

PROPOSED
AMENDED AND RESTATED
DOWNTOWN DEVELOPMENT AGREEMENT
STADIUM VIEW

This Amended and Restated Downtown Development Agreement (this “Agreement” or “Amended and Restated DDA”) is made and entered into as of _____, 2025 (“Effective Date”), between **FAY HAY MASTER VENTURE LLC**, a Florida limited liability company (“Developer” or “Party”), and the **CITY OF FAYETTEVILLE, NORTH CAROLINA**, a public body corporate and politic (“City” or “Party,” and together with the Developer, the “Parties”).

RECITALS

A. The City entered into that certain Downtown Development Agreement dated March 28, 2017 (the “Original DDA”) for the purpose of redeveloping a section of the City’s downtown business district as described in the Original DDA. Under the Original DDA, the City partnered with PCH Development Co., LLC (the “Original Developer”) to revitalize a portion of downtown Fayetteville through the creation of a vibrant mixed-use district anchored by a new baseball stadium.

B. Pursuant to the Original DDA and statutes permitting the City to acquire and dispose of property for redevelopment and downtown development projects (N.C.G.S. §§ 160A-457 and 160A-458.3), the City and Original Developer conveyed and acquired certain parcels of downtown real estate to constitute the development area (the “Project Area”). A description of the Project Area is attached to this Amended and Restated DDA as Exhibit A. The Project Area was to include a new baseball stadium, parking facilities for public use, and hotel, office, and retail space to promote economic development in the downtown area. The Original DDA also provided the downtown area public benefits associated with integrated site plans, urban design elements, mixed land uses, and uniform engineering, landscaping, and architecture for downtown Fayetteville.

C. In connection with the Original DDA, the City, the Original Developer, and Hay Street Development Pad, LLC entered additional agreements necessary to realize the goals of the original development project, including an Agreement for Development and Sale of Real Estate “Garage Contract” on December 28, 2017, as amended (the “Garage Contract”). On May 8, 2018, the Original Developer also recorded a Declaration of Covenants and Agreement for Minimum Tax Assessment (“MATV Declaration”) in the Cumberland County Register of Deeds recognizing that the Original Developer had guaranteed a minimum dollar amount of ad valorem taxes assessed against real property in the Project Area.

D. On February 5, 2020, Hay Street Development Pad, LLC, as owner of the parcels on which the parking garage and hotel and residential tower development was to be constructed, recorded a Declaration of Stadium View Condominium in Book 10687, Page 447 in the Cumberland County Register of Deeds (“Stadium View Condominium”) to organize the property for development and subsequent ownership.

E. In 2020, Hay Street Development Pad, LLC completed construction on the parking garage (the “Hay Street Parking Garage”). Hay Street Development Pad, LLC recorded a special warranty deed on August 7, 2020 in the Cumberland County Register of Deeds conveying title to the Hay Street Parking Garage (Unit P-1) and certain retail space designated as Unit R-1 in the Stadium View Condominium to the City (together, Units P-1 and R-1 are the “City Condominium Property”). In addition, on October 6, 2020, Hay Street Development Pad, LLC conveyed its interest in Units H1, O1, and R2 of the Stadium View Condominium to the Original Developer.

F. On September 9, 2022, the City and the Original Developer entered a Parking Lease Agreement whereby the City would lease parking spaces in the Hay Street Parking Garage to the owner of any subsequent hotel, office, or residential development in the Project Area.

G. The City and the Original Developer amended the Original DDA six times to address changes in the original project and challenges presented by the COVID-19 pandemic. As of the Effective Date, the retail, residential, and hotel elements included in the original development plan are yet to be completed.

H. The City Council is committed to the continued redevelopment and revitalization of the downtown area. The purpose of this Amended and Restated DDA is to facilitate the completion of the original development plan. Specifically, the development to be constructed, owned, and operated pursuant to this Agreement will consist of two towers above and around the City’s Hay Street Parking Garage including: (i) a multifamily residential development containing approximately one hundred and twenty-four (124) units; (ii) a hotel containing approximately one hundred and nineteen (119) hotel rooms; (iii) elevators to serve the Hay Street Parking Garage and the residential and hotel units; (iv) a to-be-determined amount of retail space; and (v) public walkways and landscaped open areas (the “Project”).

I. Section 160D-1315 of the General Statutes provides that the City may contract with a developer for the purposes of developing and constructing a “downtown development project” including both public and private facilities. Article 10 of Chapter 160D recognizes that economic development projects “often occur in multiple phases over several years, requiring a long-term commitment of both public and private resources.” The scale and duration of such projects “often require careful coordination of public capital facilities planning, financing, and construction schedules and phasing of the private development.” N.C.G.S. § 160D-1001.

J. After careful review and consideration, the City finds that continued development and completion of the Project will invigorate downtown Fayetteville’s central business district by (i) promoting economic development, (ii) providing parking to support the needs of the downtown and surrounding community, and (iii) furthering the positive impact and significant effect of the revitalization of Downtown Fayetteville on the community. In addition, the City finds:

- (i) the City has invested more than \$37.9 million in the state-of-the-art SEGRA Stadium, home to the Fayetteville Woodpeckers, the Houston Astros’ Low-A affiliate;
- (ii) the City has invested \$15.9 million in the Hay Street Parking Deck;

(iii) the COVID-19 pandemic stalled the development of the retail, hotel, and office spaces originally envisioned as part of the downtown development project;

(iv) following the pandemic, there has been only 2,800 square feet of new retail construction in the downtown area;

(v) the downtown retail vacancy rate is currently 8%, more than double the market expectation;

(vi) but for continued public investment, the project will remain stalled;

(vii) the completion of the Hay Street Parking Garage will protect and preserve the City's investment in a vital source of convenient parking for downtown patrons;

(viii) the construction of elevators serving the Hay Street Parking Garage will make the deck fully accessible to all the City's residents and visitors;

(ix) the development of a hotel project above the Hay Street Parking Deck is expected to serve as a catalyst for downtown revitalization;

(x) the construction of a hotel and associated businesses will generate employment opportunities and income for the community;

(xi) the development of multifamily housing will significantly increase the number of available residential units near the central business district;

(xii) it is beneficial to the residents of the City to engage a new development partner to advance the Project;

(xiii) the new Developer, an affiliate of Lansing Melbourne Group, LLC ("LMG"), is experienced in the development of downtown projects and is committed to maintaining a long-term presence within the City beyond the construction phase; and

(xiv) an amendment and restatement of the Original DDA is appropriate, would serve to clarify the next phase of Project development (including the development schedule), and be in the best interests of the City.

K. The Original Developer has agreed to assign, and the Developer has agreed to accept, the Original Developer's rights, interests, and obligations under the Original DDA and all ancillary agreements. Pursuant to the terms of the Original DDA, the City Council voted to consent to this assignment, subject to acceptable terms and conditions, on May 4, 2025. To effectuate this assignment, the Original Developer and Developer will enter that certain Stadium View Assignment and Assumption Agreement contemporaneously with execution of this Agreement.

L. This Amended and Restated DDA shall supersede the Original DDA as amended.

M. In addition, the Original Developer and Developer will enter an Agreement for Purchase and Sale of Improved Real Property dated on or about _____ (the "Developer Purchase Contract") for the purpose of conveying the Original Developer's remaining

real estate at the Project, specifically Unit H1, Unit O1, and Unit R2 as described in the Stadium View Condominium, to the Developer. The real estate to be conveyed under the Developer Purchase Contract is comprised of the tax parcel having Cumberland County Parcel Identification Number 0437-44-6969.002 and which is more particularly described on Exhibit A (the “Private Development Property”).

N. The Private Development Property and the Project are subject to the Stadium View Condominium. The Private Development Property and the City Condominium Property will be referred to collectively as the “Property.”

O. To enable completion of the Project, protect the City’s investment in the Hay Street Parking Garage and other developments in the Project Area, and to obtain additional public benefits, the City issued on January 27, 2025 a Letter of Intent and Preliminary Term Sheet to LMG regarding the City’s potential financing of construction on the roof of the Hay Street Parking Garage, public access elevators serving the parking deck, within the City Condominium Property (“City Financing LOI”). The City’s potential financing commitment is a loan in an amount of up to Five Million Seven Hundred Thousand and 00/100 Dollars (\$5,700,000.00) (the “City Loan”) for public benefits associated with the Project.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the benefits that will accrue to Parties from development of the Project, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

ARTICLE 1

Development and Private Development Property Acquisition

1.1 Developer agrees to acquire the Private Development Property to construct, own, and operate the Project consistent with the terms of this Agreement. The City owns the City Condominium Property, which includes the Hay Street Parking Garage (identified as Unit P-1), which shall be the foundation for the residential and hotel towers for the Project, and certain retail space designated as Unit R-1. From the Effective Date until the Closing (as defined below) or the termination of this Agreement, the City shall give Developer access to the Property to carry out activities related to the development and construction of the Project. The City shall make available to Developer any documents related to the Property, including surveys, title insurance policies, and environmental site assessments (“Property Documents”), necessary for Developer’s development planning. The City makes no representation or warranty regarding the currency or accuracy of any of the Property Documents. Developer acknowledges that its receipt of the Property Documents does not in any way relieve it from conducting such surveying, title examination, architectural, engineering, environmental, topographical, geological, soil, developmental, inspections and other due diligence reasonably sufficient to determine the condition of the Property for the development of the Property as described in this Agreement (collectively, the “Property Inspections”). Developer shall indemnify and hold harmless City from any and all claims arising out of the negligent acts or omissions of Developer, its employees, agents, contractors, or subcontractors in making the Property Inspections. Developer acknowledges that, by entering this Agreement and acquiring the Private Development Property,

it accepts the Property in an “as is” condition and shall bear all costs necessary to develop and construct the Project.

1.2 Developer shall develop the Property in compliance with this Agreement to include (i) approximately one hundred and twenty-four (124) multifamily residential units; (ii) approximately one hundred and nineteen (119) hotel rooms; (iii) a to-be-determined amount of retail space; and (iv) elevators serving the Hay Street Parking Garage. Any major deviation from these requirements shall be pursued only upon the City’s prior consent and through amendment of this Agreement. A major deviation shall not include reasonable, agreed-upon adjustments to the number of units or hotel rooms or the inclusion of additional public benefits in the Project.

1.3 Development Plan. Developer has created the Development Plan for the Project, showing, among other things, the location of the residential and hotel towers, parking areas, retail space, and elevators serving the Hay Street Parking Garage. This Development Plan, including a development description and drawings, is attached as Exhibit B. All development of the Project shall be in strict conformance with the Development Plan and subsequently approved Plans and Specifications.

1.4 Development Team. Within sixty (60) days of the Effective Date, Developer shall identify in writing its Development Team, shall consist of an Architect, Engineer, and General Contractor, among other firms and individuals necessary to the design and construction of the Project. Developer may amend its Development Team from time to time. Developer shall promptly notify the City of any changes to the Architect, Engineer, or General Contractor.

1.5 Community Engagement. Developer has committed to engaging the community, together with City, relative to the development of the Project. The Parties acknowledge that Developer participated in a public meeting with the City related to approval of this Agreement on _____. Developer shall work with City on developing a communications plan prior to commencement of construction, such plan to be approved by City in its reasonable discretion. The communications plan shall be designed to inform City and the public of any traffic control, lane closures, and/or other disruption of services to citizens at least one week in advance of the disruption.

1.6 Developer Purchase of Private Development Property. Developer shall close its purchase of the Private Development Property from the Original Developer contemporaneously with its execution of this Agreement, if not sooner accomplished. If the Developer does not close its purchase of the Private Development Property by December 31, 2025 and this Agreement is not otherwise extended or modified in writing by the parties, then Developer or City may terminate this Agreement and neither party shall have any obligation to the other under this Agreement except to the extent that such obligations expressly survive the expiration or other termination of this Agreement.

1.6.1 Pre-Closing Requirements for Purchase of Private Development Property. Developer agrees that its purchase of the Private Development Property shall be subject to the City’s review and approval, such approval not to be unreasonably withheld, and that no condition of sale applicable to Developer’s purchase of the Private Development Property

will be contrary to this Agreement. Prior to the closing, Developer shall provide for the City's review and approval:

- i. The purchase contract;
- ii. Executed copies of all loan documents associated with the purchase of the Private Development Property; and
- iii. Executed copy of an Amendment to the Stadium View Condominium, if applicable.

