

MEMORANDUM

TO:

Greg Guernsey, Director, Planning & Zoning Department

FROM:

Veronica Briseño, Director, Small & Minority Business Resources Department

DATE:

January 9, 2018

SUBJECT:

Downtown Great Streets Development Reimbursement Program

MBE/WBE Final Participation for Foundations Communities Capital Studios Project

The Small & Minority Business Resources Department (SMBR) has reviewed the M/WBE documentation submitted by SpawGlass, General Contractor for the Foundations Communities Capital Studios project. Based on SMBR's review, SpawGlass has met the MBE/WBE requirements as outlined in Section 1.04 (d) of the Third Party Agreement with the City of Austin (COA).

SpawGlass' Participation and Good Faith Efforts:

MBE/WBE Category	Construction Goals	Actual Participation	Good Faith Efforts
MBE	12.90%	15.91%	N/A
WBE	12.60%	0.00%	Met

In summary, SpawGlass exceeded the MBE goal with African American participation. However, due to limited scopes of work, the WBE goal could not be met for this project. As a result, SpawGlass did comply with the MBE/WBE Procurement Ordinance by demonstrating good faith effort requirements and provided the M/WBE reports as required in the Third Party Agreement effective October 11, 2011.

cc:

Edward Campos, Assistant Director, SMBR
Tamela Saldana, Compliance Officer, SMBR
Jolene Cochran, Business Development Counselor III, SMBR
Humberto Rey, Program Manager, Planning & Zoning Department
File

COMMUNITY FACILITIES CONTRACT

STATE OF TEXAS

8

COUNTY OF TRAVIS

8

This Community Facilities Contract (the "Contract") is made and entered into between the CITY OF AUSTIN, TEXAS, a home rule municipal corporation (the "City"), and <u>CAPITAL STUDIOS HOUSING</u>, <u>LP</u> (the "Applicant"), a <u>limited partnership in the State of Texas</u>.

WHEREAS, the Applicant is constructing a five-story multifamily building and ancillary improvements at (309 East 11th Street), Austin Texas 78701 (the "Capital Studios" project); and

WHEREAS, the City has adopted the Great Streets Development Program to encourage the construction of high quality sidewalk projects in the downtown area, and this Community Facilities Contract is entered into pursuant to the criteria, elements and standards of that Program; and

WHEREAS, the City and the Applicant desire specifically to construct sidewalks, install street trees and street furniture, and relocate underground utilities as needed generally along East 11th Street and Trinity Street adjacent to the Capital Studios project (the "Sidewalk Project") to enhance the public right-of-way in the area; and

WHEREAS, the Applicant is willing to design, manage and construct the Sidewalk Project in order to provide the Sidewalk Project for the convenience and safety of the citizens of the City, subject to and conditioned upon the participation by the City in the costs of constructing the Sidewalk Project as set forth in Exhibit "A" attached hereto; and

WHEREAS, the City has determined that it will derive a benefit from cost participation in the construction of the proposed Sidewalk Project consistent with the City's Great Streets Development Program recommendations, and in accordance with the terms hereof.

NOW, THEREFORE, for and in consideration of the mutual promises hereinafter expressed and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties do hereby covenant and agree as follows:

SECTION I

THE APPLICANT'S RESPONSIBILITIES AND AGREEMENTS

Section 1.1 <u>The Applicant</u> has provided the City with a plan of the proposed Sidewalk Project, attached hereto as <u>Exhibit "B"</u>, and a fully executed City License Agreement, attached hereto as <u>Exhibit "C"</u>, on or before the date of execution of this Contract. By execution of this Contract, the

City hereby acknowledges receipt of the foregoing plans for the Sidewalk Project and hereby accepts and approves the plans for cost-sharing purposes under the terms of this Contract and in accordance with the City's Land Development Code and applicable ordinances, laws, and statutes, as amended unless otherwise modified by this Community Facilities Contract.

- Section 1.2 The Applicant agrees to perform the following in connection with the Sidewalk Project:
 - (a) To maintain commercial liability insurance in an amount not less than \$1,000,000.00 (combined single limit) during the construction of the Sidewalk Project. The insurance shall be written by a company or companies licensed to do business in the State of Texas, at the time the policy is issued, and with AM Best Ratings of B+VII or better. The insurance shall specifically provide that the City is an additional insured under Endorsement CG2010.
 - (b) To include warranties, insurance and payment and performance bonding requirements in all contracts with contractors for the construction of the Sidewalk Project. The Applicant must execute a performance bond for the construction of the improvements contemplated by the Sidewalk Project to ensure completion of the Sidewalk Project. The bond must be executed by a corporate surety in accordance with Chapter 2253, Government Code. The Applicant shall also require any contractors to obtain, prior to the commencement of construction of the Sidewalk Project, and maintain throughout construction, Commercial General Liability Insurance, Automobile Insurance, and Worker's Compensation Insurance, with coverage as stipulated in the applicable construction contracts with the contractors. All payment and performance bonds issued for the Sidewalk Project to be reimbursed by the City must contain a dual obligee rider naming the City as a co-obligee.
 - (c) To pay all applicable inspection and permitting fees in connection with the construction and installation of the Sidewalk Project unless previously waived by the City.
 - (d) To provide complete design, engineering, construction and project management services for the Sidewalk Project as described in <u>Exhibit "B"</u> in accordance with the City's Land Development Code and applicable ordinances, laws, and statutes, as amended, unless otherwise modified by this Community Facilities Contract.
 - (e) To confirm the location of all underground utilities that may be in conflict with the construction of the Sidewalk Project, including but not limited to street lighting and traffic signal pole foundations and street trees, prior to commencement of construction and to coordinate with underground and overhead utilities for design and relocation, as needed, of utilities in connection with the Sidewalk Project and to comply with the terms and conditions of the City License Agreement for installations in the public right-of-way, attached hereto as Exhibit "C".
 - (f) To obtain all required permits, consents, easements, inspections, tests, and authorizations necessary for construction of the Sidewalk Project.

- (g) To provide the City with a copy of the construction contract (the "Construction Contract") between the Applicant and the contractor chosen by the Applicant to construct the Sidewalk Project (the "Contractor") and any additional documents pertaining to the Construction Contract (the Construction Contract and the additional documents pertaining to the Construction Contract, including Exhibit "B" attached hereto, are hereinafter collectively referred to as the "Construction Documents") on or about the commencement date of construction, and thereafter provide the City with copies of any documents amending or replacing any of the Construction Documents.
- (h) Within eighteen (18) months after the Effective Date of this Contract, to complete, or cause the completion of, the construction of the Sidewalk Project, as illustrated in Exhibit "B", in a good and workmanlike manner, in substantial conformance with the engineering and construction plans for the Sidewalk Project. The date for completion may be extended only with the written approval of the City for good cause shown that is beyond the reasonable control of the Applicant. The City agrees not to unreasonably withhold, condition or delay its consent, upon a showing of good cause. No changes may be made in the permitted plans and specifications, unless the Director of the Planning & Development Review Department (PDR) gives prior written approval to such changes. The City shall have the right to inspect the construction of the Sidewalk Project during construction and after its completion, in accordance with the terms and provisions of this Contract. The City agrees to accept the construction of the sidewalk for maintenance, excluding those items maintained by the Applicant, pursuant to the City License Agreement attached hereto as Exhibit "C", if the Sidewalk Project meets the requirements set forth in the approved plans and specifications, as described in this contract.
- (i) To comply with the terms of any temporary use of right-of-way permit that may be necessary for the Sidewalk Project.
- (j) To provide for design and approval of any changes to the Construction Documents by the City, such approval not to be unreasonably withheld, conditioned or delayed and to contact the City's Planning & Development Review Department, Urban Design Division, within 24 hours of any known construction conflict with the Sidewalk Project that may cause the location of any sidewalk element to shift location by more than 3 inches. The Applicant agrees to produce, coordinate and evaluate design alternatives for said conflicts at the Applicant's sole expense and must receive PDR/UDD staff approval for any variances from the Sidewalk Project prior to construction of affected sidewalk element.
- (k) Upon receipt of notification by the Contractor that the work has been completed pursuant to the Construction Documents, the members of the Applicant's Engineering Consultant staff (collectively, the "Engineer") shall conduct an inspection of the Sidewalk Project. As a result of this inspection, the Applicant shall prepare or cause to be prepared a list of the items needing correction and direct the Contractor to complete those correction items. After the Contractor has performed the required corrections to the Applicant's satisfaction, the Applicant shall notify the City, including the Planning & Development Review Department, Urban Design Division, in writing that the Sidewalk Project has been substantially completed according to the Construction Documents and is ready for final inspection by the City and the Engineer. The Engineer shall accompany the

City on the final inspection to assure that the Sidewalk Project has been completed in substantial compliance with the Construction Documents. The Engineer shall review and tabulate all warranties, guarantees, bonds and similar required materials and documents under the Construction Documents to make sure that all such materials and documents are received by the Applicant and that they substantially meet the requirements of this Contract and the Construction Documents; after which the Applicant shall assign, and transmit copies or originals as appropriate of such warranties, guarantees and bonds to the City or its designated representative(s). After determining that all requirements of this Contract and the Construction Documents have been substantially met, the Engineer shall so certify to the Applicant and the City and shall recommend approval of the Contractor's final application for payment by the City. The term "substantial completion", as used in this Contract, shall mean that the Sidewalk Project has been completed in compliance with this Contract, and to the point of being usable for the purposes intended, as determined by the City.

- (1) After substantial completion of the Sidewalk Project, and as a condition of final acceptance by the City, the Applicant shall complete all changes, repairs or alterations reasonably required by the City to comply with the Construction Documents, the requirements of this Contract, and any applicable laws, within 60 days after notification by the City of deficiencies, or within such other time period as the City and the Applicant may agree upon in writing. The City may not declare a default under this Contract during the cure period stipulated in Section 3.2 as a result of any such defect, unless it is clear that the Applicant does not intend to cure the defect within 60 days of notification.
- (m) As a condition precedent to final acceptance of construction of the Sidewalk Project by the City, to provide the City with one set of reproducible final, record, "as built" plans for the Sidewalk Project, at the Applicant's sole cost and expense.
- (n) As a condition precedent to final acceptance of construction of the Sidewalk Project by the City, the Applicant will assign to the City the Contractor's warranty covering the construction for a period of one year after the date of acceptance. The warranty shall be in a form reasonably acceptable to the City. In addition to any other rights the City has pursuant to the warranty, the City may require reconstruction of any portion of the project under warranty if construction is not in accordance with the design specifications of the Construction Documents.
- (o) After executed City License Agreement, final Certificate of Occupancy and final acceptance of the Sidewalk Project by the City, provide verification of the cost of the Sidewalk Project to the Planning & Development Review Department (PDR), Urban Design Division, in the form of a summary invoice of the costs of the Sidewalk Project prepared by the Applicant, a copy of the General Contractor's Payment Application and related subcontractor invoices.
- (p) To provide digital photo-documentation before, during and after completion of the Sidewalk Project. This documentation shall convey overall context of sidewalk, including building, sidewalk and street from the viewpoint of a pedestrian, along each street frontage, and detailed installation of pole foundations, tree plantings and sidewalk pavers, and shall be rendered in "JPEG" format to PDR/UDD.

- (q) To pay all costs of Sidewalk Project not required to be reimbursed to the Applicant by the City in this Contract in order to complete the Sidewalk Project in accordance with Exhibit "B".
- (r) To evaluate and award for construction of the sidewalk improvements in accordance with the City's Minority and Women-owned Business Enterprises (MBE/WBE) Ordinance and to utilize minority and women-owned business enterprises (MBE/WBE), as certified by the City, with the aggregate construction goals of 12.9% MBE and 12.6% WBE in dollar value of the contracts for work related to the Sidewalk Project.

SECTION II

THE CITY'S RESPONSIBILITIES AND AGREEMENTS

- (a) The City agrees to the following in connection with the proposed Sidewalk Project:
- (b) The City will review all construction plans required to be submitted to the City under this Contract for compliance with the requirements of this Contract and applicable City procedures and design and construction standards, and will not unreasonably withhold, condition or delay its approval to any plans or amendments thereto.
- (c) The City will inspect the Sidewalk Project during construction, and, if completed in accordance with the terms of this Contract, accept the Sidewalk Project and assume responsibility for maintenance of those items not maintained by the Applicant, pursuant to the City License Agreement attached as Exhibit C, at the City's sole cost and expense. The City's inspections and certifications will be conducted in accordance with this Contract and standard City policies, procedures and requirements.
- (d) The City will provide timely notice (and an opportunity to cure), pursuant to the terms of this Contract, to the Applicant whenever an inspection reveals that an improvement or any portion of the Sidewalk Project is not constructed or completed in accordance with the Construction Documents, this Contract and any applicable laws, or is otherwise defective. In lieu of requiring reconstruction or correction of any default by the Applicant in the construction and installation of any component of the Project, the City and the Applicant may agree to reduce the amount of reimbursement due to the Applicant in an amount sufficient to account for the failure of the Applicant to construct or install the Project in accordance with the requirements of this Community Facilities Contract.
- (e) The City will provide a written final acceptance of the construction of the Sidewalk Project and issue a Certificate of Completion or other document officially approving the construction of the Sidewalk Project, in accordance with the Great Streets Development Program, within 30 days after a determination by the City that all construction deficiencies noted for the Sidewalk Project during the final on-site inspection have been corrected, and that all requirements set forth in this Contract for acceptance of construction have been met.

(f) After final acceptance of the Sidewalk Project by the City, as set out in this contract, and the submittal of invoices and other documents by the Applicant to City, as set out in Section 1.2(o) above, the City will verify the cost of the Sidewalk Project based on the information provided to the PDR/UDD by the Applicant under Section 1.2(o) above, within fourteen (14) working days after the Applicant's submittal of invoices and other documents to the City under Section 1.2(o). Upon verification of the cost of the Sidewalk Project, the City will pay an amount not to exceed \$226,908 to the Applicant within 30 days of the City's verification of the cost of the Sidewalk Project. Such payments are subject to the appropriation and availability of funds in the City's Great Streets Parking Meter Revenue Fund.

SECTION III

INSPECTION AND CERTIFICATION

- Section 3.1 <u>Inspection and Certification</u>. The City will inspect the Sidewalk Project as set forth in this contract and certifications will be conducted in accordance with standard City policies and requirements.
- Notice of Defect. The City will provide timely notice to the Applicant Section 3.2 whenever an inspection reveals that any portion of the Sidewalk Project is not constructed or completed in accordance with the Construction Documents, this Contract and any applicable law, as described above. The Applicant will have sixty (60) days from such notice to cure or substantially cure the defect. The City may not declare a default under this Contract during the 60-day cure period as a result of any such defect unless it is clear that the Applicant does not intend to cure the defect within 60 days of notification. Notwithstanding the previous sentences in this Section 3.2, if, in the reasonable opinion of the City, the defect creates an immediate and substantial harm to public health or safety, and the notice of defect includes a statement explaining why the defect creates such immediate and substantial harm, the cure period may be shortened to no less than ten (10) business days, and the City may declare a default under this Contract, if the defect is not cured during the ten (10) business day cure period. Further, if the defect does not create an immediate and substantial harm to the public health or safety, then in accordance with this paragraph and this contract, the City and the Applicant may agree to resolve the defect with a reduction in the amount of reimbursement due to the Applicant.

SECTION IV

GENERAL REQUIREMENTS

- Section 4.1 All construction required in connection with this Contract shall be performed in a good and workmanlike manner and in accordance with all applicable federal, state and local laws and regulations. The Applicant agrees that any contract which it enters into for the construction of the Sidewalk Project shall be consistent with and reflective of the terms and provisions of this Contract.
- Section 4.2 <u>The Applicant shall indemnify and defend the City, to the extent allowed</u> by law, with counsel reasonably acceptable to the City, against, and hold harmless from all

costs, including attorney's fees, loss and liability arising out of, or in any way connected with, the construction or other activities in and around the Sidewalk Project which occur prior to the final acceptance of the Sidewalk Project by the City, except to the extent such costs, loss or liability are caused by the negligence or willful misconduct of the City or its agents, employees, representatives or contractors.

Section 4.3 The terms and provisions of this Contract shall be binding upon, and inure to the benefit of, the parties hereto, and their respective successors and assigns.

Section 4.4 Upon the failure of either party to comply with the provisions hereof, the other party shall have the right to enforce the terms and provisions of this Contract by specific performance, or by such other legal or equitable relief to which the non-defaulting party may be entitled. Any provision in this Contract to the contrary notwithstanding, it is agreed that the City shall not be obligated to make any payment under this Contract if the Applicant is in default under one or more of its obligations under this Contract at the time the obligation to make the payment arises. Any remedy or relief described in this Contract shall be cumulative of, and in addition to, any other remedies and relief available at law or in equity. The parties hereto agree to mediate any dispute which may arise under the terms of this Contract in good faith, prior to filing suit for damages.

Section 4.5 Addresses for notice for the parties hereto shall be as set forth below. Either party may change its address for notice by providing the other party with written notice of the change sent postage prepaid by certified or registered mail, with return receipt requested. The person designated below for each party shall also be the designated contact person to assist in matters related to this Contract.

The Applicant:

Capital Studios Housing, LP

Attn: Walter Moreau, Executive Director

3036 South 1st Street Austin, Texas 78704

Telephone: (512) 610-4016 Telecopy: (512) 447-0288

City:

City of Austin P.O. Box 1088 Austin, TX 78767

Attn: Director, Planning & Development Review Department.

Telephone: (512) 974-2387 Telecopy: (512) 499-2269

Any notice required or permitted to be given under this Contract will be deemed received three days after it is posted in the U.S. mail, when correctly addressed to the recipient at its address for notice, and sent registered or certified mail, return receipt requested. Notice sent by any other method will be deemed received when and if actually received; except that notice sent by facsimile or telecopy will be deemed received upon the sender's receipt of electronic confirmation of delivery to the facsimile or telecopy number indicated above.

- Section 4.6 This Contract constitutes the entire agreement of the parties hereto as to the subject matter hereof, and supersedes any prior or contemporaneous agreements, whether written or oral. This Contract may not be amended, except in writing and signed by the parties hereto.
- Section 4.7 Venue for any dispute arising in connection with this Contract lies in Travis County, Texas.
- Section 4.8 This Contract is executed in multiple originals and all counterparts, when taken together, shall constitute one and the same instrument.

EXECUTED to be effective as of the _____ day of ___August CAPITAL STUDIOS HOUSING, LP 3036 South 1st Street Austin, Texas 78704 By: CAPITAL STUDIOS HOUSING, LP a Limited Partnership By: Printed Name: Walter Moreau on behalf of CAPITAL STUDIOS HOUSING, LP Title: Executive Director THE CITY OF AUSTIN Printed Name: Greg Guernsey Title: Director, Planning & Development Review Department APPROVED AS TO FORM: David V. Sorola, Assistant City Attorney Lee Simmons

ACKNOWLEDGEMENTS

STATE OF TEXAS	§	TILLIE CR	
COUNTY OF TRAV	IS §	Potary Public, Comm. Expire Notary ID	es 10-28-2019
	xecutive Director o	f Capital Studios Housing, LP, a I	Limited Partnership, on
STATE OF TEXAS	8		
COUNTY OF TRAV	IS §		€2
Greg Guernsey, Direct	ctor, Planning & De	ed before me this day of evelopment Review Department of on behalf of said municipal corpo Notary Public, State of Texas	of the City of Austin, a ration.
LIST OF EXHIBITS	S:		
Exhibit A	Total Estimated ar	nd Eligible Reimbursable Costs of	Sidewalk Project
Exhibit B	Sidewalk Project I	Plans	
Exhibit C	Executed City Lice	ence Agreement	

EXHIBIT A Total Estimated and Eligible Reimbursable Costs of Sidewalk Project

EXHIBIT B Sidewalk Project Plans

EXHIBIT B continued Sidewalk Project Plans

<u>The Applicant</u> agrees to provide Construction Documents for the Sidewalk Project as described herein, and to provide complete design, engineering, construction and project management services for the Sidewalk Project in accordance with the City's Land Development Code and applicable ordinances, laws, and statutes, as amended unless otherwise modified by this Community Facilities Contract.

