

FAÇADE AGREEMENT

This Façade Agreement (this "Agreement") is made and entered into this 15 day of April, 2020, by and between THE LONGMONT DOWNTOWN DEVELOPMENT AUTHORITY, a body corporate and politic, 320 Main Street, Longmont, CO 80501 (the "DDA") and 150 MAIN OWNER, LLC, a Delaware limited liability company, 263 2nd Avenue, Niwot, CO 80503 ("Owner").

WITNESSETH:

WHEREAS, Owner is the owner of the building and the property located at 150 Main Street, Longmont, CO 80501, and more particularly described as:

LOTS 1 AND 2, SOUTH MAIN STATION SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 4, 2017 UNDER RECEPTION NO. 03629067, COUNTY OF BOULDER, STATE OF COLORADO.

(referred to herein as the "Property") which lies within the boundaries of the DDA and which the Owner is in the process of redeveloping; and

WHEREAS, pursuant to C.R.S. §31-25-808, the DDA has the authority to acquire by purchase, lease, option, gift, grant, devise or otherwise an easement on, over and across any property; and

WHEREAS, in accordance with the legislative purpose of downtown development authorities as set forth in C.R.S. §31-25-801, the DDA has a substantial interest in the development, redevelopment, and renovation of property within its boundaries; and

WHEREAS, the DDA has agreed to the payment of certain monies by the DDA to the Owner for the right to acquire an easement from the Owner over the west (Main Street), and north (2nd Avenue), facing façades of the building located on the Property in exchange for certain commitments from the Owner in connection with the design, construction, maintenance and use of such façade improvements which exceed normal development requirements and create a strong pedestrian orientation; and

WHEREAS, the Board of Directors of the DDA, at a duly-convened meeting on April 22, 2020, determined that the project located on the Property is consistent with the goals and purposes of the DDA and thereupon approved funding for this project from the façade improvement program up to the amount authorized in Section 3 below and authorized the Chairperson of the Board of the DDA to execute this Agreement and the Grant of Façade Easement attached hereto as Exhibit A (the "Easement Agreement").

NOW, THEREFORE, by and in consideration of the above premises and the within terms and conditions, the parties hereto agree as follows:

1. FAÇADE IMPROVEMENTS

The Owner agrees to grant, and the DDA agrees to acquire an easement on, over and across the west (Main Street), and north (2nd Avenue), facing façades of the buildings located on the Property (the "Façade Locations") for the purpose of preserving them, for structural support of the façade and for maintenance thereof in accordance with the terms of this Agreement (the "Façade Easement"). Owner's obligations set forth in this Agreement shall be secured by the Easement Agreement. In contemplation of this Agreement, the Owner has completed façade improvements on the Façade Locations of the Property, all consistent with the designs, attached hereto and incorporated herein as Exhibit 1 (the "Façade Improvements"). The Owner has caused the Façade Improvements to be constructed substantially in accordance with the approved designs.

2. TITLE INSURANCE

Execution of this Agreement by the DDA shall be expressly contingent upon the delivery to, and approval by, the DDA of a title insurance commitment issued by a title insurance company licensed by the State of Colorado and doing business in Boulder County, Colorado, showing the status of record title to the Property (the "Title Commitment"). The Title Commitment shall commit to insure the Façade Easement in favor of the DDA in the amount of the purchase price for the Façade Easement, subject only to the existing first and second lien deeds of trust now existing, existing matters of record, the encroachment of a portion of the Façade Improvements into the right-of-way existing in favor of the City of Longmont, and the lien for 2019 real property taxes, and subsequent years. The premium for issuance of the title policy based on the Title Commitment shall be the sole responsibility of Owner.

3. PAYMENT CONDITIONS

Upon the occurrence of all of the following events, the DDA shall purchase the Façade Easement from the Owner at a cost equal to the actual design and construction costs of the Façade Improvements, up to a maximum of seven hundred thirty thousand dollars (\$730,000). The amount paid by the DDA for the Façade Easement represents the DDA's share of the cumulative annual real property Tax Increment Revenue anticipated from the Property for tax years 2019 through 2033 based on the Sharing Ratios (defined below) (the "DDA's Share of Tax Revenue"). Each year, the "Tax Increment Revenue" will be calculated as the difference between the DDA's Share of Tax Revenue paid by Owner relating to the Property in that tax year and the DDA's Share of Tax Revenue paid by Owner for tax year 2018 which was \$17,763. For the purpose of this calculation, the parties agree that DDA's Share of Tax Revenue is based on the following Sharing Ratios:

Taxing Authority	Percent of Mill Levy Paid to DDA
Longmont Downtown Development Authority	100%
City of Longmont	100%
Boulder County	50%
St. Vrain Valley School District	50%

Northern Colorado Water Conservancy District	50%
St. Vrain Lefthand Water District	50%

If any change in applicable law impacts the Sharing Ratios or the ability of the DDA to achieve full repayment, as set forth in this paragraph 3, this Agreement shall be amended to ensure the DDA is repaid as contemplated by this Agreement.

3.1. Adoption by the City Council of the City of Longmont, Colorado ("City") of an ordinance approving the appropriation of sufficient funds to the DDA to fund the acquisition of the Façade Easement;

3.2. Receipt by the Owner of a Certificate of Occupancy or Letter of Completion from the City of Longmont ("City") for the 150 Main Improvements on the Property, comprising no less than 200 units of multifamily residential and no less than 7,500 square feet of ground floor commercial per the Redevelopment and Reimbursement Agreement;

3.3. Approval by the DDA of the completed Façade Improvements in accordance with the approved designs, which approval will not be unreasonably withheld or delayed;

3.4. Submittal by the Owner's construction contractor to the DDA of an accurate and detailed accounting of the costs of the Façade Improvements;

3.5. Payment by the Owner of the premium for issuance of the title insurance policy based on the Title Commitment to be provided upon execution of this Agreement; and

3.6. Receipt by the DDA of the Easement Agreement, which shall include signatures of all persons then having an ownership interest in the Property.

