

ORDINANCE NO. 84-21

AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT TWO (2) EASEMENTS NECESSARY FOR THE NORTH BROADWAY BRIDGE REPLACEMENT PROJECT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

SEC. 1: That the Mayor is hereby authorized to accept two (2) Easements necessary for the North Broadway Bridge Replacement Project.

SEC. 2: That the Easement marked Exhibit A, attached hereto and incorporated herein, is on the property located at 347 North Broadway, Permanent Parcel No. 028-19B-14-145, part of Medina City Lot 538, one (1) storm sewer and drainage easement.

SEC. 3: That the Easement marked Exhibit B, attached hereto and incorporated herein, is on the property located at 425 North Broadway, Permanent Parcel No. 028-19B-14-144, part of Medina City Lot 539, one (1) storm sewer and drainage easement. *The City is required to furnish and install six (6) 1.75-2.00 inch caliper trees to replace the twelve (12) trees that are being removed to accommodate the project.

SEC. 4: That the funds to cover the easements, in the amount of \$8,897.50 are available in Account No. 108-0610-54411.

SEC. 5: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SEC. 6: That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: May 24, 2021

SIGNED: John M. Coyne, III
President of Council

ATTEST: Kathy Patton
Clerk of Council

APPROVED: May 25, 2021

SIGNED: Dennis Hanwell
Mayor

ORD. 84-21
Exh. A

Storm Sewer and Drainage Easement

KNOW ALL MEN BY THESE PRESENTS:

That in consideration of (ONE THOUSAND SIX HUNDRED SEVENTEEN and 73/100) Dollars (\$1,617.73) and other good and valuable consideration recited herein given to JOSEPH D. SWORTCHEK hereinafter "Grantor(s)" by the CITY OF MEDINA, Ohio, hereinafter "Grantee", the receipt of which is hereby acknowledged, the Grantor does hereby grant, bargain, sell, transfer and convey unto the Grantee, its successors and assigns, a drainage and storm sewer easement for the purpose of erecting, constructing, installing and thereafter using, operating, inspecting, maintaining, repairing, replacing or removing a PERPETUAL WATERCOURSE WITH A STORM SEWER AND APPURTENANCES under, across, and through certain land of the Grantor(s) situated in the City of Medina, County of Medina and State of Ohio and more particularly described as follows:

Situated in the City of Medina, County of Medina and State of Ohio and being known as part of Medina City Lot No. (MCL) 538 and part of lands conveyed to Joseph D. Swortchek by deed dated August 02, 2018 as recorded in Document No. 2018OR016669 of the Medina County Recorder's Records, further bounded and described as follows:

Commencing at the Northeast corner of said MCL 538, also being a point on the Western Right-of-Way of North Broadway, having a 99-foot width and the TRUE PLACE OF BEGINNING of the easement area herein described;

Thence along the Eastern line of said MCL 538 and the Western Right-of-Way of North Broadway, bearing South 00°20'59" East, a distance of 10.00 feet to a point thereon;

Thence parallel to the Northern line of said MCL 538, bearing South 89°19'59" West, a distance of 27.00 feet to a point;

Thence parallel to the Eastern line of said MCL 538 and the Western Right-of-Way of North Broadway, bearing North 00°20'59" West, a distance of 10.00 feet to a point on the Northern line of said MCL 538;

Thence along the Northern line of said MCL 538, bearing North 89°19'59" East, a distance of 27.00 feet to the Northeast corner of said MCL 538, also being a point on the Western Right-of-Way of North Broadway and the TRUE PLACE OF BEGINNING containing 0.0062 acres of land, more or less but subject to all legal highways and all covenants and agreements of record.

Bearings are based on an assumed meridian and are used herein to indicate angles only.

This legal description was prepared based on a survey by and/or under the supervision of Douglas S. Jewel P.S. # S-8007 by Cunningham & Associates, Inc. in December 2020.

together with the right of reasonable ingress and egress over the immediately adjacent lands of the Grantor(s) for the purpose and use of said easement. The Grantee covenants and agrees that it will not use said easement for public right-of-way purposes.

