

**COUNTY OF SAN DIEGO
LICENSE FOR USE OF COUNTY
FACILITIES AND PROPERTY**

This license agreement ("License"), dated 2/15/2024 for purposes of reference only, is entered into between the County of San Diego, a political subdivision of the State of California ("County"), and City of San Diego, a California municipal corporation ("Licensee").

RECITALS

A. County owns Assessor's Parcel Numbers 548-040-06, 548-404-07 and 548-040-39 located at 5101 Market Street in San Diego, California ("Property"), commonly known as the Southeastern Live Well Center, as further described in Section 1 and EXHIBIT "A" DESCRIPTION OF PREMISES.

B. In a letter dated May 10, 2019, sent by County's Chief Administrative Officer to Licensee's Chief Operating Officer, County committed to providing an office and meeting space in the Property for the dedicated use of Licensee's elected officials and staff; Licensee now wishes to commence using a portion of the Property for these purposes.

C. County's Director, Department of General Services ("Director"), finds that the grant of this License to Licensee for use of the Property is in the public interest and use of the Property by Licensee will not substantially conflict or interfere with the use of the Property by County.

D. County agrees to grant this License to Licensee upon the following terms and conditions.

LICENSE

1. Premises. Licensee may use approximately 682 square feet of space, consisting of a shared (1) 288 square-foot office (the "Office") and (2) an adjacent 394 square-foot conference room (the "Conference Room") – both on the second floor of the Property (together, the "Premises") as further described in EXHIBIT "A" DESCRIPTION OF PREMISES of this License.

2. Grant of License. County hereby grants to Licensee a non-exclusive license to use the Premises solely for the Permitted Use (defined in Section 7) and subject to the terms and conditions set forth in this License.

3. License. This License is not a lease and does not create or convey an easement or any interest or estate in real property to Licensee.

4. Term. The term ("Term") of this License shall be for a period of ten (10) years commencing upon execution of this License by the last signatory ("Commencement Date").

5. Termination of License. Either party may terminate this License at any time during the Term for any reason, with or without cause, by giving written Notice (defined in Section 24) to the other party ("Termination Notice"). The Termination Notice shall state the effective date of the termination, which shall be at least thirty (30) days after the date of delivery of the Termination Notice, except in the case of conflict with or inconsistency with County business or gross misconduct by any Licensee Party (defined in Section 19) with use rights under this License, in which event, the County may terminate the License immediately. Should immediate termination occur, Licensee will be granted appropriate access to the Premises to retrieve any personal property.

6. License Fee. A fee is waived for purposes of this License only.

7. Use. Licensee may use the Premises for the sole purpose of administrative and office work by Licensee's elected officials, employees, and agents ("Permitted Use"). Licensee is not authorized to enter or use the Premises outside of the Term or unless otherwise notified by the Director via the email address in Section 24 with a minimum twenty-four (24) hour notice, unless in the case of an emergency, in which event notice shall be provided as soon as reasonably possible, or use any other part of the Property other than the Premises without the written consent of the Director, which consent may be withheld at the sole discretion of the Director. Notwithstanding anything to the contrary in this License, if, at any time, the Director determines that the Permitted Use would in any way conflict or be inconsistent with the conduct of County business, the Director may, with reasonable Notice to Licensee, unilaterally establish the days and/or times Licensee may use the Premises or may terminate this License pursuant to Section 5 without incurring any liability to Licensee.

7.1. Fixtures, Furniture and Equipment. During the Term of this License, Licensee shall have use of the fixtures, furniture and equipment described in Exhibit "B" FIXTURES, FURNITURE AND EQUIPMENT ("FF&E") for the Permitted Use. Licensee shall be responsible for the repair or replacement of any of the FF&E damaged as a result of Licensee's use of the Premises, normal wear and tear excepted. The FF&E shall be returned in good order and condition upon the expiration or earlier termination of this License. Nothing in this License shall transfer ownership of the FF&E. County may change, remove or reduce the FF&E available in the Conference Room at any time during the Term, at County's sole discretion. County makes no representations about the suitability of the FF&E for Licensee's intended uses.

