

## FIFTH AMENDMENT TO AGREEEMENT BETWEEN BROWARD COUNTY AND STATE OF FLORIDA, DEPARTMENT OF HEALTH-BROWARD (F/K/A STATE OF FLORIDA, DEPARTMENT OF HEALTH, BROWARD COUNTY HEALTH DEPARTMENT) FOR FACILITY USE

This Fifth Amendment ("Fifth Amendment") is entered into by and between Broward County, a political subdivision of the State of Florida ("County"), and the State of Florida, Department of Health-Broward (f/k/a State of Florida, Department of Health, Broward County Health Department), an agency of the State of Florida ("BCHD"). County and BCHD are referred to individually as a "Party" and collectively referred to as the "Parties."

#### RECITALS

A. On April 17, 2007, County and BCHD entered into a Facility Use Agreement ("Facility Use Agreement"), to coordinate BCHD's use of a County-owned facility for the provision of community public health services, pursuant to Section 154.01, Florida Statutes.

B. On June 10, 2014, the Facility Use Agreement was amended by a First Amendment ("First Amendment"), to modify the list of facilities under the Facility Use Agreement, amend the maintenance and repair obligations of the Parties, and update certain notices requirements.

C. On March 1, 2016, the Facility Use Agreement was amended by a Second Amendment ("Second Amendment") to, among other provisions, amend the term of the Facility Use Agreement.

D. The Facility Use Agreement was amended by a Third Amendment ("Third Amendment") dated June 6, 2023, and by a Fourth Amendment ("Fourth Amendment") dated November 14, 2023, to modify the list of facilities under the Facility Use Agreement.

E. The Facility Use Agreement, as amended by the First Amendment, the Second Amendment, the Third Amendment, and the Fourth Amendment is hereafter referred to as the "Agreement."

F. BCHD plans to make certain improvements at the South Regional Health Center located at 4105 Pembroke Road, Hollywood, Florida 33021 ("South Regional Health Center").

G. The Parties now desire to enter into this Fifth Amendment to account for BCHD's planned improvements at the South Regional Health Center.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The above Recitals are true and correct and are incorporated herein by reference. All capitalized terms not expressly defined within this Fifth Amendment shall retain the meaning ascribed to such terms in the Agreement.

2. Amendments to the Agreement made pursuant to this Fifth Amendment are indicated herein by use of strikethroughs to indicate deletions and bold/underlining to indicate additions. Except as modified herein, all remaining terms and conditions of the Agreement shall remain in full force and effect.

3. This Fifth Amendment shall be effective as of the date it is fully executed by the Parties ("Effective Date").

4. Article III of the Agreement is hereby amended to add the language after Section 12 as follows:

• • •

13. BCHD may, at its sole cost and expense, make non-structural changes, alterations, or additions to the facilities ("Personalty") without seeking consent from County. All Personalty shall remain the exclusive property of BCHD unless the Parties agree otherwise in writing. BCHD agrees that all Personalty and any personal property placed on the facilities shall be at BCHD's own risk.

14. BCHD may, at its sole cost and expense, make such structural changes, additions, renovations, and improvements to the facilities ("Improvements") by first obtaining prior written consent from County, acting through its County Administrator or its County Administrator's written designee. The Improvements shall immediately be, upon being added to or incorporated in the facilities, the exclusive property of County unless the Parties agree otherwise in writing. County hereby approves the improvements to South Regional Health Center as more particularly described in Exhibit B of this Agreement ("South Regional Health Center Improvements"), which South Regional Health Center Improvements"), which South Regional Health Center Improvements".

15. All Personalty and Improvements, including the South Regional Health Center Improvements, shall comply with all applicable laws and shall not negatively affect the integrity of the structural portions of the facilities.

16. Upon the expiration or earlier termination of this Agreement, BCHD shall, at its sole expense, remove all its Personalty from the facilities, and repair all damage caused by such removal. Any Personalty not removed from the facilities upon the expiration or earlier termination of this Agreement shall be deemed the property of County without further liability to BCHD. Notwithstanding, if, upon expiration of this Agreement, the

## Parties agree to enter into a new agreement, BCHD shall not be required to remove its Personalty during any interim negotiations for the new agreement between the Parties.

5. Article VIII of the Agreement is hereby amended to add the language as follows after Section 5:

. . .

## <u>6. Liability.</u>

- a. The Parties are state agencies or political subdivisions under Section 768.28, Florida Statutes, and shall be fully responsible for acts and omissions of its agents or employees to the extent permitted by law. Notwithstanding, BCHD shall at all times hereafter indemnify, hold harmless, and defend County and all of County's officers, agents, servants, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses (collectively, a "Claim"), raised or asserted by any person or entity not a party to this Agreement, which Claim is caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of BCHD, its current or former officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement. In the event any Claim is brought against an Indemnified Party, BCHD shall, upon written notice from County, defend each Indemnified Party against each such Claim by counsel satisfactory to County or, at County's option, pay for an attorney selected by County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement.
- b. If BCHD contracts with a third party to perform any activities related to BCHD's rights pursuant to this Agreement or BCHD's obligations under this Agreement, BCHD shall enter into a contract with such third party, which contract shall include the following provision:

Indemnification: Contractor shall indemnify, hold harmless, and defend County and all of County's officers, agents, servants, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses (collectively, a "Claim"), raised or asserted by any person or entity not a party to this Agreement, which Claim is caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of contractor, its current or former officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement. In the event any Claim is brought against an Indemnified Party, contractor shall, upon written notice from County, defend each Indemnified Party against each such Claim by counsel satisfactory to County or, at County's option, pay for an attorney selected by County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement.

