

**PROPERTY TRANSFER AND NAMING RIGHTS AGREEMENT  
CITY OF BROKEN ARROW  
AND AVB BANK**

This Agreement (AGREEMENT), effective as of the 6<sup>th</sup> day of October, 2020 (the "Effective Date"), is made by and between THE CITY OF BROKEN ARROW, OKLAHOMA, an Oklahoma municipal corporation (the "City"), and AVB Bank, an Oklahoma Corporation qualified to do business in Oklahoma (the "Bank"). This AGREEMENT is further to facilitate the "Project" as further described in the following:

A. The City intends to construct a center to be used for the arts, innovation, creativity (the "Center") on a parcel of land commonly known as 302 South Main Street, Broken Arrow, Oklahoma (the "Land"), which is currently owned by the Bank, and more particularly described as the North 5 feet of Lot 16, Lots 17 thru 22 and a 20 foot vacated alley, in Block 55, Broken Arrow, Original Town, an addition to the City of Broken Arrow, Creek Nation, Indian Territory, according to the recorded plat thereof dated October 17, 1902, further identified as Tulsa County Assessor's Parcel Number 78100-84-11-04320.

B. To facilitate the construction of the Center, the City and the Bank desire for the Bank to donate the Land to the City, and in consideration for such donation, the City desires to grant to the Bank the right to have the Center named as set forth in this AGREEMENT.

**RECITALS:**

**WHEREAS**, the City has frequently received requests from citizens to construct a Center for arts, innovation and creativity within the community; and

**WHEREAS**, on December 9, 2008, the City placed a General Obligation Bond Proposition, which named a project in the amount of \$1,400,000 to acquire an existing building and the sequent property that contained the building at Houston Street and Date Avenue for a Center and required improvements, before the voters of Broken Arrow; and

**WHEREAS**, the 2008 General Obligation Bond Proposition passed by a vote of the people; and

**WHEREAS**, the proposed site containing the existing building was later deemed unacceptable for the desired Center; and

**WHEREAS**, on August 26, 2014, the City placed a General Obligation Bond Proposition No. 7, which repurposed the previously approved funds of \$1,400,000 for the proposed Center located at Houston Street and Date Avenue to be issued for alternate purpose of land acquisition and potential construction of a building for a Center located near central Broken Arrow; and

**WHEREAS**, the Land where an existing Bank building was currently located at Main Street and Dallas Street where the original bank stood, but was now vacant due to the Bank's

new facility located at Main Street and El Paso Street, one block to the south, was an excellent site for the proposed Center; and

**WHEREAS**, the Owner(s) of the existing Bank Land and facility were willing sellers and the City was a willing buyer; and

**WHEREAS**, on August 18, 2015, the City approved the request and submittal of a Capital Improvements Agreement by and between the Board of County Commissioners of Tulsa County and the City of Broken Arrow that included \$650,000 for architectural services for the design of the Center in the Rose District; and

**WHEREAS**, on October 7, 2015, the Tulsa County Vision Authority approved the City's application request to use Vision 2025 surplus funds that included \$650,000 for the Center in the Rose District; and

**WHEREAS**, on December 28, 2015, the Tulsa County Board of Commissioners approved the request for the Capital Improvements Agreement with the City of Broken Arrow; and

**WHEREAS**, on February 2, 2016, the City approved and authorized the execution of the Capital Improvements Agreement by and between the Board of County Commissioners of Tulsa County and the City of Broken Arrow that included \$650,000 for the design of the Center in the Rose District; and

**WHEREAS**, on September 20, 2016, the City approved the selection of Selser-Schaefer Architects in conjunction with ArtsOK Regional Arts Alliance of Broken Arrow's consent and authorized Staff to negotiate a conceptual design contract with the firm for a Center on the order of 15,000 to 30,000 square feet; and

**WHEREAS**, on December 6, 2016, the City executed an agreement with Selser-Schaefer Architects in the amount of \$114,250 for the conceptual design and preliminary programming of the Center; and

**WHEREAS**, during the course of the conceptual design, the City realized that funds to acquire the Land with an existing building and then demolish the existing building, as well as construct a new facility sufficient enough to meet the needs of the community, were limited to a point that alternate measures needed to be investigated and implemented; and

**WHEREAS**, the Bank decided to donate the Land and the existing building to the City at no cost to the City, which is estimated at \$1,100,000 total value as of February 2015; and

**WHEREAS**, on February 5, 2019, the City executed an agreement with Selser-Schaefer Architects in the amount of \$351,950 for final programming effort of the facility and the development of construction documents for the Center; and

**WHEREAS**, during the course of the preparation of the construction documents, the Bank also offered to demolish the existing building at no additional cost to the City, which is estimated at an additional \$200,000; and

**WHEREAS**, on March 5, 2019, the City Council adopted Resolution No. 1194 deeming it necessary to utilize the Design-Build Construction Manager at Risk delivery method in accordance with state statutes for the construction of the Center; and

**WHEREAS**, on August 6, 2019, the City approved and authorized the execution of Amended Application No. 1 to the Tulsa County Vision Authority for Vision 2025 Surplus Funds for the Center in the additional amount of \$1,950,000; and

**WHEREAS**, on November 5, 2019, the City executed the Second Amendment to the Capital Improvements Agreement with the Board of County Commissioner of Tulsa County for Vision 2025 Surplus Funds for the Center that included an additional \$1,950,000 for the facility; and

**WHEREAS**, on February 4, 2020, the City executed a Construction Manager at Risk contract with Manhattan Construction to deliver a new Creative Arts Center to the City; and

**WHEREAS**, on June 16, 2020, the Bank requested that it be granted naming rights to the new Center for consideration of the donation of the Land and the removal of the existing building at the sole cost of the Bank; and

**WHEREAS**, on June 16, 2020, the City accepted the schematic design with the desired programming of the Center and authorized the continuation of the final design; and

**WHEREAS**, with the approval and adoption of the City's FY2021 Annual Budget effective July 1, 2020, an additional \$700,000 in Fund 330 have been appropriated for the construction of the Center; and

**WHEREAS**, the City expects to begin construction on the Center in the fall of 2020; and

**WHEREAS**, both the City and the Bank deem it appropriate to approve the execution and delivery of this Agreement and in providing for the implementation of the Project and determine such actions are necessary and in the best interests of the City and the Bank in the implementation of the Center; and

**NOW, THEREFORE**, in consideration of the promises and the mutual terms, covenants and conditions contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and the Bank hereby covenant and agree as follows:

## **ARTICLE I - OBLIGATIONS OF THE CITY:**

1. Secure Funds to Construct the Center. The City shall secure the necessary funds from the appropriate sources to construct the Center in accordance with the concept approved by the governing body of the City.
2. Obtain a Title Opinion on the Land. The City shall obtain a Title Opinion of the Land. The cost of the Title Opinion shall be borne solely by the City.
3. Obtain an Environmental Inspection Report(s). The City shall obtain an Environmental Phase I inspection on the Land and obtain a subsequent Environmental Phase II inspection, if warranted. The cost of the Environmental Inspection Reports and associated work, if necessary, shall be borne solely by the City.
4. Obtain Lot Split on Lot 16, Block 55 through the Broken Arrow Planning Commission. The City shall obtain a lot split on Lot 16, Block 55 through the City of Broken Arrow Planning Commission prior to the acceptance of the Quitclaim Deed. The cost of the Lot Split shall be borne solely by the City.
5. Naming of the Center. For so long as any structure exists on the Land, the City shall ensure that such structure, including the Center, is named "The Brown-Kimbrough Center for Arts, Innovation & Creativity." The City shall include such name on any website and any literature that references the Center. The Bank's naming rights to the Center shall be exclusive, and the City shall not grant or permit any other naming rights to be conveyed with respect to the Center.
6. Placement and Design. The City shall cause to be attached to the Center at all times, at a location agreed by the Bank, a dedication plaque and such other signage as are described on Exhibit A. All signage shall be created and placed by the City in accordance with the City's signage standards and other Center policies and shall be subject to approval of the Bank. All signage must comply with any applicable law. Specific placement and design for all the Bank's recognition and signage in the Center and all publicity involving the Bank's name or chosen name shall be approved by the Bank.
7. Maintenance. The City shall use all reasonable efforts to maintain the Center as a first-class facility. In the event that the Center is demolished or destroyed, the City shall use all reasonable efforts to repair or replace the demolished or destroyed portion to restore the Center to its previous condition.
8. Insurance. The City will at all times keep in full force and effect a public liability insurance policy issued by an insurance company authorized to do business in the State of Oklahoma, such policy to insure the City against all legal liability for injury to persons (including wrongful death) and damage to Land caused by the City's use and occupancy of the Center or otherwise caused by the City's activities and operation, with liability limits of not less than \$3,000,000 or be self-insured for an equal amount. The City will also self-insure or carry workmen's compensation insurance to the extent and in the manner required by the laws of the State of Oklahoma or will carry adequate employee's liability insurance. The City will furnish

