

EXCLUSIVE NEGOTIATIONS AGREEMENT

This Exclusive Negotiations Agreement (“Agreement”) is made and entered into this 5th day of April, 2022 (“Effective Date”), by and between the County of Santa Barbara, a political subdivision of the State of California (“County”), and PathPoint, a California Nonprofit Public Benefit Corporation (“Owner”). County and Owner are sometimes referred to herein as a “Party” or collectively as the “Parties.”

RECITALS

- A. Owner, a California Nonprofit Public Benefit Corporation, owns real property located at 315 W. Haley Street in Santa Barbara, also known as Assessor Parcel Number 037-192-001 and more particularly described on Exhibit A, attached hereto and incorporated herein by this reference (“Property”).
- B. The Property includes an 8,560-square-foot office building, which the County wishes to acquire for use by its Behavioral Wellness Department to provide behavioral health and community care services.
- C. County plans to apply for competitive grant funding from the Behavioral Health Continuum Infrastructure Program (BHCIP) of the California Department of Health Care Services (DHCS) and the California Department of Social Services (CDSS) to fund the acquisition and renovation costs of the Property.
- D. The Parties are entering into this Agreement to assist County in pursuing BHCIP funding, which requires, among other things, that County demonstrate “site control”.
- E. It is expressly intended by the County and Owner that this Agreement shall provide a framework for the subsequent good faith negotiations of an acquisition agreement. The County wishes this document to function as an exclusive agreement to negotiate in order to meet the site control requirements of grant programs, but it is not intended to create an enforceable obligation for the Owner to sell the Property.
- F. Owner now desires to offer the County the opportunity to exclusively negotiate with the Owner for the purchase of the Property, subject to the terms and conditions contained herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth, the parties hereby agree as follows:

1. Purpose and Scope

The purpose of this Agreement is to memorialize the preliminary terms that have been agreed to by the Parties in order to provide the County with an exclusive right to negotiate, in mutual good faith, with the Owner for purchase of the Property. The Owner will not be obligated to sell or grant any portion of the Property unless and until the Parties have

negotiated, executed and delivered mutually acceptable agreement, in each party's sole and absolute discretion, and as to the County, based upon information produced from the California Environmental Quality Act (CEQA) environmental review process and on other public review and hearing processes and subject to all applicable governmental approvals. Any agreements resulting from negotiations will become effective only if and after such agreement has been considered and approved by the County and Owner, in each party's sole and absolute discretion, following conduct of all legally required procedures.

2. Preliminary Terms

A transaction of the type contemplated in this Agreement involves many essential terms and conditions that have not yet been agreed upon. However, the County and Owner have agreed upon major preliminary terms discussed herein that will serve as a general framework for subsequent and good faith negotiations. The parties agree that any acquisition of the Property by County is subject to the following conditions precedent:

- a.) County securing all necessary funding to acquire the Property, including BHCIP competitive funds;
- b.) County's review and investigation of the condition of the Property, which may include a CEQA environmental review and other studies related to Property's condition or title;
- c.) A determination from the City of Santa Barbara pursuant to the requirements of the California Government Code section 65402;
- d.) County's review of all existing written leases pertaining to the Property; and
- e.) The sales price must be mutually agreed upon by the County and Owner, and approved by the County Board of Supervisors.

3. Exclusive Right to Good Faith Negotiations

Subject to all terms and conditions of this Agreement, the County and Owner agree for the time period set forth below to negotiate diligently and in good faith, in each party's sole and absolute discretion, towards the preparation of a purchase and sale agreement or other agreement(s) that will involve the acquisition of the Property by County (hereinafter, a "Purchase Agreement"). It is expressly understood and agreed by the Parties that this is a contract regarding negotiations only and does not convey any interest in the Property. By its execution of this Agreement, the County is not committing to (a) any acquisition of real property from Owner; (b) the ability to obtain any applicable approvals and/or licenses to use the Property; or (c) any other acts requiring the subsequent independent exercise of discretion by the County or its departments.

Owner agrees, for the Initial Term and any Extended Term as defined herein, not to negotiate with, solicit offers or proposals regarding, or respond to inquiries from (other than to notify the inquiring party, person or entity that Owner is subject to an exclusive negotiation agreement) any other person or entity regarding development, sale, or lease of the Property or any portion thereof.

