

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WHEREAS, SID #208 has been advised by Northern that Northern is a natural gas transmission company and that Northern operates a high pressure underground natural gas pipeline through the Owned Premises; and

WHEREAS, SID #208 has requested permission from Northern to maintain, use, and enjoy the Encroachment upon a portion of Northern's Easement and in close proximity to Northern's Pipeline Facilities; and

WHEREAS, Northern is willing to grant such permission upon the terms and conditions set forth as follows.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions hereinafter set forth, the parties hereto agree as follows:

- 1. Northern hereby grants permission to SID #208 to maintain, operate and use upon the Owned Premises and in close proximity to Northern's Pipeline Facilities, the said Encroachment, subject to the following conditions:
- A. That SID #208 assumes all risks for damages, injuries, or loss to either property or persons, which may be incurred by SID #208 or its respective agents, invitees, or licensees present on or in the vicinity of the Easement and in any way associated with said Encroachment.
- B. That the permission granted herein is limited exclusively to the proposed Encroachment within Northern's Easement. SID #208 shall not alter the grade or permit such alteration anywhere on the land upon which Northern has reserved its easement rights, without the prior express written consent of Northern.
- C. That SID #208 shall at all times conduct all its activities on said Easement in such a manner as not to interfere with or impede the operation of Northern's Pipeline Facilities and activities in any manner whatsoever.
- D. That SID #208 shall not plant any trees or shrubs within the confines of Northern's Easement without the prior express written consent of Northern.
- 2. SID #208 agrees to indemnify, protect, and hold Northern, its parent, affiliates, subsidiaries, and their directors, officers, employees, representatives, and agents harmless from and against any and all actions or causes of action, claims, demands, liabilities, loss, damage, injury, suit, proceeding, judgment, cost, or expense of whatever kind or nature, including but not limited to reasonable attorneys' fees, arising from or as a result of any incident, act, action, cause of action, negligence, transaction or omission of SID #208 in connection with, or incidental to the construction, operation, maintenance, or use of the said Encroachment with and upon the Easement. It is understood and agreed by the parties that under this Agreement, SID #208 shall be jointly and severally liable.
- 3. Should Northern need to remove any of SID #208's said Encroachment within its Easement in order to construct, maintain, operate, repair, remove, or resize Northern's existing or additional Pipeline Facilities, SID #208 or its respective heirs, successors, and assigns shall pay the cost of removing and replacing or reinstalling said Encroachment. In addition, all repair and maintenance work performed by Northern on its existing or additional Pipeline Facilities located on the Owned Premises shall be performed in a reasonable workmanlike manner and Northern shall restore the surface and grade of the Owned Premises where the work is performed, but shall not be liable for loss, damage, or replacement to SID #208's said Encroachment or any associated equipment and facilities that exist within the Easement, and in this regard, SID #208 hereby releases Northern, its employees, agents, officers, and directors from any and all liability for any such loss or damage.
- 4. The Parties hereto understand that this Agreement in no way constitutes a waiver by Northern of its rights to enjoy its Easement unencumbered by the construction of said Encroachment within Northern's Easement.

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- 5. It is expressly agreed to by and between the parties hereto that if SID #208 is in violation of any terms or conditions set forth in this Agreement, and such violation shall remain uncured for a period of thirty days after notice of such violation is given to SID #208 by Northern, Northern, at its option, may terminate this Agreement upon ten (10) days' notice to the SID #208. In the event of such termination, SID #208 shall immediately remove any and all of said Encroachment which may be situated on the Easement, or if SID #208 fails to remove any and all of said Encroachment, Northern may, at its option, remove said Encroachment at the expense of SID #208 and without any liability whatsoever. It is further agreed that the failure by Northern to exercise such option as to any such violation shall not constitute a waiver of Northern's future right to exercise such option as to the same or any future violation.
- 6. The provisions of the Easement, and all rights, powers, privileges, and duties, obligations, and liabilities created thereby, remain in full force and effect and are not affected hereby except to the extent and in the manner set forth above.
- 7. SID #208 agrees to indemnify, defend and hold Northern, its parent and affiliated companies, and the directors, officers and employees of any such corporate entities harmless from and against any liability, damage, claims, loss, cause of action, suit, proceeding, judgment, cost (including the cost or expense of environmental response, removal or remediation activities), fees or expense, including reasonable attorney's fees arising from: (1) non-compliance with any laws, regulations and orders applicable to the ownership or the operation and maintenance of the said Encroachment on the Owned Premises described herein, and (2) any incidents, acts, releases, negligence, transactions or omissions, or conditions on or affecting the Easement that would (i) contribute to or constitute a violation of any local, state or federal environmental rule, regulation, law or judicial order, (ii) result, in whole or in part, in any requirement to clean up or otherwise remedy or remediate a condition, (iii) give rise to any lien, liability, injunction, order, restriction, claim, expense, damage, fine or penalty, or (iv) adversely affect human health or the environment at or near the Easement.