As additional consideration for this easement and right-of-way, the Grantee covenants and agrees as follows:

1. Grantee shall repair any and all damage arising from the installation or subsequent repair, maintenance or reconstruction of a PERPETUAL WATERCOURSE WITH A STORM SEWER AND APPURTENANCES.
2. Grantee shall replace any driveway, lawn, shrubbery, or other improvement which may be damaged as a result of construction.
3. Within a reasonable time after completion of construction, and in no event later than forty-five (45) days, Grantee will return the ground to its original condition.
4. Grantee will secure and protect all permanent structures within the construction zone.
5. Grantee will pay for all costs of surveying, recording of documents, filing and transfer fees, escrow costs and title expenses, if any.

Grantor(s) covenant and agrees as follows:

1. Grantor will not install, erect or maintain any structure, fixture or device upon the easement which could in any way interfere with Grantee's use of the easement and right-of-way; however, Grantor retains the right to use the surface of the easement area provided said use does not interfere with the uses granted to Grantee.
2. Authorize the City of Medina, its Engineer, and all other officials, assistants, employees, agents and contractors thereof to enter upon the property designated as 347 North Broadway; Permanent Parcel No. 028-19B-14-145, part of Medina City Lot 538 with the necessary equipment to remove any obstructions as necessary to allow for the proposed culvert, headwall and rock rip rap installation including any trees, tree stumps, brush, vegetation, and landscaping; to complete grading to establish the watercourse; to install the proposed headwall, appurtenances and rock channel protection; to remove a portion of the existing concrete driveway and to replace it in kind with concrete; to complete grading as necessary; to restore the affected areas with topsoil, seed, fertilizer, and mulch in accordance with the plans and/or specifications as prepared by the City of Medina or its agents during the period of time commencing with the breaking of ground for the above described proposed work and terminating when the work has been completed and/or accepted by the City; and
3. Release the City of Medina, its Engineer, and all other officials, assistants, employees, agents and contractors thereof, from claims of damage, of compensation by reason of the above described work as called for by the said plans and/or specifications provided that the property designated as 347 North Broadway; Permanent Parcel No. 028-19B-14-145, part of Medina City Lot 538 is restored to the condition before construction or as close as reasonably possible in conformance with the plans and/or specifications and/or proposed work described above.

All the terms and conditions of this Easement and Right-of-way shall be binding upon and inure to the benefit of the Grantor(s), the Grantee, their heirs, executors, administrator, successors and assigns.

The grant of this Easement and Right-of-way shall constitute a covenant running with the land for the benefit of the Grantee, its successors and assigns.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 29th day of April, 2021.

Grantor:

Joseph D. Swortchek

Signature: Joseph D. Swortchek

Print Name: Joseph D. Swortchek

State of Ohio)

County of Medina) SS:

Before me, a Notary Public, in and for said County and State, personally appeared the Grantor, Joseph D. Swortchek, who acknowledged that he/she/they did sign the foregoing instrument and that the same is his/her/their free act and deed.

In testimony whereof, I have set my hand and official seal at Medina, Ohio, this 29th day of April, 2021.

Notary Signature: Sherry A. Crow

Print Name: Sherry A. Crow

My Commission Expires: _____ SHERRY A. CROW

Notary Seal: Notary Public

State of Ohio, Medina County

My Commission Expires 5-27-24

This instrument was prepared by:

Gregory Huber, Law Director, City of Medina, Ohio
132 N. Elmwood Avenue
Medina, OH. 44256



Cunningham & Associates, Inc.

Civil Engineering & Surveying
203 W. Liberty St., Medina, Oh 44256
Phone: (330) 725-5980 * Fax (330) 725-8019

EXHIBIT 'A'

Legal Description for a 10-foot X 27-foot Basement Area
Project No. 20-116
December 4, 2020

Situated in the City of Medina, County of Medina, State of Ohio and being known as part of Medina City Lot No. (MCL) 538 and part of lands conveyed to Joseph D. Swortchek by deed dated August 02, 2018 as recorded in Document No. 2018OR016669 of the Medina County Recorder's Records, further bounded and described as follows:

Commencing at the Northeast corner of said MCL 538, also being a point on the Western Right-of-Way of North Broadway, having a 99-foot width and the TRUE PLACE OF BEGINNING of the parcel herein described;

