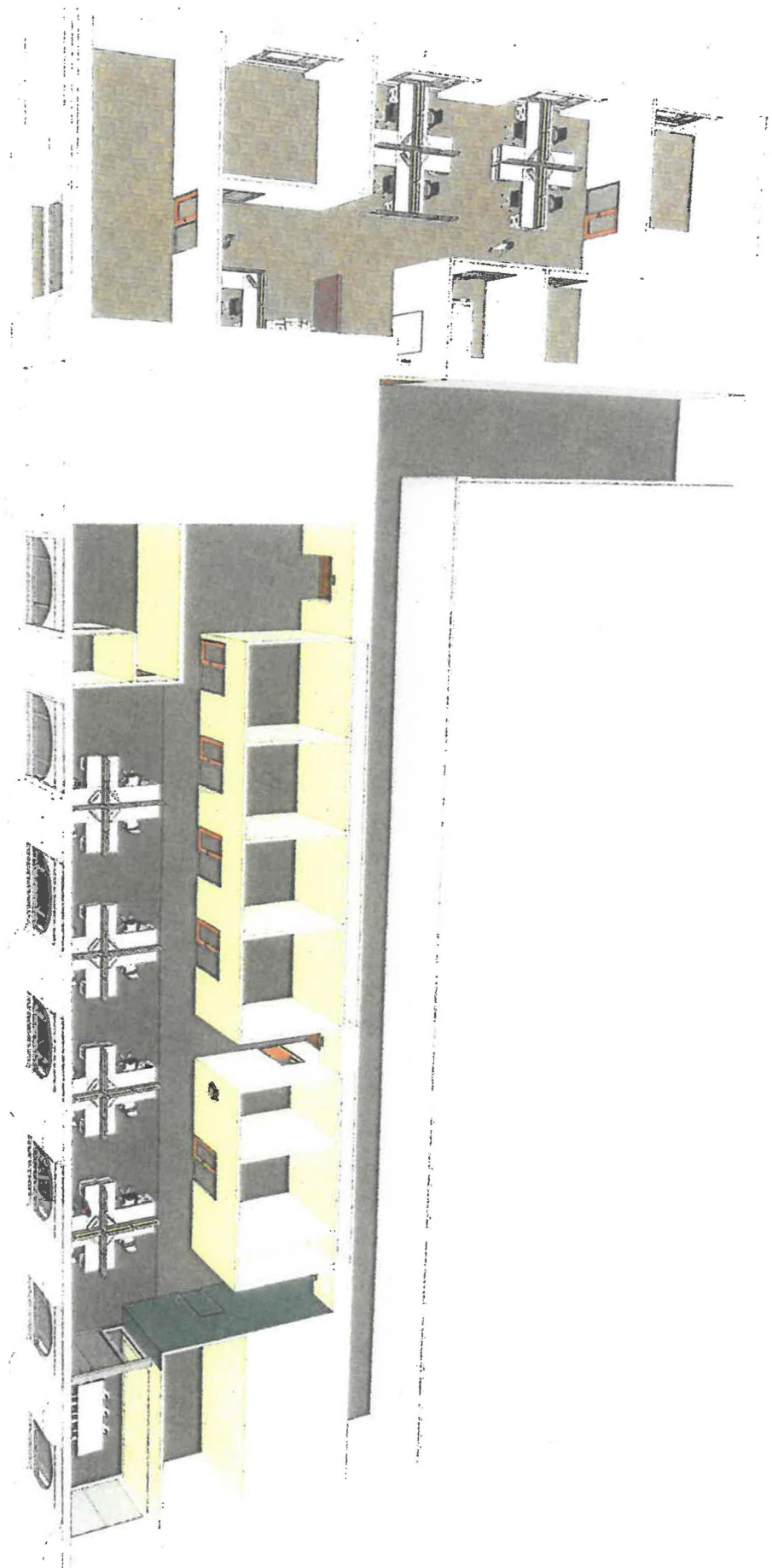
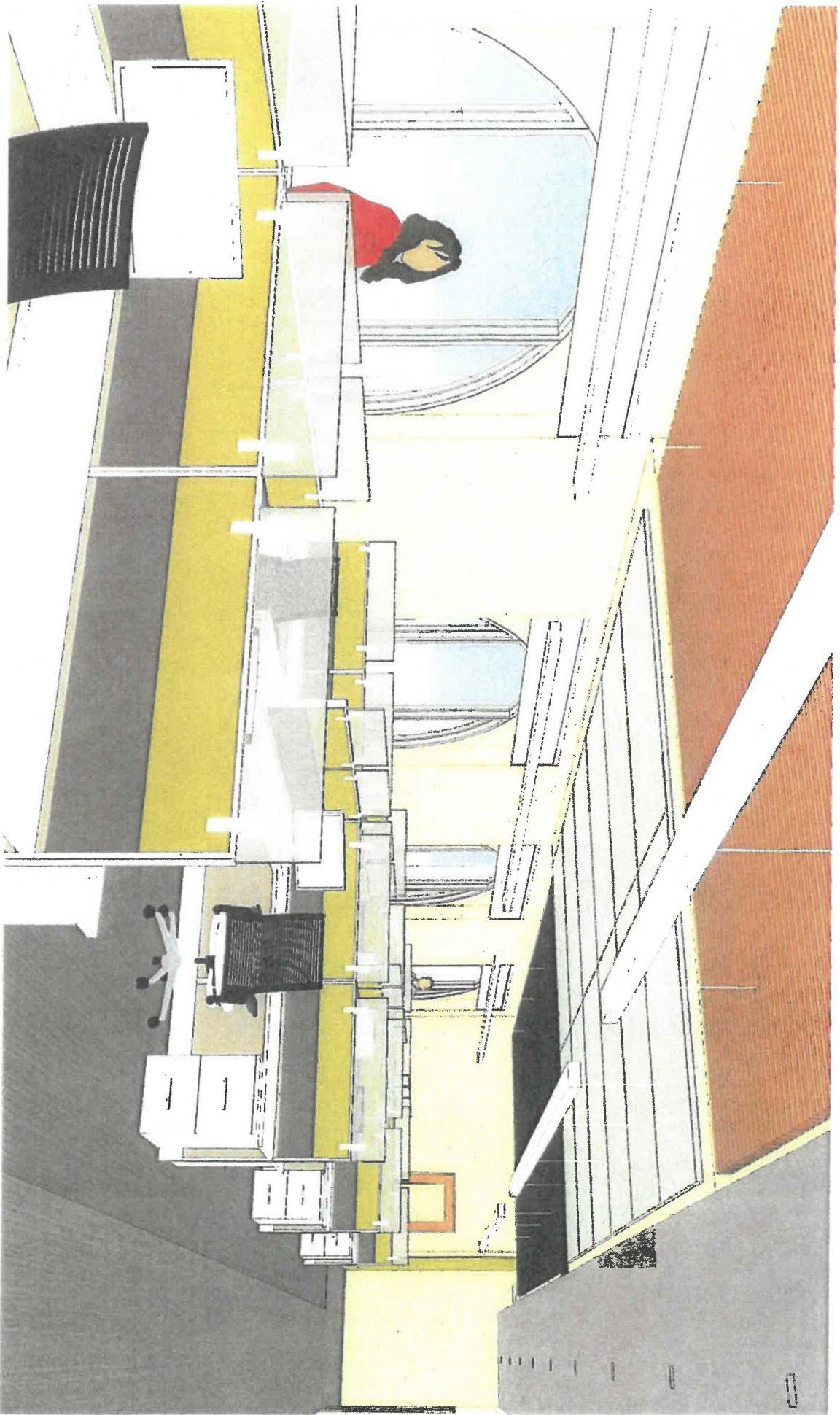
