



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		09/12/16		
Department:		Engineering		
Department Head:		Caleb Thornhill, P.E.		
Agenda Coordinator (include phone #): Kathleen Schonne (7198)				Project No. 6336
CAPTION				
<p>An Ordinance of the City of Plano, Texas determining the public use, need and necessity for the acquisition of a street, sidewalk and utility easement for a 3,204 square feet tract of land and a temporary construction easement for a 3,672 square feet tract of land located in the Collin County School Land Survey, Abstract No. 153 at the intersection of Ohio Drive and McDermott Road as described in attached Exhibit "A," in the City of Plano, Collin County, Texas; for the purpose of constructing, reconstructing and maintaining street and highway facilities and related public improvements in the City of Plano, Collin County, Texas; authorizing the City Manager and the City Attorney, or their respective designees, to acquire the property including making initial and bona fide offers, and authorizing the City Attorney to file proceedings in eminent domain to condemn the needed real property for public use, if necessary; and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2015-16	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s): N/A				
<p>COMMENTS: This Item has no financial impact. STRATEGIC PLAN GOAL: Approving an ordinance authorizing the City Manager to use the City of Plano, Texas eminent domain authority relates to the City's Goal of Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
See Recommendation Memorandum.				
List of Supporting Documents: Recommendation Memorandum; Location Map; Ordinance, Exhibit "A"			Other Departments, Boards, Commissions or Agencies N/A	



Memorandum

TO: Bruce D. Glasscock, City Manager
FROM: B. Caleb Thornhill, P.E., Director of Engineering
DATE: September 12, 2016
SUBJECT: Ohio Drive and McDermott Road

An Ordinance of the City of Plano, Texas determining the public use, need and necessity for the acquisition of a street, sidewalk and utility easement for a 3,204 square feet tract of land and a temporary construction easement for a 3,672 square feet tract of land located in the Collin County School Land Survey, Abstract No. 153 at the intersection of Ohio Drive and McDermott Road as described in attached Exhibit "A," in the City of Plano, Collin County, Texas; for the purpose of constructing, reconstructing and maintaining street and highway facilities and related public improvements in the City of Plano, Collin County, Texas; authorizing the City Manager and the City Attorney, or their respective designees, to acquire the property including making initial and bona fide offers, and authorizing the City Attorney to file proceedings in eminent domain to condemn the needed real property for public use, if necessary; and providing an effective date.

The easements include two (2) individual parcels from one (1) property owner.

The one (1) property owner and two (2) easements required are listed below:

PROPERTY	STREET ADDRESS	S.S.U. ESMNT.	TEMP. CONST. ESMNT.	TOTAL
Richard E. Ferrell	N.E. Corner Ohio Dr. at McDermott Road	3,204 SF		3,204 SF
Richard E. Ferrell	N.E. Corner Ohio Dr. at McDermott Road		3,672 SF	3,672 SF
TOTALS				6,876 SF

The City plans to use the easements for the improvements necessary for the Ohio Drive and McDermott Road Intersection Improvements project and related appurtenances. These include, but are not limited to the relocation of the existing utilities, the construction of new traffic lanes, the reconstruction of sidewalks and the grading of yards for proper drainage.