7.2. First-Floor Conference Room. In addition to use of the Premises, Licensee may use the first-floor conference room in the Property in accordance with County's regular policies for use of such space.

8. Notice Prior to Starting Work. Before starting any work authorized as a Permitted Use by this License, Licensee shall provide written Notice to the Director. The Notice shall be given at least three (3) business days in advance of the date the work is to commence.

9. Permits from Other Agencies. Licensee, at Licensee's sole expense, shall be responsible for securing any applicable orders or consent related to the Permitted Use from any other public agency having jurisdiction over the Premises. This License shall be suspended in operation, until any necessary written order or consent is obtained by Licensee.

10. Maintenance, Repair, Replacement and Cleaning. Licensee shall conduct Licensee's operations in an orderly manner and shall leave the Premises in as clean and good a condition as existed on the Commencement Date, normal wear and tear excepted. If Licensee damages any County property or facilities or causes excessive cleanup of the Premises, Licensee shall promptly inform the Director (as detailed in Section 24). Upon receipt of a written Notice, Licensee shall promptly reimburse County for all expenses incurred by County to repair any damage, replace any damaged items and clean the Premises. Licensee shall be responsible for any costs and expenses incurred by County due to late payment of expenses due under this Section.

11. Storage. Licensee shall not store or leave any personal property or equipment that is unrelated to the Permitted Use on or in the Premises without obtaining the prior written consent of the Director. Personal property or equipment stored by Licensee shall be in amounts reasonably anticipated to be required for the Permitted Use during the Term.

12. License on Site. Licensee or Licensee Parties (defined in Section 19) shall possess a fully executed copy of this License any time Licensee or Licensee Parties enter the Property or use the Premises. Licensee or Licensee Parties must show a copy of this License to any representative of County on demand.

13. Access. As of the Commencement Date, Licensee shall have the right of reasonable ingress to and egress from the Premises using any reasonably practical route in, upon, over and across the Property, approved in advance by County. Licensee shall not impede the flow of vehicular traffic on, or restrict public access to or from, the Property. Licensee shall not interfere with County operations at the Property or Premises. When on the Property and Premises, Licensee and Licensee Parties shall only operate vehicles and equipment on established roadways and driveways.

13.1 Building Access. During the Term, Licensee shall have access to the Property during regular business hours, which are Mondays through Fridays, except on County-observed holidays, from 7:00am to 8:00pm, unless otherwise notified by the Director via the email address in Section 24 with a minimum twenty-four (24) hour notice, unless in the case of an emergency, in which event notice shall be provided as soon as reasonably possible. Licensee may, without having to provide prior notification, access the Property outside of regular business hours by signing in with security staff at the main entrance.

13.2 Shared Use of Premises; Premises Access. Licensee acknowledges and agrees that the Premises shall also be used by County elected officials and their employees and agents. Accordingly, Licensee agrees to coordinate with such persons on a regular and ongoing basis to ensure compatible times and terms of use. Licensee's specific hours for use of and

access to the Premises will be in accordance with the arrangements that are reached between Licensee and County from time to time in accordance with this paragraph.

13.3 Licensee's Security Responsibilities. Licensee shall be responsible for securing the Premises and securing Licensee's personal property and the personal property of Licensee's representatives and guests within the Premises.

13.4 County's Security Responsibilities. County shall provide the same level of security to the Premises as regularly provided to other areas of the Property.

13.5 Background Check; Badging. All employees of Licensee working in the Property and Premises are subject to a County background and security check. Licensee and Licensee's employees in the Premises must be issued a County vendor photo identification badge prior to working on the Premises. All fees associated with the background and security check shall be at the sole expense of the Licensee.

14. County Entry. County, County Parties (defined in Section 18), and any other party that County grants permission to may enter the Property, including the Premises covered by this License, at any time during the Term.

14.1 Entry by County Contractors. County employees or contractors performing regular maintenance and janitorial services may have access to the Premises pursuant to previously established contracts and in case of any emergency.

