

STATE OF ALABAMA)
CALHOUN COUNTY)

THE MCCLELLAN DEVELOPMENT AUTHORITY
ENVIRONMENTAL COVENANT
NUMBER FY-12-08.00

KNOW ALL MEN BY THESE PRESENTS: That pursuant to the Alabama Uniform Environmental Covenants Act, §§ 35-19-1 through 35-19-14, Code of Alabama 1975, as amended, (the "Act") and the ADEM Administrative Code of Regulations promulgated thereunder,

THE MCCLELLAN DEVELOPMENT AUTHORITY

(hereinafter "MDA" or "Grantor") grants this Environmental Covenant, Numbered FY-12-08.00, which constitutes a servitude arising under an environmental response project that imposes activity and/or use limitations, to the following statutory Holder:

THE MCCLELLAN DEVELOPMENT AUTHORITY

("MDA"), (hereinafter "Grantee" or "Holder"), to-wit:

WHEREAS, the Grantor is the owner of certain real property adjacent to the area known as "CERFA Parcel No. 94(7)" also known as "Former Chemical Laundry and Motor Pool Area 1500" (see Exhibit "A", attached hereto) which is located on the grounds of the former Fort McClellan, in the City of Anniston, Calhoun County, Alabama (the "Property"), which was conveyed to Grantor by deed dated April 1, 2010, and recorded in the Office of the Judge of Probate for said County, Alabama, in Deed Book 3125 at Page 275; and,

WHEREAS, the Property is more particularly described as follows:

COVENANT BOUNDARY FOR FY-12-08.00

A parcel of land situated in the East ½ of Section 22 and the West ½ of Section 23, lying in Township 15 South, Range 8 East, Huntsville Meridian, Calhoun County, Alabama, and being more particularly described as follows:

COMMENCING at a brass disk found at the Southwest corner of Section 22, Township 15 South, Range 8 East, Huntsville Meridian, Calhoun County, Alabama; runs thence as follows:

South 89 degrees 12 minutes East, 5,093.4 Feet;

North 00 degrees 48 minutes East, 3,525.3 Feet to the **POINT OF BEGINNING**, being an unmarked point having Alabama State Plane, East Zone, Coordinates of North: 1,168,251 and East: 673,022; runs thence as follows:

North 00 degrees 00 minutes East, 354.7 Feet;

South 88 degrees 32 minutes East, 215.1 Feet;

South 19 degrees 31 minutes East, 368.6 Feet;
South 89 degrees 41 minutes West, 338.2 Feet to the point of beginning, having an area of 2.23 Acres, more or less.

WHEREAS, this instrument is an Environmental Covenant developed and executed pursuant to The Alabama Uniform Environmental Covenants Act and the regulations promulgated thereunder;

WHEREAS, the Former Chemical Laundry and Motor Pool Area 1500, Parcel 94(7) was formerly used as a vehicle maintenance facility and is approximately 5 acres in size located in the central area of McClellan, along Langley Avenue and south of St. Clair Road. The Former Chemical Laundry consisted of the 111th Garment Impregnation Plant and the 317th Garment Impregnation Plant. The garment impregnation facilities reportedly laundered garments to neutralize chemical warfare material (CWM). The garments were also treated to render them relatively impermeable to CWM. Specific garment impregnation procedures are unknown. Impregnation plants reportedly used large volumes of toluene or ethyl alcohol; however, the standard operating procedures for typical impregnation plants describe the use of water, wax, and "chlorinated oil." The buildings have been demolished. Two concrete slab foundations remain along with concrete sumps or former grease pits. The remainder of the Parcel is covered with asphalt pavement.

Concentrations of contaminants at the Property are below the Site Specific Screening Levels in surface water, sediment, surface soil and subsurface soil; therefore no remediation of these media is required. Concentrations of trichloroethene and vinyl chloride exceeded the site specific screening levels in groundwater in one monitoring well location. Three VOCs (chlorobenzene, trichloroethene and vinyl chloride) are considered Contaminants of Concern (COCs) for the Site.

