

RESOLUTION NO. RS2019 - 108

A resolution authorizing Oliver McMillan Spectrum Emery, LLC to construct and install an aerial encroachment at 5002 Broadway. (Proposal No.2019M-036EN-001).

WHEREAS, Oliver McMillan Spectrum Emery, LLC plans to construct, install and maintain an aerial encroachment, under Proposal No. 2019M-036EN-001, at 5002 Broadway; and,

WHEREAS, Proposal No. 2019M-036EN-001 is comprised of a canopy projecting from the building 13.6 feet, encroaching the public right-of-way, on property located at 5002 Broadway; and,

WHEREAS, Oliver McMillan Spectrum Emery, LLC has agreed to indemnify and hold The Metropolitan Government of Nashville and Davidson County harmless of any and all claims for damages of every nature and kind resulting from or arising from the installation of said aerial encroachment; and,

WHEREAS, Metropolitan Code of Laws §13.16.030(A) allows the Council of The Metropolitan Government of Nashville and Davidson County to grant encroachments, permits, or privileges to construct, maintain and/or operate aerial cables, canopies, etc., over and/or across sidewalks and public rights-of-way by Resolution adopted by twenty-one (21) affirmative votes.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That subject to the requirements, limitations and conditions contained herein, Oliver McMillan Spectrum Emery, LLC is hereby granted the privilege to construct and maintain said aerial encroachment in accordance with the plans which are on file in the office of the Director of Public Works, and which are more particularly described by lines, words and figures on the attached sketches which are attached to and made a part of this Resolution.

Section 2. That the authority granted hereby for the construction, installation, operation, and maintenance of said aerial encroachment shall not be construed as a surrender by the Metropolitan Government of its rights or power to pass resolutions or ordinances regulating the use of its streets, or the right of the Metropolitan Government through its legislative body, in the interest of public necessity and convenience to order the relocation of said facilities at the expense of Oliver McMillan Spectrum Emery, LLC.

Section 3. That plans and specifications for said aerial encroachment shall be submitted to the Director of Public Works of The Metropolitan Government of Nashville and Davidson County for approval before any work is begun; and all work, material, and other details of said installation shall be approved by the Director of Public Works prior to its use by Oliver McMillan Spectrum Emery, LLC.

Section 4. That construction and maintenance of said aerial encroachment shall be under the direction, supervision, and control of the Director of Public Works, and its installation, when complete, must be approved by said Director.

Section 5. That this Resolution confers upon Oliver McMillan Spectrum Emery, LLC, a privilege and not a franchise, and the Mayor and the Metropolitan Council herein expressly reserve the right to repeal this Resolution, whenever, in their judgment, a repeal may be demanded by public welfare, and such repeal shall confer no liability on The Metropolitan Government of Nashville and Davidson County, its successors and assigns, by reason of said repeal. In the event of such repeal by said Metropolitan Government, Oliver McMillan Spectrum Emery, LLC, its successors and assigns, shall remove said aerial encroach at their own expense.

Section 6. Oliver McMillan Spectrum Emery, LLC shall pay all costs incident to the construction, installation, operation and maintenance of said aerial encroachment and shall save and hold The Metropolitan Government of Nashville and Davidson County harmless from all suits, costs, claims, damages or judgments in any way connected with said construction, installation, operation and maintenance of said aerial encroachment and shall not claim, set up or plead, as a defense, in the event of joint liability, with or without suit, that it and the Metropolitan Government were joint wrongdoers. Oliver McMillan Spectrum Emery, LLC shall be responsible for the expense, if any, of repairing and returning the right-of-way to the condition which it was in prior to the installation of said aerial encroachment, and for any street closure.

Section 7. That the authority granted to Oliver McMillan Spectrum Emery, LLC, as herein described, shall not in any way interfere with the rights of the Metropolitan Government, its agents, servants, and/or contractors and utility companies, operating under franchise from the Metropolitan Government to enter, construct, operate, maintain, repair, rebuild, enlarge, and patrol its now existing or future utilities, including drainage facilities, together with their appurtenances, and to do any and all things necessary and incidental thereto.