ARTICLE 2

Project Plans, Development Schedule, Construction

2.1 Project Plans and Specifications. Developer shall prepare and provide to City the proposed construction plans and specifications for the Project (the "Plans and Specifications"). The Plans and Specifications shall specifically include a clear statement of any modifications to the Development Plan, all architectural and engineering designs, all necessary governmental permits and approvals, and all construction-related requirements (such as soil conditions and environmental constraints consistent with the Development Plan).

2.1.1 In addition to its normal regulatory approval rights for a development such as the Project, the City shall have architectural review and approval rights. Any material deviation from the City's approved architecture shall be submitted to the City for prior written approval, which approval shall be at City's sole discretion; provided it is consistent with City ordinances. Approval of the Project's architecture pursuant to this provision does not constitute regulatory approval of that architecture. The City shall have the right to retain a consultant ("City Consultant"), at the City's own cost and expense, to review the Plans and Specifications and to inspect the progress of construction of the Project.

2.1.2 Developer shall develop the Project at its sole expense in accordance with the Project Drawings consistent with the architecture, streetscape and the character of the adjacent area and Downtown Fayetteville and shall conform the Project to the terms of the Development Plan. Developer will, during the design process or design phase of the development of the Project, develop and implement a design review process including regularly scheduled meetings, that will provide City and its professional staff the right to review and approve, reject or suggest modifications to the Project Drawings (consistent with City ordinances) and will provide Developer the opportunity to update City on Developer's progress on the Project. Developer shall conduct scheduled meetings on a monthly basis to keep City apprised of the progress of development of the Project. The meetings shall include the Developer, City representatives, the specialty consultants, and other interested parties. Developer shall prepare and distribute detailed, accurate minutes within a reasonable time following all such meetings.

2.1.3 The City shall have authority to approve or deny in its sole but commercially reasonable discretion the name of the Project as proposed to be included on signage, advertisements, and other publications.

2.2 Schedule and Order of Development. N.C.G.S. § 160D-1006 requires this Agreement to provide a development schedule, including commencement dates and interim completion dates. N.C.G.S. § 160D-1006(b) provides, and the Parties agree, that the failure to meet a commencement or completion date shall not, in and of itself, constitute a breach of this Agreement. It shall be a minor modification of this Agreement for the Parties to modify the development schedule in writing by mutual consent. In the event Developer fails to obtain a conditional building permit for the Project by April 15, 2026, then, unless otherwise agreed to in writing by the Parties, this Agreement shall terminate thirty (30) days after the City's written notice to Developer. Developer shall exercise its best efforts to commence and complete the activities detailed in this Agreement according to the following schedule:

- Developer shall provide City a development budget for Developer's use in obtaining financing commitments ("Development Budget") on or before January 15, 2026.
- Developer shall provide City evidence of all necessary financing commitments, to include equity and debt, on or before February 15, 2026.
- Developer shall receive all necessary permits to commence construction on or before April 15, 2026.
- Developer shall conduct a financial closing for the Project, including all necessary construction financing, (the "Closing") on or before May 15, 2026.
- Developer shall commence construction, which commencement is defined as the Developer's initiation of site improvements which support vertical construction, on or before June 15, 2026.
- Developer shall bring the Project to substantial completion (as defined by the City loan agreement for the City Loan but involving, at a minimum, the issuance of permanent certificates of occupancy for the retail, residential, and hotel elements of the Project) on or before May 15, 2028.

2.2.1 The City may, at its sole discretion, terminate this Agreement with immediate effect if Developer either (i) does not conduct Closing within seven (7) months after the Effective Date or (ii) commence construction on the Project by August 15, 2026. Developer's material breach of any loan agreement entered into by Developer and City in relation to the Project will automatically be a breach of this Agreement, entitling the City at its sole discretion to terminate this Agreement with immediate effect; provided any applicable notice and cure periods identified in the loan agreement in favor of Developer have passed.

2.2.2 Construction on the Project shall not commence until after Closing and Developer has provided the City evidence that Developer has obtained the payment and performance bonds required by Section 2.5.1.

2.3 Parking Lease. Subject to the requirements of N.C.G.S. § 160A-272, the Parties shall negotiate a parking lease providing spaces in the Hay Street Parking Garage for tenants of the residential, hotel, and retail elements of the Project. The Parties shall enter such a lease no later than the date of Closing.

2.4 Hay Street Parking Garage Construction and the City Loan. Developer shall include in the Development Plan and subsequent Plans and Specifications construction plans related to the City Condominium Property, including plans for completing the roof cap on the Hay Street Parking Garage and elevators serving the Hay Street Parking Garage. The Parties agree to negotiate Developer's potential acquisition (and timeline for acquisition) of Unit R-1 from the City. The City shall issue Developer a financing commitment letter consistent with the City Financing LOI within sixty (60) days of the City's receipt and approval of construction plans for the City Condominium Property. The City shall have no obligation to close the City Loan unless the following conditions are met:

2.4.1 Conditions Precedent for Closing by the City. Prior to Closing, and in addition to any requirements of the City's loan agreement and other loan documents, Developer shall have satisfied the following conditions by execution and/or delivery to the City and its counsel of the following documents, items, or evidence of compliance, as indicated, all of which shall be in form and substance reasonably satisfactory to the City and its counsel, provided that the City and its counsel may waive such items in their discretion:

2.4.1.1 The City's approval of the Development Plan;

2.4.1.2 The City's approval of the Plans and Specifications;

2.4.1.3 The Developer shall have closed its purchase of the Private Development Property and shall own that property free and clear of all liens and encumbrances not approved in advance by the City in writing;

2.4.1.4 Certified copies of the Developer's organizational documents and the organizational documents of all entities to own any element of the Project.

2.4.1.5 The Borrower shall provide to the City, for its review and approval, which approval shall not be unreasonably withheld, delayed, or conditioned, copies of loan documentation and equity financing documents related to other sources of financing as described in the Development Budget.

2.4.1.6 The City shall have approved (whose approval shall not be unreasonably withheld, conditioned or delayed) the construction contract prior to its execution and have received the executed construction contract from Developer.

2.4.1.7 The Developer shall have provided to the City payment and performance bonds naming the City as a dual obligee in an amount not less than the full value of the construction contract in accordance with Section 2.5.1. The Borrower shall not have done or knowingly permitted anything to be done that would affect the

coverage of any performance or labor and material payment bonds required by the terms of this Agreement and, upon demand of the City, the Borrower shall have obtained a written statement from the bonding company or companies assuring that such coverage continues in full force and effect.

2.4.1.8 Developer shall not be in default of this Agreement.

2.5 Construction of Project. Developer shall be solely responsible for the construction and development costs, including hard and soft costs of the Project.

2.5.1 Payment and Performance Bonds. Developer agrees to require the general contractor for the Project to provide at Closing a payment and performance bond assuring one hundred percent (100%) payment of the anticipated cost of the construction contract and completion of construction of the Project. The payment and performance bonds shall be provided by a bonding company authorized to do business in North Carolina. The City shall be named specifically as a beneficiary of such bonds as its interest may appear. Such bonds shall be, in all respects, reasonably satisfactory to the City. A duplicate original of such payment and performance bonds shall be supplied to the City, and the City shall be entitled to maintain a direct action against the bonding company (and all other parties that may be necessary parties to the action). In the event of a default by the general contractor under the construction contract, Developer shall allow the City to participate in any action against the general contractor or the bonding company and shall not agree to a compromise or settlement of such action without the City's prior consent, whose consent shall not be unreasonably withheld, conditioned or delayed.

2.5.2 City shall have the right to retain a consultant, at the City's own cost and expense, to review the Plans and Specifications and to inspect the progress of construction of the Project. Developer shall make available to City and the City's consultant, if any, copies of all Plans and Specifications and all change orders and change directives reasonably necessary to evaluate the quality, cost and progress of the Project. Upon the City's request, Developer shall make available to City and the City's consultant, if any, copies of project schedules, costs, and other information reasonably necessary to evaluate the quality, cost, and progress of the Project. The City and the City's consultant expressly reserve the right to enter the Project during the course of construction, subject to Developer's reasonable safety, logistical and workflow requirements, to observe the progress and quality of the completed work.

2.5.3 Developer shall provide monthly construction updates to City staff, containing descriptions of any material changes to the architecture and schedule for the development of the Project. Developer shall provide updates on the Project to the City Council as requested by City staff, which may be based on the most recent monthly update as contemplated in this Section.

2.6 Development Standards; Fees; Permits.

- 2.6.1 Developer shall perform the work of design, development, and construction in accordance with the standard of care, expertise, and skill normally employed by developers performing similar services in metropolitan areas in North Carolina, and all duties under this Agreement shall be measured and interpreted in accordance with such standard of performance. Notwithstanding the foregoing, the Project shall be constructed in a good and workmanlike manner and in compliance with all applicable laws.
- 2.6.2 Developer hereby warrants to City that the materials and equipment furnished in accordance with this Agreement will be of good quality, that the work will be free from defects, and that the work will conform with the Plans and Specifications. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If requested by City, Developer shall furnish satisfactory evidence as to the kind and quality of materials and equipment used in the construction of the Project on the date of Substantial Completion for the Project. The Project shall, when complete, be and continue to be in conformity with all applicable laws, including but not limited to, all applicable building codes.
- 2.6.3 Developer shall pay all regular and customary fees levied by City or any other governmental entity. Developer shall plan for all utility services required for the Project and negotiate all necessary agreements with the appropriate municipal authorities and utility companies related to access, traffic, utilities, zoning, and other design and construction elements pertaining to the Project. Developer shall obtain and pay for all construction-related permits and all certificates of occupancy for the Project. City shall cooperate with Developer as is reasonably necessary for Developer to obtain such approvals, agreements, permits, and certificates of occupancy.
- 2.6.4 Developer shall apply for and maintain in full force and effect any and all governmental permits and approvals required for the lawful construction of the Project and comply with all the terms and conditions applicable to the Project contained in any governmental permit or approval required or obtained for the lawful construction of the Project, or in any insurance policy affecting or covering the Project.
- 2.6.5 During the construction and development period of the Project, Developer shall conform to all applicable laws, regulations, and ordinances.

2.7 Performance of Governmental Functions. The terms of this Agreement regarding the design and construction of the Project and the role of City in the Project are independent of any obligations binding upon City or Developer pursuant to applicable laws and ordinances. In no event will any approvals given by City pursuant to the terms of this Agreement constitute the performance by City of any review or issuance of any permits, approvals or licenses that it is obligated to conduct or consider pursuant to any law, or ordinance or both. Nothing in this Agreement or any approvals or consents by City in connection with this Agreement will in any

way stop, limit or impair City from exercising or performing any regulatory, policing or other governmental function with respect to either Party, including, but not limited to, the review, approval and issuance by City of applications, approvals, permits and licenses regarding the Project pursuant to any law, or ordinance or both. City will, to the extent reasonably appropriate and permitted by applicable laws and ordinances, facilitate Developer's submissions, requests and applications pursuant to any laws and ordinances regarding the Project; provided Developer's submissions, requests and applications are complete and include all necessary fees and are otherwise compliant with applicable laws and ordinances.

2.8 City Inspection. The City, together with its duly authorized agents and employees, may inspect and monitor the Project and the work performed thereto at any time without prior notice to Developer; provided that the City, and its duly authorized agents and employees, must follow Developer's reasonable safety regulations and logistical requirements. Pursuant to N.C.G.S. § 160D-1008, the City Manager shall conduct a periodic compliance review (the "Periodic Review") at least every twelve (12) months, and more often if desired by City, at which time Developer shall be required to demonstrate good faith compliance with the terms of this Agreement through preparation of a Periodic Review Report. The Periodic Review Report shall report on progress of construction. At its sole option, City may also request a periodic review meeting which may be conducted by electronic means or at a location designated by City, as determined by City. Failure of City to conduct this Periodic Review shall not constitute a waiver by City of its rights under N.C.G.S. § 160D-1008 or this Agreement, nor shall Developer have or assert any defense by reason of any failure to conduct a Periodic Review.

