Prepared by the Utility Agreements and Permits Unit (Receivable) (\$409,200.10) S.P. 6221-107 (T.H. 61 & T.H. 5)
Location: On TH 61 (Arcade) from E. 7th
Street to 0.2 mile south of Roselawn Ave. in
the City of Maplewood and on TH 5 from east
end Bridge 62703 to Minnehaha Ave in the
City of St. Paul
Utility Owner: Board of Water Commissioners
of the City of Saint Paul
MnDOT Agreement Number 1056981

AGENCY RELOCATION AGREEMENT

This Agreement Number 1056981 (Agreement) is between the State of Minnesota (State), acting through its Commissioner of Transportation and Board of Water Commissioners of the City of Saint Paul, including its agents, contractors, and subcontractors (Utility Owner). This Agreement outlines the separate responsibilities of the State and the Utility Owner as part of a construction project.

RECITALS

The State plans to let a contract to construct State Project Number 6221-107 (Project) on Trunk Highway Number 61 and Trunk Highway Number 5. The Project is located on TH 61 (Arcade) from E. 7th Street to 0.2 mile south of Roselawn Ave. in the City of Maplewood and on TH 5 from east end Bridge 62703 to Minnehaha Ave in the City of St. Paul.

The Utility Owner owns and operates watermains, its fixtures, and related equipment (Facilities) that are located on property where the State will construct the Project; said Facilities being in place prior to the construction of Trunk Highway Number 61 and Trunk Highway Number 5.

On April 24, 1987, the District Court made an interpretation of Chapter 110, Special Laws of Minnesota for 1885, that the City of Saint Paul has the obligation to reimburse the Utility Owner for all adjustment costs whenever the City of Saint Paul makes improvements to city streets. When the State took in Arcade Street and East 7th Avenue from the City, the State assumed the obligation to reimburse the Utility Owner for such adjustments of waterworks facilities as a result of street improvements.

The Project will require the relocation and adjustment of the Utility Owner's Facilities. The parties agree that, if the Utility Owner relocated or adjusted the Facilities or let a separate contract to relocate or adjust them that work would interfere with the Project. The Utility Owner has also requested additional work be performed as part of the Project. The additional work is considered a betterment and therefore is at the Utility Owner's expense.

Pursuant to Minnesota Statutes, section 161.46, subdivision 5, the Utility Owner appoints the State as its agent to design and construct the work as part of the Project and the State may work on the Facilities as part of the Project on the trunk highway system.

State law requires a written agreement between the State and the Utility Owner that describes their separate responsibilities.

AGREEMENT

I. Term/Termination

- A. *Effective Date:* This Agreement is effective on the date the State obtains all signatures required by Minnesota Statutes, section 16C.05, subdivision 2.
- B. Commencement of Work: Upon notice of Agreement approval, the Utility Owner must promptly provide the State (and the State's Contractor (Contractor)) with any information necessary to commence and successfully prosecute the utility work according to the terms of the Notice and Order and a work schedule the State's Project Engineer (Project Engineer) approves.
- C. *Expiration Date:* This Agreement will expire on the date that all obligations, excluding the Utility Owner's ongoing maintenance obligations, have been satisfactorily fulfilled.
- D. *Termination by the State:* The State may terminate this Agreement at any time, with or without cause, on 30 calendar days' written notice to the Utility Owner. Upon termination, the State will be entitled to payment, on a pro rata basis, for satisfactorily performed services. The termination of this Agreement does not relieve the Utility Owner of its obligations under the Notice and Order.
- E. Survival of Terms: The following articles survive this Agreement's expiration or termination: (III) Utility Owner's Ongoing Maintenance Requirements; (V) Liability; and (VII) Governing Terms.

II. Description of Work Procedures

A. *Plans:* The plans, which are attached to this Agreement as Exhibit A, indicate the present and proposed locations of the Facilities.

- 1. If any changes to the plans or character of the work become necessary, the State and the Utility Owner must agree to the changes before the State makes (or directs the Contractor to make) them. If these changes require an amendment or supplement to this Agreement, the parties will negotiate such amendment or supplement in good faith, and the State is not obligated to commence such changes until such amendment or supplement is fully executed. The State will enter into such supplemental agreements with its Contractor as the State deems necessary to implement such changes.
- 2. The Utility Owner authorizes the Project Engineer to make any minor field changes and adjustments to the plans, specifications, and special provisions as the State deems necessary for efficient Project construction. The Utility Owner authorizes the State, on its behalf, to enter into supplemental agreements with the Contractor as necessary to implement these changes.

B. State's Responsibilities

- 1. The State will:
 - a. Advertise the Project for bids; and
 - b. Award a construction contract for the Project. This Project will include the adjustment work.
- 2. The Project Engineer will supervise and direct the Project, including the adjustment work, but the Utility Owner may inspect the work periodically. If the Utility Owner finds that any completed relocation work is defective, it must inform the Project Engineer of these defects in writing; however, any recommendations the Utility Owner makes are not binding to the State. The State has the exclusive right to determine whether the Contractor has performed the work according to the plans, specifications, and special provisions.
- 3. The Project Engineer and the Utility Owner will perform a final inspection of the work. Once the State has accepted the adjustment work, the Project Engineer will inform the Utility Owner in writing, and the Utility Owner will assume ownership of the Facilities.
- C. *Deletion of Work:* If the Utility Owner decides to delete the adjustment work from the Project, the Utility Owner will:
 - 1. Pay the State the design engineering cost in Article IV.B.3;

- 2. Be subject to the Notice and Order; and
- 3. Defend (at its own expense and to the extent Minnesota's Attorney General permits) indemnify, save, and hold the State and all of its agents and employees harmless of and from all claims, demands, actions, or causes of action that deleting the relocation work causes. This obligation to indemnify extends to any attorney's fees.
- D. *Risk*: Risk of loss of partial or complete relocation work will be on the Contractor or the Utility Owner as the current *Standard Specifications for Construction* set forth.

III. Utility Owner's Ongoing Maintenance Requirements

- A. Once construction is complete, the Utility Owner must maintain the Facilities at its own expense.
- B. The Utility Owner may open and disturb the trunk highway right of way without a permit in the case of an emergency that is dangerous to the public and requires immediate attention. Upon learning of the emergency, the Utility Owner must immediately notify the State Patrol. The Utility Owner must take all necessary and reasonable safety measures to protect the public and must cooperate fully with the State Patrol. In this event, the Utility Owner must request a permit from the proper authority no later than the working day after it begins working in the right of way.

IV. Payment

- A. The State will determine the cost of the adjustment on a contract-unit-price basis. The Utility Owner authorizes the State to pay the Contractor directly for the work. As Exhibit B shows, the estimated cost of the Utility Owner's relocation work is \$409,200.10.
- B. The Utility Owner agrees to pay the State the total cost it incurs to relocate/adjust the Facilities. The total cost will include:
 - 1. The construction cost, which consists of all of the Contractor's bid item costs to satisfactorily relocate/adjust the Facilities according to the plans, specifications, and special provisions;
 - 2. The construction engineering cost, which is equal to 8 percent of the construction cost; and

- 3. The design engineering cost, which is equal to 6.5 percent of the construction cost.
- C. After acceptance of the bids, the State will notify the Utility Owner of the total cost by providing a written cost schedule.
 - The Utility Owner must accept or reject the total cost no more than 10 calendar days after receiving the cost schedule. If the Utility Owner does not provide this notification after 10 days, the State will consider the lack of response to be the Utility Owner's acceptance of the total cost and the State will proceed with the work.
 - 2. If the Utility Owner chooses to delete its work from the State's contract, it must still pay the State the design engineering cost specified in Article IV.A. The Utility Owner will be obligated to adjust its Facilities according to the terms of the Notice and Order.
- D. The State will issue the Utility Owner an invoice for the amount specified in the cost schedule. Pursuant to Minnesota Statutes, section 161.46, subdivision 5, the Utility Owner will promptly reimburse the State for the relocation costs.
- E. After the Contractor has completed the work required under its contract and the State has accepted the work, the State will prepare a final computation of the amount due from the Utility Owner.
 - 1. If the final total amount is greater than the amount the State has already received from the Utility Owner, the Utility Owner must promptly pay the difference, without interest, to the State.
 - 2. If the final total amount is less than the amount the State has already received from the Utility Owner, the State must pay the difference without interest, to the Utility Owner.
- F. The final total cost constitutes payment in full for all adjustment work according to this Agreement. This amount also constitutes payment in full for any and all damages, claims, or causes of action of any kind or nature that the Utility Owner may have relating to the adjustment of the Facilities.

V. Liability

A. Each party is responsible for its own acts, omissions and the results thereof to the extent authorized by law and will not be responsible for the acts and omissions of

others and the results thereof. Minnesota Statutes § 3.736 and other applicable law govern liability of the State of Minnesota. Minnesota Statutes Chapter 466 and other applicable law govern liability of the Utility Owner. This clause will not be construed to bar any legal remedies a party may have to fulfill its obligations under this contract.

VI. Nondiscrimination

Minnesota Statutes, section 181.59 and any applicable local ordinances pertaining to civil rights and nondiscrimination are considered part of this Agreement.

VII. Governing Terms

- A. Data Practices: All parties must comply with the Minnesota Government Data Practices Act (Minnesota Statutes, chapter 13) as it applies to any data that a party to this Agreement receives, collects, stores, or disseminates under it. The Act provides civil liability for failure to comply with its requirements.
- B. Applicable Law: Minnesota law governs the validity, interpretation, and enforcement of this Agreement. Venue for all legal proceedings arising out of this Agreement or its breach must be in Ramsey County, Minnesota.
- C. Waiver: If a party fails to enforce any provision of this Agreement, that failure does not waive the provision or the party's right to subsequently enforce the provision or any subsequent breach of that provision.
- D. *Merger:* This Agreement contains all negotiations and agreements between the State and the Utility Owner with respect to the subject matter it contains. No prior understanding regarding this Agreement, whether written or oral, may be used to bind either party.
- E. Assignment: The Utility Owner may neither assign nor transfer any rights or obligations under this Agreement without the State's consent and a fully executed assignment agreement. To be valid, the assignment agreement must be signed and approved by the same parties who signed and approved this Agreement, or their successors in office.
- F. Amendments: Any amendment to this Agreement must be in writing. An amendment will not be effective until the same parties who signed and approved this Agreement, or their successors in office, sign and approve the amendment.
- G. *Incorporation of Exhibits:* All exhibits attached to this Agreement are incorporated into this Agreement.

The remainder of this page was left blank intentionally.

S.P. 6221-107 (T.H. 61 & T.H. 5) MnDOT Agreement Number 1056981 County: Ramsey

IN TESTIMONY WHEREOF, the parties have duly executed this Agreement by their duly authorized officers and caused their respective seals to be hereunto affixed.