- c. Except to the extent sovereign immunity may be deemed waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by a state agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of this Agreement or any other contract.
- d. <u>The obligations of this article shall survive the expiration or earlier</u> <u>termination of this Agreement.</u>

6. Exhibit B attached hereto is incorporated into and made part of the Agreement.

7. In the event of any conflict or ambiguity between this Fifth Amendment and the Agreement, the Parties agree that this Fifth Amendment shall control. The Agreement, as amended herein by this Fifth Amendment, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter hereof that are not contained in the Agreement as amended in this Fifth Amendment. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

8. Preparation of this Fifth Amendment has been a joint effort of the Parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than any other.

9. This Fifth Amendment may be executed in counterparts, whether signed physically or electronically, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

10. The Parties represent and warrant that this Fifth Amendment constitutes the legal, valid, binding, and enforceable obligation of each Party, and that neither the execution nor performance of this Fifth Amendment constitutes a breach of any agreement that either Party has with any third party or violates any law rule, regulation, or duty arising in law or equity applicable to each Party. The Parties further represent and warrant that execution of this Fifth Amendment is within each Party's legal powers, and each individual executing this Fifth Amendment on behalf of such party is duly authorized by all necessary and appropriate action to do so and does so with full legal authority.

(The remainder of this page is blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Fifth Amendment: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the dav of \_\_\_\_, 2024, and STATE OF FLORIDA, DEPARTMENT OF HEALTH-BROWARD, signing by and through its Director, duly authorized to execute same.

### COUNTY

ATTEST:

BROWARD COUNTY, by and through its Board of County Commissioners

By: Broward County Administrator, as ex officio Clerk of the Broward County Board of County Commissioners

Ву: \_\_\_\_\_ Mavor

\_\_\_\_\_ day of \_\_\_\_\_\_, 20\_\_\_

Approved as to form by Andrew J. Meyers Broward County Attorney 115 South Andrews Avenue, Suite 423 Fort Lauderdale, Florida 33301 Telephone: (954) 357-7600

By (Date) Reno V. Pierre Assistant County Attorney

Bv Annika E. Ashton (Date) Deputy County Attorney

RVP/sr Fifth Amendment – Facility Use Agreement 05/22/2024

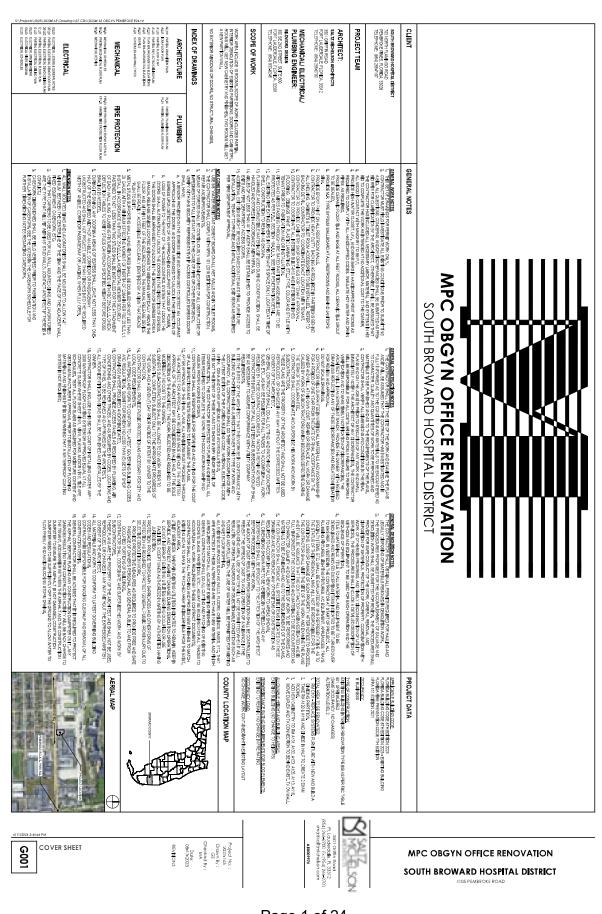
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BCHD

STATE OF FLORIDA, DEPARTMENT OF HEALTH-BROWARD, an agency of the State of Florida