This instrument and the covenants and agreements herein contained shall extend to and be binding upon the heirs, executors, administrators, successors, and assigns of the parties and the benefits of this Agreement shall run with the land.

IN WITNESS WHEREOF, the parties have executed this instrument the day and year first above written.

"NORTHERN" NORTHERN NATURAL GAS COMPANY

> Glen R. Hass Agent and Attorney in Fact

SANITARY AND IMPROVEMENT DISTRICT NO. 208, OF SARPY COUNTY,

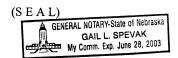
Print name

Its Chairman

48001-32 48401-0 48401-1

STATE OF NEBRASKA	)
COUNTY OF DOUGLAS	)SS )

The foregoing instrument was acknowledged before me, a Notary Public duly commissioned and qualified in and for said county and state, on this 3rd day of April , 2003, by Glen R. Hass, the Agent and Attorney-in-Fact of Northern Natural Gas Company.



My Commission Expires 6-28-03

STATE OF NEBRASKA) COUNTY OF SARPY

The foregoing instrument was acknowledged before me, a Notary Public duly commissioned and qualified in and for said county and state, on this \_/2\_ day of much , 2003, by John C. Czerwinski, Jr., the Chairman of Sanitary and Improvement District No. 208 of Sarpy County, Nebraska.

(SEAL)

GENERAL NOTARY-State of Nebraska LISA M. ROBBINS My Comm. Exp. May 1, 2004

Sisw M. Robbins

Notary Public
My Commission Expires May 1, 2004

## SANITARY & | SARPY CO SANITARY SEWER STORM SEWER NO. 208

SUNRISE ADDIT N: LOTS 340-448

VICINITY MAP

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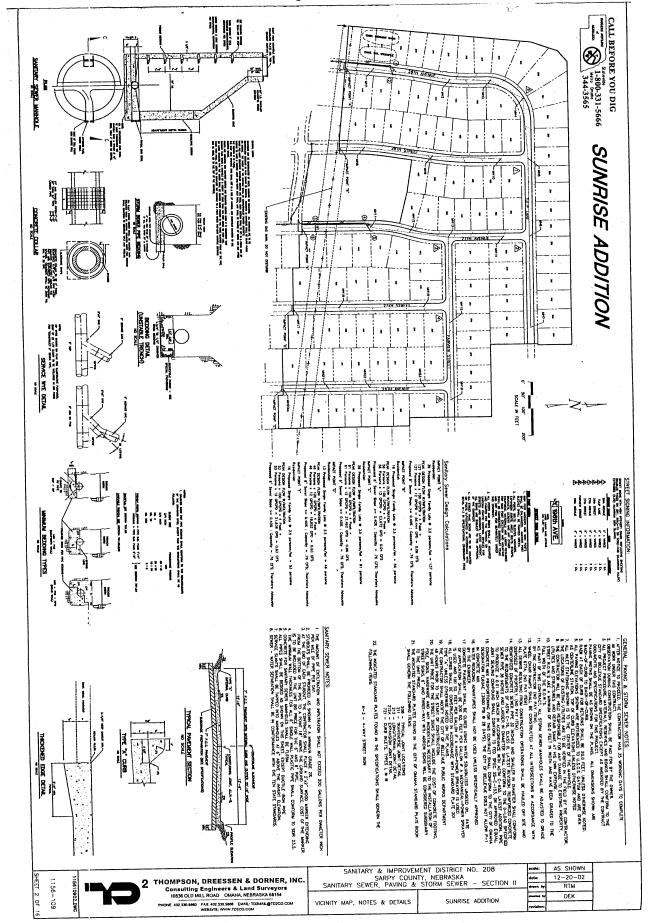
COVER SHEET

