



**BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS**

Award Contract Grant

Requested Board Meeting Date: 12/1/2020

or Procurement Director Award

* = Mandatory, information must be provided

***Contractor/Vendor Name/Grantor (DBA):**

Five-To-Oh Coffee, LLC

***Project Title/Description:**

Coffee Shop/Snack Shop Lease in Historic Courthouse

***Purpose:**

Leasing space in the Historic Courthouse to Five-To-Oh Coffee, LLC.

***Procurement Method:**

"Exempt pursuant to Pima County Code section 11.04.020.D."

***Program Goals/Predicted Outcomes:**

To provide a lease to Five-To-Oh Coffee, LLC so they can provide coffee, drinks, refreshments and snacks to Building tenants and the general public visiting downtown attractions and contribute to the welcoming community atmosphere of the Historic Courthouse.

***Public Benefit:**

Provide refreshments to public visiting Visitor Tucson, the new Visitor's Center, University of Arizona Mineral Museum and other Historic Courthouse attractions. Five-To-Oh Coffee plans to focus its menu of locally sourced goods, highlighting Tucson's culture and history. Shop will also serve visitors to the January 8th memorial (currently under construction) and the general public. County will receive revenue from rent and a portion of sales.

***Metrics Available to Measure Performance:**

Increased foot traffic to area.

***Retroactive:**

No.

To: COB 11-12-2020 (1)
Vers.: 1
Pgs.: 25

Procure Dept 11/10/20 PM0355

Contract / Award Information

Document Type: CTN Department Code: FM Contract Number (i.e.,15-123): 21-027
Commencement Date: 12/1/2020 Termination Date: 11/30/2022 Prior Contract Number (Synergen/CMS): _____
 Expense Amount: \$* _____ Revenue Amount: \$ 7800.00

***Funding Source(s) required:**

Funding from General Fund? Yes No If Yes \$ _____ % _____

Contract is fully or partially funded with Federal Funds? Yes No

If Yes, is the Contract to a vendor or subrecipient?

Were insurance or indemnity clauses modified? Yes No

If Yes, attach Risk's approval.

Vendor is using a Social Security Number? Yes No

If Yes, attach the required form per Administrative Procedure 22-10.

Amendment / Revised Award Information

Document Type: _____ Department Code: _____ Contract Number (i.e.,15-123): _____
Amendment No.: _____ AMS Version No.: _____
Commencement Date: _____ New Termination Date: _____
Prior Contract No. (Synergen/CMS): _____

Expense or Revenue Increase Decrease Amount This Amendment: \$ _____

Is there revenue included? Yes No If Yes \$ _____

***Funding Source(s) required:**

Funding from General Fund? Yes No If Yes \$ _____ % _____

Grant/Amendment Information (for grants acceptance and awards) Award Amendment

Document Type: _____ Department Code: _____ Grant Number (i.e.,15-123): _____
Commencement Date: _____ Termination Date: _____ Amendment Number: _____
 Match Amount: \$ _____ Revenue Amount: \$ _____

***All Funding Source(s) required:**

*Match funding from General Fund? Yes No If Yes \$ _____ % _____

*Match funding from other sources? Yes No If Yes \$ _____ % _____

***Funding Source:** _____

***If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?** _____

Contact: Kevin Button

Department: Facilities Management

Telephone: 520-724-8230

Department Director Signature/Date: _____

Deputy County Administrator Signature/Date: _____

County Administrator Signature/Date: _____

(Required for Board Agenda/Addendum Items)

Pima County Department of Facilities Management

Project: Coffee Shop/Snack Shop Lease in Historic Courthouse

Tenant: Five-To-Oh Coffee LLC

Landlord: PIMA COUNTY, a political subdivision of the State of Arizona (“County”)

Amount: \$7,800.00

Contract No.: CTN-FM-21-027

LEASE AGREEMENT

This Lease Agreement (“Lease”) is made and entered into by and between Five-To-Oh Coffee, LLC (“Tenant”) and PIMA COUNTY, a political subdivision of the State of Arizona (“County”).

RECITALS

- A. County owns a historic building (the "Building") known as the Pima County Historic Courthouse, located at 115 N. Church Avenue, Tucson, AZ Exhibit A. County is restoring the Building. The Building has, associated with it, a certain interior area, approximately 118 square feet, shown in Exhibit B, that is suitable for use as a coffee shop and snack shop ("Coffee Shop") for the convenience of Building tenants, employees, visitors, and the general public.
- B. The location is centered in the heart of Downtown Tucson. The Coffee Shop will enjoy access to a built-in clientele. New Historic Courthouse tenants include the following:

The U of A Gem and Mineral Museum, one of the finest gem, mineral and meteorite collections in the world, which is currently on the University of Arizona campus has entered into a long term Lease and Operating Agreement with the County and tenant improvements are well underway and scheduled for completion by the end of the year. Once complete, the UA Mineral Museum will occupy approximately 11,690 square feet of exhibit space on the first floor. The Coffee Shop is located less than 15 yards from the museum.

Another tenant just up the stairs from the Coffee Shop, Visit Tucson continues to realize its mission to drive economic development by connecting visitors with their ideal travel and meetings experiences in Tucson. Now fully moved in and leasing approximately 13,950 square feet of newly designed space.

The Southern Arizona Heritage Visitors Center, which opened in January 2020, features information about where to go to enjoy history, culture, food, ecology and recreational amenities is located on the first floor across from UA Gem and Mineral Museum. This newly opened center will be a draw for Tucson visitors and locals alike. Any additional uses of space within the Building will be compatible with these uses.

Directly west of the dome of the Historic Courthouse, Tucson's January 8th Memorial Foundation is constructing "a permanent memorial to remember and honor those that perished or were injured as a result of the shooting that occurred during Congresswoman Giffords' "Congress on Your Corner" event on January 8, 2011." This open-air site will be a place where visitors will gather, reflect and remember. The current plan is to commemorate the memorial on January 8th, 2021.

C. Tenant desires to enter into a lease with the County and operate the Coffee Shop for the uses described herein.

D. Notice of this lease was published in accordance with § 11-256(E).

AGREEMENT

1. **LEASE/COFFEE SHOP.** In consideration of the rent received and all terms, conditions, covenants, and agreements herein contained, County hereby leases to Tenant and Tenant hereby leases from County the Coffee Shop.
2. **TERM.** This lease will be for an initial term of twenty-four (24) months ("Initial Term"), beginning on the date this agreement is signed by all parties and is fully executed and will remain in full force for twenty-four (24) consecutive months. Rent commencement date ("Commencement Date") will be on a mutually agreed upon date after the substantial completion of the Coffee Shop renovation.
3. **OPTION TO EXTEND.** If Tenant is not in default under the Lease, Tenant may extend the Initial Term of the Lease for up to three (3) additional 1-year periods (each, an "Extension Term") by providing written notice to the County sixty (60) days prior to end of the Initial Term or the prior Extension Term, as applicable. "Term" means the initial term and any Extension Term(s).
4. **PARKING.** Public parking is available throughout the downtown area, including in the El Presidio Garage, and the above-ground parking garage located at 50 W. Alameda St. (the "Public Works Garage"), both of which are managed by the County. Tenant employees can obtain monthly parking passes for the Public Works Garage, and other downtown garages operated by the County, subject to availability, or may make their own parking arrangements at other parking facilities in the area. Tenant may validate parking in the El Presidio garage for visitors to its Premises and pay those parking charges itself. County will keep the El Presidio Garage open for use by Building visitors during the normal hours of operation ("Garage