Thence along the Eastern line of said MCL 538 and the Western Right-of-Way of North Broadway, bearing South 00°20'59" East, a distance of 10.00 feet to a point thereon;

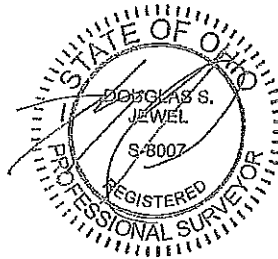
Thence parallel to the Northern line of said MCL 538, bearing South 89°19'59" West, a distance of 27.00 feet to a point;

Thence parallel to the Eastern line of said MCL 538 and the Western Right-of-Way of North Broadway, bearing North 00°20'59" West, a distance of 10.00 feet to a point on the Northern line of said MCL 538;

Thence along the Northern line of said MCL 538, bearing North 89°19'59" East, a distance of 27.00 feet to the Northeast corner of said MCL 538, also being a point on the Western Right-of-Way of North Broadway and the TRUE PLACE OF BEGINNING containing 0.0062 Acres of land, more or less but subject to all legal highways and all covenants and agreements of record.

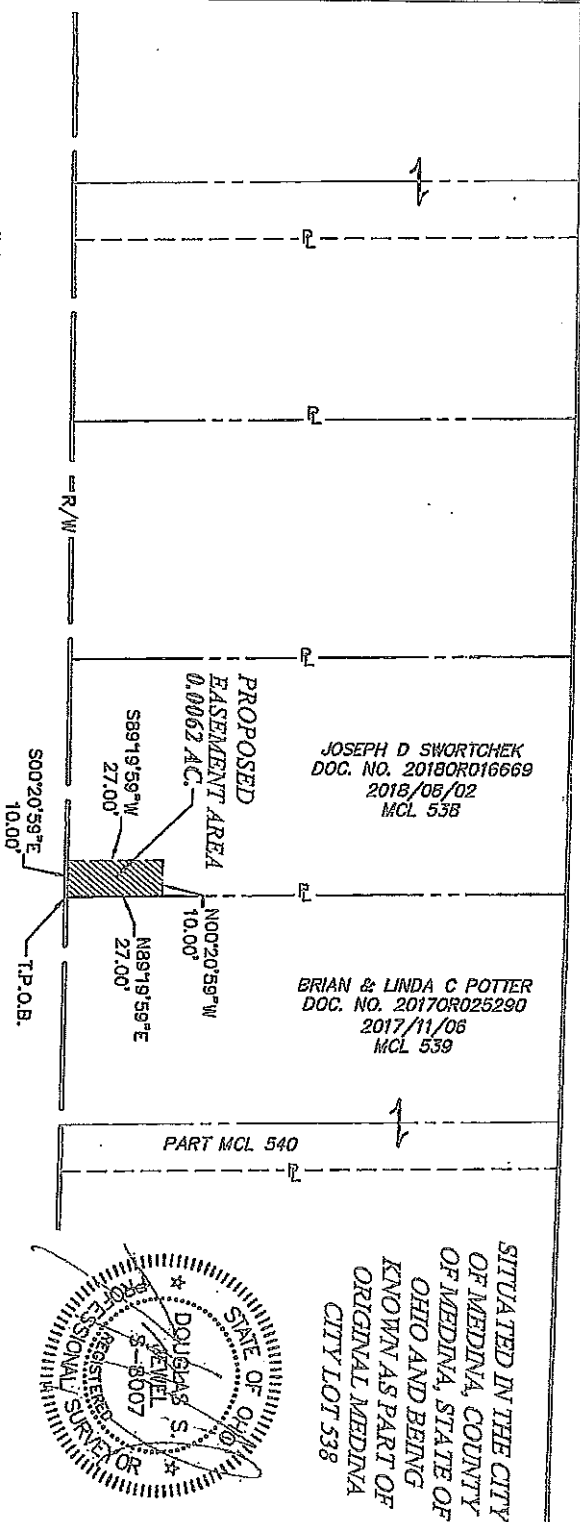
Bearings are based on an assumed meridian and are used herein to indicate angles only.

This legal description was prepared based on a survey by and/or under the supervision of Douglas S. Jewel P.S. # S-8007 by Cunningham & Associates, Inc. in December 2020.



PEARL ST.

