

Prepared by and return recorded copy to:

Stephen K. Tilbrook, Esq.
GrayRobinson, P.A.
401 E. Las Olas Blvd., Suite 1000
Fort Lauderdale, FL 33301

Property Appraiser's Parcel ID (Folio)
Number: 504112130020

**DECLARATION OF RESTRICTIVE COVENANT
(Maintenance Facility Site)**

THIS DECLARATION OF RESTRICTIVE COVENANT ("Declaration") is made this ____ day of _____ 2018 by and between the CITY OF FORT LAUDERDALE, a municipal corporation organized and existing under the laws of the State of Florida ("GRANTOR") and BROWARD COUNTY, by and through its ENVIRONMENTAL PROTECTION AND GROWTH MANAGEMENT DEPARTMENT ("EPGMD").

RECITALS

A. GRANTOR is the fee simple owner of that certain real property situated in the County of Broward, State of Florida, more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Restricted Property"); and

B. The Broward County Environmental Assessment and Remediation ("EAR") License Number for the Restricted Property is #0871 and, the facility name at the time of this Declaration is the Fort Lauderdale Country Club Maintenance Facility. This Declaration addresses the discharge that was reported to Broward County's Pollution Prevention, Remediation and Air Quality Division on the 29th day of June 2011; and

C. The presence of total arsenic (the "Contaminant") on a portion of the Restricted Property is documented in the following reports that are incorporated by reference:

1. Supplemental Site Assessment ("SSA") to EPGMD, dated June 29, 2011, prepared and submitted by EPAC Environmental Services, Inc. ("EPAC");
2. Remedial Action Plan, dated February 28, 2012, prepared and submitted by EPAC;

3. Remedial Action Implementation Report/ Startup Report, dated December 17, 2014, prepared and submitted by EPAC;
4. Eighth Quarter Natural Attenuation Monitoring Report for the Restricted Property, dated May 25, 2017, prepared and submitted to EPGMD by EPAC;
5. No Further Action with Conditions Proposal, dated May 25, 2017, prepared and submitted by EPAC; and
6. Acknowledgment of Intent to Propose Conditional Closure, dated June 30, 2017, from EPGMD to Fort Lauderdale Country Club, Inc. ("FTLCC").

D. The reports noted in Recital C set forth the nature and extent of the contamination that is located on the Restricted Property. These reports confirm that contaminated groundwater, as defined by Chapter 62-780, Florida Administrative Code ("FAC"), exists on the Restricted Property. Also, these reports document that the groundwater contamination does not extend beyond the Restricted Property boundaries and that the extent of the groundwater contamination does exceed ¼ acre but that the groundwater contamination is not migrating.

E. It is the intent of the restrictions in this Declaration to reduce or eliminate the risk of exposure of users or occupants of the Restricted Property and the environment to the Contaminant and to reduce or eliminate the threat of migration of the Contaminant.

F. EPGMD has agreed to issue a No Further Action with Controls Approval ("NFAC Approval") upon recordation of this Declaration. The NFAC Approval relating to EAR License #0871 is on file with the EPGMD located at 1 North University Drive, Suite 203, Plantation, Florida 33324.

G. GRANTOR deems it desirable and in the best interest of all present and future owners of the Restricted Property that an NFAC Approval be obtained and that the Restricted Property be held subject to certain restrictions and engineering controls all of which are more particularly hereinafter set forth.

NOW, THEREFORE, to induce EPGMD to issue the NFAC Approval and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confirmed, GRANTOR agrees as follows:

1. The foregoing recitals are true and correct and are incorporated into this Declaration by reference.

2. GRANTOR hereby imposes on the Restricted Property the following restrictions:

(a) There shall be no use of the groundwater under the Restricted Property. There shall be no drilling for water conducted on the Restricted Property, nor shall any wells be installed on the Restricted Property other than monitoring or other wells pre-approved in writing by EPGMD in addition to any authorizations required by the South Florida Water Management District.

(b) For any dewatering activities on the Restricted Property, a plan approved by EPGMD must be in place to address and ensure the appropriate handling, treatment, and disposal of any extracted groundwater that may be contaminated.

(c) The current stormwater management configuration on the Restricted Property may not change without advance approval from Broward County.