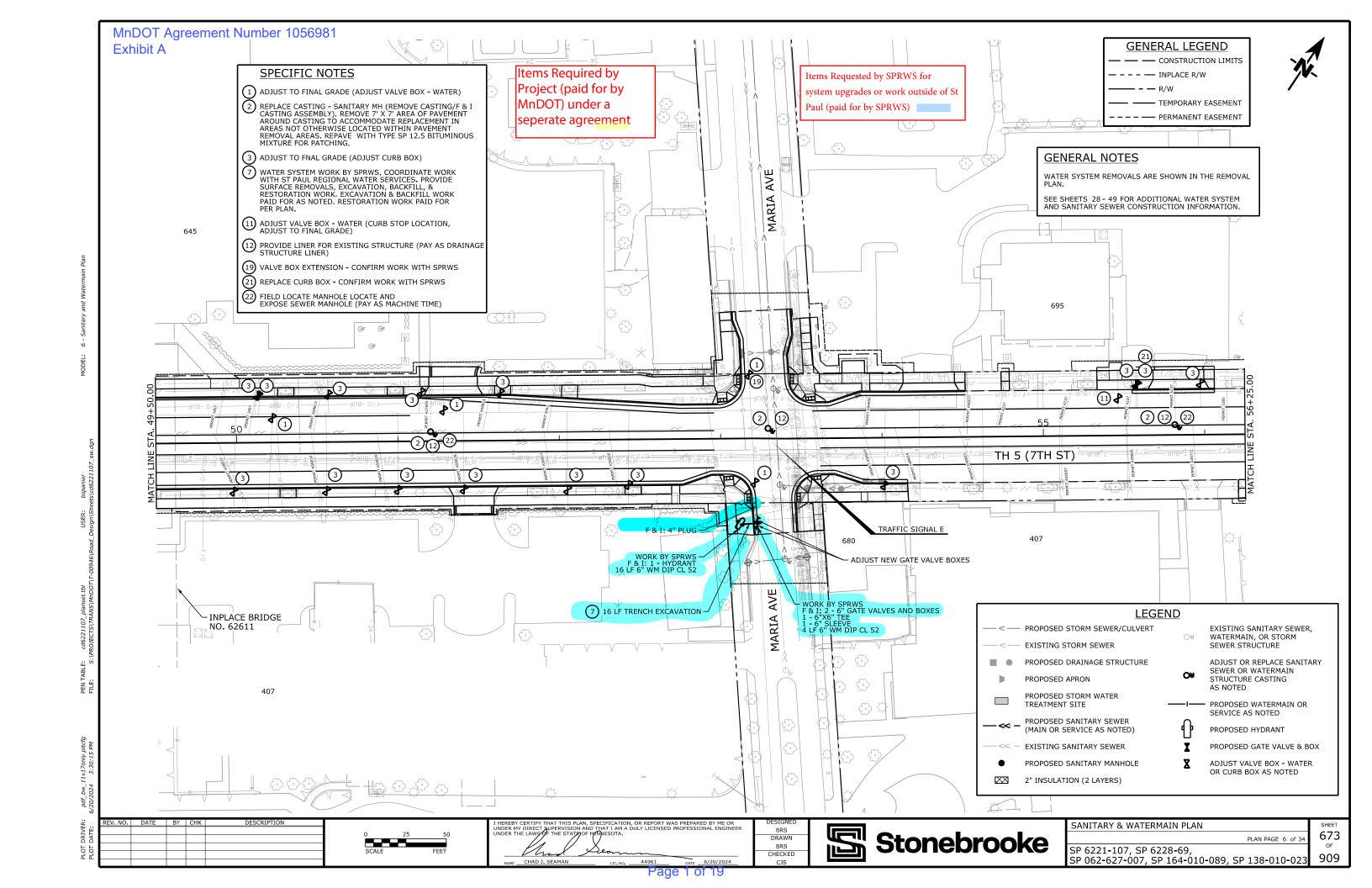
Appro	ved:		BOARD OF WATER COMMISSIONERS OF THE CITY OF SAINT PAUL			
Ву:	Racquel Vaske General Manager Saint Paul Regional Water Services	Ву:	Mara Humphrey President			
Date:		Date:				
Appro	ved as to form:	Ву:	Mollie Gagnelius Secretary			
Ву:	Assistant City Attorney	Date:				
Date:		Ву:	John McCarthy Director Office of Financial Services			
		Date:				

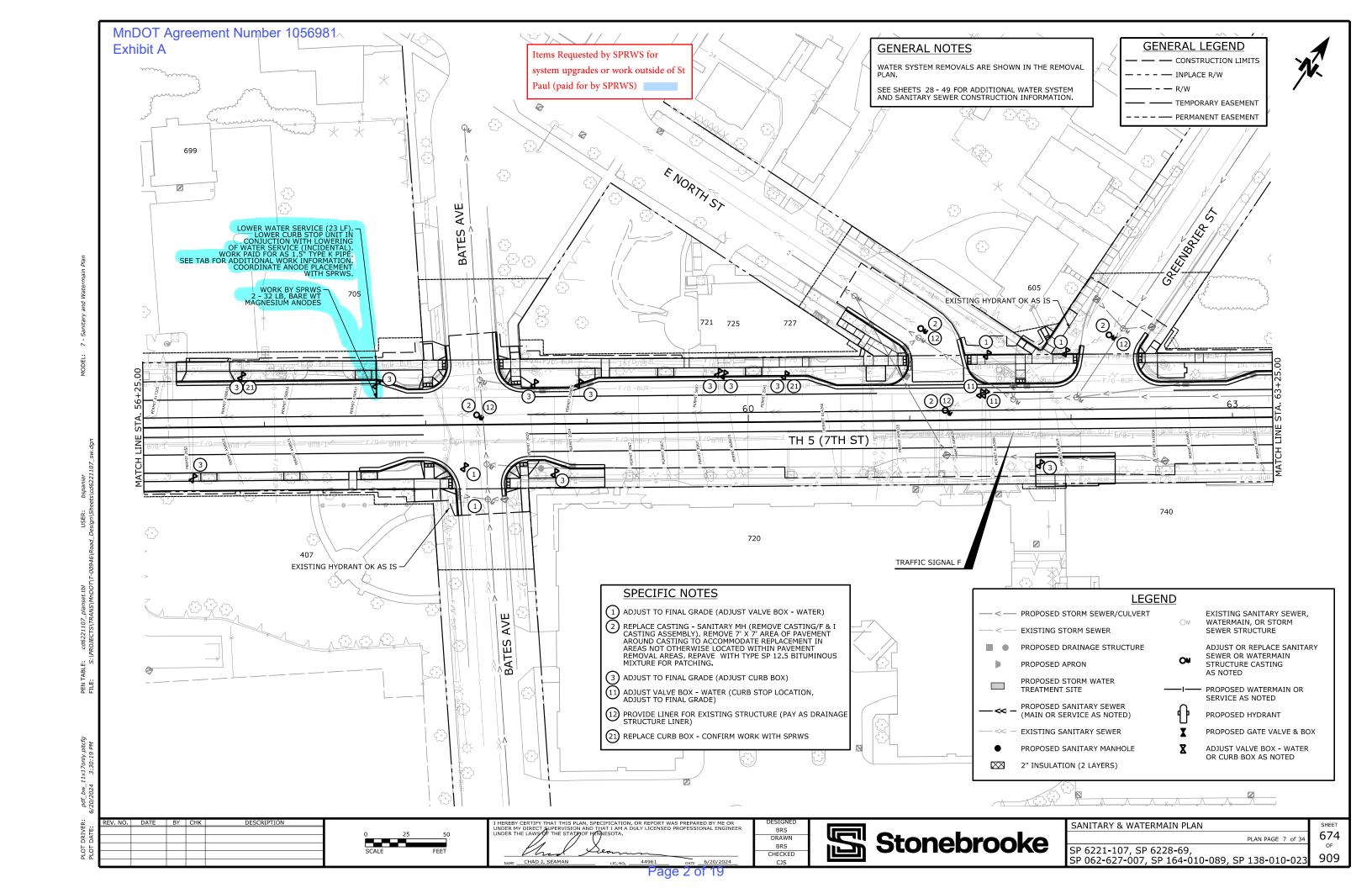
County: Ramsey Utility Owner: Board of Water Commissioners of the City of Saint Paul