WHEREAS, the selected remedial action for the covenant Property includes the use of monitored natural attenuation to assess the COC concentrations in groundwater, which is currently being implemented, providing in part for the following actions:

WHEREAS, the Holder will perform groundwater monitoring on an annual basis unless monitoring frequency is modified or ceased by MDA and approved by ADEM. Monitoring will be conducted for, but not limited to, chlorobenzene, trichloroethene and vinyl chloride in groundwater.

WHEREAS, the selected "remedial action" for the covenant Property, which has now been implemented, providing in part, for the following actions,

DESCRIPTION OF REMEDIAL ACTION:

WHEREAS, pursuant to the Alabama Hazardous Wastes Management and Minimization Act of 1978, (AHWMMA), Ala. Code §§ 22-30-1 to 22-30-24, as amended, the GRANTOR and assignees agreed to perform operation and maintenance activities at the Property, pursuant to an ADEM Cleanup Agreement Number AL4-210-020-562 to address the effects of the

release/disposal, which includes controlling exposure to the hazardous wastes, hazardous constituents, hazardous substances, pollutants, or contaminants;

WHEREAS, the said Cleanup Agreement requires institutional controls to be implemented to address the effects of the release/disposal and to protect the remedy so that exposure to the hazardous waste, hazardous constituents, hazardous substances, pollutants, or contaminants is controlled by restricting the use of the Property and the activities on the Property;

WHEREAS, hazardous wastes, hazardous constituents, hazardous substances, pollutants, or contaminants remain on the Property;

WHEREAS, implementation of the approved Cleanup Agreement has achieved risk-based cleanup levels deemed protective of public health and the environment based upon certain use restrictions imposed on the property to limit exposure to potential hazardous waste (HTRW); and,

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by placing restrictions on the Property in accordance with the approved Cleanup Agreement; and

WHEREAS, further information concerning the HTRW and remediation activities, including the Administrative Record, may be obtained by contacting:

Chief, Land Division
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, Alabama 36110
(334) 271-7700

NOW, THEREFORE, Grantor hereby grants this Environmental Covenant to the named Holder, and declares that the Property shall hereinafter be bound by, held, sold, used, improved, occupied, leased, hypothecated, encumbered, and/or conveyed subject to the requirements set forth below:

1. **DEFINITIONS**

Owner. "Owner" means the GRANTOR, its successors and assigns in interest.

2. **USE RESTRICTIONS**

Activities that violate the following restrictions shall not take place on the Property without obtaining prior written approval from ADEM:

- (i) Consumptive or other use of groundwater and direct contact with groundwater is not allowed within the confines of the Covenant Boundary due to low levels of volatile organic compounds (VOCs) in groundwater.

- (ii) If and when property is developed in accordance with the planned use, intrusive activities may require appropriate precautions in accordance with local, state and federal regulations.
- (iii) If and when a building is constructed in accordance with the planned use, an evaluation of the potential for vapor intrusion will be performed at that time in accordance with local, state and federal regulations to determine if vapor mitigation measures are required.
- (iv) Use of site groundwater for potable water, irrigation, industrial and agricultural applications is not allowed within the confines of the Covenant Boundary due to low levels of volatile organic compounds (VOCs) in groundwater.
- (v) The installation of any well for extraction of groundwater for purposes of consumptive or other uses (unless said wells are intended to be utilized by the Holder or ADEM for groundwater monitoring) is prohibited within the Covenant Boundary;
- (vi) If groundwater monitoring wells or a remediation system remain on and/or around the Property (CERFA Parcel and/or Covenant Boundary) these areas shall not be disturbed. Wells and/or remediation systems located on Property that is transferred or leased from the Grantor to a third party will at all times remain accessible to the Grantor; and
- (vii) Grantor reserves an access easement to the Property in any case in which a response action or corrective action is found to be necessary after the date of the establishment of this covenant upon such Property, or in any case such access is necessary to carry out a response action or corrective action on adjoining property.