15. Compliance with Laws. Licensee shall comply with all federal, state and local laws, statutes, ordinances, rules, regulations, orders, covenants, restrictions of record, and requirements, including the California Environmental Quality Act ("Laws"), which apply to Licensee's use of the Premises. To the fullest extent permitted by law and in addition to and without limiting Licensee's indemnification obligations in Section 19 Indemnification of this License, Licensee shall indemnify County from any Claim (defined in Section 19) resulting from a determination by a court of competent jurisdiction that Licensee has violated any Law while using the Premises.

16. Compliance with Stormwater Laws. Licensee shall not discharge pollutants into the Property's stormwater conveyance system or deposit pollutants anywhere on the Property such that they are discharged from the Property in violation of applicable stormwater laws and regulations. If County receives any fine or fines from, or has any other monetary liability imposed on County by, any regulatory agency, as a result of Licensee's discharge or disposition of pollutants in violation of this provision, Licensee shall promptly reimburse County for the entire amount of such fine or liability. Licensee shall not be responsible for any fine or liability imposed on County that is in no way attributable to a violation of this provision by Licensee.

17. Hazardous Substances. Licensee shall be solely responsible for fully complying with all present or future Laws regarding contaminated soils, hazardous materials or environmental cleanup as it relates to Licensee's Permitted Use on the Premises, regardless of whether or not the obligation to comply is an obligation of the owner of the land. If any

hazardous substance spills, leaks or is discharged from the Premises due to any negligence or willful and reckless act of Licensee, Licensee shall immediately make all repairs necessary to prevent further spills, leaks or discharges and shall immediately clean up and promptly dispose of the spilled hazardous substance and any soil contaminated by the spill. If Licensee fails to make the required repairs, to clean up the spill or to properly dispose of any contaminated soil, County may after written Notice to Licensee take all steps County deems necessary to make the necessary repairs, to clean up the spill and to dispose of any contaminated soil. Under such a circumstance, Licensee shall reimburse County for all expenses for repair and cleanup work performed by County resulting from Licensee's failure to make the necessary repairs, to clean the spill and to dispose of any contaminated soil, plus administrative expenses, within thirty (30) days of receipt of a written Notice from County that includes a bill for the work. Licensee, at Licensee's sole expense, shall be responsible for paying all fines, damages and penalties imposed by any governmental agency regarding the production, storage, distribution, processing, handling, disposing, spilling, leaking or discharging of any hazardous substance within the Premises after the Commencement Date or which commenced during the Term. To the fullest extent permitted by law and in addition to and without limiting Licensee's indemnification obligations in Section 19 Indemnification of this License, Licensee shall indemnify, defend, reimburse and hold harmless County Parties from any and all liability, claims, damages or injuries to any person, including injury to County Parties, or of any other person, and all expenses of investigating and defending against all liability, claims, damages or injuries, arising from or in connection with Licensee's possession, storage, or use of hazardous substances, toxic materials or hazardous waste upon, about or beneath the Premises or arising in any manner out of the violation by Licensee of any governmental regulation pertaining to Licensee's possession, storage, or use of hazardous substances, toxic materials or hazardous waste which condition exists after the Commencement Date and during the Term of this License.

18. Insurance. Within ten (10) business days prior to the Commencement Date, Licensee shall provide County with certificates of insurance and appropriate separate endorsements to the actual insurance policy, evidencing that Licensee has obtained the insurance required under this License. All insurance shall be obtained by Licensee at Licensee's sole expense. Insurance shall be in the forms of coverage and minimum amounts specified below, be provided by insurance carriers with a Best's Rating of not less than A, VII or a company of equal financial stability approved in writing by County's Risk Management Division, and remain in effect at all times during the Term.

a. An occurrence policy of Commercial General Liability insurance including Premises, Operations, Products and Completed Operations, Contractual Liability, and Independent Contractors Liability insuring Licensee against liability for bodily injury, personal injury or property damage arising out of or in connection with Licensee, Licensee's agents, representatives, employees or subcontractors performance of work or service under this License of not less than two million dollars (\$2,000,000) per occurrence and four million dollars (\$4,000,000) general aggregate. County, and County's elected officials, officers, agents, employees, representatives and volunteers ("County Parties") shall be added as "Additional Insured" by separate endorsement to Licensee's insurance (at least as broad as ISO form CG 2012).