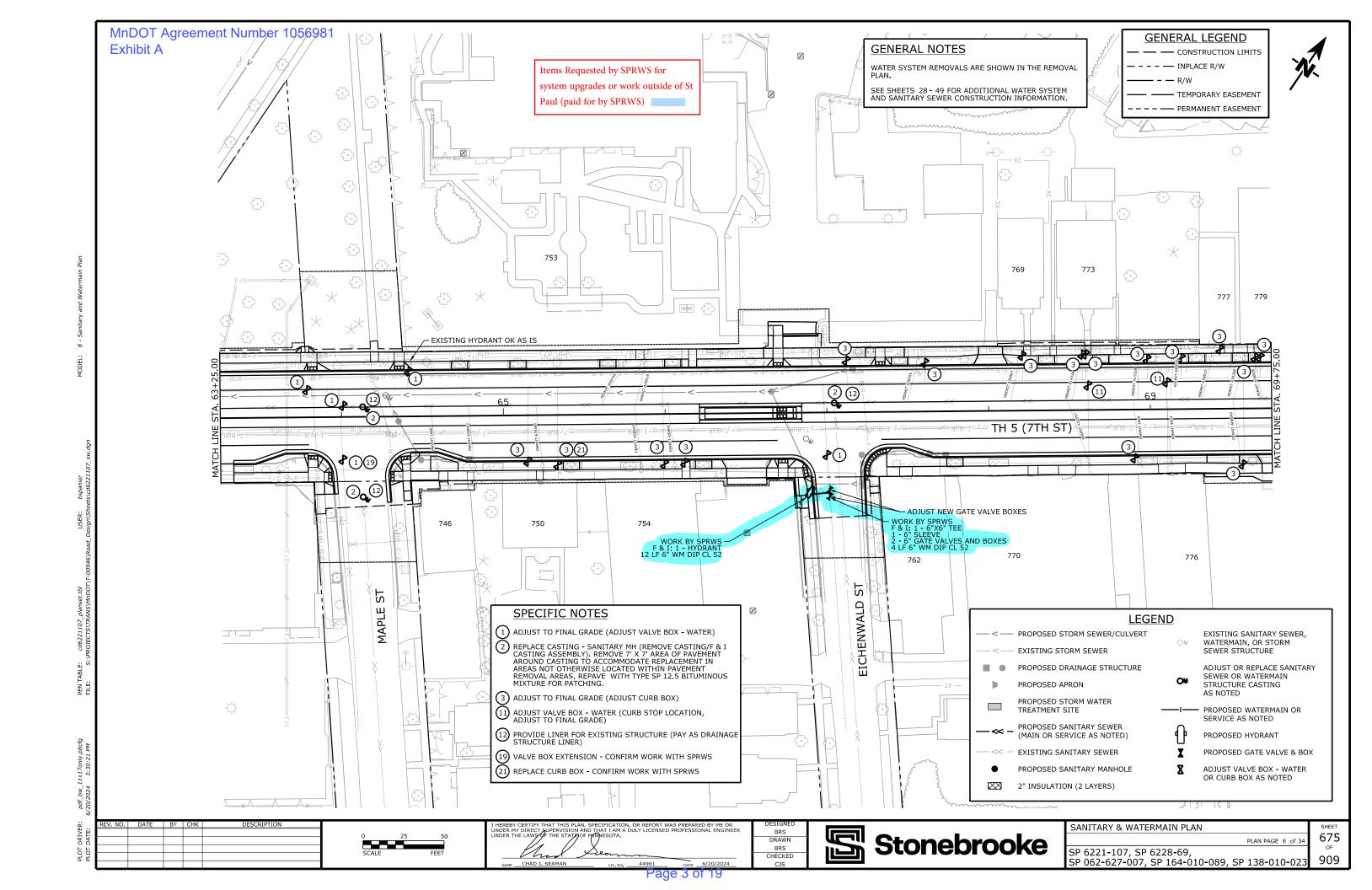
STATE OF MINNESOTA DEPARTMENT OF TRANSPORTATION

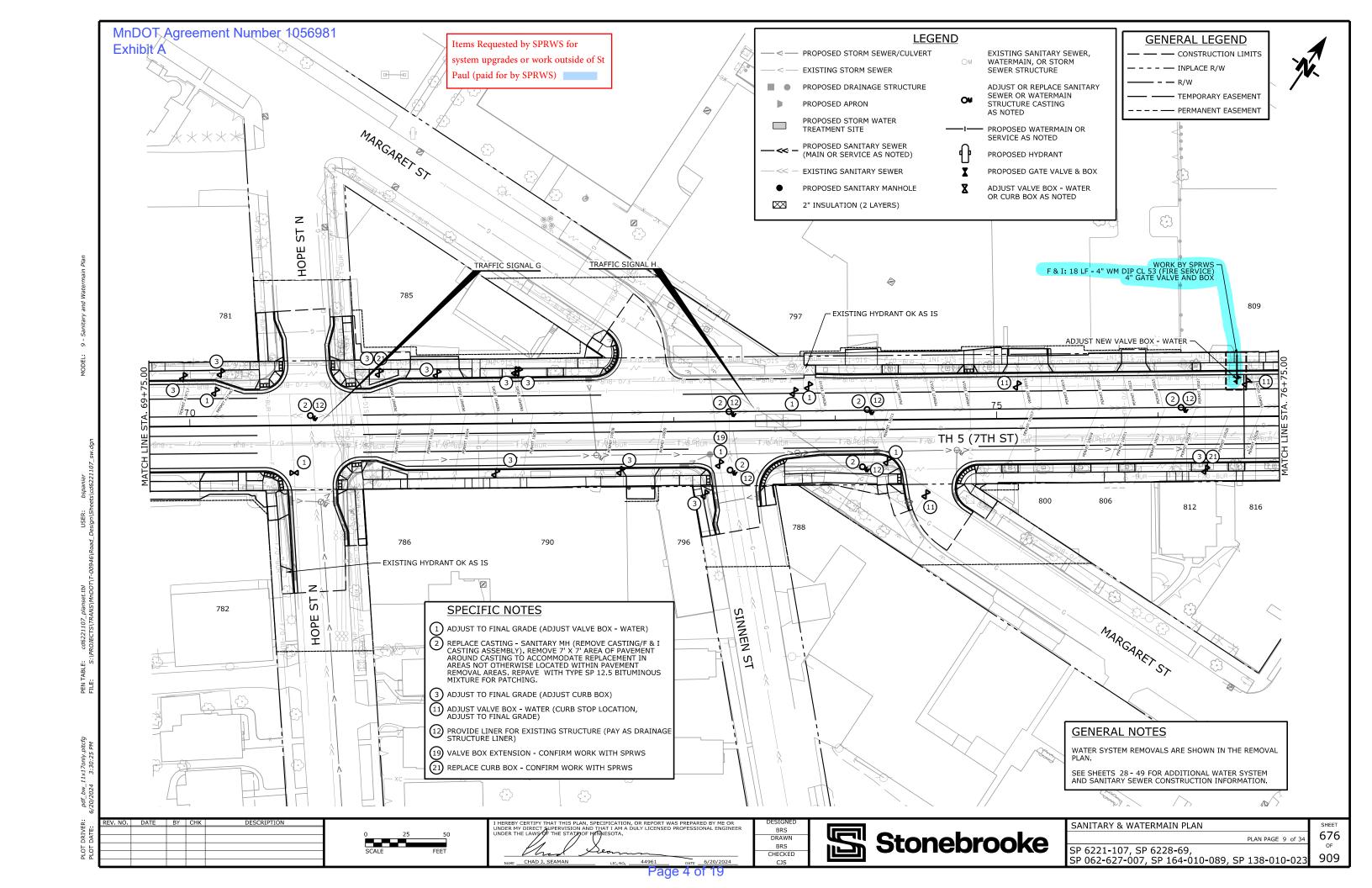
Department of Transportation

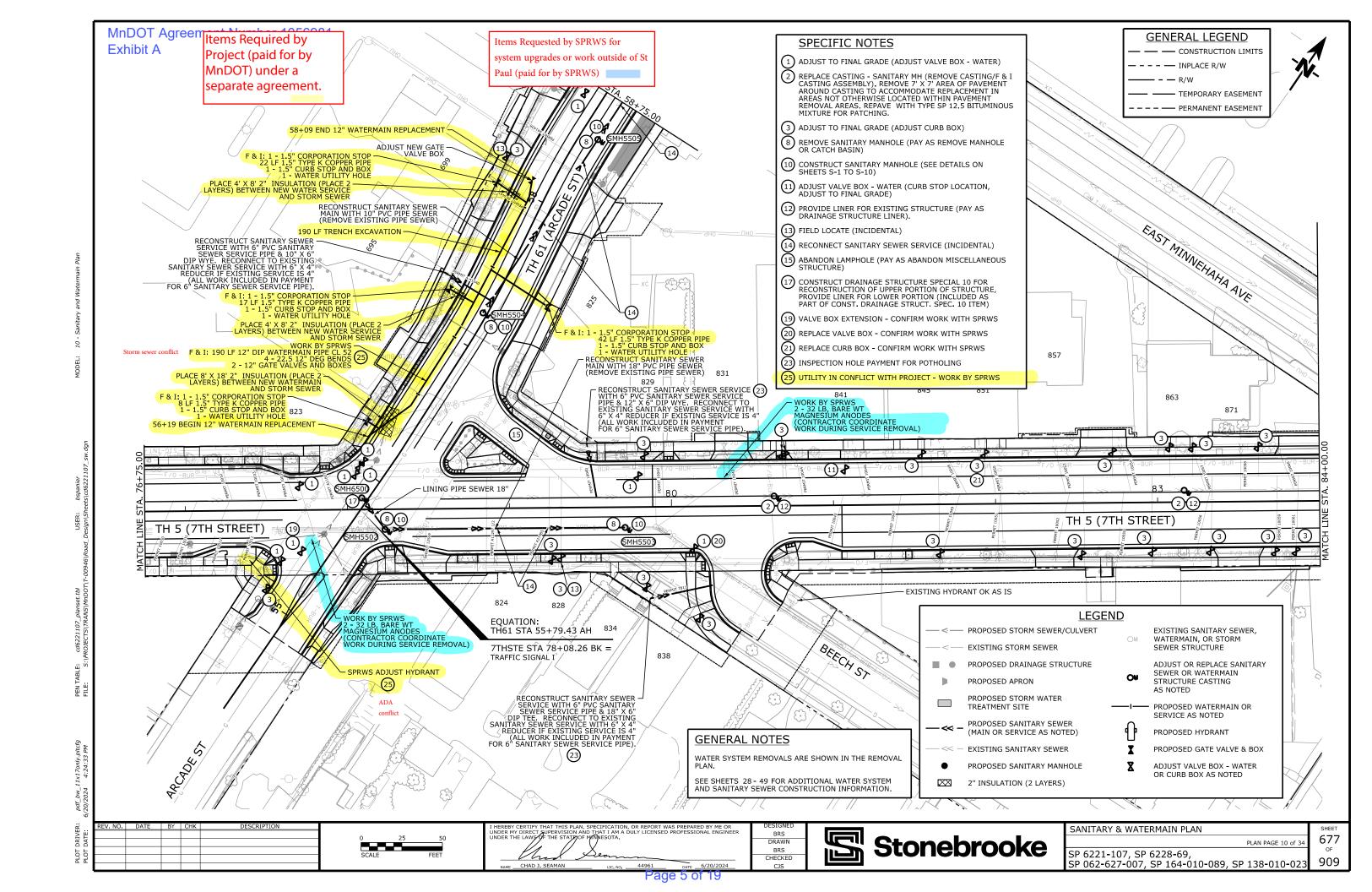
Recommended for Approval:	Approved:				
By: Metro Utility Coordinator	By: Director, Office of Land Management				
Date:	Date:				
Office of Contract Management Approved as to Form and Execution:					
By:					
Date:					
Department of Administration					
Ву:					
Data:					

