

**REQUEST FOR RESOLUTION FOR TIER III ENCROACHMENT PERMIT**

**TO:** Caroline Martin, City Attorney's Office

**FROM:** Matt Bryner, P.E.  
Director, Right of Way Services

**ROW NO.:** 2020-ENCROACHMENT-0000001

**DATE:** August 19, 2020

**SUBJECT:** Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to MCSV Holdings I, LLC., their successors and assigns, to encroach into the right-of-way with an elevated patio with railings, stairs, and ramps that occupies approximately 1,110 square feet at 1946 Market Street.

**It is requested that the above subject item be placed on the next available Mayor Council Agenda.**

This office has investigated the request from Martin/Martin c/o Scott Paling dated January 6, 2020, on behalf of MCSV Holdings I, LLC. c/o Matt Runyon for the granting of the above-subject permit.

This matter has been coordinated with Asset Management; Comcast Corporation; Division of Real Estate; Division of Disability Rights; Councilperson CdeBaca, District 9; Community Planning and Development: Building & Construction Services, Planning Services, and Zoning & Development Review; Denver Water; Fire Department; City Forester; Landmark; Metro Wastewater Reclamation District; Office of Emergency Management; Office of Telecommunications; Parks and Recreation; DOTI: Policy and Planning, TES Sign and Stripe, Construction Engineering, ER Transportation and Wastewater, DES Transportation and Wastewater, Survey, Street Maintenance; CenturyLink Corporation; Regional Transportation District; and Xcel Energy, all of whom have indicated no objection for the proposed encroachment.

As a result of the investigations, it has been determined that there is no objection to the granting of the revocable permit.

Therefore, you are requested to initiate Council action for the granting of a revocable permit, subject to certain terms and conditions, to MCSV Holdings I, LLC., their successors and assigns, to encroach into the right-of-way with an elevated patio with railings, stairs, and ramps that occupies approximately 1,110 square feet at 1946 Market Street.

**INSERT PARCEL DESCRIPTION ROW 2020-ENCROACHMENT-0000001-01 HERE**

**STANDARD PROVISIONS**

The revocable permit ("Permit") granted by this resolution is expressly granted upon and subject to each and all of the following terms and conditions:

City and County of Denver Department of Transportation & Infrastructure  
Right-of-Way Services / Engineering & Regulatory  
201 W Colfax Ave, Dept 507 | Denver, CO 80202  
[www.denvergov.org/doti](http://www.denvergov.org/doti)  
Phone: 720-865-3003

- (a) Permittee shall obtain a street occupancy permit from DOTI Permit Operations at 2000 West 3<sup>rd</sup> Avenue, 303.446.3759, and prior to commencing construction.
- (b) Permittee shall be responsible for obtaining all other permits and shall pay all costs that are necessary for installation and construction of items permitted herein.
- (c) If the Permittee intends to install any underground facilities in or near a public road, street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification Association of Owners and Operators of Underground Facilities by contacting the Utility Notification Center of Colorado, 16361 Table Mountain Pkwy, Golden, Colorado, 80403 at 303.232.1991. Further, Permittee shall contact the Utility Notification Center, at 811 to locate underground facilities prior to commencing any work under this permit.
- (d) Permittee is fully responsible for any and all damages incurred to facilities of the Water Department and/or drainage facilities for water and sewage of the City and County of Denver due to activities authorized by the permit. Should the relocation or replacement of any drainage facilities for water and sewage of the City and County of Denver become necessary as determined by the Manager of DOTI, in the Manager's sole and absolute discretion, Permittee shall pay all cost and expense of the portion of the sewer affected by the permitted structure. The extent of the affected portion to be replaced and relocated by Permittee shall be determined by the Manager of Public Works. Any and all replacement or repair of facilities of the Water Department and/or drainage facilities for water and sewage of the City and County of Denver attributed to the Permittee shall be made by the Water Department and/or the City and County of Denver at the sole expense of the Permittee. In the event Permittee's facilities are damaged or destroyed due to the Water Department's or the City and County of Denver's repair, replacement and/or operation of its facilities, repairs will be made by Permittee at its sole expense. Permittee agrees to defend, indemnify and save the City harmless and to repair or pay for the repair of any and all damages to said sanitary sewer, or those damages resulting from the failure of the sewer to properly function as a result of the permitted structure.
- (e) Permittee shall comply with all requirements of affected utility companies and pay for all costs of removal, relocation, replacement or rearrangement of utility company facilities. Existing telephone facilities shall not be utilized, obstructed or disturbed.
- (f) All construction in, under, on or over the Encroachment Area shall be accomplished in accordance with the Building Code of the City and County of Denver. Plans and Specifications governing the construction of the Encroachments shall be approved by the Manager of Public Works and the Director of the Building Inspection Division prior to construction. Upon completion, a reproducible copy of the exact location and dimensions of the Encroachments shall be filed with the Manager of Public Works.