N. BROADWAY 99' R/W

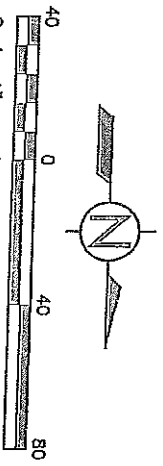
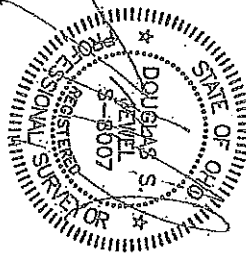


JOSEPH D SWORTCHEK
 DOC. NO. 2018ORD16669
 2018/06/02
 MCL 538

BRIAN & LINDA C POTTER
 DOC. NO. 2017OR025290
 2017/11/06
 MCL 539

PART MCL 540

SITUATED IN THE CITY
 OF MEDINA, COUNTY
 OF MEDINA, STATE OF
 OHIO AND BEING
 KNOWN AS PART OF
 ORIGINAL MEDINA
 CITY LOT 538



Scale: 1" = 40'
 BEARINGS ARE TO AN ASSUMED MERIDIAN
 AND ARE USED TO DENOTE ANGLES ONLY.

EXHIBIT B

LOCATED IN:
 CITY OF MEDINA
 COUNTY OF MEDINA
 STATE OF OHIO

CUNNINGHAM & ASSOCIATES, INC.
 CIVIL ENGINEERING and SURVEYING
 203 W. LIBERTY ST. MEDINA, OHIO 44256 330-725-5980

DRAWN BY: KALE
 DATE: 11/24/2020
 PROJECT NO. 20-116
 ACAD FILE NO. 44-12416-ENVT

SHEET NO. 1

Storm Sewer and Drainage Easement

ORD. 84-21
EXH. B

KNOW ALL MEN BY THESE PRESENTS:

That in consideration of (SEVEN THOUSAND TWO HUNDRED SEVENTY-NINE and 77/100) Dollars (\$7,279.77) and other good and valuable consideration recited herein given to BRIAN POTTER and LINDA C. POTTER hereinafter "Grantor(s)" by the CITY OF MEDINA, Ohio, hereinafter "Grantee", the receipt of which is hereby acknowledged, the Grantor does hereby grant, bargain, sell, transfer and convey unto the Grantee, its successors and assigns, a drainage and storm sewer easement for the purpose of erecting, constructing, installing and thereafter using, operating, inspecting, maintaining, repairing, replacing or removing a PERPETUAL WATERCOURSE WITH A STORM SEWER AND APPURTENANCES under, across, and through certain land of the Grantor(s) situated in the City of Medina, County of Medina and State of Ohio and more particularly described as follows:

Situated in the City of Medina, County of Medina and State of Ohio and being known as part of Medina City Lot No. (MCL) 539 and part of lands conveyed to Brian and Linda C. Potter by deed dated November 06, 2017 as recorded in Document No. 2017OR025290 of the Medina County Recorder's Records, further bounded and described as follows:

Commencing at the Southeast corner of said MCL 539, also being a point on the Western Right-of-Way of North Broadway, having a 99-foot width and the TRUE PLACE OF BEGINNING of the easement area herein described;

Thence along the Southern line of said MCL 539, bearing South 89°19'59" West, a distance of 27.00 feet to a point thereon;

Thence parallel to the Eastern line of said MCL 539 and the Western Right-of-Way of North Broadway, bearing North 00°20'59" West, a distance of 45.00 feet to a point;

Thence parallel to the Southern line of said MCL 539, bearing North 89°19'59" East, a distance of 27.00 feet to a point on the Eastern line of said MCL 539 and the Western Right-of-Way of North Broadway;

Thence along the Eastern line of said MCL 539 and the Western Right-of-Way of North Broadway, bearing South 00°20'59" East, a distance of 45.00 feet to the Southeast corner of said MCL 539, also being a point on the Western Right-of-Way of North Broadway and the TRUE PLACE OF BEGINNING containing 0.0279 acres of land, more or less but subject to all legal highways and all covenants and agreements of record.

Bearings are based on an assumed meridian and are used herein to indicate angles only.