4. Term of Agreement

- A. The term of this Agreement shall be for a period of six (6) months from the date of final execution by the Parties (“Initial Term”) unless earlier terminated or extended as provided in this Section 4.
- B. The Board of Supervisors shall have the right to extend the Initial Term of this Agreement for up to an additional six (6) month period (“Extended Term”). The decision to extend the Initial Term shall be at the sole and absolute discretion of the Board of Supervisors. If the Board of Supervisors elects to extend the Initial Term, the County shall notify Owner in writing not less than thirty (30) days prior to expiration of the Initial Term (“Notice of Extension”).
- C. Any request by Owner to extend any term of this Agreement shall be made in writing and shall provide a description of the circumstances necessitating an extension.

5. Right of Entry

- A. During the Initial Term or any extension thereof, County, its representatives, consultants, contractors, agents and employees shall have the right to enter the Property at all reasonable times for the purpose of conducting any tests, studies, analyses or other work necessary, as provided herein and pursuant to the Temporary Entry Permit, attached hereto and incorporated herein by this reference as **Exhibit B**.
- B. County shall have access to all data and information on the Property in Owner’s possession, but without warranty or representation by the Owner as to the completeness, correctness or validity of such data and information. Any preliminary work conducted by County with Owner’s prior approval shall be undertaken only after securing any necessary permits from the appropriate governmental agencies.
- C. County’s obligations under this Section 5 shall survive the termination of this Agreement.

6. Disposition of Property

Within the time period set forth in Section 4 – Term of Agreement, County and Owner shall negotiate the terms and conditions of a proposed Purchase Agreement in good faith pursuant to Section 3 herein. It is expressly acknowledged and agreed by the Parties that, until and unless a Purchase Agreement is signed by Owner and approved by the Board of Supervisors in each Party’s sole and absolute discretion, any drafts or other communications resulting from the performance of this Agreement shall not be used to impose any legally binding obligation on the County or Owner or as evidence of any oral or implied agreement by the County or Owner to enter into a legally binding document. The parties acknowledge that the Purchase Agreement will set forth the essential terms of the contemplated transactions as described herein, together with such additional representations, warranties, covenants, conditions and other terms and conditions that the parties may negotiate, and the no obligation to purchase or sell the Property shall arise unless and until a Purchase Agreement is signed.

7. Confidential Information

Owner acknowledges that the County is subject to the California Public Records Act (“Act”). The Act generally provides that written documents retained by the County are subject to disclosure upon the request of any third party except for specific limited exceptions provided for in the Act. Except as otherwise designated by Owner, all information provided to the County by Owner shall be deemed to be confidential and treated by the County as such to the extent allowed by the Act. This Paragraph 7 shall survive the expiration or other termination of this Agreement. If a request for disclosure of any information designated as “Confidential” by Owner is made under the Act, the County shall notify Owner in writing and Owner shall have the opportunity to object to the release of such information.

8. Conflict of Interest

A. Each Party shall at all times avoid conflict of interest or appearance of conflict of interest under any applicable state, federal or local laws, rules and regulations in performance of this Agreement. Each Party shall disclose any conflict of interest, or potential conflict of interest, which exists or arises at any time during the Term of this Agreement to the other Party. For purposes of this Section, any conflict of interest of a principal, officer, partner, joint-venturer or employee of one Party shall be conclusively deemed to be a conflict of interest of the other Party.

B. County shall have the right to treat any violation of this Section as a material breach of this Agreement, and shall have the right to terminate the Agreement as its sole remedy.

9. County Responsibilities

A. Funding

County shall secure all necessary funding to acquire the Property, including without limitation competitive BHCIP funds, as a precondition to entering into any Purchase Agreement.

B. Due Diligence Costs

County expressly acknowledges that all expenses and costs it may incur as a result of this Agreement are its sole obligation and responsibility and done at its sole risk, including, but not limited to, any costs associated with any proposed project and any costs incurred to prepare the necessary studies and analyses required for any proposed renovations or improvements.

