

When recorded, return to:

City of Mesa
Attn: Real Estate Department
20 East Main Street
Mesa, Arizona 85211

FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT

This Fourth Amendment to Development Agreement (this “Amendment”) is made and entered into as of _____, 2019 by and between City of Mesa, a municipal corporation (“City”), and Palladium Grid, LLC, an Arizona limited company (“Developer”). City and Developer are sometimes referred to in this Amendment collectively as the “Parties,” or individually as a “Party.”

RECITALS

A. City and 3W Management, LLC, an Arizona limited partnership and, subsequently by assignment dated May 9, 2018, Palladium Grid, LLC, an Arizona limited liability company are parties to that certain Development Agreement dated December 7, 2017 and recorded in the Maricopa County Recorder’s Office as Recording No. 20170915520, that certain First Amendment to Development Agreement dated February 27, 2018, and recorded in the Maricopa County Recorder’s Office as Recording No. 20180149429, that certain Second Amendment to the Development Agreement dated July 24, 2018, and recorded in the Maricopa County Recorder’s Office as Recording No. 20180565588, and that certain Third Amendment to Development Agreement dated July 25, 2018, and recoded in Maricopa County Recorder’s Office as Recording No. 20180565588 (collectively, the “Development Agreement”). The Development Agreement is for a mixed-use commercial and residential development described and defined as the “Project” in the Development Agreement.

B. Developer has submitted documents to show that the parking necessary for the Project will be less than the parking Developer initially proposed, and Developer seeks to eliminate the requirement for construction of additional structured parking of not fewer than 140 parking spaces by eliminating the “new parking garage” as it is identified on exhibits to the Development Agreement. Developer has also submitted that in lieu of the new parking garage that Developer will build a courtyard with pool and other amenities.

C. City is willing to allow for the construction of a courtyard with pool and other amenities in lieu of the construction of the new parking garage subject to the terms and conditions of this Amendment.

D. Additionally, Developer desires, and City is willing, to further modify certain compliance dates and requirements in Section 4.12 of the Development Agreement as set forth in this Amendment

E. Accordingly, the Parties are willing to modify the terms of the Development Agreement, including certain Exhibits, as set forth in this Amendment.

AGREEMENT

IN CONSIDERATION of the foregoing recitals and representations, all of which are fully incorporated into this Amendment and made a part of this Amendment for all purposes, and the mutual covenants and agreements and conditions in this Amendment, the Parties agree as follows:

1. Definitions. All capitalized words and phrases used in this Amendment will have the same meanings as set forth in the Development Agreement (and in the exhibits to the Development Agreement, as applicable), unless a different definition is set forth in this Amendment.

2. Amendment to Compliance Dates and Requirements in Section 4.12. The Parties now amend the Development Agreement by modifying certain dates and requirements (which were previously amended in the Second Amendment to the Development Agreement) in Section 4.12; accordingly, the Parties agree Section 4.12 (and all subsections thereto) are hereby replaced and set forth in full as follows:

4.12 Compliance Dates. Developer will perform or complete each of the following on or before the date set forth below for the applicable act (each, a “Compliance Date”):

(a) On or before July 10, 2018, Developer will submit its first permit package (grading, and drainage and utility work) for the Project to the City for review and approval in accordance with Section 3.1 of this Agreement and will pay the applicable Fees for the first permit package. Developer’s fee payment shall be non-refundable.

(b) On or before July 10, 2018, Developer (or an assignee permitted pursuant to Section 11.2.1) will have executed and delivered the Lease and the License to City.

(c) On or before March 4, 2019, Developer will provide information to the City’s City Manager to demonstrate Developer’s financial capacity to fully fund the design and construction of the Project.

(d) On or before June 3, 2019, Developer will Commence Construction on the “First Phase of the Project,” which term includes and means the Minimum Public Improvements, structural enhancement to Pomeroy Garage, Main Street Building, and the necessary demolition and site preparation for such improvements.

(e) On or before January 6, 2020, Developer will Commence Construction on the “Second Phase of the Project,” which term includes and means the

Sky Apartments, Pomeroy Streetscape, and Gateway Park (and any Additional Public Improvements if Developer elects to make such additional improvements).