3. GENERAL PROVISIONS

- A. Restrictions to Run with the Land. This Environmental Covenant runs with the land pursuant to §35-19-5, Code of Alabama 1975, as amended; is perpetual unless modified or terminated pursuant to the terms of this Covenant or §35-19-9 Code of Alabama 1975, as amended; is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof; inures to the benefit of and passes with each and every portion of the Property; and binds the Owner, the Holders, all persons using the land, all persons, their heirs, successors and assigns having any right, title or interest in the Property, or any part thereof who have subordinated those interests to this Environmental Covenant, and all persons, their heirs, successors and assigns who obtain any right, title or interest in the Property, or any part thereof after the recordation of this Environmental Covenant.
- B. Notices Required. In accordance with §35-19-4(b), Code of Alabama 1975, as amended, the Owner shall send written notification pursuant to Section I, below, upon any of the following events affecting the property subject to this covenant: Transfer of any interest, any proposed changes in the use of the property, any applications for building permits, or any proposals for site work that could affect the subsurface areas or contamination on the Property. The Owner shall send this notification within fifteen (15) days of each event listed in this Section.
- C. Registry/Recordation of Environmental Covenant; Amendment; or Termination. Pursuant to §35-19-12(b), Code of Alabama 1975, as amended, this Environmental Covenant and any amendment or termination thereof, shall be contained in the ADEM

Registry of Environmental Covenants. After an environmental covenant, amendment, or termination is filed in the registry, a notice of the covenant, amendment, or termination may be recorded in the land records in lieu of recording the entire covenant in compliance with §35-19-12(b). Grantor shall be responsible for filing the Environmental Covenant within thirty (30) days of the final required signature.

- D. Compliance Certification. In accordance with Ala. Code §35-19-4(b), as amended, the Owner shall submit a report on the effectiveness of the land use controls to the Chief of the ADEM Land Division, on an annual basis. The Land Use Control Effectiveness Report (LUCER) shall be submitted in accordance with §IV.B.9. of the Cleanup Agreement each March and shall detail the Owner's compliance, and any lack of compliance with the terms of the Covenant during the preceding calendar year.
- E. Right of Access. Subject to the requirements of the above-referenced Cleanup Agreement, the Owner hereby grants to ADEM, ADEM's agents, contractors and employees; the Owner's agents, contractors and employees; and any other named Holder, its agents, contractors and employees, the right of access to the Property for implementation or enforcement of this Environmental Covenant.
- F. ADEM Reservations. Notwithstanding any other provision of this Environmental Covenant, ADEM retains all of its access authorities and rights, as well as all of its rights to require additional land/water use restrictions, including enforcement authorities related thereto.
- G. Representations and Warranties. Grantor hereby represents and warrants as follows:
 - i) That the Grantor has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided, and to carry out all obligations hereunder;
 - ii) That the Grantor is the sole owner of the Property and holds fee simple title which is free, clear and unencumbered;
 - iii) That the Grantor has identified all other parties that hold any interest or encumbrance affecting the Property and has notified such parties of the Grantor's intention to enter into this Environmental Covenant.
 - iv) That this Environmental Covenant will not materially violate, contravene, or constitute a material default under, any other agreement, document, or instrument to which Grantor is a party, by which Grantor may be bound or affected;
 - v) That this Environmental Covenant will not materially violate or contravene any zoning law or other law regulating use of the Property;
 - vi) That this Environmental Covenant does not authorize a use of the Property which is otherwise prohibited by a recorded instrument that has priority over the Environmental Covenant.
- H. Compliance Enforcement. In accordance with §35-19-11(b), Code of Alabama 1975, as amended, the terms of the Environmental Covenant may be enforced by the parties to this Environmental Covenant; any person to whom this Covenant expressly grants power to enforce; any person whose interest in the real property or whose collateral or liability may be affected by the alleged violation of the Covenant; or a municipality or other unit of local government in which the real property subject to the Covenant is located, in

accordance with applicable law. Failure to timely enforce compliance with this Environmental Covenant or the use or activity limitations contained herein by any person shall not bar subsequent enforcement by such person and shall not be deemed a waiver of the person's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall limit the regulatory authority of ADEM under any applicable law with respect to the environmental response project.