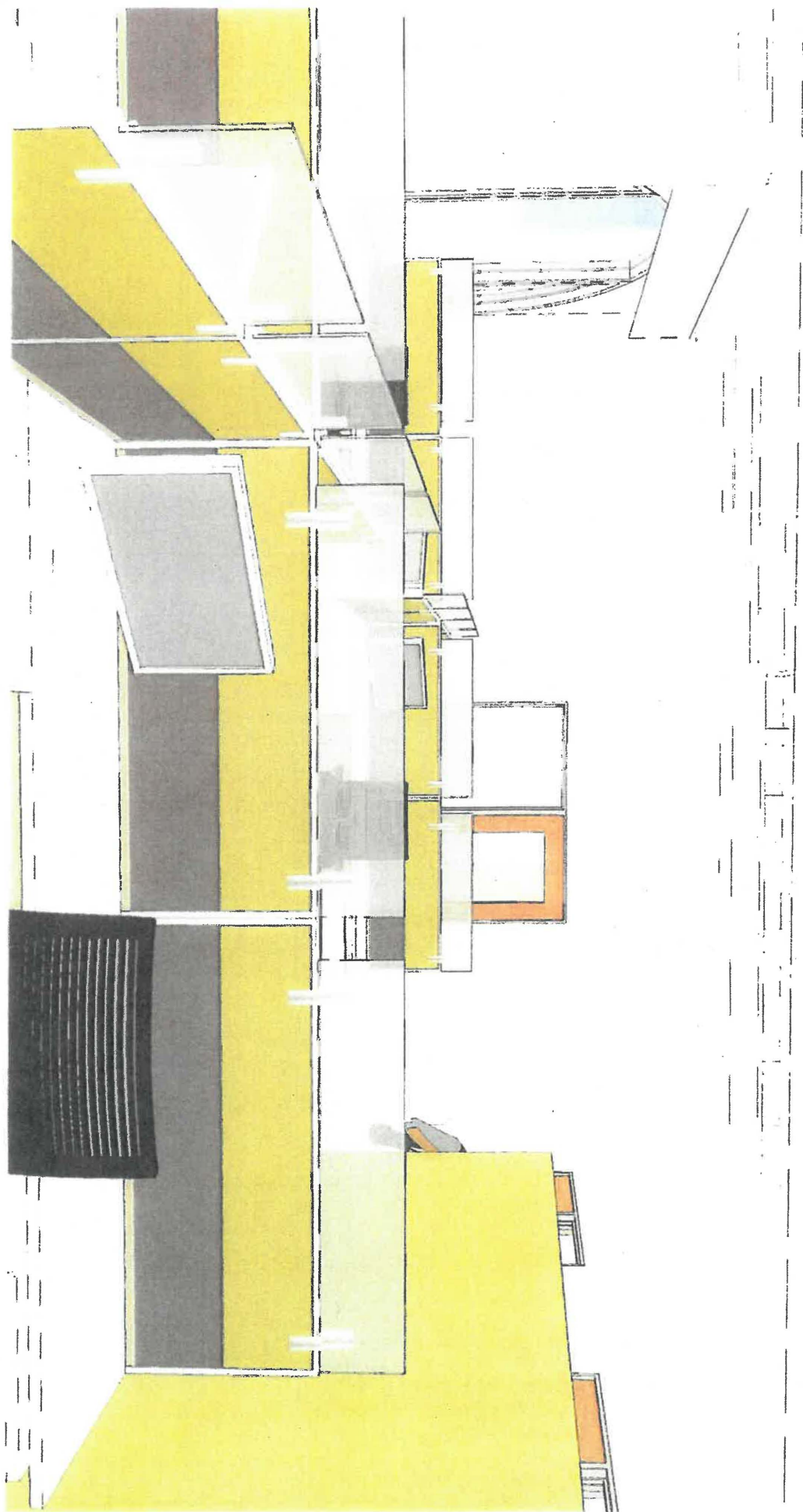