By: Authorized Signer

Paula Thagi, Director Print Name and Title 22 day of May, 20\_24



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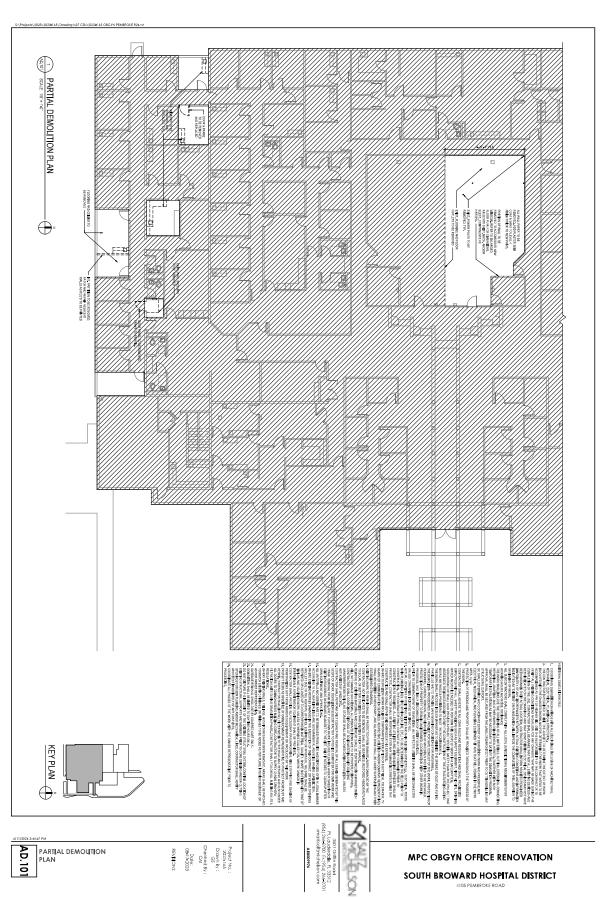
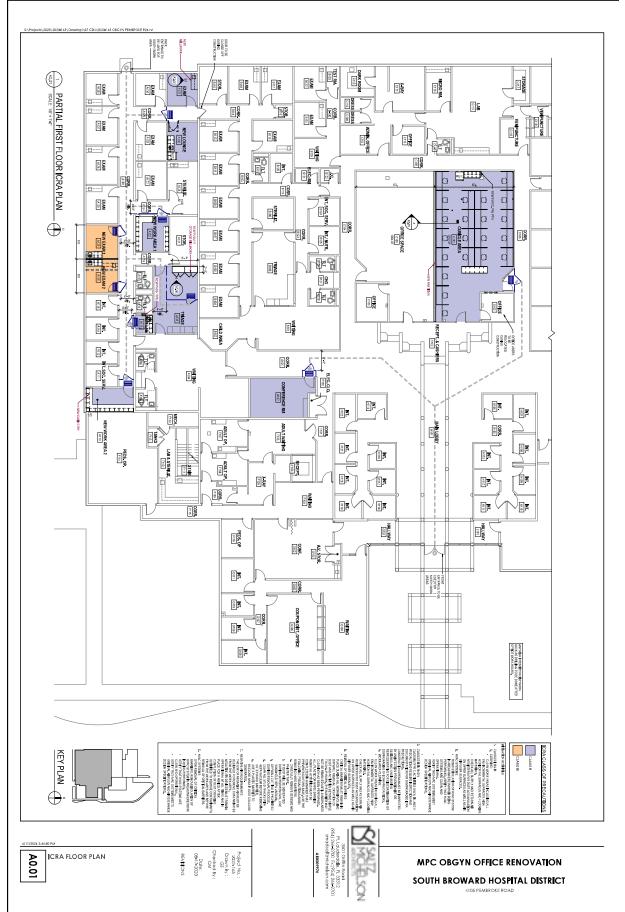
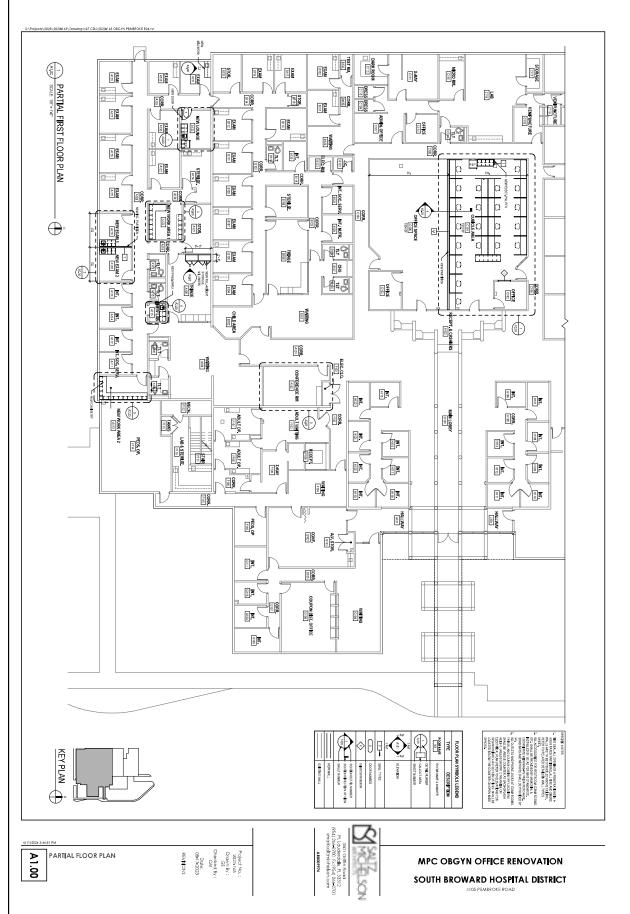