C. California Environmental Quality Act

The County retains the absolute sole discretion, at no cost, liability or obligation to Owner, to (i) take any steps as may be necessary to comply with CEQA; (ii) select other feasible alternatives to avoid significant environmental impacts identified during

the CEQA process; (iii) balance the benefits of entering into an agreement against any significant environmental impacts of the acquisition and/or renovations of the Property prior to taking final action; and (iv) determine not to proceed with an agreement to avoid significant environmental impacts identified during the CEQA process. No legal obligations will exist unless and until the Parties have negotiated, executed and delivered a mutually acceptable Purchase Agreement, in each Parties' sole and absolute discretion, based upon information produced from the CEQA environmental review process and other public review and hearing processes, subject to all applicable governmental approvals.

D. Progress Reports

County shall keep the Owner apprised as to the status of all work to be undertaken by or on behalf of County pursuant to this Agreement during the Initial Term or any Extended Term, County shall submit to Owner within ten (10) days following Owner's request, via email or other reasonable method, a progress update advising Owner of the status of all work being undertaken by or on behalf of County.

10. Owner Responsibilities

A. Assistance and Cooperation

Owner, at no cost, expense or liability, shall reasonably cooperate with County by providing information regarding the Property in Owner's possession as reasonably requested by County, which shall include all current leases and encumbrances on the Property.

B. Planning and Zoning Approvals; Environmental Documents; Section 65402

Owner, at no cost, expense or liability, shall reasonably cooperate with County in the County's preparation, processing and submittal of any planning and zoning approvals, environmental review and/or any governmental determination required pursuant to Government Code section 65402 by supplying any pre-existing and readily available necessary technical data and other related information in the Owner's possession or executing and delivering, in its capacity as owner of the Property, any applications, consents, or requests permits or other forms necessary or reasonably helpful in connection with the County's actions hereunder; provided, however, no approvals shall be binding on the Property unless and until the County acquires the Property.

C. No Additional Liens, Encumbrances, Covenants, Conditions, Easements, Etc.

Owner shall not subject the Property to any additional liens, encumbrances, covenants, conditions, easements, rights of way or similar matters during the term of this Agreement or any extension thereof.

11. Distinction from Regulatory Authority of County

County and Owner agree that this Agreement does not and shall not be construed to indicate or imply that County, acting as a regulatory or permitting authority, has hereby waived,

granted or is obligated to grant any approval or permit required by law for the Property as contemplated by the Agreement.

12. Public Hearing

If the negotiations contemplated herein culminate in the execution of a Purchase Agreement, the Purchase Agreement will be brought forward for consideration by the Board of Supervisors, provided, however, such Purchase Agreement shall become effective only after having been considered and approved by the Board of Supervisors in its sole and absolute discretion following any public hearing or other actions required by law.

13. Non-Discrimination

Neither Party shall discriminate, in any way, against any person on the basis of age, sex, race, color, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity or national origin in connection with or related to the performance of this Agreement.

14. Termination

If either Party does not comply in a timely and diligent manner with any material obligation of such Party under this Agreement, the non-defaulting Party, at its option, may terminate this Agreement at any time by written notice to the defaulting Party, and failure of the defaulting Party to cure the breach within thirty (30) days following receipt of such notice..

15. Notices

All notices and other communications required or permitted to be given under this Agreement shall be in writing and may be delivered by hand, by facsimile transmission or pdf e-mail, or by United States mail, postage prepaid and return receipt requested, addressed to the respective Parties as follows:

To County: County of Santa Barbara
 Attention: Office of the Director of General Services
 260 N. San Antonio Road
 Santa Barbara, CA 93110
 E-Mail: realproperty@countyofsb.org

With a copy to: General Services, Real Property Division
 Attention: Julie Lawrence, Real Property Manager
 1105 Santa Barbara Street
 Courthouse East Wing, 2nd Floor
 Santa Barbara, CA 93101
 E-Mail: juliel@countyofsb.org

To Owner: PathPoint Corporate Office
Attention: Harry Bruell, President and CEO
315 W. Haley St.
Santa Barbara, CA 93101
E-Mail: Harry.Bruell@pathpoint.org

Or to such other addresses as any party may designate by notice in accordance with this Section.

A copy of any notice of a legal nature, including, but not limited to, any claims against the County, its officers or employees shall also be served in the manner specified to the following address:

County of Santa Barbara
Rachel Van Mullem, County Counsel
105 East Anapamu Street, Suite 201
Santa Barbara, CA 93101

16. Waiver of Lis Pendens

It is expressly understood and agreed by the Parties that no lis pendens shall be filed with respect to this Agreement or any dispute or act arising from it.