Hours”). Current Garage Hours are Monday-Friday (6 a.m. - 6 p.m. -exit until 8 p.m.) and Saturday-Sunday 9 a.m. – 4 p.m.). Garage Hours may change after construction in and around the Historic Courthouse, is complete to accommodate increased visitor traffic. In order to ensure that the El Presidio Garage is available for Building visitors, monthly passes for that garage will not be issued by County to Tenant. However, County will work with Tenant, to make arrangements for Tenant employees to have access to the El Presidio Garage, if possible, during any Building Hours that the Public Works Garage is closed.

5. BUILDING HOURS. Historic Courthouse hours, when fully occupied will be as noted in the table below. Coffee Shop will maintain hours to accommodate the functions of the building. However, Coffee Shop hours may be adjusted as mutually agreed upon in writing between Tenant and the Director of Pima County Facilities Management.

Historic Courthouse Building Hours

Monday-Thursday	6am-6pm
Friday	6am-10pm
Saturday	10am-10pm
Sunday	12pm-5pm

6. HOLIDAY SCHEDULE. The following holidays are observed by Pima County. Tenant has the option to remain open on any, or all, of the holidays shown below, but janitorial services will not be provided by County on the following observed holidays:

Holiday Schedule		
2020		
Date Observed	Day	Holiday
January 1	Wednesday	New Year's Day
January 20	Monday	Martin Luther King, Jr. Civil Rights Day
February 17	Monday	Lincoln/Washington Presidents' Day
May 25	Monday	Memorial Day
July 3	Friday	Independence Day
September 7	Monday	Labor Day
November 11	Wednesday	Veterans' Day
November 26	Thursday	Thanksgiving Day
November 27	Friday	Holiday (Resolution No. 2013 - 68)
December 25	Friday	Christmas Day

7. **MOVE-IN/MOVE-OUT.** Tenant will be responsible for moving its personal property in and out of the Coffee Shop, including furnishings, and equipment, and bearing all associated costs. Tenant will coordinate its move-in and move-out with County Facilities Management department and, if necessary, with other Building occupants to minimize disruption as much as reasonably possible.
8. **USE.**
 - 8.1. Permitted Uses: Tenant will use the Coffee Shop solely to sell coffee, snacks, prepared foods, associated retail items and other nonalcoholic beverages and for the operation of at least one (1) and not more than two (2) “coffee cart(s)”.
 - 8.2. Operation of Coffee Carts. Given the current business climate, the operation of at least one (1) and not more than two (2) coffee carts will occur during the first twelve (12) months of operation, or will commence on a date mutually agreed upon. Hours of operation for Coffee Carts will be mutually agreed upon.
 - 8.3. Hours of Operation: Tenant will operate the Coffee Shop and coffee cart(s) 7 days a week, during normal Building Hours (see above) or during other hours of operation mutually agreed upon in writing between Tenant and the Director of Pima County Facilities Management. Coffee Shop may observe bank & major holidays and may opt to be closed.
 - 8.4. Storage of Coffee Cart(s). If required, One (1) parking space in El Presidio parking garage will be allocated for storage of coffee cart(s). Pima County, at its sole discretion, will determine the location of storage space within the garage. Tenant agrees to pay seventy dollars (\$70) per month for the first month when operation of the coffee cart commences during the Initial term this lease and pay the garage space rates in place at the time for any Extension periods exercised. Tenant is solely responsible for the security of Coffee Cart(s) and all contents therein.
 - 8.5. Prohibited Activities: Tenant will not permit any unlawful activities in the Coffee Shop, or in and around the Building by its employees or invitees, or any activities that unduly interfere with activities of the other occupants of the Building or neighboring property owners or occupants. No alcoholic beverages, cigarettes or other tobacco related products may be sold.
 - 8.6. Hazardous Materials Prohibited; Clean Air Act. Tenant will not cause or permit any hazardous or toxic materials or substances to be brought upon, kept, or used in or about the Coffee Shop by Tenant, its agents, employees, contractors or invitees, without the prior written consent of County. If tenant requires any hazardous or toxic materials or substances that are necessary or useful to Tenant’s business, Tenant must first receive written approval from the County for their use. If approved, Tenant will use, keep and

store those materials in a manner that complies with all laws regulating any such materials or substances. Tenant's operations within the Building and in the Coffee Shop will comply with all applicable provisions of environmental laws and regulations, including the Clean Air Act, 42 U.S.C. 7401 et seq. and Arizona Revised Statutes, Title 49, Chapter 3. Tenant will remediate and clean up, at its sole cost and expense, any contamination of the Coffee Shop occurring during the term of this Lease.

9. Rules, Regulations & Operating Parameters. Tenant and its employees will abide by all rules and regulations for the Building and Coffee Shop operating parameters that are established and may be revised from time to time by County. The current rules are attached as Exhibit C.

9.1. Licenses and Permits. At a minimum, Tenant will apply and obtain an operating permit from Pima County Health Department and comply with all applicable laws, regulations, and guidelines. All Tenant employees working in the Coffee Shop must be Certified Food Handlers. Tenant will apply for and obtain any license, registration, certification or permit that is required for the operation of the Coffee Shop during the Term of this Lease and will maintain same in good standing throughout the Term of this Lease. Tenant will immediately notify County, in writing, if the license, registration, certification or permit is denied or terminated. In the event of such denial or termination, County may, in its sole discretion, terminate this Lease with no further obligation to Tenant.

9.2. The following additional conditions, rules, and regulations apply to the use of the Coffee Shop.

9.2.1. No open flames are permitted

9.2.2. All trash and recyclable material shall be bagged in heavy duty trash bags, recycled material tagged as recyclable, and sealed to prevent spillage and unwanted odor, and placed in appropriate receptacles.

9.2.3. Only coffee pots may be cleaned in the sinks that DO NOT have grease traps.

9.2.4. No dishes, plates, cups, glass, bowls, saucers, trays, utensils, or other dishes used for food service may be rinsed or cleaned in the sink.

9.2.5. Special care must be taken to protect Historic Courtyard tile, during load-in and load-out and if shuttling food or coffee carts or other serving apparatus around the Building or Courtyard. Only soft, non-marking wheels and or casters allowed.

9.2.6. No food preparation, other than coffee is permitted in the Coffee Shop. Only pre-packaged foods and other foods prepared off premises, and sourced from properly licensed and permitted facilities, may be sold from the Coffee Shop or cart(s). These same items may be "assembled" into meal "kits" or packages on premises and sold

to Coffee Shop customers. Beverage/coffee related sweeteners and modifiers may be mixed on premises; these include, but are not limited to, syrups, powdered flavorings, and other sweeteners/modifiers for coffee or other beverages.