WAR MEMORIAL VETERANS BUILDING | THIRD FLOOR PLAN









OCCUPANCY AGREEMENT

THIS OCCUPANCY AGREEMENT (this "**Agreement**"), dated for reference purposes only as of _____, 2018, is between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**"), acting by and through the War Memorial Department ("**WMBT**"), and SWORDS TO PLOWSHARES, a private, non-profit corporation ("**Occupant**").

RECITALS

A. Pursuant to the War Memorial Trust Agreement of 1921, as it has been, and hereafter may be, amended (the "**Trust Agreement**"), WMBT administers and operates the War Memorial Veterans Building located at 401 Van Ness Avenue, San Francisco, California, 94102 (the "**Building**") and, pursuant to the Trust Agreement and the Policy Governing Allocation of Space in the Veterans Building to Patriotic Organizations (as it may be amended from time to time by WMBT, the "**Space Allocation Policy**"), attached as **Exhibit D**, provides rent-free space in the Building to those patriotic organizations described in the Space Allocation Policy (each, a "**Patriotic Organization**").

B. The San Francisco Posts of the American Legion, which are a beneficiary under the Trust Agreement, have established the American Legion War Memorial Commission ("**ALWMC**"), which is responsible for coordinating use of Building space allocated by WMBT for use by Patriotic Organizations. ALWMC will examine and confirm the qualifications of Patriotic Organizations for installation in the Building under the Space Allocation Policy and the Trust Agreement.