The Applicant agrees to contact the City' Planning & Development Review Department (PDR), Urban Design Division, within 24 hours of any known construction conflict with the Sidewalk Project that may cause the location of any sidewalk element to shift location by more than 3-inches. The Applicant agrees to produce, coordinate and evaluate design alternatives for said conflicts at the Applicant's sole expense and shall receive PDR staff approval for any variances from the Sidewalk Project prior to construction of effected sidewalk element.

Sidewalk elements include, but are not limited to City standards, specifications and the following criteria:

- (a) 11th Street curb to be located 18-feet from property line to face-of-curb <u>Trinity</u> Street curb to be located 18-feet from property line to face-of-curb.
- (b) Twelve (12) Type III bike racks; Standard Detail # 710s-1 page 1 of 3; individual inverted "U" shape racks accommodating two bikes per rack; galvanized finish.
- (c) Five (5) waste bins adjacent to accessible curb ramps at corner: Fairweather TR-12 waste bin with hinged side-opening door for emptying; 35 gallon liner with handle; dome top; flush key lock and latch; "Silverdillo" color.
- (d) Four (4) benches on 11th Street and 6 benches on Avenue: Landscape Forms Plainwell Bench in 5-foot length with center arm, silver color with Ipe slats. To be installed 18-inches from face-of-curb to end of bench.
- (e) Street Lighting & Traffic Signal pole infrastructure including: pole foundations, pull boxes, handholes, and conduit per design provided by City.
- (f) Two (2) 6-foot-by-6-foot (6' x 6') cast iron tree grates on Trinity Street; Eight (8) 8-foot-by-5-foot (8' x 5') cast iron tree grates on 11th Street with ADA compliant openings and expandable center for tree trunk growth.
 - (g) Irrigation and drainage for all trees and plantings.
- (h) <u>Eight (8) 5-inch caliper Drake Elm; Ulmus parvifolia</u> street trees on <u>11th</u> Street; <u>two (2) 5-inch</u> caliper <u>Big Tooth Maple; Acer grandidentatum</u> street trees on <u>Trinity Street</u>. All street trees to meet the following minimum criteria, specifications and performance standards:

Intent

The curbside street tree is envisioned as a large canopied, high branching tree that is tolerant of urban conditions, relatively disease and pest resistant, and has been grown successfully within the Austin area. Planting a tree is an investment in time, money, and the future. Trees can provide net benefits, both environmental and aesthetic, that are worth two to three times the cost of planting and caring for them over a 30-year period. The most important steps in producing a return on the investment in tree planting are to select the highest quality tree possible, plant it correctly, and train it to develop a sturdy, tapered trunk with well-spaced lateral branches that are proportional in size.

Criteria for Location of Trees in Streetscape

- Street trees are intended to form a continuous canopy over the street and sidewalk affording shade to pedestrians and helping to counteract the urban heat island effect of pavements and masonry building walls. To accomplish this, trees should be tightly spaced 22 to 30-feet on center-so that the canopies touch, but allow sufficient room for tree canopies to grow without conflict with building elements such as building canopies or signs or with other landscaping.
- Trees form a psychological and physical boundary between the pedestrian and vehicular zones of the street. They should be placed in the 8-foot wide curbside zone with other streetscape furnishings, a minimum of four feet from the face of curb to centerline of tree. The 4-foot setback from face-of-curb means that if medians are to be built they must be a minimum of 8-feet wide from face-of-curb to face-of-curb for trees to be installed in them.
- Where sidewalks are not wide enough to accommodate a tree pit, consideration should be given to extending sidewalk at corners and at each mid-block roadway light pole location to create space for tree placement beyond the existing ten-foot sidewalk width.
- City code requires that there be a 5-foot horizontal clearance between trees and underground utilities and a 10-foot clearance between trees and overhead utilities. Tree pit excavation must not come within 1 foot of an existing underground utility in order to not disturb the pipe bedding. Trees must be no closer than 11 feet to any roadway light pole or pedestrian light pole.

Criteria for Tree Wells and Planting Areas

• For tree health and longevity, it is imperative to provide the greatest volume of root zone possible. A minimum of 6'-0" long x 6'-0" wide x 3'-6" deep tree well is required in a 12 to 18-foot wide sidewalk. However, the greater the size of the root zone, the better the survival rate of the trees. 1000 cubic feet is the optimum soil volume to sustain long-

term growth.

- Elongated tree wells, plant beds or a continuous planting trench running parallel to the street and connecting tree pits are encouraged to provide an even better growing environment for tree roots. Elongated tree wells should have at least that portion of the well which exceeds the standard 6-foot X 6-foot well dimension covered with a paver type of grate in lieu of a cast iron tree grate to maximize the walkable sidewalk surface. Where curbside parking is located, plant beds shall not exceed 14' in length, shall be centered on the tree and shall be located so as to not block access to the sidewalk from the parking space.
- The optimum tree well consists of a continuous 2' depth of structural soil extending underneath the sidewalk beyond the immediate planting well from the building face to the curb.
- Fully irrigate the tree wells with a minimum of two bubblers per well on an automatic irrigation system. Irrigation system must be designed in accordance with planting soil textural characteristics and infiltration rate of native, subgrade soils.
- Provide a well-drained planting mix in tree well, or use a structural soil.

Tree Selection Criteria

Tree Species

- Property owners shall choose tree species from the Great Streets Master Plan and COA approved tree lists in consultation with the City's Great Streets Development Program staff. In general, East-West streets are to be planted in Cedar Elm or Drake Elm, in alternating pattern, i.e. Cedar Elm on Second Street, Drake Elm on Third Street and so forth. North-South streets are to be planted in Red Oak or Big Tooth Maple.
 - Trees that are to be planted where they will receive shadows from adjacent buildings shall be selected from those species that are able to acclimate to such conditions.
 - The selected tree species should be readily available from a tree nursery, have a reasonable growth rate of not less that ½ inch in caliper per year, and be of a disease-resistant, drought-tolerant variety whenever available.
 - Trees shall be locally grown to enhance their probability of success in Austin's limestone soils and climate of extremes in heat and drought. Locally grown shall be defined as grown from seed originating within an area that extends from San Antonio to Waco and from I-35 to Uvalde and having been grown in an alkaline soil/water environment for a minimum of 5 years.

Tree Size, Form and Condition

• For appropriate scale in the downtown environment, trees shall be a minimum of five-inch caliper (measured twelve inches above the root ball or soil surface in container) at time of planting. Administrative waiver to this requirement may be made by staff in the case of site constraints that

preclude installing a tree of this size or if the species selected exhibits a larger than usual canopy to caliper size proportion.

- Care should be taken to match the height, spread, and habit of the trees along a block front.
- All trees shall be true to type or name as ordered and have a form typical for the species or cultivar.

The height, crown spread, diameter, and root size of all trees shall be appropriate for the type of stock and in proportion to one another.

- The trunk of the tree must have visible taper with a strong single, central leader, free of co-dominant stems and vigorous upright branches that compete with the central leader. Generally the leader should not be pruned or headed back. However, if the leader has been pruned, a vertical branch at least ½ the diameter of the leader must be present immediately below the pruning point. No portion of the trunk from six inches above the root crown shall be larger than the lower portion. The bottom six inches of the trunk shall be of greater diameter than other portions of the trunk. The trunk shall be straight with no crooks or bends exceeding 20 degrees from the vertical with the total number of bends not to exceed two per tree.
- No branches shall be greater than 2/3 the diameter of the trunk. The branches shall be well distributed in a symmetrical pattern around the trunk and free of crossing branches. The ideal branch spacing is 8" to 12" apart and forming a 45-degree angle with the trunk. Trees shall not have scaffold branches with included bark. Suckers and water sprouts shall not be present on trees.
- Temporary branches should be present along the trunk below the lowest permanent scaffold branch. Heading of temporary branches is acceptable to limit their growth. Minimum clearance for tree limbs and branches must be 7'-6" above the level of the sidewalk. Trees should be trimmed proportionately to an ultimate clearance height of 14'-0" above the sidewalk and street over time to provide adequate sight lines for storefronts and traffic signals.
- Container grown trees are preferred for their higher rate of successful establishment. This requirement may be administratively waived by staff to allow for the use of boxed, or balled and burlapped if container grown trees are proven to not be available.
- Root ball of all trees shall be moist throughout and the crown shall show no signs of moisture stress at time of delivery.
- The root mass shall be free of roots visibly circling the trunk and free of "knees" (roots) protruding above the soil. The root mass periphery shall be free of excessive circling roots or bottom matted roots. The uppermost roots shall be within one inch above or below the soil surface. If container grown, the soil surface shall be no lower than 3" from the top edge of the container.
- The root ball or container shall be free of weeds.
- The tree shall be well-rooted in the soil mix and capable of standing

upright, on its own, at the time of acceptance without the support of a nursery stake. When the container is removed, the rootball shall remain intact. The trunk and root ball shall move as one unit when lifted.

■ All trees shall be healthy and vigorously growing at time of acceptance. They shall be free of wounds (except for properly made pruning cuts that have callused over at least half-way) sunburned areas and conks, bleeding galls, cankers, lesions and any other sign of disease or of boring insects and insect injuries.

Installation

- Planting when the temperatures are high will decrease the chances for survival. Install trees only from September 15 to May 31.
- Set the root ball so its top is flush with grade in a continuous planting area or 6 to 9 inches below sidewalk grade with tree grates.
- Ensure that the best face of the tree is facing outward toward the street.
- When using tree grates, make sure that the trunk is set exactly in the center of the grate opening.
- Install tree upright and plumb in all directions

EXHIBIT C Executed City License Agreement

FILE COPY



Right of Way Encroachment License Agreement No. #LA 591-1301

The City of Austin, a home-rule municipal corporation located in Hays, Travis and Williamson Counties, State of Texas (the "CITY"), acting through its duly authorized agent the City Manager or designee, who for purposes of this Agreement (as hereinafter defined) is the Officer, Office of Real Estate Services, City of Austin (the "PROPERTY MANAGER"), and Capital Studios Housing, L.P., a Texas limited partnership ("LICENSEE"), enter into this License Agreement (this "AGREEMENT"), effective upon final signature under the terms and conditions set forth below.

1. Premises. The City grants Licensee the right to use (i) 0.2894 acres 12,606 square feet out of the right-of-way within San Jacinto Street, East 11th Street, Trinity Street, and the alley crossing Block 121, Austin, Texas, as shown in Exhibit "A" and Exhibit "B", (ii) 0.0040 acres 173 square feet out of the right of way within Trinity Street, Austin, Texas, as shown in Exhibit "C" and Exhibit "D" (the "LICENSED PROPERTY"), adjacent to (i) and (ii) portions of Lots 1 and 2 of Capital Studios, a subdivision of record Document No. 201300096 of the Official Public Records of Travis County, Texas, with an address of 309 East 11th Street, Austin, Texas (the "ADJOINING PROPERTY").

The City makes this grant solely to the extent of its right, title and interest in the Licensed Property, without any express or implied warranties.

- 2. Purpose. The City grants Licensee permission to use the Licensed Property solely to install, repair, maintain and remove pavers, bike racks, trash receptacles, benches, trees with tree grates, trees with paver grates, irrigation system, balconies with handrails, roof overhang, sunshading louvers, canopies, and French drain, of the size and in the method shown on the attached and incorporated Exhibit "E" (collectively, the "IMPROVEMENTS").
- 3. Consideration. Licensee must pay an annual fee of \$1,297.00, prior to execution of this License, and annually thereafter on or before the anniversary date. The annual fee may be adjusted to reflect fair market value every two years after the effective date of this Agreement, at the Property Manager's discretion. Failure to timely pay the annual fee or provide insurance is grounds to terminate this Agreement.
- 4. Damages and Destruction. The parties agree the City is not obligated to restore or repair the Improvements that may be removed, altered, damaged or destroyed as a result of the City's use, maintenance, and repair of the underlying right-of-way or easement.

If the City causes damage to or destruction of Licensee's Improvements, Licensee covenants not to sue the City, or pursue other remedies, legal or equitable, against the City to recover costs of repairing or replacing the Improvements.

If the City's uses of the Licensed Property substantially interfere with or destroy Licensee's use of the Licensed Property, or any Improvements placed thereon or therein by Licensee, then this Agreement automatically terminates and Licensee must immediately remove its Improvements at its sole cost.

- 5. Term. This Agreement begins on the execution date and continues thereafter for so long as the Licensed Property is used solely for the purposes set out in this Agreement, subject to earlier termination as set out in this Agreement.
- 6. Limits on License. The existence of this Agreement is expressly subordinate to the present and future right of the City, its successors, assigns, lessees, and grantees, to construct, install, establish, maintain, use, operate, and renew any public utilities facilities, transportation facilities, franchised public utilities, rights-of-way, roadways, sidewalks, or streets on, beneath, or above the surface of the Licensed Property (the "FACILITIES").

The City may enter the Licensed Property without giving notice and without incurring any obligation to Licensee and remove the Improvements or any alteration thereof. Such removal will occur only if the Property Manager deems it is necessary: (a) to exercise the City's rights or duties with respect to the Licensed Property; (b) to protect persons or property; or (c) for the public health or safety with respect to the Licensed Property.

7. Conditions.

- A. Repair or Relocate Existing Facilities. Licensee must pay all costs required to repair damage to or relocate existing Facilities, which are damaged or destroyed or need to be relocated as a result of activities under this Agreement by, or on behalf of, Licensee.
- **B.** Covenant on Adjoining Property. This Agreement, until its expiration or revocation, runs as a covenant on the Adjoining Property; therefore, the conditions set forth herein inure to and bind each party's successors and assigns. Licensee, and its assigns, if any, must notify any immediate successors-in-interest to the Licensed Property or Adjoining Property about the existence of this Agreement.
- C. Remove or Modify Improvements. Licensee agrees to pay all costs required to remove or modify any Improvements now existing or to be replaced if the Property Manager determines that the Improvements need to be removed or modified. If Licensee voluntarily removes all Improvements, Licensee must provide at least thirty (30) days' written notice to the other owners of the Adjoining Property at the time, if any.
- **D.** Maintenance. Licensee shall maintain the Licensed Property by keeping the area free of debris and litter on an ongoing basis. Further, Licensee must timely and properly maintain all Improvements. After any installation or repair of any Facilities is complete, Licensee must repair or replace any damaged Improvements such that pedestrian safety and accessibility within the Licensed Property, if applicable, is reestablished within forty-eight (48) hours.
- E. Security Deposits. Licensee is not required to post a security deposit.

- **F.** Recording. The City will file both this Agreement and an Affidavit of License in the applicable official public records to inform all future owners of any interest in the Adjoining Property of the existence of this Agreement and the obligations hereunder.
- 8. Insurance. Licensee at its expense shall provide a commercial general liability insurance policy with a combined single limit of not less than \$500,000, written by a company acceptable to the Property Manager and licensed to do business in Texas. The coverage may be provided in the form of a rider and/or endorsement to a previously existing insurance policy. The insurance must cover all perils arising from the activities of Licensee, its officers, employees, agents, contractors, and invitees, related to the Improvements authorized to be placed on the Licensed Property by this Agreement. Licensee must pay all deductibles stated in the policy.

The insurance must specifically name the City of Austin as an additional insured and provide a waiver of subrogation in favor of the City. A certificate of insurance evidencing coverage must be provided and delivered to the Property Manager with this executed Agreement.

Licensee must ensure that the Property Manager receives written notice of any cancellation, non-renewal, reduction, restriction or other limitation of the insurance policy. This notice is required to be provided thirty (30) days before any of the above actions are taken on the insurance policy. A substitute certificate of insurance evidencing equivalent substitute insurance must be received by the Property Manager prior to the date shown on the notice. All certificates must affirmatively show that the City of Austin is named as an additional insured.

9. INDEMNIFICATION. LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS AND EMPLOYEES, AND REPRESENTATIVES, SUCCESSORS AND ASSIGNS (THE "INDEMNIFIED PARTIES"), FROM ALL LIABILITY, LOSS, CLAIMS, SUITS, ACTIONS, AND PROCEEDINGS WHATSOEVER ("CLAIMS") THAT MAY BE BROUGHT OR INSTITUTED ON ACCOUNT OF OR GROWING OUT OF ANY AND ALL INJURIES DAMAGES, INCLUDING DEATH, TO **PERSONS** PROPERTY RELATING TO THE USE OR OCCUPANCY OF THE LICENSED PROPERTY DURING THE TERM INCLUDING CLAIMS THAT ARISE OUT OF OR RESULT FROM THE ACTIVE OR PASSIVE NEGLIGENCE, OR SOLE, JOINT, CONCURRENT, NEGLIGENCE ANY **OF** OR COMPARATIVE **OF** THE INDEMNIFIED PARTIES AND REGARDLESS OF WHETHER STRICT WITHOUT FAULT OR LIABILITY LIABILITY **IMPOSED** OR ALLEGED **AGAINST** SUCH INDEMNIFIED LOSSES, LIABILITIES, JUDGMENTS, AND PARTIES, ALL PENALTIES, DAMAGES, SETTLEMENTS, COSTS, AND EXPENSES RELATING THERETO, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND OTHER ACTUAL OUT OF POCKET COSTS OF DEFENDING AGAINST, INVESTIGATING, AND SETTLING THE CLAIMS.

Licensee shall assume on behalf of the Indemnified Parties and conduct with due diligence and in good faith the defense of all Claims against any of the Indemnified Parties. The Indemnified Parties shall have the right (but not the obligation) to participate in the defense of any claim or litigation with attorneys of their own selection without relieving Licensee of any obligations in this Agreement. In no event may Licensee admit liability on the part of an Indemnified Party without the written consent of the City Attorney.

Maintenance of the insurance referred to in this Agreement does not affect Licensee's obligations under this Section. Licensee shall be relieved of its obligation of indemnity to the extent of the amount actually recovered from one or more of the insurance carriers of Licensee and either (a) paid to City or (b) paid for City's benefit in reduction of any liability, penalty, damage, expense, or charge actually imposed upon, or incurred by, City in connection with the Claims. Licensee may contest the validity of any Claims, in the name of the City, as the City may in good faith deem appropriate, provided that the expenses thereof are paid by Licensee, or Licensee shall cause the same to be paid by its insurer, and provided further Licensee maintains adequate insurance to cover any loss(es) that might be incurred if such contest is ultimately unsuccessful.

Licensee shall require its general partner, if applicable, and all subcontractors to indemnify City as provided in this Section.

Licensee accepts the Licensed Property "AS IS," and its duty to indemnify extends to injuries caused by defective conditions present on the Licensed Property, INCLUDING DEFECTS ALLOWED TO EXIST BY THE CITY'S OWN NEGLIGENCE.

10. Termination.

A. Termination by Licensee. Licensee may terminate this Agreement by delivering written notice of termination to the Property manager not later than 30 days before the effective date of termination. Licensee shall remove all Improvements from the Licensed Property within the 30-day notice period at its sole cost and expense. Failure to do so constitutes a breach of this Agreement and authorizes the Property Manager to notify Licensee of the cost of such removal and disposal and Licensee

shall pay such costs within 30 days of such notice. The Property Manager may file a lien against the Adjacent Property and the cost of such removal and disposal if the Licensee fails to timely pay these costs. Additionally, in such an event, the Property Manager may draw down the Security Deposit, if any.