10. RENT

10.1. Rental Rate. The base rent (“Base Rent”) will be three hundred and twenty five dollars (\$325.00) per month for the Initial Term. The cost of all utilities is included in the rental rate as described section 11.7.

10.2. Utility Offset Fee. As a partial offset to utility costs paid by the County per section 11.7, Tenant will pay, no less than quarterly, a fee equal to a percentage of gross sales (“Fee”) as described in Utility Offset Fee Table 1 below. Tenant will submit to County Facilities Management Department, no less than quarterly, a report showing gross sales revenue and the calculation of Fee. Payment shall be delivered to Finance-Revenue Management at the address shown in 8.4 below.

Utility Offset Fee Table 1

Year	Base Rent	Fee Start Date	Utility Offset Fee %
Year One	\$325	No Fee	0%
Year Two	\$325	First Month of Year 2	1.5%
Year Three	\$325	First Month of Year 3	2.0%
Year Four	\$325	First Month of Year 4	3.0%
Year Five	\$325	First Month of Year 5	4.0%

10.3. Payment of Rent. Tenant will pay Rent in advance, in equal monthly installments, on or before the Commencement Date and the first day of each month thereafter during the Term, except that the first or last month’s Rent will be prorated if necessary to reflect a partial month. Rent will be delivered to Pima County Government, Finance-Revenue Management Division, 33 N. Stone, 6th Floor, Mail Stop DT-BAB6-404, Tucson, Arizona 85701.

11. ROOM DESCRIPTION. The Coffee Shop (Exhibit B) has one lockable door for entry and exit and two “service” windows that open onto the area below the dome. Tenant understands the only access to the Coffee Shop is through the Catering Feeding Area (shown on “Exhibit B”). From time to time Catering Feeding Area may be in operation simultaneously with Coffee Shop. When both spaces are operating, Tenant agrees to cooperate with, and not impede Catering personnel in the conduct of their business. Catering Feeding Area personnel, who license the space are given notice and agree to cooperate with, and not to impede Coffee Shop personnel in the conduct of their business.

11.1. Coffee Shop has one stainless steel hand sink (NO GREASE TRAP)

11.2. Counter and cabinets along north wall

11.3. Slat wall along south wall

11.4. Use of Refrigerator in catering space

11.5. Lockable storage cabinet in catering area

12. SECURITY. County provides general security services for downtown County buildings, consisting of a security guard who, periodically checks a number of downtown County buildings. Tenant understands that no security services are dedicated to the Coffee Shop, beyond what is described above and Tenant should not rely on these security services to exclusively protect and secure the Shack Shop or its personal property. Tenant remains responsible for providing and bearing all costs for any additional security for the Coffee Shop and for the security of any and all personal property located within or being transported to and from the Coffee Shop.

13. REPAIRS & UTILITIES.

13.1. Repairs. Subject to section 19 concerning damage resulting from a casualty, and except as provided below, County will make all repairs in and to the Coffee Shop, and Building. This will include, but is not limited to the roof, structural portions of the Building, all major Building systems such as HVAC, major plumbing (in-wall plumbing), and in-wall electrical connections. Tenant will be responsible for all personal property including, but not limited to, all furnishings, equipment, refrigerators, electronics, and coffee makers.

13.2. Notification to County. If repairs are needed to the Building or Coffee Shop, Tenant will notify County or its agent via email at FM-TenantRequest@pima.gov or by phone at 520-724-3085, and County will cause such repairs and/or replacements as are necessary to correct such condition to be done within a reasonable period of time during County’s business hours, except in the event of an emergency, in which case County will expedite the response.

- 13.3. Cleaning & Minor Maintenance. Tenant will provide janitorial services to the Coffee Shop.
- 13.4. Equipment. Tenant will clean and maintain all equipment provided and installed in the Coffee Shop, if any, by Tenant or County.
- 13.5. Tenant Damage. Tenant will promptly notify the County of any damage done to the Coffee Shop, Building or Common Areas (Exhibits A & B), or any County provided fixtures, furniture, or equipment contained therein caused by Tenant or any employee or agent of Tenant. County or its agents or contractors, will make the necessary repairs; the expense for such repairs and/or replacements shall be the sole responsibility of the Tenant.
- 13.6. Access to the Coffee Shop. Tenant will permit County and County's authorized representatives to enter the Coffee Shop for purposes of inspection, making any repairs and performing any work therein as may be necessary for County to comply with the provisions of this section 11. County, in the performance of any such work, will cause as little inconvenience, annoyance, disturbance, or damage to the Coffee Shop as may reasonably be possible under the circumstances.
- 13.7. Utilities. County will at its expense, provide all utilities to the Building, Coffee Shop, and the Common Areas, including electricity, water, sewer, and trash collection from the building dumpster located on Pennington St. Tenant is responsible for placing trash in dumpster or removing it from site if the dumpster is full.
- 13.8. HVAC. Heating, ventilation and air conditioning services ("HVAC") will be available to the Coffee Shop during the hours of operation as described in section 6.2.
- 13.9. Telephone/Internet/Cabling. Tenant is responsible for supplying, installing, repairing, maintaining and replacing its own telephone equipment, service and internet/data service at Tenant's expense. Tenant may not install or affix any equipment, without prior written consent from Pima County Facilities Management, which will not be unreasonably withheld. Equipment installed shall remain Personal Property of the Tenant and, at its election, may be removed by Tenant at or prior to the expiration of the Term (provided that Tenant repairs any damage caused by such removal).
14. **TAXES.** Tenant will be responsible for all taxes related to this Lease and will pay to County, in addition to lease payment, any applicable rental taxes for which County is responsible including, if applicable, the government property lease excise tax pursuant to A.R.S. § 42-6201 et seq.
15. **INSURANCE AND INDEMNIFICATION.** At all times during the Term, Tenant will carry the following insurance coverage, meeting all the below requirements.