(f) On or before June 15, 2020, Developer will Complete Construction on the First Phase of the Project.

(g) On or before December 31, 2021, Developer will Complete Construction of the Second Phase of the Project, all Minimum Improvements, and all Minimum Public Improvements.

The City Manager, in his sole discretion, may extend any of the foregoing dates for a period of time not to exceed forty-five (45) days per extension, with a maximum of three (3) extensions per event (each, an "Extended Compliance Date"). In the event of any extension by the City Manager, each subsequent Compliance Date (including any corresponding dates for performance or acts by City set forth in Article 5 of this Agreement) will automatically be adjusted in conformity.

3. Minimum Improvements Revised. The Parties agree to revise Sub-Section 4.3(a)(iv) by deleting the parking and new parking garage requirement in this sub-section and replacing it with a requirement for the construction of a courtyard with pool and other amenities as described and depicted on the attached Exhibit E-3. Accordingly, the Parties agree that the language in Sub-Section 4.3(a)(iv), which reads "additional structured parking of not fewer than one hundred forty (140) parking spaces" is hereby deleted and replaced to read as follows (all other requirements under Section 4.3(a) shall remain unchanged):

(iv) construction of a courtyard with pool and other amenities as described and depicted on the attached Exhibit E-3;

4. Revised Exhibits. In order to revise exhibits by removing the depiction the new parking garage and replacing it with a depiction of the courtyard with pool and other amenities, the Parties agree to amend the Development Agreement by deleting in their entirety prior Exhibits C-1, C-2, D, and E-2 and replacing them with the revised Exhibits C-1, C-2, D, and E-2, all attached hereto.

5. Severability. Except as expressly amended by this Amendment and its exhibits, there are no other amendments, modifications or revisions to the Development Agreement (and its exhibits), and all terms and conditions of the Development Agreement (including its exhibits) are and remain in full force and effect.

6. Statutory Notice Requirement. The Parties acknowledge that this Amendment is subject to cancellation pursuant to the provisions of A.R.S. § 38-511.

[The signatures of the Parties are on the following two pages.]

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date written above.

CITY

CITY OF MESA, ARIZONA,
an Arizona municipal corporation

By: _____

Its: City Manager

APPROVED AS TO FORM:

By: _____
City Attorney

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____ the _____ of the City of Mesa, Arizona, an Arizona municipal corporation, who acknowledged that he/she signed the foregoing instrument on behalf of City.

Notary Public

My commission expires:

DEVELOPER

PALLADIUM GRID LLC,
an Arizona limited liability company

By: _____

Its: _____

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____, the _____ of Palladium Grid LLC, an Arizona limited liability company, who acknowledged that he/she signed the foregoing instrument on behalf of Developer.

Notary Public

My commission expires:

EXHIBIT C-1 - RESIDENTIAL CONCEPT PLAN (MINIMUM IMPROVEMENTS)