the Bank with a certificate of such self-insurance or insurance which will provide that such policy or policies cannot be canceled or materially modified except upon thirty days advance written notice to the Bank.

9. Representations and Warranties of the City. The City represents and warrants to the Bank that: (i) it is authorized to enter into and fully perform its obligations under this Agreement and any document or agreement executed and delivered in connection with this Agreement (“City’s Related Agreements”), and that it has full power and authority to enter into this Agreement and City’s Related Agreements; and (ii) it shall perform its obligations under this Agreement in accordance with applicable laws and regulations.

## **ARTICLE II - OBLIGATIONS OF THE BANK:**

1. Obtain an Update Appraisal. The Bank shall be responsible to obtain an updated appraisal on the real property, if desired.

2. Demolish the Existing Building. The Bank shall be responsible for the demolition of the existing building structure on the Land. The cost to demolish the building structure will be borne solely by the Bank.

3. Remove the Debris from the Land. The Bank shall be responsible for the debris removal resulting from the demolition of the existing building structure on the Land. The cost to remove the debris will be borne solely by the Bank.

4. Execute the Lot Split Application and provide all necessary documentation and signatures to complete the lot split.

5. Transfer of Land. The Bank agrees to convey title of the Land to the City by Quitclaim Deed.

6. Bank’s Right to Have Name Removed; Renaming. At any time that the Bank determines that having its name associated with the City or the Center is harmful to the Bank’s reputation, the Bank may require that all references to its name be removed from the Center (and any other elements of the Center) at the City’s expense. If at any time the Center ceases to be used for the arts, creativity, and innovation, the following individuals (in the following order of priority) shall have the right to re-name the Center, and the terms of this Agreement shall continue in full force and effect: (1) Cooper Rash; (2) Sally Wilton; (3) Sara Cruncleton; and (4) a direct descendent of Kelley Kimbrough Rash or Sally Kimbrough Wilton.

7. Representations and Warranties of Bank. The Bank represents and warrants to the City that: (i) it is authorized to enter into and fully perform its obligations under this Agreement and any document or agreement executed and delivered in connection with this Agreement (“the Bank’s Related Agreements”), and that it has full power and authority to enter into this Agreement and the Bank’s Related Agreements;

and (ii) it shall perform its obligations under this Agreement in accordance with applicable laws and regulations.

### **ARTICLE III**

1. Entire Agreement. This Agreement represents the entire agreement between the parties and supersedes all prior agreements, understandings and communications, either verbal or in writing, between the parties with respect to the Center.
2. Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective heirs, legal representatives, successors and permitted assigns.
3. Captions. All captions and headings are inserted for the convenience of the parties and shall not be used in any way to modify, limit or otherwise affect this Agreement.
4. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Oklahoma, without reference to choice of law principles.
5. Consent to Specific Performance. The parties agree that it would be impossible to measure in money the damages that would accrue to a party by reason of a failure by any other party to perform any of the obligations hereunder. Therefore, if any party shall institute any action or proceeding to enforce the provisions hereof, any party against whom such action or proceeding is brought hereby waives any claim or defense therein that the plaintiff party has an adequate remedy at law.
6. Attorneys' Fees. If any legal action is brought concerning any matter relating to this Agreement or by reason of any breach of any covenant, condition or agreement referred to herein, the prevailing party shall be entitled to recover from the non-prevailing party to the action all costs and expenses of suit, including reasonable attorneys' fees.
7. Severability. If any term, provision or condition of this Agreement is determined by a court or other judicial or administrative tribunal to be illegal, void or otherwise ineffective or not in accordance with public policy, the remainder of this Agreement shall not be affected thereby and shall remain in full force and effect.
8. Counterparts. This Agreement may be executed simultaneously or in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the each of the parties has caused this AGREEMENT to be executed by its duly authorized officials as of the date first above written.

CITY OF BROKEN ARROW, OKLAHOMA

By: \_\_\_\_\_  
Mayor

ATTEST: (Seal)

\_\_\_\_\_  
City Clerk

REVIEWED for form and legality this 6<sup>th</sup> day of October, 2020.

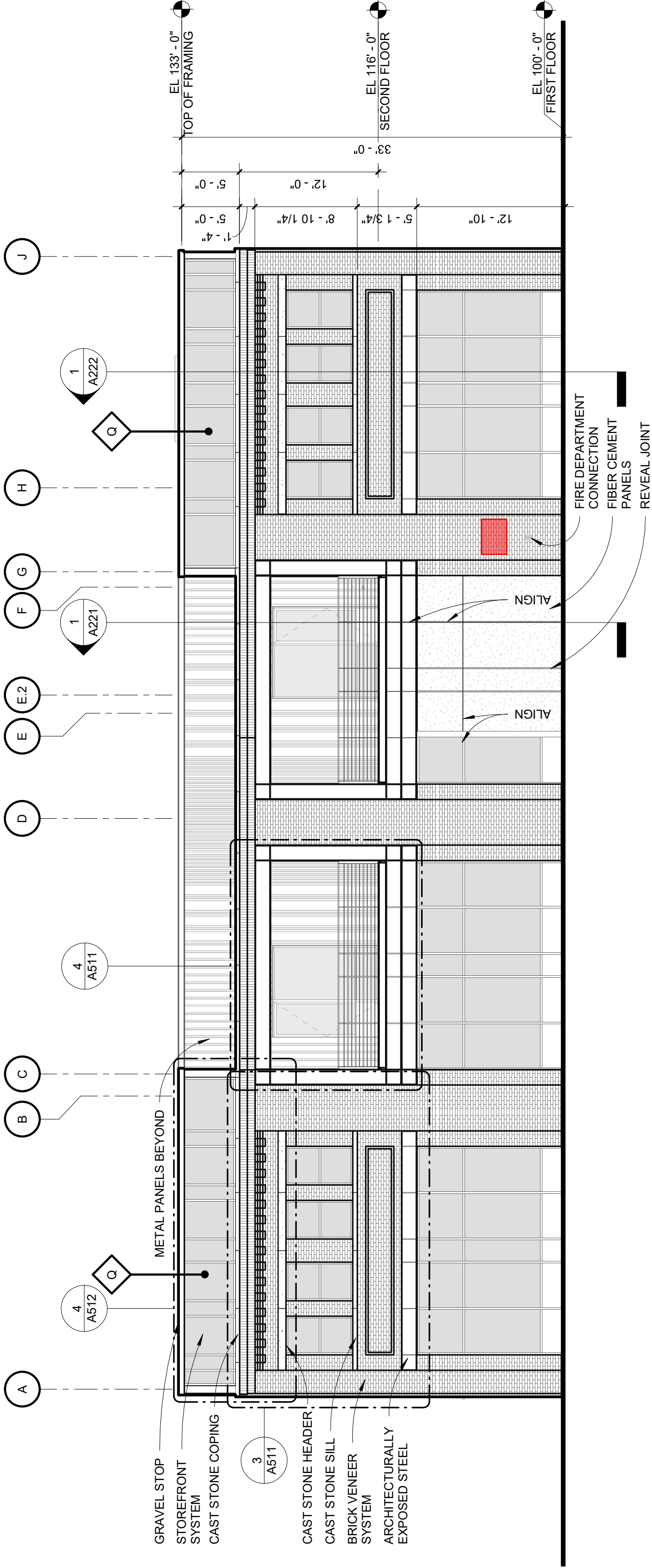
\_\_\_\_\_  
Assistant City Attorney

AVB Bank  
CORPORATION, an Oklahoma corporation  
Qualified to do business in Oklahoma