(d) The Restricted Property shall be used for golf course and ancillary purposes, including worker access for golf course maintenance. Notwithstanding, the following uses of the Restricted Property are prohibited: agricultural use of the land including forestry, fishing and mining; hotels or lodging; recreational uses including amusement parks, parks, camps, museums, zoos, or gardens; residential uses, and educational uses such as elementary or secondary schools, or day care services. These prohibited uses are specifically defined by using the North American Industry Classification System, United States, 2012 (NAICS), Executive Office of the President, Office of Management and Budget. The prohibited uses by code are: Sector 11 Agriculture, Forestry, Fishing and Hunting; Subsector 212 Mining (except Oil and Gas); Code 512132 Drive-In Motion Picture Theaters; Code 51912 Libraries and Archives; Code 53111 Lessors of Residential Buildings and Dwellings; Subsector 6111 Elementary and Secondary Schools; Subsector 623 Nursing and Residential Care Facilities; Subsector 624 Social Assistance; Subsector 711 Performing Arts, Spectator Sports and Related Industries; Subsector 712 Museums, Historical Sites, and Similar Institutions; Subsector 713 Amusement, Gambling, and Recreation Industries; Subsector 721 Accommodation (hotels, motels, RV parks, etc.); Subsector 813 Religious, Grantmaking, Civic, Professional, and Similar Organizations; and Subsector 814 Private Households.

(e) Areas containing soils with concentrations exceeding 12mg/kg of the Contaminant, must be maintained under an engineering control of impervious surface or a minimum of two (2) feet of clean fill. Attached as Exhibit B and incorporated by reference herein, is a sketch identifying such areas.

(f) All monitoring wells will be properly abandoned by a third party after the Declaration is approved.

3. In the remaining paragraphs, all references to "GRANTOR" and "Broward County" shall also mean and refer to their respective successors and assigns.

4. For the purpose of monitoring the restrictions contained herein, Broward County is hereby granted a right of entry upon, over, through and access to the Restricted Property between 8:00am and 5:00pm and with at least three (3) calendar days' notice to GRANTOR. Access to the Restricted Property is by means of an adjacent public right of way.

5. It is the intention of GRANTOR that this Declaration shall touch and concern the Restricted Property, run with the land and with the title to the Restricted Property, and shall apply to and be binding upon and inure to the benefit of GRANTOR and Broward County, and to any and all parties hereafter having any right, title or interest in the Restricted Property or any part thereof. Broward County may enforce the terms and conditions of this Declaration by injunctive relief and other appropriate available legal remedies. Any forbearance on behalf of

Broward County to exercise its right in the event of the failure of GRANTOR to comply with the provisions of this Declaration shall not be deemed or construed to be a waiver of Broward County's rights hereunder. This Declaration shall continue in perpetuity, unless otherwise modified in writing by GRANTOR and Broward County as provided in paragraph 7 hereof. These restrictions may also be enforced in a court of competent jurisdiction by any other person, firm, corporation, or governmental agency that is substantially benefited by these restrictions. If GRANTOR does not or will not be able to comply with any or all of the provisions of this Declaration, GRANTOR shall notify Broward County in writing within three (3) calendar days. Additionally, GRANTOR shall notify Broward County thirty (30) days prior to any conveyance or sale, granting or transferring the Restricted Property or portion thereof, to any heirs, successors, assigns or grantees, including, without limitation, the conveyance of any security interest in said Restricted Property.

6. In order to ensure the perpetual nature of these restrictions, GRANTOR shall record this Declaration and reference these restrictions in any subsequent lease or deed of conveyance, including the recording Instrument Number of this Declaration. Furthermore, prior to the entry into a landlord-tenant relationship with respect to the Restricted Property, GRANTOR agrees to notify in writing all proposed tenants of the Restricted Property of the existence and contents of this Declaration of Restrictive Covenant.

7. This Declaration is binding until a release of covenant is executed by EPGMD and by the GRANTOR and is recorded in the public records of Broward County. To receive prior approval from the EPGMD to remove any requirement herein, cleanup target levels established pursuant to Florida Statutes and Broward County Code of Ordinances must be achieved. This Declaration may be modified in writing only. Any subsequent amendments must be executed by both GRANTOR and EPGMD and be recorded by GRANTOR as an amendment hereto.

8. If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, the invalidity of that provision shall not affect the validity of any other provisions of the Declaration. All such other provisions shall continue unimpaired in full force and effect.