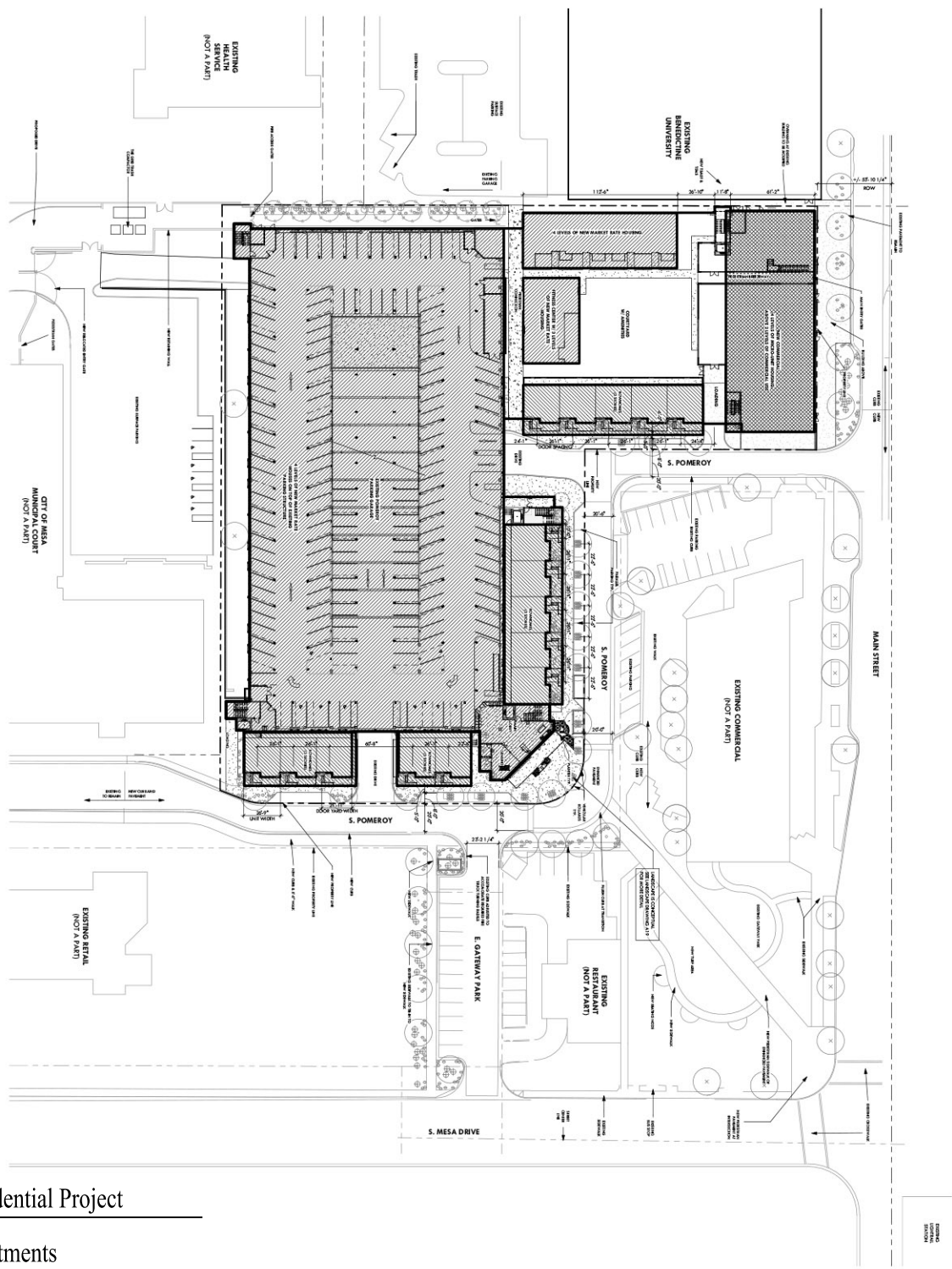
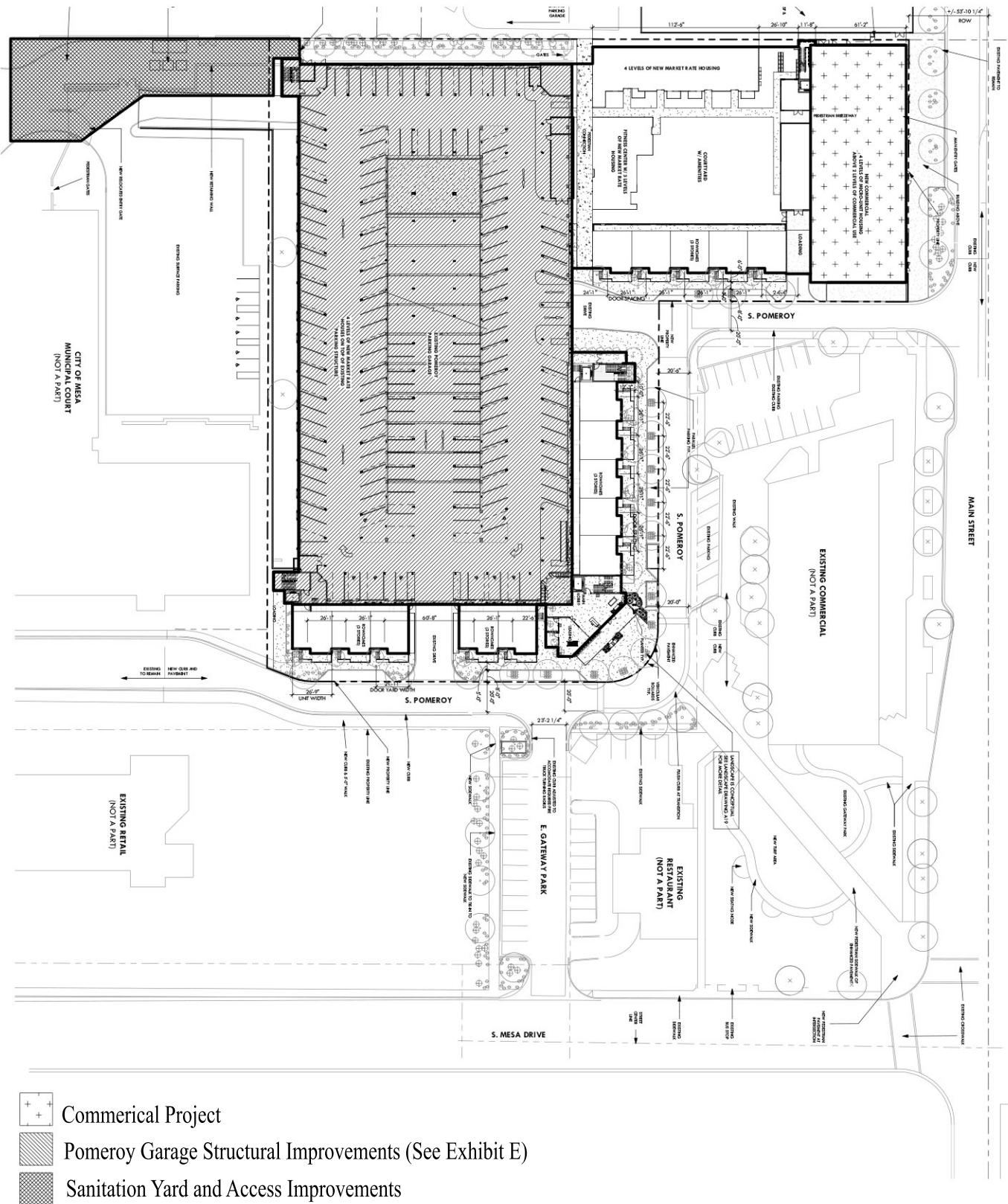