- Subject to prior written notification to Licensee or its Termination by City. successor-in-interest, this Agreement is revocable by the Property Manager if: В.
 - The Improvements, or a portion of them, interfere with the City's 1. rights in the right-of-way;
 - Use of the right-of-way area becomes necessary for a public purpose; 2.
 - The Improvements, or a portion of them, constitute a danger to the public, which the Property Manager deems not to be remediable by 3. alteration or maintenance of such Improvements;
 - Despite forty-eight (48) hours' prior notice to Licensee, maintenance or alteration to the Improvements necessary to alleviate a danger to 4. the public has not been made;
 - Licensee fails to comply with the terms and conditions of this Agreement including, but not limited to timely paying the annual fee 5. (if applicable) or properly and timely maintaining the Improvements.
 - Despite thirty (30) days' written notice to Licensee, Licensee has not provided certificates of insurance to the Property Manager. 6.
 - Licensee fails to properly and timely maintain the Improvements as 7.
 - City provides ninety-one (91) days' prior written notice of such 8. termination for any reason.
 - If Licensee abandons or fails to maintain the Termination by Abandonment. Licensed Property, and the Property Manager receives no substantive response C. within thirty (30) days following written notification to Licensee, then the City may remove and/or replace all Improvements. Licensee covenants to pay the City's actual expenses incurred in connection therewith within 30 days after being billed therefor. All of Licensee's Improvements not removed are deemed property of the City when abandoned by Licensee.
- If eminent domain is exerted on the Licensed Property by paramount authority, then the City will, to the extent permitted by law, cooperate with Licensee to effect 11. the removal of Licensee's affected Improvements thereon, at Licensee's sole expense. Licensee may retain all monies paid by the condemning authority for Licensee's Improvements taken, if any.
- Venue for all lawsuits concerning this Agreement must be in the State 12. District courts of Austin, Travis County, Texas.
- Assignment. Licensee shall not assign, sublet or transfer its interest in this Agreement without the prior written consent of the Property Manager. Such consent shall not be 13. unreasonably withheld, subject to the assignee's compliance with the insurance requirements

set forth herein, if any and the assignee's promise to comply with all covenants and obligations herein. Licensee shall provide the Property Manager a copy of any such proposed assignment or transfer of any of Licensee's rights in this Agreement, which must include the name, address, and contact person of the assignee, along with the proposed date of assignment or transfer.

14. Notice. Notice may be given by fax, hand delivery, or certified mail, postage prepaid, and is deemed received on the day faxed or hand delivered or on the third day after deposit if sent certified mail. Notice must be sent as follows:

If to City:

Office of Real Estate Services 505 Barton Springs Rd., Suite 1350 Austin, TX 78704

Phone: 512-974-7090 Fax: 512-974-7088

If to Licensee:

Capital Studios Housing, L.P. 3306 South 1st Street, #200 Austin, TX 78703 Phone: 512-447-2026

If to Landowners:

Name:
Address:
City/State/Zip:
Phone:

15. Default. If Licensee fails to pay the annual rent (if applicable), provide certificates of insurance, maintain the Licensed Property, comply with the insurance requirements of this Agreement, or otherwise comply with the terms or conditions herein, then the Property Manager shall give Licensee written notice as set forth herein. Licensee will have thirty (30) days from the date of such notice to take action to remedy the failure complained of, or such lesser period if such is required, and, if Licensee does not satisfactorily remedy the same within that thirty (30) day period, the City may remedy the default or contract to remedy the default. However, if the default is a monetary default, Licensee must cure that within ten (10) business days' of notice. Licensee covenants to pay within ten (10) days of written demand by the Property Manager, all reasonable costs expenses incurred by the City in remedying the default.

Either party may waive any default of the other at any time, without affecting or impairing any right arising from any subsequent or other default.

16. Compliance with Laws. Licensee covenants that all construction, installation, repair, maintenance, and removal of the Improvements permitted by this Agreement must be done in compliance with all applicable City, County, State and/or Federal laws, ordinances, regulations and policies now existing or later adopted.

- 17. Interpretation. Although drafted by the City, this Agreement must, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against either party.
- 18. Application of Law. This Agreement must be governed by the laws of the State of Texas. If the final judgment of a court of competent jurisdiction invalidates any part of this Agreement, then the remaining parts must be enforced, to the extent possible, consistent with the intent of the parties as evidenced by this Agreement.

Terms and Conditions Accepted on	February	12	, 2015

CITY OF AUSTIN, a Texas home rule municipal corporation

Approved as to Form:

Assistant City Attorney

By: <u>A.J.H.</u>
Lauraine Rizer, Officer A.J.H.
Office of Real Estate Services

LICENSEE:

Capital Studios Housing, L.P.

By: FC Downtown Studios Housing,

LLC, its General Partner

Walter Moreau, Executive Director

THE STATE OF TEXAS COUNTY OF TRAVIS

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This instrument was acknowledged before me on October A. 2015, by Lauraine Rizer, Officer, Office of Real Estate Services, City of Austin, a Texas municipal corporation, on behalf of said corporation.

LINDA ROXANNE CAMPOS MY COMMISSION EXPIRES February 27, 2019

Notary Public, State of Texas

STATE OF TEXAS COUNTY OF TRAVIS

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Before me, the undersigned Notary Public of the State of Texas, on this day personally appeared Walter Moreau, Executive Director, FC Downtown Studios Housing, LLC, as General Partner, of Capital Studios Housing, L.P., known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 12th day of Fchruar 4, A.D. 2015.



Notate Public, State of Texas

Landowner Consent:

Landowners, <u>Capital Studios Housing L.P.</u> , consent to this License Agreement by signing this
License on February 12, 2015.
By Walter Moyeau Title: Director of FC Downtown Housing, LLC, General Partner of Capital Studios Housing, L.P.
State of Texas County of Travis
This instrument was acknowledged before me on February 12, 2015, by Walter Moreau, Director of FC Downtown Studios Housing, LLC, a Texas limited liability company, General Partner of Capital Studios Housing, L.P., a Texas limited partnership, on behalf of said company and partnership.
JENNIFER HICKS Notary Public, State of Texas My Commission Expires January 30, 2016

LANDOWNER CONSENT

WHEREAS, the City of Austin, a home-rule municipal corporation located in Hays, Travis, and Williamson Counties, State of Texas (the "City"), acting through its duly authorized agent, and Capital Studios Housing, L.P., a Texas limited partnership (the "Licensee") have entered into that certain License Agreement No. 591-1301 (the "Agreement");

WHEREAS, pursuant to the Agreement, the City grants to the Licensee the right to use: (i) 0.2894 acres, or 12,606 square feet out of the right-of-way within San Jacinto Street, East 11th Street, and the alley crossing Block 121, Austin, Texas, as shown in **Exhibits A** and **B** to the Agreement; (ii) 0.0040 acres, or 173 square feet out of the right of way within Trinity Street, Austin, Texas, as shown in **Exhibits C** and **D** to the Agreement (collectively, the "Licensed Property");

WHEREAS, certain of the Licensed Property extends onto and/or through property owned and/or occupied by 303 Office Condominiums Owners' Association, Inc. (the "Landowner"), subject to the City's right-of-way;

NOW, THEREFORE, the Landowner agrees and consents to the Licensee exercising all obligations and rights contemplated by the Agreement, notwithstanding any claim of ownership or right of control the Landowner could otherwise assert with respect to any portion of the Licensed Property.

By its consent to the Agreement, the Landowner neither intends to, nor does it in fact, submit itself or its constituent members/shareholders to any of the obligations of the Licensee under the Agreement, either jointly, severally, or in the event of any default by the Licensee. Neither does the Landowner seek to claim or exercise any of the rights accruing to the Licensee under the Agreement. Rather, the Landowner merely intends to demonstrate its desire that the City and Licensee be able to exercise all obligations and rights owed to one another under the Agreement as currently drafted, without any objection or interference by the Landowner.

By:

Name:

Chris Harshbarger

Title:

Treasurer

State of Texas

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§

County of Travis §

This instrument was acknowledged before me on October 21, 2015 by Chris Harshbarger, the Treasurer of 303 Office Condominiums Owners' Association, Inc., a Texas corporation, on behalf of said corporation.

Notary Public in and for the State of Texas

COLIN WALSH
Notary Public, State of Texas
My Commission Expires
September 18, 2016

F#LA591-1301 EXHIBIT "_____"

(License Agreement) San Jacinto Street, East 11th Street, Trinity Street and the Alley crossing Block 121, Original City of Austin

Exhibit "A" - Legal Description

BEING A DESCRIPTION OF A TRACT OF LAND CONTAINING 0.2894 ACRE (12,606 SQUARE FEET), BEING A PORTION OF THE RIGHT-OF-WAY OF SAN JACINTO STREET (80' RIGHT-OF-WAY), EAST 11TH STREET (80' RIGHT-OF-WAY), TRINITY STREET (80' RIGHT-OF-WAY) AND THE ALLEY (20' RIGHT-OF-WAY) CROSSING BLOCK 121, ALL OF THE ORIGINAL CITY OF AUSTIN, ACCORDING TO A MAP OR PLAT ON FILE WITH THE TEXAS GENERAL LAND OFFICE, AND BEING ADAJACENT TO PORTIONS OF LOTS 1 AND 2 OF CAPITAL STUDIOS, A SUBDIVISION OF RECORD IN DOCUMENT NO. 201300096 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (O.P.R.T.C.T), SAID 0.2894 ACRE BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS (ALL BEARINGS ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, GRID NORTH, CENTRAL ZONE (4203)):



PO Box 90876 Austin, TX 78709 512.554,3371 jward@4wardls.com

BEGINNING, at a 1/2-inch iron rod found at the intersection of the south right-of-way line of said East 11th Street with the west right-of-way line of said Trinity Street, same being at the northeast corner of said Lot 1, for an interior ell corner and **POINT OF BEGINNING** hereof;

THENCE, in part with the north lines of said Lots 1 and 2, and with the south right-of-way line of said San Jacinto Street, N73°36'30"W, passing at a distance of 215.85 feet, a 60D nail found at the common north corner of said Lots 1 and 2, same being at the northeast corner of the 303 Office Condominiums, a condominium plat of record in Document #2006102454 (O.P.R.T.C.T), and continuing for a total distance of 277.96 feet to an "X" set in concrete for an interior ell corner hereof, said point being at the intersection of the east right-of-way of said San Jacinto Street with the south right-of-way of said East 11th Street, same being at the northwest corner of said Lot 2, also being the northwest corner of said 303 Office Condominiums;

THENCE, with the west lines of said Lot 2 and said 303 Office Condominiums, and with the east right-of-way line of said San Jacinto Street, S16°33'27"W, a distance of 20.74 to a calculated point for an exterior ell-corner hereof, from which a calculated point for the southwest corner of said Lot 2 and said 303 Office Condominiums, same being at the intersection of the east right-of-way line of said San Jacinto Street with the north right-of-way line of said alley that crosses Block 121 bears, S16°33'27"W, a distance of 107.26 feet;

THENCE, over and across the right-of-ways of said San Jacinto Street, said East 11th Street, said Trinity Street and said alley, the following nine (9) courses and distances:

- 1) N73°13'21"W, a distance of 9.00 feet to a calculated point for an exterior ell-corner hereof
- 2) N13°33'16"W, a distance of 14.26 feet to a calculated point for an angle point hereof,
- 3) N16°26'44"E, a distance of 16.01 feet to a calculated point for a point of curvature hereof
- 4) 23.50 feet along the arc of a curve to the right, having a radius of 15.00 and whose chord bears N61°19'11"E, a distance of 21.17 feet to a calculated point for a point of tangency hereof, from which a COA centerline monument found at the centerline intersection of

Exhibit "A" Pg. 2 of 2

F#LA591-1301

- said San Jacinto Street and said East 11th Street bears, N16°22'42"E, a distance of 17.15 feet, and N73°37'18"W, a distance of 36.68 feet,
- 5) S73°45'54"E, a distance of 283.31 feet to a calculated point for point of curvature hereof, from which a COA centerline monument found at the centerline intersection of Red River Street (80' right-of-way) and said East 11th Street bears, N16°22'42"E, a distance of 16.44 feet, and S73°37'18"E, a distance of 391.87 feet,
- 6) 23.64 feet along the arc of a curve to the right, having a radius of 15.00 feet, and whose chord bears \$28°37'00"E, a distance of 21.27 feet to a calculated point for a point of tangency hereof,
- 7) S16°30'46"W, a distance of 147.99 feet to a calculated point for the southeast corner hereof,
- 8) N73°37'16"W, a distance of 235.04 feet to a calculated point for the southwest corner hereof, and
- 9) N16°21'36"E, a distance of 11.65 feet to a calculated point for an exterior ell corner hereof, said point being in the north right-of-way line of said alley, at the common south corner of said Lots 1 and 2, same being at the southeast corner of the 303 Office Condominiums, from which a 60D nail found in the south right-of-way line of said East 11th Street, same being at the common north corner of said Lots 1 and 2, also being at the northeast corner of the 303 Office Condominiums bears, N16°32'23"E, a distance of 127.99 feet:

THENCE, with the north right-of-way line of said alley and the south line of said Lot 1, \$73°37'16"E, a distance of 215.91 feet to a mag nail with "Cunningham Allen" washer found for an interior ell corner hereof, said point being at the intersection of the north right-of-way line of said alley with the west right-of-way line of said Trinity Street, same being the southeast corner of said Lot 1;

THENCE, with the west right-of-way line of said Trinity Street and the east line of said Lot 1, N16°30'46"E, a distance of 127.94 feet to the POINT OF BEGINNING and containing 0.2894 Acre (12,606 Square Feet) more or less.

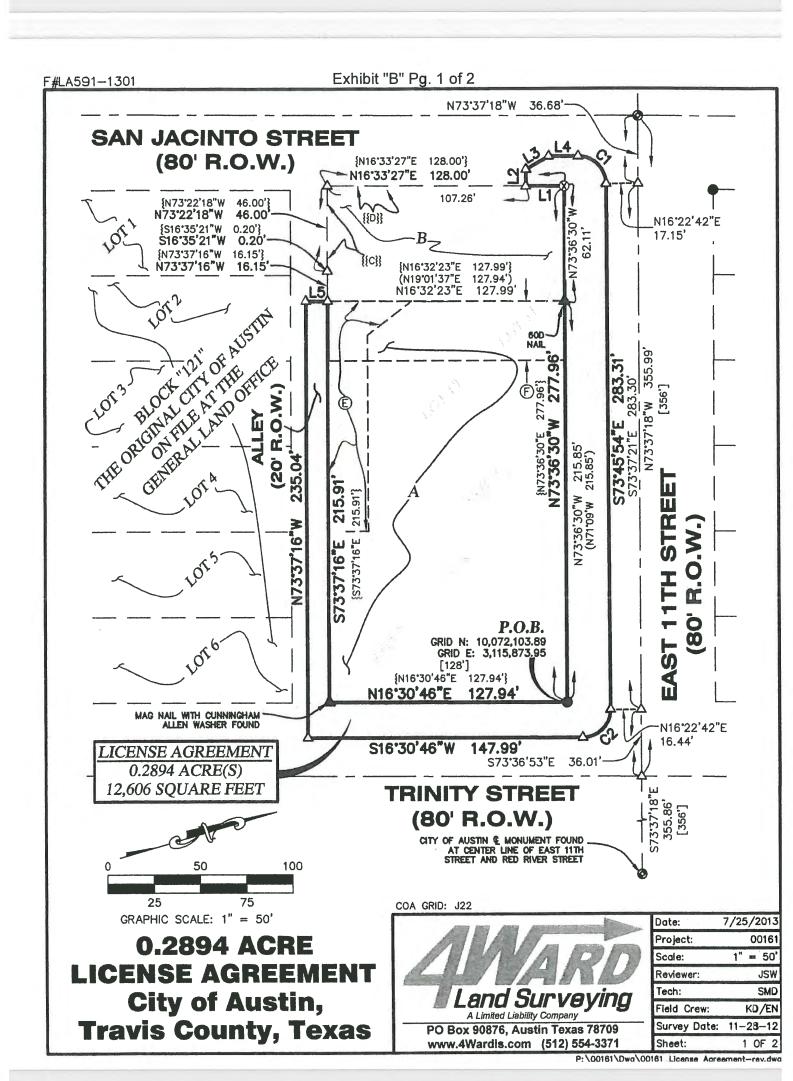
Jason Ward, RPLS #5811 4Ward Land Surveying, LLC

-IELD MOTES REVIEWED

DY JACK DONIEL DOS 08.05:2013

Engineering Support Section
Department of Public Works
and Transportation

COA Grid: J22



LEGEND DRAINAGE EASEMENT LINE **EXISTING PROPERTY LINES** 1/2" IRON ROD FOUND (UNLESS NOTED) COA & MONUMENT FOUND Δ CALCULATED POINT NAIL FOUND (UNLESS NOTED) 8 "X" SET IN CONCRETE DOC. # DOCUMENT NUMBER R.O.W. RIGHT-OF-WAY P.O.B. POINT OF BEGINNING RECORD INFORMATION PER [.....] ORIGINAL CITY OF AUSTIN MAP ON FILE AT THE GENERAL LAND OFFICE **{{.....}**} RECORD INFORMATION PER DOC.# 2004157387 RECORD INFORMATION PER (.....) CONDOMINIUM PLAT DOC.# 2006102434 RECORD INFORMATION PER PLAT **{.....**} DOC.# 201300096

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S16'33'27"W	20.74'
L2	N7313'21"W	9.00'
L3	N13'33'16"W	14.26'
L4	N16'26'44"E	16.01
L5	N16°21'36"E	11.65'

CURVE TABLE					
CURVE #	LENGTH	RADIUS	DELTA	BEARING	DISTANCE
C1	23.50'	15.00'	89"44'53"	N61"19"11"E	21.17'
C2	23.64'	15.00'	90'17'47"	S28'37'00"E	21.27

TRACT INFORMATION:

- LOT 1, CAPITAL STUDIOS SUBDIVISION, DOC. #201300096, O.P.R.T.C.T., OWNED BY CAPITAL STUDIOS HOUSING, L.P., DOC. #

2012142584, O.P.R.T.C.T.

B - LOT 2, CAPITAL STUDIOS SUBDIVISION, DOC. #201300096,
O.P.R.T.C.T., ALSO LEGALLY DESCRIBED AS 303 OFFICE CONDOMINIUMS,

DOC. # 2006102434, O.P.R.T.C.T., (MULTIPLE OWNERS) TRACT INFORMATION PER DOC. #2004157387:

C - CALLED 5 S.F. QUITCLAIM TRACT (TRACT III).

D - CALLED 259 S.F. QUITCLAIM TRACT (TRACT II). E - CALLED 2,890 SQ FT UTILITY EASEMENT, DOC.# 2006102426 O.P.R.T.C.T.

– CALLED 4,081 SQ FT ACCESS EASEMENT,

DOC.# 2006102426, O.P.R.T.C.T.



0.2894 ACRE LICENSE AGREEMENT City of Austin, **Travis County, Texas**



PO Box 90876, Austin Texas 78709 www.4Wardis.com (512) 554-3371

Date:		7/25/2	2013
Projec	t:	0	0161
Scale:		1" =	50'
Review	er:		JSW
Tech:			SMD
Field (Crew:	KΣ	/EN
Survey	Date:	11-28	1-12
Sheet:		2 (OF 2

P-\00181\Dwn\00181 | Iransa Arrasment-rau dwr

Exhibit "C" Pg. 1 of 1

F# LA 591-1301 EXHIBIT "_____" (License Agreement)
Trinity Street

Exhibit "A" - Legal Description

BEING A DESCRIPTION OF A TRACT OF LAND CONTAINING 0.0040 ACRE, (173 SOUARE FEET), BEING A PORTION OF THE RIGHT-OF-WAY OF TRINITY STREET (80' RIGHT-OF-WAY) AS SHOWN ON A MAP OF THE ORIGINAL CITY OF AUSTIN, ACCORDING TO A MAP OR PLAT ON FILE WITH THE TEXAS GENERAL LAND OFFICE, AND BEING ADAJACENT TO THE EAST LINE OF LOT 1 OF CAPITAL STUDIOS, A SUBDIVISION OF RECORD IN DOCUMENT NO. 201300096 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, (O.P.R.T.C.T), SAID 0.0040 ACRE BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS (ALL BEARINGS ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, **GRID NORTH, CENTRAL ZONE (4203)):**



PO Box 90876 Austin, TX 78709 512.554.3371 jward@4wardls.com

COMMENCING, at a 1/2-inch iron rod found at the intersection of the south right-of-way line of East 11th Street (80' right-of-way) with the west right-of-way line of said Trinity Street, same being at the northeast corner of said Lot 1, from which a 60D nail found in the south right-of-way line of said East 11th Street, same being at the northwest corner of said Lot 1, also being at the northeast corner of Lot 2 of said Capital Studios, said Lot 2 being further described as 303 Office Condominiums, a condominium plat of record in Document #2006102434 (O.P.R.T.C.T) bears, N73°36'30"W, a distance of 215.85 feet, and also from which Commencing Point, a COA centerline monument found at the centerline intersection of San Jacinto Street (80' right-of-way) and said East 11th Street bears, N16°22'42"E, a distance of 39.88 feet, and N73°37'18"W, a distance of 315.84 feet;

THENCE, with the west right-of-way line of said Trinity Street and the east line of said Lot 1, S16°30'46"W, a distance of 75.21 feet to a calculated point;

THENCE, leaving the west right-of-way line of said Trinity Street and the east line of said Lot 1, over and across said Trinity Street, S73°29'14"E, a distance of 13.93 feet to a calculated point for the northwest corner and POINT OF BEGINNING hereof;

THENCE, continuing over and across said Trinity Street, the following four (4) courses and distances:

- 1) \$73°38'46"E, a distance of 4.93 feet to a calculated point for the northeast corner hereof,
- 2) S16°21'14"W, a distance of 35.01 feet to a calculated point for the southeast corner hereof,
- 3) N73°38'46"W, a distance of 4.93 feet to a calculated point for the southwest corner hereof, from which a mag nail with "Cunningham Allen" washer found at the intersection of the north right-of-way line of an alley (20' right-of-way) that crosses Block 121 of the Original City of Austin, according to a map or plat on file with the Texas General Land Office, with the west right-of-way line of said Trinity Street, same being the southeast corner of said Lot 1 bears, N73°29'14"W, a distance of 14.03 feet, and S16°30'46"W, a distance of 17.72 feet, and

4) N16°21'14"E, a distance of 35.01 feet to the POINT OF BEGINNING and containing 0.0040 Acre (173 Square Feet) more or less.