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- (g) The sidewalk and street/alley over the Encroachment Area shall be capable of withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The installations within the Encroachment Area shall be constructed so that the paved section of the street/alley can be widened without requiring additional structural modifications. The sidewalk shall be constructed so that it can be removed and replaced without affecting structures within the Encroachment Area.
- (h) Permittee shall pay all costs of construction and maintenance of the Encroachment. Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing the Encroachment from the Encroachment Area, and return the Encroachment Area to its original condition under the supervision of the City Engineer.
- (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that become broken, damaged or unsightly during the course of construction. In the future, Permittee shall also remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that become broken or damaged when, in the opinion of the City Engineer, the damage has been caused by the activity of the Permittee within the Encroachment Area. All repair work shall be accomplished without cost to the City and under the supervision of the City Engineer.
- (j) The City reserves the right to make an inspection of the Encroachments contained within the Encroachment Area. An annual fee, subject to change, of \$200.00 shall be assessed.
- (k) This revocable permit shall not operate or be construed to abridge, limit or restrict the City and County of Denver in exercising its right to make full use of the Encroachment Area and adjacent rights-of-way as public thoroughfares nor shall it operate to restrict the utility companies in exercising their rights to construct, remove, operate and maintain their facilities within the Encroachment Area and adjacent rights-of-way.
- (l) During the existence of the Encroachments and this permit, Permittee, its successors and assigns, at its expense, and without cost to the City and County of Denver, shall procure and maintain a single limit comprehensive general liability insurance policy with a limit of not less than \$500,000.00. All coverage's are to be arranged on an occurrence basis and include coverage for those hazards normally identified as X.C.U. during construction. The insurance coverage required herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit or lessen the liability of the Permittee, its successors or assigns, under the terms of this permit. All insurance coverage required herein shall be written in a form and by a company or companies approved by the Risk Manager of the City and County of Denver and authorized to do business in the State of Colorado. A certified copy of all such insurance

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policies shall be filed with the Manager of Public Works, and each such policy shall contain a statement therein or endorsement thereon that it will not be canceled or materially changed without written notice, by registered mail, to the Manager of Public Works at least thirty (30) days prior to the effective date of the cancellation or material change. All such insurance policies shall be specifically endorsed to include all liability assumed by the Permittee hereunder and shall name the City and County of Denver as an additional insured.

- (m) Permittee shall comply with the provisions of Article IV (Prohibition of Discrimination in Employment, Housing and Commercial Space, Public Accommodations, Educational Institutions and Health and Welfare Services) of Chapter 28 (Human Rights) of the Revised Municipal Code of the City and County of Denver. The failure to comply with any such provision shall be a proper basis for revocation of this permit.
- (n) The right to revoke this permit is expressly reserved to the City and County of Denver.
- (o) Permittee shall agree to indemnify and always save the City and County of Denver harmless from all costs, claims or damages arising, either directly or indirectly, out of the rights and privileges granted by this permit.

#### **SPECIAL CONDITIONS FOR THIS PERMIT**

- (p) None

A map of the area is attached hereto.

MB: dp

|   |  |
|---|--|
| cc: Asset Management, Steve Wirth<br>City Council Office, Zach Rothmier<br>Councilperson and Aides<br>Department of Law, Bradley Beck<br>Department of Law, Deanne Durfee<br>Department of Law, Maureen McGuire<br>Department of Law, Martin Plate<br>Department of Law, Caroline Martin<br>DOTI, Alba Castro<br>DOTI, Jason Gallardo<br>Project File | Property Owner:<br>Matt Runyon<br>MCSV Holdings I, LLC<br>1962 Blake Street<br>Ste 200<br>Denver, CO 80202 |
|---|--|

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**ORDINANCE/RESOLUTION REQUEST**

Please email requests to Jason Gallardo

at [Jason.Gallardo@denvergov.org](mailto:Jason.Gallardo@denvergov.org) by **12:00pm on Monday**. Contact her with questions.

