



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

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: 12/20/2022
or Procurement Director Award: ☐

**=Mandatory, information must be provided*

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

EMS Leasing Company, LLC

***Project Title/Description:**

1150 W. Drexel Rd. Lease

***Purpose:**

Short-term Lease of the Building located at 1150 West Drexel Road, Tucson, AZ 85706 so that Catholic Community Services of Southern Arizona, Inc. (CCSSA) is able to continue to provide humanitarian aid and assistance to asylum seekers who have been dropped off at facility by Immigration and Customs Enforcement (ICE) and who are legally present in the United States while their asylum claims are being processed. Migrant families and individuals temporarily rest, rehydrate, eat, and care for their children at the facility while CCSSA volunteers help them contact family members or contacts in other parts of the United States.

***Procurement Method:**

Exempt Per Section 11.04.020.

***Program Goals/Predicted Outcomes:**

To provide a single-stop, "big box" facility that meets CCSSA criteria for providing safe, sanitary shelter and temporary respite for asylum seekers who are legally present in the United States, along with capacity to accommodate more volunteers who are providing humanitarian aid and travel processing assistance.

***Public Benefit:**

The Board of Supervisors has determined that leasing the Property and providing it to CCSSA for operation of its humanitarian respite services, as well as providing other assistance, will keep the legally-present, unsheltered migrant families and individuals off the streets and help them quickly and efficiently reach their relatives within the United States, thereby improving community safety and enhancing the general and economic welfare of the inhabitants of the County. This is preferable to the street-releases of these asylum seekers by Department of Homeland Security agencies.

***Metrics Available to Measure Performance:**

CCSSA should be able to provide County with ongoing statistics on assistance provided.

***Retroactive:**

No

TO: COB 12-7-2022 (1)
VER: 1
Pgs: 1

DEC06'22PM0347 PD

THE APPLICABLE SECTIONS(S) BELOW MUST BE COMPLETED

Click or tap the boxes to enter text. If not applicable, indicate "N/A". Make sure to complete mandatory (*) fields

Contract / Award Information

Document Type: CT Department Code: FM Contract Number: (i.e., 15-123): 23-153

Commencement Date: 12/20/2022 Termination Date: 06/19/2023 Prior Contract Number (Synergen/CMS): N/A

☒ Expense Amount \$: \$332,448.78 ☐ Revenue Amount \$: _____

Funding Source(s) required: FEMA EFSP Humanitarian Relief (authorized by DHS Appropriations Act)

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

Contract is fully or partly funded with Federal Funds? ☒ Yes ☐ No

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

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: _____

Amendment Number: _____ AMS Version: _____ Prior Contract Number (Synergen/CMS): _____

Commencement Date: _____ Termination Date: _____

☐ Expense ☐ 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:

*Matching Funding from General Fund? ☐ Yes ☐ No If Yes, \$ _____ % _____

*Matching 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 Telephone: 520-724-8230

Department: Facilities Management

Department Director Signature: _____ Date: 12/5/2022

Deputy County Administrator Signature: _____ Date: 12/6/2022

County Administrator Signature: _____ Date: 12/6/2022

Pima County Department of Facilities Management

Project: 1150 W. Drexel Rd. Lease

Contractor: EMS Leasing Company, LLC

Amount: \$332,448.78

Contract No.: CT-FM-23-153

LEASE AGREEMENT

This Lease Agreement ("**Lease**") is entered into by and between EMS Leasing Company, LLC, a California limited liability company ("**Landlord**"), and PIMA COUNTY, a political subdivision of the State of Arizona ("**Tenant**" or "**County**"), collectively referred to herein as ("**Parties**").

1. Background and Purpose.

- 1.1. Landlord owns a building located at 1150 West Drexel Road, Tucson, AZ 85706 (the "**Building**"), situated on Tax Parcel #137-05-5430, which contains approximately 65,250 square feet ("**RSF**"). The Building and Parcel are shown on **Exhibit A**.
- 1.2. The Building has associated with it certain interior and exterior areas for the common use, including but not limited to, lobbies, entryways, sidewalks, canopies, parking lots, landscaped areas, loading platforms, ramps, and other similar facilities (the "**Common Areas**").
- 1.3. If this Lease is approved by the Pima County Board of Supervisors ("**Board of Supervisors**"), it is County's intent to immediately occupy the Premises and be fully operational within 30 days of Lease execution.

2. Lease/Premises.

- 2.1. **Lease.** In consideration of all rent monies and all terms, conditions, covenants, and agreements contained herein, Landlord hereby lets to County and County hereby leases from Landlord, the Building and the Parcel, including Common Areas and associated improvements shown in **Exhibit A** ("**Premises**").
3. **Term.** The Initial Term of this Lease is a period of six months commencing on the date agreement is fully executed ("**Commencement Date**").