SANITARY & IMPROVEMENT DISTRICT NO. 208 SARPY COUNTY, NEBRASKA SANITARY SEWER, PAVING & STORM SEWER - SECTION II

AS SHOWN 12-20-02 DEK

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Exhibit "A" Page 2 of 16



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Exhibit "A" Page 3 of 16

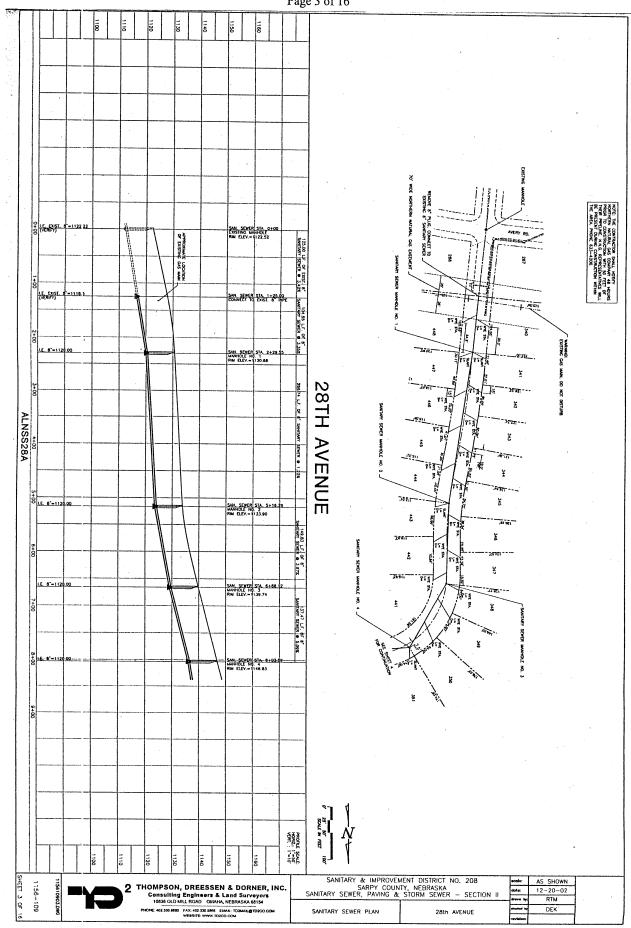


Exhibit "A" Page 4 of 16

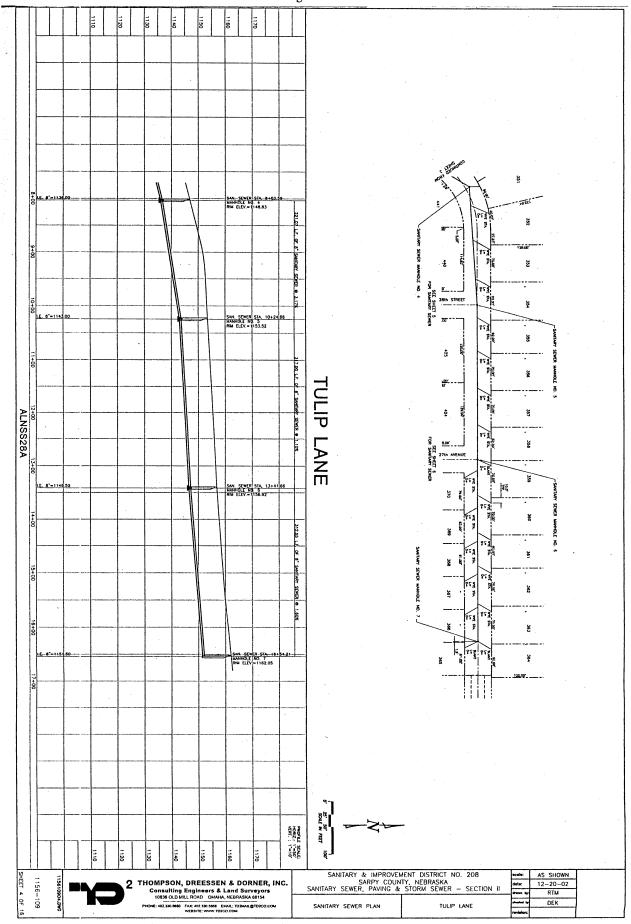
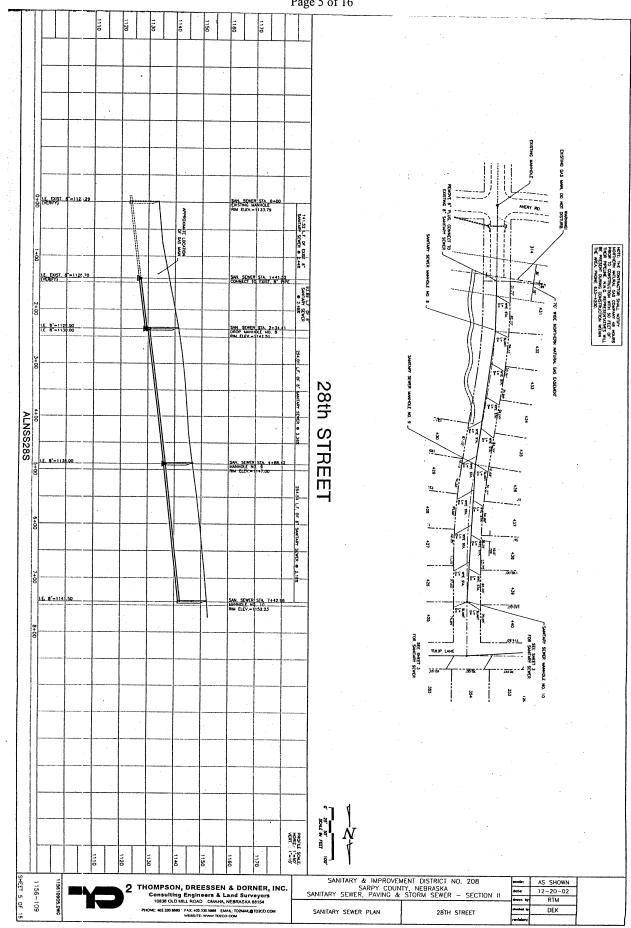
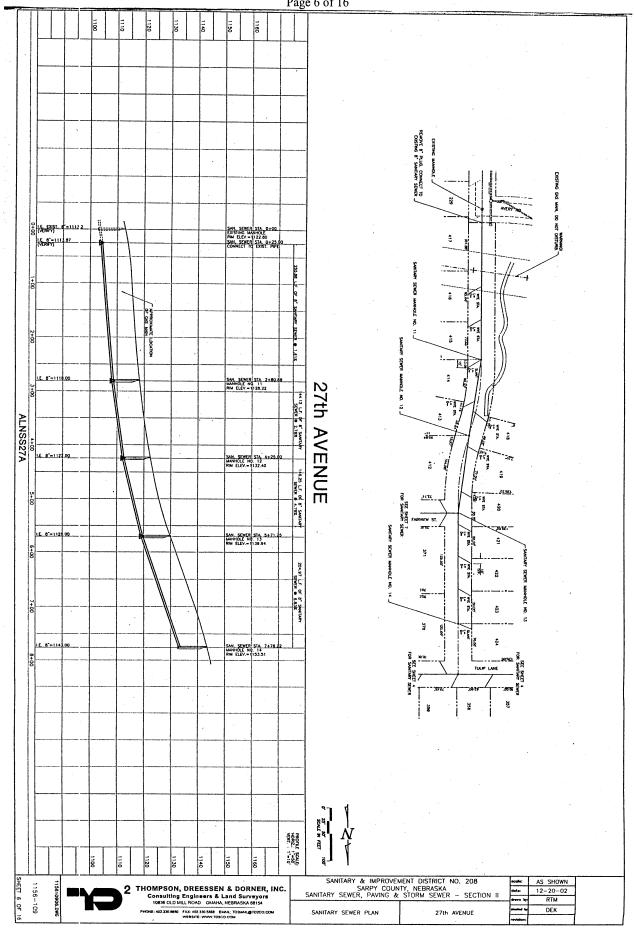