Date of Request: August 19, 2020

Please mark one:  Bill Request or  Resolution Request

**1. Type of Request:**

- Contract/Grant Agreement     Intergovernmental Agreement (IGA)     Rezoning/Text Amendment
- Dedication/Vacation             Appropriation/Supplemental             DRMC Change
- Other: Tier III Encroachment

**2. Title:** (Start with *approves, amends, dedicates*, etc., include name of company or contractor and indicate the type of request: grant acceptance, contract execution, contract amendment, municipal code change, supplemental request, etc.)

Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to MCSV Holdings I, LLC., their successors and assigns, to encroach into the right-of-way with an elevated patio with railings, stairs, and ramps that occupies approximately 1,110 square feet at 1946 Market Street.

**3. Requesting Agency:** Department of Transportation and Infrastructure; Engineering and Regulatory

**4. Contact Person:**

|   |   |
|---|---|
| Contact person with knowledge of proposed ordinance/resolution                  | Contact person to present item at Mayor-Council and Council                           |
| Name: Devin Price   | Name: Jason Gallardo  |
| Email: <a href="mailto:devin.price@denvergov.org">devin.price@denvergov.org</a> | Email: <a href="mailto:Jason.Gallardo@denvergov.org">Jason.Gallardo@denvergov.org</a> |

**5. General description or background of proposed request. Attach executive summary if more space needed:**

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**6. City Attorney assigned to this request (if applicable):** Martin Plate

**7. City Council District:** Councilwoman CdeBaca, District 9

**8. \*\*For all contracts, fill out and submit accompanying Key Contract Terms worksheet\*\***

**Key Contract Terms**

**Type of Contract: (e.g. Professional Services > \$500K; IGA/Grant Agreement, Sale or Lease of Real Property):**

*To be completed by Mayor's Legislative Team:*

Resolution/Bill Number: \_\_\_\_\_

Date Entered: \_\_\_\_\_

Vendor/Contractor Name:

Contract control number:

Location:

Is this a new contract?  Yes  No Is this an Amendment?  Yes  No If yes, how many? \_\_\_\_\_

Contract Term/Duration (for amended contracts, include existing term dates and amended dates):

Contract Amount (indicate existing amount, amended amount and new contract total):

| <i>Current Contract Amount<br/>(A)</i> | <i>Additional Funds<br/>(B)</i> | <i>Total Contract Amount<br/>(A+B)</i> |
|--|---------------------------------|--|
|  |                                 |  |

| <i>Current Contract Term</i> | <i>Added Time</i> | <i>New Ending Date</i> |
|------------------------------|-------------------|------------------------|
|                              |                   |                        |

Scope of work:

Was this contractor selected by competitive process?

If not, why not?

Has this contractor provided these services to the City before?  Yes  No

Source of funds:

Is this contract subject to:  W/MBE  DBE  SBE  XO101  ACDBE  N/A

WBE/MBE/DBE commitments (construction, design, Airport concession contracts):

Who are the subcontractors to this contract?

*To be completed by Mayor's Legislative Team:*

Resolution/Bill Number: \_\_\_\_\_

Date Entered: \_\_\_\_\_



# TIER III ENCROACHMENT EXECUTIVE SUMMARY

**What is an Encroachment:** A privately owned improvement that is located in, or projects over or under the public Right-of-Way.

**Project Title:** 2020-ENCROACHMENT-0000001 - Tier III Patio with Railings and Stairs at 1946 Market St

**Business name:** MCSV Holdings I, LLC c/o Matt Runyon

**Description of Encroachment:** The proposed encroachment is an elevated patio with railings, stairs, and ramps within the right-of-way that occupies approximately 1,110 square feet.