b. Comprehensive Automobile Liability covering all owned, non-owned and hired vehicles for bodily injury and property damage of not less than one million dollars (\$1,000,000) each accident.

c. Statutory Workers' Compensation, as required by State of California and Employer's Liability at one million dollars (\$1,000,000) each accident for bodily injury or disease. Coverage shall include waiver of subrogation endorsement in favor of County. If Licensee is a Federal Agency, the Federal Employees Compensation Act (FECA) would be acceptable to County's Risk Management Division regarding this coverage.

d. Property Insurance: Full replacement cost of all personal property with no coinsurance penalty provision.

e. Certificates of insurance provided by Licensee must evidence that the insurer providing the policy will give County written notice of cancellation in accordance with the policy provisions.

If Licensee maintains broader coverage and/or higher limits than the minimums shown above, County requires and shall be entitled to the broader coverage and/or higher limits maintained by Licensee. As a requirement of this License, any available insurance proceeds in excess of the specified minimum limits and coverage stated above, shall also be available to County. County shall retain the right to review the coverage, form and amount of insurance required in this License and may require Licensee to obtain insurance reasonably sufficient in coverage, form and amount to provide adequate protection against the kind and extent of risk which exists at the time a change in insurance is required. County retains the right to demand a certified copy of any insurance policy required in this License, which shall be provided by Licensee within fifteen (15) days of receipt of a written Notice from County. Licensee may fulfill some or all of the insurance requirements contained in this License under a plan of self-insurance. Licensee's use of self-insurance shall not in any way limit liabilities assumed by Licensee under this License.

19. Indemnification. To the fullest extent permitted by law, County shall not be liable for, and Licensee shall defend and indemnify County Parties, against any and all claims, deductibles, self-insured retentions, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (singularly, a "Claim", or collectively, "Claims"), that arise out of or are in any way connected to this License, Licensee's entry onto the Property, or Licensee's use of the Premises arising either directly or indirectly from any act, error, omission or negligence of Licensee or Licensee's officers, employees, agents, contractors, licensees, servants, guests or invitees ("Licensee Parties") including, without limitation, Claims caused by the sole passive negligent act or the concurrent negligent act, error or omission, whether active or passive, of County Parties. Licensee shall have no obligation, however, to defend or indemnify County Parties from a Claim if it is determined by a court of competent jurisdiction that the Claim was caused by the sole active negligence or willful misconduct of County Parties.

20. Assumption of Risk and Release. Licensee, on behalf of Licensee and Licensee Parties, hereby assumes all risk of injury to any Licensee Parties arising out of Licensee's use of the Premises, and fully releases, waives and forever discharges County and County Parties from any Claims of any nature arising from Licensee's use of the Premises.

21. Continuing Liability. The expiration or earlier termination of this License shall not release Licensee from any liability or obligation under this License which arises: (i) from any acts or omissions of Licensee that occurred prior to the expiration or earlier termination of this License, and (ii) as applicable, during Licensee's restoration of the Premises to the condition existing prior to the Commencement Date of this License.

22. Assignment. Licensee shall not assign or transfer any interest in this License.

23. Possessory Interest Tax. Pursuant to the provisions of the State of California Revenue and Taxation Code Section 107.6, Licensee is advised that the terms of this License may result in the creation of a possessory interest. If a possessory interest is vested in Licensee, Licensee may be subjected to the payment of real property taxes levied on the possessory interest. Licensee shall be solely responsible for the payment of any real property taxes. Licensee shall pay all taxes when due, and shall not allow any taxes, assessments or fees to become a lien against the Premises or any improvement on the Premises. Licensee shall not be prevented or prohibited from contesting the validity of any tax, assessment or fee in a manner authorized by law. County recognizes Licensee is a tax-exempt entity and the preceding language may not apply to Licensee.