17. Time of Essence

It is understood and agreed by the Parties that time is of the essence in the performance of the obligations of this Agreement.

18. Assignment

County may not transfer or assign any or all of its rights or obligations hereunder except with the prior written consent of the Owner which may be granted or withheld in the Owner's sole and absolute discretion, and any such attempted assignment without the prior written consent of the Owner shall be wholly void and of no effect.

19. No Third Party Beneficiaries

This Agreement is made and entered into solely for the benefit of County and Owner and no other person shall have any right of action under this Agreement.

20. Limitation of Liability

Notwithstanding anything to the contrary at law or equity, in the event of any breach of this Agreement by the Owner, the sole and exclusive remedy of County hereunder shall be to terminate this Agreement and the recovery of County's actual out of pocket costs incurred by County to third parties to satisfy its obligations under this Agreement which amount shall not exceed \$25,000. In no event shall County be entitled to "expectation damages" i.e., any amounts that County would expect to gain were an agreement ever executed, including, without limitation, any amount for potential lost profits. Neither Party

shall be allowed to recover any damages for lost business opportunity, or for any indirect or consequential damages or punitive damages from the other Party.

21. Waiver

The Parties agrees that waiver of any breach or violation of any term or condition of this Agreement shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition.

22. Governing Law; Attorneys Fees; Waiver of Jury Trial

The law governing this Agreement shall be that of the State of California. In the event any dispute arises between the parties pursuant to this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs. Each of the parties hereby irrevocably and unconditionally waives their right to a jury trial in connection with any claim arising out of or related to this letter or the transactions contemplated hereby.

23. Venue

In the event that suit shall be brought by either party hereunder, the Parties agree that trial of such action shall be exclusively vested in a state court in the County of Santa Barbara, or where appropriate in the United States District Court for the Central District of California.

24. Prior Agreements and Amendments

This Agreement, including all Exhibits listed below and attached hereto, represent the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may only be modified by a written amendment duly executed by the Parties.

Project: 004018 BeWell Acquisition 315 W. Haley
APN: 037-192-001

WITNESS THE EXECUTION HEREOF on the day and year first hereinabove written.

ATTEST:
MONA MIYASATO
CLERK OF THE BOARD

“COUNTY”
COUNTY OF SANTA BARBARA

By: *Shela daGuerra*
Deputy

By: *Joan Hartmann*
Joan Hartmann, Chair
Board of Supervisors

APPROVED AS TO FORM
RACHEL VAN MULLEM
COUNTY COUNSEL

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By: *Johannah Hartley*
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Johannah Hartley
Senior Deputy County Counsel

APPROVED AS TO FORM
GREG MILLIGAN, ARM
RISK MANAGER

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By: *Gregory Milligan*
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RISK MANAGER

APPROVED AS TO CONTENT:

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By: *Janette D. Pell*
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Janette D. Pell, Director
General Services Department

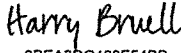
APPROVED AS TO CONTENT:

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By: *Julie Lawrence*
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Julie Lawrence
Real Property Manager