I. Modifications/Termination. Any modifications or terminations to this Environmental Covenant must be made in accordance with §§ 35-19-9 and 35-19-10, Code of Alabama 1975, as amended.

J. Notices. Any document or communication required to be sent pursuant to the terms of this Environmental Covenant shall be sent to the following persons:

ADEM

Chief, Land Division
A.D.E.M.
1400 Coliseum Boulevard
Montgomery, AL 36110

GRANTOR

The McClellan Development
Authority
4975 Bains Gap Road
Anniston, AL 36205

K. No Property Interest Created in ADEM. Pursuant to §35-19-3(b), Code of Alabama 1975, as amended, the rights of ADEM under the Act or under this Environmental Covenant, other than a right as a holder, is not an interest in the real property subject to the covenant, nor does the approval by ADEM of this Environmental Covenant create any interest in the real property.

L. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

M. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Alabama.

N. Recordation. In accordance with §35-19-8(a), Code of Alabama 1975, as amended, Grantor shall have this Environmental Covenant, and any amendment or termination thereof, recorded in every county in which any portion of the real property subject to this Environmental Covenant is located. Grantor shall have this Environmental Covenant recorded within fifteen (15) days after the date of the final required signature.

O. Effective Date. The effective date of this Environmental Covenant shall be the date the fully executed Environmental Covenant is recorded in accordance with paragraph "N" above.

P. Distribution of Environmental Covenant. In accordance with §35-19-7, Code of Alabama 1975, the Grantor shall, within fifteen (15) days of filing this Environmental Covenant, have a recorded and date stamped copy of same distributed to each of the following: (1) Each person who signed the covenant; (2) Each person holding a recorded interest in the property; (3) Each person in possession of the property; (4) Each municipality or other unit of local government in which the property is located; and (5) Any other person required by ADEM to receive a copy of the covenant. However, the

validity of this Environmental Covenant will not be affected by the failure to provide a copy of the Covenant as herein provided.

- Q. Party References. All references to ADEM, the Grantor, or other applicable parties, shall include successor agencies, departments, divisions, heirs, executors and/or administrators.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this the 28th day of JULY, 2014.

Phil Webb

Grantor

By: Phil Webb

Its: Chairman

STATE OF ALABAMA)
CALHOUN COUNTY)

I, the undersigned Notary Public in and for said County and State, hereby certify that Phil Webb whose name as Chairman of the Grantor is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date and with full authority to do so.

Given under my hand and official seal this 28th day of JULY.



Sandra Roberts

Notary Public

My Commission Expires: My Commission Expires 01/09/2018

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

This Environmental Covenant is hereby approved by the State of Alabama, Department of Environmental Management.


Dated 4 August, 2014

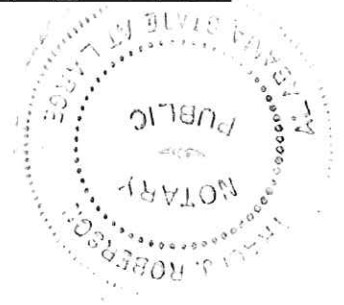
By: 
 Chief, Land Division
 Alabama Department of Environmental
 Management

STATE OF ALABAMA)
 MONTGOMERY COUNTY)

I, the undersigned Notary Public in and for said County and State, hereby certify that Phillip D. Davis, whose name as Chief, Land Division, Alabama Department of Environmental Management is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he approved the same voluntarily on the day the same bears date and with full authority to do so.