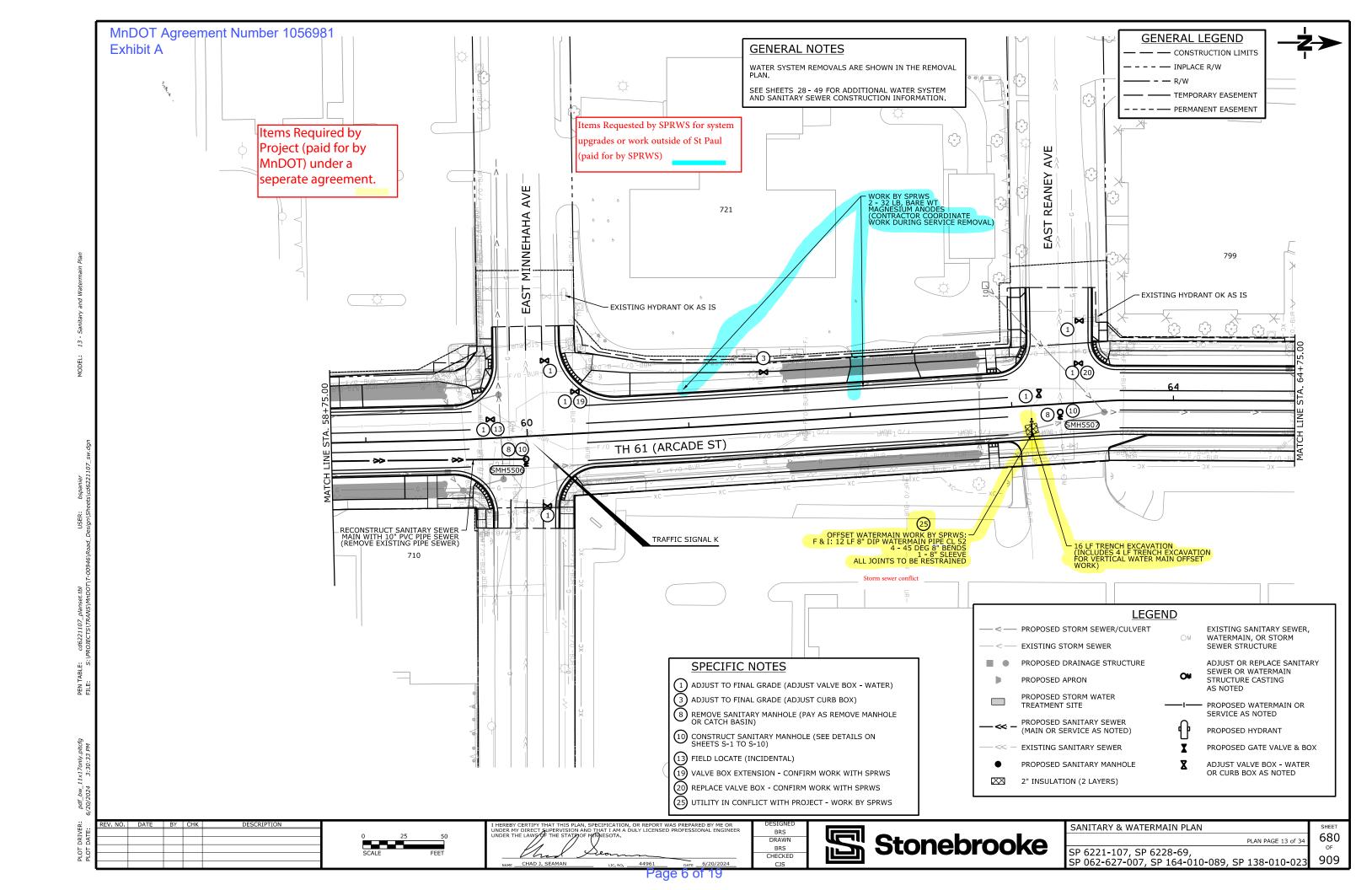


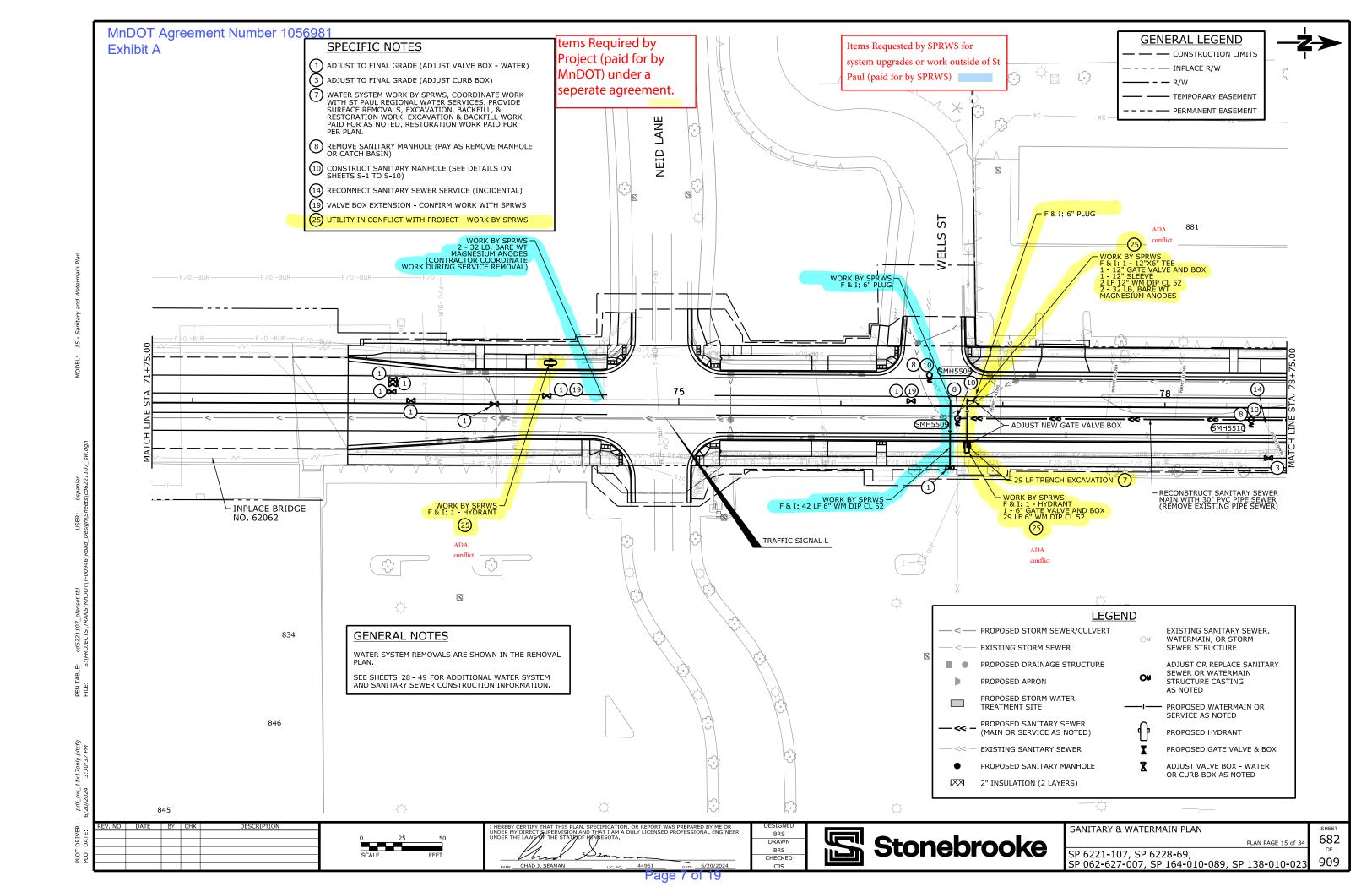


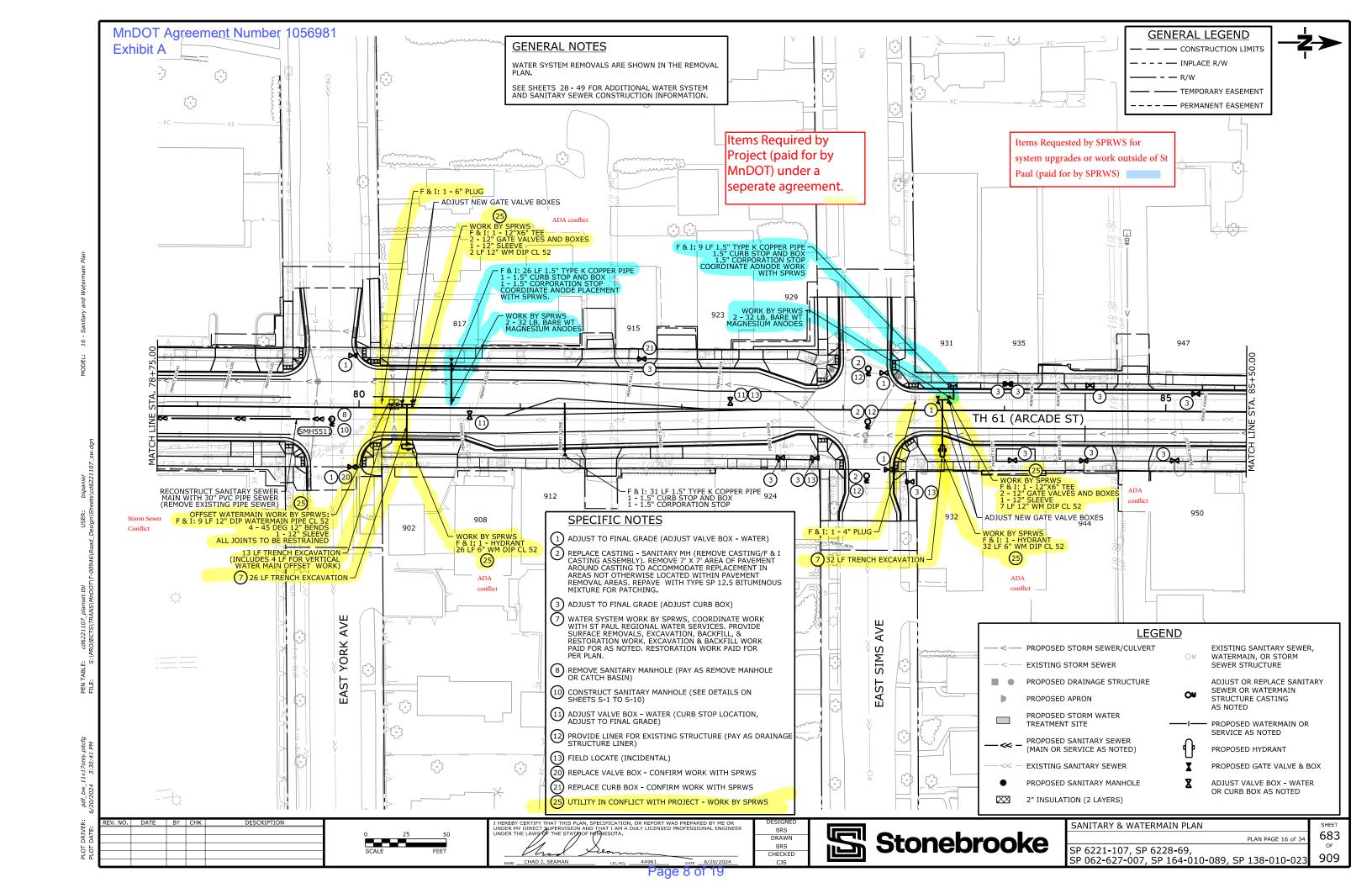


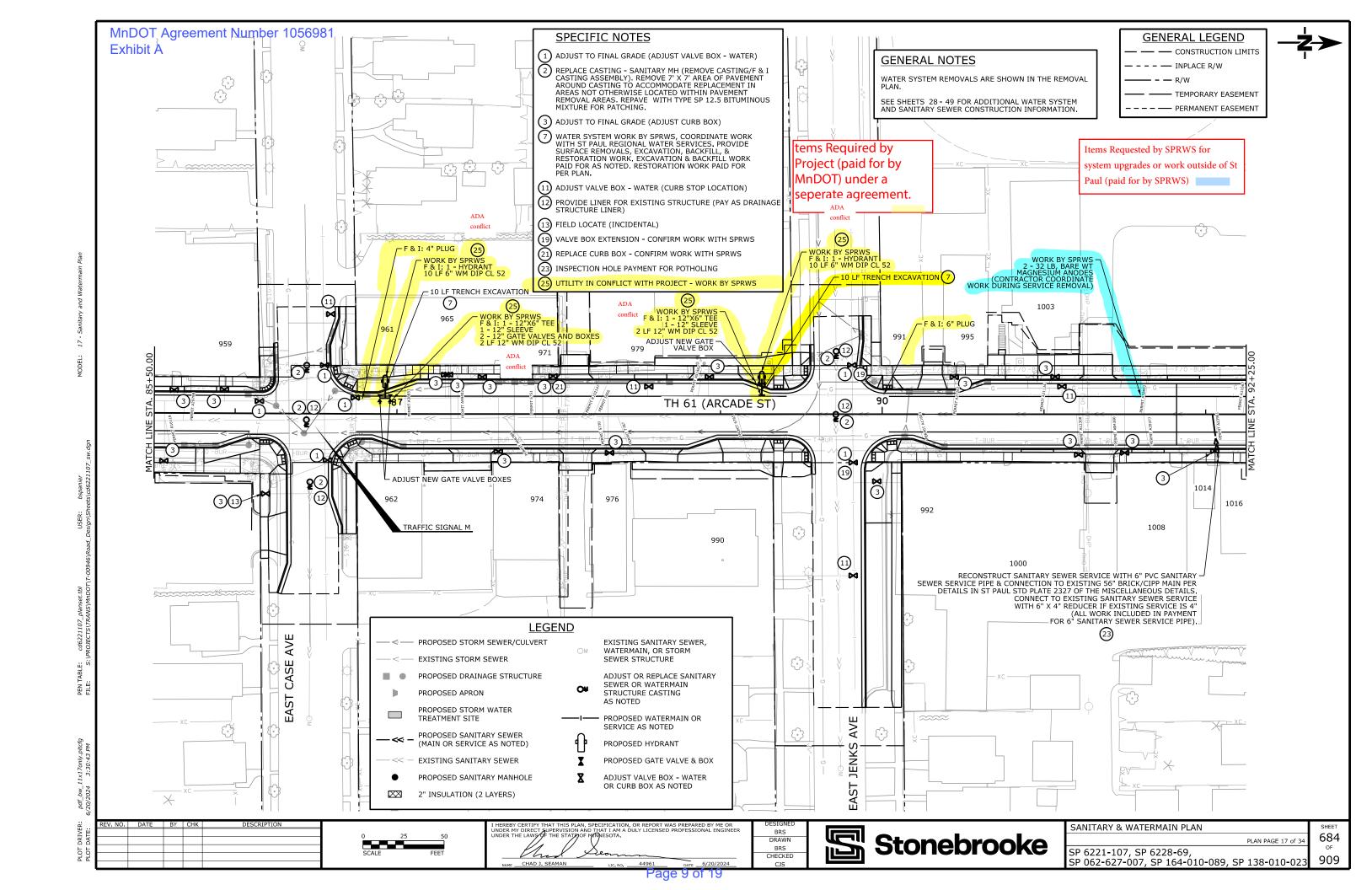


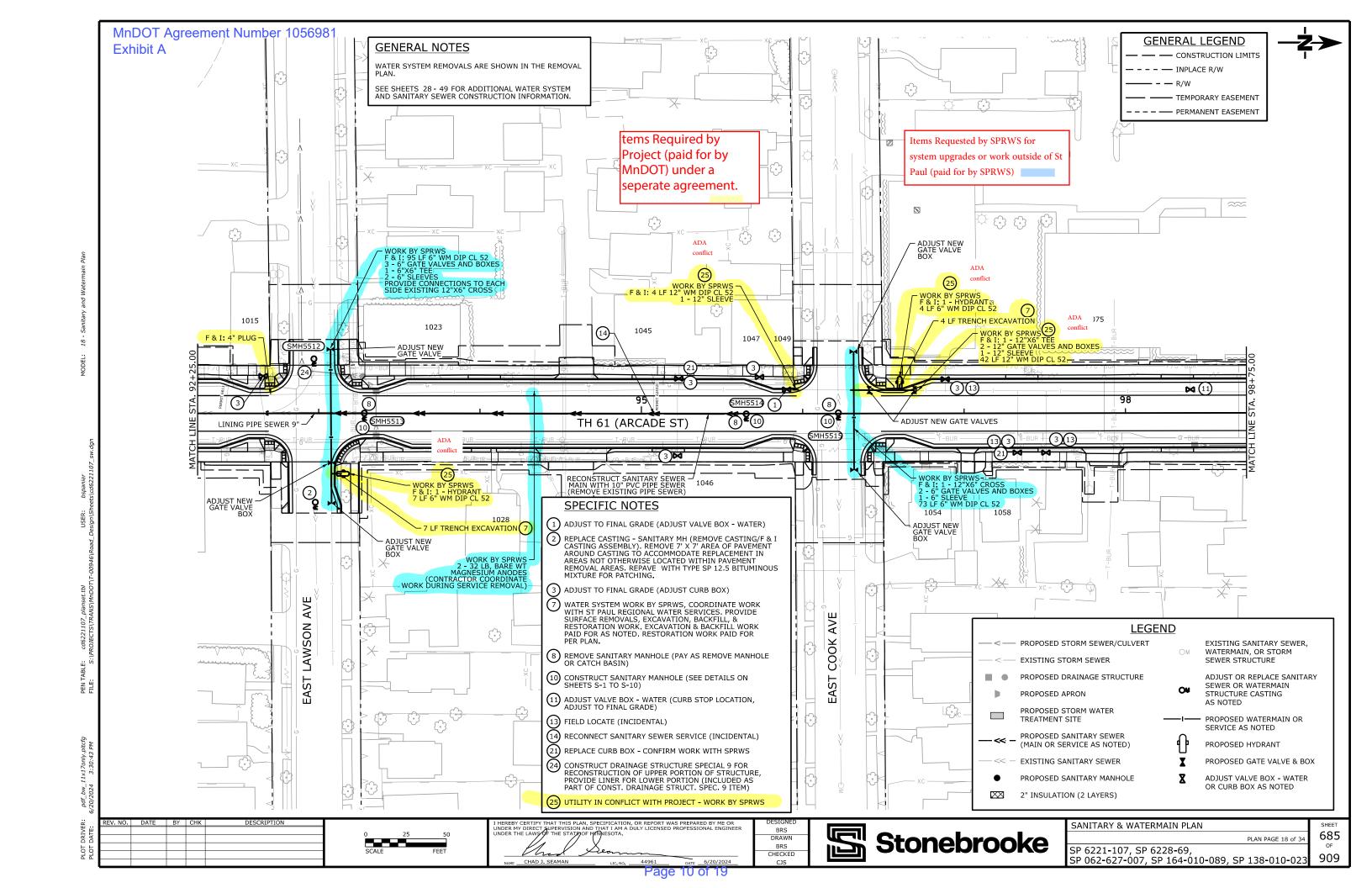


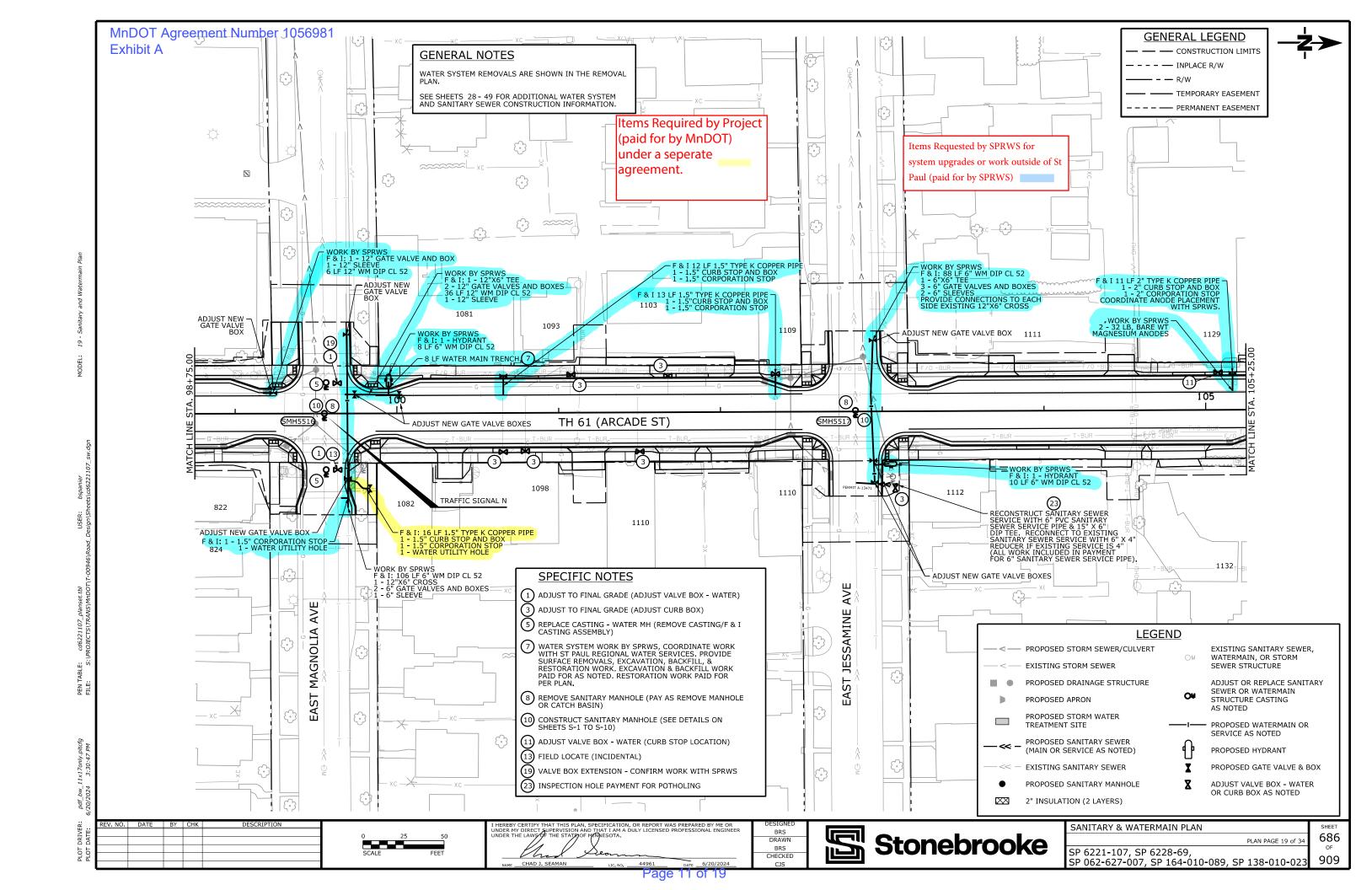


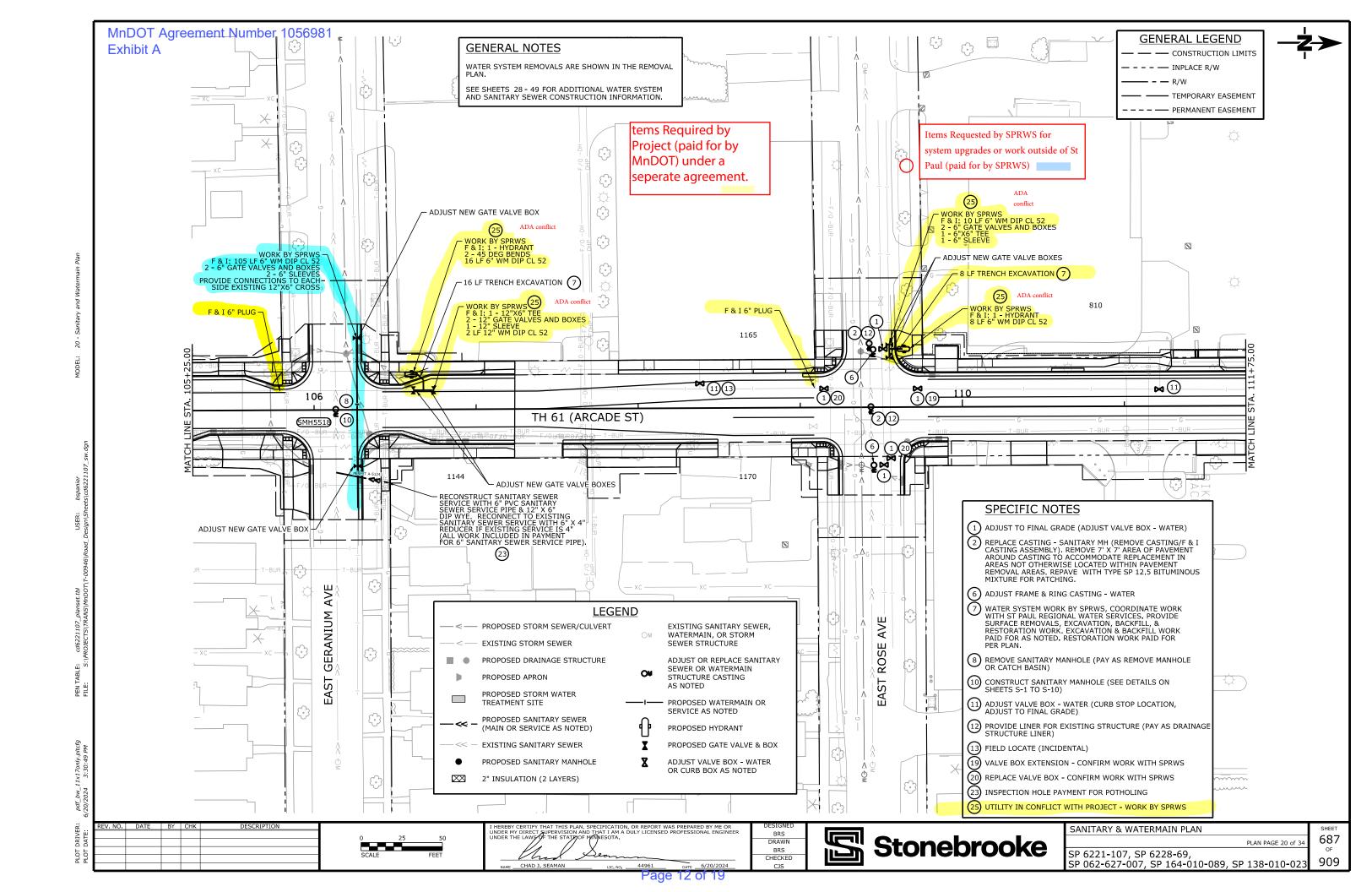


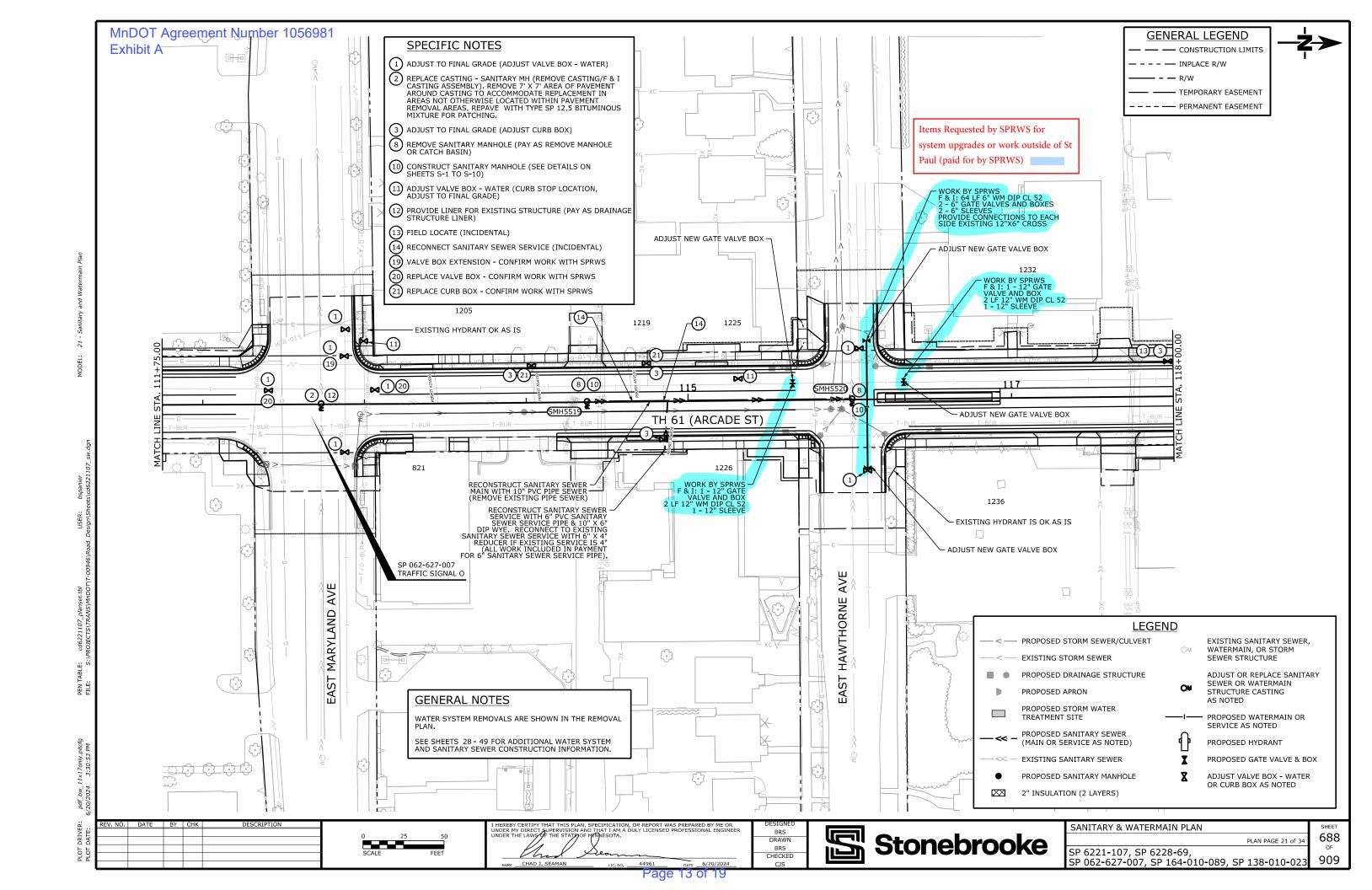


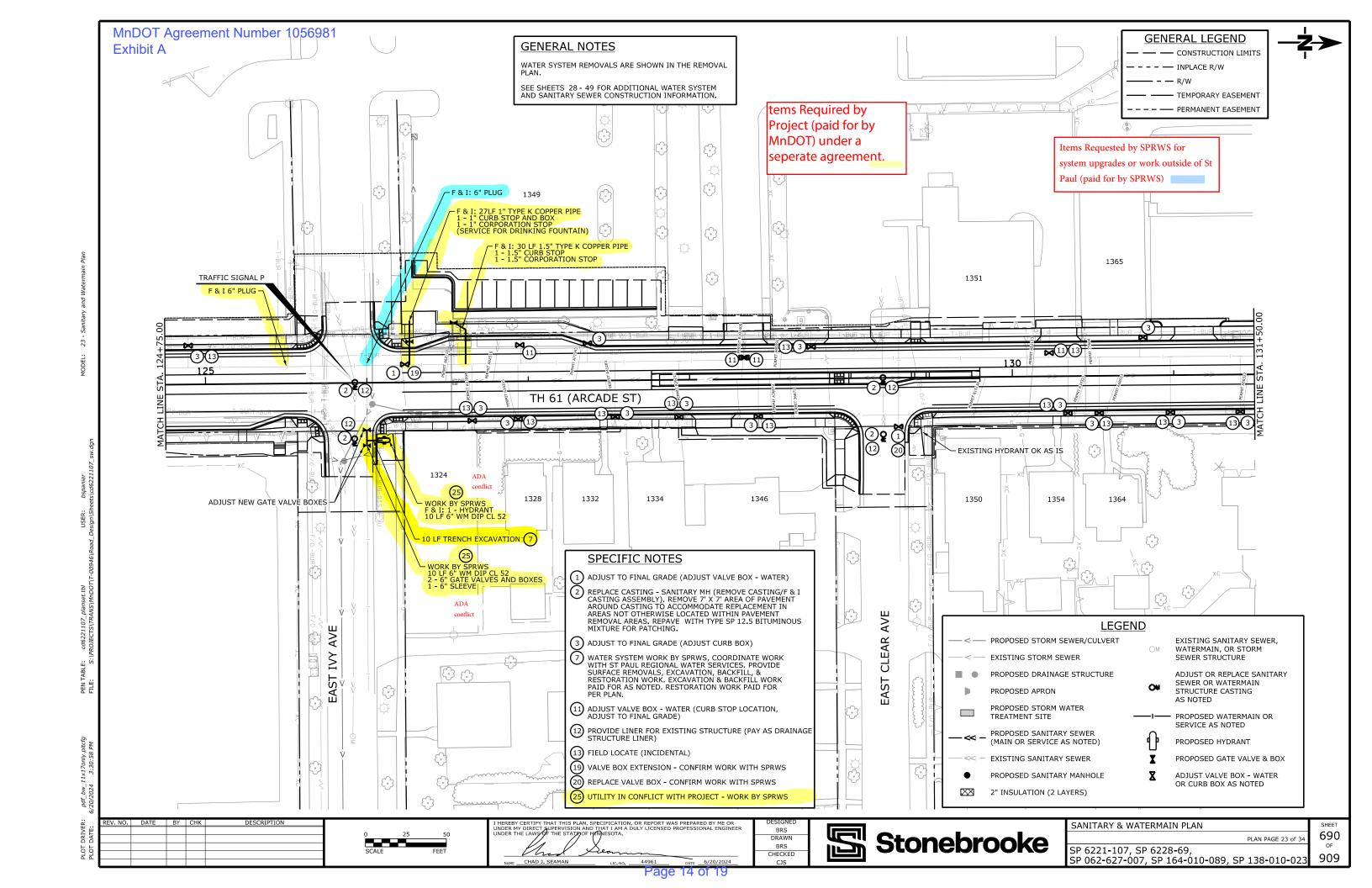


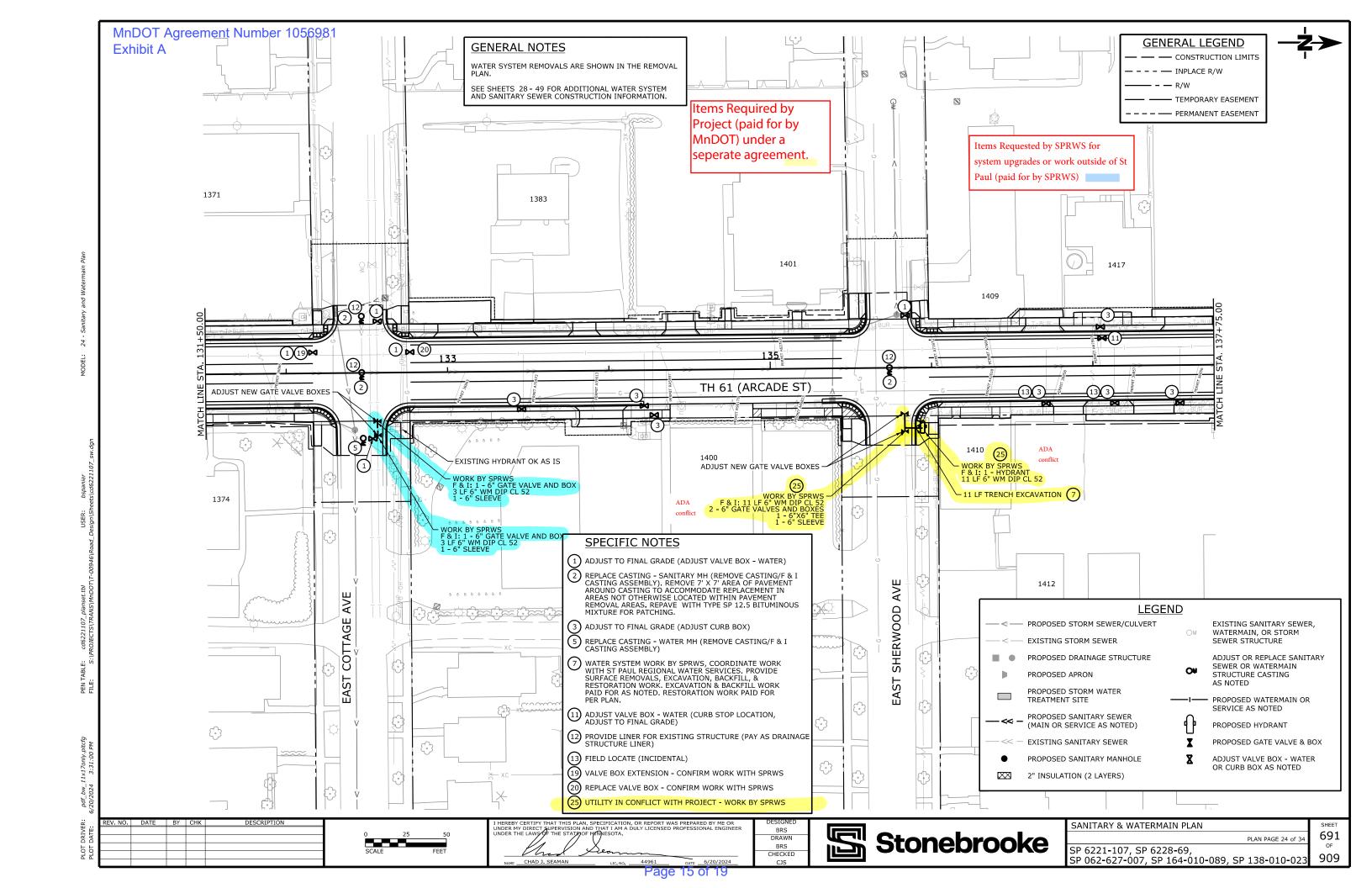


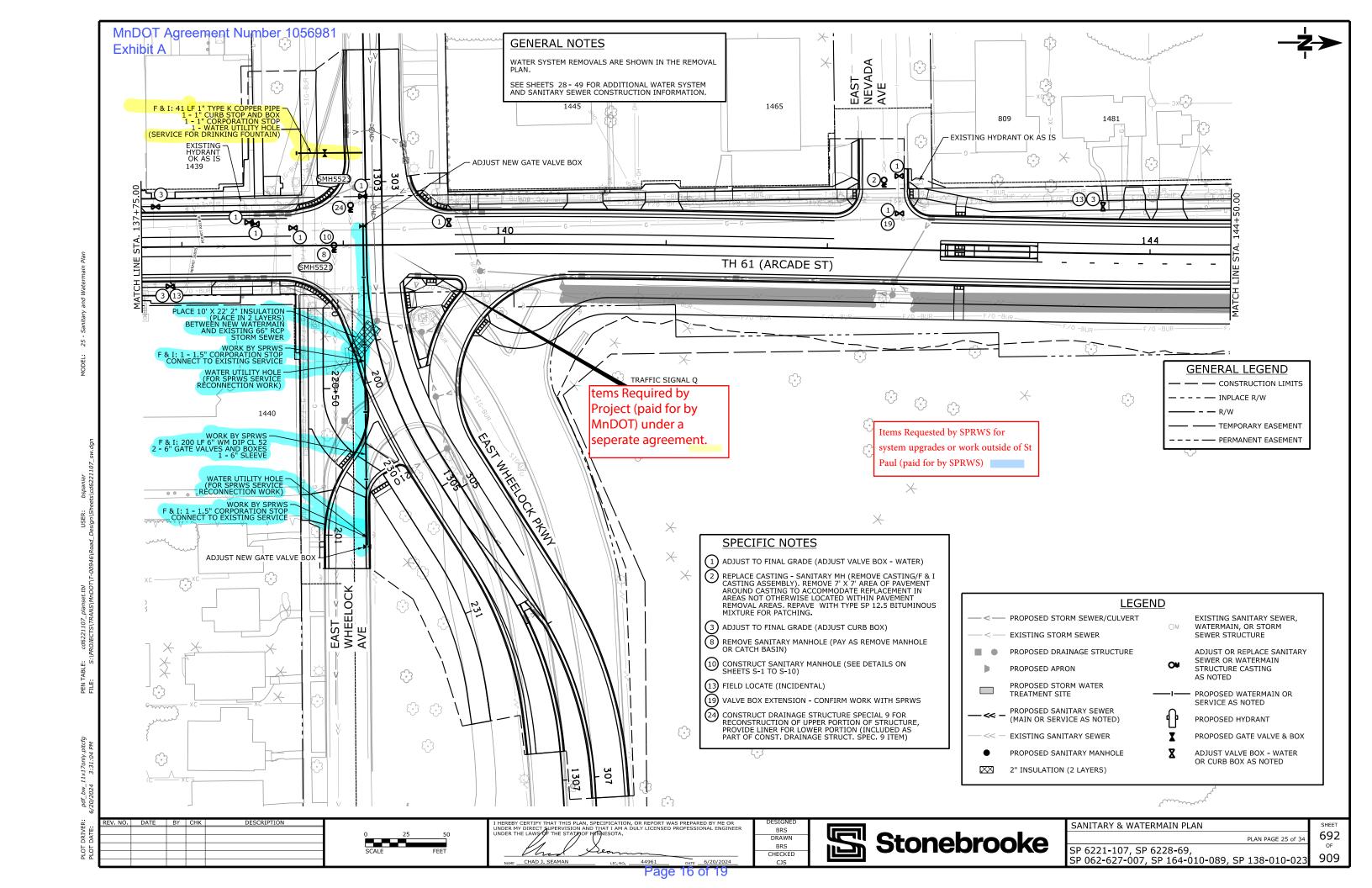


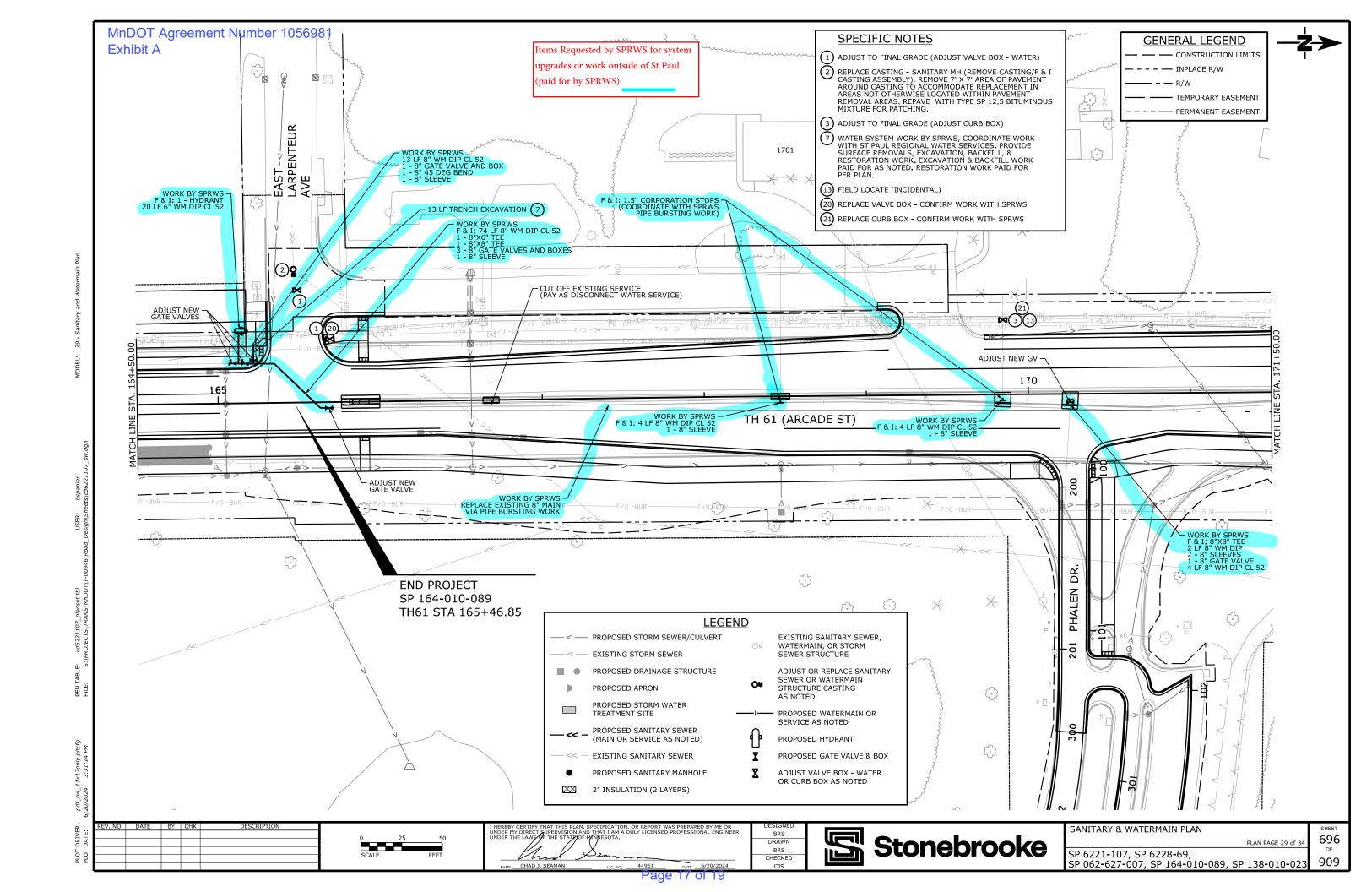


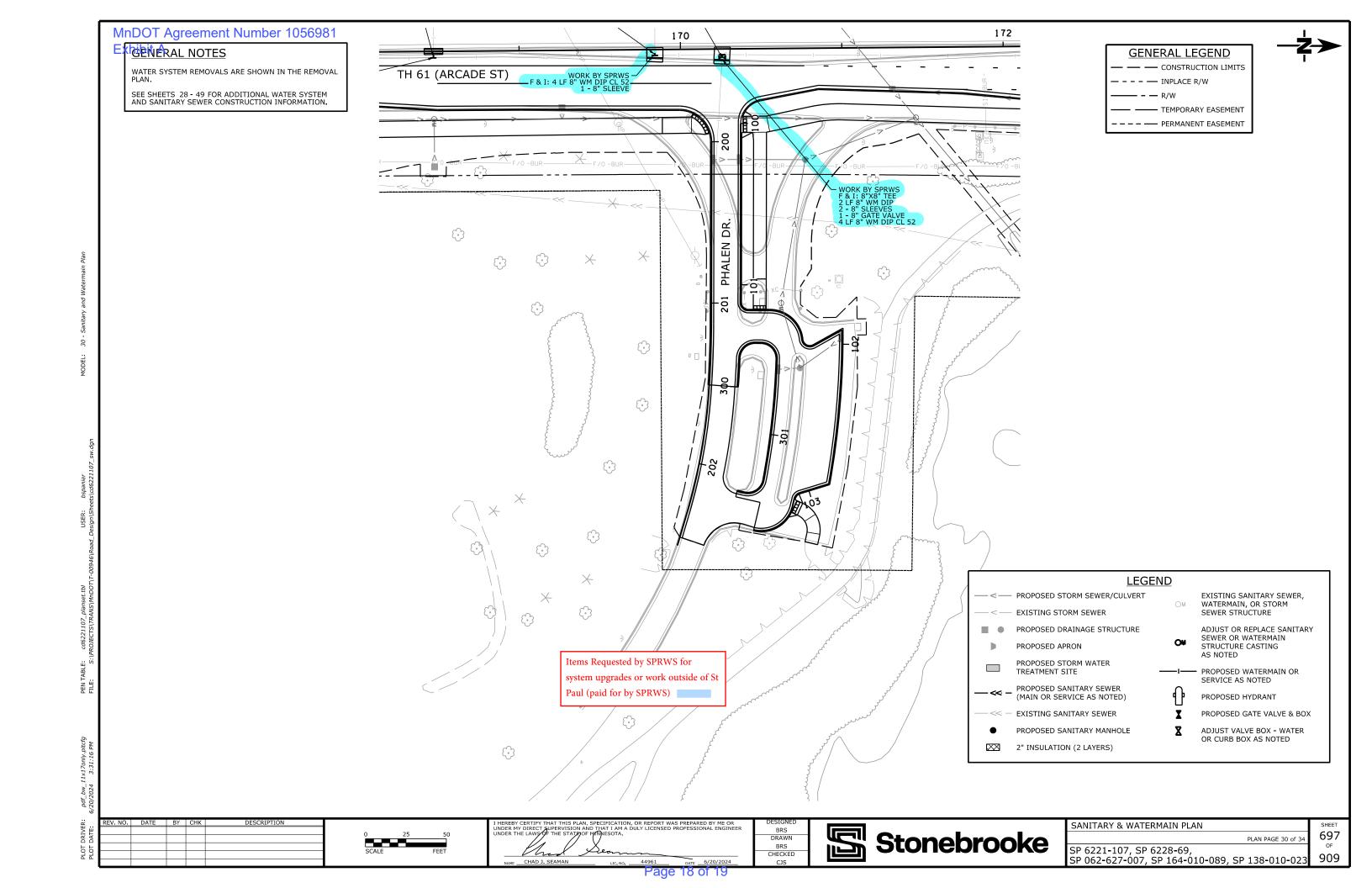


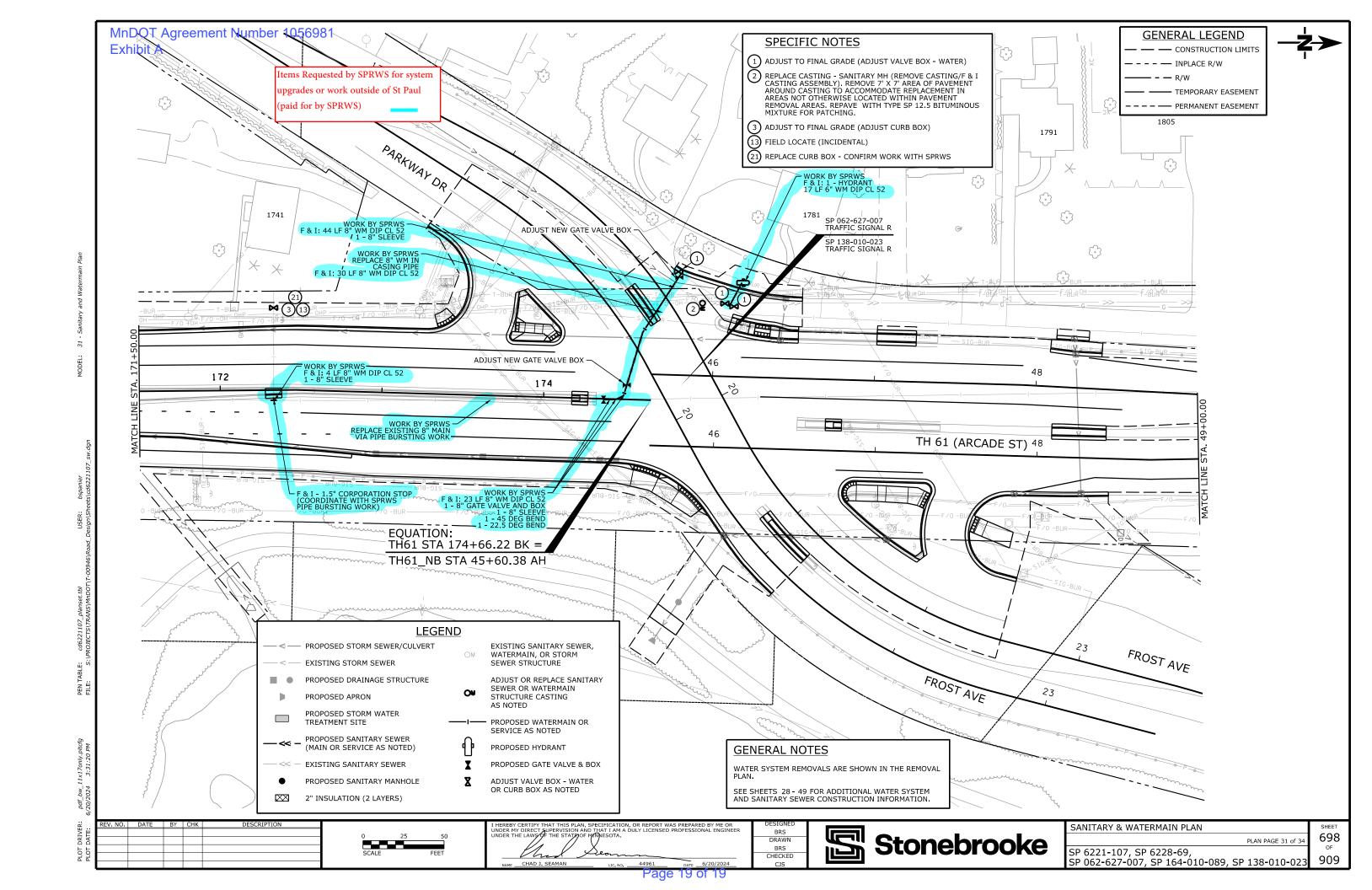












\$409,200.10

SP 6221-107 (TH 61 & TH 5) Agency Agreement 1056981 Saint Paul Regional Water Services