Exhibit 1

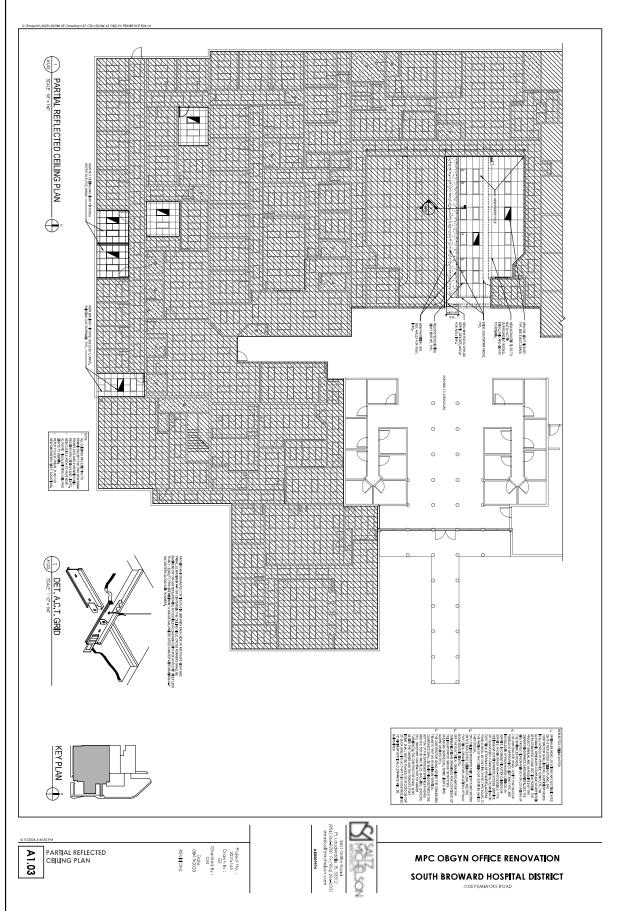
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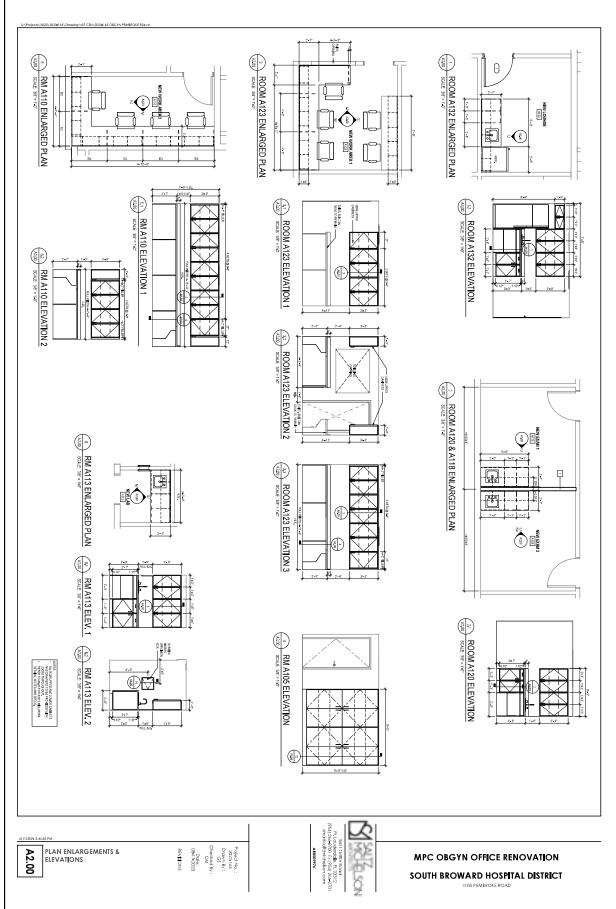
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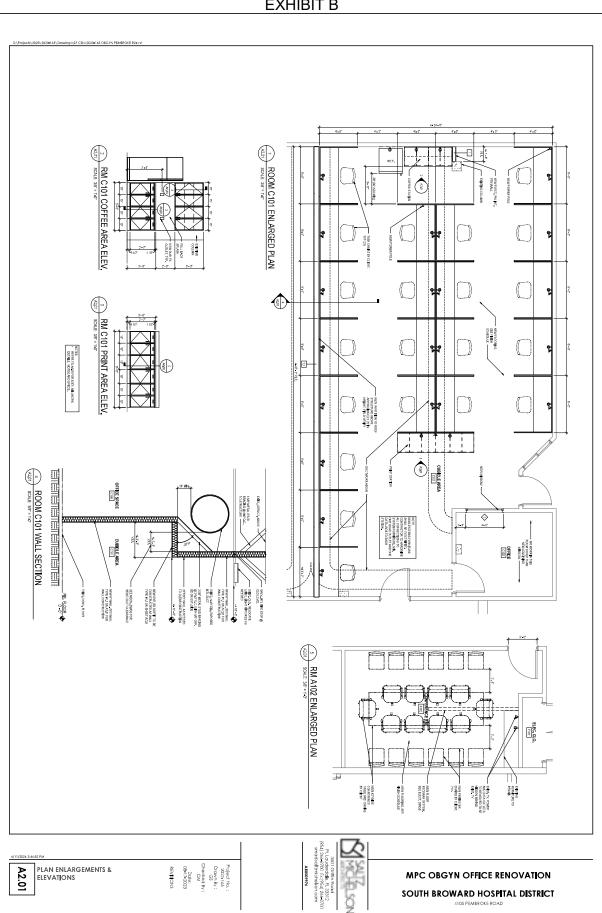