Section 8. Oliver McMillan Spectrum Emery, LLC, shall and is hereby required, to furnish The Metropolitan Government of Nashville and Davidson County a certificate of public liability insurance, naming The Metropolitan Government as an insured party, of at least four million (\$4,000,000) dollars aggregate, for the payment of any judgment had on any claim, of whatever nature, made for actions or causes of action arising out of, or connected with, the construction or installation of said aerial encroachment. Said certificate of insurance shall be filed with the Metropolitan Clerk and the Department of Public Works prior to the granting of a permit, and the insurance required herein shall not be canceled without the insurance company or companies first giving thirty (30) days written notice to The Metropolitan Government of Nashville and Davidson County.

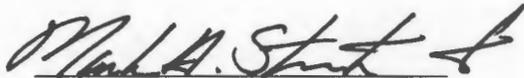
Section 9. That said construction shall be carefully guarded and protected, and shall be completed promptly, so as to cause the least inconvenience to the public. The acceptance by

Oliver McMillan Spectrum Emery, LLC of all provisions of this Resolution shall be determined by the beginning of work.

Section 10. The authority granted pursuant to this Resolution shall not become effective until the certificate of insurance, as required in Section 8, has been posted with the Metropolitan Clerk and the Department of Public Works.

Section 11. This Resolution shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

RECOMMENDED BY:



Mark Sturtevant, Director
Department of Public Works

INTRODUCED BY:

Member(s) of Council

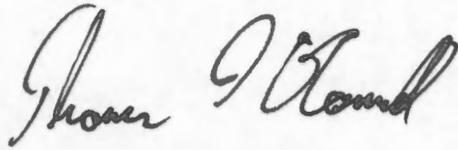
APPROVED AS TO FORM
AND LEGALITY:



Assistant Metropolitan Attorney

Electronic Signature Page

(Attach to Legislation Pursuant to Rule 8 of the Council Rules of Procedure)

A handwritten signature in cursive script, appearing to read "Freddie O'Connell".

Freddie O'Connell
Councilmember, District 19

Electronic Signature Page

(Attach to Legislation Pursuant to Rule 8 of the Council Rules of Procedure)

Kathleen D Murphy

Kathleen Murphy
Councilmember, District 24

Electronic Signature Page

(Attach to Legislation Pursuant to Rule 8 of the Council Rules of Procedure)

Angie E. Henderson

Angie Henderson
Councilmember, District 34

Proposal No. 2019M-036EN-001

ACORD **CERTIFICATE OF LIABILITY INSURANCE** DATE (MM/CC/YYYY) 09/15/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURERS, AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Services Northeast, Inc. Garden City NY Office 900 Stewart Avenue 3rd Floor Garden City NY 11530 USA	CONTACT PHONE (516) 390-4836 FAX (800) 363-0101 E-MAIL ADDRESS
INSURED Skanska USA Building Inc. 5000 Hamilton Blvd., Suite 100 Franklin TN 37067 USA	INSURER(S) AFFORDING COVERAGE
	INSURER A: Berkshire Hathaway Specialty Ins Company 22276 INSURER B: Zurich American Ins Co 16535 INSURER C: American Zurich Ins Co 40142 INSURER D: INSURER E: INSURER F:

COVERAGES CERTIFICATE NUMBER: 570071064002 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. *Limits shown are as requested.*

TYPE OF INSURANCE	POLICY NUMBER	START DATE	END DATE	LIMITS
<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLASSIFICATION <input type="checkbox"/> OCCURS Waiver of Subrogation BENEFIT SEVERITY LIMIT APPLIES PER <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER	GL0019564700	05/19/2018	05/19/2021	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (EA ADDRESS) \$2,000,000 VEH & EQ (Per other policies) \$20,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMPOUND \$4,000,000
AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED <input type="checkbox"/> AUTO ONLY <input type="checkbox"/> NON-OWNED ONLY <input type="checkbox"/> SCHEDULED AUTO <input type="checkbox"/> AUTO-OWNED <input type="checkbox"/> AUTO ONLY				COMBINED SINGLE LIMIT (Per accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
<input checked="" type="checkbox"/> UMBRELLA LIMIT <input type="checkbox"/> OCCURS <input checked="" type="checkbox"/> EXCESS LIMIT <input type="checkbox"/> CLASSIFICATION <input type="checkbox"/> DED <input type="checkbox"/> RETENTION	47xsp 80258101 Primary \$25M	05/19/2018	05/19/2021	EACH OCCURRENCE \$25,000,000 AGGREGATE \$25,000,000
C WORKERS COMPENSATION AND EMPLOYERS LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/SHAREHOLDER EXCLUDED? (Secondary in US) If yes, describe under DESCRIPTION OF OPERATIONS below	wc019364801	05/19/2018	05/19/2018	<input checked="" type="checkbox"/> PER <input type="checkbox"/> ADULTS <input type="checkbox"/> OTHER B.L. EACH ACCIDENT \$2,000,000 P.L. DISEASE-SEA EMPLOYEE \$2,000,000 P.L. DISEASE-POLICY LIMIT \$2,000,000