2.9 Designated Representative. Developer shall identify to City in writing no more than two (2) individuals authorized to act on behalf of Developer with respect to the development of the Project and to facilitate resolution of issues that may arise during the course of construction. Developer shall be entitled to change its Designated Representative upon written notice to City.

2.10 Representations and Warranties of City to Developer. City represents and warrants to Developer:

2.10.1 All consents, approvals, authorizations, and orders of governmental authorities which are required as a condition to the execution and delivery of this Agreement have been obtained by or on behalf of City and are in full force and effect;

2.10.2 City will execute, deliver and perform this Agreement in accordance with all applicable Laws;

2.10.3 The Property is not the subject of any litigation, pending or overtly threatened, or other judicial or quasi-judicial procedure which would, if determined favorably or unfavorably to City, settled, or otherwise resolved by City, result in any financial liability on the part of Developer or interfere with (i) the development of the Project or (ii) Developer obtaining financing (debt or equity) for the Project;

2.10.4 The Property is not the subject of any procedure for the taking of the Property by eminent domain, in whole or in part, pending or threatened by City or any other

governmental authority with the power of eminent domain;

2.10.5 To the actual knowledge of the City Manager, City has not received any notice from any governmental agency, state, federal or local, that the Hay Street Parking Garage is in violation of or the subject of an investigation regarding the potential violation of any Laws, including laws of the United States or the State regarding the presence, storage, transport, spillage, removal or remediation of hazardous or harmful substances on the Hay Street Parking Garage, or the presence, storage, transport, spillage, removal or remediation of hazardous or harmful substances on properties adjacent to the Hay Street Parking Garage as a result of their origination on or passage through the Hay Street Parking Garage;

2.10.6 City has the full right, power, and authority to enter into this Agreement, and to perform its obligations hereunder without contravention of any obligation on the part of City, whether statutory, contractual, or otherwise; and

2.10.7 This Agreement is a valid and binding obligation, enforceable against the Parties in accordance with its terms, and the execution, delivery, and performance of this Agreement has been duly and validly authorized by all necessary governmental action on its part.

2.10.8 To the actual knowledge of the City Manager or the City Attorney, no modification of the laws and ordinances applicable to the Property, including land use and zoning ordinances, are necessary for the Project to conform to those laws and ordinances.

2.11 Representations and Warranties of Developer to City. Developer represents and warrants to City that:

2.11.1 Developer is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Florida;

2.11.2 Developer is duly qualified to do business in the State of North Carolina;

2.11.3 Developer has the power to consummate the transactions contemplated by this Agreement;

2.11.4 The execution and delivery by Developer of this Agreement and the consummation by Developer of the transactions contemplated herein will not (i) conflict with, be in violation of, or constitute (upon notice or lapse of time or both) a default under its charter, bylaws, or any agreement, instrument, order or judgment to which it is a party or is subject, or (ii) result in or require the creation or imposition of any lien of any nature upon or with respect to any of its properties now owned or hereafter acquired, except as contemplated by this Agreement;

2.11.5 Developer has the full right, power, and authority to enter into this Agreement and to perform its obligations hereunder without contravention of any obligation on the part of Developer, whether statutory, contractual, or otherwise;

2.11.6 Developer will execute, deliver, and perform this Agreement in accordance with all applicable Laws;

2.11.7 Developer is unaware of any pending litigation that will impact the Project;

2.11.8 The person executing this Agreement on behalf of Developer has the full right, power, and authority to enter into this Agreement and bind Developer to its terms; and

2.11.9 This Agreement is a valid and binding obligation, enforceable against the Parties in accordance with its terms, and the execution, delivery, and performance of this Agreement has been duly and validly authorized by all necessary action on its part.

2.12 Good Faith. The Parties acknowledge and understand that Sections 2.10 through 2.11 impose a duty of good faith performance and fair dealing on all Parties and that neither Party knows as of the Effective Date any reason it or any other Party cannot perform or abide by these sections so as to confer on each Party the full benefits of this Agreement.

Article 3

Minimum Assessed Tax Value

3.1 Declaration of Covenants. Pursuant to this Agreement, the Parties shall record an amendment to the Declaration of Covenants and Agreement for a Minimum Tax Assessment recorded in the Cumberland County Register of Deeds at Book 10300, Page 847 on May 8, 2018 (“MATV Declaration”). This amendment to the MATV Declaration shall conform to this Agreement.

3.2 Minimum Assessed Tax Value. Subject to Developer requesting and being granted an ad valorem tax exclusion from the North Carolina Department of Environmental Quality for Brownfields redevelopment, the parties agree that the *ad valorem* tax value of the Private Development Property identified on Exhibit A, which shall be owned or controlled by Developer, its successors, or its affiliates, shall be the greater of \$45,000,000 (the “Minimum Assessed Tax Value” or “MATV”) or the actual appraised tax value. Developer may from time to time seek to update the MATV by providing the City an updated estimate and explanation, and such updates may result from changes to the City's millage rate. The City, in its sole discretion, may consent to a reduction in the MATV based on updated projections regarding the taxable value of the Private Development Property. The tax revenues to be generated by the Private Development Property will be calculated using the City millage rate in effect on the date of the Agreement and the greater of the MATV or the actual appraised tax value (“Private Development Ad Valorem Tax Revenues”). The Parties acknowledge that the City will rely on Private Development Ad Valorem Tax Revenues to pay a portion of the stadium debt (the “Stadium Debt”). The Developer guarantees the generation of Private Development Ad Valorem Tax Revenues through the operation of standard tax collection or the operation of the following provisions:

3.2.1 If the actual ad valorem tax value of the Private Development as determined by the Cumberland County Tax Assessor is less than the MATV, then Developer and its

successors, if any, will assist the City in advocating for an increase in the ad valorem assessment of the Private Development Property prior to the date by which the ad valorem tax valuation is fixed for the succeeding year. If after such advocacy the actual ad valorem tax valuation of the Private Development Property remains less than the MATV, then the Developer and its successors, if any, will pay the difference to satisfy the full amount of the Private Development Ad Valorem Tax Revenues (the “Gap Contribution”).

- 3.2.2 If, in any calendar year in which Developer or its successor is making a payment under any method or manner to fund the Gap Contribution, the City determines that it will not require a Gap Contribution at the full amount or in any amount, then the City will adjust the Gap Contribution accordingly and such adjusted Gap Contribution will be effective as of January 1st of the succeeding calendar year.
- 3.2.3 In the event Developer transfers, assigns, enters into a long-term ground lease, or otherwise conveys its interest in any or all of the Private Development Property, Developer’s successor shall be obligated to pay any Gap Contribution for all or any such portion conveyed. Developer, its successors or assigns shall take such measures as are necessary to ensure that any transfers, conveyances, assignments of leases of all or any part of the Private Development Property will be subject to and bound by the MATV Declaration. Developer agrees that any transfer of all or a part of the Private Development Property shall require, as a condition of the transfer, that the transferee execute a consent to the MATV Declaration and that such consent shall be recorded in the Cumberland County Register of Deeds at the time of transfer. This consent shall contain a provision obliging the transferee to make that portion of the Gap Contribution attributable to the property acquired. In the event Developer or its successor conveys only a portion of the Private Development Property, the obligation for the Gap Contribution on such portion shall be determined pro rata based on the actual ad valorem valuation of the portion conveyed as a percentage of the total ad valorem valuation of the Private Development Property (which liability for each portion of the Private Development Property shall be recalculated pro rata upon any change in the ad valorem valuation of any portion of the Private Development Property). Neither the Developer nor any successor will be obligated to pay any Gap Contribution where the actual annual ad valorem tax revenue from the Private Development Property equals or exceeds the Private Development Property Ad Valorem Tax Revenues.
- 3.2.4 Any adjustment to or elimination of the Gap Contribution as described above will not release the then current owner(s) of the Private Development Property from future Gap Contributions in such amount and paid in such a manner as determined by the City and provided in this Agreement or subsequent documents in the event that the actual tax assessed value of the Private Development Property is less than \$45,000,000. In such a case the City will notify the then current owner(s) of the Private Development Property within the calendar year immediately preceding January 1st of the calendar year in which the Gap Contribution is to resume, together with the amount of the Gap Contribution and the manner in which the Gap

Contribution will be generated and collected. In any case, the Developer's and any successor's obligation to make any Gap Contribution shall automatically terminate and be of no further effect upon the earlier of (i) the maturity of the initial Stadium Debt, (ii) the payoff of the Stadium Debt, or (iii) the Private Development Property achieving an actual tax assessed value of \$45,000,000 or greater. In no event shall the Developer's or any successor's obligation to pay Gap Contribution obligation be extended beyond the initial term of the Stadium Debt by any refinancing or recapitalization of the Stadium Debt by the City. The Parties shall enter into a written, recorded termination of the Gap Contribution (and as applicable the MATV Declaration) upon request of either Party to the other in the event of automatic termination of the Gap Contribution as contemplated in this Section.

- 3.2.4 The Developer shall ensure that the MATV Declaration as amended is transferred as a material condition and continuing obligation upon any subsequent owner of all or any portion of the Private Development Property. The Developer's failure to do so will be a material breach of this Agreement resulting in immediate and irreparable damage to the City for which a legal remedy is not immediately available and that the City, upon application, will be entitled to a preliminary injunction enjoining the transfer of any or all of the Private Development Property until the conditions of this paragraph are met and that the City will further be entitled to actual damages, attorney's fees and costs. Further, in addition to enjoining any such transfer: (i) the City will be entitled to an order determining that any transfer of any or all of the Private Development Property without notice to the City and compliance with the provisions of this paragraph to be null and void; and (ii) City will be entitled to such other legal and equitable remedies as are available. City will execute such estoppels, consents or other documents as reasonably required to evidence City's approval of a contemplated transfer as compliant under the MATV Declaration as set forth in this paragraph and under this Agreement.

3.3 Gap Contribution Enforcement. Contemporaneously with the recording of this Agreement, the City shall record an Amendment to the MATV Declaration consistent with this Agreement. The MATV Declaration as amended will be binding upon the Developer, its successors and assigns and will run with the land. The MATV Declaration as amended shall contain an estoppel provision whereby the City upon request will certify to any owner or nonresidential tenant of the Private Development Property, or such owner's or nonresidential tenant's lender, or any prospective buyer or nonresidential tenant of the Private Development Property the status of compliance with the restrictions contained in the MATV Declaration, as amended.

Article 4

Term, Modification, and Termination

4.1 Term. The term of this Agreement shall commence upon the Effective Date and it shall expire upon receipt by Developer of all permanent Certificates of Occupancy necessary for the Project, unless sooner terminated by mutual consent of the City and Developer or pursuant to the terms and conditions of this Agreement.

4.2 Amendment and Modification of Agreement. As required by N.C.G.S. § 160D-1006(e), major modifications of this Agreement shall follow the same notice, public hearing, and approval procedures as were followed initially when forming this Agreement. Minor modifications may be made upon the mutual written consent of the Parties as further described below, and the following are included among minor modifications:

- All assignments approved by the City pursuant to Section 6.7;
- Any modification of time periods set forth in Section 2.2;
- Any minor modifications to the Development Budget;
- Any minor modifications to the Development Plan.

Major modifications include but are not limited to any fundamental change to the Development Plan.

4.2.1 Approval of each minor modification shall be memorialized by a written amendment to this Agreement executed by the appropriate Parties setting forth the specific modification together with written findings that the proposed minor modification would be consistent with the purposes and goals of this Agreement; provided, however, that minor modifications as described above shall be deemed automatic amendments to this Agreement. The City Manager is authorized to execute minor modifications on behalf of the City.

4.2.2 A copy of any amendment to this Agreement shall be recorded in the Register of Deeds within 14 days after the effective date of the amendment and all Parties shall cooperate by signing amendments and otherwise work together to effectuate the purpose of this section. All amendments to Agreement relate back to the prior recorded Agreement.