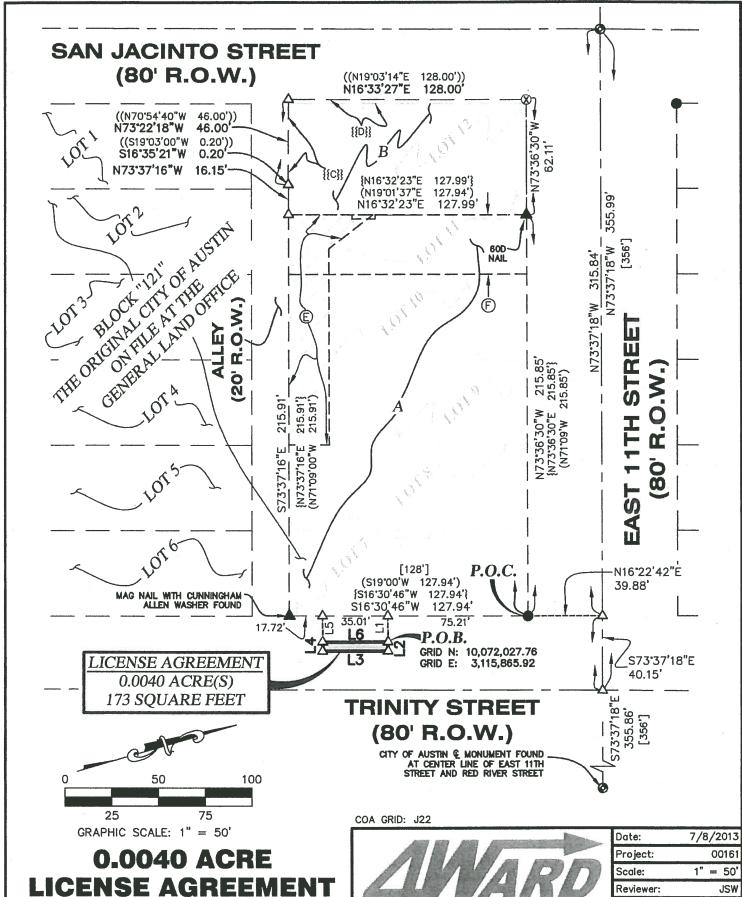
Jason Ward, RPLS #5811 4Ward Land Surveying, LLC

COA Grid: J22
FIELD NOTES REVIEWED

By: CLARK DANIEL DONE 07.09.20

Ingineering Support Section

P:\00161\Metes & Bounds & Certifications\00161_License Agreementations of Public Works



City of Austin,

Travis County, Texas

www.4Wardls.com (512) 554-3371 | Sheet: 1 OF 2

Tech:

Field Crew:

Survey Date:

Survey

A Limited Liability Company

PO Box 90876, Austin Texas 78709

SMD

KD/EN

11-28-12

LEGEND LICENSE AGREEMENT LINE EXISTING PROPERTY LINES 1/2" IRON ROD FOUND (UNLESS NOTED) COA & MONUMENT FOUND Λ CALCULATED POINT NAIL FOUND (UNLESS NOTED) (X) "X" SET IN CONCRETE DOCUMENT NUMBER DOC. # R.O.W. RIGHT-OF-WAY P.O.B. POINT OF BEGINNING P.O.C. POINT OF COMMENCEMENT [.....] RECORD INFORMATION PER ORIGINAL CITY OF AUSTIN MAP ON FILE AT THE GENERAL LAND OFFICE **{{.....}**} RECORD INFORMATION PER DOC.# 2004157387 RECORD INFORMATION PER (.....) CONDOMINIUM PLAT DOC.# 2006102434 RECORD INFORMATION PER PLAT *{......}* DOC.# 201300096 RECORD INFORMATION PER ((.....)) DOC.# 2012008960

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S73°29'14"E	13.93'
L2	S73'38'46"E 4.93'	
L3	S16°21'14"W	35.01
L4	N73'38'46"W	4.93'
L5	N73'29'14"W	14.03'
L6	N16'21'14"E	35.01'

TRACT INFORMATION:

A - LOT 1, CAPITAL STUDIOS SUBDIVISION, DOC. #201300096, 0.P.R.T.C.T., OWNED BY CAPITAL STUDIOS HOUSING, L.P., DOC. # 2012142584, 0.P.R.T.C.T.

B - LOT 2, CAPITAL STUDIOS SUBDIVISION, DOC. #201300096, O.P.R.T.C.T., ALSO LEGALLY DESCRIBED AS 303 OFFICE CONDOMINIUMS, DOC. #2006102434, O.P.R.T.C.T., (MULTIPLE OWNERS)
TRACT INFORMATION PER DOC. #2004157387:

C - CALLED 5 S.F. QUITCLAIM TRACT (TRACT III).

D - CALLED 259 S.F. QUITCLAIM TRACT (TRACT II).
E - CALLED 2,890 SQ FT UTILITY EASEMENT, DOC.# 2006102426
O.P.R.T.C.T.

E- CALLED 4,081 SQ FT ACCESS EASEMENT, DOC.# 2006102426, O.P.R.T.C.T.



0.0040 ACRE
LICENSE AGREEMENT
City of Austin,
Travis County, Texas



PO Box 90876, Austin Texas 78709 www.4Wardis.com (512) 554-3371

Date:	7/8/2013
Project:	00161
Scale:	1" = 50'
Reviewer:	JSW
Tech:	SMD
Field Crew:	KD/EN
Survey Date:	11-28-12
Sheet:	2 OF 2

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Exhibit Exhibit

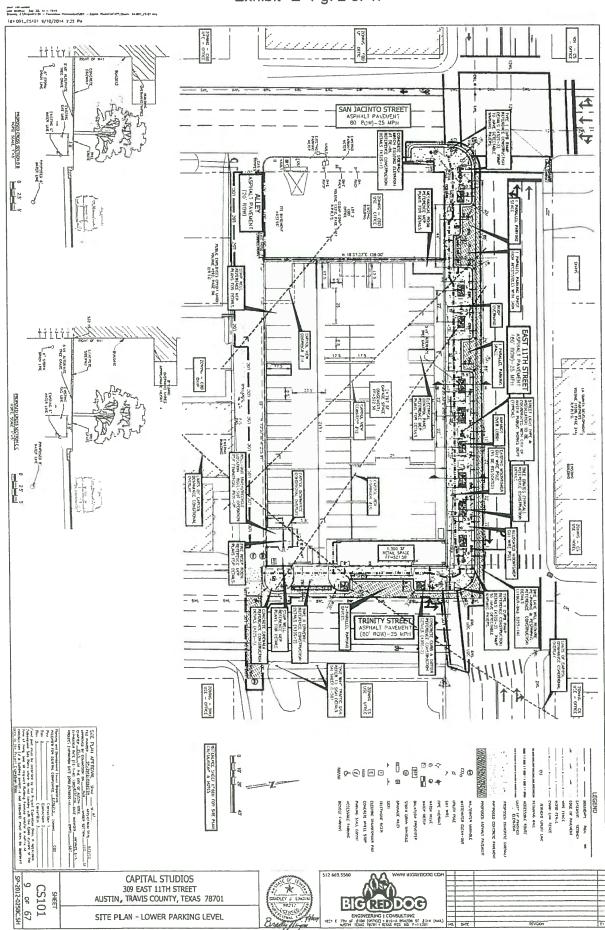


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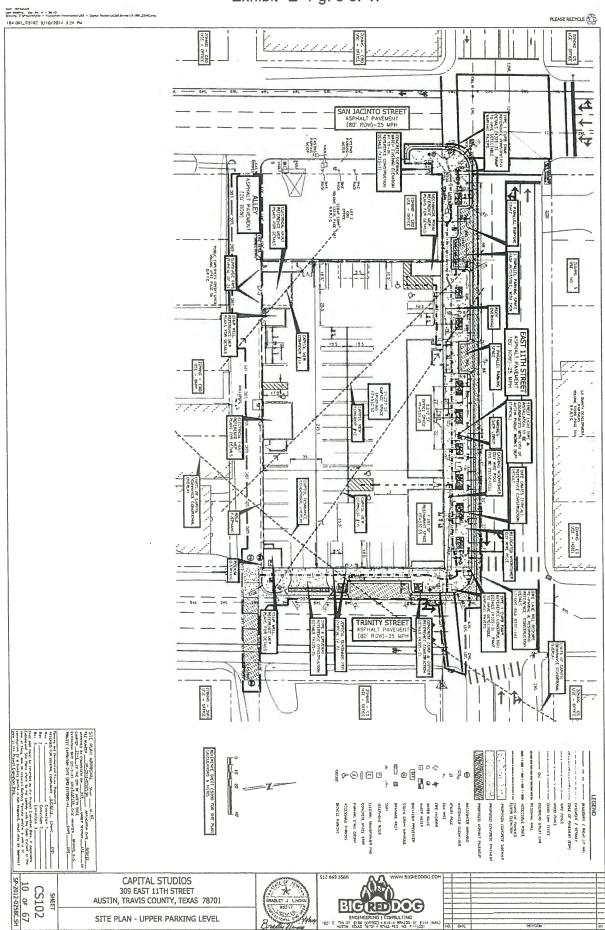
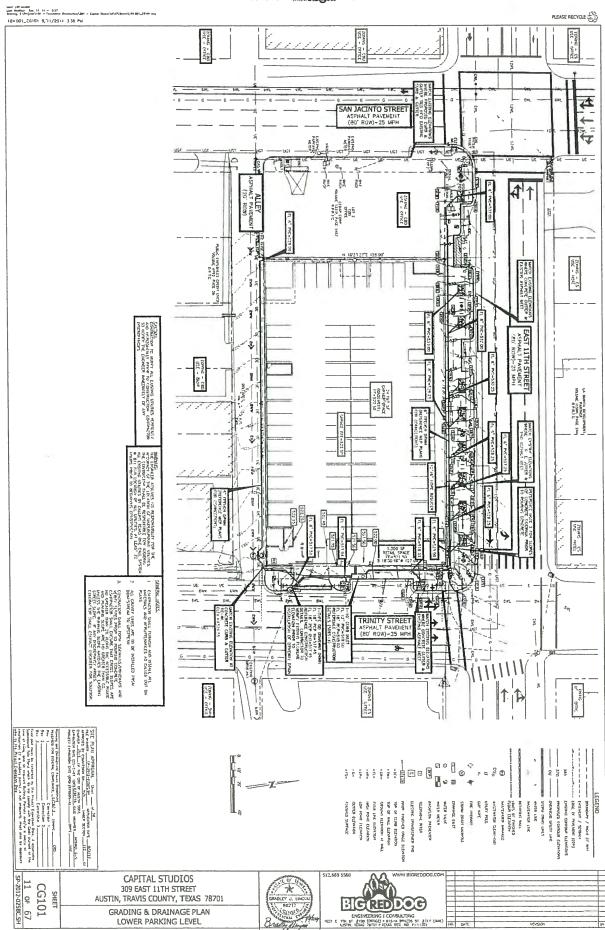
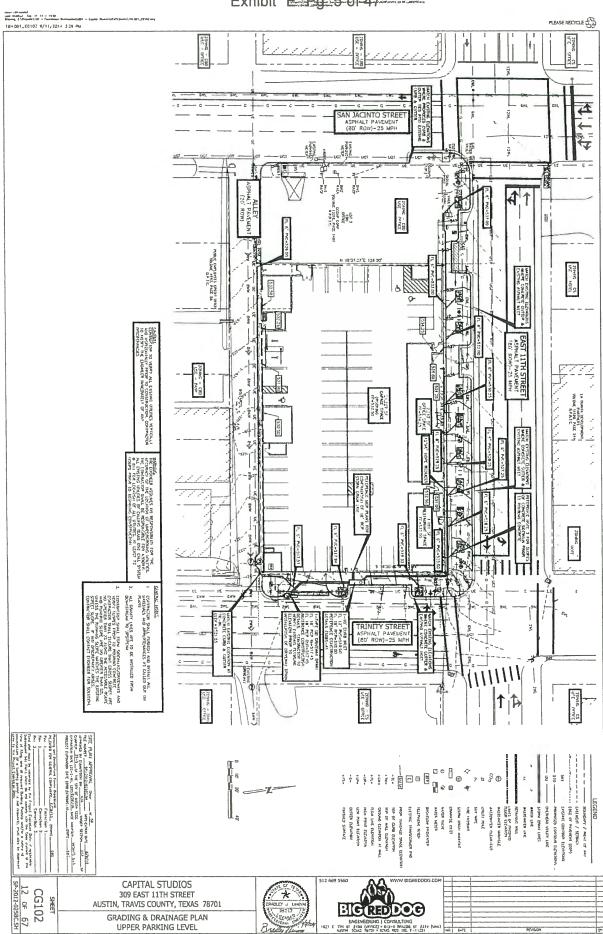
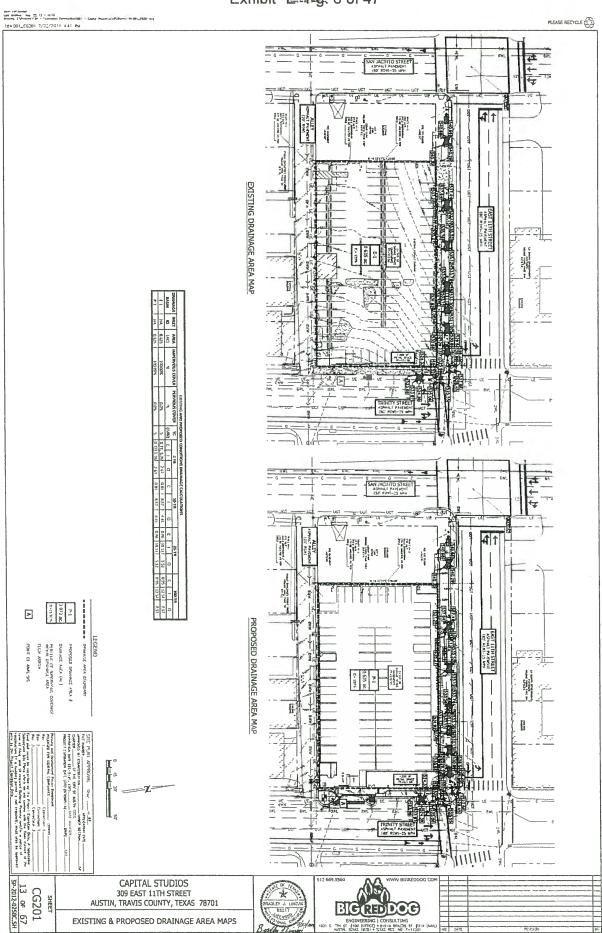


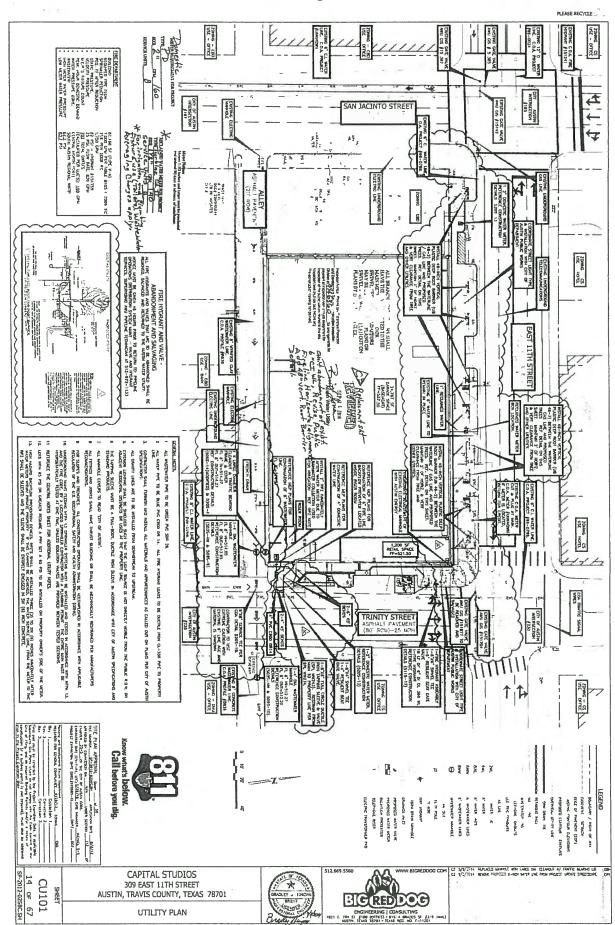
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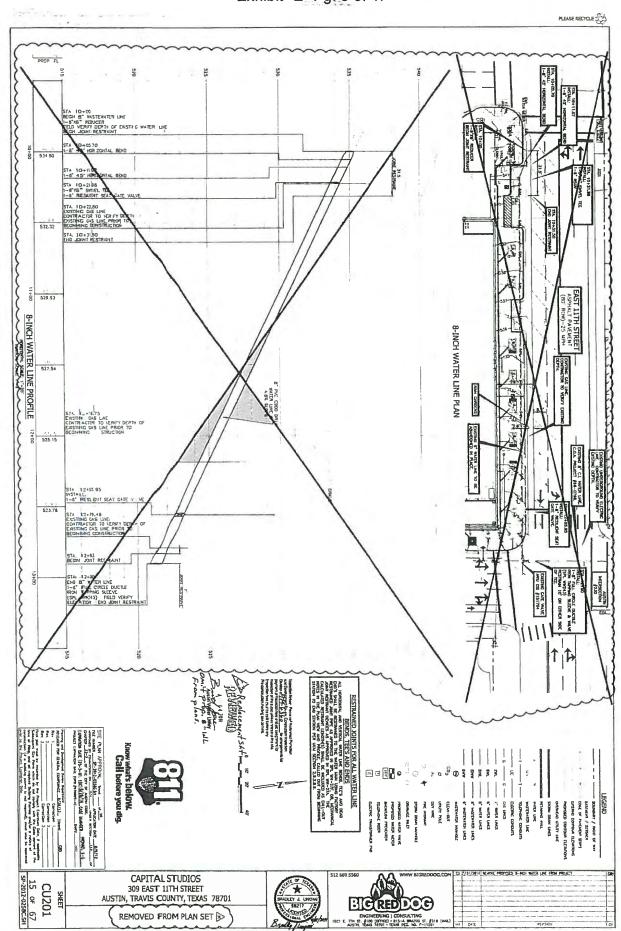