**Explanation of why the Public Right-of-Way must be utilized for a private improvement:** The existing building is a historical building that previously used a loading dock in the early 1900's. Presently, the building serves as a restaurant and bar, which has an existing patio in place of the pre-existing loading dock that also encroaches into the right-of-way. The proposed improvements include replacement of existing patio and staircase currently serving the main entrance of the building with the proposed elevated patio with railings, stairs, and ramps presented in this application.

**Annual Fees:** \$200.00

**Additional Information:** Due to the previous use of this historical site and elevated finished floor, the stairs and ramps will be necessary to allow for safe access into the building.

**Location Map:** Continued on next page

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EXHIBIT A  
LAND DESCRIPTION  
SHEET 1 OF 2

LAND DESCRIPTION:

A PARCEL OF LAND BEING A PORTION OF MARKET STREET RIGHT-OF-WAY ADJACENT TO LOTS 3 THROUGH 6, BLOCK 50, EAST DENVER LOCATED IN THE NORTHWEST ONE-QUARTER OF SECTION 34, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE RANGE LINE INTERSECTION OF THE 20' RANGE LINE IN MARKET STREET AND THE 20' RANGE LINE IN 20<sup>TH</sup> STREET,  
THENCE S05°27'46"W A DISTANCE OF 95.06 TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF MARKET STREET, ALSO BEING THE POINT OF BEGINNING;  
THENCE ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, S44°35'55"W A DISTANCE OF 96.58 FEET TO THE WESTERLY MOST CORNER OF SAID LOT 6;  
THENCE N45°24'05"W A DISTANCE OF 11.50 FEET;  
THENCE N44°35'55"E A DISTANCE OF 96.58 FEET;  
THENCE S45°24'05"E A DISTANCE OF 11.50 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS 0.025 ACRES (1111 SQUARE FEET), MORE OF LESS.

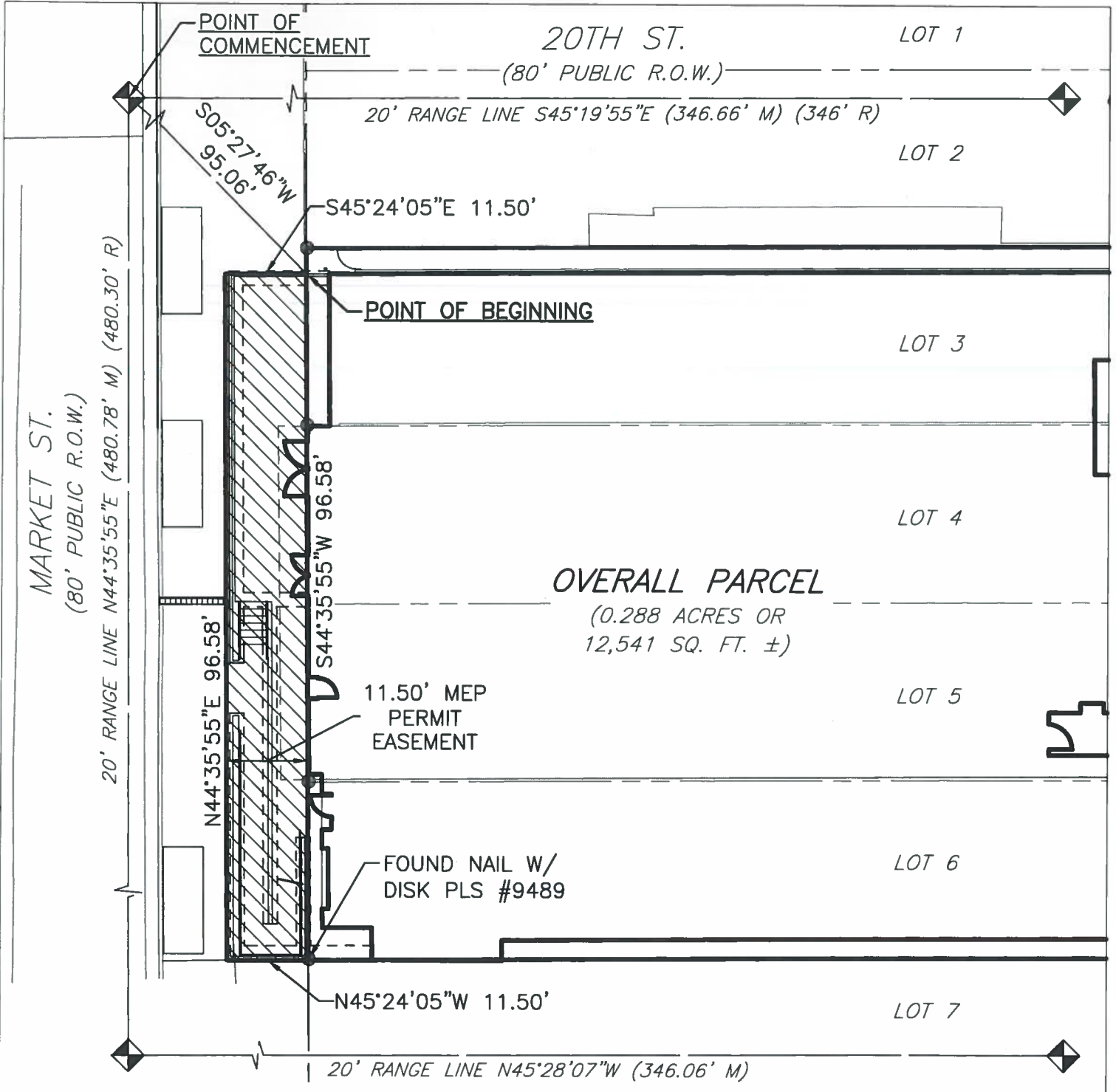
ALL DIMENSIONS ARE IN U.S. SURVEY FEET.