24. Notices. Any notice ("Notice" or "Notices") required or permitted to be given pursuant to this License shall be written and shall be effective (i) when personally delivered to an officer or an authorized representative of the other party, (ii) sent by United States Postal Service First Class Mail, postage prepaid, or (iii) sent by a nationally recognized courier delivery service, with proof of service, to the following addresses:

If to County: County of San Diego
Department of General Services
Asset Management Division
5560 Overland Avenue
Suite 410
San Diego, California 92123
Email: dgsassetmanagement@sdcounty.ca.gov

If to Licensee: Attention: Karen Johnson, Asset Manager
City of San Diego
Department of Real Estate and Airport Management
1200 Third Avenue
Suite 1700
San Diego, California 92101
Email: kkjohnson@sandiego.gov

Notices mailed by the United States Postal Service shall be deemed to have been given, delivered and received three (3) business days after the date the Notice or other communication is postmarked by the United States Postal Service. Notices delivered by courier delivery service shall be deemed given, delivered and received upon actual receipt if accompanied by proof of service. All other Notices or other communications shall be deemed given, delivered and received upon actual receipt. County or Licensee may, by written Notice delivered pursuant to this section, at any time designate a different address to which Notices shall be sent. Email addresses are provided in this section for use in circumstances in which prompt notification of the other party is either required or advisable, (for example, in the event of damage to or immediate need of cleaning at the Premises, according to Section 10); emails shall not be deemed effective legal notice under this License.

25. Entire Agreement. This License (including any exhibits attached to this License) constitutes the entire agreement between County and Licensee with respect to the subject matter contained in this License. All other representations, oral or written, are superseded by this License. Neither party is relying on any representation outside of this License. This License may be changed only by a written amendment signed by County and Licensee.

26. Interpretation. This License shall be governed by the laws of the State of California.

27. [Reserved].

28. Authority to Sign. Licensee represents and warrants that Licensee has full power and authority to execute and fully perform Licensee's obligations under this License without the need for any further action, and that the person executing this License on behalf of Licensee is the duly designated agent of Licensee and is authorized to act on behalf of Licensee.

29. [Reserved].

30. Singular and Plural. Words used in this License in the singular, where the context so permits, shall be deemed to include the plural. Words used in this License in the plural, where the context so permits, shall be deemed to include the singular.

31. Counterparts; Electronic Transmittal; Electronic Signatures. This License may be executed in counterparts, and County and Licensee agree that each counterpart shall together constitute one agreement binding on County and Licensee, notwithstanding that County and Licensee are not signatory to an original or same counterpart. Executed counterparts of this License may be transmitted electronically, and County and Licensee agree that each counterpart of a fully executed License transmitted electronically via pdf attachment shall be binding as if the signatures transmitted electronically were original signatures. This License may be executed using electronic signatures, and County and Licensee agree that each electronic signature shall have the same legal effect and enforceability as a manually executed signature to the extent provided for in the Uniform Electronic Transactions Act codified in State of California Civil Code Sections 1633.1 - 1633.17.

SIGNATURES

County and Licensee have executed this License as of the day and year written below. This License shall be effective as of the date of its execution by the last signatory.

"County"

County of San Diego,
a political subdivision of the State of California

Date: 2/15/24

Krista
By: Ellis
Marko Medved, P.E., CEM, Director,
Department of General Services

Digitally signed by
Krista Ellis
Date: 2024.02.15
13:26:20 -08'00'

"Licensee"

City of San Diego,
a California municipal corporation

Date: 2/13/24

By: 
Lucy Contreras, Deputy Director
Department of Real Estate and Airport
Management

Approved as to form on February 13, 2024:

MARA W. Elliott, City Attorney

By: Brian Byun
Brian Byun (Feb 13, 2024 16:32 PST)
Brian W. Byun
Deputy City Attorney