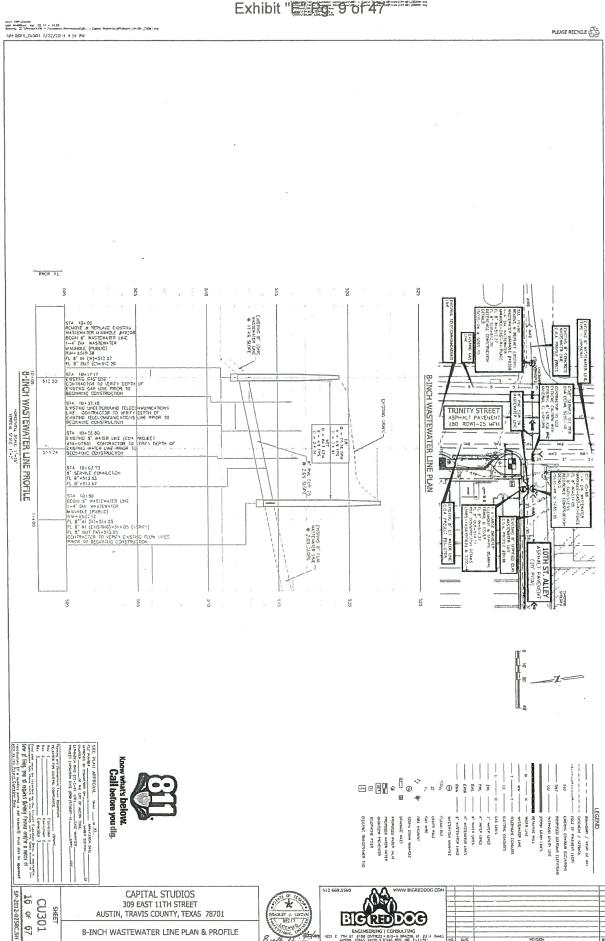


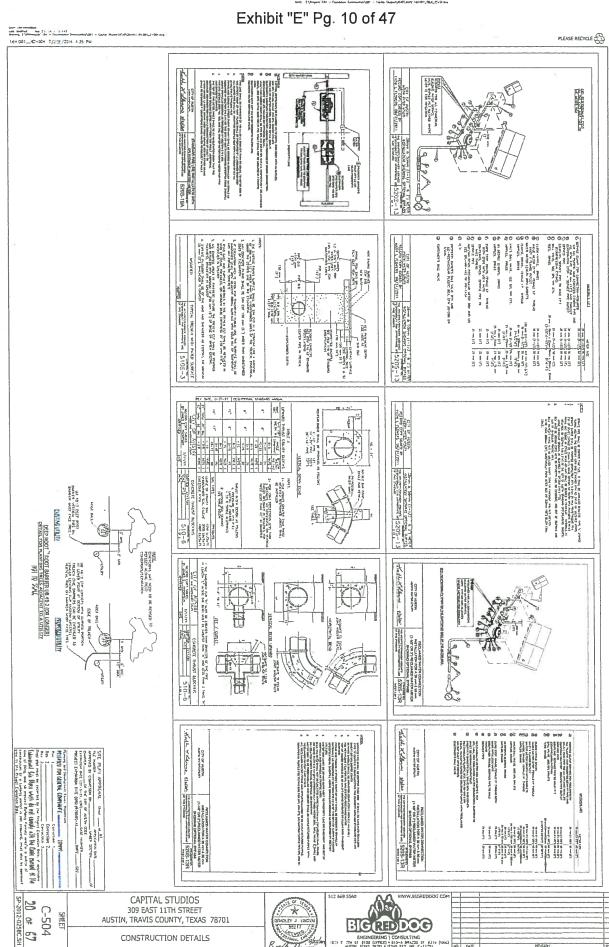
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CONSTRUCTION DETAILS

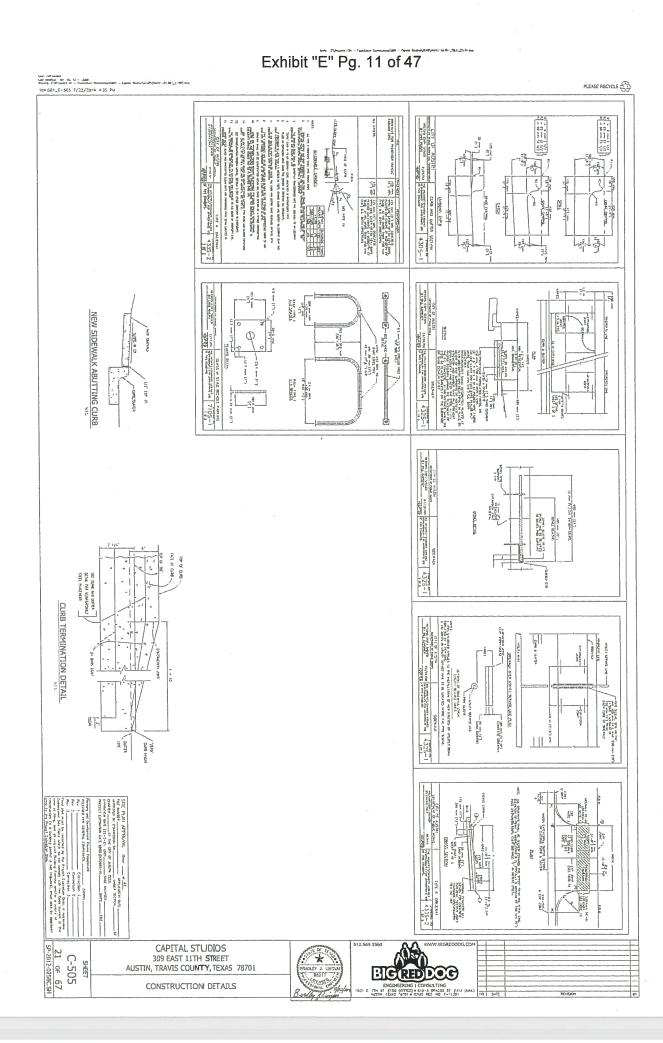
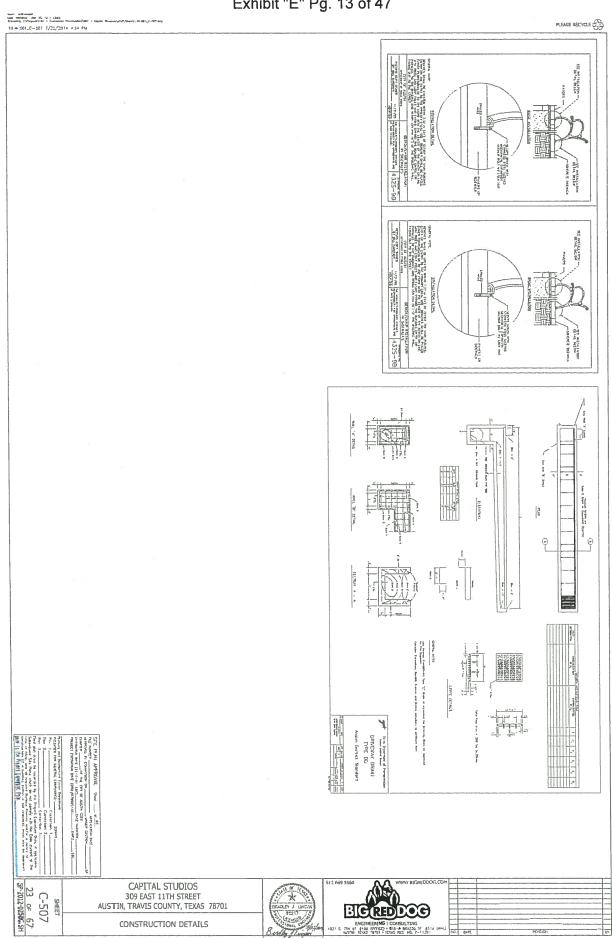


Exhibit "E" Pg. 12 of 47

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Exhibit "E" Pg. 13 of 47



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CAPITAL STUDIOS 309 EAST 11TH STREET AUSTIN, TRAVIS COUNTY, TEXAS 78701 LICENSE AGREEMENT







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CAPITAL STUDIOS 309 EAST 11TH STREET AUSTIN, TRAVIS COUNTY, TEXAS 78701

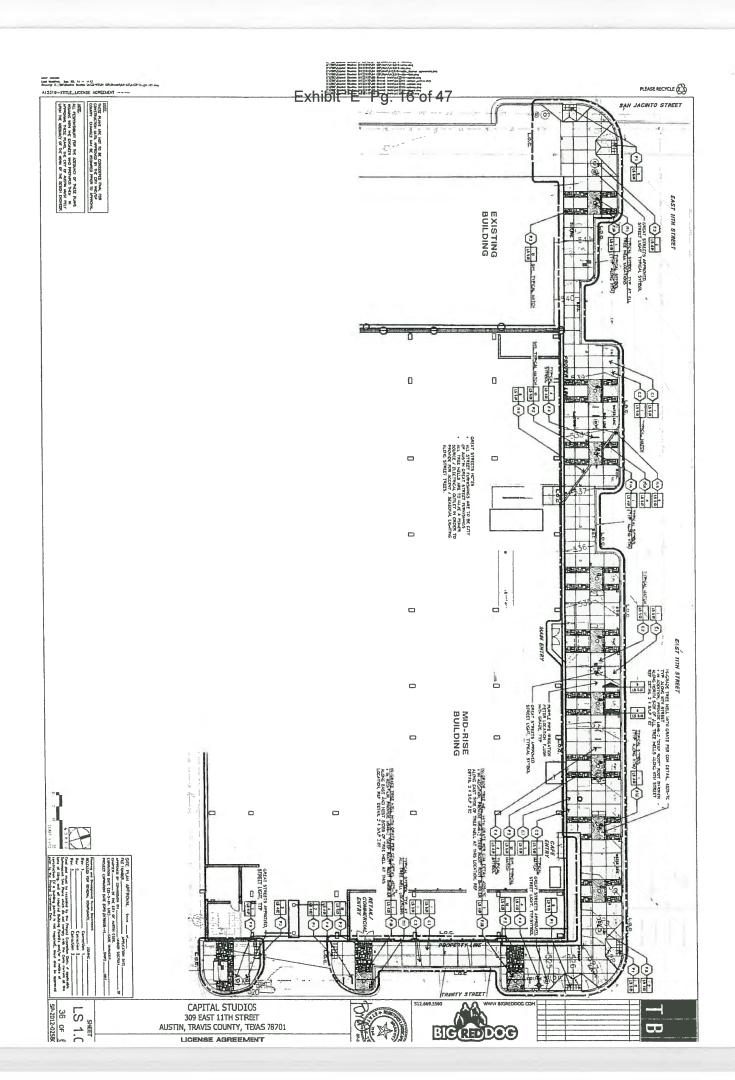


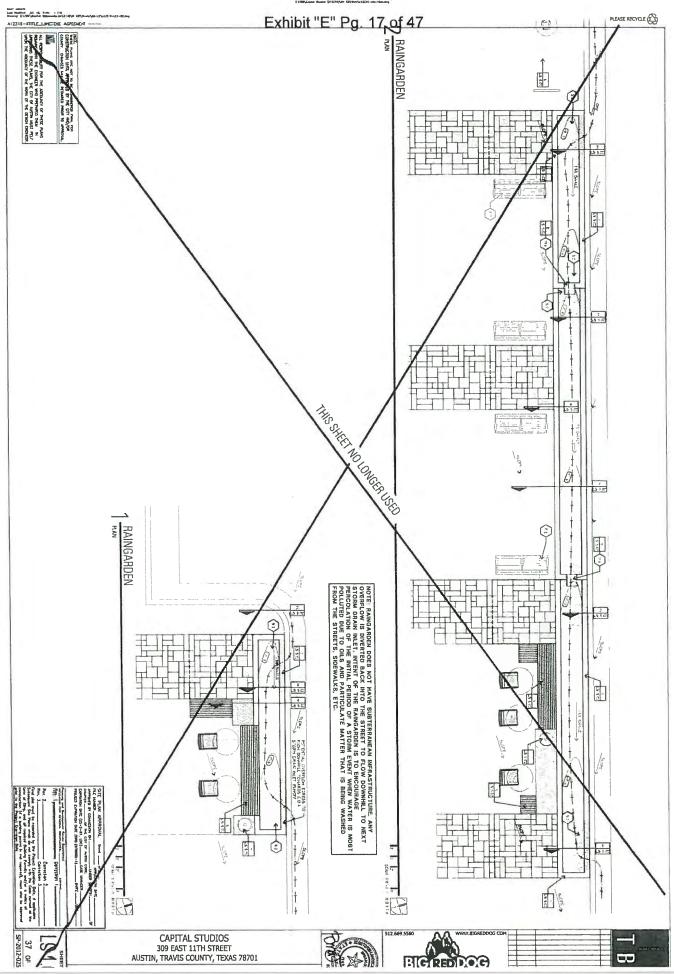
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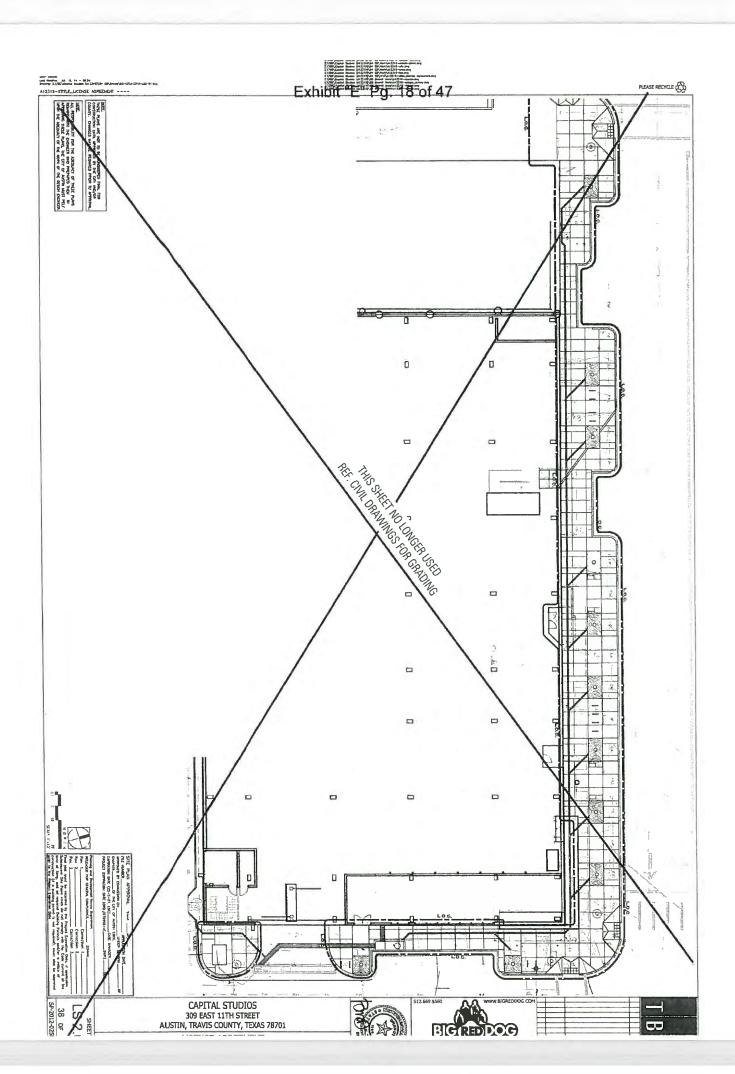
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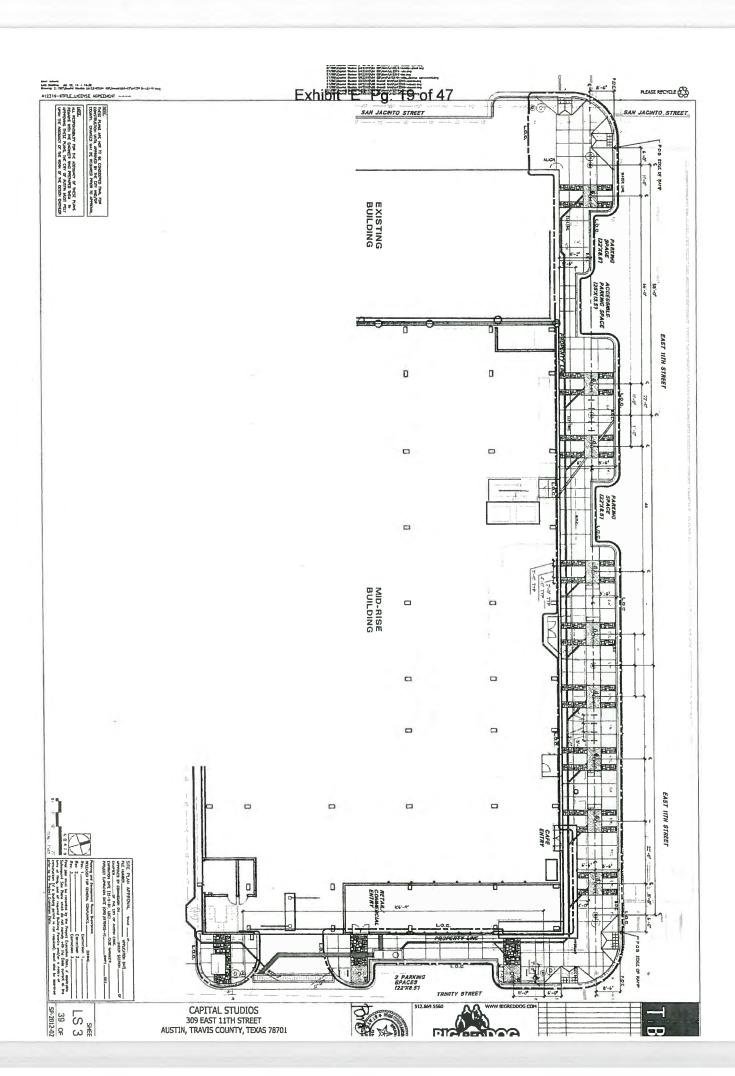












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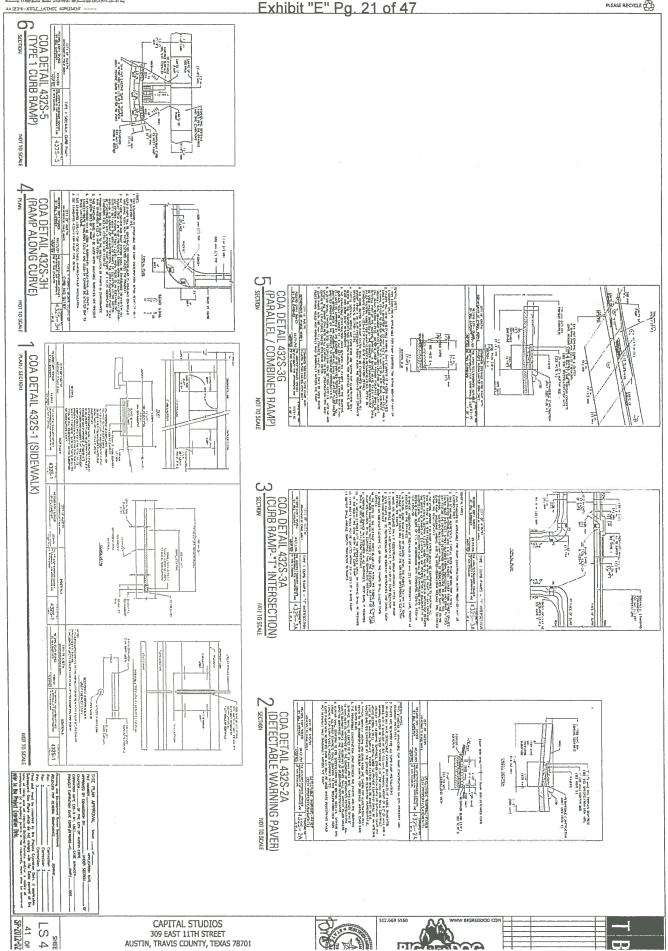
CAPITAL STUDIOS 309 EAST 11TH STREET AUSTIN, TRAVIS COUNTY, TEXAS 78701