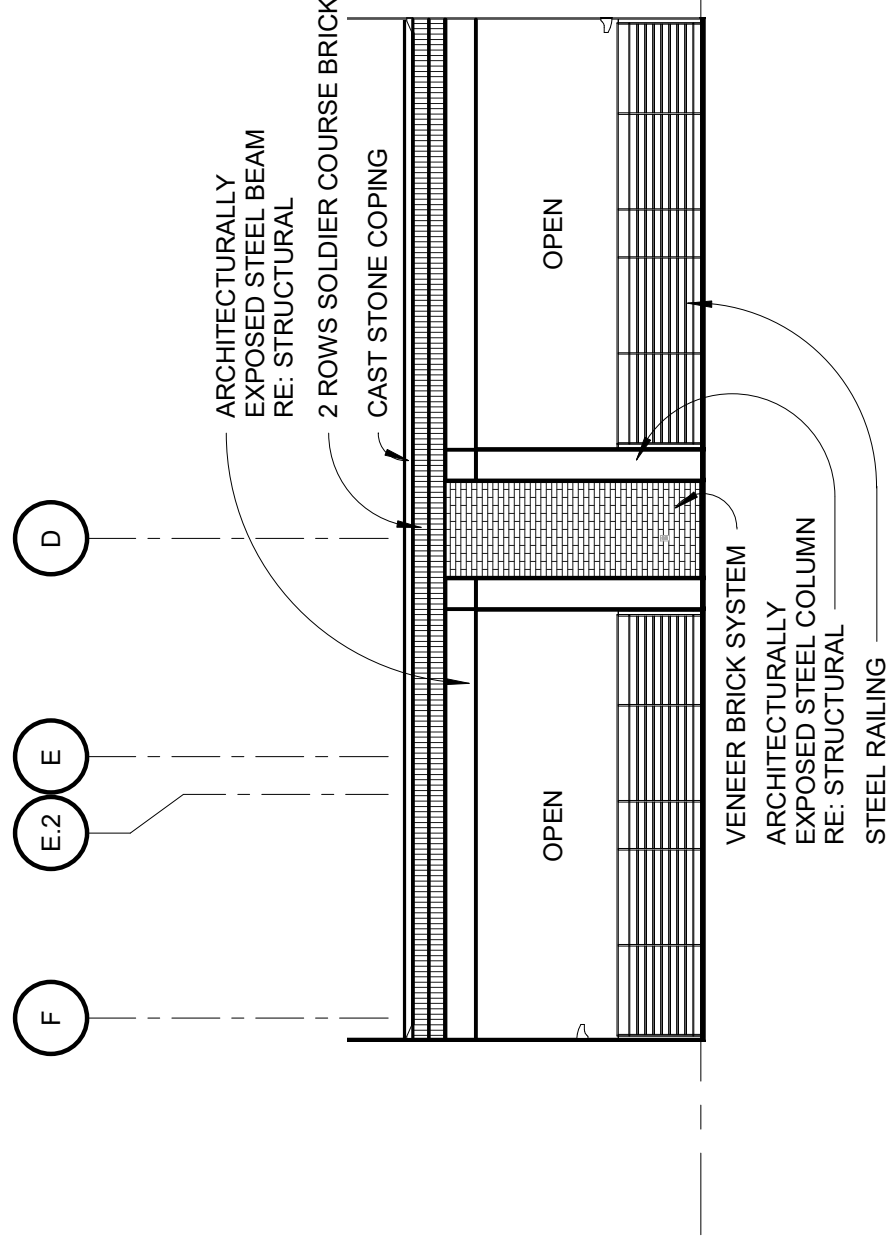
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT A