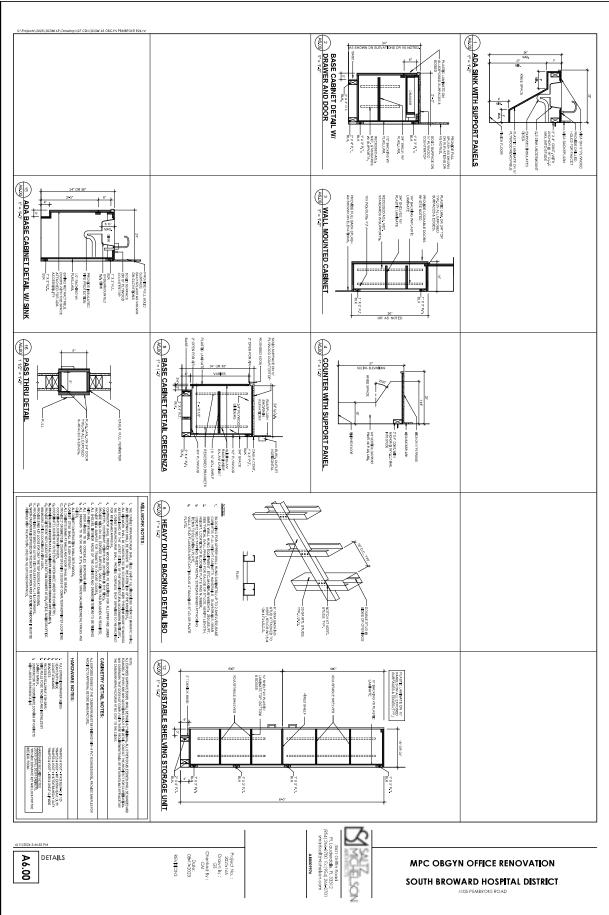


# EXHIBIT B

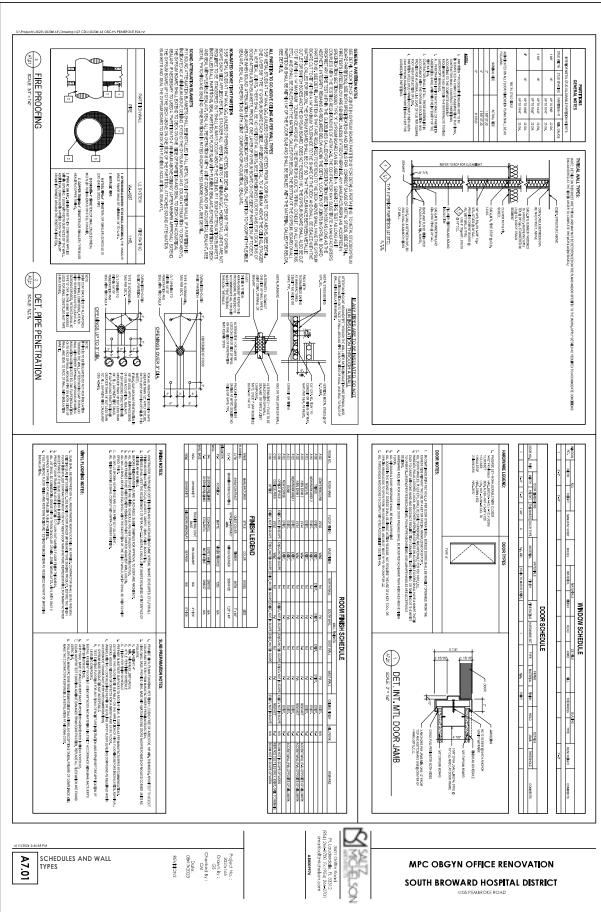


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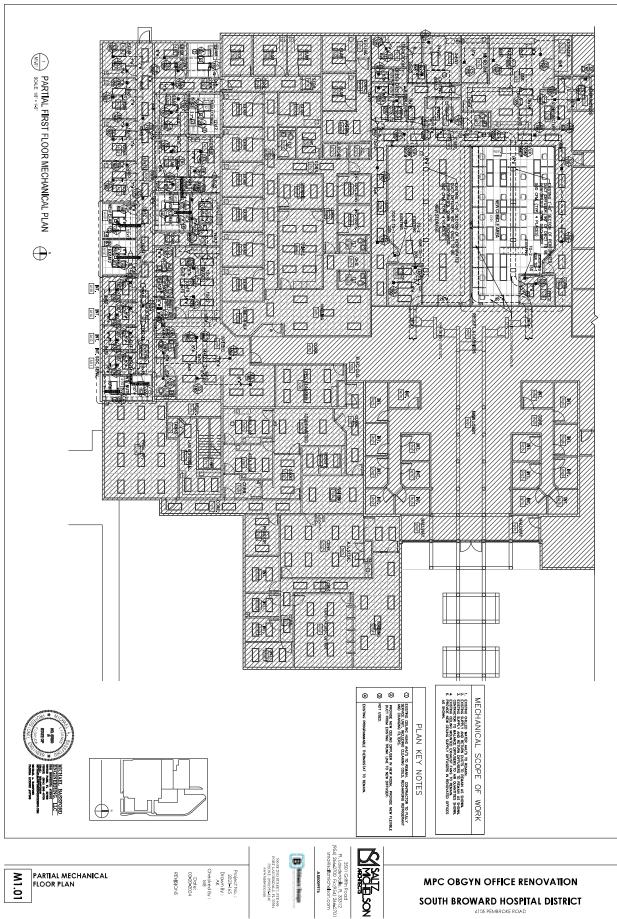
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SOUTH BROWARD HOSPITAL DISTRICT