4.3 Termination. Unless otherwise extended by City and Developer, this Agreement shall terminate on the earlier of: (i) the expiration of the Term specified in Section 4.1 of this Agreement; (ii) a specific termination of this Agreement made by operation of the provisions of this Agreement, including for breach of the Agreement; or (iii) by agreement of City and Developer. Any termination other than by expiration of the Term shall be recorded in the Register of Deeds.

Article 5

Defaults, Breach, and Equitable Remedies

5.1 Default and Breach by City or Developer. Unless otherwise provided for in this Agreement, in the event of a default in the performance of duties or obligations created by this Agreement by either City or Developer, the non-defaulting Party shall serve the defaulting Party written notice of the default (“Notice of Default”) and shall specify a period of not less than sixty (60) days (such period referred to as the “Initial Cure Period”) in which the defaulting Party shall have a right to cure the default; provided, however, such cure period may be extended by the non-defaulting Party if all of the following occur: (a) a default cannot reasonably be cured within the Initial Cure Period, (b) the curing Party notifies the non-defaulting Party of such fact by written notice served in accordance with Section 6.4 of this Agreement no later than the end of the Initial Cure Period and provides a written schedule for curing the default within the notice and evidence that the defaulting

Party had already taken steps to cure the default, and (c) the curing Party in such written extension notice covenants to (and thereafter actually does) diligently pursue the cure to completion. In no event shall the defaulting Party have more than one hundred and eighty (180) days to cure the default after service of Notice of Default.

In the event Developer assigns any of its duties under this Agreement without City's advance written approval, City shall serve Developer written notice of the default. Developer shall have fifteen (15) days to cure said default, by providing City a copy of an agreement signed by the assignee and Developer revoking transfer of Developer's duties and returning all duties to Developer, or other instrument evidencing effective termination of the assignment, which cure period shall not be extended; and failure to cure results in City having the right to immediately terminate this Agreement in its sole discretion.

5.1.1 Default Prior to or at Closing. If either Party fails to complete Closing as required under this Agreement, or otherwise materially defaults under this Agreement prior to or at Closing, then provided such default is not cured within the applicable cure period, the non-defaulting party may elect to terminate this Agreement.

If this Agreement is terminated prior to or at Closing due to Developer's default, City shall receive a payment from Developer in an amount equal to City's documented thirty-party costs and expenses related to this Agreement and the planning, design, permitting, financing, and development of the Project, including reasonable attorney's fees (the "City Damages").

5.1.2 Default After Closing. In the event the defaulting Party fails to cure as provided herein a default occurring after Closing, the non-defaulting Party may declare breach of this Agreement and may either (i) terminate this entire Agreement or (ii) enforce this Agreement by the remedy of declaratory judgment and specific performance only. If specific performance is elected, an action must be commenced within one hundred twenty (120) days after expiration of the applicable cure period. In no event shall either party be liable to the other party (or to any third party, whether or not claiming through such other party) for indirect, consequential, special, incidental, exemplary or punitive damages (including, without limitation, lost profits of any kind or nature whatsoever). The remedies identified herein are in addition to, and in no way modify, such remedies as are available under any other agreement, including an agreement for the City Loan.

5.2 Other Defaults. A Party will be in default of its obligations under this Agreement in the event that it is adjudicated bankrupt or insolvent, makes an assignment for the benefit of creditors or enters into a composition for creditors, or will file a voluntary bankruptcy petition or an answer admitting the material allegations of an involuntary bankruptcy petition; or if an order is entered appointing a receiver or trustee for that Party or for a substantial portion of the assets of that Party and the same is not vacated within thirty (30) days after entry, or if that Party applies for or consents to the appointment of any such receiver or trustee. In the event of a default specified in this Section 5.2 then the other Party may immediately pursue all remedies available to it by law or in equity, including specific performance and the termination of this Agreement.

5.3 Informal Business Meeting. Recognizing that the Parties have invested significant resources in planning the Project and forming this Agreement, and the benefits to the Parties derived from the Project and this Agreement are substantial and broad, City and Developer agree that all issues or concerns identified as defaults under Article 5 of this Agreement shall be subject to at least one business meeting between the City Manager and principals of Developer before a notice of default is served and again before breach of this Agreement is declared. All business meetings shall be held at City Hall unless City designates that the meeting be held electronically or at an alternate location. Nothing herein precludes City or any Party from requesting business meetings to discuss and plan any aspect of the Project.

Article 6 Miscellaneous

6.1 Disclaimer of Joint Project, Partnership and Agency. Neither this Agreement nor any agreement or instrument entered into between City and Developer shall be interpreted or construed to create an association, joint venture, or partnership between Developer and City, or to impose any partnership obligation or liability upon such Parties. Neither Developer nor City shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent of representative of, or to otherwise bind, the other Party. This Agreement is supplemental to the powers conferred on the City.

6.2 No Third-Party Beneficiaries. The Agreement is not intended to and does not confer any right or benefit on any third party that is not a Party.

6.3 Recordation/Binding Effect. Within fourteen (14) days after the Effective Date, Developer shall record this Agreement in the Cumberland County Register of Deeds. This Agreement shall be recorded in the Register of Deeds prior to recordation of any mortgages or other liens encumbering the Property. The burdens of this Agreement shall be binding upon the Parties and all of the Parties' successors and assigns having an interest in the Property at any time, and the benefits of this Agreement shall inure to the Parties and all of the Parties' successors and assigns having an interest in the Property at any time. Amendments to Agreement shall be recorded by Developer in the Register of Deeds within fourteen (14) days of full execution.

6.4 Notices. Unless specifically provided otherwise by this Agreement, any notice, demand, request, consent, approval or communication which a signatory Party is required to or may give to another signatory Party under this Agreement shall be in writing and shall be delivered or addressed to the other at the address below set forth or to such other address as such Party may from time to time direct by written notice given in the manner in this Agreement prescribed. Such notice or communication shall be deemed to have been given or made when communicated by personal delivery or by independent courier service or by facsimile or by email with a hard copy to be delivered by independent courier service by the next business day. The Parties shall make reasonable inquiry to determine whether the names or titles of the persons listed in this Agreement should be substituted with the name of the listed person's successor.

All notices, demands, requests, consents, approvals or communications to City addressed to:

City Manager
City of Fayetteville
433 Hay Street
Fayetteville, NC 28301
Attn:

With a copy to: City Attorney
City of Fayetteville
433 Hay Street
Fayetteville, NC 28301
Attn: Lachelle H. Pulliam

With a copy to: Howard Rhodes
The Banks Law Firm, P.A.
4309 Emperor Boulevard, Suite 110
Durham, NC 27703

All notices, demands, requests, consents, approvals or communications to Developer shall be addressed to:

Lansing Melbourne Group, LLC
101 NE 3rd Ave Suite 1500
Fort Lauderdale, Florida 33301
Attn: Peter Flotz

With a copy to: Clark Hill, PLC
101 NE 3rd Avenue, Suite 1500
Fort Lauderdale, Florida 33301
Attn: Drew Melville

6.5 Entire Agreement. This Agreement sets forth and incorporates by reference all the agreements, conditions and understandings between the Parties relative to the Project and supersedes all previous agreements, except to the extent the same may be specifically incorporated into this Agreement. There are no promises, agreements, conditions or understandings, oral or written, expressed or implied, among the Parties relative to the matters addressed in this Agreement other than as set forth or as referred to in this Agreement or as contained the Development Plans as of the Effective Date. The Parties may enter ancillary agreements related to this Agreement and the Project after the Effective Date.

6.6 Construction. The Parties agree that each Party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

6.7 Assignment. The Parties recognize that the participation and involvement of Developer in the development of the Project is critical to accomplishing the purposes of this Agreement.

Specifically, Developer possesses significant expertise, experience, and capacity developing downtown development projects and possesses specific knowledge of the Property. Developer shall not assign or transfer this Agreement or delegate any of its respective obligations or duties without the prior written consent of City. Any transfer, assignment, or delegation by Developer of any portion of its rights or duties established by this Agreement without the advance written approval of City, shall be void and shall constitute a breach of this Agreement, allowing City to immediately seek the remedies specified in Article 5.

No assignment requiring City approval or consent shall be effective under this Agreement until documents evidencing such an assignment have been executed by Developer, City, and Proposed Assignee and such documentation has been recorded in the Cumberland County Register of Deeds by Developer.

Notwithstanding the above, Developer may freely assign its rights in this agreement to the extent necessary to fulfill any Developer financing obligation, including assignment to a wholly owned Developer affiliate, without need for City's written approval; however Developer must make the necessary assignment in writing and must provide City a copy of the written assignment.

6.8 Terms for Consent or Approval. When this Agreement calls for one Party to seek the approval or consent of the other Party, the Party with the right to grant or deny consent or approval must exercise its reasonable discretion in doing so, unless specified otherwise by the terms of this Agreement. The requesting party must make requests for consent or approval in writing in accordance with the terms for notice in this Agreement and substantiate such request with commercially reasonable documentation unless specified otherwise by the terms of this Agreement. The Party with the right to grant or deny consent or approval shall review each such request diligently, reasonably and in good faith and deliver its decision whether to give or deny consent or approval to the requesting Party in writing in accordance with the terms for notice in this Agreement within ten (10) business days of the delivery of such a request. If the reviewing party elects to deny its consent or approval, then it must substantiate that decision with commercially reasonable documentation that enables the requesting Party to comprehend the decision and, if appropriate, modify such request and re-submit it to the reviewing Party for further review pursuant to these terms for consent or approval. A Party reviewing a request for consent to the assignment of rights and obligations by the requesting Party may consider the creditworthiness, financial wherewithal, expertise and experience of the proposed assignee when compared to the requesting Party, in the exercise of reasonable discretion whether to grant or deny consent or approval.

6.9 Terms for Other Response. When this Agreement calls for one Party to notify the other Party of any other election under this Agreement, then the electing Party shall notify the other party of the applicable decision no later than thirty (30) days after the electing Party was notified of its obligation to make such election.

6.10 Governing Law. This Agreement shall be governed by the laws of the State of North Carolina.

6.11 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.

6.12 Agreement to Cooperate. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties hereby agree to cooperate in defending that action; provided, however, each Party shall retain the right to pursue its own independent legal defense.

6.13 No Deemed Waiver. Failure of a Party to exercise any right under this Agreement shall not be deemed a waiver of any such right and shall not affect the right of such Party to exercise at some future time said right or any other right it may have under this Agreement.

6.14 Severability. If any term or provision of this Agreement shall be judicially determined to be void or of no effect, such determination shall not affect the validity of the remaining terms and provisions. The Parties agree that if any provision of this Agreement is judicially determined to be invalid because it is inconsistent with a provision of state or federal law, this Agreement shall be amended to the extent necessary to make it consistent with state or federal law and the balance of the Agreement shall remain in full force and effect.

6.15 Authority. Each Party represents that it has undertaken all actions necessary for approval of this Agreement, and that the person signing this Agreement has the authority to bind City and Developer. Notwithstanding the foregoing, with the approval of this Agreement, City Council hereby delegates to the City Manager the authority to execute any supplemental documents required to effectuate the purposes of this Agreement.

6.16 Continuing Obligation. From time to time after the Effective Date, the Parties will execute additional instruments of assignment, lease, license, conveyance and other documents and take such other actions that are reasonably necessary to further the purposes of this Agreement.

6.17 Immunity Not Waived. City does not intend to waive its sovereign immunity by reason of this Agreement; provided, however, that the City acknowledges and agrees that by entering into this Agreement, governmental immunity shall not be a valid defense to a breach of contract claim brought under this Agreement.

6.18 Release of Information. City and Developer acknowledge that this Agreement is subject to disclosure under the North Carolina Public Records Act, N.C.G.S. § 132-1 et seq. (the "Act"), except for information that is excluded from the disclosure requirements of the Act pursuant to N.C.G.S. § 132-1.2. Nothing in this Agreement precludes either party from discussing the terms of this Agreement or its work product with its attorneys, accountants, consultants, contractors, or potential lenders or investors, or prevents the holding of public Council meetings in compliance with applicable laws.