EXHIBIT "A"
DESCRIPTION OF PREMISES
Location Map

Southeastern Live Well Center, 5101 Market Street, San Diego, California 92114

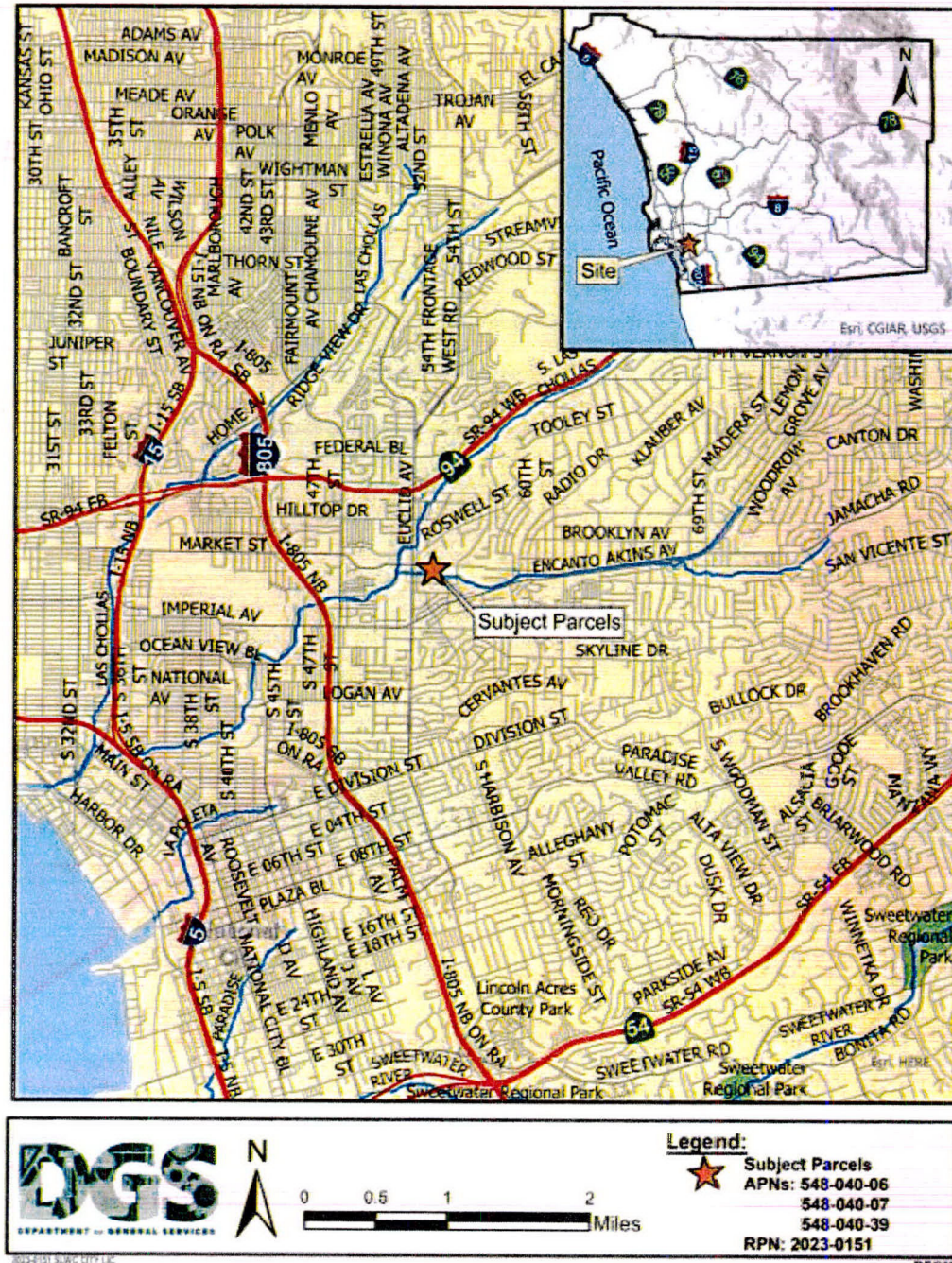