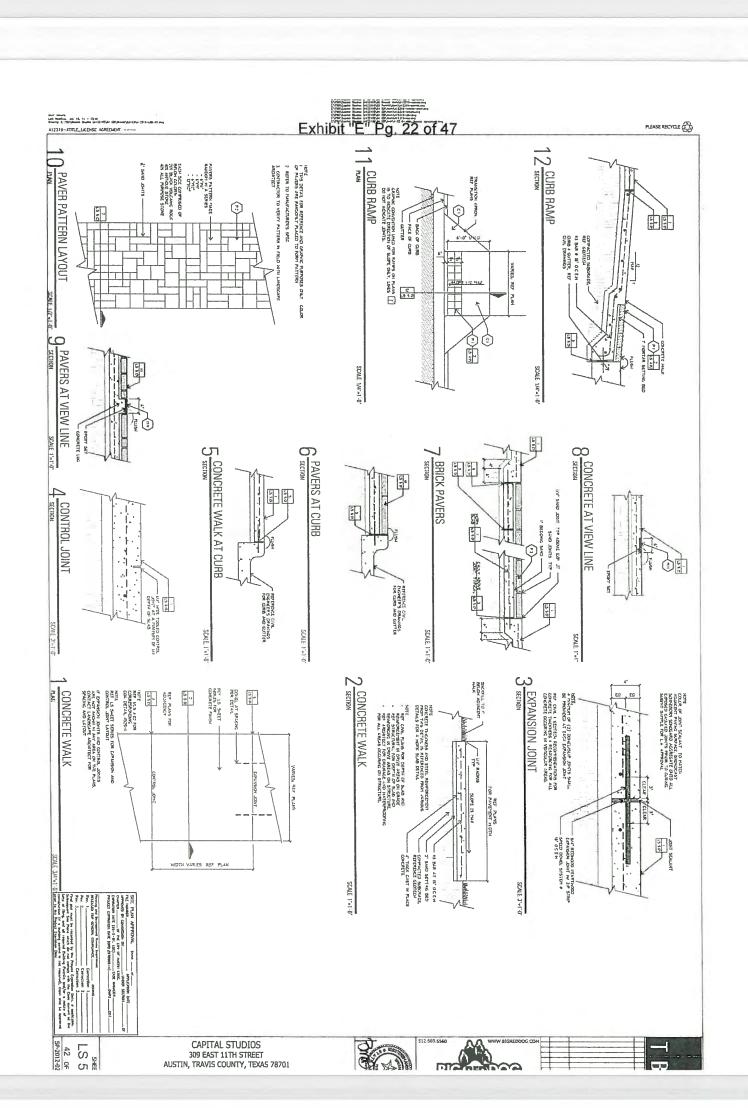


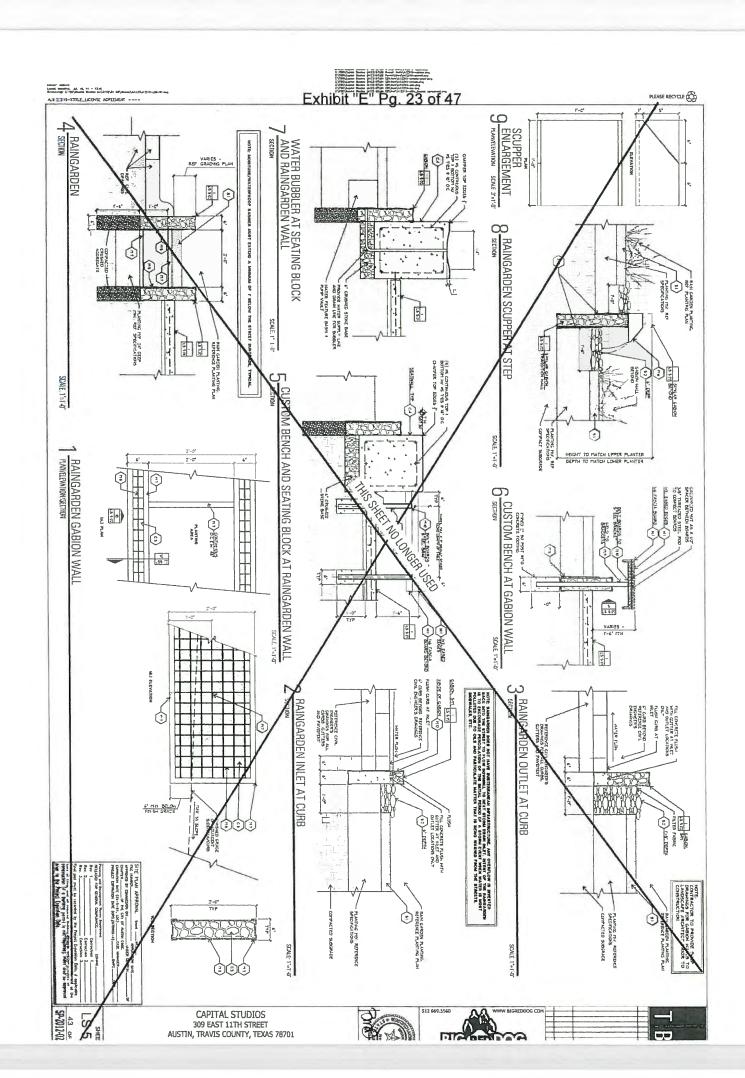


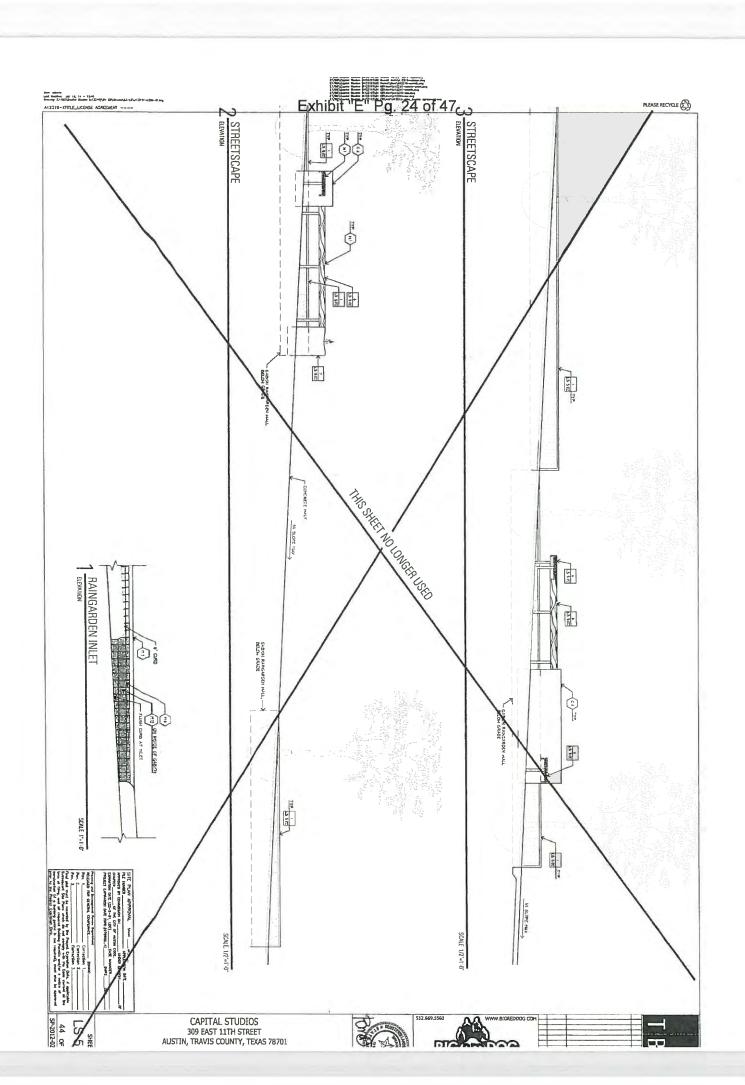


Exhibit "E" Pg. 21 of 47









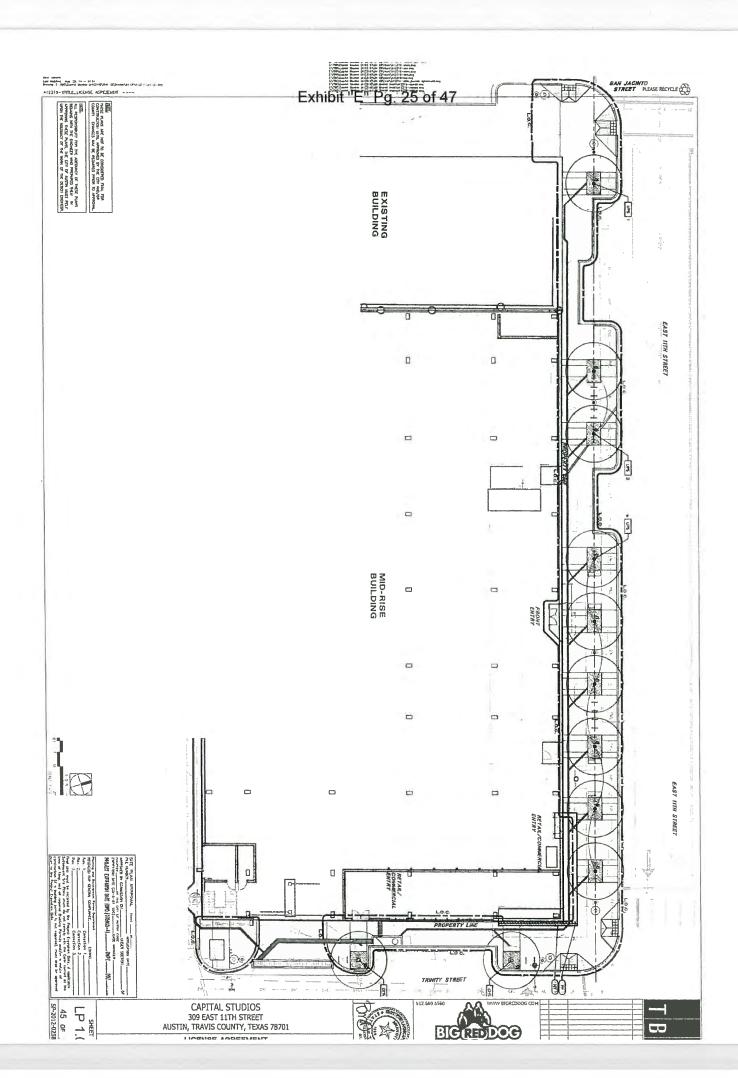
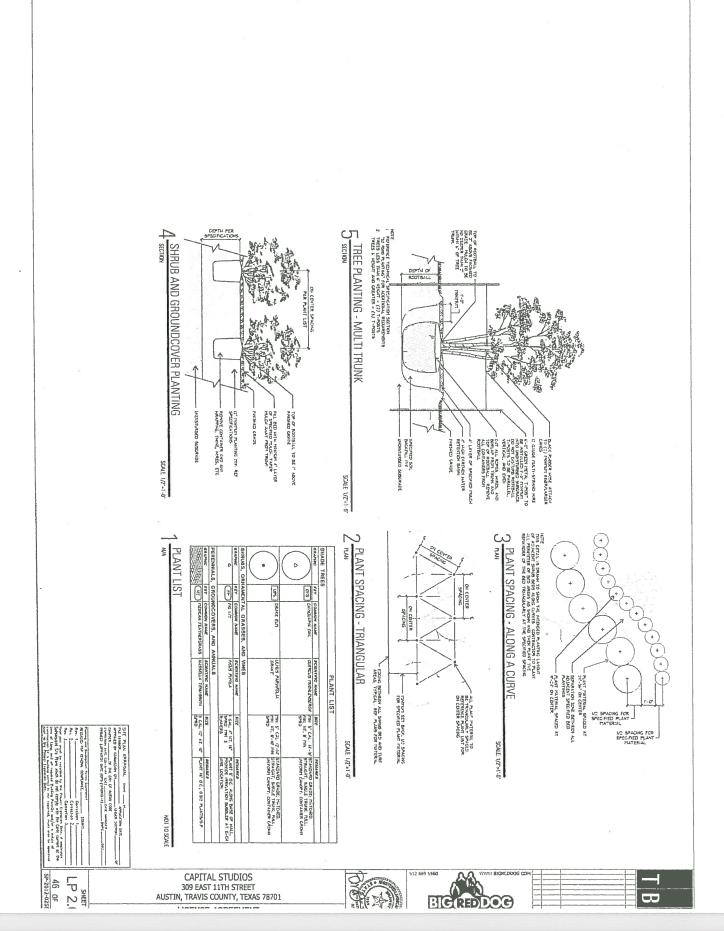
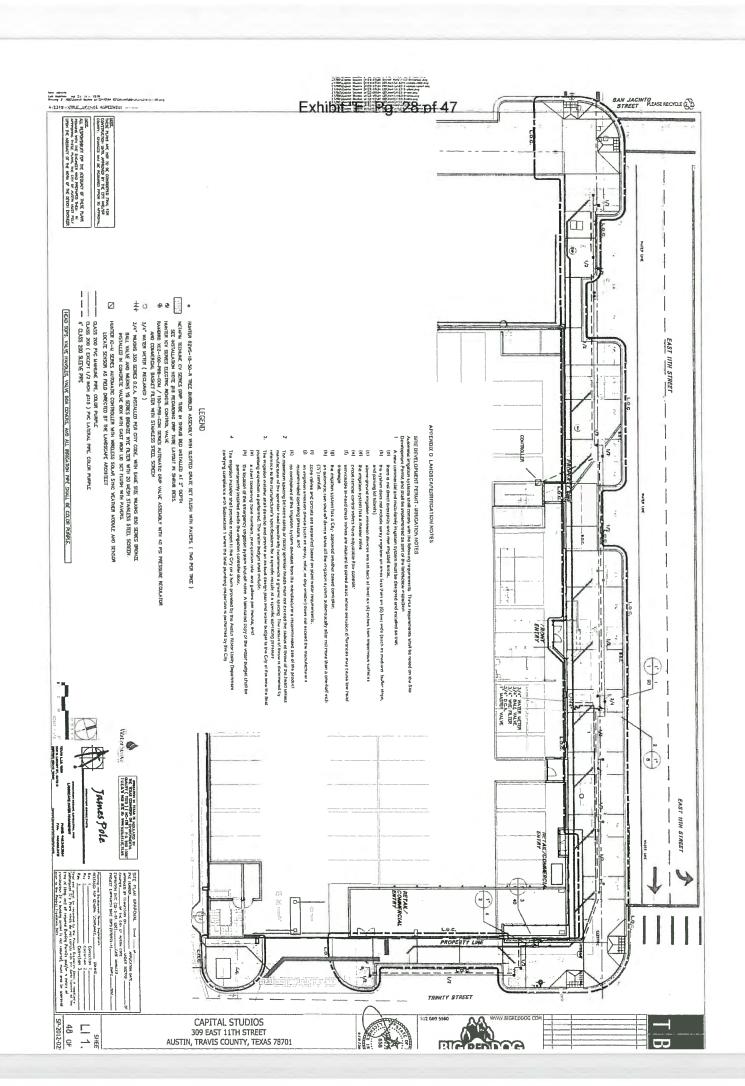


Exhibit "E" Pg. 26 of 47



309 EAST 11TH STREET AUSTIN, TRAVIS COUNTY, TEXAS 78701



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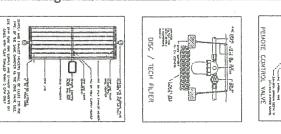
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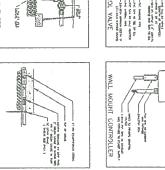


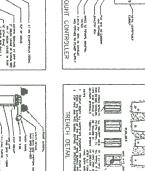
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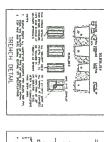
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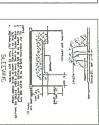
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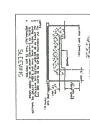
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 CAPITAL STUDIOS 309 EAST 11TH STREET AUSTIN, TRAVIS COUNTY, TEXA





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Exhibit "E" Pg. 30 of 47

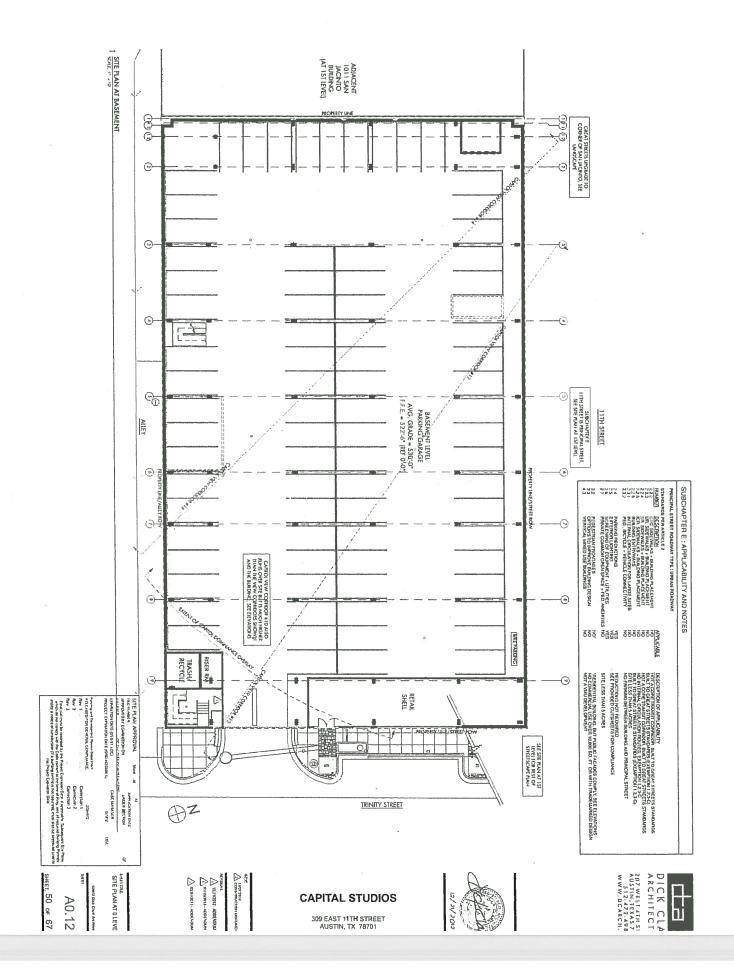
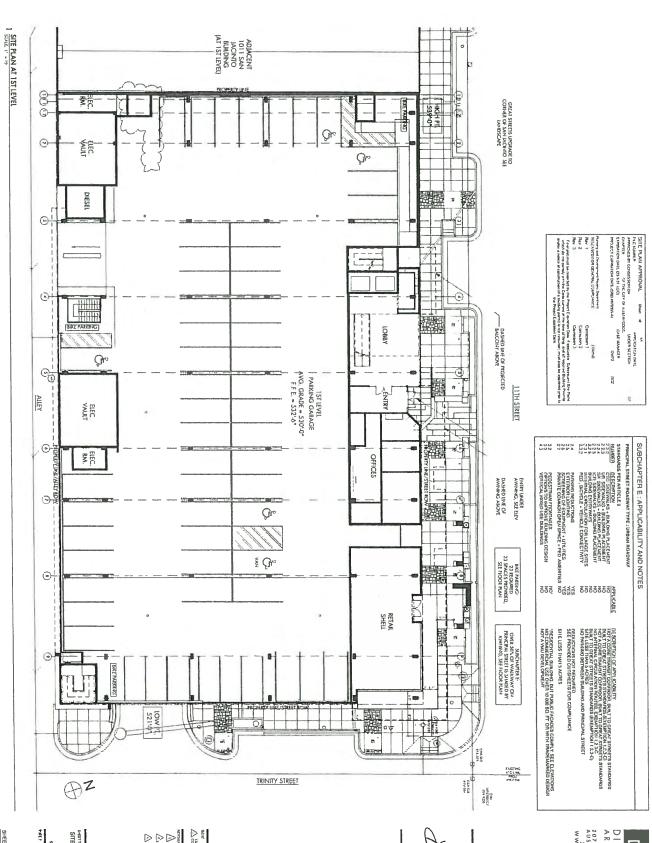