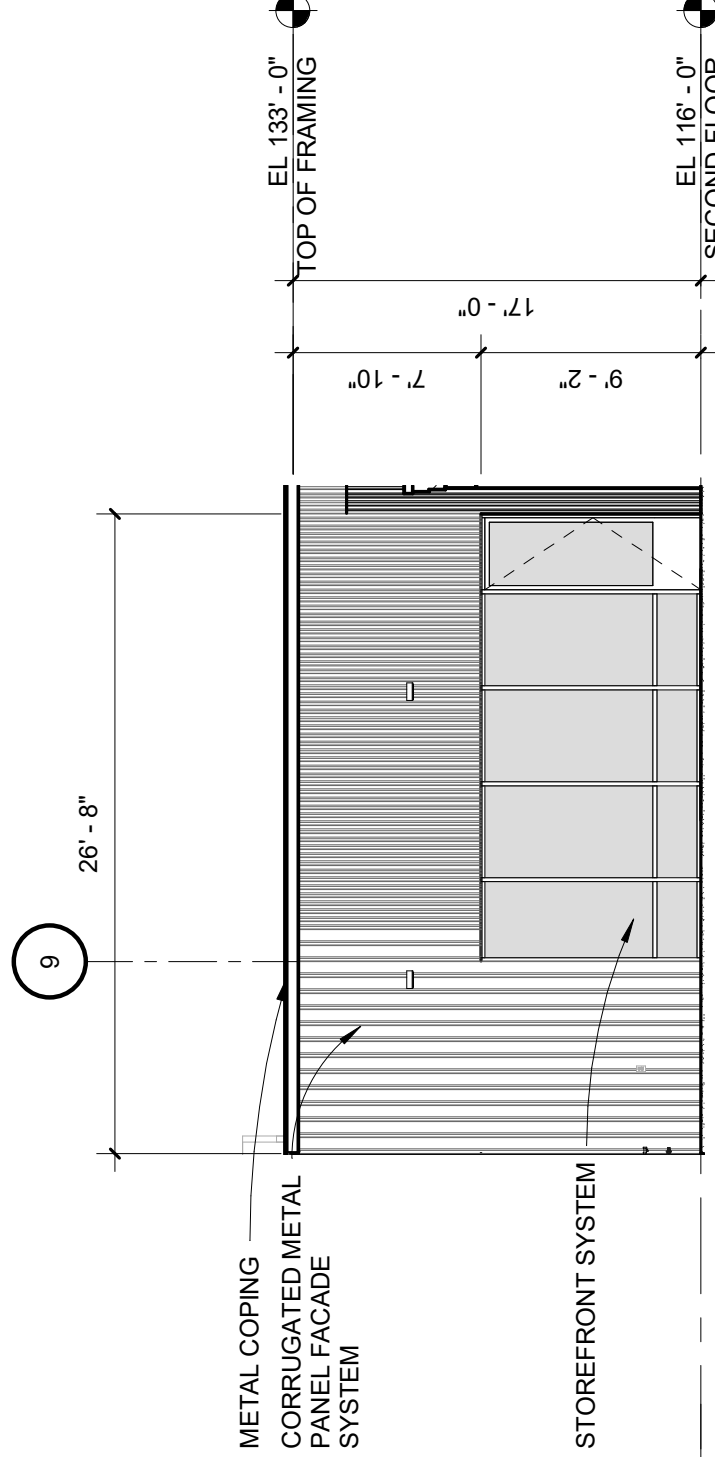




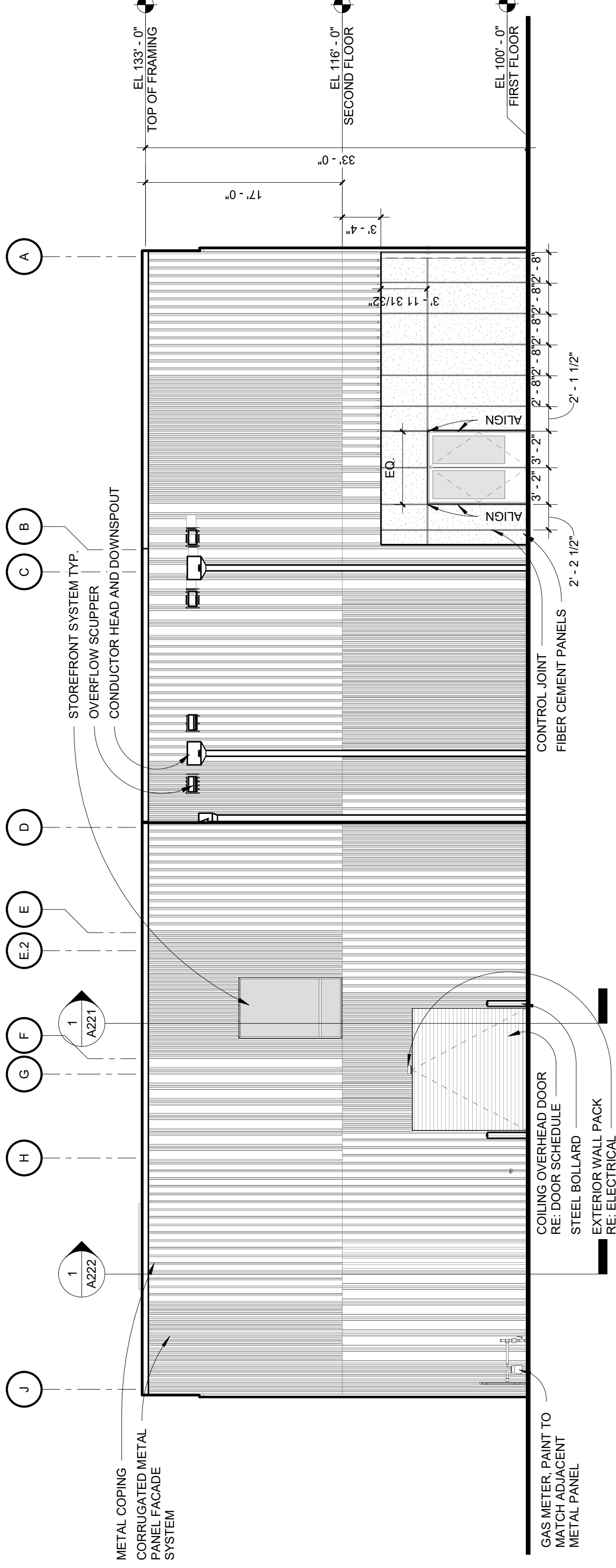
**4 EAST ELEVATION**  
1/8" = 1'-0" | 1 - A101



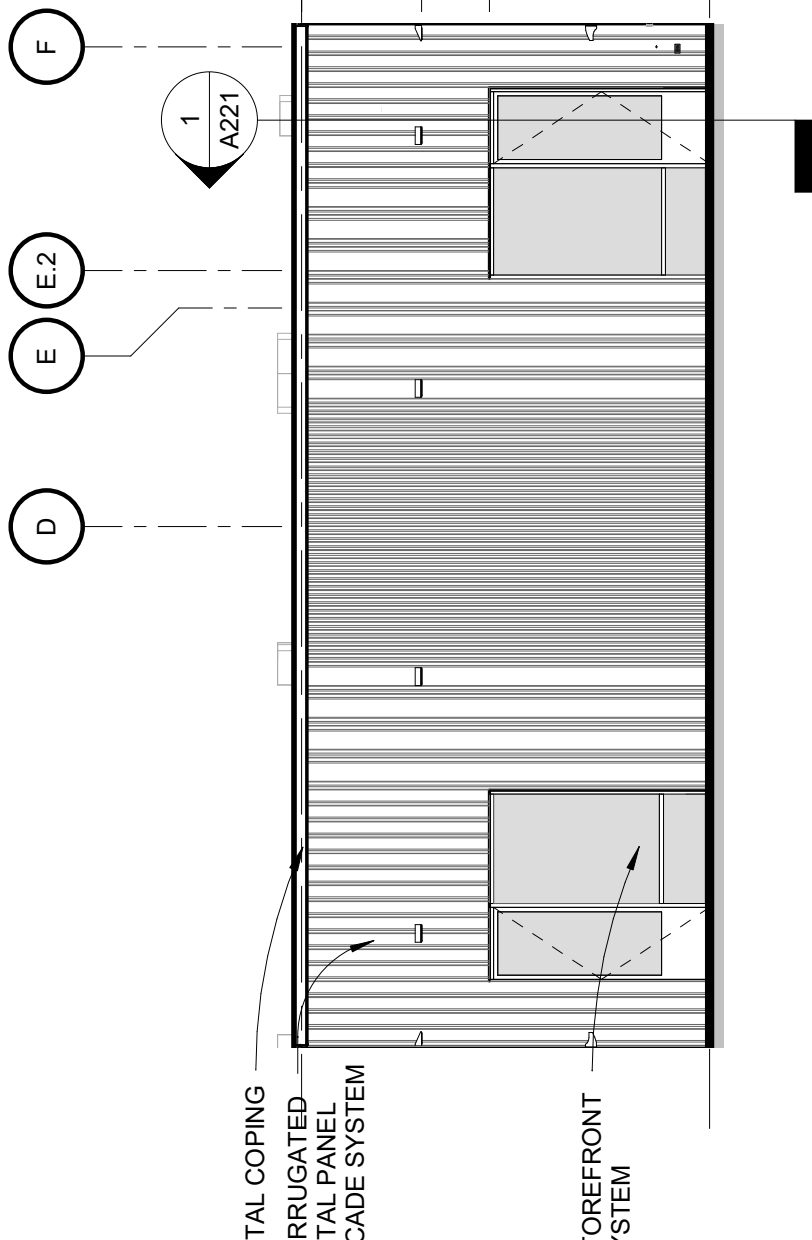
**5 PATIO WEST ELEVATION**  
1/8" = 1'-0" | 1 - A103