6.19 Non-Appropriation. No provision of this Agreement shall be construed or interpreted as creating a pledge of the faith and credit of the City within the meaning of any Constitutional debt limitation. No provision of this Agreement shall be construed or interpreted as creating a pledge of the faith and credit of the City within the meaning of the Constitution of the State of North

Carolina. This Agreement shall not directly or indirectly or contingently obligate the City to make any payments beyond the amount appropriated, if any, in the sole discretion of the City for any fiscal year in which this Agreement shall be in effect. No deficiency judgment may be rendered against the City in any action for breach of a contractual obligation under this Agreement and the taxing power of the City is not and may not be pledged directly or indirectly to secure any moneys due under this Agreement. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of the City's moneys. To the extent of any conflict between this Section and any other provision of this Agreement, this Section shall take priority.

6.20 Amendment. This Agreement shall not be modified or amended in any respect except by a written instrument executed by or on behalf of each of the parties to this Agreement and subject to the provisions of N.C.G.S. § 160D, Article 10. Insofar as Developer's lenders or financing partners require any commercially reasonable amendment to this Agreement or any of the recorded or unrecorded documents contemplated in this Agreement, City shall in good faith negotiate the proposed amendment and shall not unreasonably deny the proposed amendment provided it is not contrary to the City's rights and interests under this Agreement or City's obligations under North Carolina law.

6.21 Iran Divestment Act Certification. As of the Effective Date, Developer certifies that: (i) it is not identified on the Final Divestment List or any other list of prohibited investments created by the NC State Treasurer pursuant to N.C.G.S. 147-86.58; (ii) it has not been designated by the NC State Treasurer pursuant to N.C.G.S. 147-86.81 as a company engaged in the boycott of Israel ((i) and (ii) to be collectively referred to as "FD Lists"); and (iii) it will not take any action causing it to appear on the Treasurer's FD Lists created by the NC State Treasurer during the term of this Agreement. By signing this Agreement, Developer further agrees to reimburse the City for any and all damages, costs and attorneys' fees incurred by the City in connection with any claim that this Agreement or any part thereof is void due to Developer appearing on the Treasurer's FD Lists at any time before or during the term of this Agreement.

6.22 E-Verify Certification. Developer certifies that it verifies the authorization of its employees to work in the United States in accordance with the Immigration and Reform Control Act of 1986, that it has enrolled in the U.S. Citizenship and Immigration Service's E-Verify program, and that it utilizes E-Verify as required by N.C.G.S. §64-25.

6.23 Survival. All representations, warranties and obligations of the Parties in this Agreement shall survive the consummation or performance of the various transactions contemplated in this Agreement for the respective terms necessary for each of the Parties to realize the benefits contemplated by this Agreement and to enforce the rights provided for in this Agreement.

6.24 Recitals and Exhibits. This Agreement's Recitals and Exhibits are integral and essential components of this Agreement and are incorporated into this Agreement.

6.25 Defined Terms. All capitalized terms in this Agreement shall have the meaning ascribed to them in this Agreement, unless the context clearly indicates another meaning. All terms not defined in this Agreement shall have the usual and customary meaning ascribed to them and found in any modern American English dictionary.

IN WITNESS WHEREOF, the Parties hereby set their hands and seals, effective the date first above written.

CITY OF FAYETTEVILLE, NORTH CAROLINA
[SEAL]

Dr. Douglas J. Hewett, City Manager, ICMA-CM

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

I, _____, a Notary Public of the State and County aforesaid, certify that _____ personally came before me this day and acknowledged under seal that they are City Clerk of the City of Fayetteville, and that by authority duly given and as the act of the Council, the foregoing instrument was signed in its name by its City Manager, sealed with its corporate seal and attested by herself as its City Clerk.

WITNESS my hand and official seal, this _____ day of _____, 2025.

Notary Public
My commission expires:

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereby set their hands and seals, effective the date first above written.

FAY HAY MASTER VENTURE LLC,
a Florida limited liability company

By:
FAY HAY MASTER VENTURE MANAGER,
LLC,
a Florida limited liability company,
its Manager

Peter Flotz, Manager

State of _____
County of _____

I, the undersigned, a Notary Public of the County and State aforesaid, do hereby certify that Peter Flotz personally came before me this day and acknowledged under seal that he is Manager of FAY HAY MASTER VENTURE MANAGER LLC, a Florida limited liability company, and acknowledged, on behalf of the company, the due execution of the foregoing instrument. Witness my hand and official stamp or seal, this the _____ day of _____, 2025.

Notary Public
My commission expires:

Exhibit A

Private Development Property

Cumberland County Parcel Identification Number 0437-44-6969.002

BEING all of Unit HI, Unit 01 and Unit R2 described in the Declaration of Stadium View Condominium, recorded in Book 10687, Page 447, Cumberland County Registry (the "Declaration") and as shown on the plat entitled "Stadium View Condominium" by Ballentine Associates P.A. dated as of December 12, 2019 and recorded in Condominium Book 9, Pages 54 - 65, of the Cumberland County Registry, together with the percentage share of common elements as set forth in the Declaration.

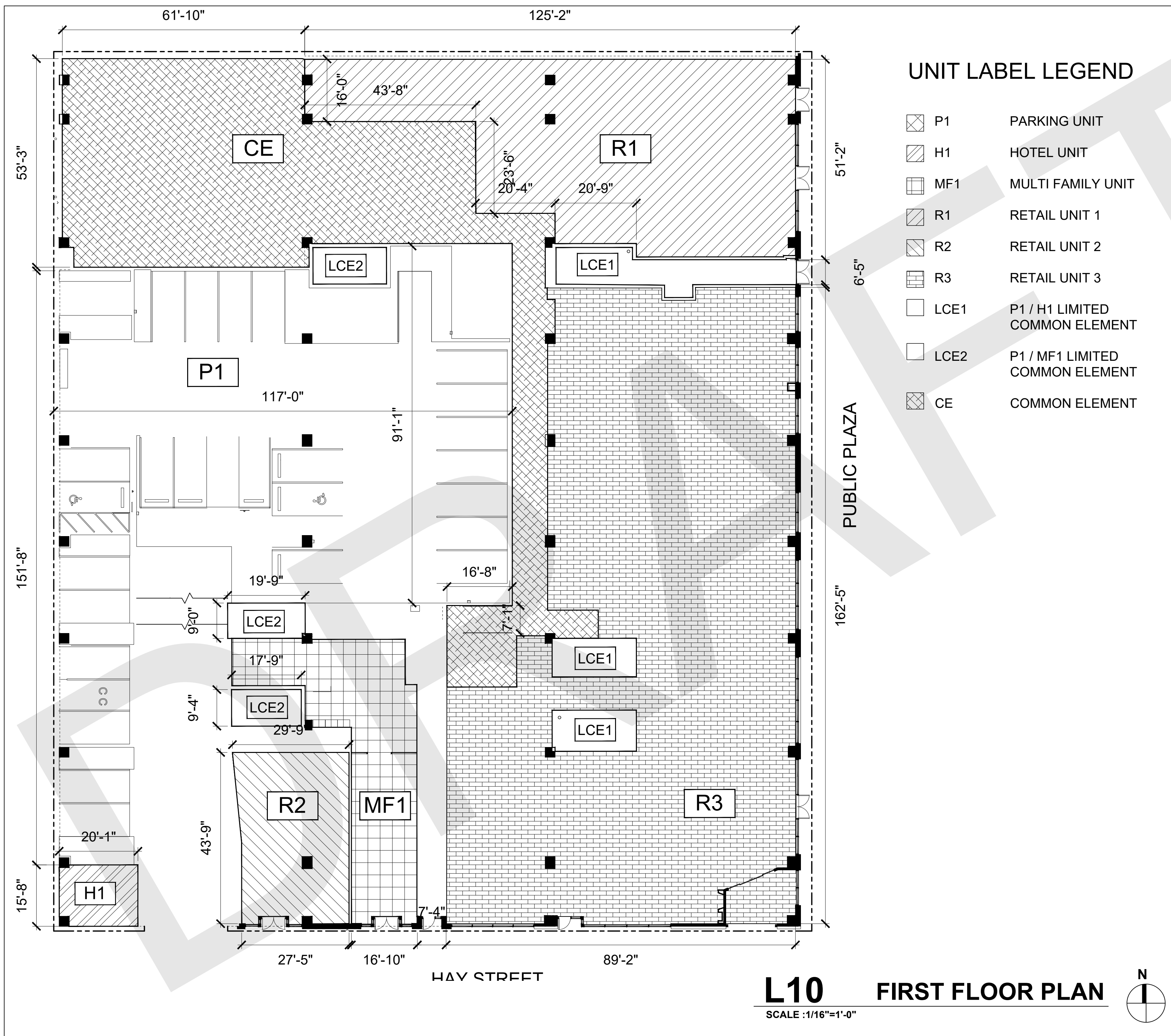
This property is subject to the Brownfields Agreement attached as Exhibit A to the Notice of Brownfields Property recorded in the Cumberland County land records, Book 10503, Page 78 and as shown on the certain instruments recorded in Plat Book 142, Pages 123, Cumberland County Registry.

Exhibit B

Development Plan

(CD – 01 Through CD – 11 Follows)

DRAFT



The plats or plans fully and accurately depict (i) the locations and dimensions of the horizontally limiting boundaries of each unit, to the extent those boundaries lie within or coincide with the boundaries of the building in which the unit is located, (ii) the location of any vertically limiting boundaries, with reference to established datum, and (iii) an identifying number for each unit.

SCOPE OF DOCUMENT

These plans set forth the unit boundaries as explained in the associated Declaration of Stadium View Condominium. Certain unit boundaries are based on the as-built measurements of the structure existing as of the date hereof, and other boundaries define air space in which improvements may be constructed in the future and are therefore not based on as-built measurements.