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EXHIBIT B



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EXHIBIT B



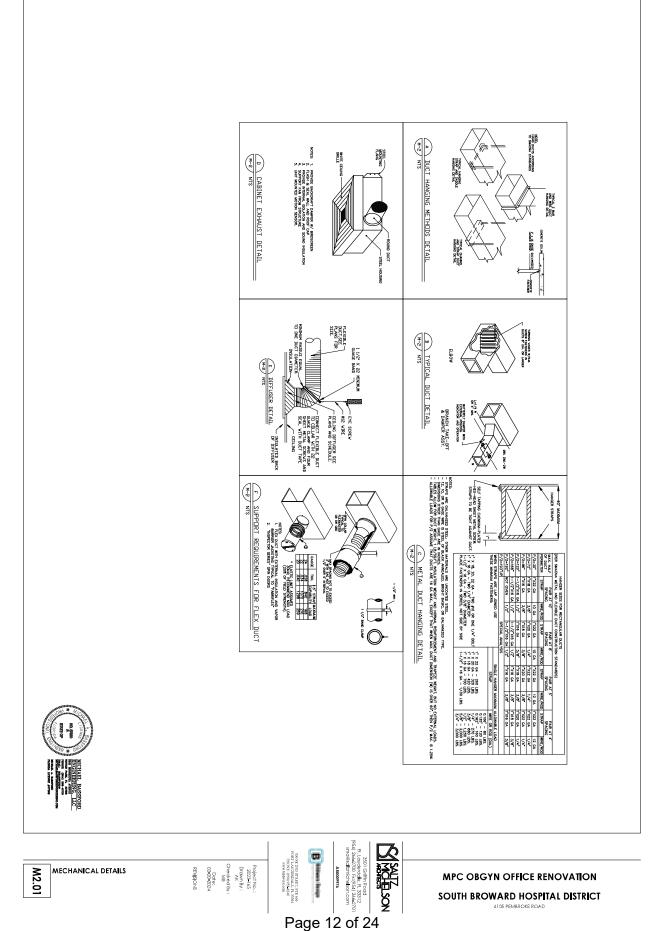
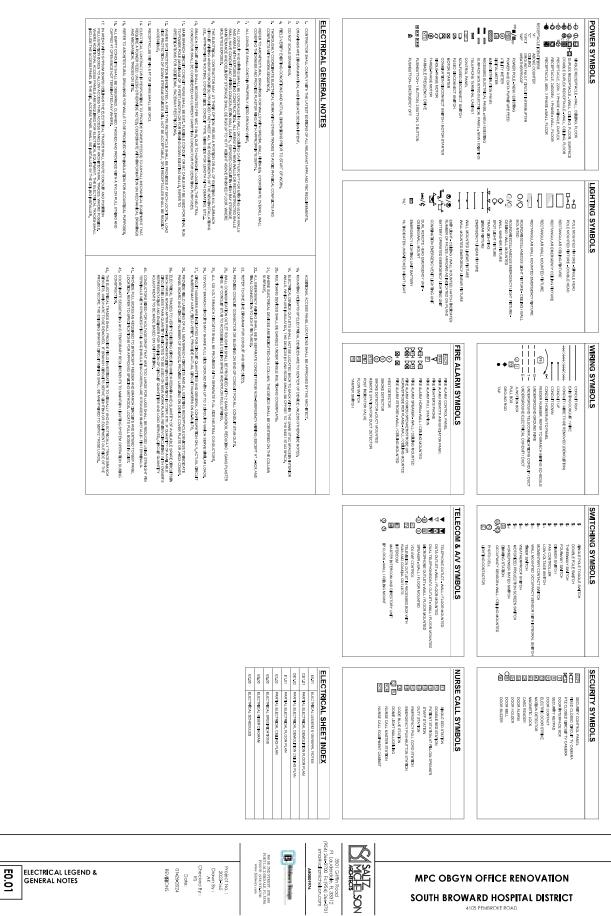
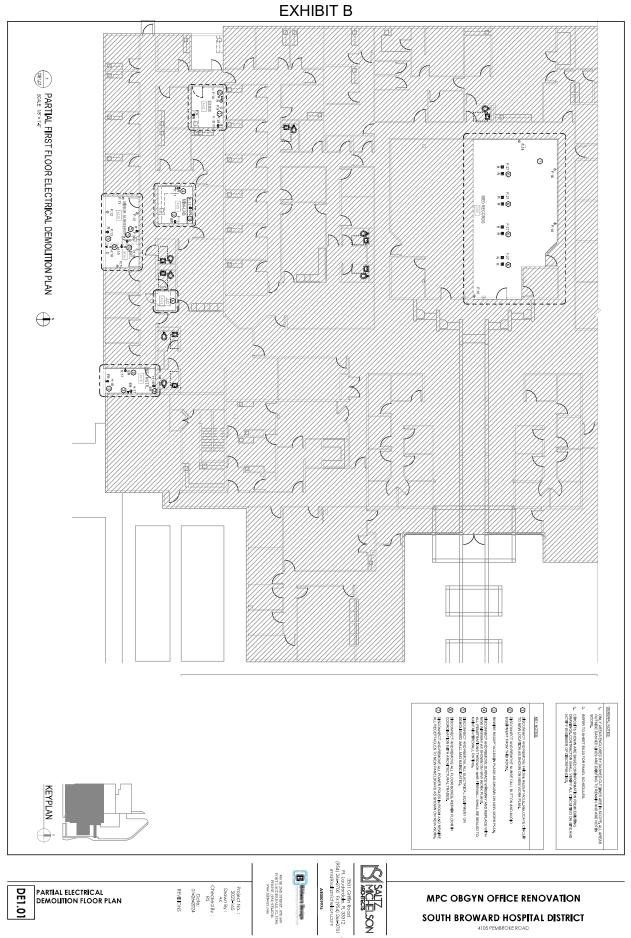