4. **Extension.** At the end of the Initial Term, if County is not in default under the Lease, the Lease will continue on a month-to-month basis. Beginning on the 121st day of the Initial Term, Landlord or Tenant shall have the option to terminate the Lease at any time with 60 days written notice. During any extension term, Landlord or Tenant may terminate the Lease with 60 days written notice.
5. **Rent.**
 - 5.1.1. **Base Rent.** County will pay Landlord a base rent of \$55,408.13 per month (approximately \$10.19/RSF/year) rent during the Term (the “**Base Rent**”).
6. **Payment of Base Rent.** Tenant will, upon Commencement Date, pay Landlord in advance the Base Rent for the first three months of the Term which is equal to \$166,244.39. On the 1st day of the following month, Tenant will pay Landlord in advance the Base Rent for the next three months of the Lease Term which is equal to \$166,244.39.
7. **Permitted Use.** The Premises will be used by County, and its approved operator Catholic Community Services of Southern Arizona, an Arizona non-profit corporation (“**CCSSA**” or “**Operator**”), or another approved Operator designated by County, who would then substitute in as Operator in place of CCSSA, during the Term of the lease agreement, to provide temporary respite, humanitarian shelter, hospitality, and travel-processing services to legally present migrant families and asylum seekers. Any other potential uses will be mutually agreed to by Parties.
8. **Landlord Repairs.** Once this Lease is fully executed, Landlord at its sole cost and expense, agrees to repair, replace, and restore vandalized heating, ventilation, and air conditioning system (“**HVAC**”) to a fully functional status, and provide documentation of system condition and work completed. Parties understand that completion of HVAC repair and restoration will not alter Commencement Date. However, the vandalized HVAC systems have been exposed to the elements and the elements have created an unhealthy condition, with pigeons nesting within the exposed ductwork. Therefore, prior to Commencement Date, Landlord agrees to clean and disinfect system ductwork to allow for safe occupancy of the Premises. Once HVAC is placed into full service, Landlord will be responsible for ongoing maintenance and repair of HVAC system, the cost of which will be billed back to Tenant. Landlord agrees to replace gauges per recent fire safety inspection report and provide documentation for work completed and system passes inspection and is in fully functional and compliant.
9. **Exterior Generator.** If County wishes to utilize the exterior generator, both Landlord and County will get estimates for returning generator to full service. Once Parties have had an opportunity to review costs, they will mutually agree on ongoing repair and maintenance, cost sharing, and reimbursement.
10. **Uninterrupted Power Supply.** If County wishes to utilize battery bank (“**UPS**”), both Landlord and County will get estimates for returning UPS to full service. Once Parties

have had an opportunity to review costs, they will mutually agree on ongoing repair and maintenance, cost sharing, and reimbursement.

11. **Condition of Premises.** With the exception of the aforementioned items in section 8, County accepts the Premises in “as-is” condition as of the date of the mutual execution of this Lease. Landlord makes no claims regarding suitability for County’s intended use.
12. **Minor Alterations.** Landlord agrees that County may alter and rearrange the Premises from time to time as may, in the opinion of County be necessary, provided however that such alterations and rearrangements will not adversely affect the structural soundness of the Building, and that Landlord is notified in writing in advance and gives written approval to such changes, which will not be unreasonably withheld. County will communicate and deliver a copy of plans to Landlord in advance of construction for alterations estimated to be greater than \$100,000. Landlord agrees that, at the end of the Term or any renewal or extension period thereof, County must restore the building to its original condition unless changes are accepted and approved by Landlord. County may securely attach to the Premises, with screws or otherwise, such fixtures or other articles as may be convenient for the conduct of its business and use including, but not limited to, desks, counters, partitions, dividing walls, shelving, lighting fixtures. Any fixtures installed by County will be maintained by County, during the continuance of the Term and any renewal or extension thereof; and all such fixtures installed by County will remain the personal property of County and, at County’s election, shall be removed by County at, or prior to, the expiration of the Term or any renewal or extension period; provided County will repair any material damage caused by such removal. County shall not make any penetrations of the roof of the Building and shall not permit Operator to make any penetrations of the roof of the Building, without the prior written consent of Landlord. Should County wish to leave any fixtures installed on the Premises, written Landlord approval will be required.
13. **Security Deposit.** No later than 30 days after Lease is fully executed by the Board of Supervisors, County will provide a security deposit for damage to the Premises in the amount of \$50,000.00 (“**Security Deposit**”).
14. **End of Lease Term.** County will deliver the Premises to Landlord vacant, broom clean, well maintained and in as good or better condition as they were at the date of possession by Tenant, with exceptions for ordinary wear and tear, approved and authorized alterations, and damage resulting from casualty or condemnation that Tenant is not obligated to repair.
15. **Liens.** County will timely pay all contractors, subcontractors, mechanics, laborers, or materialmen providing materials or services with respect to the Improvements, and will not permit any lien to attach to the Premises or any interest therein, and will indemnify and defend Landlord against all legal costs and charges resulting from any such lien.
16. **Operating Expenses.** The cost and expense for the following specific items listed below in section 17 and 18 are to be paid directly by the responsible party.