- 15.1. Commercial General Liability (CGI). Occurrence Form with limits of \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy shall include bodily injury, property damage, broad form contractual liability coverage, personal and advertising injury and products – completed operations.
 - 15.2. Workers' Compensation (WC) and Employers' Liability. Statutory requirements and benefits for Workers' Compensation. In Arizona, WC coverage is compulsory for employers of one or more employees. Employer's Liability coverage- \$1,000,000 each accident and each person - disease.
 - 15.3. Additional Insured. The General Liability Policy shall each be endorsed to include Pima County, its departments, districts, boards, commissions, officers, officials, agents, and employees as additional insureds with respect to liability arising out of any activities performed by or on behalf of Tenant.
 - 15.4. Subrogation. The General Liability and Workers' Compensation Policies shall each contain a waiver of subrogation endorsement in favor of Pima County, and its departments, districts, boards, commissions, officers, officials, agents, and employees for losses arising from activities performed by or on behalf of Tenant.
 - 15.5. Primary Insurance. Tenant's policies shall stipulate that the insurance afforded Tenant shall be primary and that any insurance carried by Pima County, its agents, officials, or employees shall be excess and not contributory insurance.
 - 15.6. Approval and Modifications. Pima County Risk Management reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the Term of this lease, as deemed necessary. Such action will not require a formal contract amendment but may be made by administrative action.
 - 15.7. Indemnification. Tenant covenants that it shall defend, indemnify and hold County, its officers, agents and employees harmless from any and all claims, demands, causes for action, complaints, suits, losses, damages, injuries and liabilities whatsoever, including, but not limited to, costs, expenses and attorney fees, brought by or on behalf of any person, persons or property injured as a result of, or in any way related to, the activities of Tenant or any employee, agent or invitee of Tenant, or Tenant's use of the Coffee Shop, excepting only such injuries as are directly caused by the gross negligence or willful misconduct of County.
16. **DEFAULT**. The occurrence of any one or more of the following events will constitute a default and breach of this Lease by Tenant for which County may immediately terminate this Lease:
- 16.1 *Operation of Coffee Shop*. The vacating or abandonment of the Coffee Shop, or cessation of activities thereon, or any portion thereof, by Tenant, where such abandonment continues for a period of ten (10) calendar days after County sends notice of such default to Tenant.

- 16.2 *Monetary Obligations.* The failure by Tenant to make any payment required to be made by Tenant hereunder, as and when due, where such failure continues for a period of ten (10) calendar days after the receipt by Tenant of written notice from County that such payment is due.
- 16.3 *Violation of Law.* Violation of any law by Tenant, or the conduct of any unlawful activities on the Coffee Shop that are permitted by Tenant, either tacitly or explicitly, or which Tenant has not taken reasonable means to prevent after Tenant becomes or in the exercise of reasonable diligence should have become aware that such activities are being conducted.
- 16.4 *Health and Safety Violation.* Any action or omission by Tenant that, in the County's reasonable judgment, causes a threat to the health or safety of the employees of the Building, customers, or the general public who purchase food or beverages from Tenant. This includes the non-renewal or revocation of any governmental license or permit or any occurrence of food borne illness or injury resulting from Tenant's operations under this Lease.
- 16.5 *Other Covenants.* The failure by Tenant to observe or perform any other of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant, where such failure continues for a period of thirty (30) days after written notice thereof by County to Tenant; provided, however, that if the nature of Tenant's default is such that more than thirty (30) days are reasonably required for its cure, then Tenant will not be deemed to be in default if Tenant commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion provided such cure is completed within one hundred twenty (120) days of the notice by County.
- 16.6 *County Default.* County will be in default hereunder if County fails to perform any covenant or condition of this Lease to be performed by County and such failure continues for thirty (30) days after written notice and demand from Tenant (unless the failure is of such a character as to require more than thirty (30) days to cure, in which event County will be in default only if it fails to initiate the cure within thirty days, and thereafter diligently pursue the same to completion provided such cure is completed within one hundred twenty (120) days of the notice by Tenant)
- 16.7 *Remedies.* Either party may pursue any remedies provided by law and in equity for the breach of this Lease, including termination of the Lease.

NOTICES. All notices to be given under this lease will be in writing and will be either served personally or sent by certified or registered mail, return receipt requested,

electronic transmission or fax, to the parties as indicated below or to such other persons, or addressees as either party may designate in writing to the other party:

TENANT: Erin Broyles & Eric Harding
5863 N Dartwhite Dr.
Tucson, Arizona 85741
Tenant Email:broyles.ej@gmail.com
Phone:928-399-9586

COUNTY: Director, Pima County Facilities Management Department
150 W. Congress St. 3rd Floor
Tucson, AZ 85701
FM_Leasing_Services@pima.gov

17. ASSIGNMENT. Tenant will not have the right to assign this Lease or sublease the Coffee Shop in whole or in part without the prior written consent of the County. Such an assignment or sublease, if permitted, does not constitute a release of any obligations of the Tenant due under this lease. Should County desire to sell the Building, it will do so subject to the terms and conditions of this lease and further will give at least thirty (30) days' notice of any such intent to the Tenant.
18. MODIFICATIONS. Tenant will make no modifications to the Building or Coffee Shop without written approval of County, which approval will not unreasonably be withheld. Tenant acknowledges that the Building is a treasured historic landmark and that preserving its history and integrity is a priority for the County.
19. FURNISHINGS. Tenant will have a right to remove from the Coffee Shop any furnishings or equipment that Tenant provides. However, in removing any such furnishings or equipment, Tenant will restore the Coffee Shop to its condition prior to the installation of said furnishings or equipment or at Tenant's option and with County's approval, may surrender and leave said items in place and they will become the property of County.
20. NO LIENS OR INTERFERENCE. Tenant agrees not to incur, or if incurred to promptly remove, any obligations, judgments or other actions which result in a lien or encumbrance on the Coffee Shop.
21. DESTRUCTION OF COFFEE SHOP. If at any time during the term of the lease or any extension hereof, the Coffee Shop becomes partially or totally destroyed by reason of any damage by fire, flood, hurricane, windstorm or other casualty or act of God and County cannot or does not fully repair the Coffee Shop within ninety (90) days through no fault of Tenant

then Tenant will be relieved of any further obligation, duty or liability under this lease. If the Coffee Shop can be and are repaired fully in ninety (90) days, then the lease will continue in full force and effect while the repairs are being made, and Tenant's rent will be abated by the percentage of the total space which is unavailable or not reasonably useful to Tenant.

22. **PERSONAL PROPERTY.** All personal property placed or removed in the Coffee Shop will be at the risk of the party placing such property in the Coffee Shop or moving such property in the Coffee Shop.
23. **INSPECTION.** County will be given access to Coffee Shop to view and inspect its condition and state of repair upon reasonable notice to Tenant.
24. **CONDEMNATION.** If all or any part of the Coffee Shop are taken under the power of eminent domain or sold under the threat of exercise of that power, this lease may be terminated by County or Tenant without further obligation on the part of either party.
25. **DAMAGE TO PROPERTY.** Tenant covenants that it will permit no waste or damage to the leased property; that it will keep all improvements placed in the Coffee Shop in reasonably good order and reasonably good state of repair.
26. **QUIET ENJOYMENT.** County warrants that County is owner of the Coffee Shop and has the full right to make this Lease. County further covenants that Tenant will have quiet and peaceful possession of the Coffee Shop during the entire term as against lawful acts of third parties and as against the acts of all parties claiming title to, or a right to possess, the Coffee Shop.
27. **NON-APPROPRIATION/TERMINATION.** Tenant acknowledges that County's funding will come from government agencies subject to budgeting and appropriation rules and that County is subject to certain statutory restrictions with respect to its leasing of real property. Notwithstanding any other provision of this Lease, County may terminate this Lease upon a minimum of ninety (90) days written notice for any reason, including, but not limited to, if sufficient monies for the purpose of maintaining County's obligations under this Lease are not appropriated or available to County.
28. **SIGNS.** Tenant may, upon obtaining any necessary permits from governmental authorities, and the advance written approval of County, erect, maintain, repair and replace at Tenant's own expense, signs of such dimensions and materials as County may approve in advance of their installation. Any sign to be considered for approval by the County must meet current building standards. Tenant acknowledges that nothing may be mounted on wood doors or other finished wood surfaces. Tenant is responsible for all costs associated with the design, manufacture and installation of any signage in the Coffee Shop. Tenant is responsible for repairing any damage caused by the removal of Tenant's signage installed in the Coffee Shop or the Common Areas of the Building.