Project: 004018 BeWell Acquisition 315 W. Haley
APN: 037-192-001

SIGNATURE PAGE FOR OWNER PATHPOINT

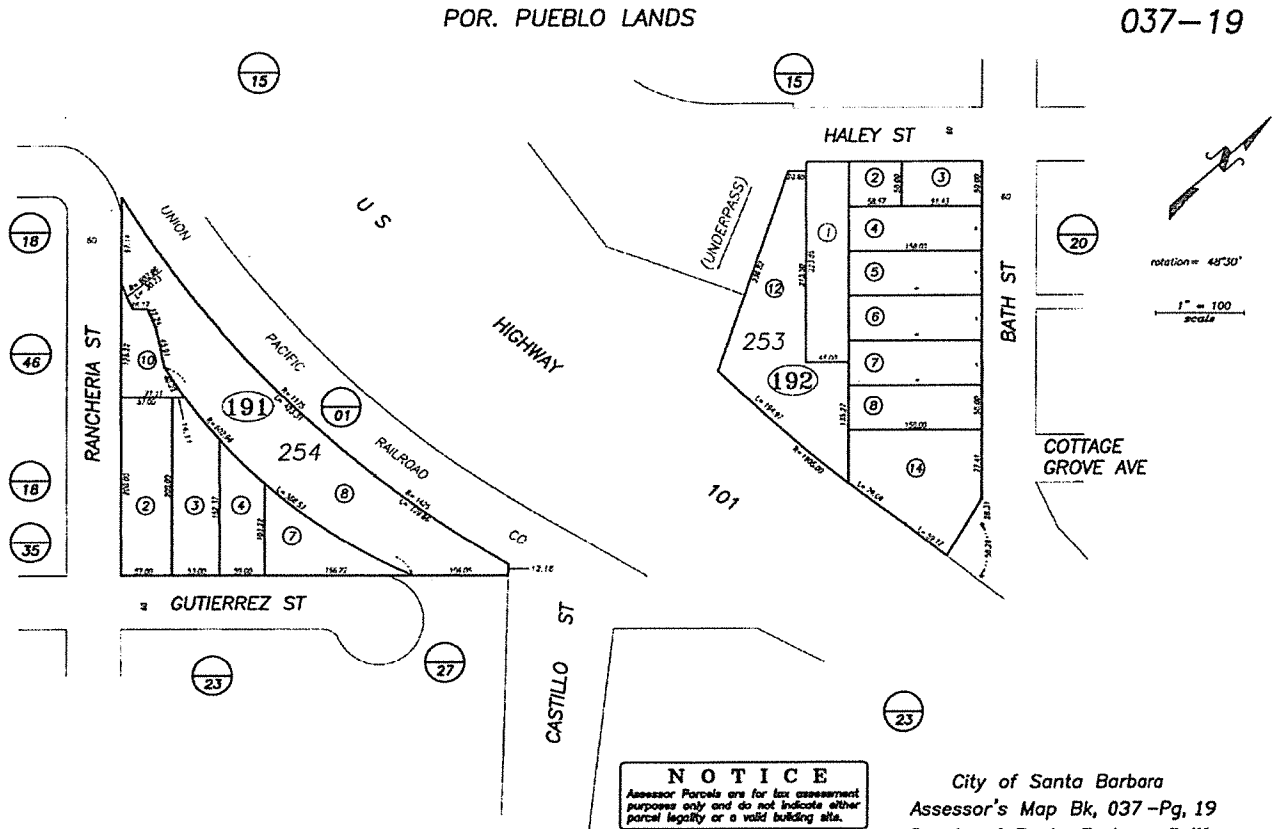
PATHPOINT

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Harry Bruell, President and CEO

EXHIBIT A

ASSESSOR PARCEL NUMBER 037-192-001



4865-2041-6022, v. 1

EXHIBIT B
TEMPORARY ENTRY PERMIT

4881-1366-1718, v. 1

County Project: 004018 315 W. Haley Street, Santa Barbara
Santa Barbara County Behavioral Wellness Department
APN: 037-192-001

TEMPORARY ENTRY PERMIT

PATHPOINT (“OWNER”), is the owner of that real property in the City of Santa Barbara, County of Santa Barbara, located at 315 W. Haley St. (APN 037-192-001), as depicted in Exhibit A (herein the “Property”).

OWNER, on behalf of itself, its successors and assigns, and any tenant (“TENANT”) on the Property, hereby grants to the COUNTY OF SANTA BARBARA, a political subdivision of the State of California, its authorized agents, contractors, officers and employees (hereinafter referred to as “COUNTY”), a non-exclusive, revocable right of entry, including the right to enter upon, move workers, equipment, and materials over, within and upon the Property.

This Temporary Entry Permit (“Permit”) shall be for the purpose of providing COUNTY access to the Property to conduct diligence for the purpose of assessing the potential acquisition of the Property. Such diligence may include an appraisal, survey, environmental review and such other purposes as may be incidental to the production of third party reports. This Permit shall be subject to the following provisions, requirements, and restrictions:

1. COUNTY, its authorized agents, officers, employees and contractors shall exercise reasonable precautions necessary to prevent damage to and protect the Property during COUNTY’s entry thereon.
2. The term of this Permit shall be for a period of six (6) months from the date of execution, unless extended in writing by the parties. OWNER may, at its option, extend the term of this Permit for an additional period of time at the expiration of the original term.
3. OWNER may at any time and for any reason terminate this Permit upon thirty (30) days advance written notice. Upon receipt of such notice, COUNTY shall, unless the notice directs otherwise, immediately discontinue work and vacate the Property.
4. COUNTY, its authorized agents, officers, employees and contractors shall return the site to its original condition and replace and/or repair any improvements, destroyed or damaged, as a result of the rights granted under this Permit. If any improvements are damaged or removed by COUNTY, its authorized agents, officers, employees or contractors, they shall be restored or replaced by COUNTY to as near the original condition and location as is practicable and such restoration of the Property shall be approved by OWNER, prior to expiration of this Permit.
5. By COUNTY’s exercise of this Permit, OWNER assumes no liability for any claims, loss or damage to COUNTY’s property, or injury to or death of any agent, officer, employee, or contractor of COUNTY, unless said claims, loss, damage, injury or death is as a result of OWNER’s sole gross negligence.

6. To the full extent permitted by law, COUNTY will indemnify, defend, and hold harmless OWNER, TENANT and each of its officers, employees and agents from and against any and all losses, damages, liabilities, claims, death, injuries or costs caused by any act or omission of COUNTY or any of its officers, employees, agents or subcontractors related to this Agreement or the use of the Property, except to the extent such claims and damages are caused by OWNER's or TENANT's gross negligence or wrongful acts.

7. Signatories for OWNER and TENANT do hereby certify that OWNER is the sole owner, and TENANT occupies a portion of the Property and that no additional signatures are required to grant the interest and perform the obligations specified herein.

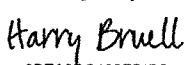
8. This Temporary Entry Permit is subject to the terms and conditions of that certain Exclusive Negotiation Agreement of April 5, 2022, between Owner and County and in the event of any inconsistency between the terms and conditions of this Permit and the Exclusive Negotiation Agreement, the terms and conditions of the Exclusive Negotiation Agreement shall control.

9. County agrees to conduct all such non-invasive inspections of the Property in a manner that will not harm or damage the Property or cause any lien or claim of lien to exist as against the Property or materially or unreasonably interfere with the use or operation of the Property by any occupant or guest thereof, and agrees to repair any damage to the Property caused by any such inspections. If any improvements are damaged or removed by County, its authorized agents, officers, employees or contractors, they shall be restored or replaced by County to as near the original condition and location as is practicable. Nothing herein shall authorize any intrusive, invasive or subsurface testing or drilling on the Property or any buildings or structures located on the Property by County unless specifically approved by Owner in advance and in writing, which approval may be granted or withheld by Owner in Owner's sole, absolute and non-reviewable discretion. If any such request is approved by Owner, County agrees to conduct all activities in accordance with all applicable laws and at no cost or expense to Owner. County shall make all inspections during normal business hours, in good faith and with due diligence and in a professional manner which minimizes interference to the Owner. All inspection fees, appraisal fees, engineering fees and other expenses of any kind incurred by County relating to the inspection of the Property will be solely County's expense. Owner hereby reserves the right to have a representative present at the time of making any such inspection, which representative shall have the right to limit the duration, frequency and means of such inspection or testing to the extent necessary to avoid disruption of the Owner's employees and tenants. County shall notify Owner in writing not less than two (2) business days in advance of making any such inspection, which notification shall describe the nature of the review work to be undertaken and the estimated duration of the review. Upon Owner's written request, County shall promptly deliver to Owner copies of all third party reports, surveys and studies obtained by or for County with respect to the Property during the term of this Agreement.

10. Each party shall indemnify, defend, protect, hold harmless, and release the other, its officers, agents, and employees, from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs, or expense (including attorneys' fees and witness costs) arising from or in connection with, or caused by any act, omission, or negligence of such indemnifying party or its agents, employees, contractors, subcontractors, or invitees.

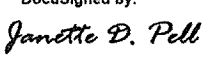
IN WITNESS WHEREOF, COUNTY AND OWNER have signed this Temporary Entry Permit by the respective authorized officers pursuant to County Code §12A-11, as set forth below to be effective as of the date executed by COUNTY.