9. GRANTOR covenants and represents that on the date of execution of this Declaration that GRANTOR is seized of the Restricted Property in fee simple and has good right to create, establish, and impose this restrictive covenant on the use of the Restricted Property.

10. EPGMD can unilaterally revoke the NFAC Approval if the conditions of this Declaration or the conditions of the NFAC Approval are not met. Additionally, if concentrations of the Contaminant increase above the levels approved in the NFAC Approval, or if a subsequent discharge occurs at the Restricted Property, EPGMD may require site rehabilitation to reduce the concentrations of contamination to the levels allowed by the applicable Broward County Code of Ordinance or FAC rules.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written below their signatures.

Witnesses:

CITY OF FORT LAUDERDALE, a
municipal corporation of the State of Florida

Printed Name: _____

By: _____

JOHN P. "Jack" SEILER, Mayor

Witness:

Date: _____

Printed Name: _____

By: _____

LEE R. FELDMAN, City Manager

Date: _____

(Seal)

Attest:

Approved as to form:

CYNTHIA A. EVERETT, City Attorney

JEFFREY A. MODARELLI, City Clerk

LYNN SOLOMON, Assistant City Attorney

Date: _____

Date: _____

STATE OF FLORIDA)
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by JOHN P. "Jack" SEILER, Mayor of CITY OF FORT LAUDERDALE, a municipal corporation of Florida. He is ____ personally known to me.
(SEAL)

Signature: Notary Public, State of Florida

Name of Notary Typed, Printed or Stamped

STATE OF FLORIDA)
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by LEE R. FELDMAN, City Manager of CITY OF FORT LAUDERDALE, a municipal corporation of Florida. He is ____ personally known to me.
(SEAL)

Signature: Notary Public, State of Florida

Name of Notary Typed, Printed or Stamped

IN WITNESS WHEREOF, BROWARD COUNTY, by and through its Environmental Protection & Growth Management Department, has executed this instrument this ____ day of _____, 2018.

Signed, sealed and delivered in the presence of:

Witness:

Printed Name: _____
Date: _____

Witness:

Printed Name: _____
Date: _____

BROWARD COUNTY, by and through its ENVIRONMENTAL PROTECTION & GROWTH MANAGEMENT DEPARTMENT

By: _____

Printed Name: _____

Title: _____

Date: _____

Approved as to form by:

Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Fax: (954) 357-7641

By: _____

Benjamin Crego
Assistant County Attorney
Date: _____

NOTARY

STATE OF FLORIDA)
)
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by _____, as representative for the Broward County Environmental & Growth Management Department.

Personally Known _____ OR Produced Identification _____.

Type of Identification Produced _____.