29. **CHANGE IN OWNERSHIP.** If ownership of the Coffee Shop or the name or address of the party entitled to rent will be changed, Tenant may, until receipt of written notice of such change, continue to pay rent to the party to whom and in the manner in which the last preceding installment of rent was paid. Tenant will not be subject to double liability for any rent so paid.
30. **SURRENDER/HOLDING OVER.** On termination of Tenant's occupancy, Tenant will surrender the Coffee Shop in the condition in which Tenant is required to maintain it under this Lease. If Tenant for any reason and only with written consent of County remains in possession after the expiration of this Lease (including any optional extension), or after the date specified in any notice of termination given by either party, such possession will be as a month to month tenant, subject to all conditions of this Lease other than the term hereof, at a monthly rent equal to that accruing during the last month of the preceding term. No holding over shall continue for more than six months at which time Tenant must vacate the Coffee Shop notwithstanding prior approval by County to remain unless Tenant enters into a new lease subject to the provisions of ARS § 11-256.
31. **INTERPRETATION OF LEASE.** The parties acknowledge that each has had the opportunity to review this agreement with counsel of its or their choice. This lease will not be construed most strongly in favor nor most strongly against either of the parties but will be interpreted fairly and equitably to effectuate the intent of the parties. All provisions contained in this lease will bind and inure to the benefit of the parties hereto, their successors and assigns.
32. **ENTIRE AGREEMENT.** This agreement contains the entire agreement between the parties and all previous agreements, negotiations, or understandings are superseded by and merged in this Lease. The parties may modify this Lease only by writing executed with the same formalities as this Lease.
33. **NON-DISCRIMINATION.** The parties will comply with all applicable state and federal statutes and regulations governing equal employment opportunity, non-discrimination, and immigration.
34. **NON-DISCRIMINATION IN EMPLOYMENT:** The parties will comply with all provisions and requirements of Arizona Executive Order 75-5, as amended by Executive Order 2009-09, which is hereby incorporated into this contract as if set forth in full herein, including flow down of all provisions and requirements to any subcontractors. During the performance of this contract, neither party will discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.
35. **CONFLICT OF INTEREST.** This Lease is subject to cancellation pursuant to the provisions of A.R.S. § 38-511 regarding Conflict of Interest.
36. **APPLICABLE LAW.** The parties will comply with all federal, state and local laws, rules, regulations, standards, Executive Orders, and Pima County Board of Supervisors' policies,

including Policy Number C. 3.18 entitled “Tobacco-Free Environment” attached hereto as Exhibit D, without limitation to those designated within this Lease. The laws and regulations of the State of Arizona govern the rights of the parties, the performance of this Lease and any disputes hereunder. Any action relating to this Lease will be brought and maintained in a court of the State of Arizona in Pima County. Any changes in the governing laws, rules, regulations, and Board of Supervisors’ policies during the terms of this Lease apply but do not require an amendment.

37. AMERICANS WITH DISABILITIES ACT. Both parties will comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the Act as it pertains to the Coffee Shop and use of the Coffee Shop. This will not obligate County to make any modifications to the Building or Coffee Shop, as a result of any change in the law or regulations, if such repairs are not otherwise legally required.
38. NON-PROFIT STATUS: If Tenant claims it is a nonprofit organization exempt from taxation under the United States Internal Revenue Code it will, upon written request from County, provide to the County within ten days, a copy of Tenant's letter of exemption from the Internal Revenue Service.

REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY

IN WITNESS WHEREOF, the parties have executed this Lease on the dates indicated below.

LANDLORD:

PIMA COUNTY, a political subdivision
of the State of Arizona

By: _____
Chairman of the Board of Supervisors

Date: _____

TENANT:

By: Erin Boyles
Authorized Signer

Date: Nov. 4, 2020

ATTEST:

By: _____
Clerk of the Board of Supervisors

Date: _____

APPROVED AS TO CONTENT:

By: _____
Lisa Josker
Director, Facilities Management

Date: 11/10/2020

APPROVED AS TO FORM:

Regina Nassen, Deputy County Attorney

Date: 11-9-2020

REGINA NASSEN

EXHIBIT A (1 of 3) Aerial

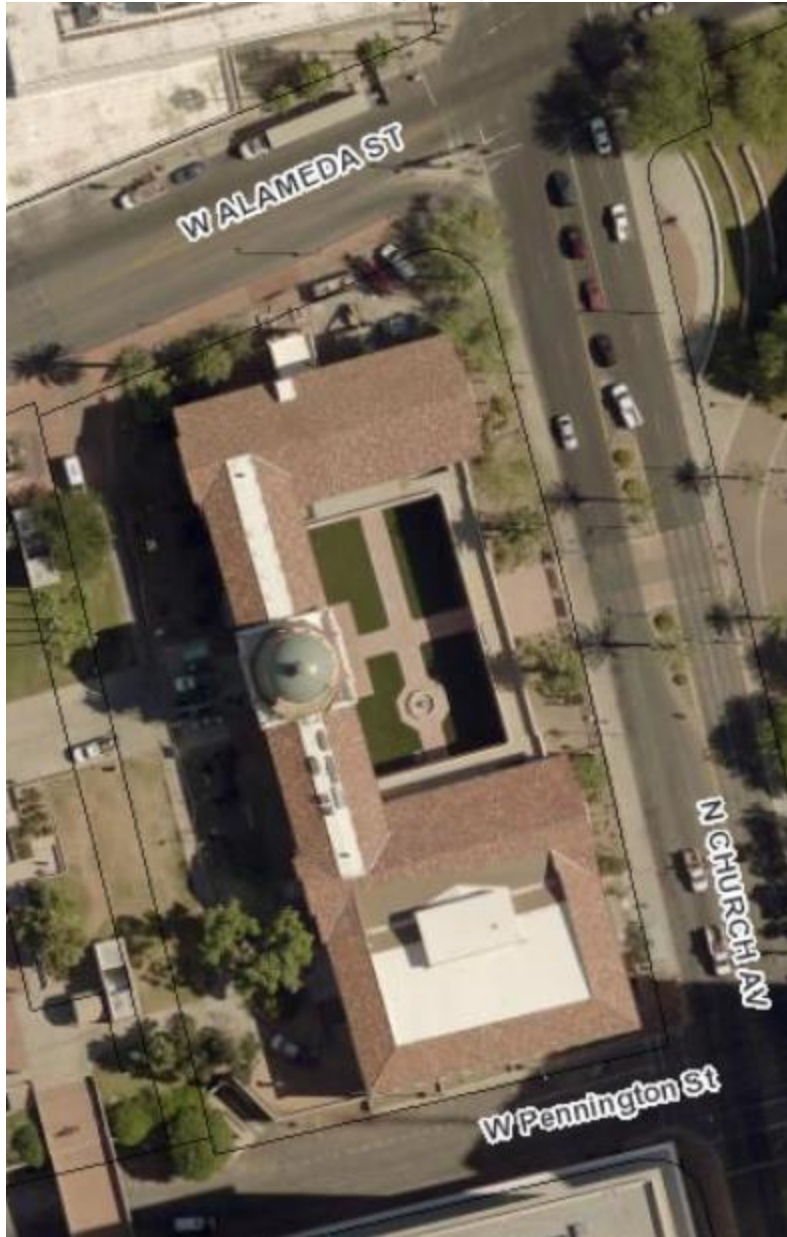
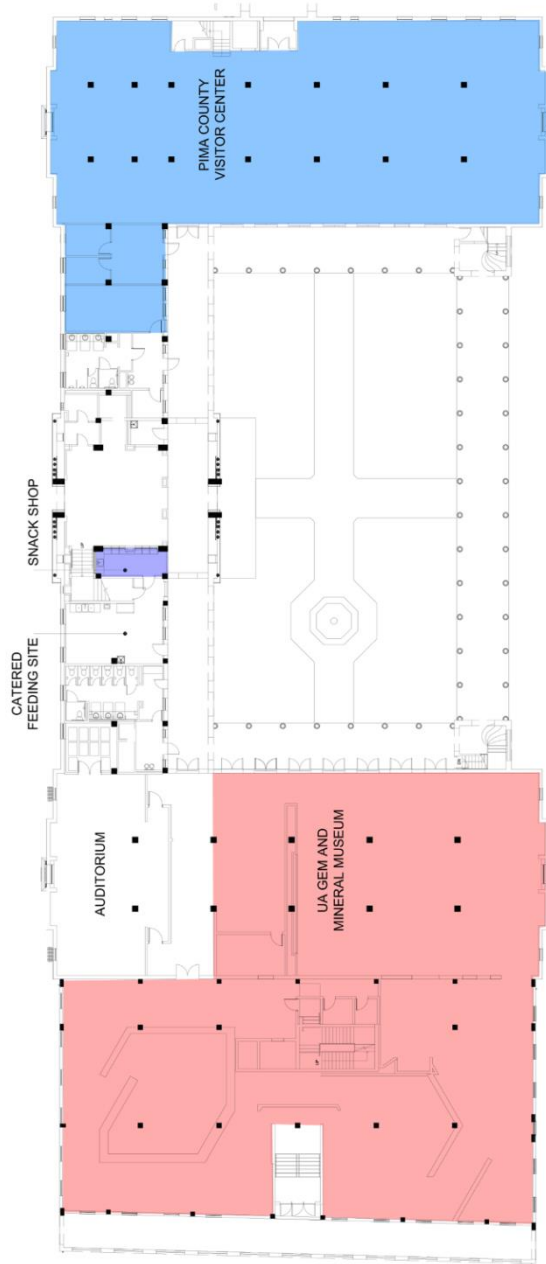


EXHIBIT A (2 of 3) Historic Courthouse



1

FIRST FLOOR

SCALE: 1/32"=1'-0"