4. CERTIFICATION OF THE COST

The Owner shall certify to the Boulder County Treasurer and shall provide a copy of such certification to the DDA and City, no later than December 31st of the year when the Façade Improvements are completed, the total cost of the Façade Improvements made to the Property as described in Section 1 herein as well as other improvements made to the Property. It is intended that the increased value of the Property will be sufficient to cumulatively generate during the period of this Agreement, actual Tax Increment Revenue commencing in 2019 through tax year 2033 of at least seven hundred thirty thousand dollars (\$730,000).

5. THE OWNER'S CONTINUING OBLIGATIONS

The Owner acknowledges and agrees that, during the term of the Façade Easement, the Owner will have the continuing obligations as described therein. The obligations described in the Easement Agreement will run with the land and be binding upon all future legal owners of the Property during the term of the Façade Easement.

6. COVENANTS

The provisions of this Agreement and the burdens and benefits therein shall be covenants running with the Property until the earlier of (i) the payment of taxes for tax year 2033, or (ii) until the Tax Increment Revenue generated by the Property and/or Owner's payments in lieu of taxes required by the Easement Agreement totals seven hundred thirty thousand dollars (\$730,000) (the "Covenant"). Upon expiration of the Covenant, this Agreement shall automatically terminate and no longer affect title to the Property. This Agreement shall be recorded with the Clerk and Recorder of Boulder County, Colorado. Upon Owner satisfying the Covenant, DDA shall execute a recordable release of the Easement Agreement and all other obligations of this Agreement, within a reasonable time after Owner delivers a release form to DDA.

7. ANNUAL APPROPRIATION

All financial obligations of the DDA arising under this Agreement that are payable after the current fiscal year, if any, are contingent upon funds for that purpose being annually appropriated, budgeted and otherwise made available by the Board of Directors of the DDA and the City, in its discretion, as applicable.

8. CITY AS THIRD-PARTY BENEFICIARY

It is expressly acknowledged by the parties hereto that the City is a third-party beneficiary to this Agreement and shall be entitled to enforce any and all provisions of this Agreement in the same manner as the DDA, and in the event the DDA is not existing at the time of performance of any DDA obligations set forth herein, City will execute documents in the place of DDA

9. NOTICES

A notice, demand, or other communication under this Agreement by any party to the other shall be in writing and shall be deemed sufficiently given if delivered in person or if it is delivered by overnight courier service with guaranteed next-day delivery or by certified mail, return receipt requested and postage prepaid, to the addresses set forth below. Any party may update its address for receiving notices by providing written notice consistent with this paragraph 8.

DDA: Longmont Downtown Development Authority
Attn: Executive Director
320 Main Street
Longmont, CO 80501

City: City of Longmont
Planning and Development Services Department
Development Services Center
385 Kimbark Street
Longmont, CO 80501

Owner: 150 Main Owner, LLC
263 2nd Avenue
Niwot, CO 80503

[Signature Page Follows]

OWNER:

150 Main Owner, LLC
a Delaware limited liability company

By: [Signature]
Name: Brian W. Bair
Manager

STATE OF Colorado)
) ss:
COUNTY OF Boulder)

The foregoing instrument was acknowledged before me this 15th day of April, 2020, by Brian W. Bair, as Manager of 150 Main Owner, LLC, a Delaware limited liability company.

Witness my hand and official seal.



[Signature]
Notary Public
My commission expires: May 16th 2021

DDA:

Longmont Downtown Development Authority

By: _____
Board Chair

Attest:

Board Secretary

EXHIBIT A

GRANT OF FAÇADE EASEMENT

150 Main Owner, LLC, a Delaware limited liability company ("Grantor") is the owner of the following described real property located in the City of Longmont, County of Boulder, State of Colorado:

LOTS 1 AND 2, SOUTH MAIN STATION SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 4, 2017 UNDER RECEPTION NO. 03629067, COUNTY OF BOULDER, STATE OF COLORADO.

(hereinafter referred to as the "Property"). The street address of the Property is 150 Main Street, Longmont, Colorado 80501; and

Subject to the terms of this Grant of Façade Easement (the "Easement Agreement"), Grantor does hereby grant and convey, in accordance with the following terms and conditions, to The Longmont, Colorado Downtown Development Authority, a body corporate and politic (the "DDA"), 320 Main Street, Longmont, CO 80501, an easement (the "Façade Easement") over the portion of the Property referenced in Section 1 below to secure the performance of the Façade Agreement between Grantor and the DDA dated to be effective as of April 15, 2020 (the "Façade Agreement").

1. FAÇADE

The west (Main Street), and north (2nd Avenue) facing façades on the building located on the Property (the "Façade Location") shall consist of those improvements shown on the façade plans and designs which are attached hereto as Exhibit 1 (the "Façade Improvements") and shall specifically include without limitation all signage and canopies depicted thereon.

2. EASEMENT

The Façade Easement granted herein shall be for the purpose of entering on, over and across the Façade to preserve and maintain them in their reconstructed condition and current location and for structural support of the Façade.

3. TERM

The term of the Façade Easement granted herein shall remain in effect until the earlier of (i) the payment of taxes for tax year 2033, or (ii) until the Tax Increment Revenue generated by the Property and/or Grantor's payments in lieu of taxes required by this Easement Agreement totals seven hundred thirty thousand dollars (\$730,000).

4. MAINTENANCE

Grantor shall be obligated to maintain and repair the Façade Improvements, including replacement of all or a part thereof if necessary, in a manner which will preserve the Façade

Improvements in substantially the same condition as that existing at the time of completion of the Façade Improvements. Grantor shall further be obligated to maintain the Property to the extent required to provide structural support for the Façade Improvements which are attached to the Property. The DDA shall have no maintenance obligation whatsoever for the Façade Improvements or the Property and shall not be liable in any manner for any costs associated with the Façade Improvements or the Property.