Given under my hand and official seal this 4 day of August, 2014.


 Notary Public
 My Commission Expires: 1-30-15



STATE OF ALABAMA)
CALHOUN COUNTY)

I, hereby certify that the foregoing Environmental Covenant has been recorded in the property records of Calhoun County, Alabama, at Deed Book 3177, Page 894 - 903.

Dated August 13, 2014

By: S Robinson
Clerk, Office of Probate Judge

EXHIBIT A

EXHIBIT DRAWING FOR:

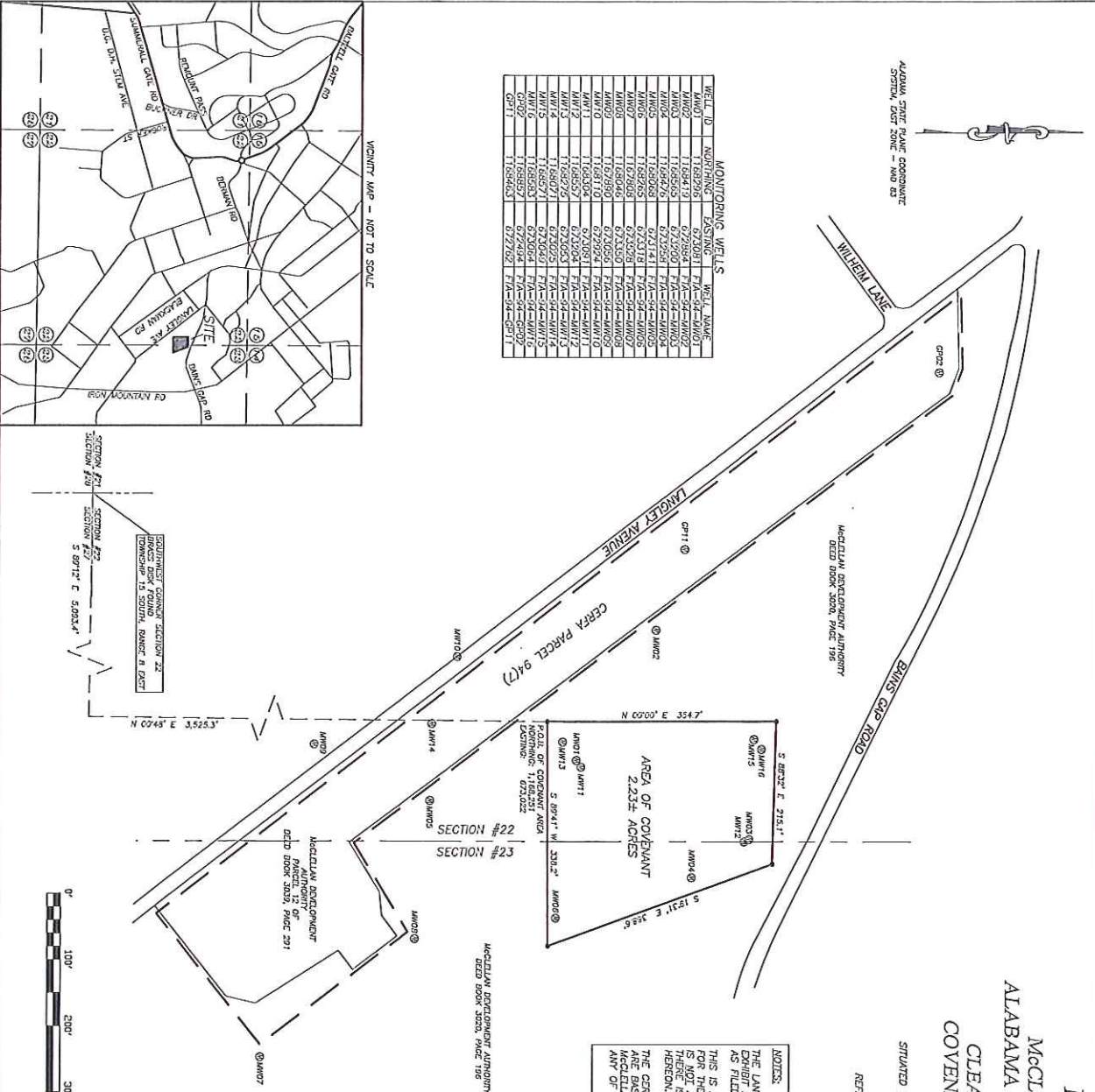
McCLELLAN DEVELOPMENT AUTHORITY &
ALABAMA DEPT. OF ENVIRONMENTAL MANAGEMENT
CLEANUP AGREEMENT NO. AL4 210 020 562
COVENANT BOUNDARY - CERFA PARCEL# 94(7)