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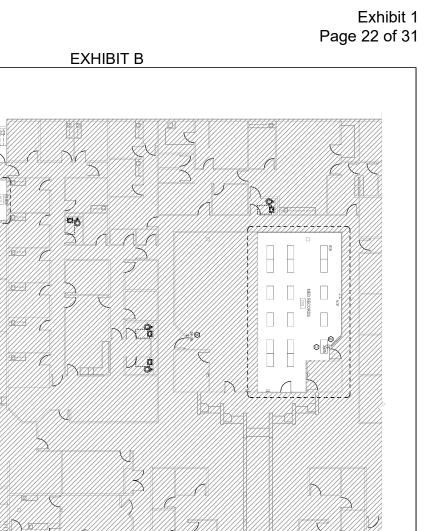
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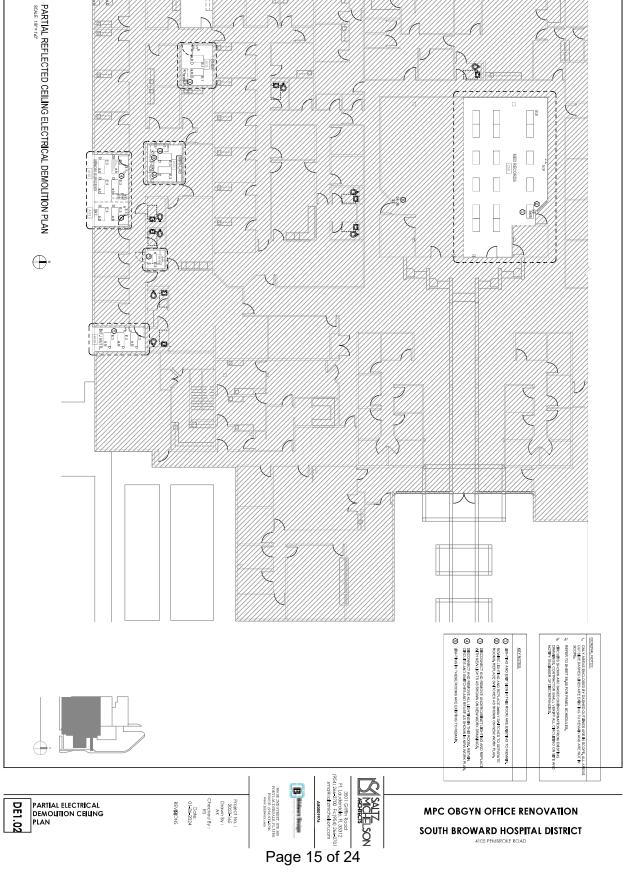


SOUTH BROWARD HOSPITAL DISTRICT 4105 PEMBROKE ROAD



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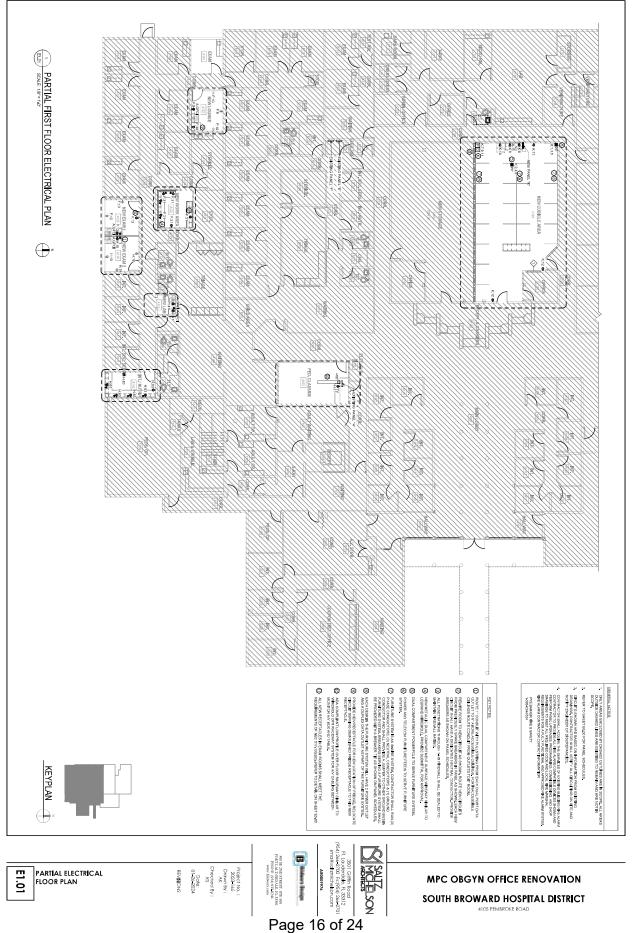
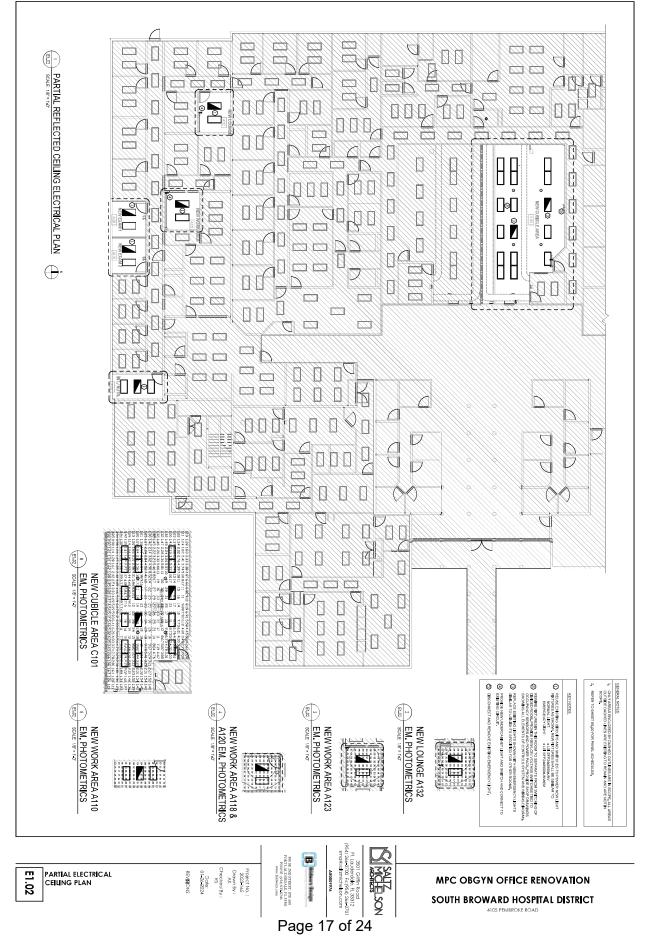