In the event that Grantor, or its heirs, personal representatives and assigns, shall fail to maintain and repair the Façade (or the Building or Property to provide support for the Façade) as required herein, the DDA shall give written notice to Grantor, or its heirs, personal representatives and assigns, requiring Grantor to commence the requested maintenance and repair within ten (10) days of receipt of such notice and to diligently complete such maintenance and repair within a reasonable amount of time thereafter as specified in such notice. If such work is not commenced or is not completed as required by such notice, the DDA may, in its sole discretion, cause such work to be completed and may thereafter assess the entire cost of such work against Grantor or its heirs, personal representatives and assigns. The DDA shall have a lien on the Property to secure any amount owed to it for repair and maintenance performed by it on account of the failure to maintain and repair the Façade or the Property as required herein.

5. INDEMNIFICATION

Grantor shall indemnify and hold the DDA harmless from and against any damage, liability, loss or expense (including attorneys' fees) incurred by the DDA arising out of, or in any way connected with, the installation and construction of the Façade Improvements. Further, Grantor shall indemnify and hold the DDA harmless from and against any damage, liability, loss or expense (including attorneys' fees) incurred by the DDA arising out of, or in any way connected with, the maintenance thereof, except to the extent any such damage, liability, loss or expense is caused by the gross negligence of the DDA.

6. INSURANCE.

Grantor shall purchase and maintain property and casualty insurance on the Property, including the Façade Improvements, to the full replacement value thereof. Grantor shall further purchase and maintain general liability coverage in connection with the Property, including the Façade Improvements, in amounts at least equal to the maximum amount of recovery against public entities and employees under the Colorado Governmental Immunity Act (C.R.S. §24-10-101 et seq.) and any amendments to such limits which may from time to time be made. The DDA and the City shall be named as additional insureds on all such policies. All insurance required hereunder shall be issued by an insurance company authorized to do business in Colorado which meets all of the requirements of the Division of Insurance for that purpose. The DDA may periodically require from Grantor proof of insurance coverage required herein. Grantor may provide the insurance coverages required herein through a blanket policy, which names its mortgage lenders, DDA and the City as additional insureds.

7. TAX REPORTING.

During the term of this Easement Agreement, Grantor shall submit certification of property taxes paid by June 30th of each year to the DDA and City.

8. PAYMENT IN LIEU OF TAXES

8.1 If after the payment of the taxes assessed for tax year 2023, the Tax Increment Revenue generated during tax years 2019 - 2023 is insufficient for any reason to generate Tax Increment Revenue of two hundred forty-three thousand three hundred thirty-three dollars (\$243,333), Grantor, no later than April 30th of the year immediately following tax year 2023, shall make a payment in lieu of taxes to the DDA in an amount equal to any such Tax Increment Revenue shortfall.

8.2 If the Tax Increment Revenue generated during tax years 2024 - 2028 is insufficient for any reason to generate Tax Increment Revenue of two hundred forty-three thousand three hundred thirty-three dollars (\$243,333), Grantor, no later than April 30th of the year immediately following tax year 2028, shall make a payment in lieu of taxes to the DDA in an amount equal to any such Tax Increment Revenue shortfall.

8.3 If the Tax Increment Revenue generated during tax years 2029 - 2033 is insufficient for any reason to generate Tax Increment Revenue of two hundred forty-three thousand three hundred thirty-four dollars (\$243,334), Grantor, no later than April 30th of the year immediately following tax year 2033, shall make a payment in lieu of taxes to the DDA in an amount equal to any such Tax Increment Revenue shortfall.

8.4 Such payment(s) in lieu of taxes shall be placed by the DDA in the DDA Tax Increment Revenue Fund.

8.5 Grantor (or any then owner of the Property) may repay, or prepay all or a portion of, any monies remaining owed under this Easement Agreement at any time, and upon the cumulative total amount of seven hundred thirty thousand dollars (\$730,000) being paid to the DDA, this Easement Agreement shall terminate and the Façade Easement shall be released of record.

8.6 If at any time the amount of Tax Increment Revenue generated by the Property exceeds seven hundred thirty thousand dollars (\$730,000), Grantor shall no longer be required to provide annual certifications regarding property taxes paid.

8.7 During the period in which certifications are required to be made, Grantor covenants not to seek any abatement or reduction in assessed valuation of the Property for property tax purposes.

8.8 In the event Grantor has not paid the total amount of seven hundred thirty thousand dollars (\$730,000) either through payment of Tax Increment Revenue, or by making payments as set forth in Sections 8.1 - 8.3, the Façade Easement shall remain in effect to secure Grantor's obligations set forth in this Easement Agreement, until the total sum of seven hundred thirty

thousand dollars (\$730,000) has been paid to the DDA. Until Grantor pays the total sum of seven hundred thirty thousand dollars (\$730,000), the DDA shall have a lien per this Easement Agreement on the Property junior to any now existing and future bona fide mortgage(s), deed(s) of trust, and/or other customary commercial lender liens encumbering the Property, to secure any amount owed to it to provide the Tax Increment Revenue required as set forth above.

9. ENVIRONMENTAL CONDITIONS LIABILITY.

Grantor specifically represents that to the best of its knowledge, as of the date of this Easement Agreement, all portions of the Property are in compliance with all environmental protection and anti-pollution laws, rules, regulations, orders or requirements, including solid waste requirements, as defined by the U. S. Environmental Protection Agency Regulations at 40 C.F.R., Part 261, and that the Property is in compliance with all such requirements pertaining to the disposal or existence in or on such Property of any hazardous substances, pollutants or contaminants, as defined by the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, and regulations promulgated thereunder. Grantor, for itself and its successor(s) in interest, does hereby indemnify and hold harmless the DDA from and against any damage, liability, loss or expense (including attorneys' fees and costs) incurred by the DDA arising out of, or in any way connected with the environmental conditions on, of or affecting the Property that exist as of the date of this Easement Agreement, unless due to the gross negligence or intentional misconduct of the DDA, its employees, agents or contractors. The DDA agrees to give notice to Grantor of any claim made against the DDA to which this indemnity and hold harmless agreement by Grantor could apply, and Grantor shall have the right to defend any lawsuit based on such claim and to settle any such claim provided Grantor must obtain a complete discharge of all DDA liability through such settlement.