NUMBER	ISSUED FOR	DATE

B U I L T F O R M
ARCHITECTURE 935 W Chestnut St., Ste # 520
Chicago, IL 60642

CLIENT

PCH DEVELOPMENT CO., LLC
PO BOX 650, Durham, NC 27702

CIVIL ENGINEER / LANDSCAPE ARCHITECT

STEWART
421 Fayetteville St., Suite 400. Raleigh, NC 27601

STRUCTURAL ENGINEER

KIMLEY-HORN
421 Fayetteville St, Suite 600, Raleigh, NC 27601

MECHANICAL / ELECTRICAL / PLUMBING ENGINEER

CM ENGINEERING

PROJECT

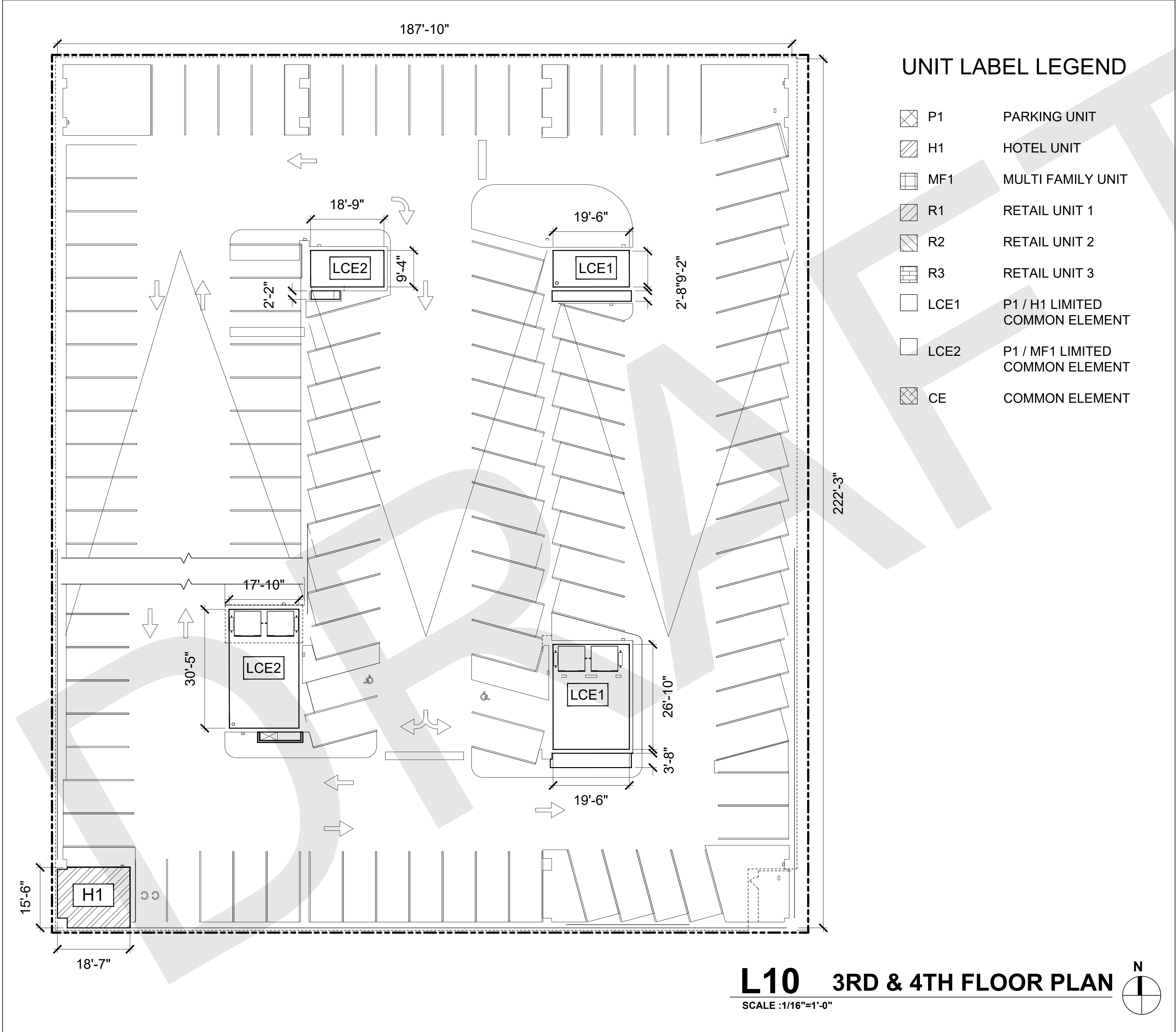
STADIUM VIEW

SHEET TITLE

FIRST FLOOR PLAN

PROJECT NO.	CD-01
DATE	

©2022 BUILT FORM, LLC



The plats or plans fully and accurately depict (i) the locations and dimensions of the horizontally limiting boundaries of each unit, to the extent those boundaries lie within or coincide with the boundaries of the building in which the unit is located, (ii) the location of any vertically limiting boundaries, with reference to established datum, and (iii) an identifying number for each unit.

SCOPE OF DOCUMENT

These plans set forth the unit boundaries as explained in the associated Declaration of Stadium View Condominium. Certain unit boundaries are based on the as-built measurements of the structure existing as of the date hereof, and other boundaries define air space in which improvements may be constructed in the future and are therefore not based on as-built measurements

NUMBER	ISSUED FOR	DATE

BUILT FORM
ARCHITECTURE 935 W Chestnut St., Ste # 520
Chicago, IL 60642

CLIENT
PCH DEVELOPMENT CO., LLC
PO BOX 650, Durham, NC 27702

CIVIL ENGINEER / LANDSCAPE ARCHITECT
STEWART
421 Fayetteville St., Suite 400. Raleigh, NC 27601

STRUCTURAL ENGINEER
KIMLEY-HORN
421 Fayetteville St., Suite 600, Raleigh, NC 27601

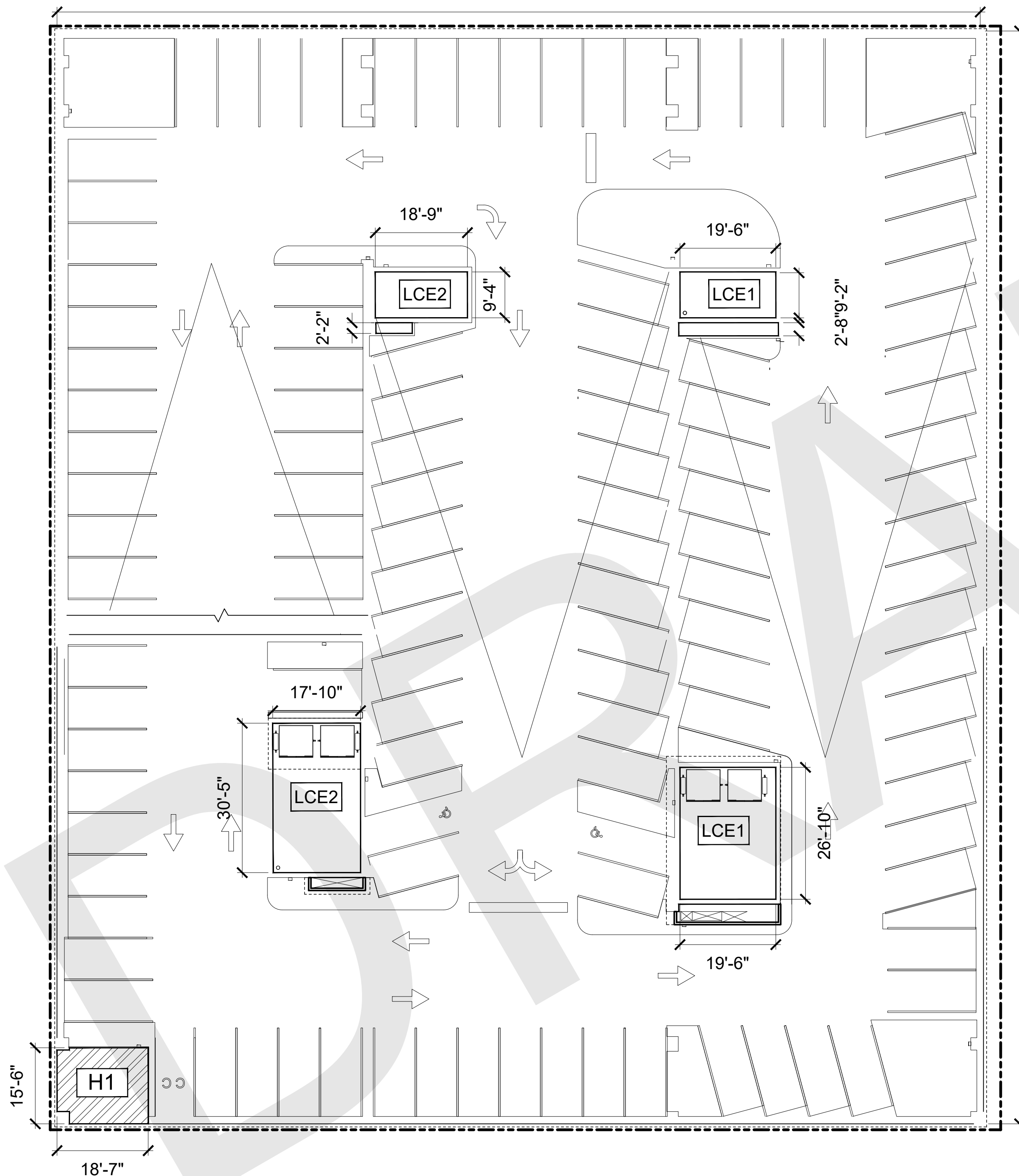
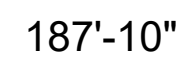
MECHANICAL / ELECTRICAL / PLUMBING ENGINEER
CM ENGINEERING

PROJECT
STADIUM VIEW

SHEET TITLE
THIRD AND FOURTH FLOOR PLANS

PROJECT NO.	CD-03
DATE	

©2022 BUILT FORM, LLC



UNIT LABEL LEGEND

- | | | |
|---|------|------------------------------------|
|  | P1 | PARKING UNIT |
|  | H1 | HOTEL UNIT |
|  | MF1 | MULTI FAMILY UNIT |
|  | R1 | RETAIL UNIT 1 |
|  | R2 | RETAIL UNIT 2 |
|  | R3 | RETAIL UNIT 3 |
|  | LCE1 | P1 / H1 LIMITED
COMMON ELEMENT |
|  | LCE2 | P1 / MF1 LIMITED
COMMON ELEMENT |
|  | CE | COMMON ELEMENT |

The plots or plans fully and accurately depict (i) the locations and dimensions of the horizontally limiting boundaries of each unit, to the extent those boundaries lie within or coincide with the boundaries of the building in which the unit is located, (ii) the location of any vertically limiting boundaries, with reference to established datum, and (iii) an identifying number for each unit.

SCOPE OF DOCUMENT

These plans set forth the unit boundaries as explained in the associated Declaration of Stadium View Condominium. Certain unit boundaries are based on the as-built measurements of the structure existing as of the date hereof, and other boundaries define air space in which improvements may be constructed in the future and are therefore not based on as-built measurements.

NUMBER	ISSUED FOR	DATE

B U I L T F O R M

ARCHITECTURE 935 W Chestnut St., Ste # 520
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CM ENGINEERING

PROJECT

STADIUM VIEW

SHEET TITLE

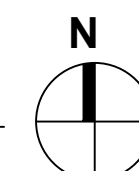
FIFTH FLOOR PLAN

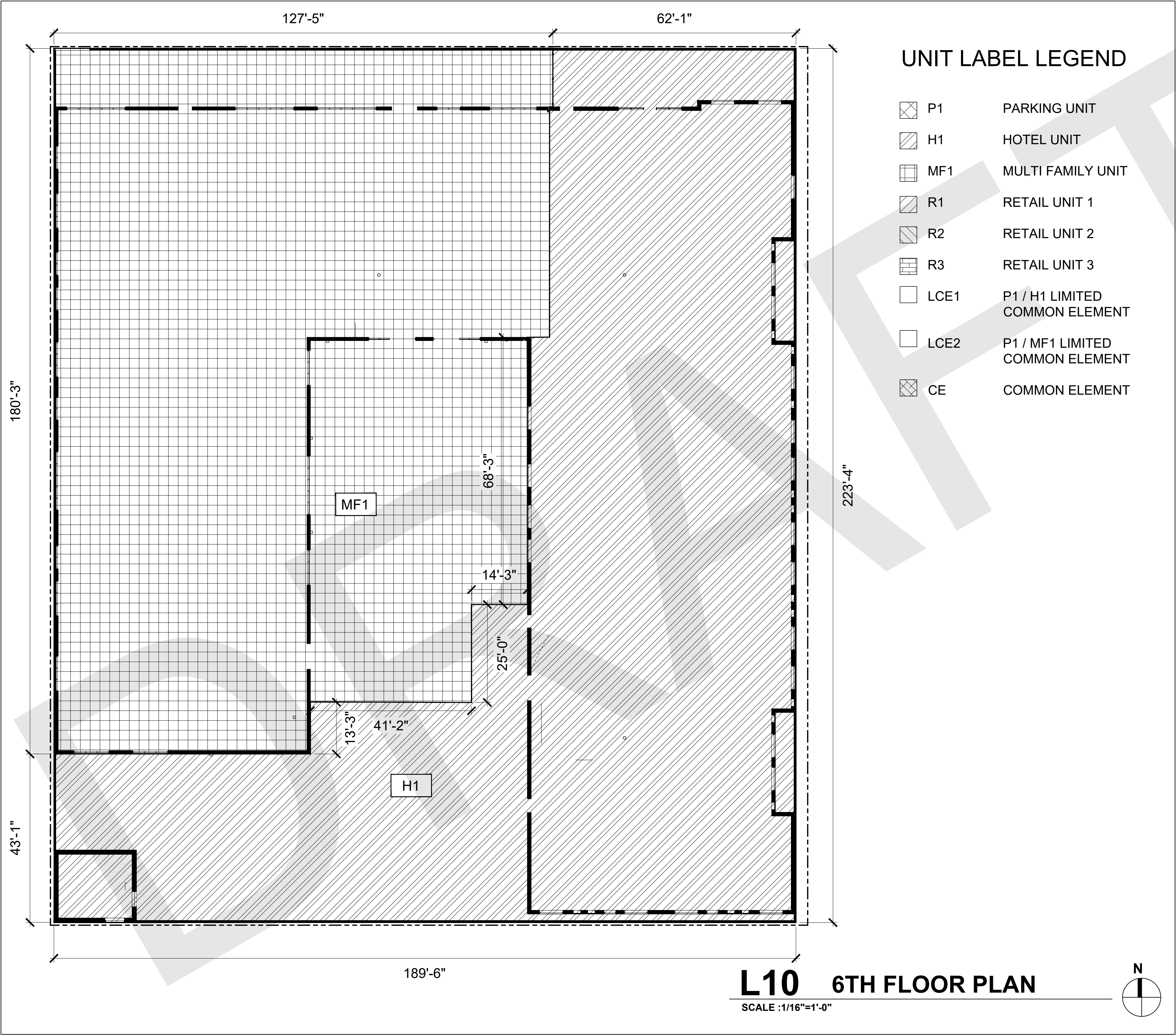
PROJECT NO.	CD-04
DATE	

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L10 5TH FLOOR PLAN

SCALE :1/16"=1'-0"





The plats or plans fully and accurately depict (i) the locations and dimensions of the horizontally limiting boundaries of each unit, to the extent those boundaries lie within or coincide with the boundaries of the building in which the unit is located, (ii) the location of any vertically limiting boundaries, with reference to established datum, and (iii) an identifying number for each unit.