EXHIBIT "A"
DESCRIPTION OF PREMISES
Site Map

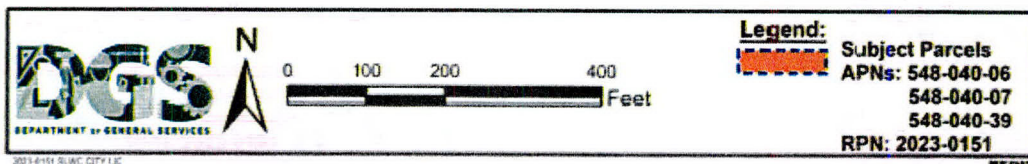
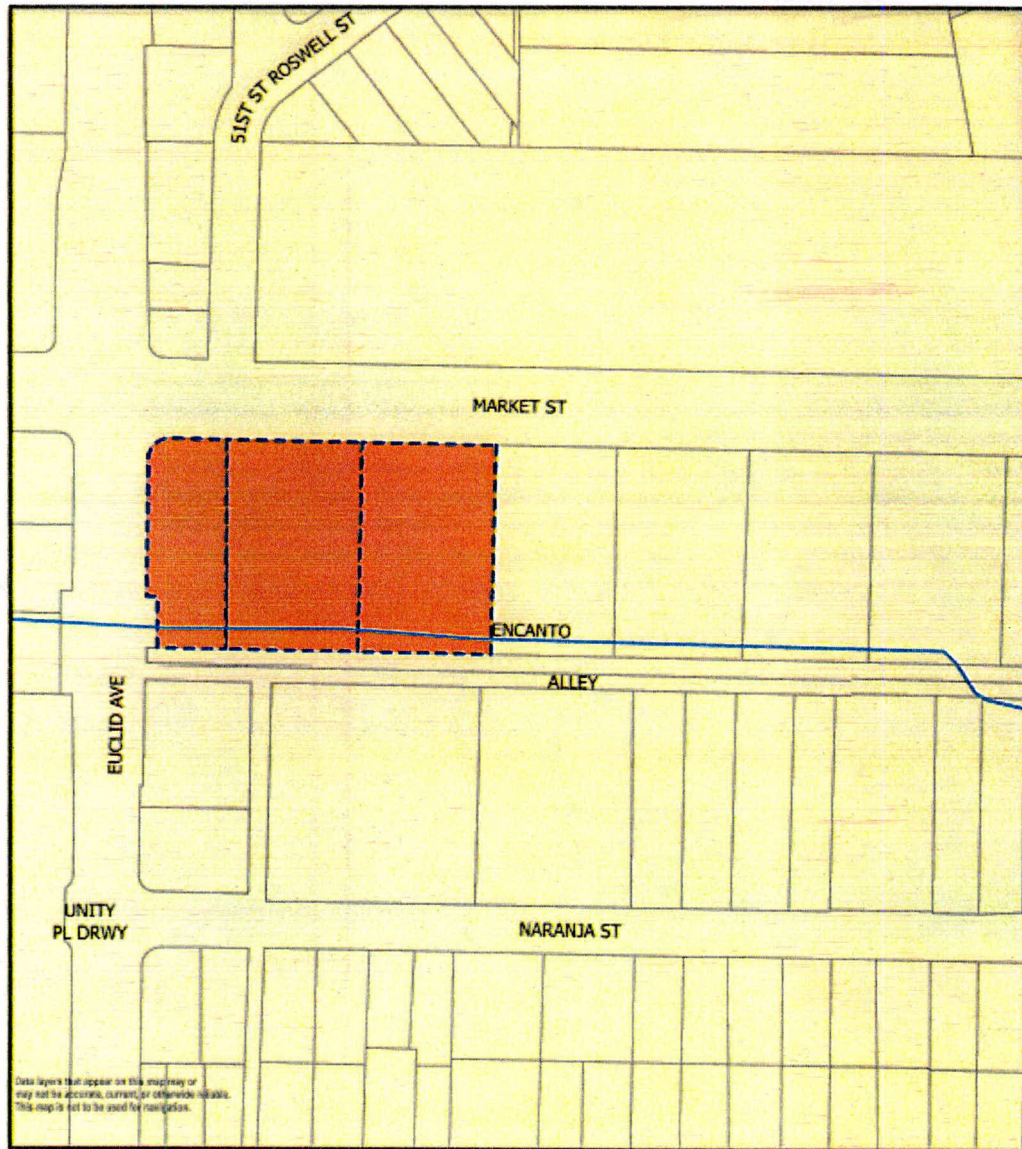
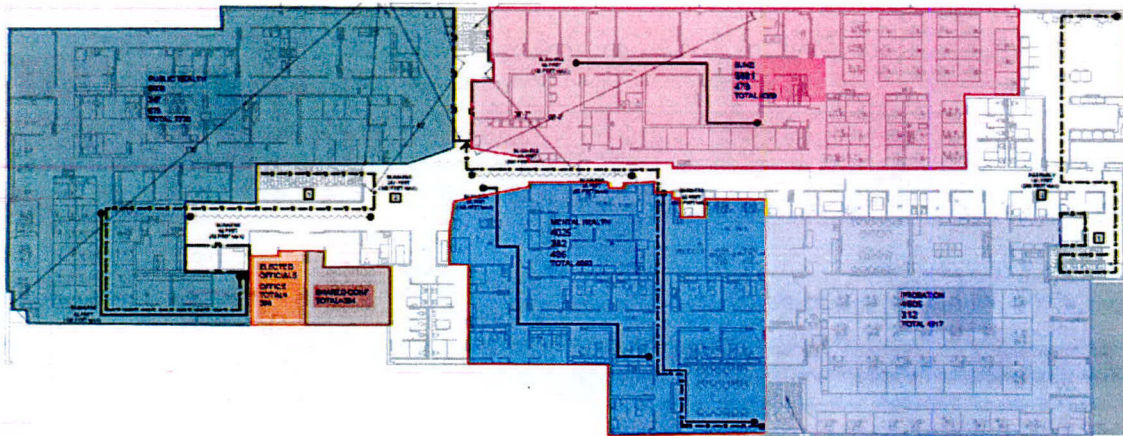