“OWNER”:
PATHPOINT

DocuSigned by:

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Harry Bruell
President and CEO
315 W. Haley St.
Santa Barbara, CA 93101

“COUNTY”:
COUNTY OF SANTA BARBARA

DocuSigned by:

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Janette Pell
General Services Director
260 N. San Antonio St.
Santa Barbara, CA 93101

3/23/2022 | 10:29 AM PDT

Date

TENANT:

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Print Name/Title
Pamela Hanover

3/23/2022 | 10:27 AM PDT
Date

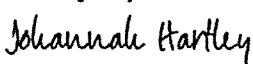
RECOMMENDED FOR APPROVAL:

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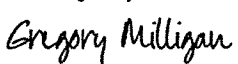
Julie Lawrence, Real Property Manager

APPROVED AS TO FORM
RACHEL VAN MULLEM
COUNTY COUNSEL

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By: Johannah Hartley
Senior Deputy County Counsel

APPROVED AS TO FORM
GREG MILLIGAN, ARM
RISK MANAGER

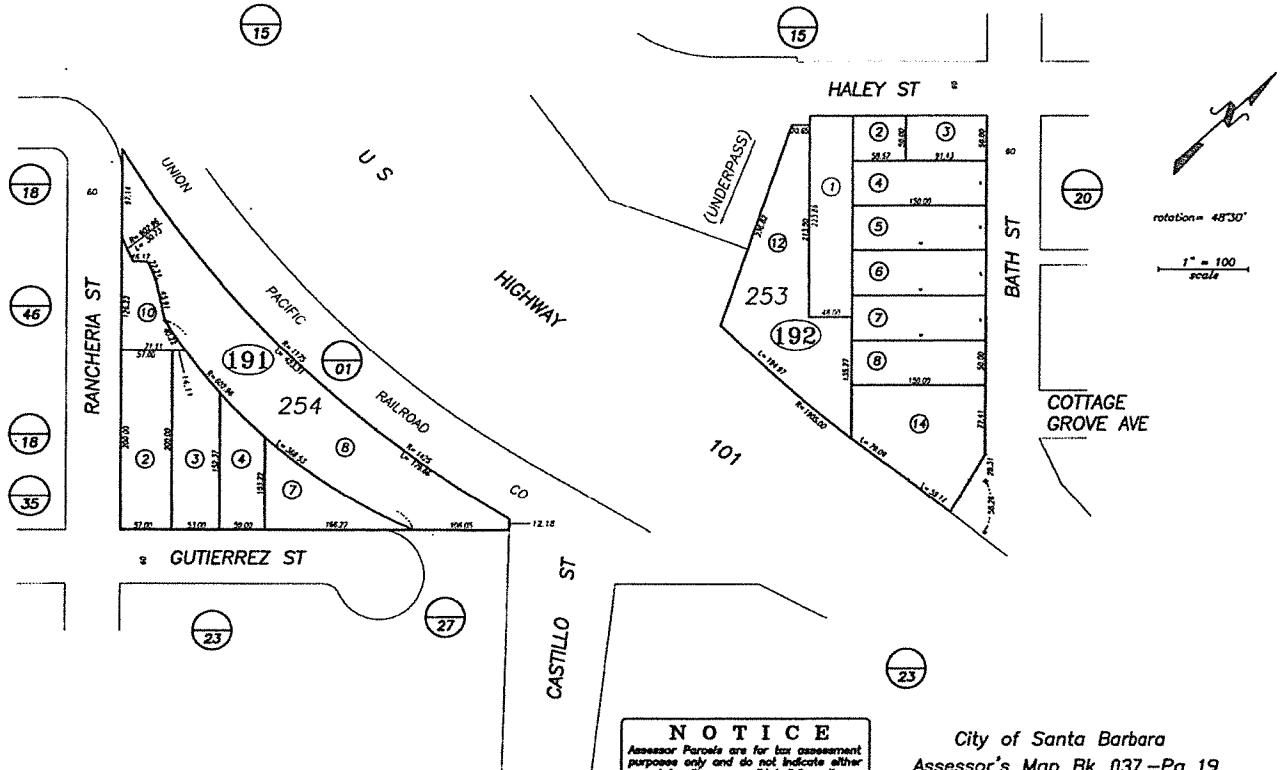
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By: Gregory Milligan
Risk Management

**EXHIBIT A
PROPERTY**

POR. PUEBLO LANDS

037-19



NOTICE
Assessor Parcels are for tax assessment purposes only and do not indicate either parcel legality or a valid building site.

City of Santa Barbara
Assessor's Map Bk, 037-Pg, 19
County of Santa Barbara, Calif.

LD/07 For key and 11 into 14