		Cost Estim	ate Table				
				PRO	PROJECT TOTALS		WS FUNDS
	ITEM DESCRIPTION	UNIT	UNIT PRICE	ESTIMATED QUANITY	ESTIMATED COST DOLLARS	ESTIMATED QUANITY	ESTIMATED COST DOLLARS
2021.501	MOBILIZATION	LUMP SUM	\$500,000.00	1	\$500,000.00	0.01	\$5,000.00
2031.502	FIELD OFFICE	EACH	\$49,000.00	1	\$49,000.00	0.01	\$490.00
2031.502	FIELD LABORATORY	EACH	\$34,000.00	1	\$34,000.00	0.01	\$340.00
2103.502	DISCONNECT WATER SERVICE	EACH	\$1,700.00	1	\$1,700.00	1	\$1,700.00
2104.502	REMOVE GATE VALVE AND BOX	EACH	\$400.00	49	\$19,600.00	35	\$14,000.00
2104.502	REMOVE CURB STOP AND BOX	EACH	\$500.00	27	\$13,500.00	24	\$12,000.00
2104.502	REMOVE VALVE BOX	EACH	\$500.00	1	\$500.00	1	\$500.00
2104.502	REMOVE HYDRANT	EACH	\$900.00	25	\$22,500.00	8	\$7,200.00
2104.503	SAWING BITUMINOUS PAVEMENT	LIN FT	\$2.00	3772	\$7,544.00	0	\$0.00
2104.503	REMOVE WATER MAIN	LIN FT	\$25.00	2639	\$65,975.00	2014	\$50,350.00
2104.603	ABANDON WATER MAIN	LIN FT	\$1,000.00	20	\$20,000.00	20	\$20,000.00
2106.607	EXCAVATION SPECIAL	CU YD	\$40.00	2273	\$90,920.00	329	\$13,160.00
2106.609	HAUL AND DISPOSE OF CONTAMINATED MATERIAL	TON	\$100.00	4091	\$409,100.00	592	\$59,200.00
2451.609	GRANULAR BACKFILL	TON	\$40.00	12013	\$480,520.00	1100	\$44,000.00
2504.602	VALVE BOX	EACH	\$500.00	17	\$8,500.00	17	\$8,500.00
2504.602	ADJUST VALVE BOX-WATER	EACH	\$500.00	227	\$113,500.00	13	\$6,500.00