10. ALTERATIONS

No alteration of the Façade Locations including, without limitation, alterations of or additions to the signage or canopies approved by the DDA and shown on Exhibit 1 to the Façade Agreement shall be made without the express written approval of the DDA, which approval shall not be unreasonably withheld or delayed. The DDA, in considering such requests, shall take into account the reasons for such request and whether the requested alteration is consistent with the character of the original design for the Façade or otherwise is compatible with the character of the redeveloped properties within the downtown as well as the specific area in which it is located. The DDA shall not remove or alter the Façade except in performing any maintenance or repair thereof in accordance with this Easement Agreement.

11. SUCCESSOR ENTITY TO THE DDA

In the event that the legal existence of the DDA terminates during the term of this Easement Agreement, it is expressly acknowledged by all the parties hereto that the City is designated the DDA's successor entity, and all rights and obligations of the DDA set forth herein or in the Façade Agreement shall thereupon become the rights and obligations of the City.

12. SUCCESSOR TO GRANTOR

Grantor shall provide the DDA, or its successor entity, with written notice either (a) ten (10) days prior to listing the Property for sale; or (b) ten (10) days following receipt of a signed contract to sell the Property, if no listing was made. In the event Grantor sells the Property, all rights and obligations of Grantor under this Easement Agreement and the Façade Agreement shall transfer to the new owner of the Property as all rights and obligations hereunder run with the land. Upon completion of such transfer, Grantor shall be deemed released from all obligations of Grantor under this Easement Agreement and the Façade Agreement.

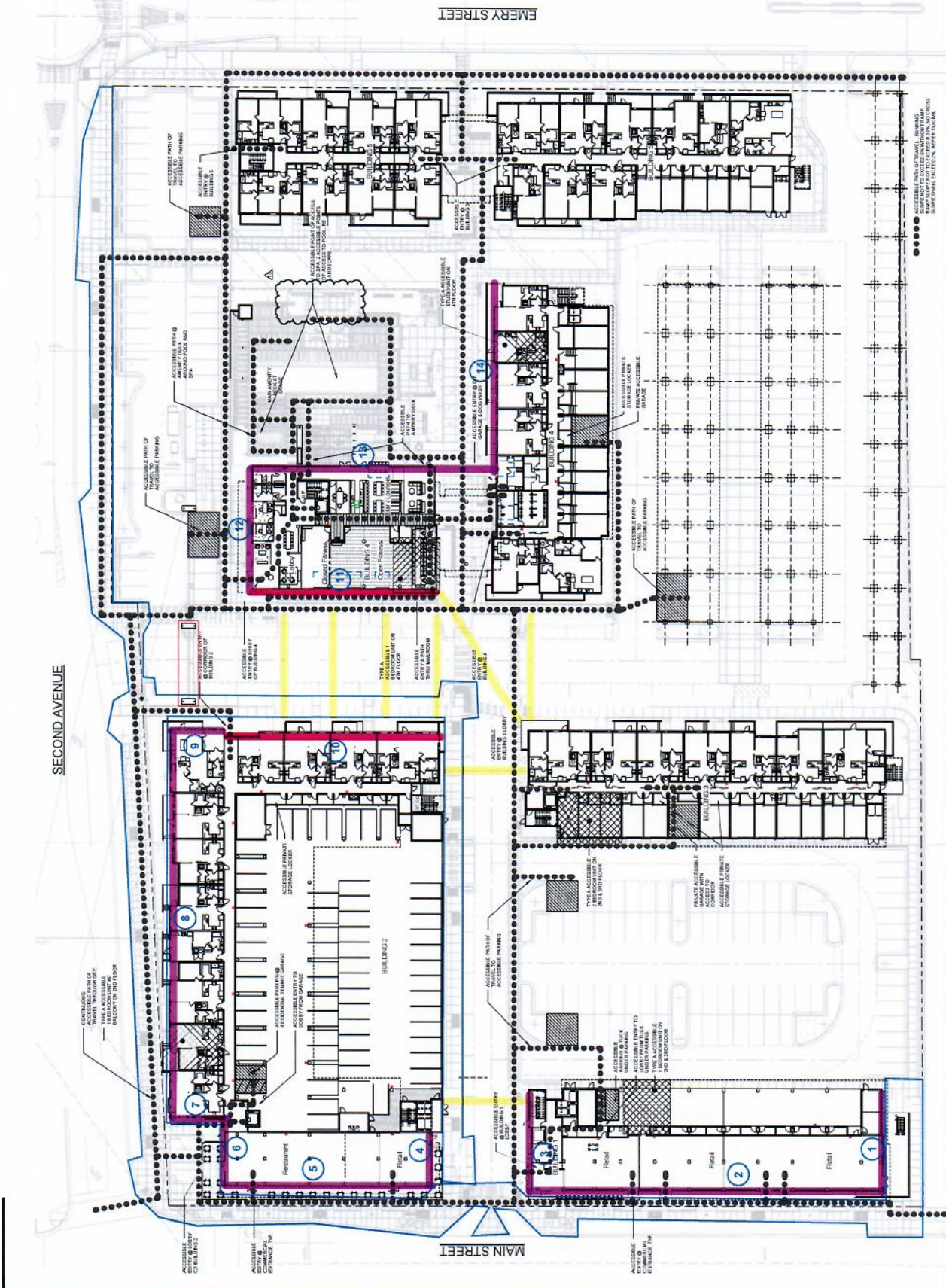
13. GRANTOR WARRANTIES

Grantor warrants title to the Property from any persons claiming by, through, or under Grantor, subject to encumbrances and matters of record. Grantor warrants for itself, and all persons claiming under the Grantor, that it has the exclusive and full right, title, ownership, and lawful authority to grant this easement and to make and enforce the covenants and promises herein.