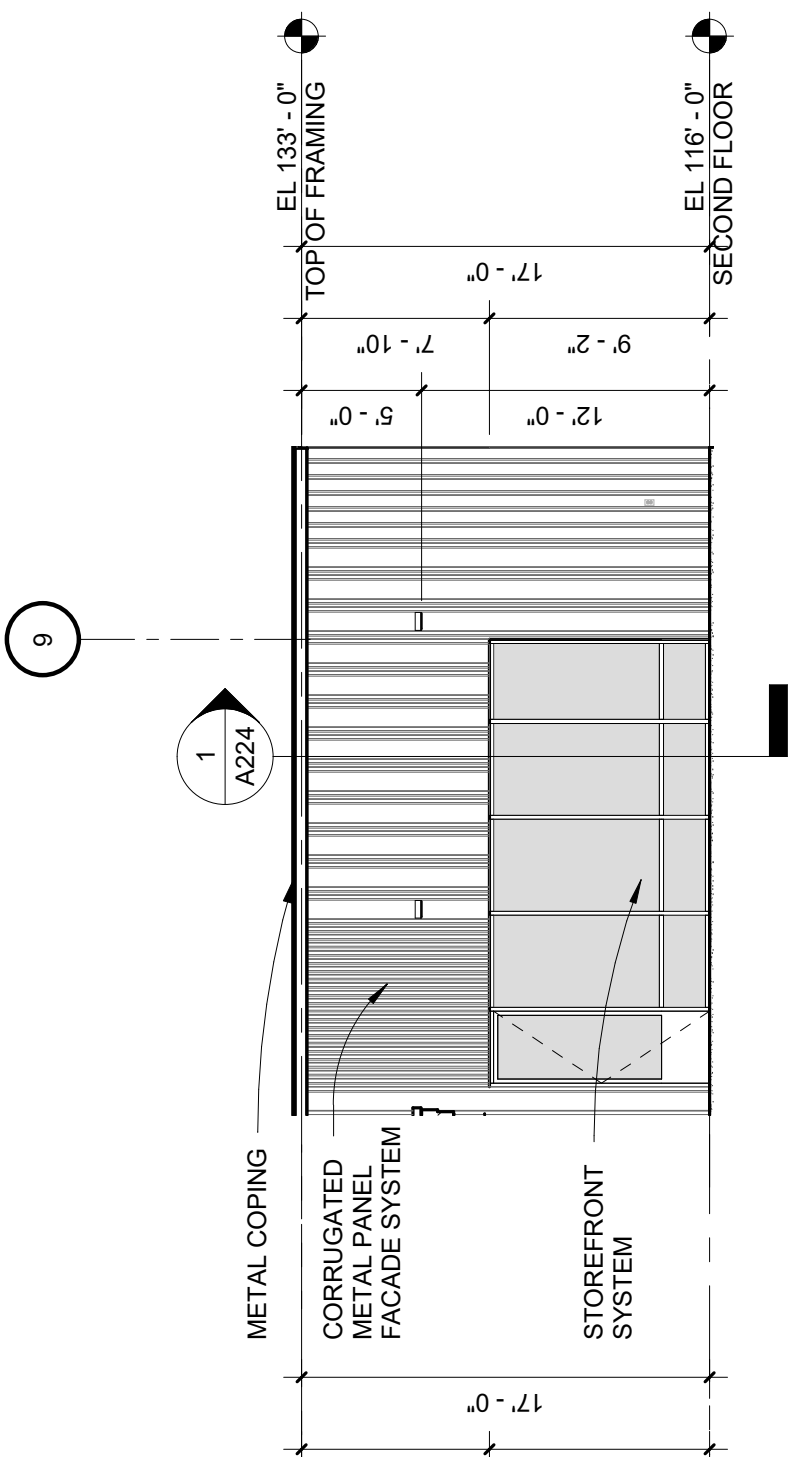
**6 PATIO NORTH ELEVATION**  
1/8" = 1'-0" | 1 - A103



**1 WEST ELEVATION**  
1/8" = 1'-0" | 1 - A101

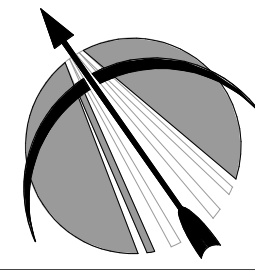


**2 PATIO EAST ELEVATION**  
1/8" = 1'-0" | 1 - A103



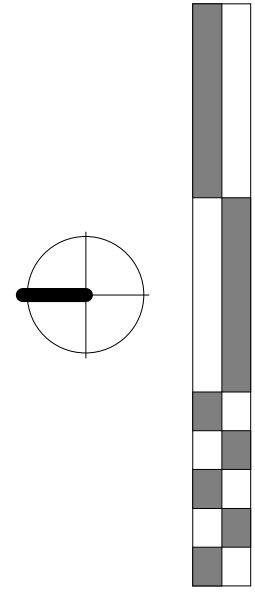
**3 PATIO SOUTH ELEVATION**  
1/8" = 1'-0" | 1 - A103

DATE	REVISIONS



SELSE  
SCHAEFER  
ARCHITECTS

2002 EAST 6TH STREET  
TULSA, OK 74104  
918.587.2282  
WWW.SELSERSCHAEFER.COM

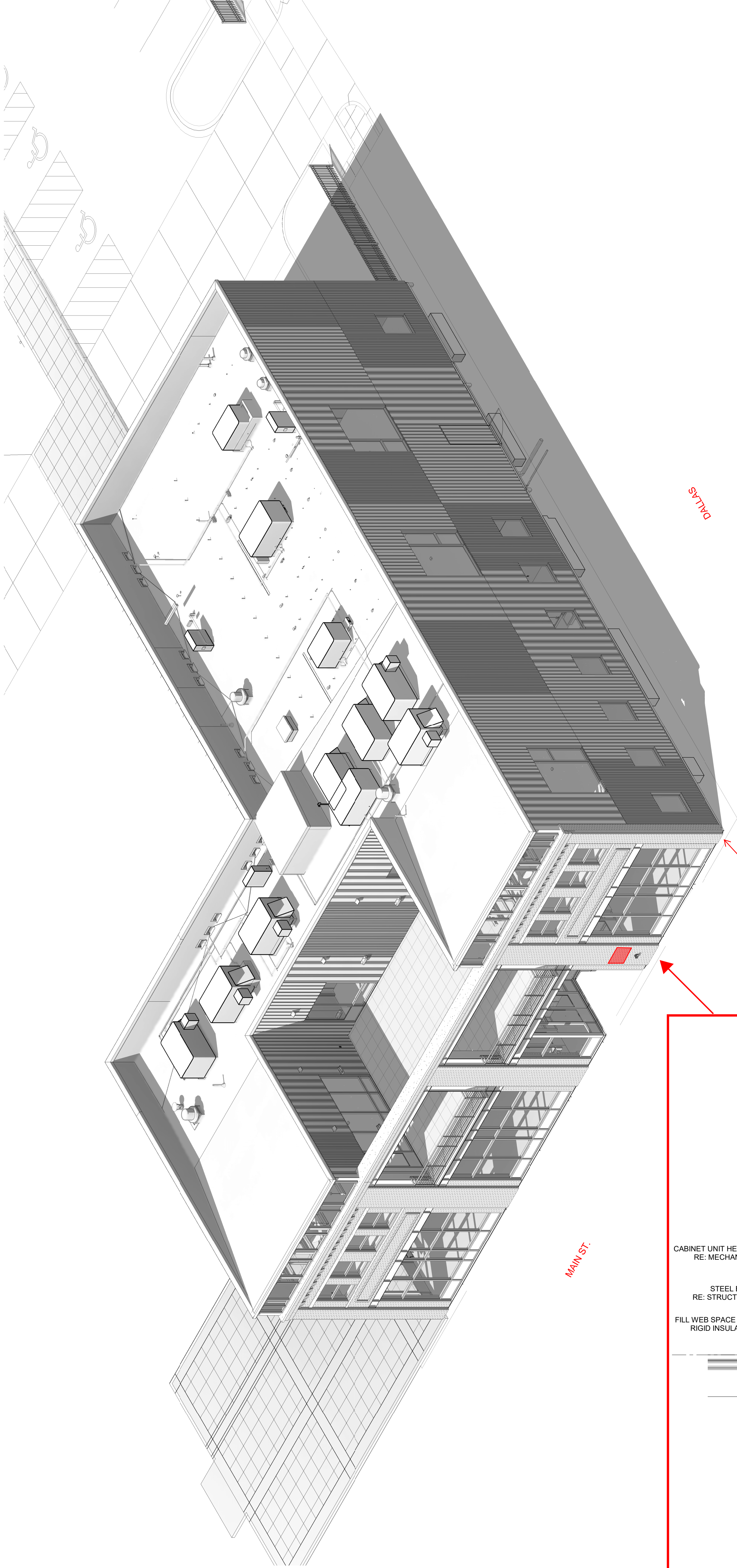


**BROKEN ARROW CENTER FOR  
ARTS, INNOVATION, AND  
CREATIVITY**

PROFILE SCALE:	DESIGN	DATE	DRAFTED	DATE
HORZ.	TS	5.19.20	TS	9.11.20
VERT.	MW	5.19.20	MW	9.11.20
DRAWING NAME:	SHEET	A201	PROJECT NO.	R15.129
	OF	-		