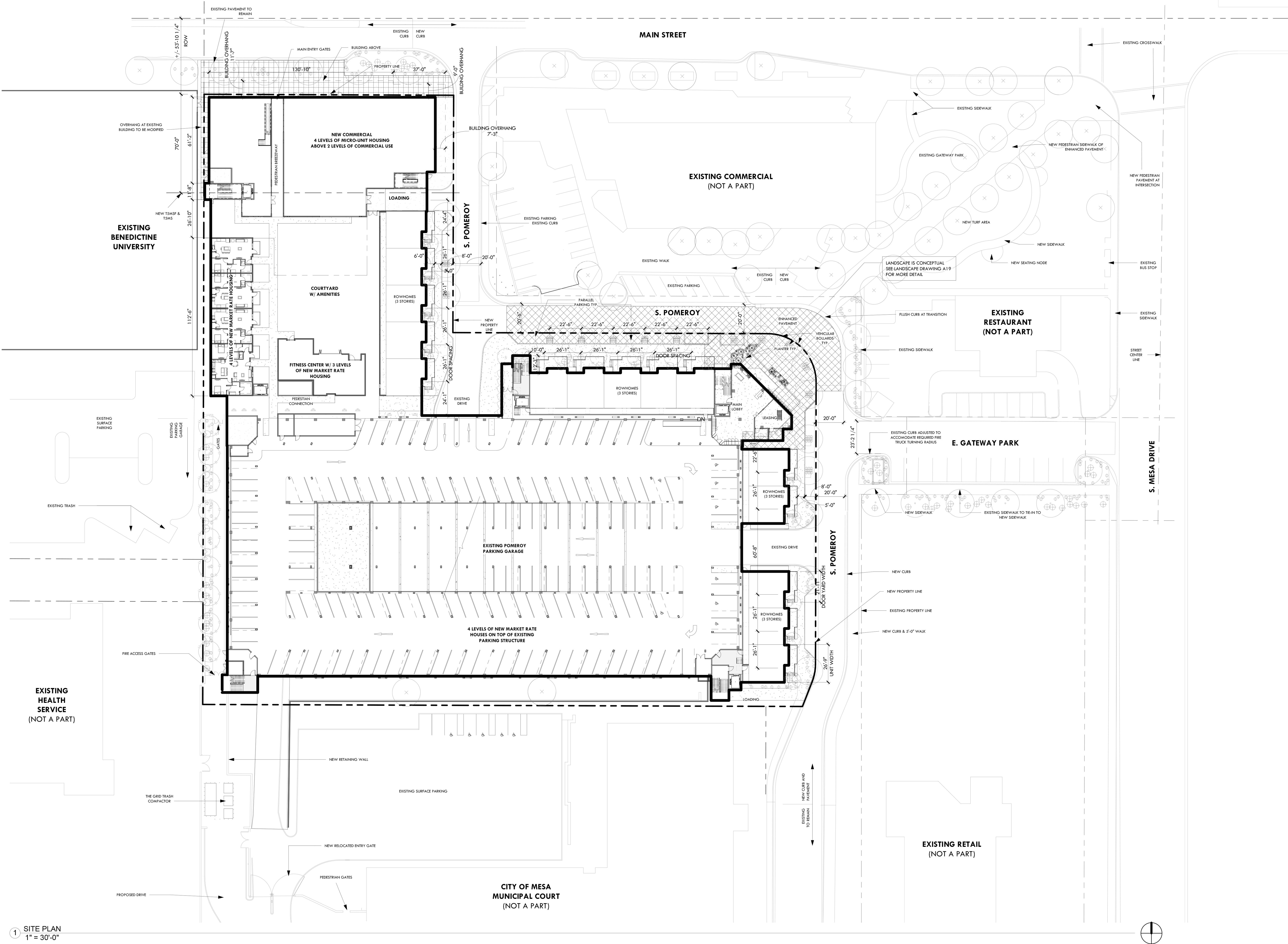