<<SIGNATURE PAGE TO FOLLOW>>

EXHIBIT 1 (To Exhibit A)

See attached Site Plan and Elevations



1 ACCESSIBILITY PLAN
 3/04 - 1/17

ACCESSIBLE PATH OF TRAVEL (RAMPING)
 RAMP NOT SHOWN TO ACCESSIBLE PARKING SPACES
 SEE SMALL SECTION, WEST TO ONE

10/27/2017 2:15 PM P:\03 Projects\1522 - Bldg\03_Drawing\Rev\150 Main - Sta.mxd





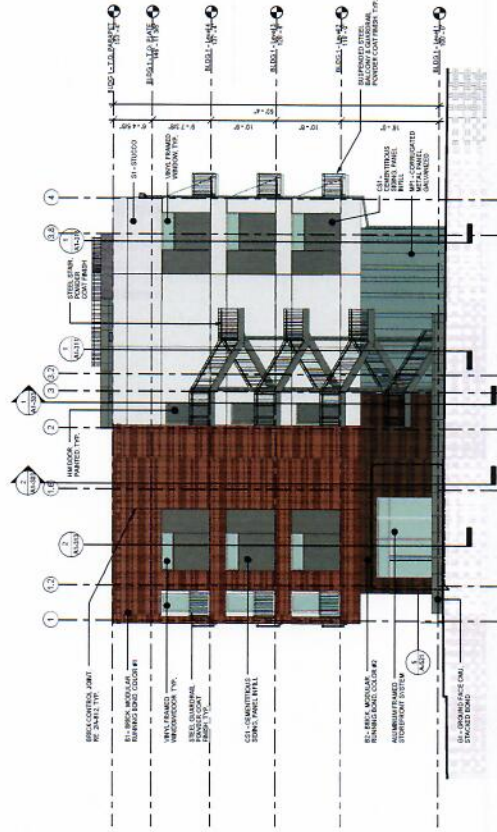
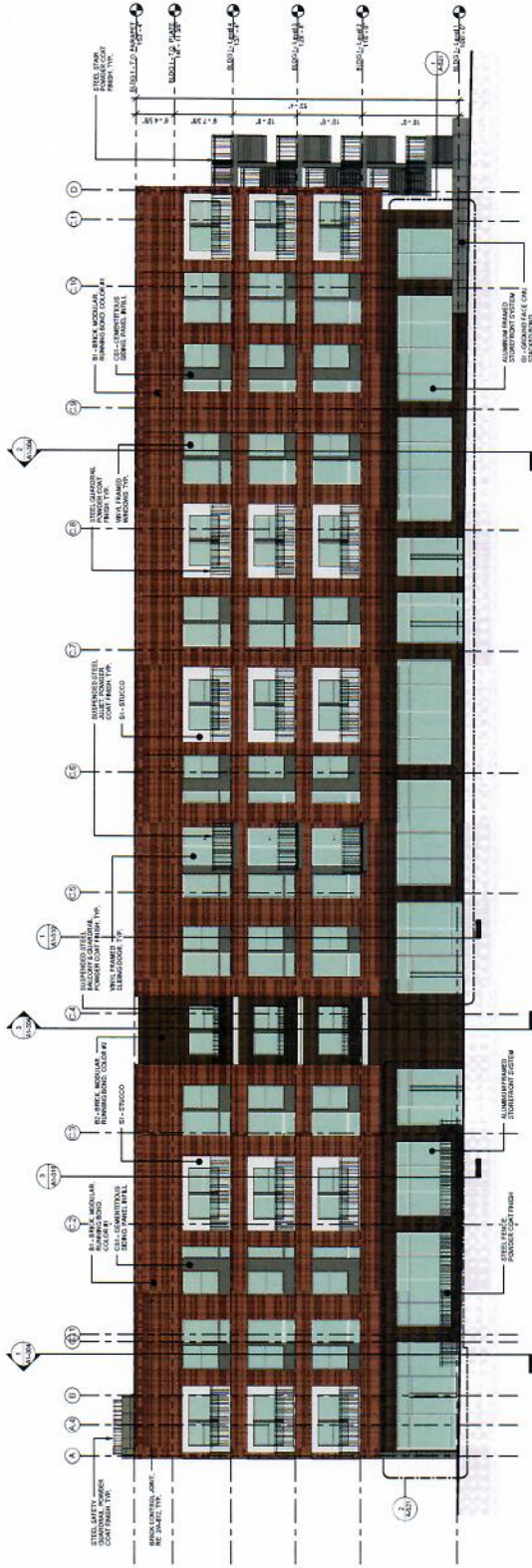
2ND AVENUE and MAIN STREET

SA+R
SUSTAINABLE ARCHITECTURE + RESEARCH



Date: 2017-04-27
 Project Name: South Main Station
 Issued For / Phase: GMP
 Drawn: Author
 Revisions: No. Date Remarks