Exhibit "A" Page 5 of 16



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Exhibit "A" Page 6 of 16



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Exhibit "A" Page 7 of 16

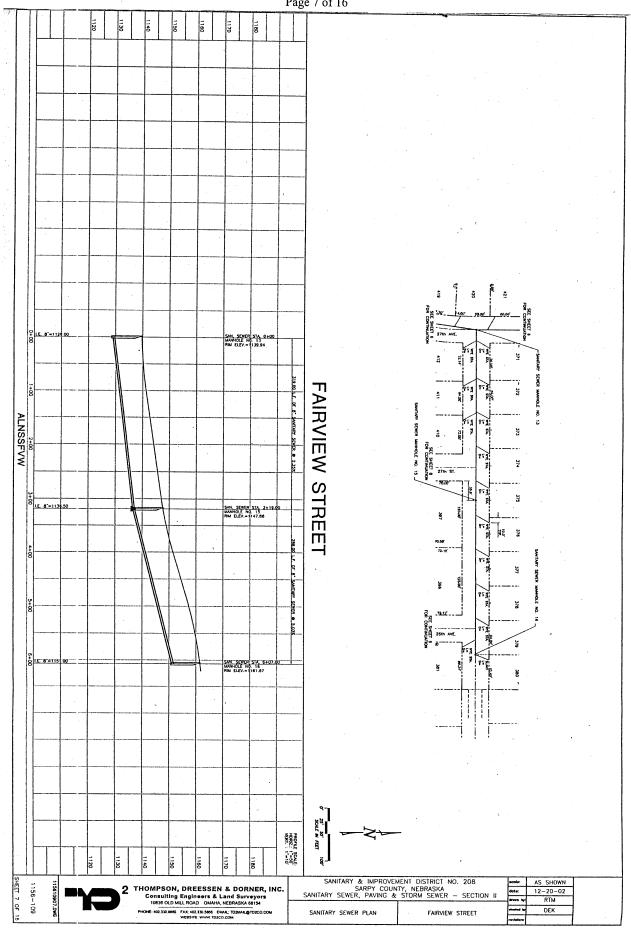


Exhibit "A" Page 8 of 16

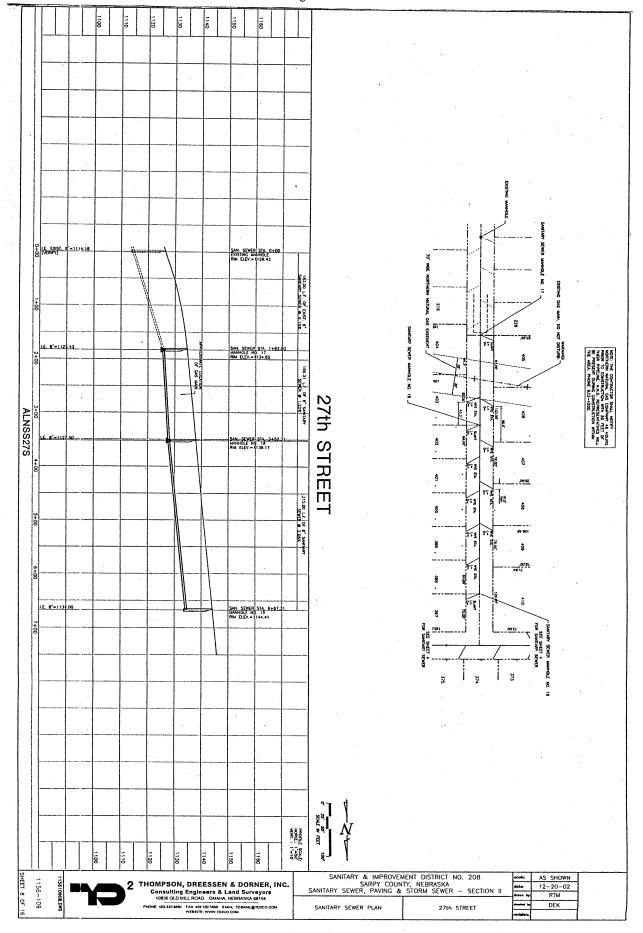
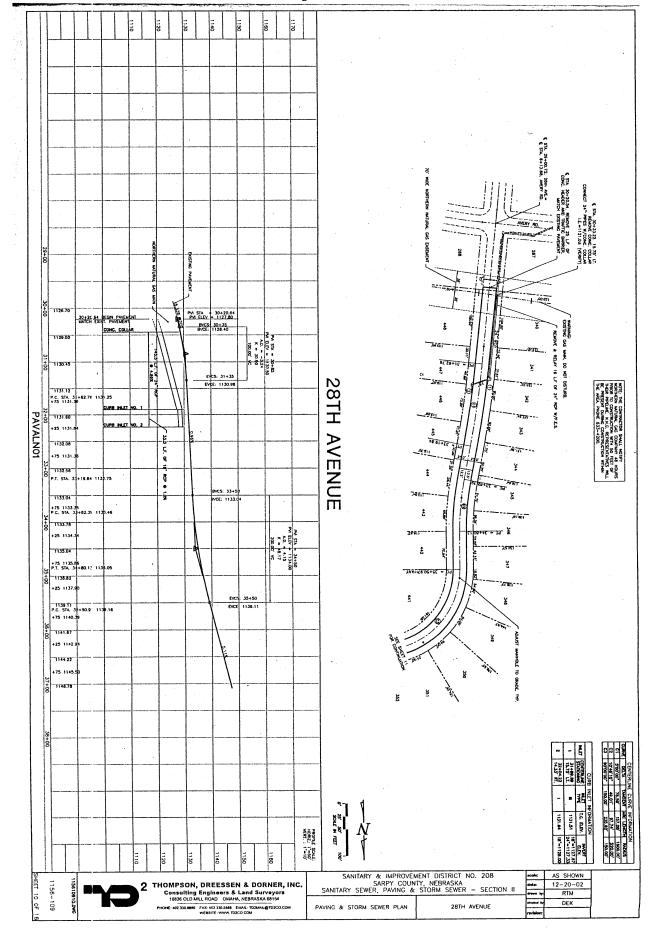