EXHIBIT C-2 - COMMERCIAL & IMPROVEMENTS CONCEPT PLAN (MINIMUM IMPROVEMENTS)





1 SITE PLAN
1" = 30'-0"



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TEAM

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phoenix, az 85014
602-307-5399 | v

www.art-team.com

PALLADIUM GRID LLC
the GRID - NORTH BUILDING
30 S POMEROY
MESA, AZ 85201

Conceptual Design

| Revision Schedule | | |
|-------------------|------|-------------|
| No. | Date | Description |

| | | |
|----------|-----------------|--|
| 18024 | ART PROJECT NO. | |
| 02.12.19 | DATE | |
| CS | DRAWN BY | |
| DMc | CHECKED BY | |

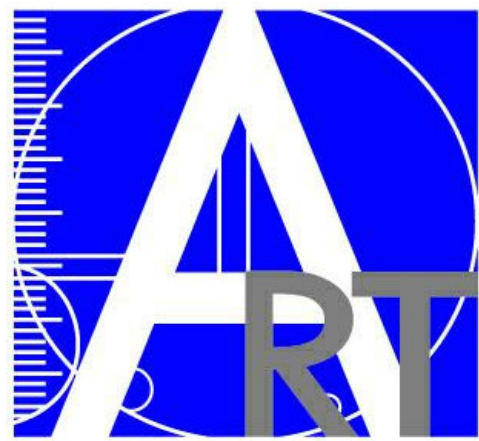
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Conceptual Site Plan
+ Landscape Plan

DRAWING No.