This legal description was prepared based on a survey by and/or under the supervision of Douglas S. Jewel P.S. # S-8007 by Cunningham & Associates, Inc. in December 2020.

together with the right of reasonable ingress and egress over the immediately adjacent lands of the Grantor(s) for the purpose and use of said easement. The Grantee covenants and agrees that it will not use said easement for public right-of-way purposes.

As additional consideration for this easement and right-of-way, the Grantee covenants and agrees as follows:

1. Grantee shall repair any and all damage arising from the installation or subsequent repair, maintenance or reconstruction of a PERPETUAL WATERCOURSE WITH A STORM SEWER AND APPURTENANCES.
2. Grantee shall replace any driveway, lawn, shrubbery, or other improvement which may be damaged as a result of construction.
3. Within a reasonable time after completion of construction, and in no event later than forty-five (45) days, Grantee will return the ground to its original condition.
4. Grantee will secure and protect all permanent structures within the construction zone.
5. Grantee will pay for all costs of surveying, recording of documents, filing and transfer fees, escrow costs and title expenses, if any.
6. In addition to the consideration of *(Seven Thousand Two Hundred Seventy-Nine and 77/100)* Dollars (\$7,279.77), the Grantee shall furnish and install six (6) trees on the Grantors property at locations selected by mutual agreement between the Grantee and the Grantor. The trees will have a 1.75-2.00 inch caliper at the time of planting.

Grantor(s) covenant and agrees as follows:

1. Grantor will not install, erect or maintain any structure, fixture or device upon the easement which could in any way interfere with Grantee's use of the easement and right-of-way; however, Grantor retains the right to use the surface of the easement area provided said use does not interfere with the uses granted to Grantee.
2. Authorize the City of Medina, its Engineer, and all other officials, assistants, employees, agents and contractors thereof to enter upon the property designated as 425 North Broadway; Permanent Parcel No. 028-19B-14-144, part of Medina City Lot 539 with the necessary equipment to remove any obstructions as necessary to allow for the proposed culvert, headwall and rock rip rap installation including trees, tree stumps, brush, vegetation, and landscaping; to complete grading to establish the watercourse; to install the proposed headwall, appurtenances and rock channel protection; to complete grading as necessary; to restore the affected areas with topsoil, seed, fertilizer, and mulch in accordance with the plans and/or specifications as prepared by the City of Medina or its agents during the period of time commencing with the breaking of ground for the above described proposed work and terminating when the work has been completed and/or accepted by the City; and
3. Release the City of Medina, its Engineer, and all other officials, assistants, employees, agents and contractors thereof, from claims of damage, of compensation by reason of the above described work as called for by the said plans and/or specifications provided that the property designated as 425 North Broadway; Permanent Parcel No. 028-19B-14-144, part of Medina City Lot 539 is restored to the condition before construction or as close as reasonably possible in conformance with the plans and/or specifications and/or proposed work described above.

All the terms and conditions of this Easement and Right-of-way shall be binding upon and inure to the benefit of the Grantor(s), the Grantee, their heirs, executors, administrator, successors and assigns.

The grant of this Easement and Right-of-way shall constitute a covenant running with the land for the benefit of the Grantee, its successors and assigns.

IN WITNESS WHEREOF, the undersigned has executed this instrument this _____ day of _____, 20_____.

Grantor:
Brian Potter

Signature: _____
Print Name: _____

State of Ohio)
County of Medina) SS:

Before me, a Notary Public, in and for said County and State, personally appeared the Grantor, **Brian Potter**, who acknowledged that he/she/they did sign the foregoing instrument and that the same is his/her/their free act and deed.

In testimony whereof, I have set my hand and official seal at Medina, Ohio, this _____ day of _____, 20_____.

Notary Signature: _____
Print Name: _____
My Commission Expires: _____
Notary Seal:

IN WITNESS WHEREOF, the undersigned has executed this instrument this _____ day of _____, 20_____.

Grantor:
Linda C. Potter

Signature: _____
Print Name: _____

State of Ohio)
County of Medina) SS:

Before me, a Notary Public, in and for said County and State, personally appeared the Grantor, **Linda C. Potter**, who acknowledged that he/she/they did sign the foregoing instrument and that the same is his/her/their free act and deed.

In testimony whereof, I have set my hand and official seal at Medina, Ohio, this _____ day of _____, 20_____.