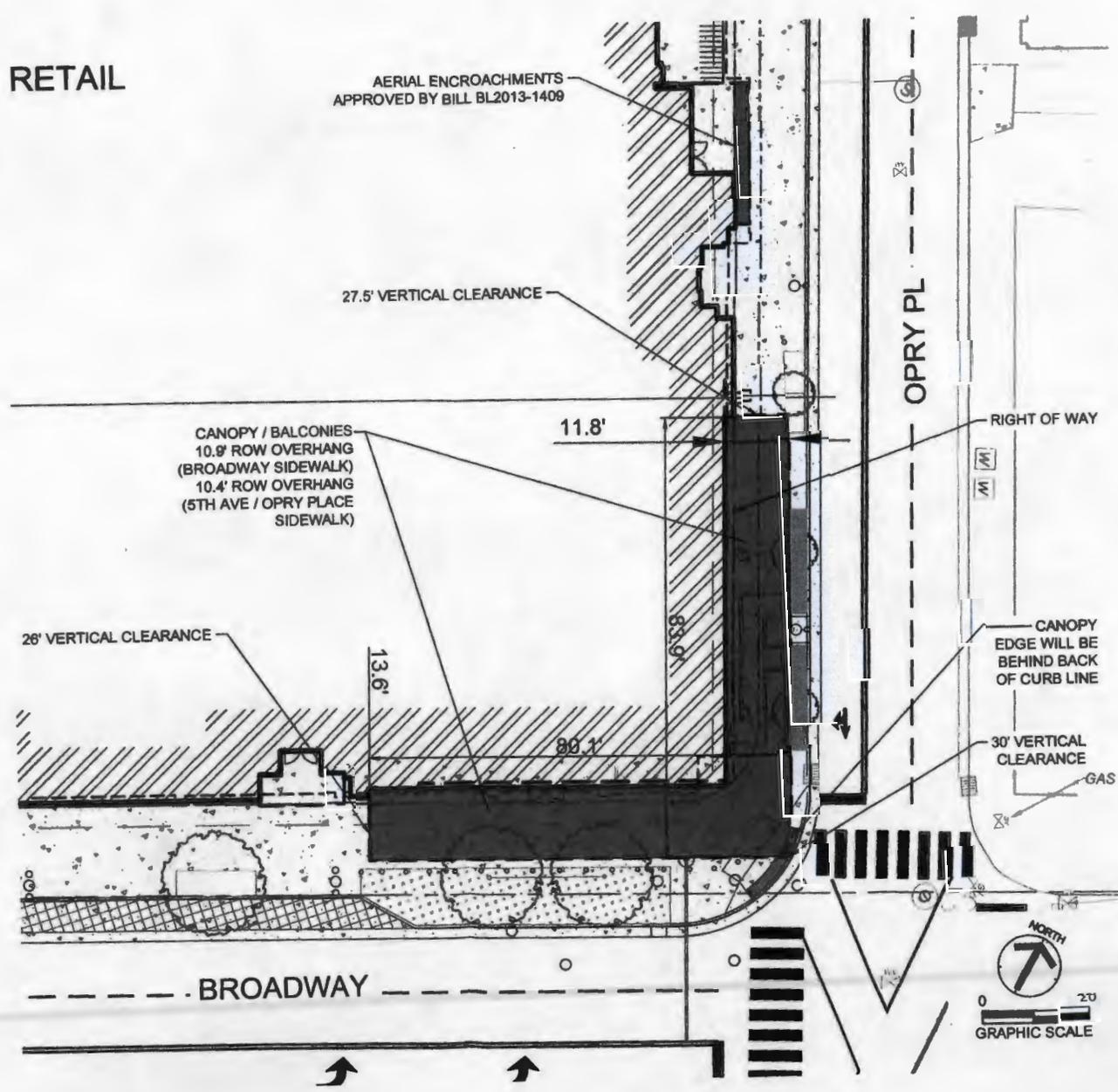
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Re: Nashville Convention Center Redevelopment @ 2514000-000.
 Coverage is limited to work performed of the Skanska USA Building Inc., Nashville Convention Center Redevelopment under contract 2514000-000. The project is located at 601 Commerce Street Nashville, TN 37203. Skanska USA Building Inc., Skanska USA Inc., Skanska Inc., and each of their respective directors, officers, employees and affiliates, Indemnified Parties, any other parties as required by the Owner contract, The Metropolitan Government of Nashville and Davidson County, and ALL CONTRACT PARTIES are listed as additional insured's on a primary and non-contributory basis on the General Liability and Excess Liability coverages. Waiver of Subrogation applies to all policies.
 Oliver McMillan Spectrum Emery, LLC is an additional named insured.