2504.602	REPAIR VALVE BOX	EACH	\$500.00	23	\$11,500.00	23	\$11,500.00
2504.602	1" CORPORATION STOP	EACH	\$500.00	2	\$1,000.00	0	\$0.00
2504.602	1.5" CORPORATION STOP	EACH	\$650.00	15	\$9,750.00	11	\$7,150.00
2504.602	2" CORPORATION STOP	EACH	\$900.00	1	\$900.00	1	\$900.00
2504.602	CURB BOX	EACH	\$400.00	16	\$6,400.00	16	\$6,400.00
2504.602	ADJUST CURB BOX	EACH	\$400.00	178	\$71,200.00	2	\$800.00
2504.602	1" CURB STOP AND BOX	EACH	\$1,000.00	2	\$2,000.00	0	\$0.00
2504.602	1.5" CURB STOP AND BOX	EACH	\$1,500.00	11	\$16,500.00	7	\$10,500.00
2504.602	2" CURB STOP AND BOX	EACH	\$1,800.00	1	\$1,800.00	1	\$1,800.00
2504.602	WATER UTILITY HOLE	EACH	\$3,800.00	9	\$34,200.00	4	\$15,200.00
2504.603	TRENCH EXCAVATION	LIN FT	\$250.00	504	\$126,000.00	145	\$36,250.00
2504.603	1" TYPE K COPPER PIPE	LIN FT	\$75.00	68	\$5,100.00	0	\$0.00
2504.603	1.5" TYPE K COPPER PIPE	LIN FT	\$100.00	249	\$24,900.00	160	\$16,000.00
2504.603	2" TYPE K COPPER PIPE	LIN FT	\$120.00	11	\$1,320.00	11	\$1,320.00
2504.604	2" INSULATION	SQ YD	\$50.00	151	\$7,555.50	48	\$2,400.00
2504.608	DUCTILE IRON FITTINGS	POUND	\$20.00	204	\$4,080.00	36	\$720.00
2563.601	TRAFFIC CONTROL	LUMP SUM	\$350,000.00		\$350,000.00	0.01	\$3,500.00
						SUBTOTAL	\$357,380.00
					MnDOT Design	6.5%	\$23,229.70
	ninstration/Inspection	8.0%	\$28,590.40				

Agency Agreement Grand Total