Signature of Notary Public

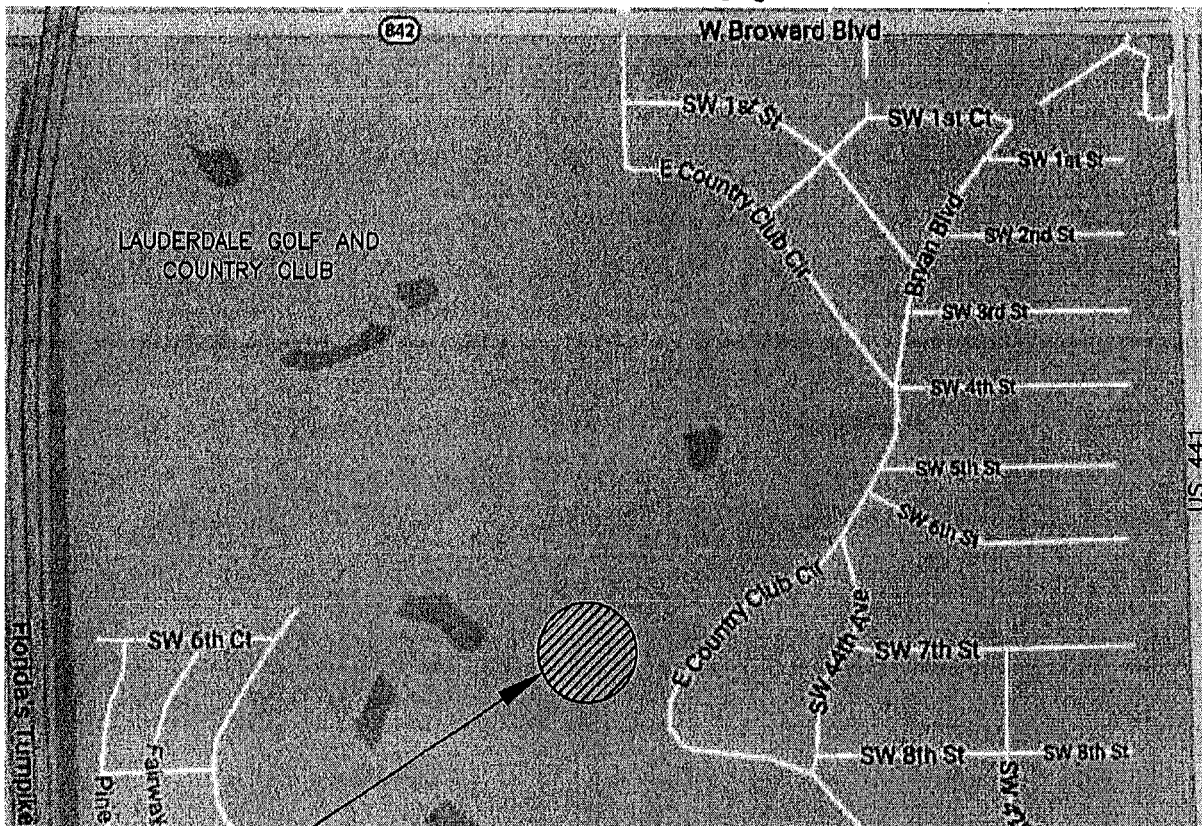
Print Name of Notary Public

Commission No. _____

Commission Expires: _____

EXHIBIT A

SKETCH & DESCRIPTION EXHIBIT A



MAP OF SKETCH

LOCATION MAP

N.T.S.

DESCRIPTION:

A PARCEL OF RESERVED LAND BEING A PORTION OF NORTH TRACT AND SOUTH TRACT, "AMENDED PLAT OF A PORTION OF LAUDERDALE GOLF AND COUNTRY CLUB", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 42, PAGE 46, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF WEST TRACT OF SAID PLAT, "AMENDED PLAT OF A PORTION OF LAUDERDALE GOLF AND COUNTRY CLUB", THENCE N 89°28'27" E, ALONG THE NORTH BOUNDARY OF SAID WEST TRACT, A DISTANCE OF 2193.67 FEET; THENCE S 00°31'33" E, A DISTANCE OF 2159.17 FEET TO THE NORTH CORNER OF SAID RESERVED PARCEL AND BEING THE POINT OF BEGINNING; THENCE S 42°29'55" E, A DISTANCE OF 400.00 FEET; THENCE S 47°30'07" W, A DISTANCE OF 400.00 FEET; THENCE N 42°29'55" W, A DISTANCE OF 400.00 FEET; THENCE N 47°30'07" E, A DISTANCE OF 400.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE WITHN THE CITY OF FORT LAUDERDALE, BROWARO COUNTY, FLORIDA, CONTAINING 160,000 SQUARE FEET OR 3.6731 ACRES MORE OR LESS.

NOTES:

- 1) BEARINGS ARE BASED ON THE NORTHERLY BOUNDARY WEST TRACT PER SAID PLAT BEING N 89°28'27" E.
- 2) THIS IS NOT A SKETCH OF SURVEY AND DOES NOT REPRESENT A FIELD SURVEY.
- 3) SUBJECT TO EXISTING EASEMENTS, RIGHT-OF WAYS, COVENANTS, RESERVATIONS AND RESRTICTIONS OF RECORD, IF ANY.
- 4) THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