BEARINGS ARE BASED ON AN ASSUMED BEARING OF N44°35'55"E ALONG THE 20 FOOT RANGE LINE IN MARKET STREET BETWEEN 19<sup>TH</sup> STREET AND 20<sup>TH</sup> STREET BEING MONUMENTED BY A FOUND 3-1/4" ALUMINIUM CAP PLS #25379 IN RANGE BOX AT 19<sup>TH</sup> STREET AND MARKET STREET AND A FOUND CDOT 3-1/4" ALUMINIUM CAP PLS UNREADABLE IN RANGE BOX AT 20<sup>TH</sup> STREET AND MARKET STREET.

PREPARED BY JESUS DIAZ  
REVIEWED BY RICHARD A. NOBBE, PLS  
FOR AND ON BEHALF OF MARTIN/MARTIN, INC.  
12499 WEST COLFAX AVENUE  
LAKEWOOD, COLORADO 80215  
DECEMBER 3, 2019



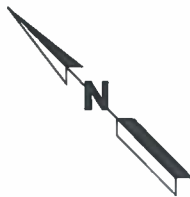
EXHIBIT A  
SHEET 2 OF 2



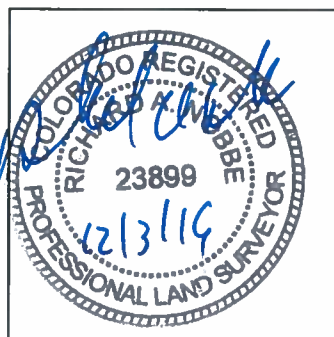
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SCALE: 1"=20'  
ALL DIMENSIONS ARE  
U.S. SURVEY FEET



THIS EXHIBIT DOES NOT REPRESENT A  
MONUMENTED LAND SURVEY. IT IS ONLY  
TO DEPICT THE ATTACHED DESCRIPTION.



12/03/19



12499 WEST COLFAX AVENUE, LAKEWOOD, COLORADO 80215  
303.431.6100 MARTINMARTIN.COM

MARTIN/MARTIN, INC., 4251 Kipling, Wheat Ridge, Colorado 80034-4001  
(null)  
(null)

| No  | Bearing    | Chord  | Radius | M Arc | C Arc | Delta |
|-----|------------|--------|--------|-------|-------|-------|
| 001 | S44-35-55W | 96.580 |        |       |       |       |
| 002 | N45-24-05W | 11.500 |        |       |       |       |
| 003 | N44-35-55E | 96.580 |        |       |       |       |
| 004 | S45-24-05E | 11.500 |        |       |       |       |

CLOSURE = 0.000 N41-15-45W  
PERIMETER = 216.160 PRECISION = 1: 1000000  
AREA = 1110.67 SQ. FEET OR 0.025497 ACRES