17. County Responsibilities.

- 17.1. **Utilities.** County, at its sole cost and expense, will pay for all utilities, including natural gas, electricity, water, sewer, trash, and recycling collection services. For County to receive any reimbursement from state or federal grant programs, it is a requirement that utilities be in County name, and County pay for all utilities directly.
- 17.2. **Repair & Maintenance.** County, at its sole cost and expense, is responsible for the repair and routine maintenance of the interior leased portions of the Premise. This includes, but is not limited to, all equipment or facilities located inside the Premises such as plumbing, electrical wiring, outlets and switches, walls, paint, floor, carpet, ceiling, interior lighting, interior doors, door frames, interior windows, and window frames.
- 17.3. **Interior Security Systems.** County will be responsible for interior security cameras and security systems installed/owned by County or Operator. County shall not disturb Landlord's security cameras that are in place currently. Landlord's IT staff shall coordinate with County to either disable or share use of the existing camera system.
- 17.4. **Furniture, Fixtures and Equipment.** Prior to end of Initial Term or Extension Term, County will, at its sole cost and expense, remove and dispose of all furniture left behind by the previous tenant.
- 17.5. **Janitorial Services.** County will directly contract for, or provide Janitorial Services for the Premises.
- 17.6. **Telecommunications.** County or Operator, at its sole cost, may install its own telecommunication systems and equipment including telephone, data, network connections and systems, and Internet connectivity ("Telcom"), and will be responsible for maintaining the systems and equipment and will directly pay for all such services and equipment. Landlord upon execution of this Lease, or by separate agreement, grants access and permits third-party Telcom services providers Right of Entry to the Premises for the purposes of installing Telcom. If necessary, Operator will obtain Telcom connection(s) from a local ISP and will maintain it at its own expense. County may use its own ISP connection hardware. County or Operator are responsible all aspects of Telcom under its control, and for securing same from intrusion or damage. County shall not make any penetrations of the roof of the Building and shall not permit Operator to make any penetrations of the roof of the Building without the prior written consent of Landlord.
- 17.7. **Operator Insurance.** Tenant shall cause and require Operator, during its operations on Premises, at its sole expense, carry and keep in full force and effect, the following insurance: (1) a commercial general liability insurance policy (on an occurrence basis) insuring against all claims for personal

injury, death or property damage occurring upon, in or about the Property, with combined single limits of at least \$2,000,000 per occurrence, including broad form blanket contractual coverage covering Operator's obligations under this Agreement, naming County and Landlord as additional insureds; (2) worker's compensation and employers liability insurance; (3) automobile and motor vehicle insurance covering all operations of Operator and all vehicles and equipment used by Operator; and (4) any other form or forms of insurance as County or Landlord may reasonably require from time to time. Such insurance policies must: (i) be written and issued by insurance companies licensed to issue policies in the State of Arizona and rated "A/VII" or better by A.M. Best Co. in Best's Key guide; and (ii) include a waiver of subrogation endorsement (or equivalent) in favor of County and its respective agents, employees, partners, directors and officers. Tenant shall provide reasonable evidence of the foregoing insurance to Operator upon Tenant's execution of a cooperative agreement with Operator.

18. **Landlord Responsibilities.** Subject to section 36 concerning damages resulting from casualty during the Term, Landlord, at its sole cost and expense, is responsible for repair, maintenance, and replacement of the following: Structural components of the Building, foundations, exterior Building walls, roof, gutters, drains, and exterior paint, except to the extent of any damage caused by Tenant, Operator, or the invitees, guests, agents, contractors or licensees of Tenant or Operator.
19. **Operating Costs.** With the exception of the specific items described elsewhere in this Lease which are paid for directly by the responsible party, the maintenance and repair of the following items in this section 19 will be the responsibility of Landlord and will be passed through to County via estimated monthly operating costs, which Landlord estimates to be \$4,890/month ("**Estimated Cost**"). The Estimated Cost will be reconciled quarterly against actual costs, and depending on whether County has overpaid or underpaid Estimated Cost, a credit or debit will be applied to the Tenant billing statement. For accounting purposes, County may pay Estimated Cost for the quarter in advance.
 - 19.1. Fire Safety Systems and related equipment, including but not limited to, main water line connection valves and shutoffs, sprinkler systems, fire alarm systems, detectors, fire exit signage, emergency lighting, annual fire system maintenance and inspections, fire extinguishers and other fire suppression apparatus. All certifications, inspections and maintenance will be the responsibility of Landlord.
 - 19.2. HVAC systems, Building mechanical systems, all plumbing and electrical systems, exterior gates and actuators, exterior doors and windows, exterior signs, exterior security cameras, termite/pest control, landscaping, parking lot sweeping, and exterior lighting will be the responsibility of Landlord.
 - 19.3. **Site Manager.** Landlord will contract with CAMCO, to provide a primary contact for County to make requests for repairs. Other than HVAC repairs which shall be reported directly to Landlord, Tenant shall make all other