CERTIFICATE HOLDER The Metropolitan Government of Nashville & Davidson County Metro Logo & Claims C/O Insurance and Safety Division 222 3rd Avenue North Ste 9101 Nashville TN 37203 USA	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Aon Risk Services Northeast Inc</i>
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LEGEND

CANOPIES, BALCONIES, AND BUILDING FACE (AERIAL ENCROACHMENT) 

RETAIL



CLIENT
OMISE
 Client/Architect
 733 8th Avenue, San Diego, CA 92101

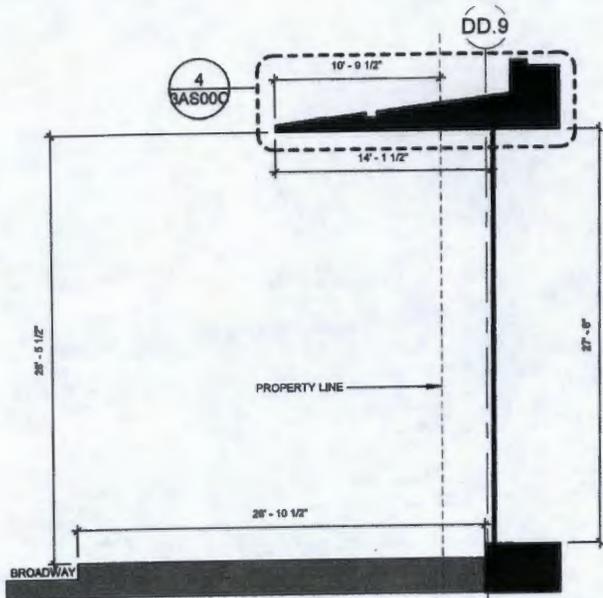
PROJECT
CORNER TENANT
FIFTH + BROADWAY
NASHVILLE
 500 Broadway, Nashville TN, 37203