**EXTERIOR ELEVATIONS**



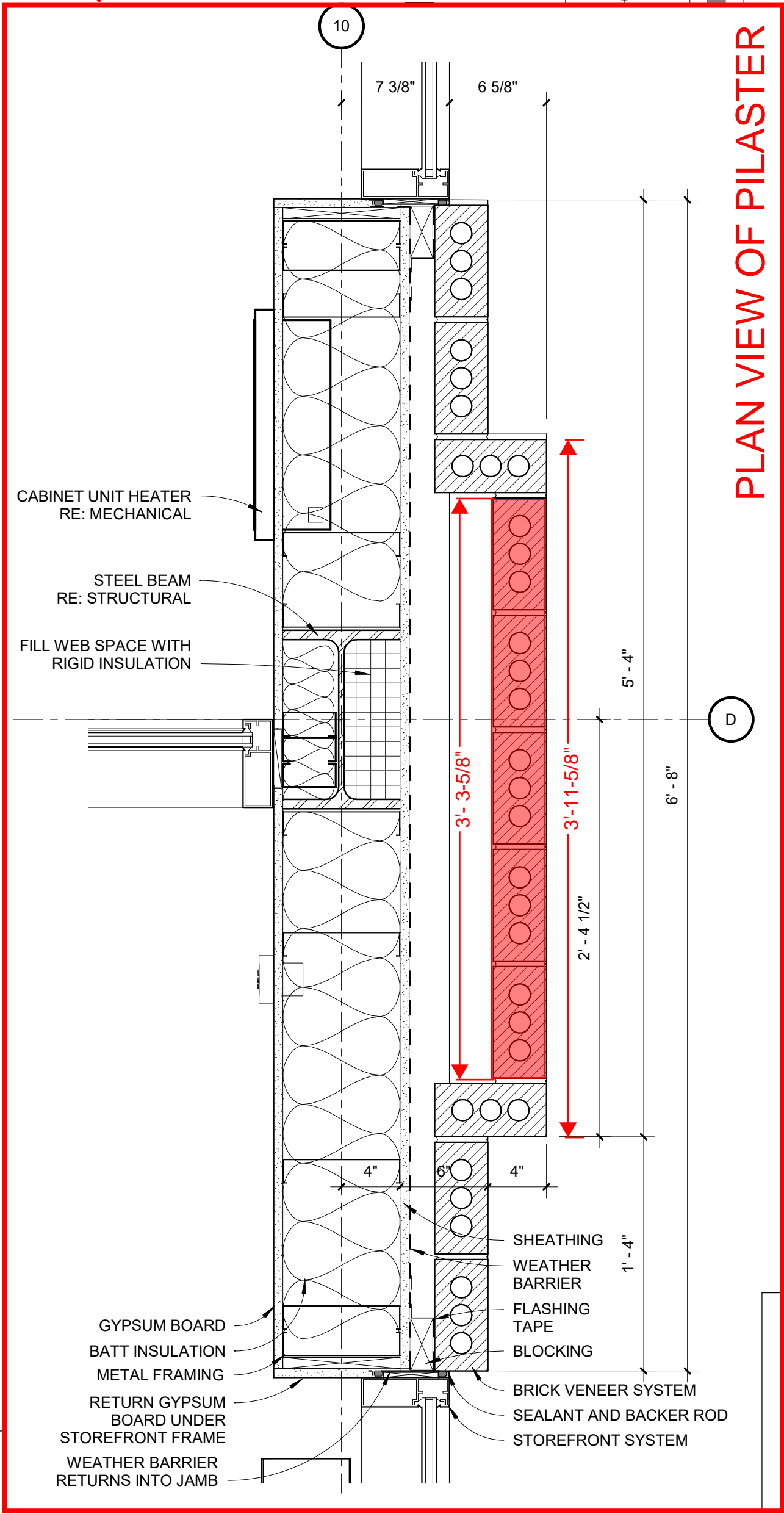


DESIGN	DATE	DRAFTED	DATE
TS	5/19/20	TS	9/11/20
REVIEWED	DATE	APPROVED	DATE
MW	5/19/20	MW	9/11/20
DRAWING NAME:	SHEET	OF	PROJECT NO.
	A801	-	R15/129