Project Location

OHIO DR

AMANDA CT

PHILLIP

EMPIRE BLVD

NAOMI ST

PEABODY PL

PAULINE ST

CECILE RD

JONES

MCDERMOTT RD

MEMORIAL LN

TRIBECA LN

INSPIRATION DR

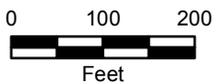
HERSHEY LN

FOOTHILL DR

GALAXY LN

QUIET CIR

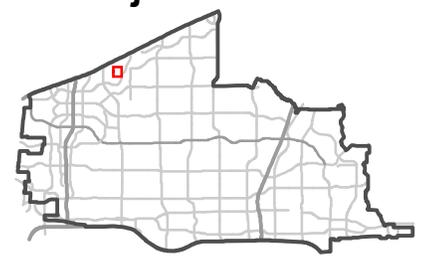
RASOR BLVD



City of Plano GIS Division
May, 2016

Ohio Drive and McDermott Road Intersection Improvements Easements Project # 6336

Project Location



An Ordinance of the City of Plano, Texas determining the public use, need and necessity for the acquisition of a street, sidewalk and utility easement for a 3,204 square feet tract of land and a temporary construction easement for a 3,672 square feet tract of land located in the Collin County School Land Survey, Abstract No. 153 at the intersection of Ohio Drive and McDermott Road as described in attached Exhibit "A," in the City of Plano, Collin County, Texas; for the purpose of constructing, reconstructing and maintaining street and highway facilities and related public improvements in the City of Plano, Collin County, Texas; authorizing the City Manager and the City Attorney, or their respective designees, to acquire the property including making initial and bona fide offers, and authorizing the City Attorney to file proceedings in eminent domain to condemn the needed real property for public use, if necessary, and providing an effective date.

WHEREAS, the City Council of the City of Plano, Texas (the "City Council") upon consideration of this matter, has determined that there is a public need and necessity for the health, safety, and welfare of the City of Plano, and the public at large to acquire a Street, Sidewalk and Utility Easement and a Temporary-Construction Easement (the "Easements") in the general form and on the property attached hereto as Exhibit "A," also known as the intersection of Ohio Drive and McDermott Road (the "Property") and incorporated herein for all purposes, located in the City of Plano, Collin County, Texas; for the purpose of the construction, reconstruction and maintenance of highway and street facilities and related public improvements (the "Project") collectively (the "Public Uses"); and

WHEREAS, the City Council finds that the description of the Property, attached hereto as Exhibit "A" to be acquired by eminent domain for the Project, complies with applicable law in that the same provides the property owners in and around the area reasonable notice that the owner's property may be subject to condemnation proceedings during the planning or construction of the Project; and

WHEREAS, the City Council has further investigated and determined that the Project constitutes a public use for a public purpose; and

WHEREAS, the City is required to make an initial offer as defined by and in compliance with Texas Property Code § 21. 0111 ("Initial Offer") and a bona fide offer, as defined by and in compliance with Texas Property Code § 21. 0113 ("Bona Fide Offer") to acquire the Easement on the Property for public use, voluntarily, from the subject landowners prior to moving forward with the acquisition by eminent domain; and

WHEREAS, the City Council now deems it necessary to authorize the City Attorney to initiate condemnation proceedings in order to acquire the necessary Easement.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The City Council hereby finds and determines that the recitals made in the preamble of this Ordinance are true and correct, and incorporates such recitals into the body of this ordinance as if copied in their entirety.

Section II. The City Council hereby finds and determines that a public use and necessity exists for the Public Uses and authorizes acquisition of the necessary property rights in and to the Property for such purposes, as allowed by law, together with all necessary appurtenances, additions and improvements on, over, under, and through those certain lots, tracts or parcels of lands.

Section III. The City Council authorizes the City Attorney or her designee to negotiate for and to acquire the required property rights for the City, and to acquire said rights in compliance with State and any other applicable law. Moreover, the City Attorney, or designee, is specifically authorized and directed to do each and every act necessary to acquire the needed property rights including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare contracts, to retain and designate a qualified appraiser of the property interests to be acquired, as well as any other experts or consultants that she deems necessary for the acquisition process and, if necessary, to institute proceedings in eminent domain.

Section IV. The City Manager, or designee, is appointed as negotiator for the acquisition of the needed property interests and, as such, the City Manager or designee is authorized and directed to do each and every act and deed hereinabove specified or authorized by reference, subject to the availability of funds appropriated by the City Council for such purpose. Further, the City Manager or designee is specifically authorized to establish the just compensation for the acquisition of the Property. Additionally, if the City Manager or designee determines that an agreement as to damages or compensation cannot be reached, then the City Attorney or designee is hereby authorized and directed to file or cause to be filed, against the owner(s) and interested parties of the needed property interests, proceedings in eminent domain to acquire the above-stated interests in the Property.