Notary Signature: _____
Print Name: _____
My Commission Expires: _____
Notary Seal:

This instrument was prepared by:

Gregory Huber, Law Director, City of Medina, Ohio
132 N. Elmwood Avenue
Medina, OH. 44256



Cunningham & Associates, Inc.

Civil Engineering & Surveying
203 W. Liberty St., Medina, Oh 44256
Phone: (330) 725-5980 * Fax (330) 725-8019

EXHIBIT 'A'

Legal Description for a 27-foot X 45-foot Easement Area
Project No. 20-116
December 4, 2020

Situated in the City of Medina, County of Medina, State of Ohio and being known as part of Medina City Lot No. (MCL) 539 and part of lands conveyed to Brian and Linda C. Potter by deed dated November 06, 2017 as recorded in Document No. 2017OR025290 of the Medina County Recorder's Records, further bounded and described as follows:

Commencing at the Southeast corner of said MCL 539, also being a point on the Western Right-of-Way of North Broadway, having a 99-foot width and the **TRUE PLACE OF BEGINNING** of the easement area herein described;

Thence along the Southern line of said MCL 539, bearing South 89°19'59" West, a distance of 27.00 feet to a point thereon;

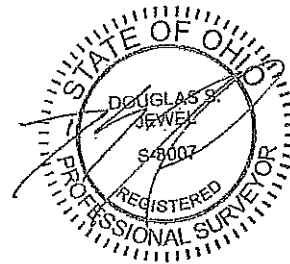
Thence parallel to the Eastern line of said MCL 539 and the Western Right-of-Way of North Broadway, bearing North 00°20'59" West, a distance of 45.00 feet to a point;

Thence parallel to the Southern line of said MCL 539, bearing North 89°19'59" East, a distance of 27.00 feet to a point on the Eastern line of said MCL 539 and the Western Right-of-Way of North Broadway;

Thence along the Eastern line of said MCL 539 and the Western Right-of-Way of North Broadway, bearing South 00°20'59" East, a distance of 45.00 feet to the Southeast corner of said MCL 539, also being a point on the Western Right-of-Way of North Broadway and the **TRUE PLACE OF BEGINNING** containing 0.0279 Acres of land, more or less but subject to all legal highways and all covenants and agreements of record.

Bearings are based on an assumed meridian and are used herein to indicate angles only.

This legal description was prepared based on a survey by and/or under the supervision of Douglas S. Jewel P.S. # S-8007 by Cunningham & Associates, Inc. in December 2020.



PEARL ST.

N. BROADWAY 99' R/W

R/W

R/W

R/W

PROPOSED
EASEMENT AREA
0.0279 A.C.

S89°19'59"W
27.00'

N00°20'59"W
45.00'

N89°19'59"E
27.00'

45.00'

T.P. O.B.

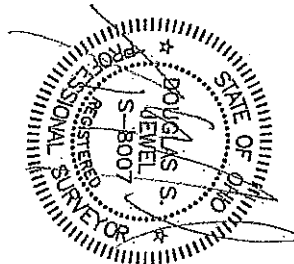
S00°20'59"E

JOSEPH D. SWORTCHEK
DOC. NO. 2018OR016669
2018/08/02
MCL 538

BRIAN & LINDA C POTTER
DOC. NO. 2017OR025290
2017/11/06
MCL 539

PT MCL 540

SITUATED IN THE CITY
OF MEDINA, COUNTY
OF MEDINA, STATE OF
OHIO AND BEING
KNOWN AS PART OF
ORIGINAL MEDINA
CITY LOT 539



Scale: 1" = 40'
BEARINGS ARE TO AN ASSUMED MERIDIAN
AND ARE USED TO DENOTE ANGLES ONLY.



LOCATED IN:
CITY OF MEDINA
COUNTY OF MEDINA
STATE OF OHIO

EXHIBIT B

CUNNINGHAM & ASSOCIATES, INC.
CIVIL ENGINEERING and SURVEYING
203 W. LIBERTY ST. MEDINA, OHIO 44256 330-725-5980

DRAWN BY: KALE
DATE: 11/24/2017

PROJECT NO.
20-116

ACD/PFL/MS
M.L. 136/116/5397

SHEET NO.

1/1