Exhibit "A" Page 9 of 16 1150 1170 SANITARY SEWER . 356% I.E. 8 -113 .00 26th AVENUE ALNSS26A SANITARY SEWER @ 1.29% SAN, SEWER STA. 4 MANHOLE NO. 22 RIM ELEV. - 1151.61 Ř IE 8-1137.00 SAN SEWER STA 6+5 MANHOLE NO. 23 RIM ELEV. = \$157.59 PROFILE SCALE: HORIZ: 1 -50 VERT. : 1 -10 SANITARY & IMPROVEMENT DISTRICT NO. 208
SARPY COUNTY, NEBRASKA
SANITARY SEWER, PAVING & STORM SEWER — SECTION II AS SHOWN 12-20-02 RTM 2 THOMPSON, DREESSEN & DORNER, INC.
Consulting Engineers & Land Surveyors
10836 CLD NILL ROAD OLAVIA, NEBRASKA 88154
PHONE: 492336 MAY FAN 473 30946 EMA, TOMANA (TOXO COM
WESSITE WAYN, TOXO COM 1156-109 SANITARY SEWER PLAN 26th AVENUE

Exhibit "A" Page 10 of 16



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Exhibit "A" Page 11 of 16

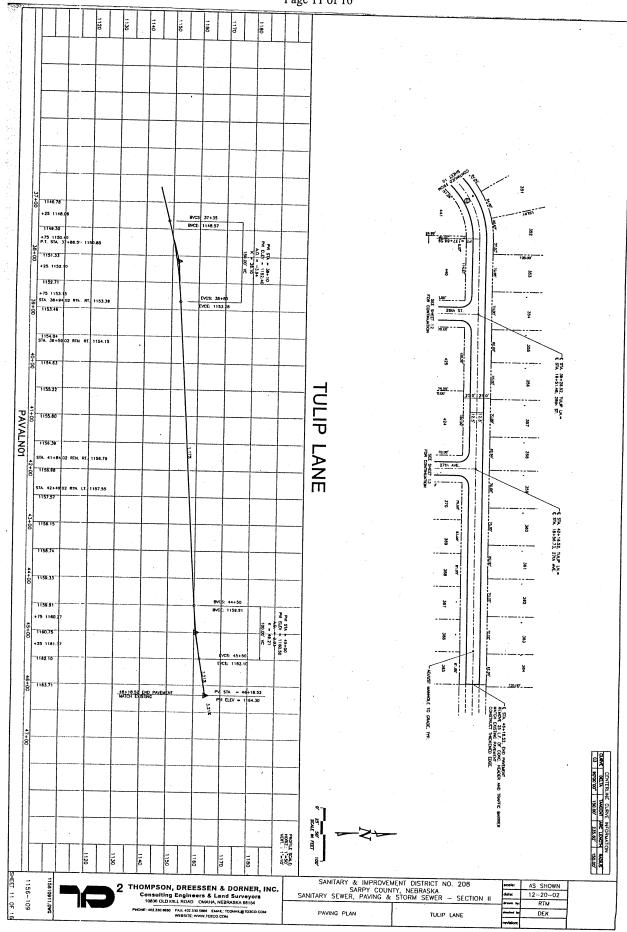