Section V. This Ordinance shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the 12th day of September, 2016.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

EXHIBIT "A"
THE PROPERTY
CONSISTING OF
PARCEL #1: A SIDEWALK, STREET AND UTILITY EASEMENT AND
PARCEL # 2: A TEMPORARY CONSTRUCTION EASEMENT

PARCEL #1

EXHIBIT "A"

STREET, SIDEWALK AND UTILITY EASEMENT

BEING a 0.0735 acre tract of land located in the Collin County School Land Survey, Abstract No. 153, City of Plano, Collin County, Texas, said 0.0735 acre tract of land being a portion of **LOT 4, BLOCK A, MORGAN VILLAGE RETAIL CENTER**, being an Addition to the City of Plano, Collin County, Texas, according to the plat thereof recorded in Collin County Clerk's File No. 20080903010003130, Official Public Records, Collin County, Texas (O.P.R.C.C.T.), said 0.0735 acre tract of land also being a portion of that certain tract of land conveyed to **RICHARD E. FERRELL**, by deed as recorded in Collin County Clerk's File No. 20060123000090070, O.P.R.C.C.T., said 0.0735 acre tract of land being a Street, Sidewalk, and Utility Easement, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod with a cap stamped "POGUE" found at a west property corner of said Lot 4, said iron rod found also being at the northerly end of a corner clip located at the intersection of the east right-of-way line of Ohio Drive and the north right-of-way line of McDermott Road, said beginning point also having a grid coordinate of N: 7,085,334.76 and E: 2,490,108.89;

THENCE North 00°25'32" West, along the west property line of said Lot 4, same being the said east right-of-way line, a distance of 21.16 feet;

THENCE South 45°34'54" East, over and across said Lot 4, and along a line 15 feet northwest of and parallel with the said corner clip, a distance of 47.28 feet;

THENCE North 89°39'24" East, continuing over and across said Lot 4, a distance of 196.48 feet to the east property line of said Lot 4;

THENCE South 00°25'32" East, along the said property line, a distance of 12.87 feet to the southeast property corner of said Lot 4, same being on the said north right-of-way line of McDermott Road;

THENCE South 89°39'24" West, along the south property line of said Lot 4, same being the said north right-of-way line, a distance of 204.82 feet to a 5/8 inch iron rod with a cap stamped "POGUE" found at the southerly end of the aforesaid corner clip;

THENCE North 45°34'54" West, along the said corner clip, a distance of 35.52 feet to the **POINT OF BEGINNING**.

The herein described tract of land contains **0.0735 acres (3,204 square feet)** of land, more or less.

NOTE: The basis of bearings for this survey is the Texas State Plane NAD83 North Central Zone (4202).

I do hereby certify that the above legal description was prepared from public records and from an actual and accurate survey upon the ground and that the same is true and correct.



3-9-15

Date

Eric S. Spooner, RPLS
Registered Professional Land Surveyor
Texas Registration Number 5922
Spooner & Associates, Inc.
TBPLS Firm No. 10054900