EXHIBIT "A"
DESCRIPTION OF PREMISES
Floor Plans

2nd Floor



One shared office space at 288 sf highlighted in orange and one shared conference room at 394 sf highlighted in brown

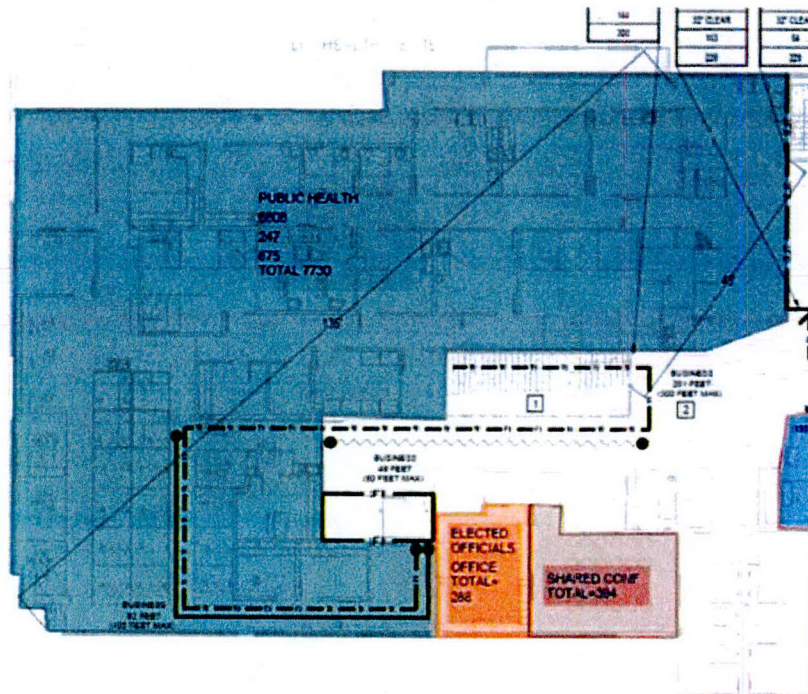


EXHIBIT "B"
Fixtures, Furniture & Equipment

FF&E provided in the Office suite:

- 2 sit stand desks
- 2 tables
- 4 chairs
- Small sofa
- Media cabinet
- 2 televisions

FF&E provided in the Conference Room:

- Large table
- 19 chairs
- Media cabinet
- Television