Exhibit "A" Page 12 of 16

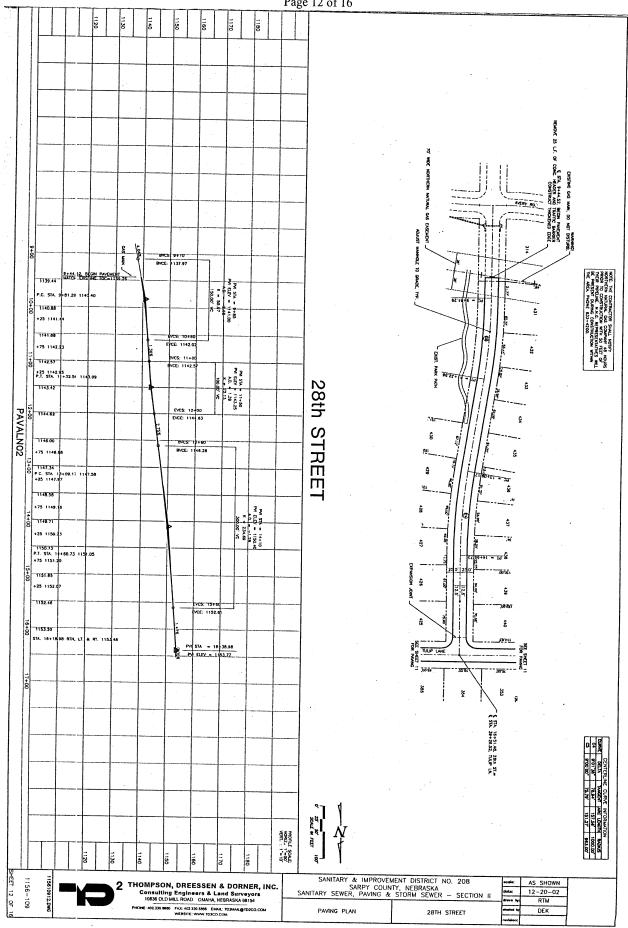


Exhibit "A" Page 13 of 16

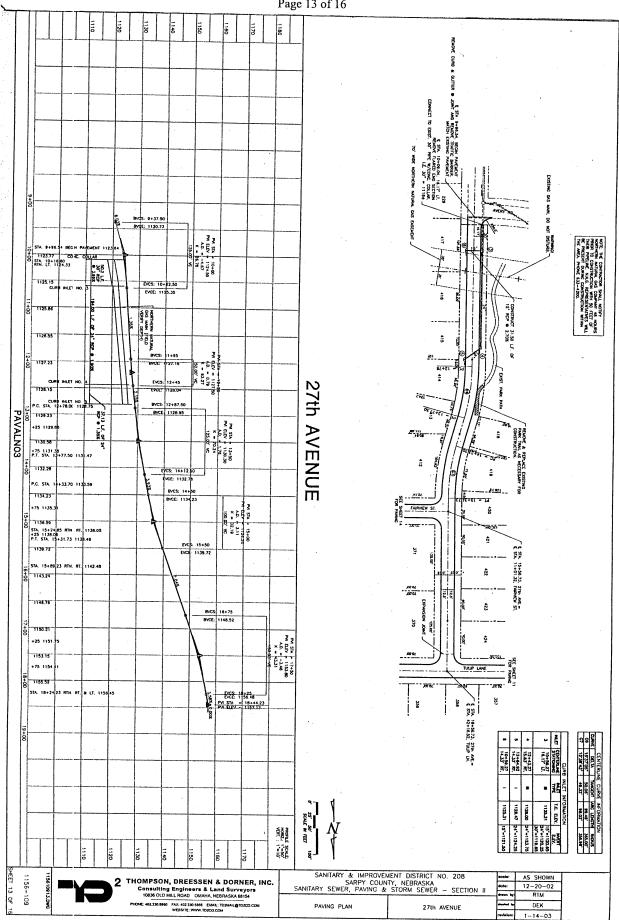
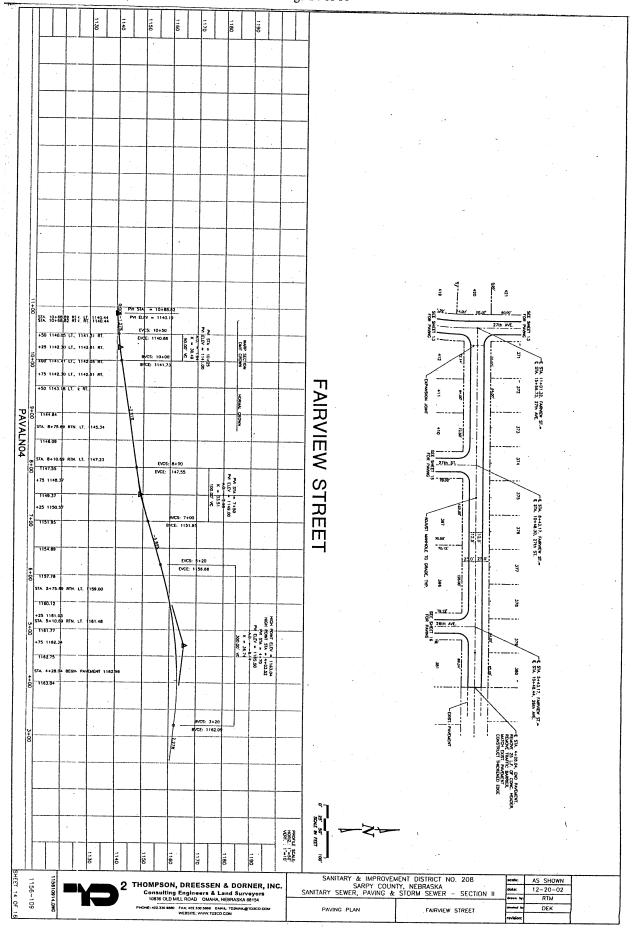
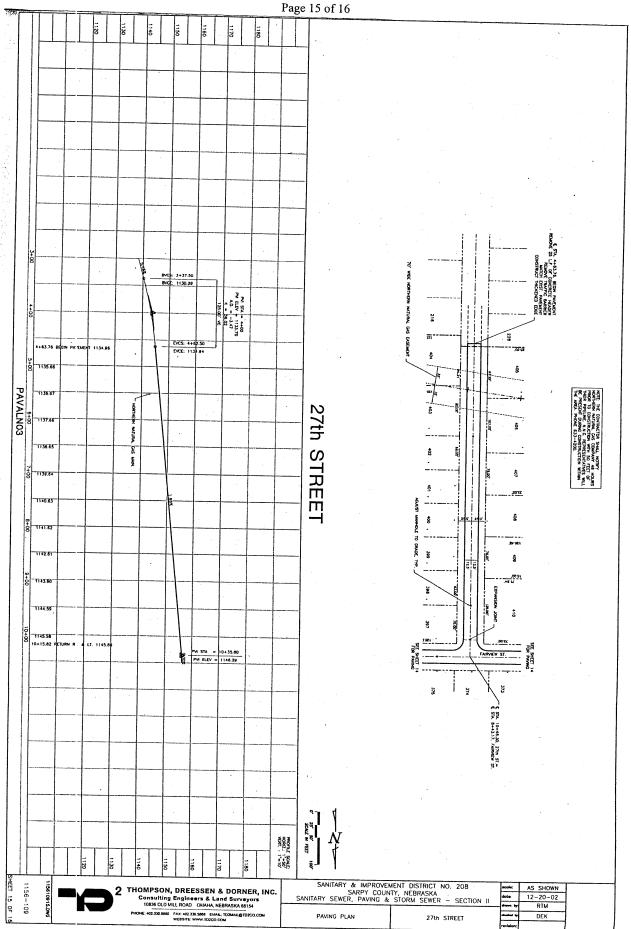


Exhibit "A" Page 14 of 16



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Exhibit "A" Page 15 of 16



2003-249945

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