BROKEN ARROW CENTER FOR  
ARTS, INNOVATION, AND  
CREATIVITY

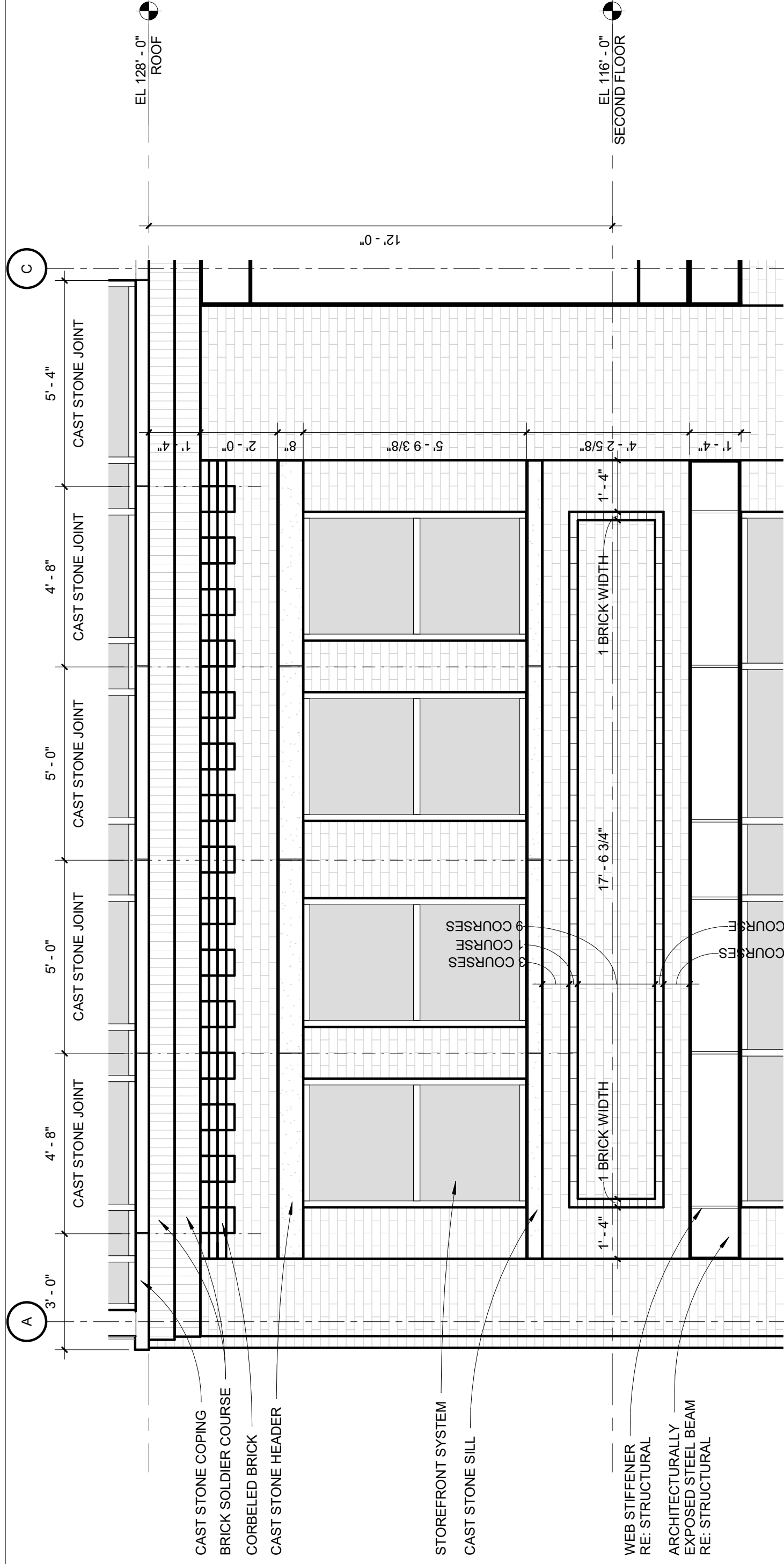


C VIEW



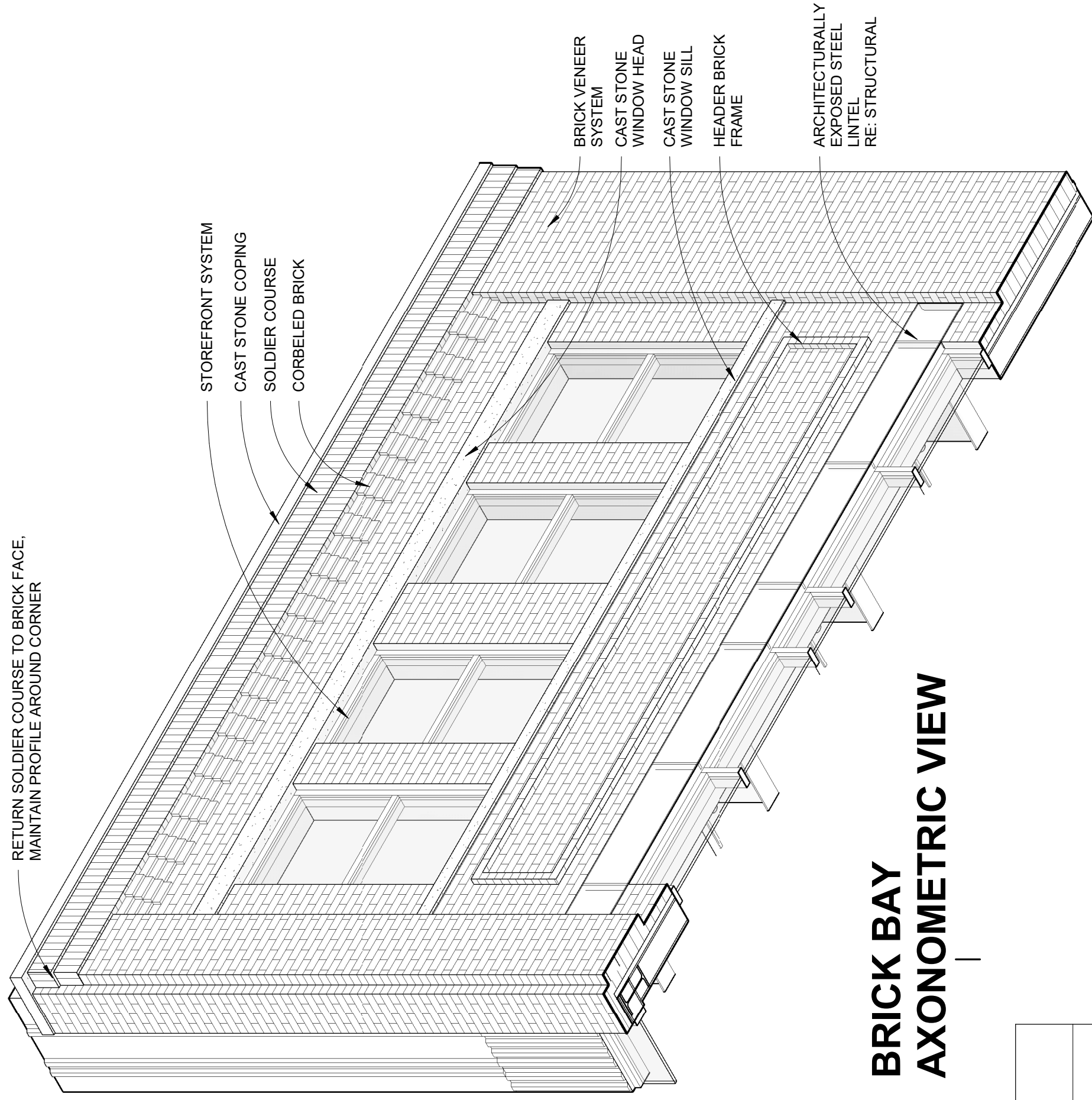
PLAN VIEW OF PILASTER





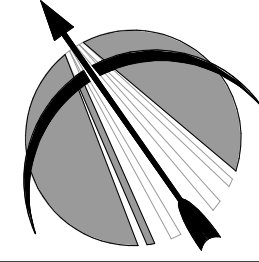
## EAST ELEVATION - ENLARGED BRICK BAY

3/8" = 1'-0" | 4 - A201



**BRICK BAY  
AXONOMETRIC VIEW**

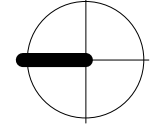
DATE	REVISIONS



# Where opportunity lives

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2002 EAST 6TH STREET  
TULSA, OK 74104  
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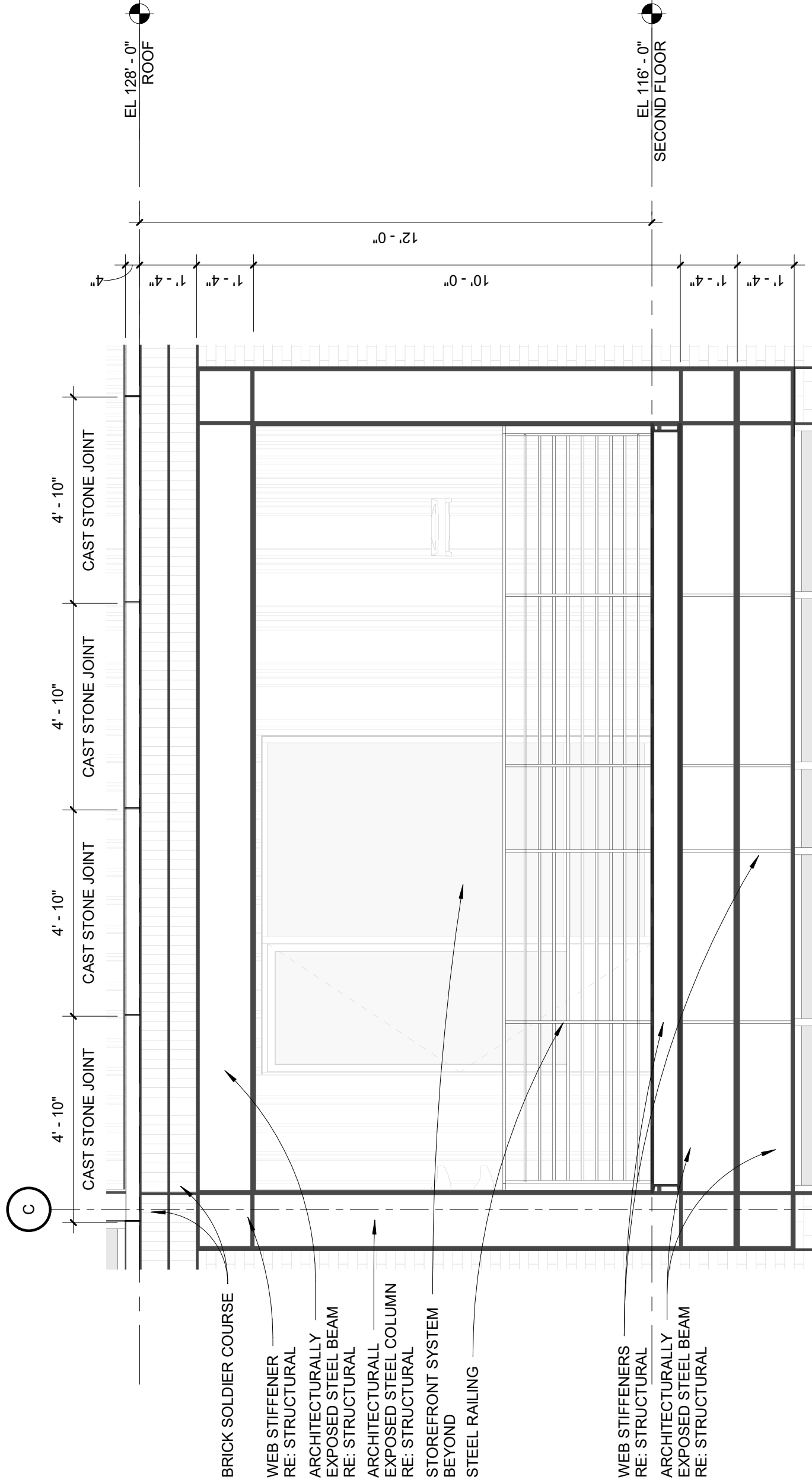