SITUATED IN THE EAST 1/2 OF SECTION 22 AND THE WEST 1/2 OF SECTION 23,
HANTSVILLE MERIDIAN, CALHOUN COUNTY, ALABAMA

REFERENCES: DEED BOOK 3020, PAGE 196 (PROPERTY DESCRIPTION)
DEED BOOK 3125, PAGE 275 (TRANSFER TO THE MDA)

NOTES:
THE LAND USE RESTRICTIONS FOR THE COVENANT AREA DERIVED ON THIS EXHIBIT ARE SPECIFICALLY DESCRIBED IN MDA ENVIRONMENTAL COVENANT FTY2-08 AS FILED WITH THE CALHOUN COUNTY PROBATE OFFICE AND ADEA.
THIS IS AN EXHIBIT DRAWING ONLY AND SHOULD ONLY BE USED AS A REFERENCE FOR THE LOCATION OF THE CERFA PARCEL(S) DEPICTED HEREON. THIS DRAWING IS NOT A PART OF A SURVEY AND SHOULD NOT BE USED TO CONVEY PROPERTY. THERE IS NO CERTIFICATION OF THE ACCURACY OF THE MDSURVEY SHOWN HEREON.
THE CERFA PARCEL'S LOCATION & GEOMETRY AND MONITORING WELL LOCATIONS ARE BASED ON DEED RECORDS AND ESRI GIS SHAPFILES PROVIDED BY THE McCLELLAN DEVELOPMENT AUTHORITY. NO FIELDWORK WAS PERFORMED TO VERIFY ANY OF THE INFORMATION PRESENTED HEREON.

WELL ID	NOTHING	EASTING	WELL NAME
WM01	6727192	6727192	WM01
WM02	1168413	6727192	WM02
WM03	1168413	6727192	WM03
WM04	1168413	6727192	WM04
WM05	1168413	6727192	WM05
WM06	1168413	6727192	WM06
WM07	1168413	6727192	WM07
WM08	1168413	6727192	WM08
WM09	1168413	6727192	WM09
WM10	1168413	6727192	WM10
WM11	1168413	6727192	WM11
WM12	1168413	6727192	WM12
WM13	1168413	6727192	WM13
WM14	1168413	6727192	WM14
WM15	1168413	6727192	WM15
WM16	1168413	6727192	WM16
WM17	1168413	6727192	WM17
WM18	1168413	6727192	WM18
WM19	1168413	6727192	WM19
WM20	1168413	6727192	WM20



LEGEND

- COVENANT BOUNDARY
- APPROXIMATE PROPERTY BOUNDARY
- UNMARKED POINT
- MONITORING WELL

L. I. SMITH & ASSOCIATES, INC.
SURVEYORS - ENGINEERS

3010 Lehigh Pike, Suite 100
701-444-1014
701-444-1015
701-444-1016
701-444-1017
701-444-1018
701-444-1019
701-444-1020
701-444-1021
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701-444-1029
701-444-1030

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DRAWN BY: RMB CHECKED BY: US SCALE 1" = 100'
PROJECT # 400729-2020 DATE: 09/23/2012