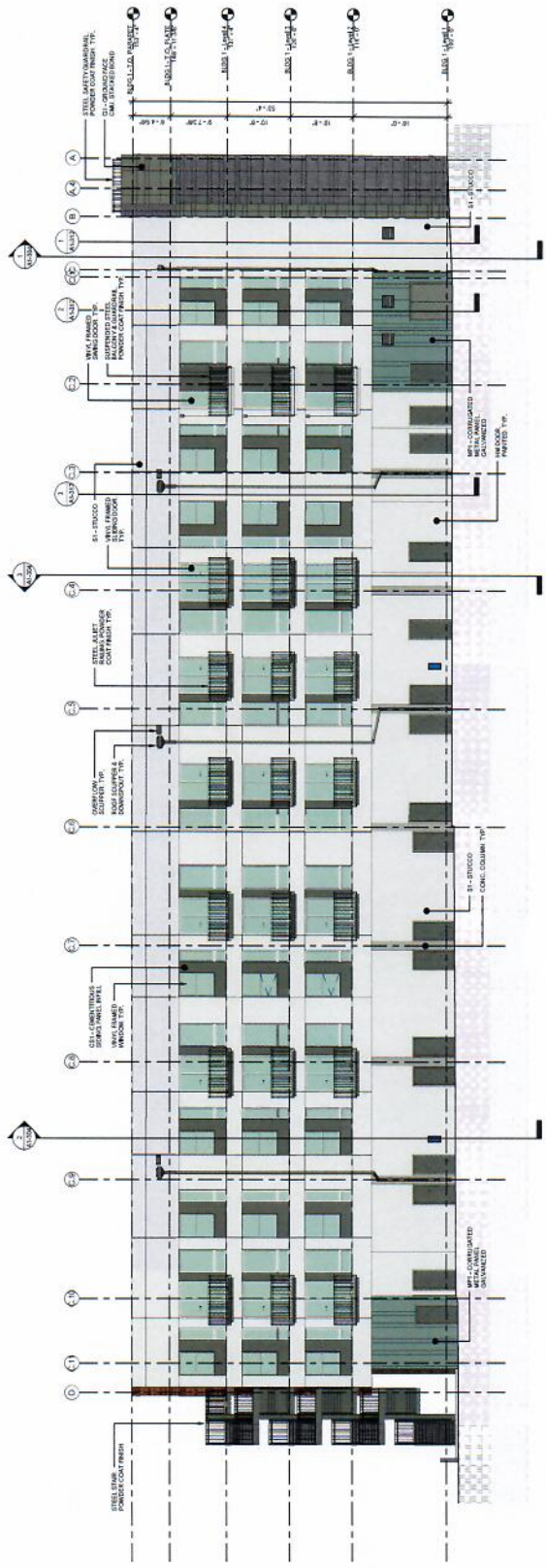
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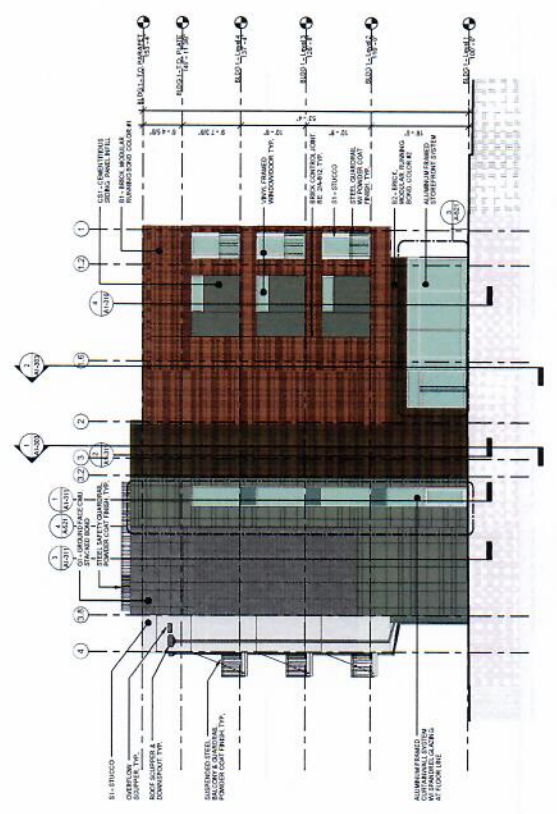


Date: 2017.04.27
 Project Name: South Main Station
 Issued For / Phase: GMP
 Drawn Author: [Redacted]
 Revision: [Redacted]
 No. Date

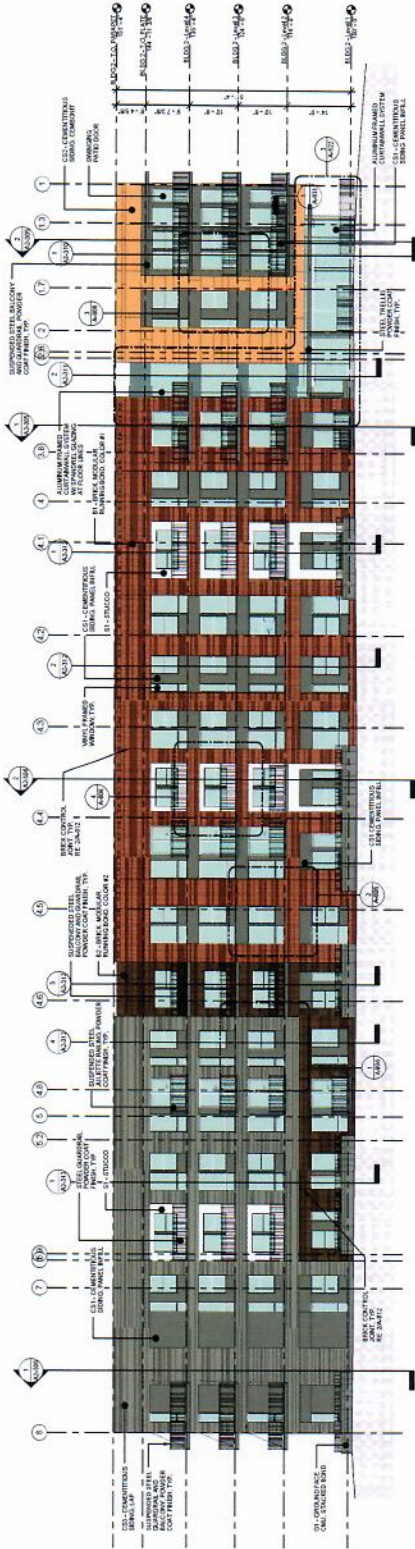
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 EXTERIOR
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 Sheet Number: A1-302