repair requests directly to CAMCO. To the extent such repairs are a Tenant obligation under this Lease, Landlord shall charge such expense back to Tenant. CAMCO currently charges \$75.00 per hour with a one hour minimum for its services.

20. **County Self-Help.** County may “self-help” for repairs and maintenance. Operator will be operating the facility 24 hours a day, seven days a week. Requests for maintenance and repair services are not limited to normal business hours and may require immediate attention. Therefore, due to the specific nature of this Lease and the Permitted Use, and especially for matters related to occupant’s health or safety, if Landlord fails to make any repairs or perform any maintenance of the Premises that Landlord is responsible for under the terms of this Lease, or if County is unable to connect Landlord or Landlord’s designee regarding needed repairs after reasonable attempts to do so (taking into account the nature of the problem), County may cause the repairs to be done and may invoice Landlord for the its actual cost of such repairs, if work is performed by the County “shops”, or if work is contracted by County, the actual cost, or in either case credit repair costs against any payments or charges related to this Lease.
21. **Taxes.** Landlord will be responsible for all taxes or assessments, if any, that Landlord is required to pay related to this Lease, the Premises, or the rent paid to Landlord under this Lease, including any commercial lease tax, that Landlord has agreed to pay, and will pay when due all property taxes on its real and personal property.
22. **Insurance.** During the Lease Term, Landlord, at its sole cost and expense, will be responsible for maintaining Commercial General Liability and Property Insurance covering leased Premises.
23. **Cooperating Agreement with Operator.** County currently has a cooperating agreement with Operator to provide services as described in Section 7. County intends to amend the existing cooperating agreement with Operator to include Premises for its operations. Once fully executed County will provide a copy to Landlord.
24. **Sublease and Assignment.** County may not assign its rights and obligations under this Lease or sublease all or any portion of the Premises without Landlord’s prior written consent, which shall not be unreasonably withheld.
25. **Parking.** County’s employees, Operator and visitors may park in any parking spaces in the Building parking lot.
 - 25.1. **Parking Lot.** All parking areas and surfaces shall be delivered in as-is condition. All exterior gates, gate actuators and fencing will be in good repair at the time of signing of the Lease. County will return same, in good or better condition as they were at the date of possession by County, ordinary wear and tear, approved and authorized alterations, and damage resulting from casualty or condemnation that County is not obligated to repair, excepted.
26. **Prohibited Uses.** County will not use, or permit any portion of the Premises to be used in any way that would constitute a violation of any law, ordinance (including zoning), or

governmental regulation or order, or that would constitute a nuisance or waste or would interfere with other users of the Building or neighboring properties. Tenant shall indemnify, defend and hold Landlord harmless from any actual loss or damage which Landlord may incur due to any non-compliance with the foregoing requirements by Tenant or Operator.

- 26.1. **Licensure/Permits.** County or Operator will, if necessary for its operations on the Premises, apply for and obtain any licenses, registrations or permits that may be required during the Term of this Lease and will maintain same in good standing throughout the Term of this Lease.
27. **County Damage.** County will promptly repair any damage done to the Premises by any employee, agent, contractor or invitee of County.
 - 27.1. **Notification to Landlord.** If a repair is needed, for which Landlord is responsible, County will notify Landlord, or Landlord's authorized designee by email addressed to jw@smiser.net or calling Joe Warren. Landlord will immediately cause such repairs and/or replacements to be in process in a commercially reasonable timeframe, except that, in the event of a breakdown that results in any condition that materially interferes with or effects the health and safety of the occupants or with County or Operator's ability to use the Premises for its Permitted Use and in a safe and comfortable manner, or in emergent situations, the emergency response period will be as fast as possible. If Landlord, after notice, fails to make repairs in a timely manner, County may cause repairs to be made and invoice Landlord for County's actual cost. Due to current workforce shortages within trades, County and Landlord agree to work closely and communicate and cooperate on repair and maintenance matters.
 - 27.2. **Notification to County by Operator.** If repair is needed, for which County is responsible, County will be first point of contact for Operator. County will diagnose and evaluate any repair and maintenance issue. If County requires any additional assistance to effect repairs, County may enlist the services of CAMCO, or another designee of Landlord and County agrees to reimburse Landlord for cost of services.
 - 27.3. **Equipment.** County will maintain, repair and replace all fixtures and equipment provided and installed by County, including but not limited to security cameras, office equipment, kitchen appliances, conference room appliances and other equipment.
28. **Security and Access.**
 - 28.1. **Hours of Access.** County will have access to the Premises twenty-four (24) hours a day, seven (7) days per week, three hundred sixty-five days (365) days per year. County may utilize its own access technology to secure the Premises.
 - 28.2. **HVAC Hours/Access:** County will, during the Term of the Lease have full access and control of HVAC systems.