A2



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| KEYNOTES | |
|----------|---|
| 242 | Architectural guardrail. BOD: stainless steel railing w/ Jakob inox webnet. |
| 244 | Laser cut metal panel on tube steel frame. Maintain 50% open. |
| 301 | Wood-framed metal panel architectural element. |
| 303 | Sand finish stucco. Dunn-Edwards. DE6367, Covered in Platinum, LRV 46. |
| 304 | Sand finish stucco. Dunn-Edwards, DE5909, Beaded Blue, LRV 8. |
| 305 | Sand finish stucco. Dunn-Edwards, DE5404, Highlighter, LRV 73. |
| 309 | Dual pane sliding window, low-e, meets 2018 Residential IECC required minimum. dark bronze finish. |
| 315 | Storefront. BOD: AG451T 2" x 4 1/2" storefront system w/ dark bronze finish. See storefront elevations. |
| 326 | Architectural entry canopy, metal cladding with concrete structure. |
| 328 | Specialty CMU block. BOD: Verastone ground-face, 3 colors. |

PALLADIUM GRID LLC
the GRID - SOUTH BUILDING
30 S POWEROY
MESA, AZ 85201

EXISTING GARAGE
PACKAGE - CITY
SUBMITTAL

| Revision Schedule | | |
|-------------------|------|-------------|
| No. | Date | Description |

| | |
|----------|-----------------|
| 18024 | ART PROJECT NO. |
| 08.30.18 | DATE |
| CS | DRAWN BY |
| DMc | CHECKED BY |

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Expires 09/30/2019

DRAWING TITLE
Overall Elevations

DRAWING No.

A3.11



① Overall North Elevation
1/16" = 1'-0"



② Perimeter East Elevation
1/16" = 1'-0"

| KEYNOTES | |
|----------|--|
| 301 | Wood-framed metal panel architectural element. |
| 302 | 20 gauge window shade fin, paint finish to match accent color 1. Typical at South and West facing facades. |
| 303 | Sand finish stucco. Dunn-Edwards. DE6367, Covered in Platinum, LRV 46. |
| 304 | Sand finish stucco. Dunn-Edwards, DE5909, Beaded Blue, LRV 8. |
| 305 | Sand finish stucco. Dunn-Edwards, DE5404, Highlighter, LRV 73. |
| 315 | Storefront. BOD: AG451T 2" x 4 1/2" storefront system w/ dark bronze finish. See storefront elevations. |
| 328 | Specialty CMU block. BOD: Verastone ground-face, 3 colors. |
| 330 | Broke metal cover at all locations of exposed foam filler. See architectural details. |



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① Perimeter South Elevation
1/16" = 1'-0"



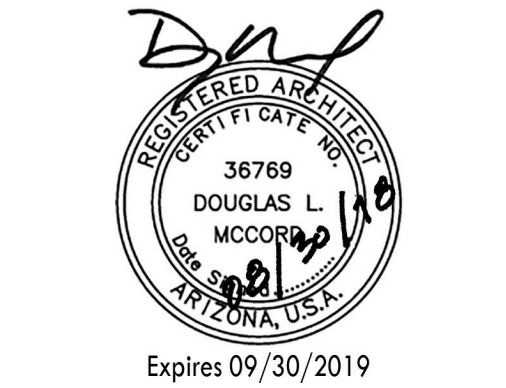
② Perimeter West Elevation
1/16" = 1'-0"