Exhibit "E" Pg. 31 of 47



SHEET 51 OF 67

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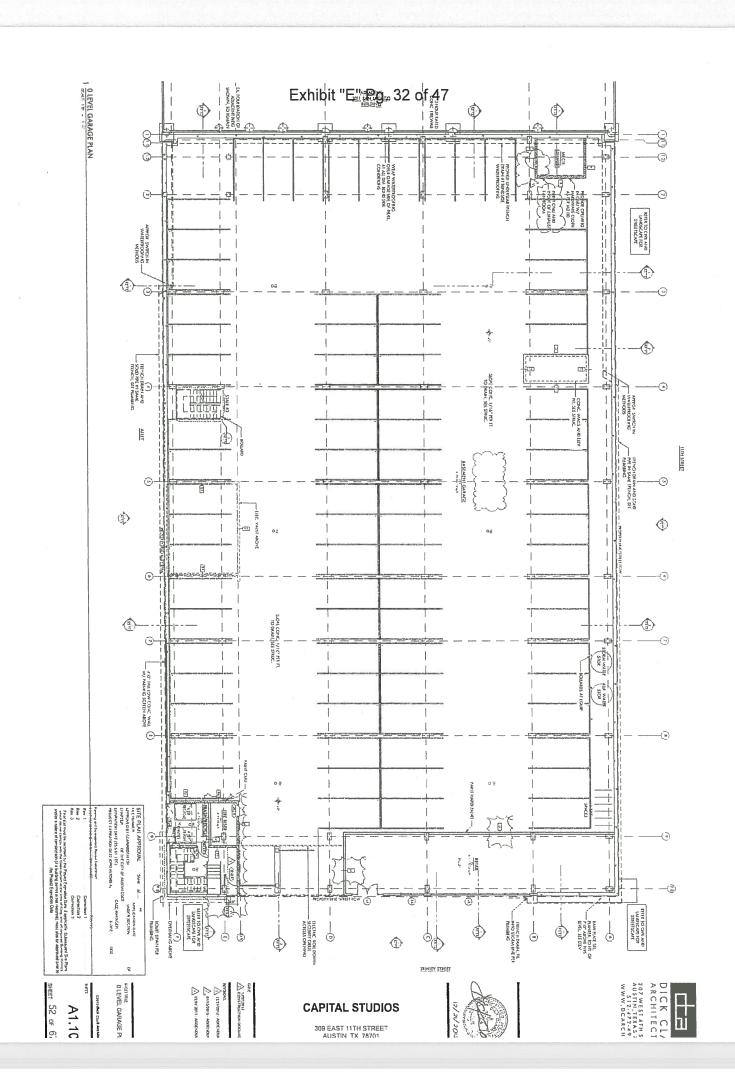
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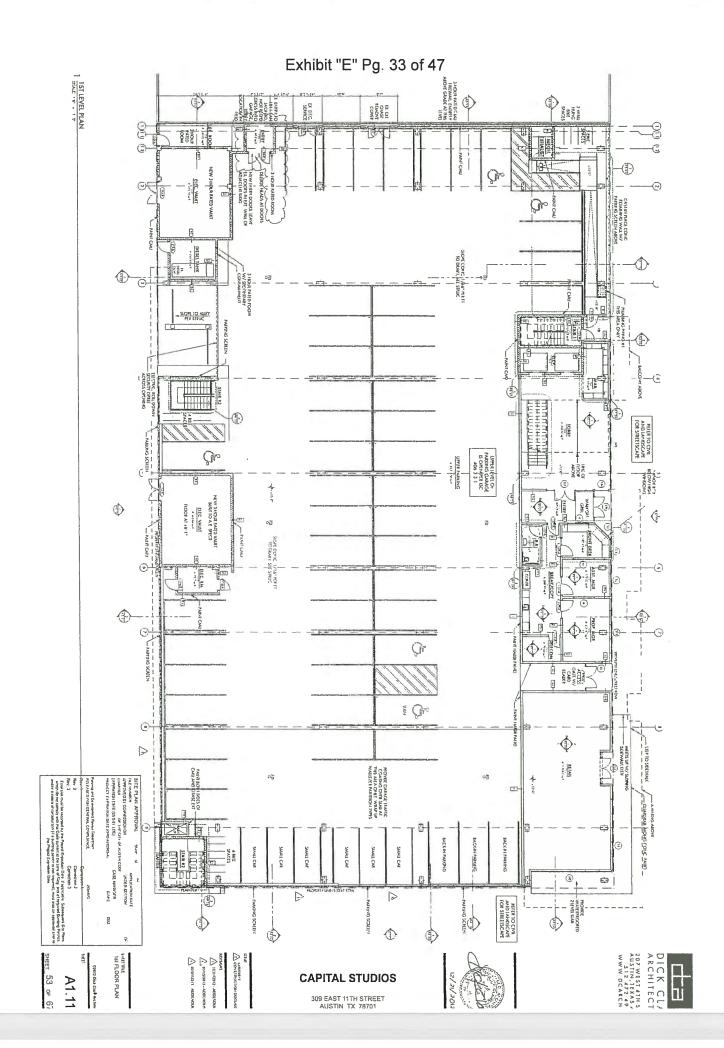
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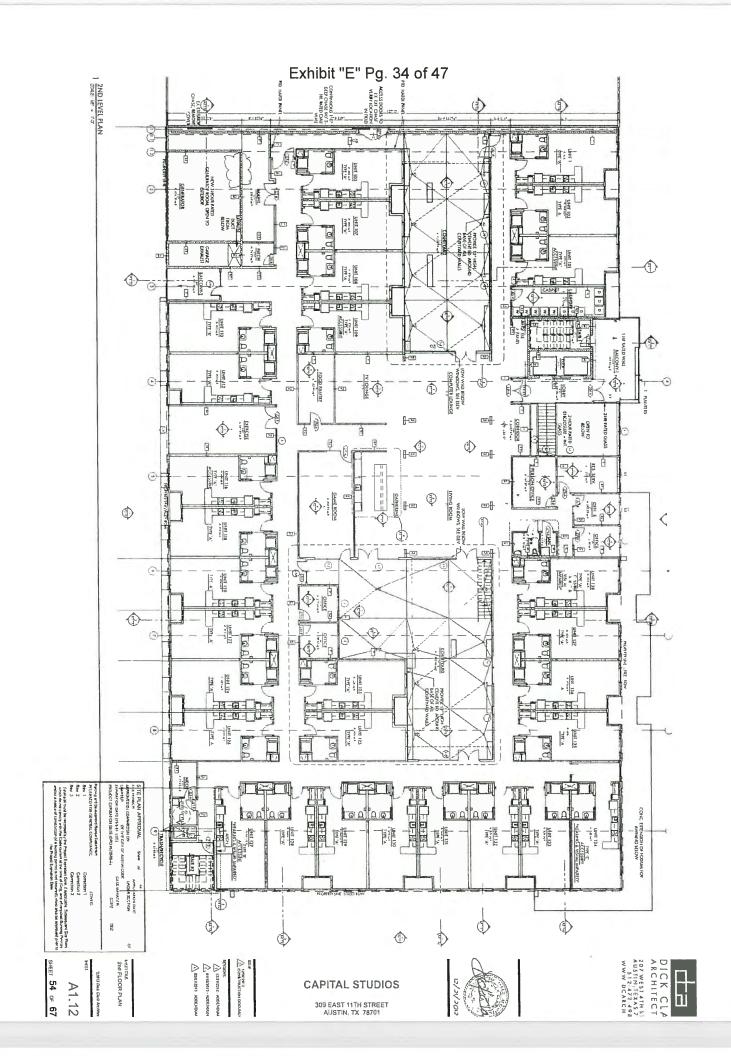
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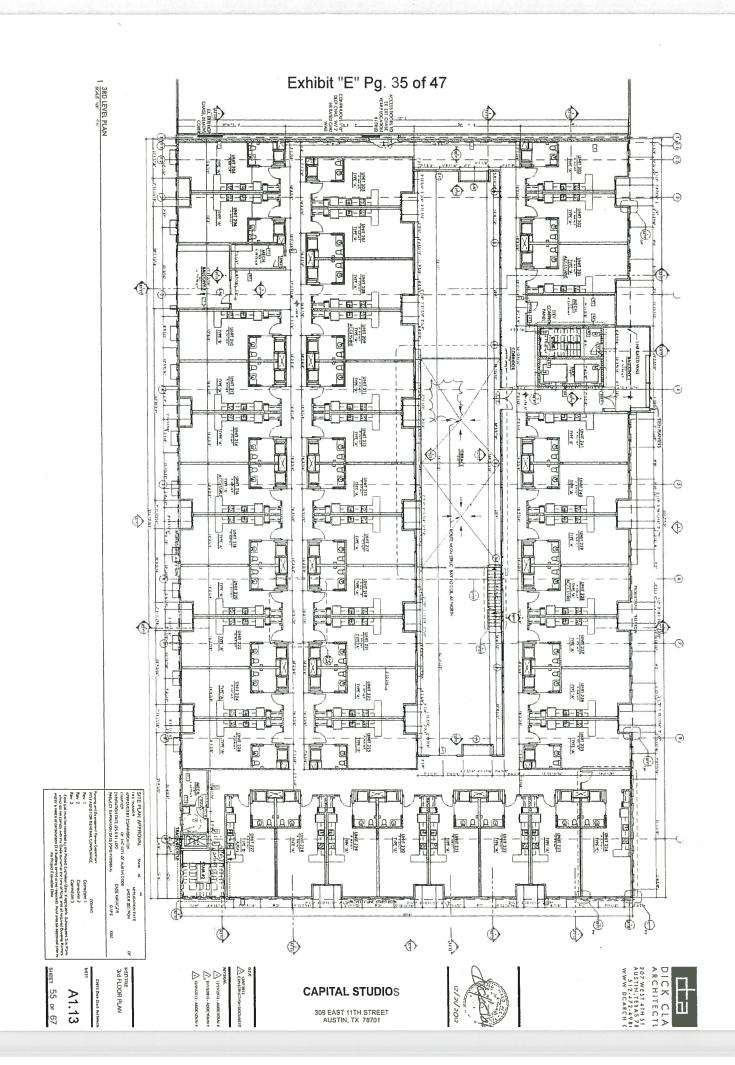


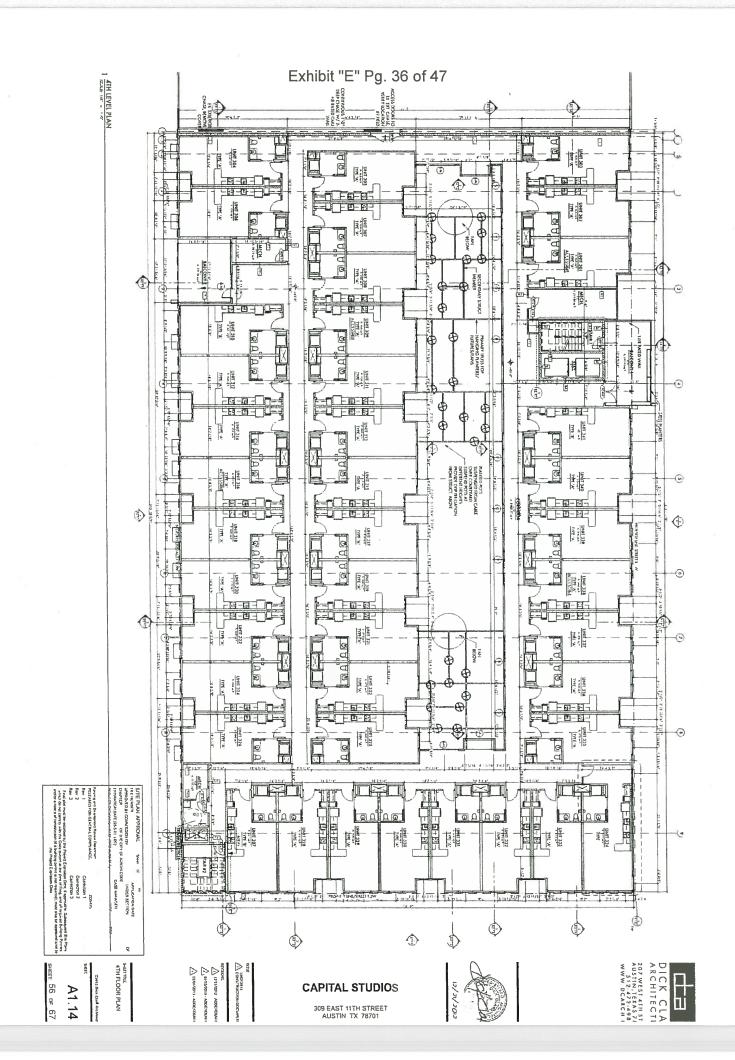
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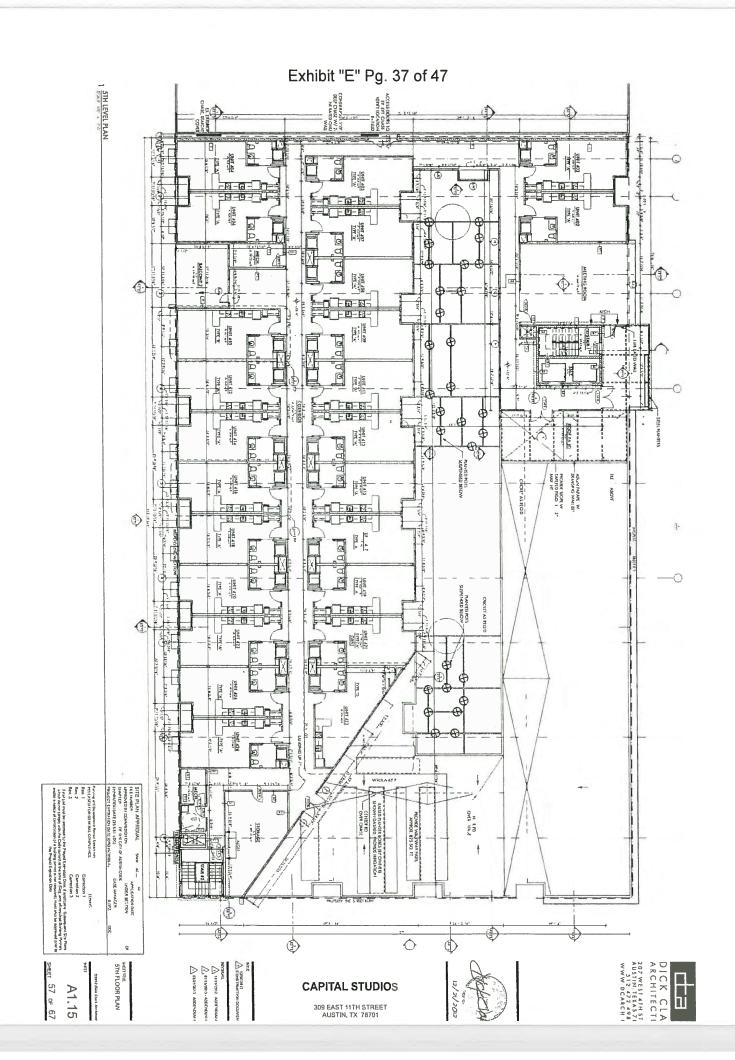