- 28.3. **Security Personnel.** County, at its sole cost and expense, will maintain security personnel on the Premises 24 hours a day, seven days a week.
- 28.4. **Exterior Doors.** County may, at its own cost and expense, if necessary, re-key exterior doors.
- 28.5. **Security Systems and Services.** County or Operator will, if necessary, at its own expense, provide for its own security systems, security cameras, and security personnel.
- 28.6. **Landlord Access to the Premises.** With reasonable notice, County will permit Landlord or Landlord's authorized representatives to enter the Premises for purposes of inspection, and general Landlord purposes, making any repairs and performing any work therein as may be necessary for Landlord to comply with its obligations under this Lease Agreement. Landlord, in the performance of any such work, will cause as little inconvenience, annoyance, disturbance, or damage to County as reasonably possible under the circumstances. County will provide copies of keys to Landlord, for re-keyed doors.
- 28.7. **Fire Safety Systems.** Landlord will, at all times have access to any and all Fire Risers and all related fire safety infrastructure and will be responsible to maintain all fire safety systems and related fire suppression equipment.

29. **Signs.**

- 29.1. **Installation and Maintenance.** County may install exterior and interior signage at its expense, and will maintain, repair and replace all installed signs at its expense. If requested by Landlord, County will remove all exterior and interior signs, and repair any damage done by the removal, at the expiration or termination of the Term.
- 29.2. **Exterior Signs.** Exterior signs must comply in all respects with the City of Tucson sign codes, and are subject to Landlord's approval, which will not be unreasonably withheld.

30. **Indemnification.**

- 30.1. To the fullest extent permitted by law, Landlord will defend, indemnify, and hold harmless Pima County and any related taxing district, and the officials and employees of each of them (collectively, "Indemnatee") from and against any and all claims, actions, liabilities, losses, and expenses (including reasonable attorney fees) (collectively, "Claims") arising out of actual or alleged injury of any person (including death) or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by any act or omission of Landlord or any of Landlord's directors, officers, agents, employees, volunteers, or subcontractors. This indemnity includes any claim

or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Landlord to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. The Indemnatee will, in all instances, except to the extent that Claims arise from the acts or omissions of the Indemnatee, be indemnified by Landlord from and against any and all Claims. Landlord is responsible for primary loss investigation, defense and judgment costs for any Claim to which this indemnity applies. This indemnity will survive the expiration or termination of this Lease.

302. To the fullest extent permitted by law, Pima County will defend, indemnify, and hold harmless Landlord, its members, managers, directors, officers, agents, and employees (collectively, "Landlord Indemnatee") from and against any and all Claims arising out of actual or alleged injury of any person (including death) or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by any act or omission of Pima County, Operator, or any of their respective directors, officers, agents, employees, volunteers, or subcontractors. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Pima County or Operator to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. Landlord Indemnatee will, in all instances, except to the extent that Claims arise from the acts or omissions of Landlord Indemnatee, be indemnified by Pima County from and against any and all Claims. Pima County is responsible for primary loss investigation, defense and judgment costs for any Claim to which this indemnity applies. This indemnity will survive the expiration or termination of this Lease.

31. **County Insurance.** County may self-insure for any losses.

32. **Default.**

- 32.1. **County Default.** The occurrence of any one or more of the following events will constitute a default and breach of this Lease by County for which Landlord may terminate this Lease:

- 32.1.1. *Monetary Obligations.* The failure by County to make any payment required to be made by County under this Lease, as and when due, where such failure continues for a period of 21 calendar days after notice from Landlord that the payment is due.
- 32.1.2. *Violation of Law.* Use of the Premises for any unlawful or illegal purpose, which use continues for a period of 5 days after written notice from Landlord; provided that County will not be entitled to the benefit of more than one such 5- day grace period during the Term.
- 32.1.3. *Health and Safety Violation.* Any action or omission by County that, in Landlord's reasonable judgment, causes a threat to the health or safety of the general public or the users of the Building, which continues for a

period of 3 days after written notice from Landlord. County's failure to obtain and maintain any required license and/or registration for its operations at the Premises is considered a violation under this paragraph.