EXHIBIT A (3 of 3) Historic Courthouse

1st Floor Common Area and Entry and Exit Path through Catered Feeding Site

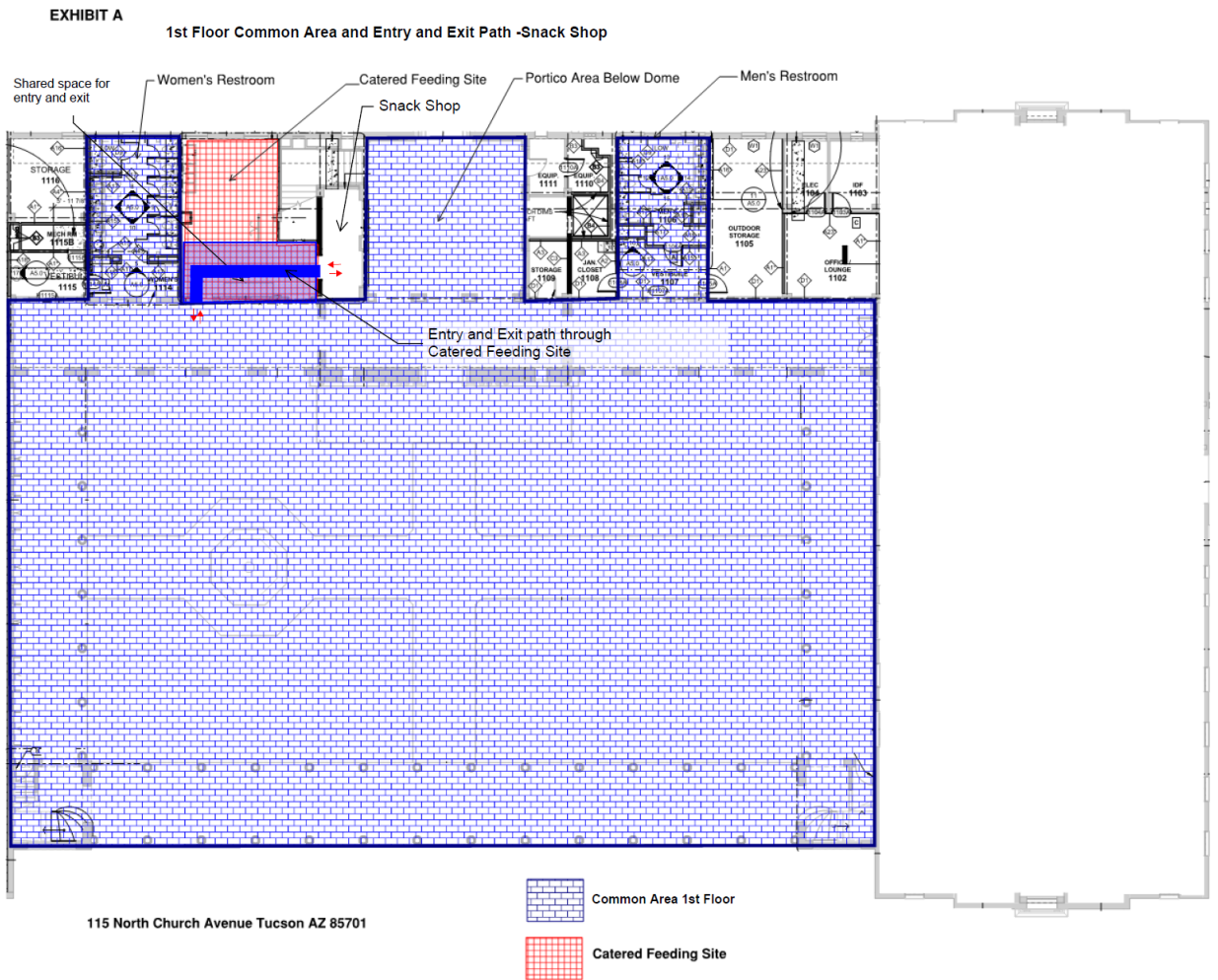


EXHIBIT B Snack/Coffee Shop and Catered Feeding Site

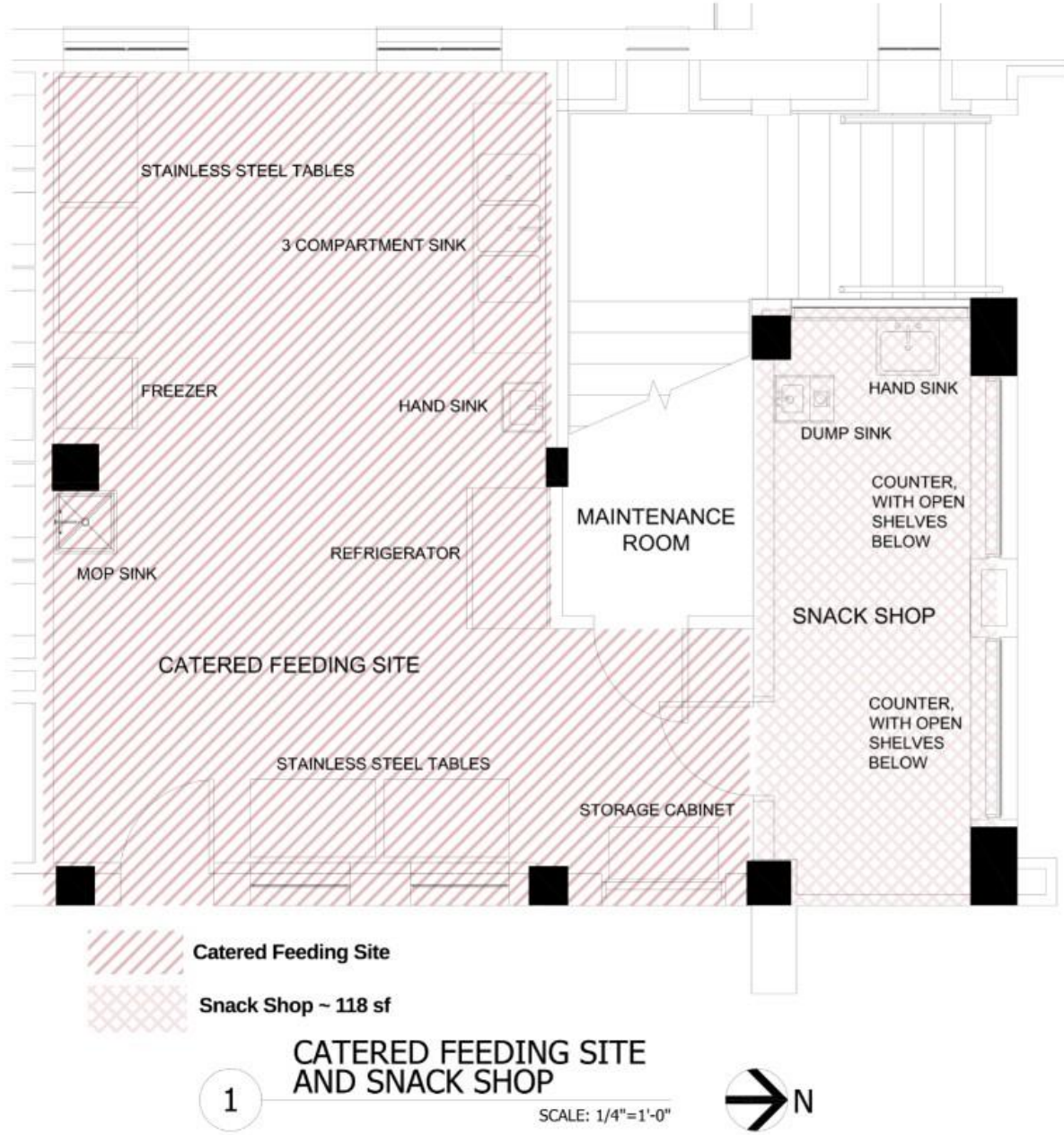


EXHIBIT C (1 of 4 pages)

Building Rules and Regulations and Coffee Shop Operating Parameters

These Rules and Regulations, if followed, will allow all tenants to enjoy a clean, safe environment while on the premises. County may occasionally change these, but they do not change any of the terms or conditions agreed to in the lease.

Anyone visiting should be aware of these rules and follow them. It's also important, whether a tenant or guest, that this information is shared.

Please communicate any concerns or violations to Pima County Facilities Management at FM-TenantRequest@pima.gov.

1. Don't place any signs, pictures or advertisements inside the building without first asking the County for permission. Unapproved sign, etc. may be removed by the County and if there is any cost, the tenant will be responsible. Any approved signs must be placed or attached to the wall next to the entry doors. Any cost to repair walls when signs are removed, will be the tenant's responsibility. Nothing unsightly, that can be seen from the outside of the building, should be placed near windows or doors, and no windows should be painted or color treated.
2. The sidewalks, exits and entrances, must remain clear and unobstructed at all times for safe and easy entry and exit.
3. No one should change any lock or install any additional locks or bolts on any doors or windows without County permission. For security reasons, all requests to open the building to guests or employees must be made by Tenant to County. If rekeying is necessary the County's authorized building locksmith will do the work and the tenant will be responsible for the cost, unless the County requests the work. Any installation or repair of specialty locks will be the tenant's expense. County shall have no obligation to open Tenant's Premises due to the loss of keys by Tenant. Tenant assumes all responsibility for protecting the Premises from theft, robbery, and pilferage, including, keeping all entries and exits closed and locked.
4. No foreign substance of any kind will be thrown into the toilets or poured down the drains. The plumbing facilities should only be used for their intended purpose. The tenant will be responsible for any expenses related to broken, damaged or stopped up plumbing.
5. Do not deface the Premises or install any rooftop signs, satellites, or antennas without written permission from the County. County will require specific information before providing approval. Tenant will be responsible for all costs related to any installation.