C. Occupant desires to occupy space within the Building rent-free as a Patriotic Organization. ALWMC has examined and confirmed Occupant's qualifications as a Patriotic Organization under the Space Allocation Policy and the Trust Agreement and, based on ALWMC's recommendation, WMBT has determined that Occupant constitutes a Patriotic Organization eligible for rent-free space in the Building.

AGREEMENT

Based on the foregoing, City and Occupant hereby covenant and agree as follows:

The occupation of the Veterans Building by Occupant shall be under the following covenants and conditions:

1. BASIC AGREEMENT INFORMATION, DEFINITIONS

1.1 Basic Agreement Information

The following is a summary of basic agreement information (the "**Basic Agreement Information**"). Each item below shall be deemed to incorporate all of the terms in this Agreement pertaining to such item. In the event of any conflict between the information in this Section and any more specific provision of this Agreement, the more specific provision shall control.

Agreement Reference Date: _____, 2018

City:

City and County of San Francisco, a municipal corporation, acting by and through the War Memorial Department.

Occupant: Swords to Plowshares, a private, non-profit corporation.

Building: War Memorial Veterans Building located at 401 Van Ness Avenue, San Francisco, California, 94102.

Premises: Space on the third floor of the Building, designated as Suites 310 and 313, and located on the floor plan attached as Exhibit A.

Square Footage Area of Premises: Approximately 6,822 square feet.

Term: Commencement date: November 13, 2018;
Expiration date: November 12, 2033

Estimated Occupancy Date: April 1, 2019

Utilities and Service Costs: Annual Utilities and Service Costs: \$111,471.48
(\$16.34 per sq. ft.)
Monthly payments: \$9,289.29
(\$1.3617 per sq. ft.)

Utilities and Service Costs Adjustment Dates: July 1 of each calendar year during the Term.

Use: Office space use related to providing employment, rapid rehousing, case management, and legal services to veterans, and executive and administrative support functions.

Utilities and Services: WMBT to provide standard utilities and services.

Notice Address of WMBT: War Memorial and Performing Arts Center
401 Van Ness Avenue, Suite 110
San Francisco, California 94102
Attn: Managing Director
Fax No.: (415) 621-5091

with a copy to: Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682
Attn: Lauren Curry
Deputy City Attorney
Fax No.: (415) 554-4699

Key Contact for WMBT: Elizabeth Murray, Managing Director, War Memorial and Performing Arts Center

Telephone No.: (415) 554-6306

Alternate Contact for WMBT: Jennifer Norris, Assistant Managing Director, War Memorial and Performing Arts Center

Telephone No.: (415) 554-6308

Address for Occupant: Swords to Plowshares
1060 Howard Street
San Francisco, CA 94103
Fax No.: (415) 552-6267

Key Contact for Occupant: John Beem, Chief Financial Officer, Swords to Plowshares

Telephone No.: (415) 655-7249

Alternate Contact for Occupant: _____

Telephone No.: _____

Other Noteworthy Provisions: None.

1.2 Definitions

For purposes of this Agreement, initially capitalized terms shall have the meanings ascribed to them in this Section:

“Adjustment Date” has the meaning given in Section 4.3 [Adjustments in Utilities and Service Costs]

“Agents” means, when used with reference to either Party to this Agreement, the officers, directors, employees, agents, contractors and representatives of such Party, and their respective heirs, legal representatives, successors, and assigns.

“Agreement” means this Occupancy Agreement, as it may be amended in accordance with its terms.

“Agreement Reference Date” means the date so identified in the Basic Agreement Information.

“Alterations” means any alterations, installations, additions, or improvements, structural or otherwise in, to, or about the Premises or to any improvements constructed within or about the Premises.

“ALWMC” means the American Legion War Memorial Commission that was established by The San Francisco Posts of the American Legion, which, in turn, are a beneficiary under the Trust Agreement.

“Award” means all compensation, sums, or value paid, awarded, or received for a Taking, whether pursuant to judgment, agreement, settlement, or otherwise.

“Basic Agreement Information” means the information with respect to this Agreement summarized in Section 1.1 [Basic Agreement Information].

“Building” means the War Memorial Veterans Building located at 401 Van Ness Avenue, San Francisco, California 94102.