CERTIFIED TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

SHEET 1 OF 2

DATED: AUGUST 9, 2017

Michael W. Donaldson

MICHAEL W. DONALDSON
PROFESSIONAL SURVEYOR AND MAPPER NO. 6490
STATE OF FLORIDA

CITY OF FORT LAUDERDALE

SKETCH & DESCRIPTION
RESTRICTED COVENANT
FACILITIES MAINTANCE

BY: CH

CHK'D MD

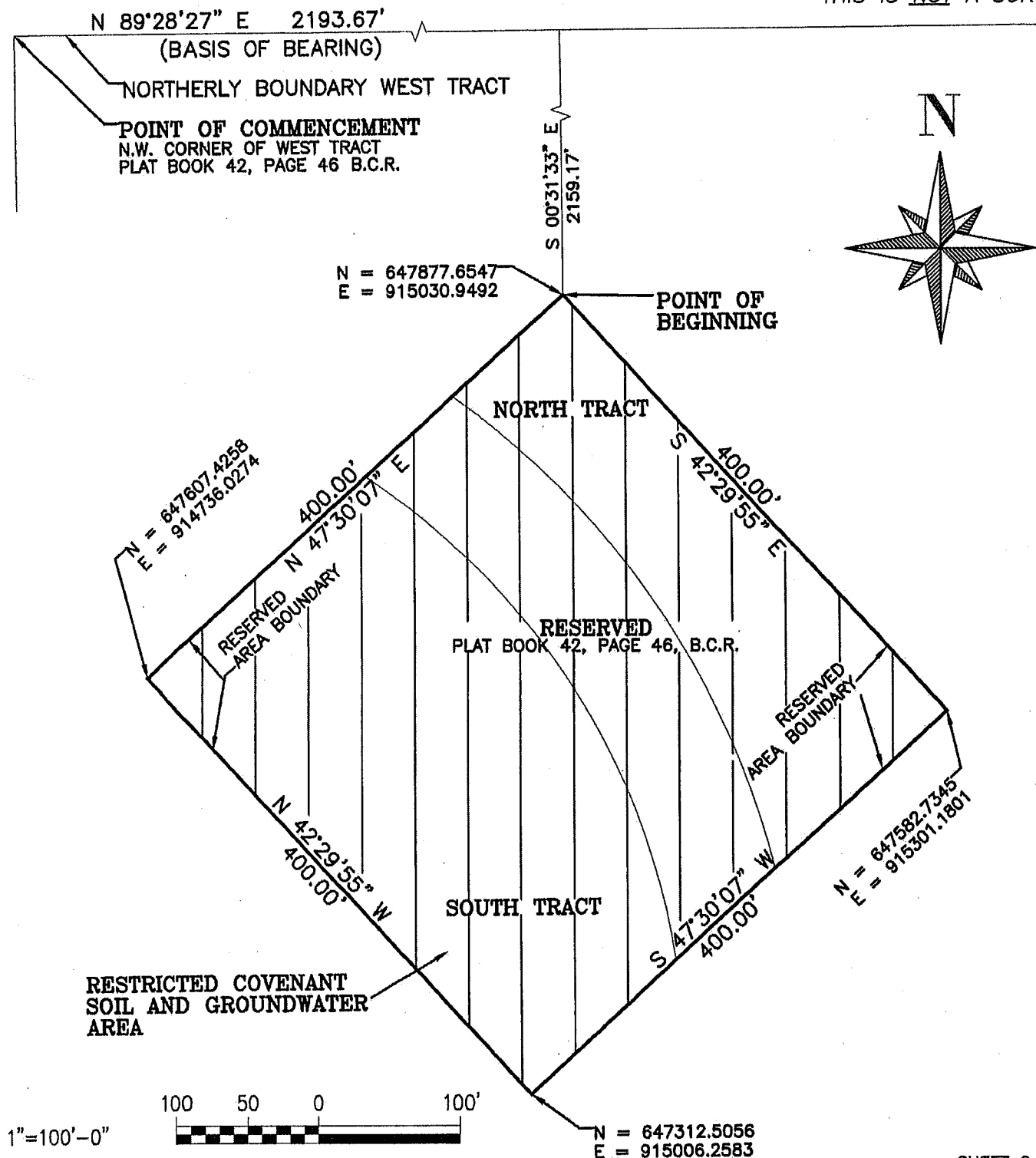
ENGINEERING
DIVISION

DATE: 8/9/2017

SCALE: N.T.S.

SKETCH & DESCRIPTION EXHIBIT **A**

THIS IS NOT A SURVEY



B.C.R. DENOTES BROWARD COUNTY RECORDS

SHEET 2 OF 2

CITY OF FORT LAUDERDALE		
SKETCH & DESCRIPTION RESTRICTED COVENANT FACILITIES MAINTENANCE		
BY: CH	ENGINEERING	DATE: 8/9/2017
CHK'D MD	DIVISION	SCALE: 1"=100'

EXHIBIT B