32.14. *Other Covenants.* The failure by County to observe or perform any other of the covenants, conditions or provisions of this Lease to be observed or performed by County, where such failure continues for a period of 30 days after written notice from Landlord to County; provided, however, that if the nature of County 's default is such that more than 30 days are reasonably required for its cure, then County will not be deemed to be in default if County commences such cure within said 30-day period and thereafter diligently prosecutes such cure to completion provided such cure is completed within one hundred and twenty (120) days of the notice by Landlord.

32.2. **Landlord Default.** Landlord will be deemed to be in default under this Lease if Landlord fails to perform any covenant or condition of this Lease to be performed by Landlord and such failure continues for 30 days after written notice and demand from County (unless the failure is of such a character as to require more than 30 days to cure, in which event Landlord will be in default only if it fails to initiate the cure within thirty days and thereafter diligently pursue the same to completion).

32.3. **Remedies.** Either party may pursue any remedies provided by law and in equity for the breach of this Lease, including termination of the Lease.

33. **Notices.** All notices to be given under this Lease must be in writing and be either served personally or sent by certified or registered mail, return receipt requested, or electronic transmission, to the Parties as indicated below or to such other persons, or addressees as either party may designate in writing to the other party:

Landlord : EMS Leasing Company, LLC
Attention: Elizabeth Smiser
PO BOX 181977
CORONADO, CA 92178
Email: jw@smiser.net

County: Director, Pima County Facilities
Management 150 W. Congress
Street, 3rd Floor
Tucson, Arizona 85701
Email: FM_Leasing_Services@pima.gov

34. **Non-Disturbance.** Landlord represents and warrants that there is currently no monetary encumbrance or lien on the Premises. County will subordinate its interest in this Lease to any future encumbrance if County receives a commercially reasonable non-disturbance and attornment agreement from the holder of such encumbrance. County shall have thirty

(30) days following receipt of a written request from Landlord to execute such agreement so long as the agreement states (a) the lease is unmodified and in full force and effect; (b) the dates to which rent has been paid; (c) whether or not, to County's best knowledge, Landlord or County is in default in the performance of any obligation hereunder and, if so specifying in reasonable detail the nature of such default; and (d) that County has accepted the Premises.

35. **Environmental.** County shall comply with all present and future laws and regulations regulating the environment, hazardous or toxic waste, ambient air, groundwater, surface water, and land use.

36. **Destruction of Premises.** If at any time during the Term of the Lease, the Premises becomes partially or totally destroyed by reason of any damage by fire, flood, hurricane, windstorm or other casualty or act of God and Landlord cannot or does not fully repair the Premises within ninety (90) days through no fault of County then this Lease shall terminate and County will be relieved of any further obligation, duty or liability under this Lease. If the Premises 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 Base Rent will be abated by the percentage of the total space that is unavailable or not reasonably useful to County.

37. **Condemnation.**

37.1. **Complete Taking.** If the whole of the Premises is taken or condemned for any public or quasi-public use or purpose, by right of eminent domain or by purchase in lieu thereof, or if a substantial portion of the Premises is taken or condemned so that the portion or portions remaining is or are insufficient or unsuitable, in the mutual reasonable judgment of Landlord and County, for the continued operation of the business contemplated by this Lease, so as to effectively render the Premises untenable, then this Lease will cease and terminate as of the date on which County is required to vacate the Premises as a result of the condemning authority taking possession and all Rent will be paid by County to Landlord up to that date or refunded by Landlord to County if Rent has previously been paid by County beyond that date.

37.2. **Partial Taking.** If a portion of the Premises is taken, and the portion or portions remaining can, in the mutual reasonable judgment of Landlord and County, be adapted and used for the conduct of County's business operation, then Landlord will promptly restore the remaining portion or portions thereof to a condition comparable to their condition at the time of such taking or condemnation, less the portion or portions lost by the taking, and this Lease will continue in full force and effect except that the Rent payable hereunder will, if necessary, be equitably adjusted to take into account the portion or portions of the Premises lost by the taking.

38. **Quiet Enjoyment.** Landlord warrants that Landlord is seized of the Premises and has the full right to make this Lease. Landlord further covenants that County will have quiet and peaceful possession of the Premises 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 Premises.