**BROKEN ARROW CENTER FOR  
ARTS, INNOVATION, AND  
CREATIVITY**

# ENLARGED ELEVATIONS

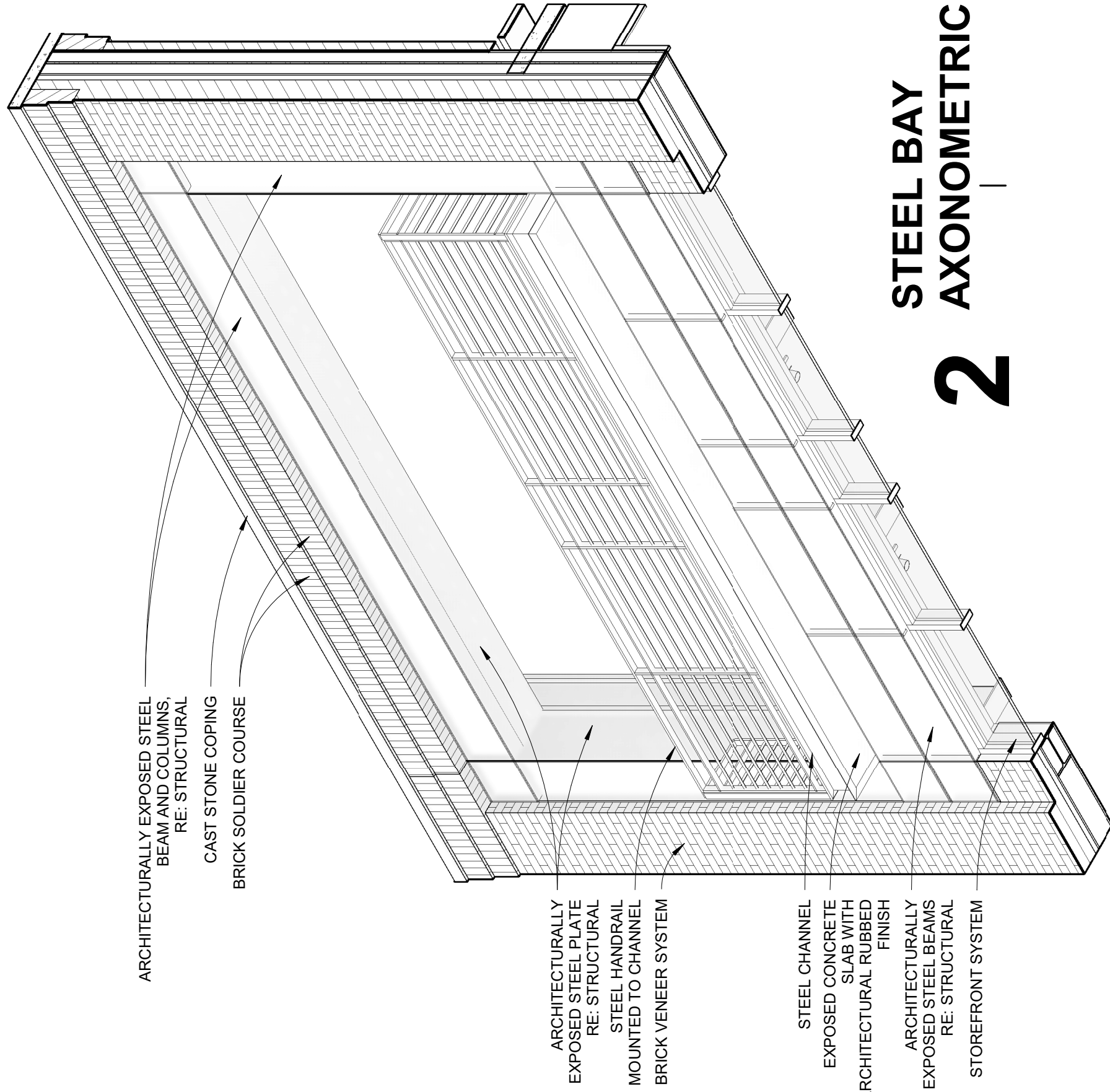
SHEET OF	SHEET NO.	PROJECT NO.			
	A511	R15.129			
DESIGN	DATE	DRAFTED	DATE		
TS	5.19.20	TS	9.11.20		
REVIEWED	DATE	APPROVED	DATE		
MW	5.19.20	MW	9.11.20		

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# EAST ELEVATION - ENLARGED STEEL BAY

3/8" = 1'-0" | 4 - A201



**STEEL BAY  
AXONOMETRIC VIEW**

## Dedication Plaque

Material:

Option 1 - Cast stone

Option 2 - Bronze cast (patina/raised)

Installation: Inset into brick pier

Location: East elevation; brick pier - immediate right of entrance (facing Main Street)

Size: 3' 3-5/8" width available, maximize available width, allowing for surrounding/anchor brick; height dependent upon final layout

Verbiage: Attached

Graphic Design/Rendering: Final approval by AVB Bank\*

\*Minor text edits may apply, at the discretion of AVB Bank.

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## Building Name

Name: Brown-Kimbrough Center

Material & Installation:

Reverse channel, stainless steel or aluminum letters, painted w/ halo glow backlights  
(approximately 3" thick letters with a 1" standoff from the brick bay)

Location: East elevation, enlarged brick bay

Size: 24" h x 17' 6-3/4" w, maximize brick bay area

Dedication Plaque Verbiage

**302**  
**Brown-Kimbrough Center  
for Arts, Innovation & Creativity**

**On this site, in 1905, the Arkansas Valley National Bank (AVNB)  
was first opened for business, Broken Arrow, Indian Territory.**

**Upon statehood, the Bank changed to a state charter and became  
Arkansas Valley State Bank (AVSB), and in 2008, AVB Bank.**

**From Indian Territory to statehood and present day,  
the Brown-Kimbrough family has demonstrated a  
commitment to community and exemplified the Bank's mission to  
SERVE, CONNECT and SUCCEED TOGETHER.**

***May this site always serve as an enduring reminder to all that will  
pass thru these doors of the visionary founders and leaders  
of AVB Bank -- they have inspired and continue to inspire generations.***

**302**  
**Property donated by  
AVB Bank  
(logo attached)**