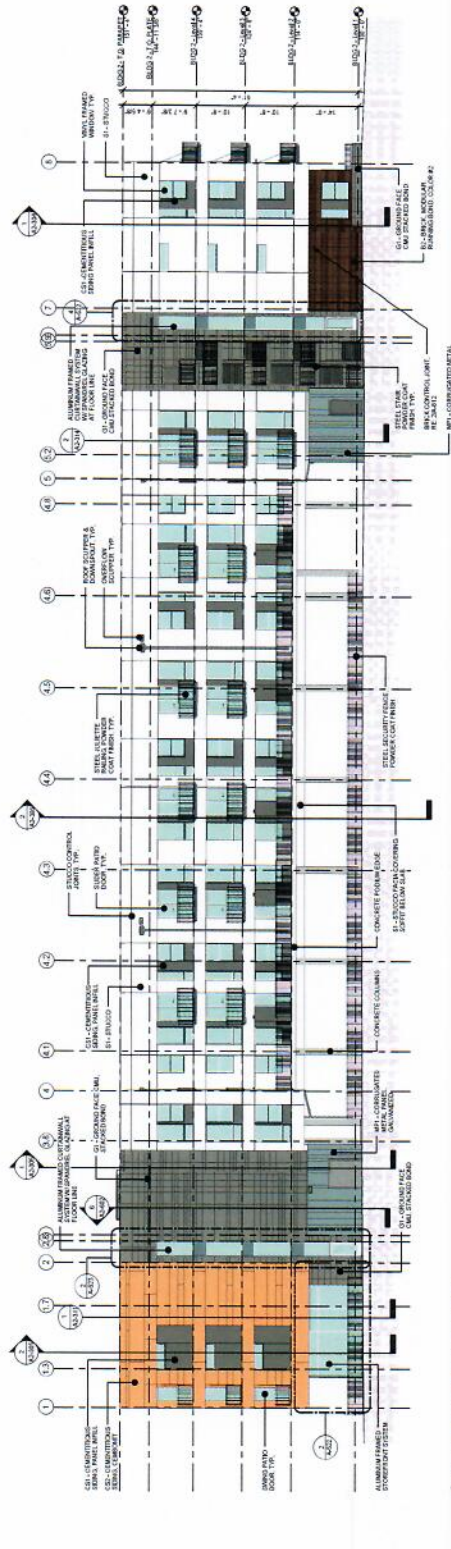
2 BUILDING 1 EAST ELEVATION
 1/8" = 1'-0"



1 BUILDING 1 NORTH ELEVATION
 1/8" = 1'-0"



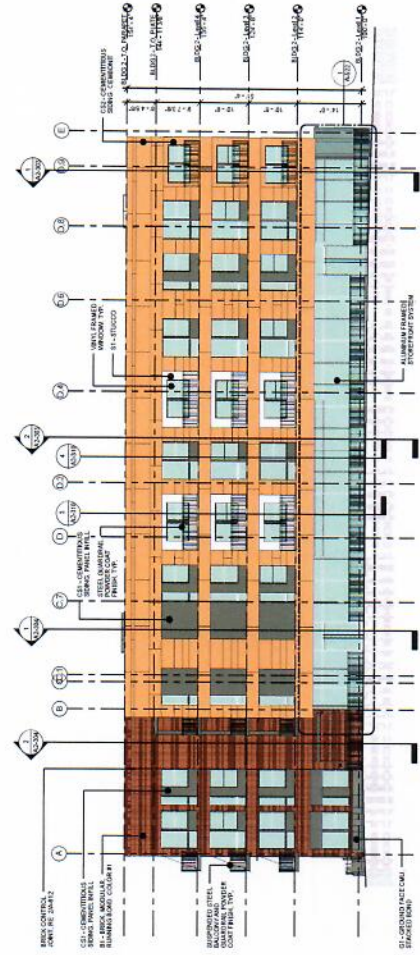
2 BUILDING 2 NORTH ELEVATION
 3/32" = 1'-0"



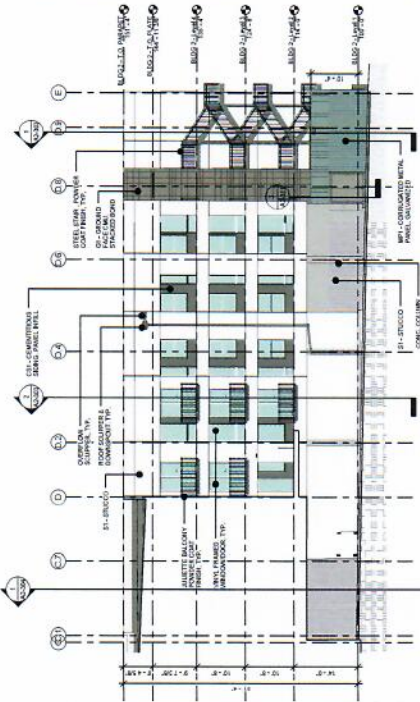
1 BUILDING 2 SOUTH ELEVATION
 3/32" = 1'-0"

Date:	2017-04-27
Project Name:	South Main Station
Issued For / Phase:	
CMP:	
Drawn: Author	
Revisors:	
No.:	
Date:	
Revised:	

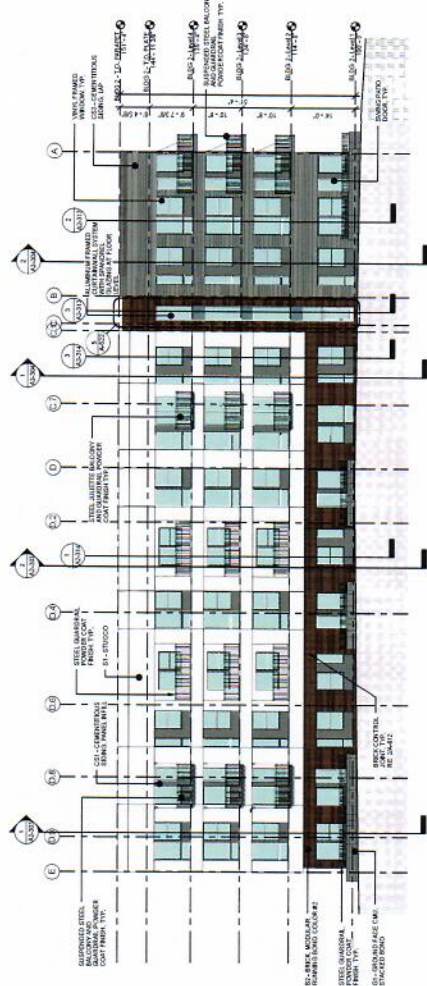
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 EXTERIOR
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 Sheet Number: A2-301