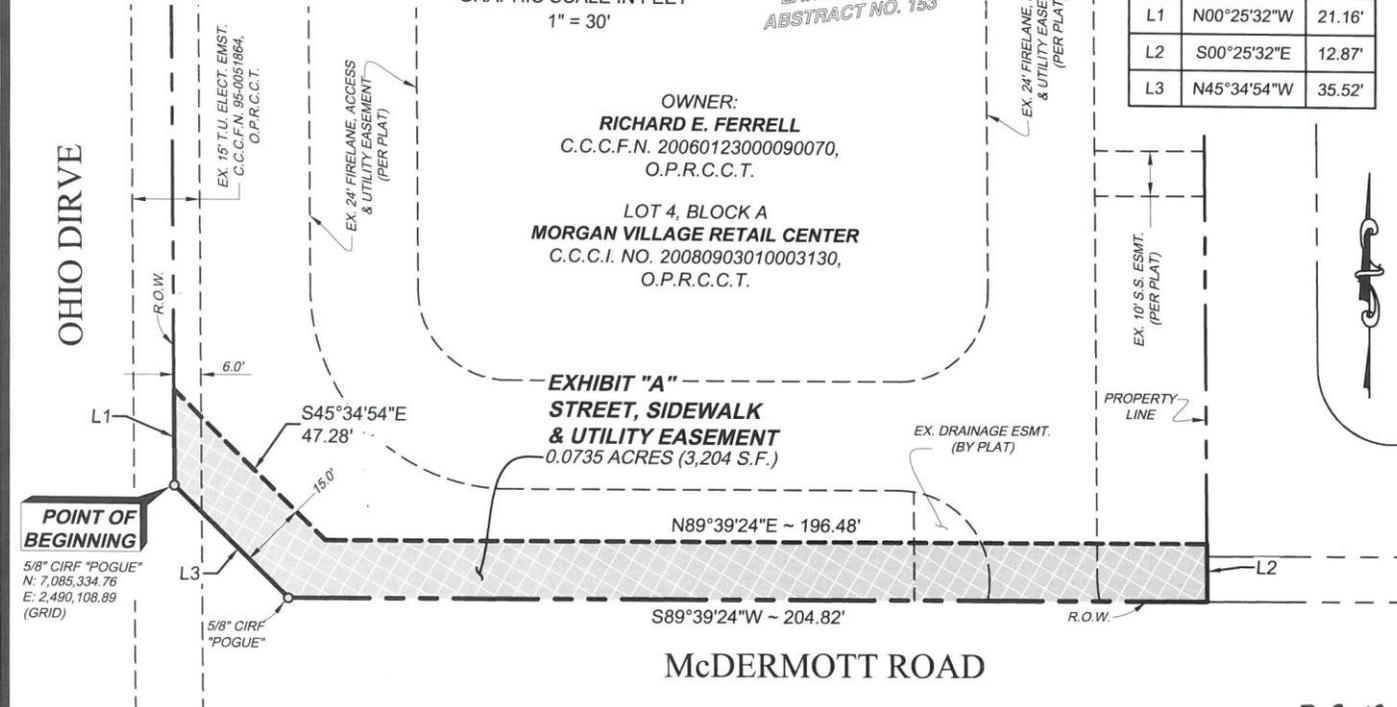
MAP OF EXHIBIT "A"

SEE ATTACHED LEGAL DESCRIPTION ON PAGE 1 HEREIN

0 15' 30'
 GRAPHIC SCALE IN FEET
 1" = 30'

COLLIN COUNTY SCHOOL
 LAND SURVEY
 ABSTRACT NO. 153

LINE TABLE		
NO.	DIRECTION	DIST.
L1	N00°25'32"W	21.16'
L2	S00°25'32"E	12.87'
L3	N45°34'54"W	35.52'



POINT OF BEGINNING

5/8" CIRF "POGUE"
 N: 7,085,334.76
 E: 2,490,108.89
 (GRID)

5/8" CIRF "POGUE"

OWNER:
RICHARD E. FERRELL
 C.C.C.F.N. 20060123000090070,
 O.P.R.C.C.T.

 LOT 4, BLOCK A
MORGAN VILLAGE RETAIL CENTER
 C.C.C.I. NO. 20080903010003130,
 O.P.R.C.C.T.

EXHIBIT "A"
STREET, SIDEWALK
& UTILITY EASEMENT
 0.0735 ACRES (3,204 S.F.)

McDERMOTT ROAD

3-9-15

EXHIBIT "A"
CITY OF PLANO, COLLIN COUNTY, TEXAS
 THE BASIS OF BEARINGS FOR THIS SURVEY IS
 THE TEXAS STATE PLANE NAD83 NORTH CENTRAL ZONE (4202).