PALLADIUM GRID LLC
the GRID - SOUTH BUILDING
30 S POWEROY
MESA, AZ 85201

EXISTING GARAGE
PACKAGE - CITY
SUBMITTAL

| Revision Schedule | | |
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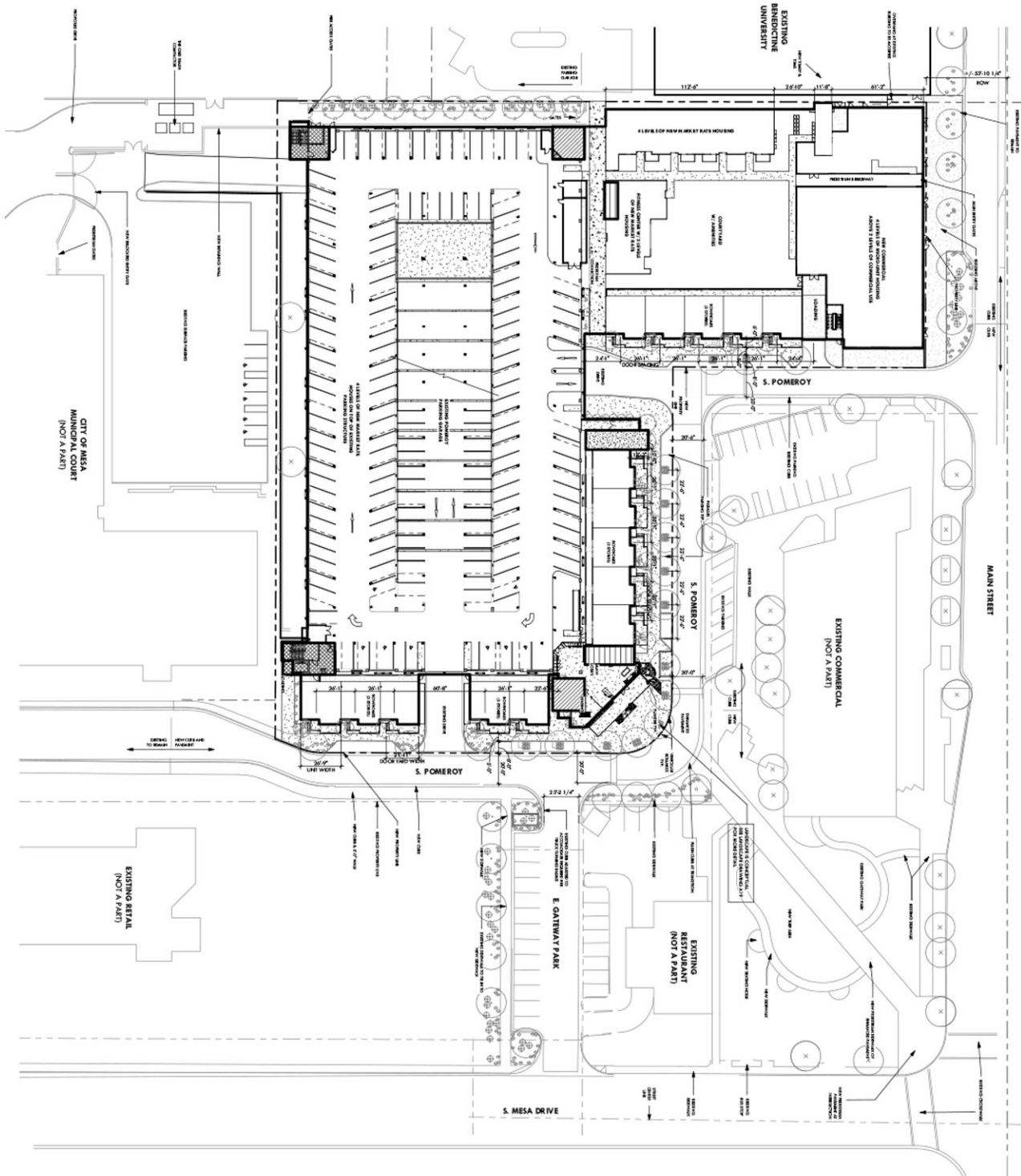






DRAWING TITLE
Overall Elevations

30 S POMEROY
MESA A7 85201

DRAWING

EXHIBIT E-2 - STAIRWELL ACCESS AND ELEVATOR IMPROVEMENTS



-  Existing to be Removed
-  Existing to be Removed, Rebuilt (City owns Levels B-3, Developer Leases Air Rights)
-  New Stairs/Elevator with Public/City Access Levels B-3
-  New Private Elevator for Resident Access Levels 1-8 (Developer Owns), No Public Access

[illegible]