39. **Expenses Advanced by County.** If Landlord fails within five business days (or such lesser time as is appropriate if there is a threat to health or safety) after requested by County to make necessary repairs to the Premises or perform another act required of Landlord under this Lease, County may cause such repairs to be made or such acts to be performed at the expense of Landlord. County may apply such claims against any subsequent installment of Rent or, in the absence of rent, any other monetary obligations agreed to under this Lease.
40. **Change in Ownership.** If ownership of the Premises or the name or address of the party entitled to Rent changes, Landlord will provide Notice to County of such changes within 24 hours and may, until receipt of written notice of such change, continue to pay Rent and perform all obligations under this Lease agreement to Landlord. County will not be subject to double liability for any Rent so paid, including if any rent paid in advance of due date. Any transfer of title to the Premises will be subject to the terms and conditions of this lease and any leasehold interest of Tenant will survive transfer of Landlord's title or interest in the Property.
41. **Holding Over.** Any holding over after the expiration of the Term or earlier termination of the Lease will be deemed a tenancy from month-to-month upon the same terms and conditions of this Lease, except that either party may terminate said tenancy by serving the other party a 90-day written notice of termination.
42. **Interpretation of Lease.** The Parties acknowledge that each has had the opportunity to review this Lease with counsel of their choice. This Lease will not be construed more strongly in favor or 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 and their successors and assigns.
43. **Entire Agreement.** This Lease contains the entire agreement between the Parties and all previous Leases, amendments, negotiations, or understandings are superseded by this Lease. This Lease may be modified by the Parties only by writing executed with the same formalities as this Lease.
44. **Professional Fees and Agency.** Landlord and County each represents and warrants to the other that each has not dealt with any broker in connection with this Lease transaction other than Cushman & Wakefield | PICOR. Landlord and Tenant have been advised of and consent to limited dual agency representation by PICOR Commercial Real Estate Services. If there are any commissions, fees, or costs, related to this Lease that have been incurred by Landlord, they will be paid by Landlord pursuant to a separate agreement between Landlord and third-party.
45. **Non-Discrimination.** The Parties will comply with all applicable state and federal statutes and regulations governing equal employment opportunity, non-discrimination, and immigration.

46. **Non-Appropriation.** Landlord recognizes that the performance by County may be dependent upon the appropriation of funds by the Board of Supervisors, or the availability of funding from other sources. Should the Board of Supervisors fail to appropriate the necessary funds, or if funding becomes otherwise not legally available to County to fund its responsibilities under this Lease, County may terminate this Lease without further duty or obligation. County agrees to notify Landlord as soon as reasonably possible after the unavailability of said funds comes to the Board's attention.
47. **Conflict of Interest.** This Lease is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Lease by reference.
48. **Law to Govern.** This Lease is made under and will be interpreted according to Arizona law. Any action relating to this Lease will be brought in a court of the State of Arizona in Pima County.
49. **Sustainability Plan.** In accordance with County's Sustainability Plan, County will use all reasonable efforts to use recycled products or re-use and recycle materials used in the Premises.
50. **Applicable Law.** The Parties will comply with all applicable federal, state, and local laws, rules, regulations, standards, Executive Orders, and with any applicable Pima County Board of Supervisors' policies, including Policy Number C. 3.18 entitled "Tobacco-Free Environment," a copy of which is attached as **Exhibit B**.

REMAINDER OF PAGE INTENTIONALLY BLANK
SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Parties hereto have executed this Lease as of the day, month and year written below.

PIMA COUNTY, ARIZONA

EMS LEASING COMPANY , LLC

By: _____
Sharon Bronson
Chair, Board of Supervisors

By: _____
Authorized Signer

Date: _____

Date: _____

ATTEST:


By: _____
Melissa Manriquez
Clerk of the Board

APPROVED AS TO CONTENT:

By:  _____
Lisa Josker, Director
Pima County Facilities Management

Date: _____

APPROVED AS TO FORM:

By:  _____
Deputy County Attorney

Date: 12/6/2022

IN WITNESS WHEREOF, the Parties hereto have executed this Lease as of the day, month and year written below.

PIMA COUNTY, ARIZONA

EMS LEASING COMPANY , LLC

By: _____
Sharon Bronson
Chair, Board of Supervisors

By: _____
Authorized Signer Elizabeth Smiser

Date: _____

Date: December 5, 2022

ATTEST:

By: _____
Melissa Manriquez
Clerk of the Board

APPROVED AS TO CONTENT:

By: _____
Lisa Josker, Director
Pima County Facilities Management

Date: _____

APPROVED AS TO FORM:

By: _____
Deputy County Attorney

Date: _____

EXHIBIT A
Building and Parcel (1 of 2)



EXHIBIT A (2 of 2)