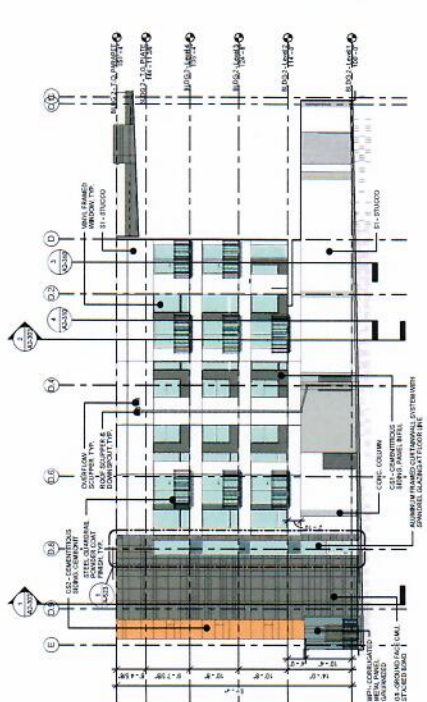
2 BUILDING 2 WEST ELEVATION
3/22/17



4 BUILDING 2 COURTYARD EAST ELEVATION
3/22/17



1 BUILDING 2 EAST ELEVATION
3/22/17



3 BUILDING 2 COURTYARD WEST ELEVATION
3/22/17



Date: 2017-04-27
Project Name: South Main Station
Issued For / Phase: OMP
Drawn: Auditor
Revisions: No. Date Remarks

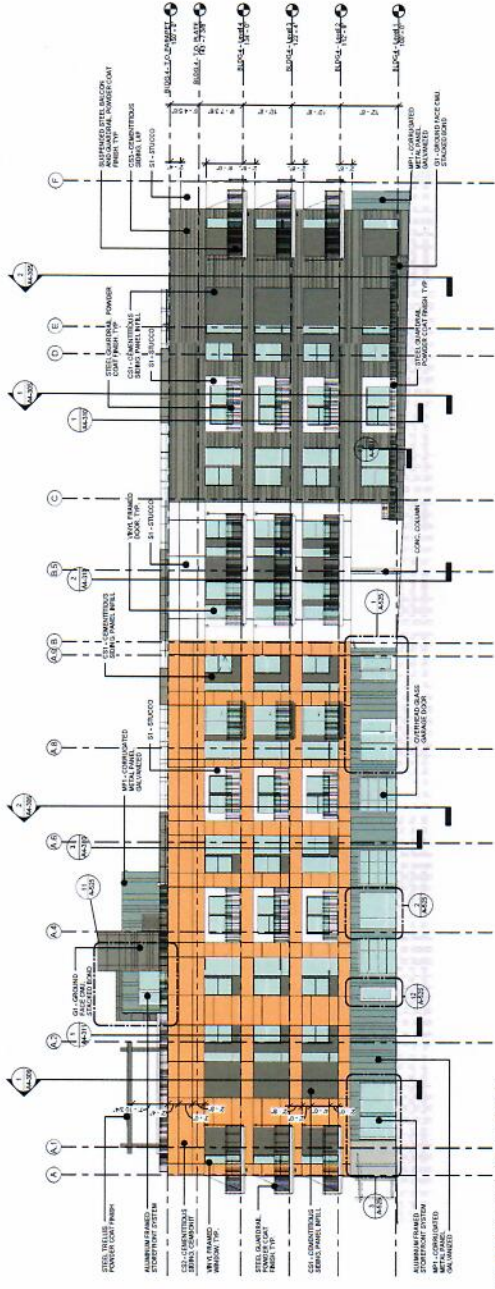
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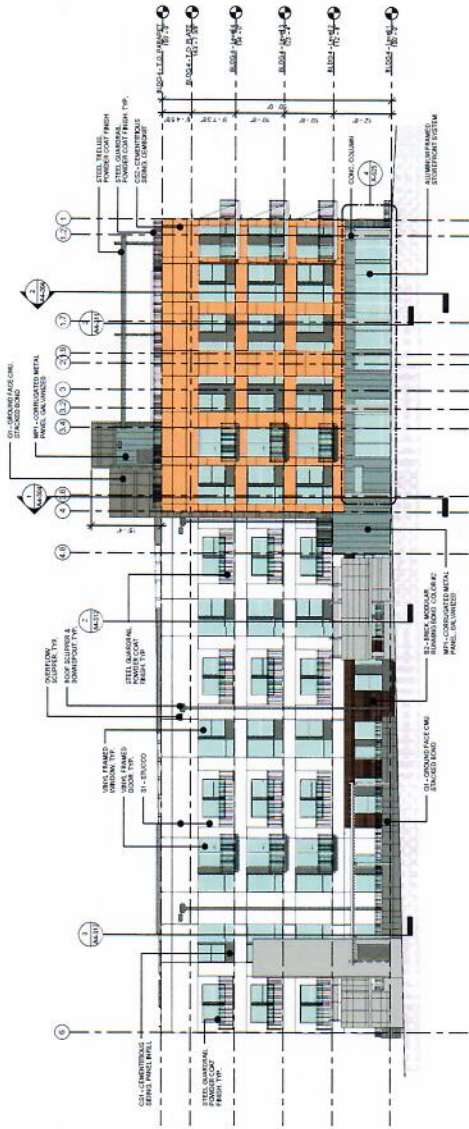
DATE: 2017.04.27
 Project Name: South Main Station
 Issued For / Phase: GMP

Drawn: Author
 Revisions: No. Date
 Remarks:

Sheet Name: BUILDING 4
 EXTERIOR
 ELEVATIONS
 Sheet Number: A4-301



2 BUILDING 4 WEST ELEVATION
 3/32" = 1'0"



1 BUILDING 4 NORTH ELEVATION
 3/32" = 1'0"