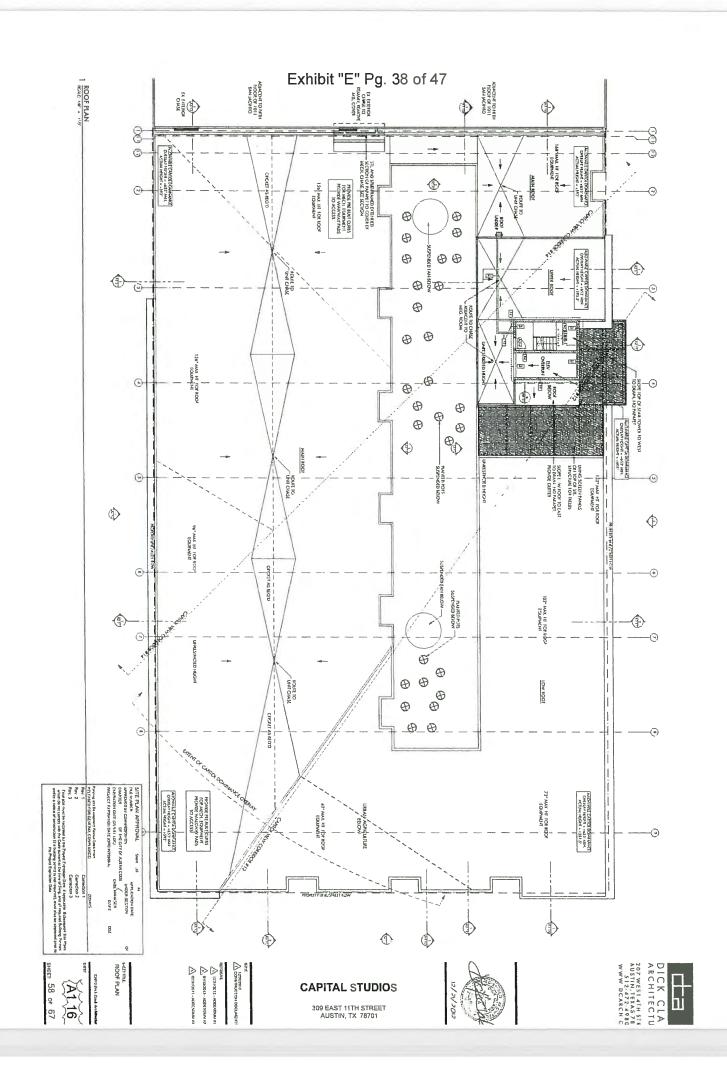


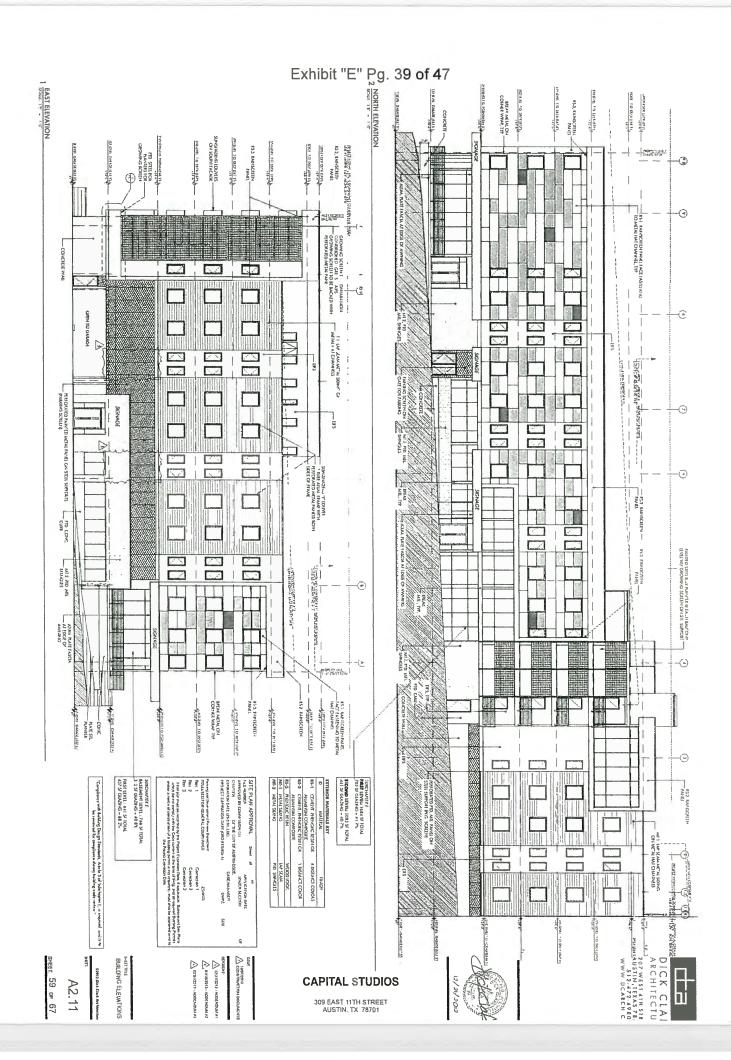












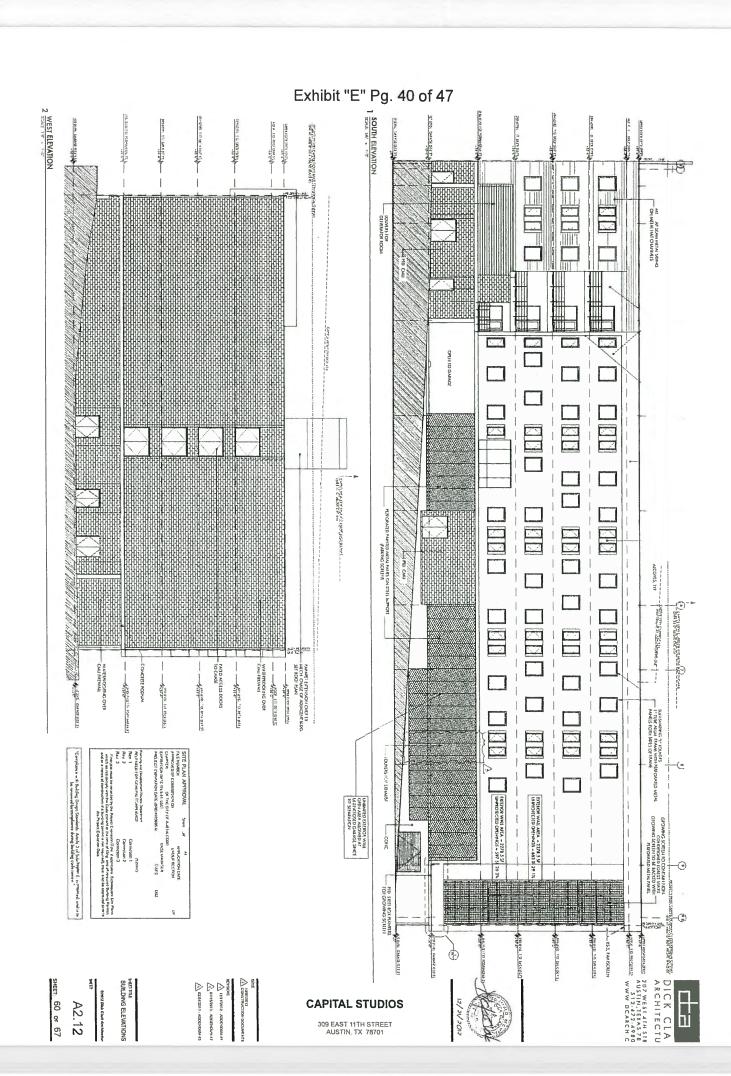
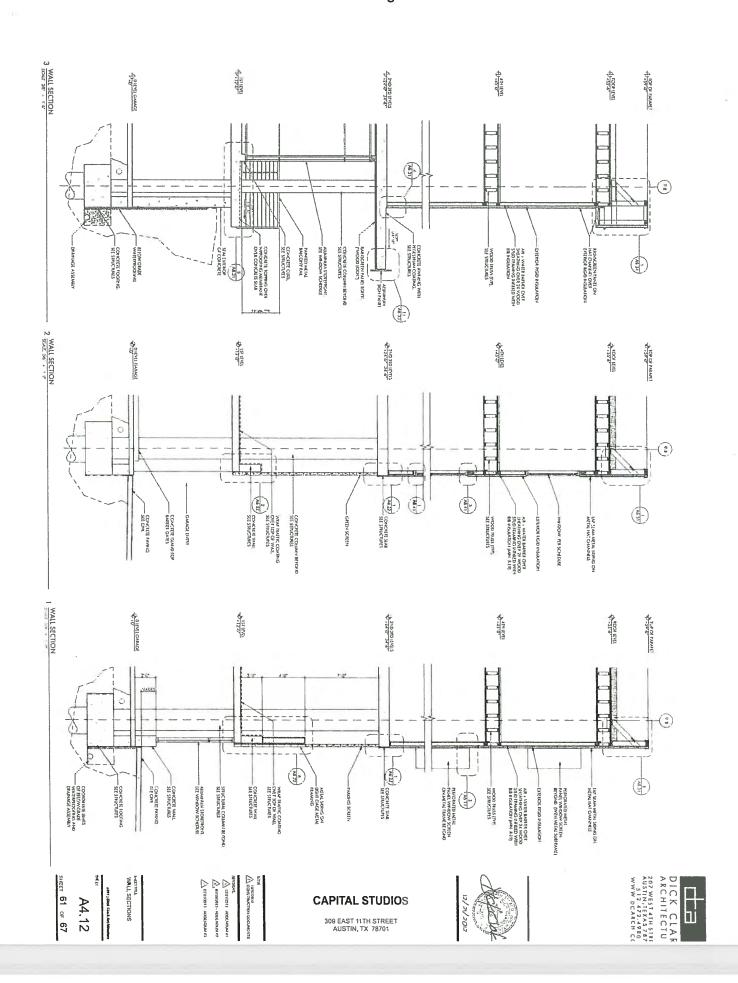
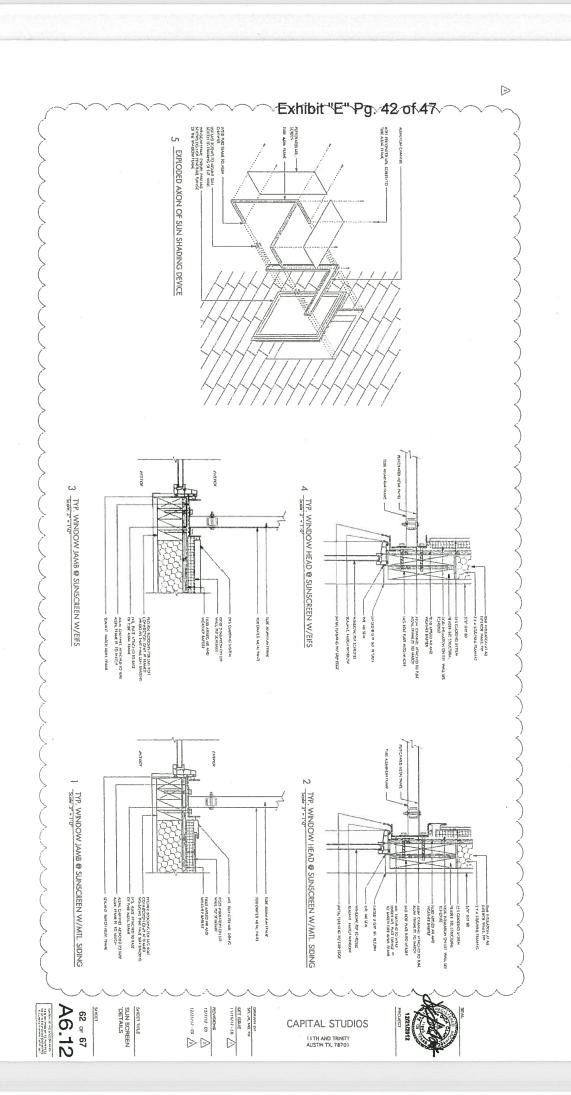


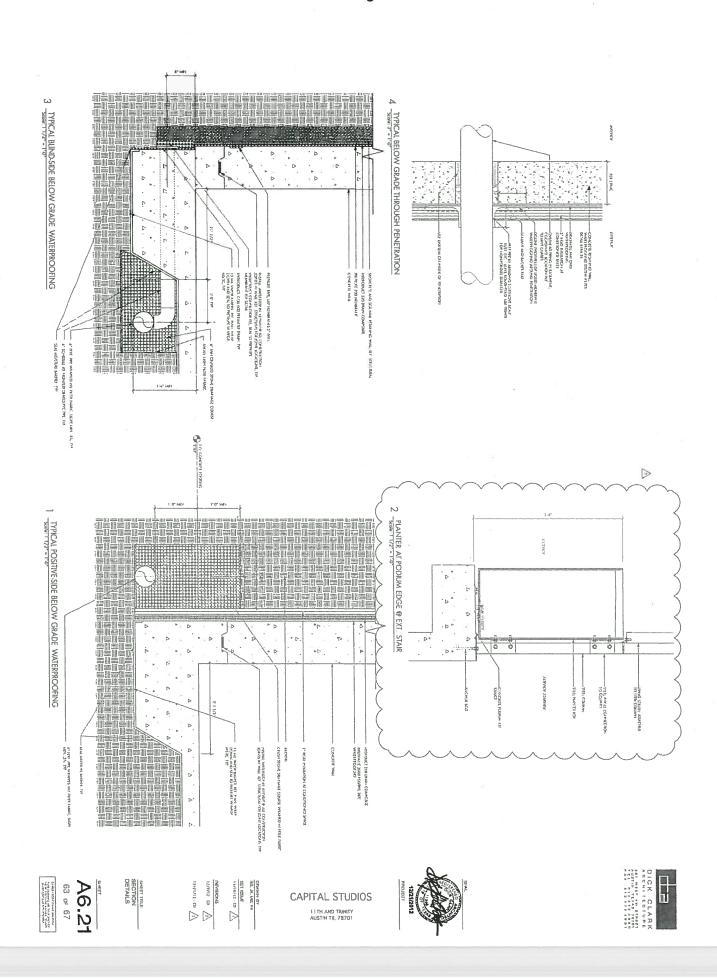
Exhibit "E" Pg. 41 of 47

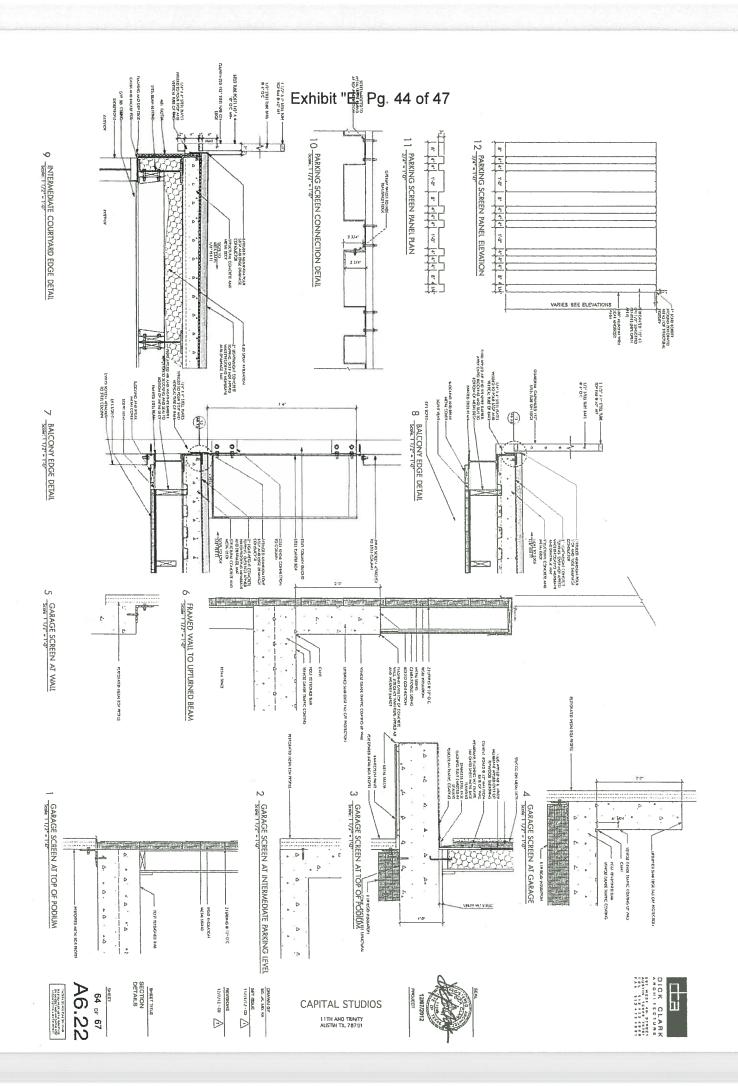


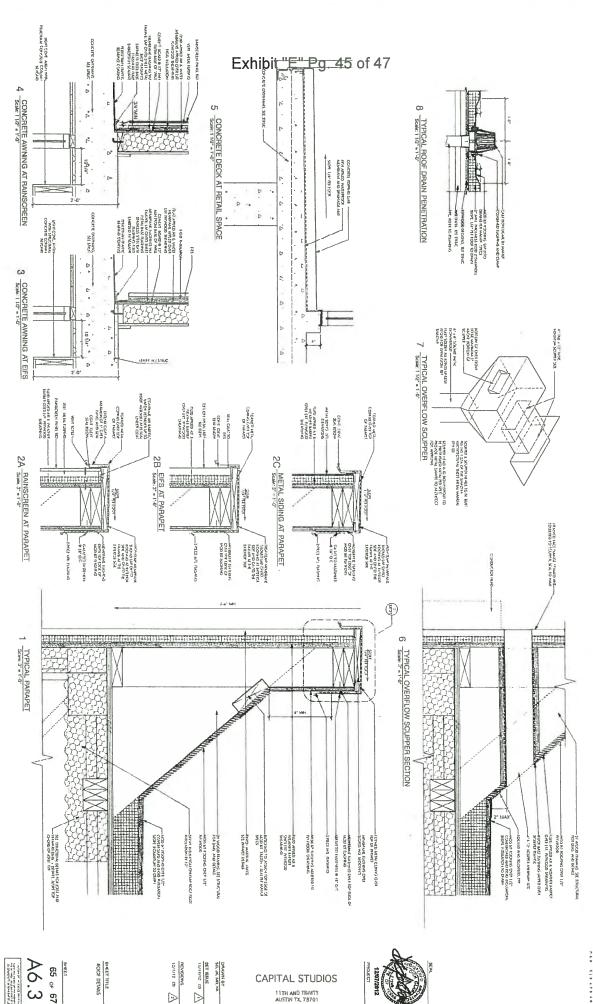


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Exhibit "E" Pg. 43 of 47







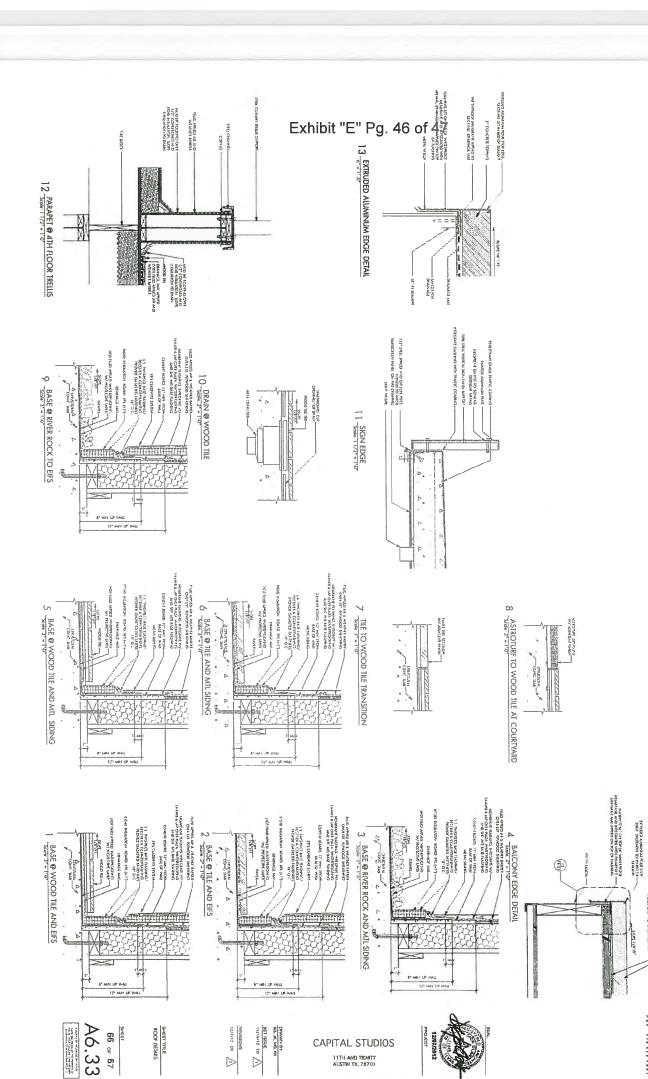
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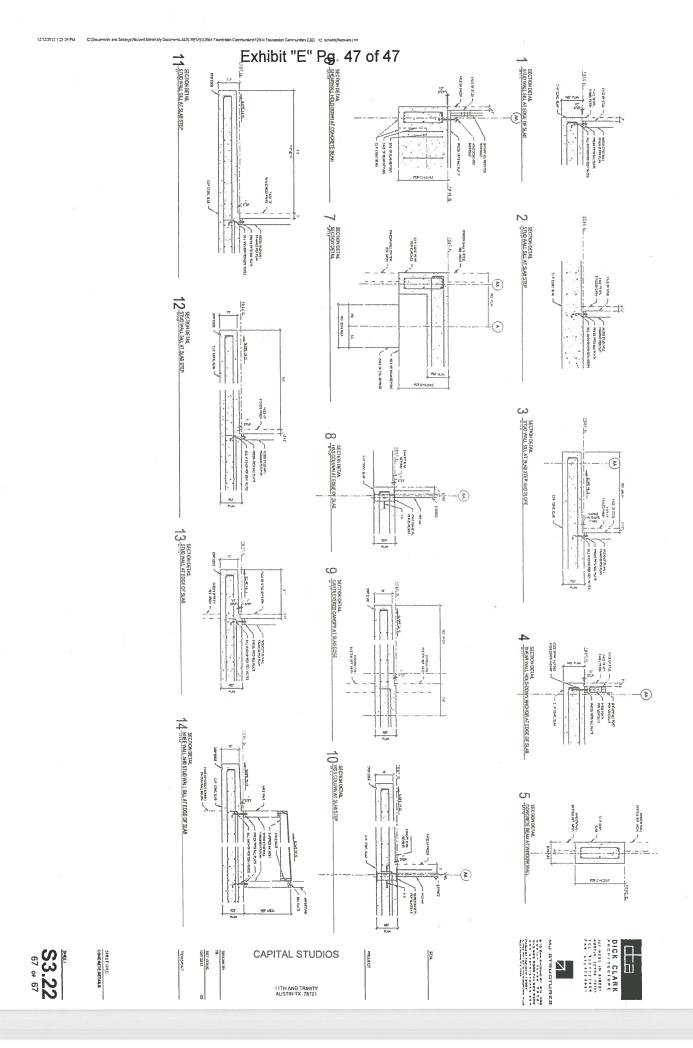
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After recording, return to:

City of Austin Office of Real Estate Services 505 Barton Springs Road, Ste. 1350 Austin, TX. 78704

Attn: Andy Halm/Joan Caldwell F#LA 591-1301

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Nov 02, 2015 03:13 PM

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RODRIGUEZA: \$282.00

Dana DeBeauvoir, County Clerk
Travis County TEXAS

Great Streets Development Program Great Streets Reimbursement Calculation Worksheet For Community Facilities Contract

Great Streets Element	Quantity Provided	City Standard	Cost (includes labor &	Reimburse- ment Rate	Total
Standard CBD Sidewalk	(square foot area measured from property line to face- of-curb)	Width of concrete sidewalk varies, 6"concrete curb/18"gutter	materials) \$46,300.16	30 %	\$13,890.05
Paving for Sidewalk Beyond Minimum Required Width	(square foot area measured from property line to face- of-curb minus Standard CBD Sidewalk Requirement)		\$98,387.84	100 %	\$98,387.84
Street Trees (including tree grates and irrigation)	15% of Landscape and Irrigation Costs, +100% of Tree Grates	None Required	\$33,595.15	30 %	\$10,078.55
Planting Drainage		None Required	\$8,252.00	30 %	\$2,475.60
Other Landscaping		None Required		30 %	
Benches		None Required	\$8,210.00	30 %	\$2,463.00
Bike Racks		None Required		30 %	
Waste Bins		None Required	\$6,116.00	30 %	\$1,834.80
Street Lighting / Traffic Signal Poles & Tree Lighting (including foundations, conduit, pull boxes)		3 Street Lighting poles per block; staggered / Traffic Signal Poles as warrants are met		100 %	
Relocation / Oversizing of Utilities (Water Lines, Drainage Inlets, Storm Lines, etc.)		Standards set by W/WW, PW, WPDR	\$405,488.00	100 %	\$405,488.00
Other Elements Austin Energy Duct Bank			\$101,157.00		\$101,157.00
				Sub-total	\$635,776.84
Reimbursement CAP Established for this project:					\$ 226,908
TOTAL (not to exceed CAP)					\$ 226,908