“Building Systems” means the heating, ventilating, air conditioning, plumbing, electrical, fire protection, life safety, security, and other mechanical, electrical, or communications systems of the Building.

**POLICY GOVERNING ALLOCATION OF SPACE
IN THE VETERANS BUILDING TO PATRIOTIC ORGANIZATIONS**

The following policy was adopted by the War Memorial Board of Trustees ("WMBT") by Resolution No. 16-21 on May 12, 2016. This policy applies to incoming patriotic organizations seeking to occupy space in the Veterans Building on or after the date of adoption of this policy. It does not apply to organizations occupying the building prior to the adoption of this policy. This policy also does not apply to one-time uses of meeting rooms or special events in the Veterans Building. A separate policy will be developed and adopted by the WMBT concerning one-time uses.

I. Eligible Patriotic Organizations:

The American Legion War Memorial Commission ("ALWMC") may, subject to the terms and conditions of this Policy and the Trust, install the following types of patriotic organizations to occupy rent-free space in the Veterans Building under the San Francisco War Memorial Trust ("the Trust"):

- (a) Veteran-membership organizations composed primarily of (1) U.S. military veterans and/or their relatives, (2) veterans of foreign militaries that were U.S. allies in times of armed conflict and/or their relatives, and (3) those who served honorably in the Merchant Marines during an era of armed conflict and in an area of potential hostilities during that time and/or their relatives.
- (b) Veteran services organizations ("VSOs") such as Swords to Plowshares that both (a) provide social services exclusively or primarily¹ to veterans and/or their relatives, and (b) have their foundation in and are the outcome of a specific war in which the U.S. has engaged.
- (c) Nonprofit organizations dedicated to the commemoration of a war or wars, or veterans of a war or wars, in which the U.S. has engaged.

NOTE: It is the WMBT's position that governmental agencies, such as the U. S. Department of Veterans Affairs and the California Employment Development Department, do not constitute "patriotic organizations" within the meaning of the Trust.

II. Permissible Uses of the Veterans Building:

(a) Both the Trust and the January 29, 2016 superior court order interpreting the Trust limit patriotic organizations' use of the Veterans Building to use "as club and meeting-rooms and for executive offices and auditorium purposes." Nevertheless, the WMBT will allow patriotic organizations to provide certain types of direct services on-site such as job training, technical training, legal services, housing placement, educational services, peer-to-peer counseling and talk therapies (including such peer-to-peer programs as Alcoholics Anonymous), and referrals to other service providers for such services. Notwithstanding the foregoing, the practice of medicine, the practice of dentistry, and

¹ In the case of a VSO that provides social services primarily but not exclusively to veterans and/or their relatives, the VSO's activities in the building (both administrative functions and provision of social services) must be exclusively for veterans and/or their families.

substance abuse treatment and referrals requiring on-site physical examinations for such services shall not be allowed on-site, although patriotic organizations that provide such services may locate their executive offices in the building and use their allocated space to perform administrative functions only.

(b) Occupancy of the Veterans Building must conform to any and all applicable federal, state or municipal laws and regulations, including health, police, fire, and zoning regulations.

(c) Under Paragraph 9(n) of the Trust, occupants may not use the Veterans Building (1) "for the purpose of any business, trade or manufacture," or (2) "for lodging or for a hotel or boarding house."

III. Veterans Building Space Currently Allocated to San Francisco Posts of the American Legion:

As of the date of adoption of this policy, the WMBT had allocated to the San Francisco Posts of the American Legion, through the ALWMC, rooms 019, 101, 102, 202, 206, 207, 208, 210, 212, 213, 221, 224, 313, 317 and 319 in the Veterans Building consisting of a total of 22,693 square feet ("Currently Allocated Space").

Incoming patriotic organizations shall initially be assigned space within the Currently Allocated Space. If the WMBT determines that the Currently Allocated Space is fully utilized, through an annual review of space utilization data collected by War Memorial staff, the WMBT will identify additional space in the building for use by patriotic organizations. Alternatively, if the WMBT determines that the Currently Allocated Space is not fully utilized based on the annual review referenced in the foregoing sentence, the WMBT may reduce or revise the Currently Allocated Space in the future. Utilization shall be defined, measured, and tracked according to separate procedures to be adopted by the WMBT in consultation with the Posts.