PROPERTY: LOT 4, BLOCK A, MORGAN VILLAGE RETAIL CENTER
 LOCATION: CITY OF PLANO, COLLIN COUNTY, TEXAS
 WHOLE PROPERTY ACREAGE: 0.9168 ACRES (PLAT)

PAGE 3 OF 3

S&A JOB NO.: 14-040
 DATE: 03/09/2015

DRAWN BY: C.R.R.
 CHECKED BY: E.S.S. ACAD FILE: 14-040 PARCHE ESMT.dwg

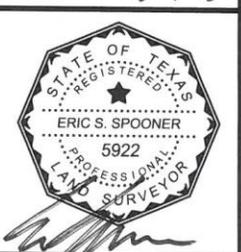
SPOONER & ASSOC., INC. 309 BYERS STREET, SUITE 100, EULESS, TX 76039, PH 817-685-8448



SPOONER & ASSOCIATES

CELEBRATING 25 YEARS OF SERVICE

REGISTERED PROFESSIONAL LAND SURVEYORS
 309 BYERS STREET, #100
 EULESS, TX 76039
 TBPLS NO. 10054900 (817) 685-8448
 WWW.SPOONERSURVEYORS.COM



PARCEL # 2

EXHIBIT "A"

TEMPORARY CONSTRUCTION EASEMENT

BEING a 0.0843 acre tract of land located in the Collin County School Land Survey, Abstract No. 153, City of Plano, Collin County, Texas, said 0.0843 acre tract of land being a portion of **LOT 4, BLOCK A, MORGAN VILLAGE RETAIL CENTER**, being an Addition to the City of Plano, Collin County, Texas, according to the plat thereof recorded in Collin County Clerk's File No. 20080903010003130, Official Public Records, Collin County, Texas (O.P.R.C.C.T.), said 0.0843 acre tract of land also being a portion of that certain tract of land conveyed to **RICHARD E. FERRELL**, by deed as recorded in Collin County Clerk's File No. 20060123000090070, O.P.R.C.C.T., said 0.0843 acre tract of land being a Temporary Construction Easement, and being more particularly described by metes and bounds as follows:

BEGINNING at a point on the west property line of said Lot 4, same being the east right-of-way line of Ohio Drive, said beginning point being North $00^{\circ}25'32''$ West, a distance of 21.16 feet from a 5/8 inch iron rod with a cap stamped "POGUE" found at the northerly end of a corner clip located at the intersection of the said east right-of-way line and the north right-of-way line of McDermott Road, said beginning point also having a grid coordinate of N: 7,085,356.03 and E: 2,490,108.72;

THENCE North $00^{\circ}25'32''$ West, along the said west property line and along the said east right-of-way line, a distance of 21.16 feet;

THENCE over and across said Lot 4 the following courses and distances:

South $45^{\circ}34'54''$ East, a distance of 56.05 feet;

North $89^{\circ}39'24''$ East, a distance of 190.26 feet to the east property line of said Lot 4;

THENCE South $00^{\circ}25'32''$ East, along the said property line, a distance of 14.98 feet;

THENCE over and across said Lot 4 the following courses and distances:

South $89^{\circ}39'24''$ West, a distance of 196.48 feet to a point for corner from which a 5/8 inch iron rod with a cap stamped "POGUE" found at the southerly end of the aforesaid corner clip bears South $32^{\circ}31'39''$ West, a distance of 15.33 feet;

North $45^{\circ}34'54''$ West, a distance of 47.28 feet to the **POINT OF BEGINNING**.

The herein described tract of land contains **0.0843 acres (3,672 square feet)** of land, more or less.

NOTE: The basis of bearings for this survey is the Texas State Plane NAD83 North Central Zone (4202).

I do hereby certify that the above legal description was prepared from public records and from an actual and accurate survey upon the ground and that the same is true and correct.



3-9-15

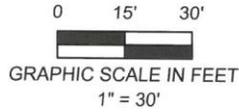
Date

Eric S. Spooner, RPLS
Registered Professional Land Surveyor
Texas Registration Number 5922
Spooner & Associates, Inc.
TBPLS Firm No. 10054900