SCOPE OF DOCUMENT

These plans set forth the unit boundaries as explained in the associated Declaration of Stadium View Condominium. Certain unit boundaries are based on the as-built measurements of the structure existing as of the date hereof, and other boundaries define air space in which improvements may be constructed in the future and are therefore not based on as-built measurements

NUMBER	ISSUED FOR	DATE

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STRUCTURAL ENGINEER
KIMLEY-HORN
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MECHANICAL / ELECTRICAL / PLUMBING ENGINEER
CM ENGINEERING

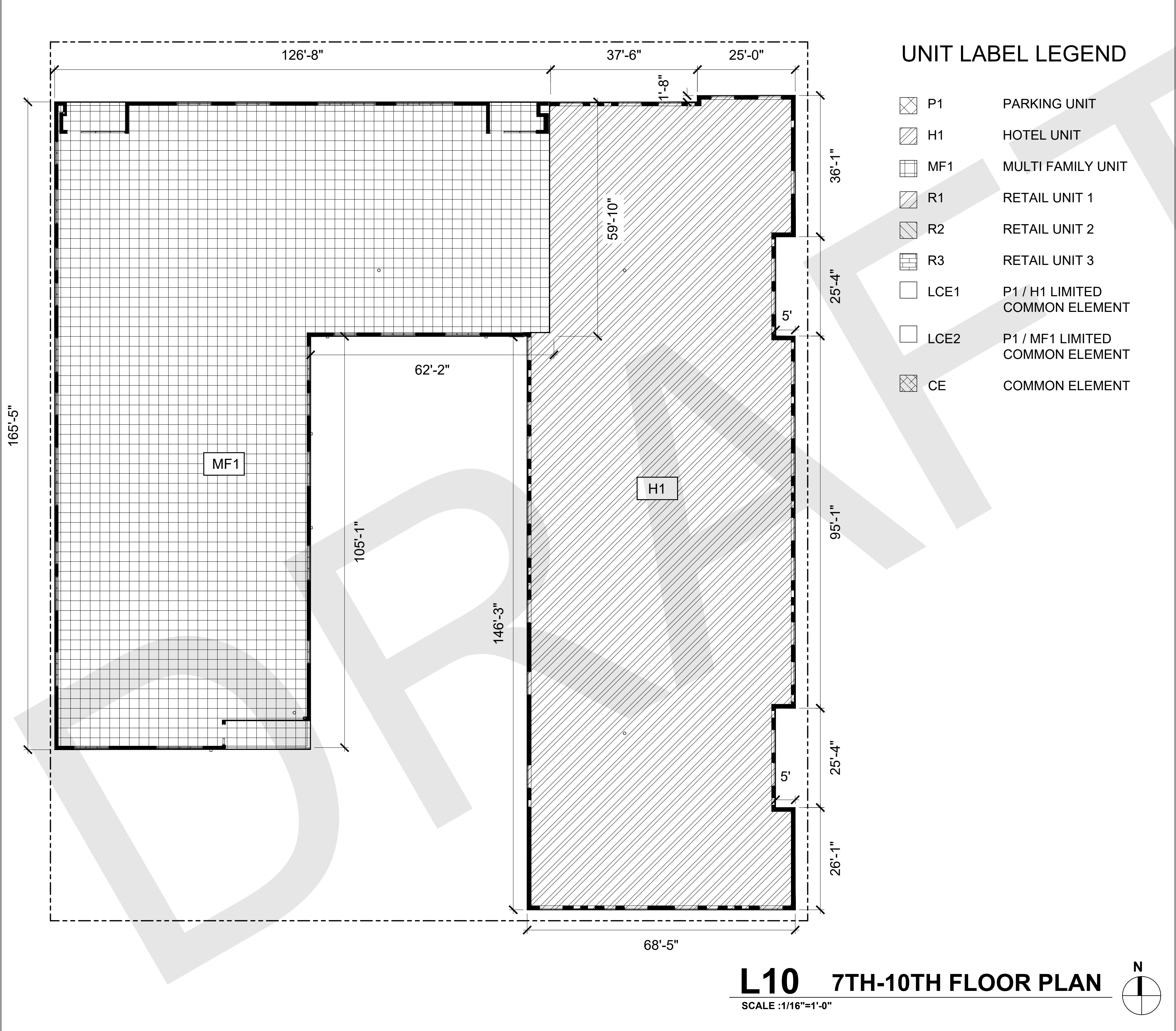
PROJECT
STADIUM VIEW

SHEET TITLE
SIXTH FLOOR PLAN

PROJECT NO.
DATE

CD-05

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SCOPE OF DOCUMENT

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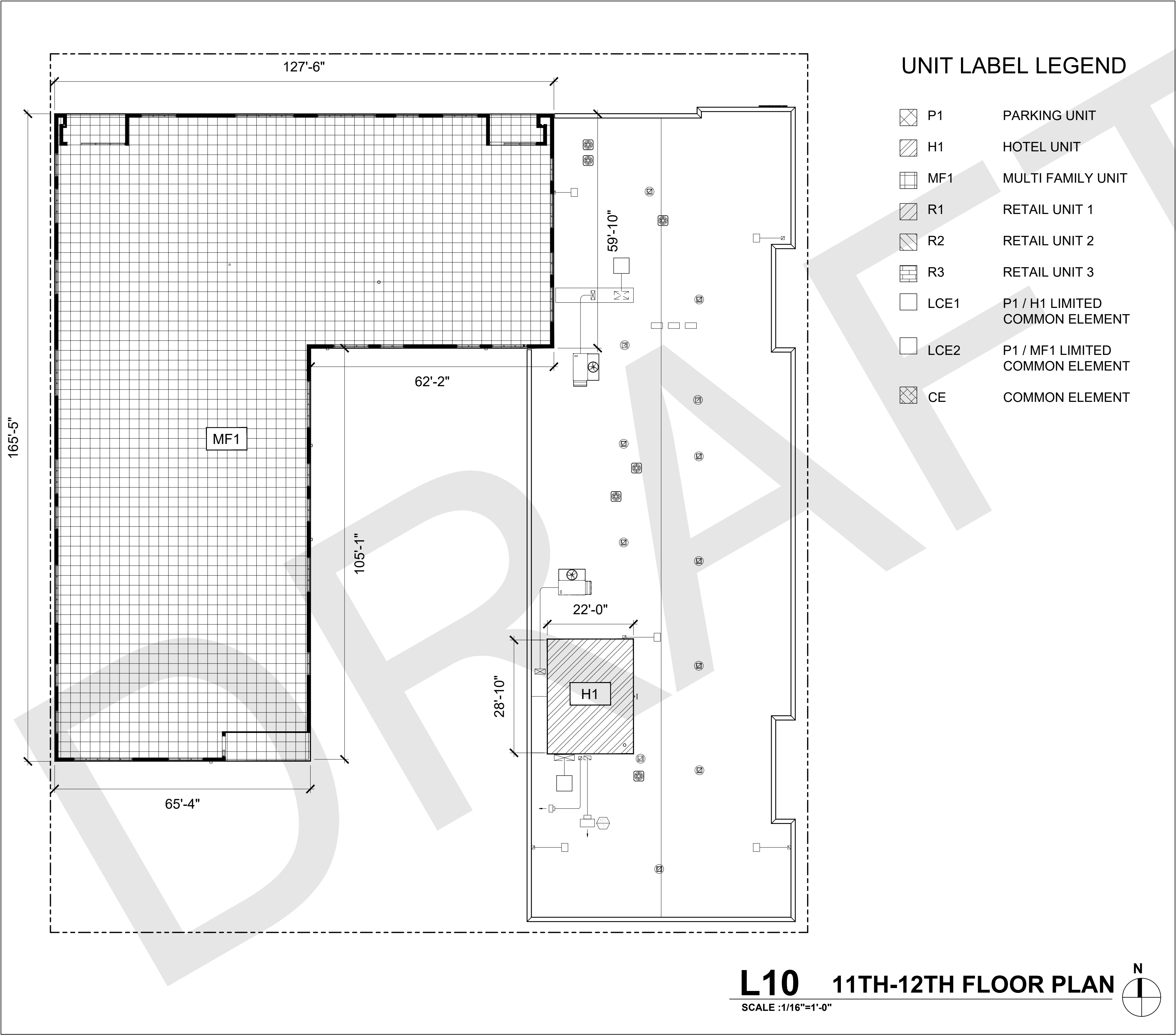
MECHANICAL / ELECTRICAL / PLUMBING ENGINEER
CM ENGINEERING