IV. Notice to WMBT of Space Allocation to Patriotic Organizations:

For each new patriotic organization seeking to occupy space in the Veterans Building, ALWMC shall provide WMBT with the attached **Notice of Space Allocation (Attachment A)** in accordance with the following timelines:

1. For proposed occupancies in the Currently Allocated Space, Notices of Space Allocation may be submitted to the WMBT at any time.
2. If the WMBT determines that the Currently Allocated Space is fully utilized in accordance with the procedures described in Section III, then the ALWMC may submit, no later than January 1st of each year, Notices of Space Allocation for any and all patriotic organizations it seeks to install in space other than the Currently Allocated Space the following calendar year. When feasible, the WMBT will consider requests at any time for space other than the Currently Allocated Space that is not currently assigned or occupied.

ALWMC shall include with the Notice of Space Allocation a letter from the proposed patriotic organization containing all of the following information:

- a. Description of the patriotic organization's purpose, services, and/or activities.
- b. Description of the patriotic organization's proposed use of space in the building.

- c. Number of patriotic organization's employees/volunteers/staff that would occupy the allocated space.
- d. Square footage requested by the patriotic organization.
- e. Confirmation that the patriotic organization is prepared to enter into an occupancy agreement with the City and County of San Francisco ("Occupancy Agreement") which sets forth occupancy terms including, but not limited to: compliance with the covenants and conditions in paragraph 9 of the Trust, prohibition on subletting, indemnification, insurance, building rules and regulations, consequences for violation of rules, and payment of all utilities, services and material of every character used in or about the allocated premises (currently estimated at \$15.42 per square foot per year or \$1.29 per square foot per month), adjusted annually on July 1 as approved by WMBT. The terms of the Occupancy Agreement shall be mutually agreed to by the WMBT and the ALWMC, with approval by both not to be unreasonably withheld.
- f. General description of proposed alterations to the allocated space that the organization proposes to implement in its requested space. NOTE: Any alterations to the building must be approved in writing by both the ALWMC and WMBT, with approval not to be unreasonably withheld, and approved alterations must be paid for in full by the occupant or ALWMC.

V. WMBT Consideration of Space Allocation:

1. War Memorial staff will review ALWMC's Notice of Space Allocation for completeness. Any questions concerning the proposal shall be sent by War Memorial staff to ALWMC within 15 business days of receiving the Notice.
2. Within 60 calendar days of receiving a complete Notice of Space Allocation, including all answers to any questions sent by War Memorial staff, the Veterans Committee of the WMBT shall meet to review the proposed space allocation and make recommendation(s) to the WMBT. If the Committee cannot meet within the aforementioned 60 day period, the full WMBT shall meet instead to consider and take action on the proposal. In reviewing the proposal, the Committee (or the WMBT as appropriate) shall consider the following:
 - a) Does the proposed patriotic organization satisfy the eligibility criteria set forth in Section I of this policy?
 - b) Does the proposed use fall within the uses prescribed in Section II of this policy and/or paragraph 10, (C)(2) of the Trust – i.e., use as club and meeting rooms and for executive offices and auditorium purposes?
 - c) If ALWMC has proposed a particular space to be allocated to the patriotic organization, is that space appropriate based on the patriotic organization's proposed uses or activities, number of staff, and/or proposed alterations, and if not, is there an alternative appropriate space available in the building?
 - d) If the proposal includes alterations, are the alterations appropriate for the space in question? (See Section IV(f) above regarding approval requirements for alterations.)

3. At its next regularly scheduled meeting following the Veterans Committee meeting, or if no such Committee meeting occurs, at the WMBT meeting referenced in (2) above, the WMBT shall consider the proposal and shall approve the space allocation unless it finds that the space allocation does not satisfy one or more of the criteria listed in subsection (2)(a)-(d) above and/or is inconsistent with the terms of the Trust.