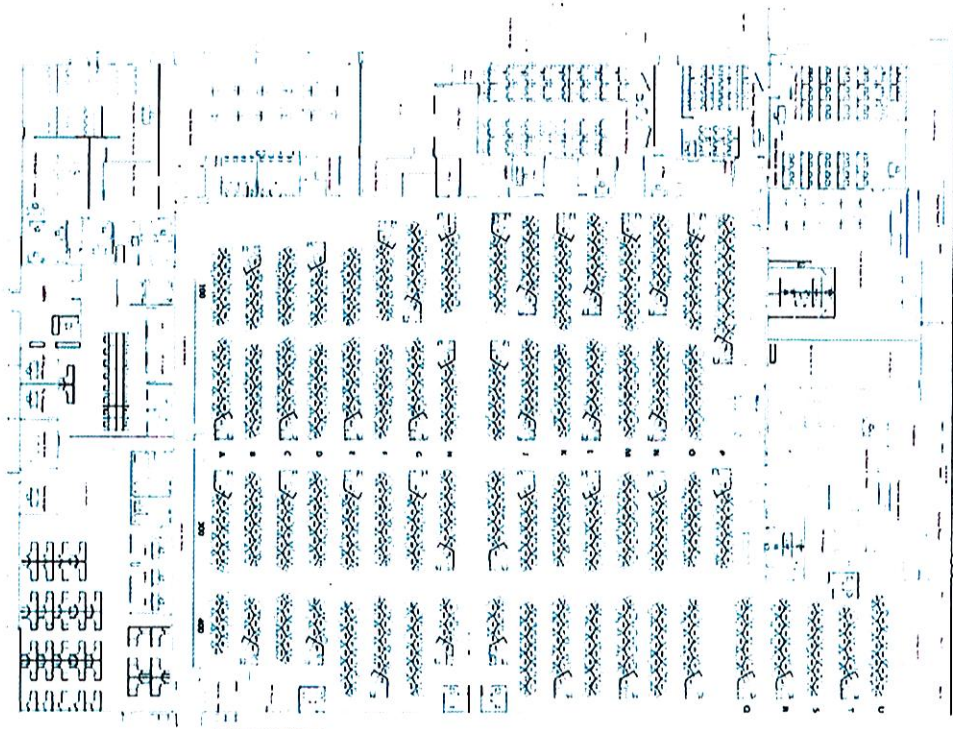
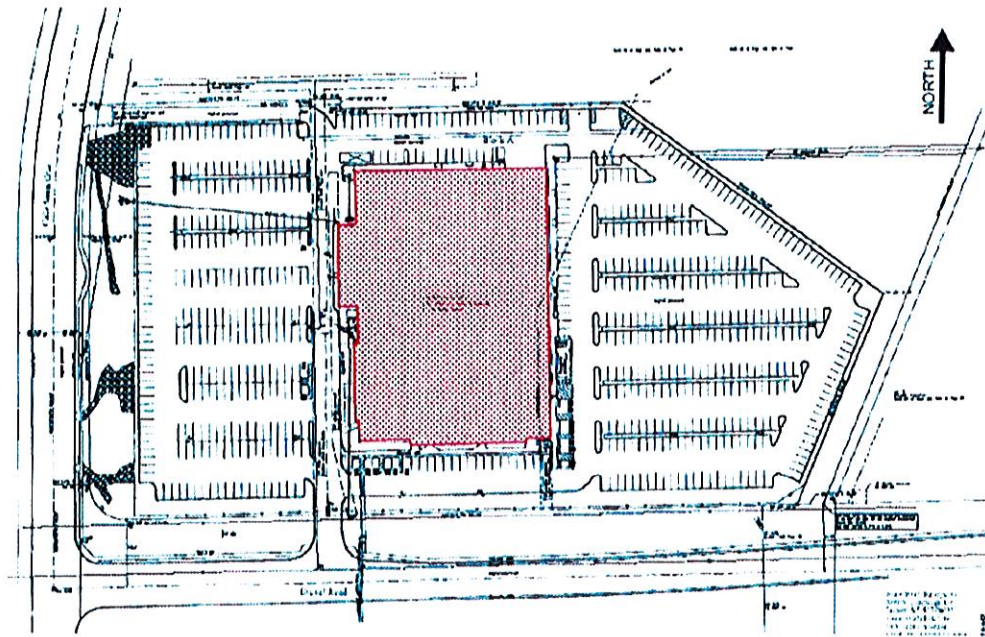


EXHIBIT B
TOBACCO FREE POLICY C 3.1.18
Page 1 of 2

PIMA COUNTY, ARIZONA
BOARD OF SUPERVISORS POLICY
Subject: Tobacco-Free Environment
Policy Number C 3.1.18

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.

EXHIBIT B
TOBACCO FREE POLICY C
3.1.18

Page 2 of 2

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.

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

Adopted Date: November 13, 2012
Effective Date: January 1, 2013

Website:

http://webcms.pima.gov/UserFiles/Servers/Server_6/File/Government/Clerk%20of%20the%20Board/Policies/C3-18.pdf