PROJECT
STADIUM VIEW

SHEET TITLE
7-10TH FLOOR PLANS

PROJECT NO.	CD-06
DATE	

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SCOPE OF DOCUMENT

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CM ENGINEERING

PROJECT
STADIUM VIEW

SHEET TITLE
11TH-12TH FLOOR PLANS

PROJECT NO.	CD-07
DATE	

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SCOPE OF DOCUMENT

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CM ENGINEERING

PROJECT STADIUM VIEW CONDOMINIUM

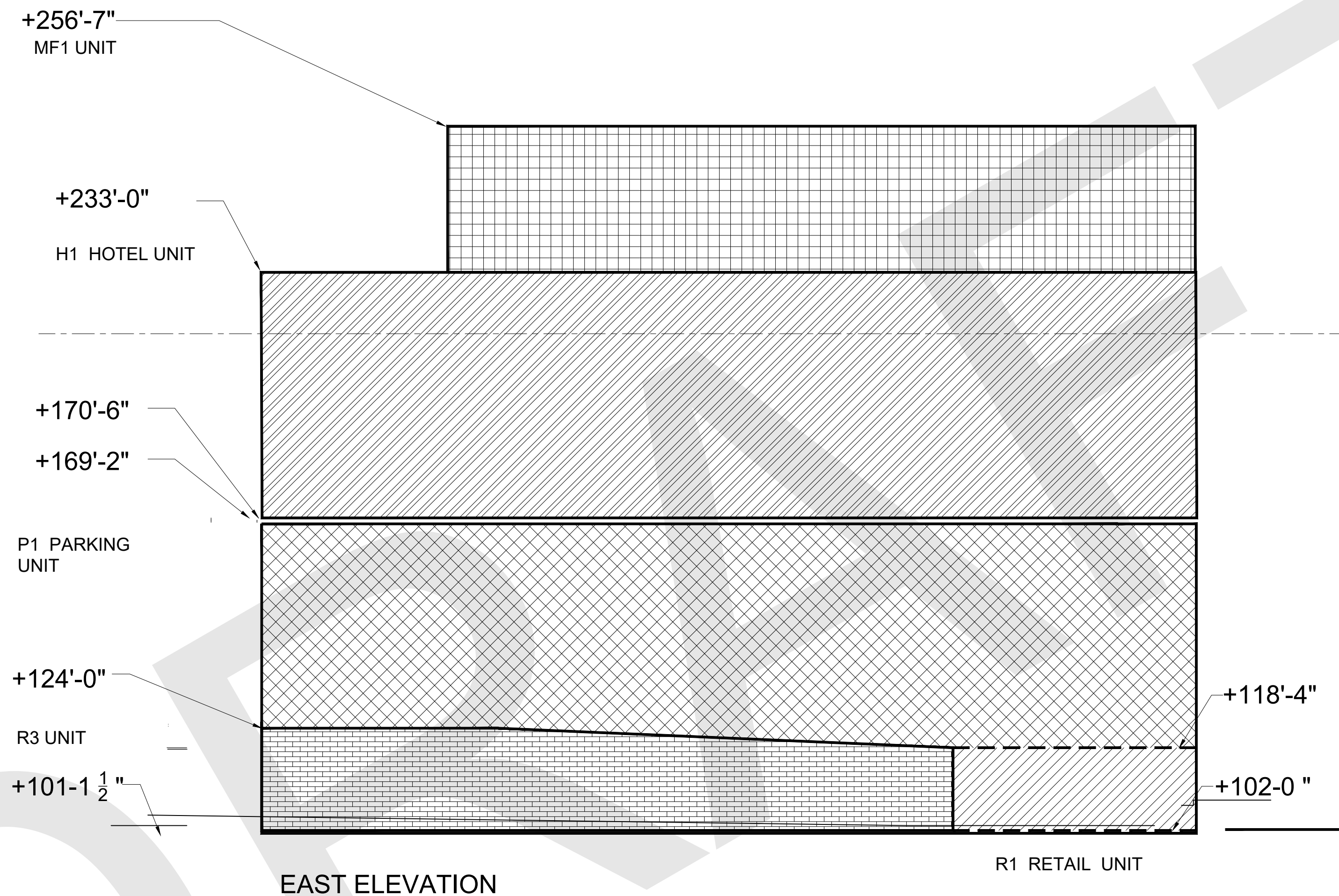
SHEET TITLE

BUILDING ELEVATIONS

PROJECT NO.	
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DATE	CD-08
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UNIT LABEL LEGEND

	P1	PARKING UNIT		R3	RETAIL UNIT 3
	H1	HOTEL UNIT		LCE1	P1 / H1 LIMITED COMMON ELEMENT
	MF1	MULTI FAMILY UNIT		LCE2	P1 / MF1 LIMITED COMMON ELEMENT
	R1	RETAIL UNIT 1			
	R2	RETAIL UNIT 2		CE	COMMON ELEMENT

L10 EAST ELEVATION

SCALE : 1"=20'-0"

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SCOPE OF DOCUMENT

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SCOPE OF DOCUMENT

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NÚMERO	ISSUADO PARA	DATA

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CM ENGINEERING

PROJECT **STADIUM VIEW
CONDOMINIUM**

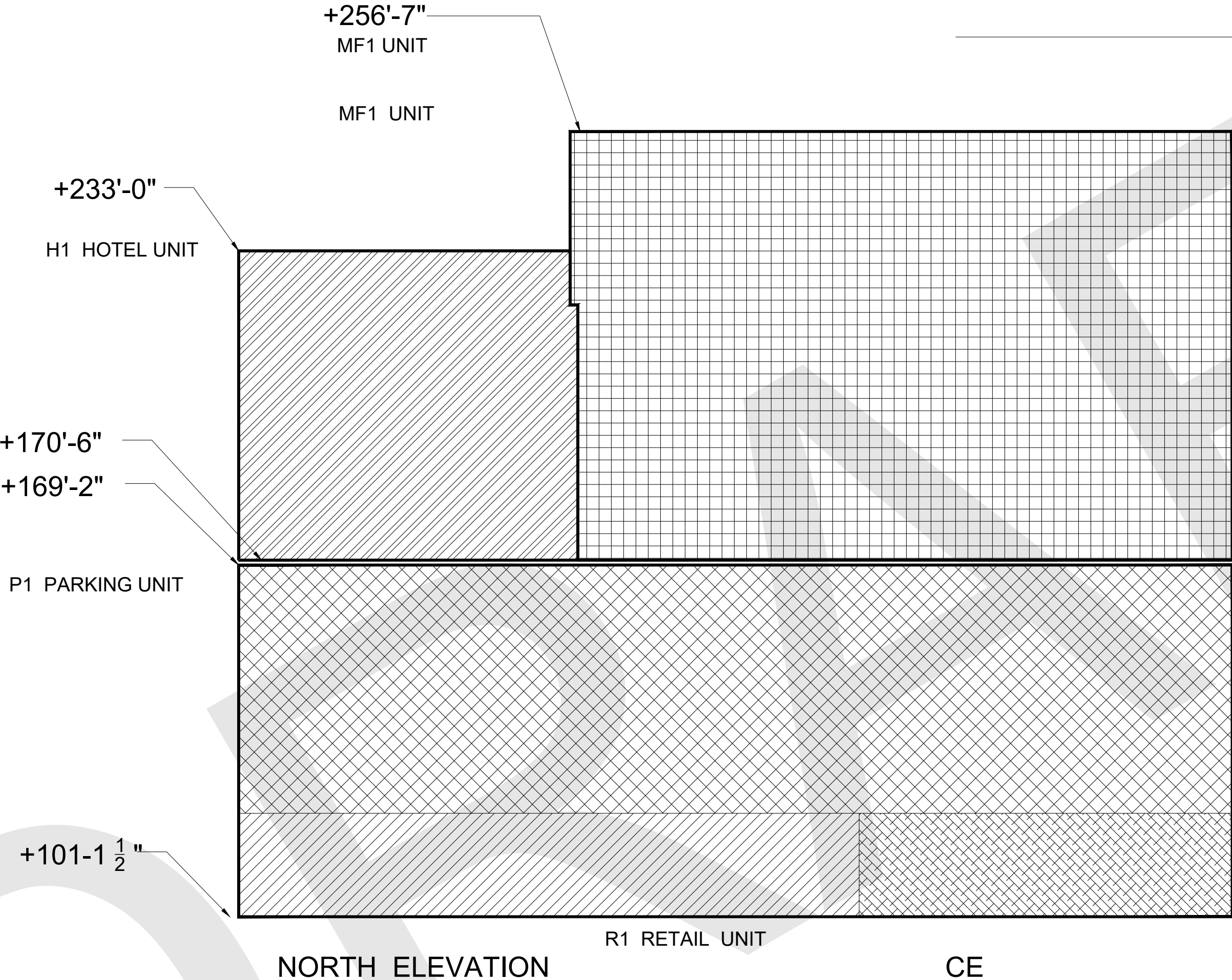
SHEET TITLE

BUILDING ELEVATIONS

PROJECT NO.	CD-09
DATE	

DATE	CD-09
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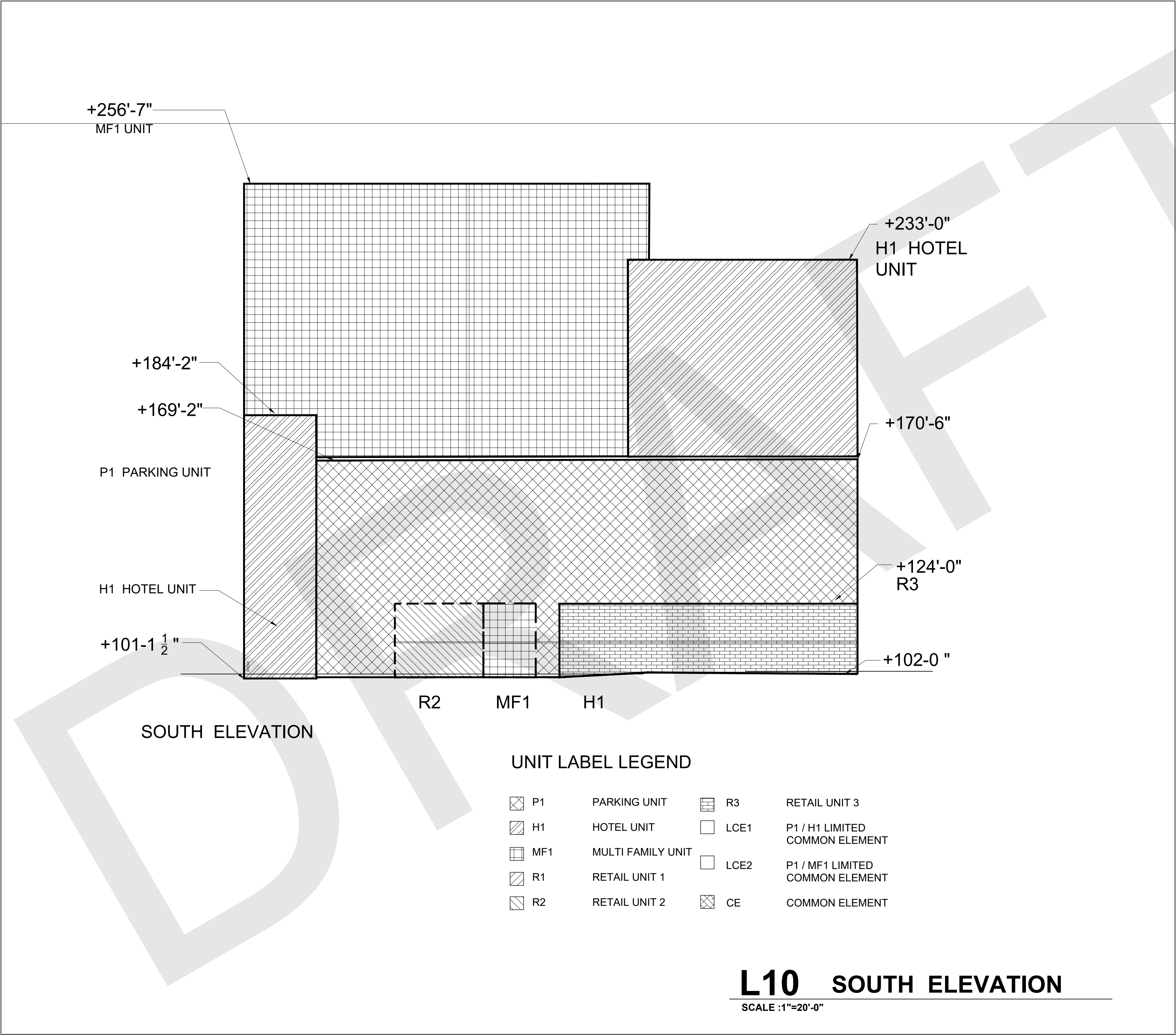


UNIT LABEL LEGEND

	P1	PARKING UNIT		R3	RETAIL UNIT 3
	H1	HOTEL UNIT		LCE1	P1 / H1 LIMITED COMMON ELEMENT
	MF1	MULTI FAMILY UNIT		LCE2	P1 / MF1 LIMITED COMMON ELEMENT
	R1	RETAIL UNIT 1			
	R2	RETAIL UNIT 2		CE	COMMON ELEMENT

L10 NORTH ELEVATION

SCALE : 1"=20'-0"



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SCOPE OF DOCUMENT

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CM ENGINEERING

PROJECT **STADIUM VIEW CONDOMINIUM**

SHEET TITLE **BUILDING ELEVATIONS**

PROJECT NO.	CD-10
DATE	

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SCOPE OF DOCUMENT

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PROJECT STADIUM VIEW CONDOMINIUM

SHEET TITLE

BUILDING ELEVATIONS

BUILDING ELEVATIONS

PROJECT NO.	CD-11
DATE	

DATE	CD-11
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+256'-7" _____
MF1 UNIT

+170'-6" 

+169'-2"

P1 PARKING UNIT

+101-1 $\frac{1}{2}$ "

WEST ELEVATION

UNIT LABEL LEGEND

	P1	PARKING UNIT		R3	RETAIL UNIT 3
	H1	HOTEL UNIT		LCE1	P1 / H1 LIMITED COMMON ELEMENT
	MF1	MULTI FAMILY UNIT		LCE2	P1 / MF1 LIMITED COMMON ELEMENT
	R1	RETAIL UNIT 1			
	R2	RETAIL UNIT 2		CE	COMMON ELEMENT

L10 WEST ELEVATION

SCALE :1"=20'-0"