EXHIBIT C (2 of 4)

6. County will designate the moving of any County owned furniture, equipment or any other items in and out of the Building. County will consider the schedule of other occupants when moving. Any damage resulting from items moved by Tenant will be fixed to the County's satisfaction and be paid for by the Tenant.
7. No one shall use or store foul or noxious gas or substances in the Premises, allow the Premises to be occupied or used in a manner objectionable to the County or the other occupants. Noise, odors and/or vibrations, or that would interfere with others in the building with not be tolerated. Only service animals are allowed in the building.
8. Kerosene, gasoline, or flammable or combustible fluid or material, are not allowed in the building or on the Premises. Only the heating and air conditioning supplied by the County will be used.
9. Periodically, the Tucson Fire Department or other County contractors or representatives will inspect the Premises to make sure it meets Fire Code compliance and that all sprinkler and alarms are working properly. Everyone will comply with fire safety and handicap procedures and regulations established by the County and/or any government agency. Tenant shall distribute to everyone using the Building and Premises a copy of these Guidelines and all fire drill safety and handicap material provided to it by the County or any governmental agency. **If an audible fire alarm is sounded in the Building or on the Premises, Tenant must take immediate and prudent actions to evacuate everyone from the Building or Premises through designated exits.** Tenant shall notify County in writing of the emergency contact information of two on-site employees or representatives who are responsible for emergency evacuations or fire drills for their Premises. Tenant is responsible for notifying the County in writing of any changes to such assignments. Each Tenant will notify the County of any handicapped occupants or other individuals who may require special assistance in the event of an emergency.
10. County will direct installers or contractors where telephone and network cables are to be placed. No boring or cutting will be allowed without the County permission. Any item that must be attached to the building must first be approved by the County.
11. After normal business hours, the tenant may enter and exit. The County is not liable for damages related to unauthorized or attempted entry. County reserves the right to prevent access to the Building or Premises during extraordinary circumstances (ex. invasion, mob, fire alarm, bomb threat, riot, public excitement, etc.) for the safety of occupants and protection of the Building or Premises.

EXHIBIT C (3 of 4)

12. County reserves the right to exclude or expel from the Building or Premises any person who, in the judgment of County, is intoxicated or under the influence of alcohol or drugs, is acting in violation of any of these guidelines or is considered a threat to the safety of others.
13. No machines of any description shall be installed or operated in the Building or on the Premises without the County's written permission.
14. No soliciting is allowed on the Premises.
15. The County controls and operates the Common Area(s), which include public facilities, heating and air conditioning for the benefit and safety of the occupants.
16. Please keep all entrances locked when not in use. All emergency fire exit doors must remain clear (inside and out) and locked when not in use.
17. All exterior areas will be kept clean and free from dirt and garbage and are not to be used as storage areas.
18. Only County approved bike storage racks and refuse containers should be used.
19. When no longer needed, please return all keys and security access cards to County.
20. No electrical cooking appliances, other than microwave ovens and coffee machines located in the kitchen/breakroom are allowed.
21. No space heaters, floor fans or floor lamps are allowed.


Historic Courthouse Coffee Shop Operating Parameters **September 2019**

- Operator shall take condition of Coffee Shop "as is"
- Due to the historic nature of the facility, any proposed improvements to the building must be reviewed and approved by Pima County Facilities Management.
- Operator shall, if necessary, submit plans for permitting purposes to the Pima County Health Department for review and approval
- Any and all proposed improvements must be approved in advance and in writing by Pima County Facilities Management and, if approved, shall be submitted to Pima County Development Services for purpose of issuing all required permits
- Operator shall obtain all necessary licenses registrations, certifications or permits required for the operation of the Coffee Shop prior to serving the public

EXHIBIT C (4 of 4)

- The Operator and Business shall remain in compliance with current Pima County Health Code standards at all times.
- No open flame of any kind at any time shall be permitted.
- Hours of operation shall be normal hours of operation ("Building Hours"). Any hours in addition to those required shall be mutually agreed upon by County and Tenant.
- The Operator shall conduct no activities deemed detrimental to the ongoing operations of the Pima County Historic Courthouse tenants and other business entities operating in the area. (ex. no loud music, vibrations, noxious odors, etc.)
- Menu boards and advertising/signage will be reviewed and approved by County and will not detract from the historic nature of the building.
- Operator is responsible for provisioning the shop.

EXHIBIT D (1 of 2 pages)

		
PIMA COUNTY, ARIZONA BOARD OF SUPERVISORS POLICY		
<u>Subject:</u> Tobacco-Free Environment	Policy Number	Page
	C 3.18	1 of 2

Purpose:

Smoking and the use of tobacco related products are a major cause of preventable disease and death. As a leading employer and health proponent Pima County is committed to the promotion of health, wellness, and the prevention / treatment of diseases. Pima County also serves as a model for the public influencing attitudes about smoking and the dangers of tobacco products. The purpose of this tobacco-free policy is to create tobacco-free environments for all Pima County facilities, public buildings and adjacent properties, to provide Pima County employees and the public with guidelines for managing and supporting this policy, and to encourage a healthy lifestyle for all personnel and visitors.

Background:

As a major entity involved in the promotion of public health and safety within Pima County, the Board of Supervisors promotes and encourages the establishment of a tobacco-free zone on County facilities, public buildings and adjacent properties. The Board of Supervisors has previously established wellness as a priority for all County employees, by the adoption of the long-range Sustainability Program and employee incentives in the way of premium discounts for health insurance benefits. The establishment of a tobacco-free policy is the natural continuance of those efforts.

Policy:

It is the policy of the Board of Supervisors that to provide a safe and healthy environment for all employees, and the general public.


The Board of Supervisors prohibits the use of tobacco products at all times on County facilities, public buildings and adjacent properties, and in County vehicles. This prohibition applies to all employees, and to all visitors and other persons at any County sponsored activity or event conducted on County facilities, in public buildings or on adjacent properties.

Definitions:

Tobacco Products include cigarettes, cigars, pipes, smokeless tobacco, water pipes, hookah, e-cigarettes, chewing tobacco, snuff and other products containing tobacco.

County Facilities, Public Buildings and Adjacent Properties including County owned or leased properties and a facility occupied or used by any County personnel, visitor, or vendor, and includes but is not limited to buildings, courtyards, walkways, breeze-ways, parking lots, parking structures, County vehicles (owned or leased), loading docks or construction sites.

EXHIBIT D (2 of 2)

	PIMA COUNTY, ARIZONA BOARD OF SUPERVISORS POLICY	
	<u>Subject:</u> Tobacco-Free Environment	Policy Number C 3.18

Compliance:

County personnel are responsible for compliance with the policy.

Visitors and vendors observed to violate this policy shall be respectfully informed of the Tobacco-Free Environment Policy and asked to comply. If a visitor or vendor neglects to comply, that neglect to comply may be used as grounds for prohibiting access to premises or facilities by said visitor or vendor.

If any individual violating the policy appears agitated or otherwise confrontational regarding compliance, then County personnel shall immediately inform the staff responsible for the facility or security personnel if available and shall engage in no further intervention.

All vendors doing business with Pima County shall be notified of the Tobacco-Free policy and shall be expected to comply with the policy. Organizers and supervisors of public events, conferences, meetings and work activities on County facilities, work sites, public buildings and adjacent properties shall be responsible to communicating the requirements of the Tobacco-Free Policy to such events or conferences for attendees.

All new employees of Pima County will be informed on and educated about the Tobacco-Free Policy and the requirement that employees comply with the policy. Additionally, new employees shall be made aware of the availability of tobacco cessation programs sponsored or funded by Pima County.

References:

Pima County Ordinance, Chapter 2.12
Pima County Code, Section 8.50

Effective Date: January 1, 2013