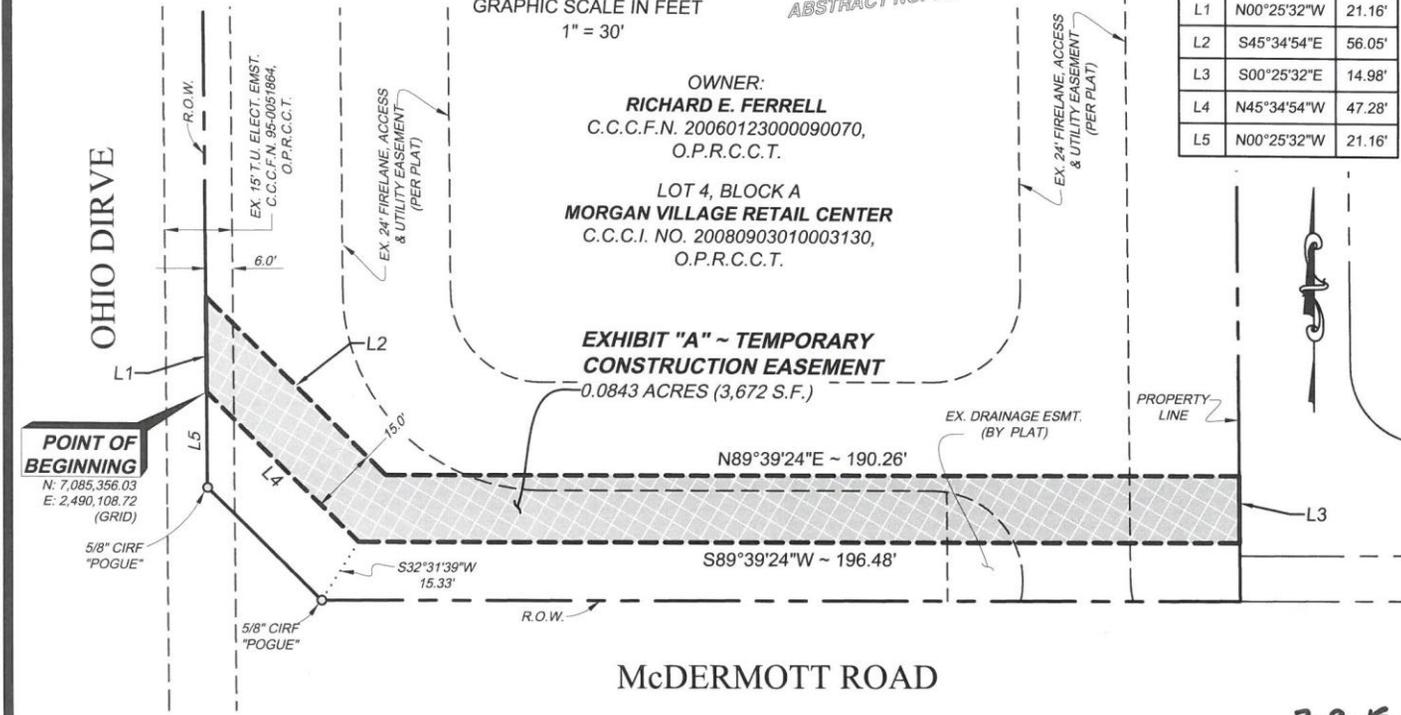
MAP OF EXHIBIT "A"

SEE ATTACHED LEGAL DESCRIPTION ON PAGE 4 HEREIN



COLLIN COUNTY SCHOOL
LAND SURVEY
ABSTRACT NO. 153

LINE TABLE		
NO.	DIRECTION	DIST.
L1	N00°25'32"W	21.16'
L2	S45°34'54"E	56.05'
L3	S00°25'32"E	14.98'
L4	N45°34'54"W	47.28'
L5	N00°25'32"W	21.16'



McDERMOTT ROAD

3-9-15

EXHIBIT "A"
CITY OF PLANO, COLLIN COUNTY, TEXAS
THE BASIS OF BEARINGS FOR THIS SURVEY IS
THE TEXAS STATE PLANE NAD83 NORTH CENTRAL ZONE (4202).

PROPERTY: LOT 4, BLOCK A, MORGAN VILLAGE RETAIL CENTER
LOCATION: CITY OF PLANO, COLLIN COUNTY, TEXAS
WHOLE PROPERTY ACREAGE: 0.9168 ACRES (PLAT)

PAGE 3 OF 3

S&A JOB NO.: 14-040 DRAWN BY: C.R.R.
DATE: 03/09/2015 CHECKED BY: E.S.S. ACAD FILE: 14-040 PARCHE ESMT.dwg

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