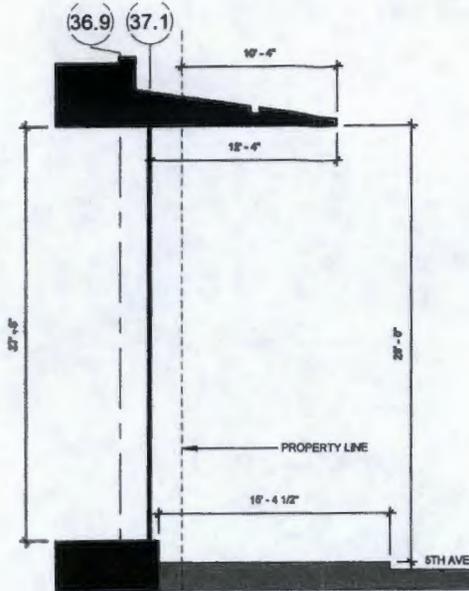
PRELIMINARY
 NOT FOR
 CONSTRUCTION

MANDATORY
 REFERRAL
 SITE PLAN
 AERIAL
 ENCROACHMENTS

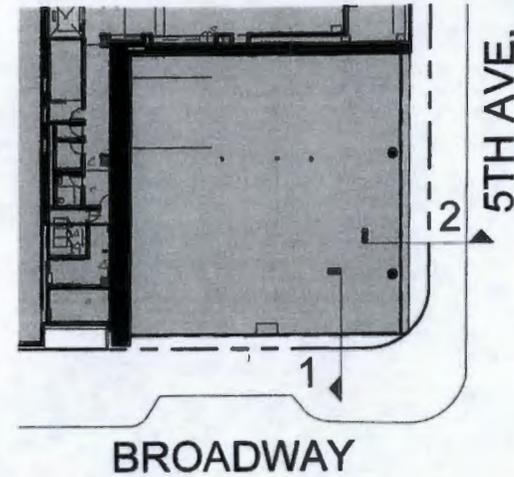
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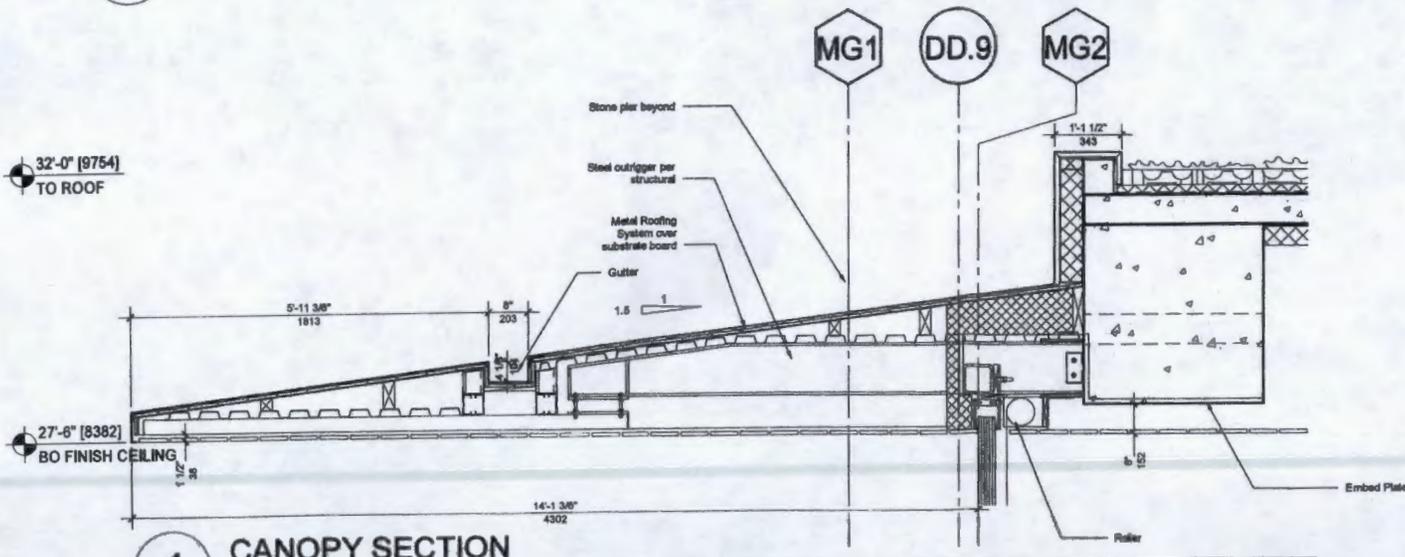
1 BROADWAY SECTION
1/8" = 1'-0"



2 5TH AVE. SECTION
1/8" = 1'-0"



3 SITE PLAN
1" = 30'-0"



4 CANOPY SECTION
1/2" = 1'-0"

CLIENT
OMISE
O'Brien/McMillan
733 8th Avenue, San Diego, CA 92101

PROJECT
**FIFTH + BROADWAY
NASHVILLE**
500 Broadway, Nashville TN, 37203

**Gresham
Smith**

**WOODS
BAGOT.**

PRELIMINARY
NOT FOR
CONSTRUCTION

MANDATORY
REFERRAL

3AS00C

PROJECT: 29099.15
DATE: 06/04/2019