VI. Approved Space Allocations:

1. The patriotic organization shall execute an Occupancy Agreement with the City and County of San Francisco for no less than 30 days and up to one-year, with automatic annual renewals upon the patriotic organization's written request in accordance with the procedure described in Section 4 below. Upon request, the WMBT shall, when reasonably feasible, consider longer-term occupancies and not unreasonably withhold approval. If the ALWMC and WMBT have approved alterations to the allocated space in connection with the occupancy, the organization shall execute a separate agreement governing such alterations.
2. The patriotic organization shall provide to War Memorial staff the required insurance certificate and additional insured endorsement as required by the City's Risk Manager prior to occupancy.
3. The patriotic organization may commence occupancy following execution of the Occupancy Agreement and submission of required insurance documents.
4. Six months prior to the end of the one-year Occupancy Agreement, the patriotic organization will notify ALWMC and WMBT in writing if it wishes to renew the Occupancy Agreement for an additional one-year term, and ALWMC will provide its renewal recommendation to the WMBT. Within 60 days of receiving ALWMC's renewal recommendation, WMBT shall approve the renewal unless it finds the patriotic organization is not in compliance with the terms of the occupancy agreement. Shorter term occupancies are also subject to an approval process consistent with the terms of the occupancy agreement if requested by occupant prior to the end of the occupancy term.
5. Step #4 shall be repeated on an annual basis.

Attachments: Attachment A: Notice of Space Allocation

Notice of Space Allocation

(Attachment A)

Notice of Space Allocation from American Legion War Memorial Commission to War Memorial Board of Trustees for new patriotic organization seeking to occupy space in the Veterans Building

Note: Complete online, print and submit to War Memorial, Veterans Building Room 110.

ALWMC AUTHORIZATION:

Submitted By:	ALWMC Position:
Authorized Signature:	Date of Notice (m/d/yy):

PROPOSED PATRIOTIC ORGANIZATION:

Name of Organization:	Organizational Status (e.g., 501(c)(3)):
Description of activities, functions and/or services provided by patriotic organization:	
Authorized Contact Person:	Position in Organization:
Address, City, State & Zip Code:	
Daytime Phone:	E-mail Address:
Type of Organization (check all that apply):	
<input type="checkbox"/>	A veteran-membership organization composed primarily of U.S. military veterans and/or their relatives.
<input type="checkbox"/>	A veteran-membership organization composed primarily of veterans of foreign militaries that were U.S. allies in times of armed conflict and/or their relatives.
<input type="checkbox"/>	A veteran-membership organization composed primarily of those who served honorably in the Merchant Marines during an era of armed conflict and in an area of potential hostilities during that time and/or their relatives.
<input type="checkbox"/>	A veteran services organization ("VSO") such as Swords to Plowshares that both (a) provides social services exclusively or primarily ¹ to veterans and/or their relatives, and (b) has its foundation in and is the outcome of a specific war in which the U.S. has engaged. ¹ In the case of a VSO that provides social services primarily but not exclusively to veterans and/or their relatives, the VSO's activities in the building (both administrative functions and provision of social services) must be exclusively for veterans and/or their families.
<input type="checkbox"/>	A nonprofit organization dedicated to the commemoration of a war or wars, or veterans of a war or wars, in which the U.S. has engaged.

SPACE ALLOCATION:

Proposed Room Number(s):	Approximate Square Feet:
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ALWMC shall include with this Notice of Space Allocation a signed letter from the proposed patriotic organization on the organization's letterhead containing all of the information listed on page 2.

TO BE FILLED OUT BY WMBT STAFF ONLY:

Date Notice Received:	Received By:
Date Notice Complete:	Received By:

ALWMC shall include with this Notice of Space Allocation a signed letter from the proposed patriotic organization on the organizations' letterhead containing all of the following information:

- a. Description of the patriotic organization's purpose, services, and/or activities.
- b. Description of the patriotic organization's proposed use of space in the building.
- c. Number of patriotic organization's employees/volunteers/staff that would occupy the allocated space.
- d. Square footage requested by the patriotic organization.
- e. Confirmation that the patriotic organization is prepared to enter into an occupancy agreement with the City and County of San Francisco ("Occupancy Agreement") which sets forth occupancy terms including, but not limited to: compliance with the covenants and conditions in paragraph 9 of the San Francisco War Memorial Trust, prohibition on subletting, indemnification, insurance, building rules and regulations, consequences for violation of rules, and payment of all utilities, services and material of every character used in or about the allocated premises (currently estimated at \$15.42 per square foot per year or \$1.29 per square foot per month), adjusted annually on July 1 as approved by the War Memorial Board of Trustees.
- f. General description of proposed alterations to the allocated space that the organization proposes to implement in its requested space. NOTE: Any alterations to the building must be approved in writing by both the ALWMC and WMBT, with approval not to be unreasonably withheld, and approved alterations must be paid for in full by the occupant or ALWMC.