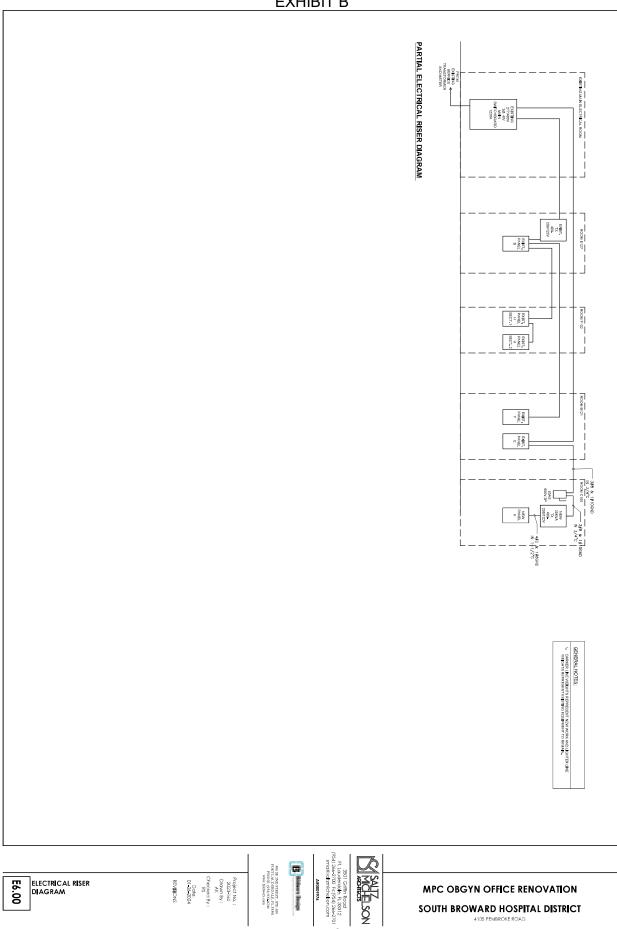
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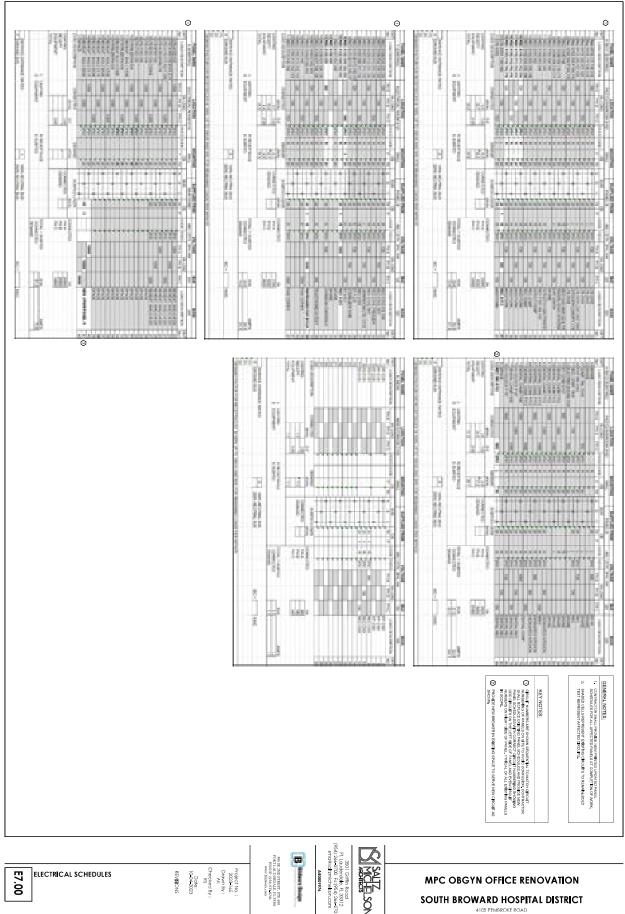




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EXHIBIT B



SOUTH BROWARD HOSPITAL DISTRICT 4105 PEMBROKE ROAD

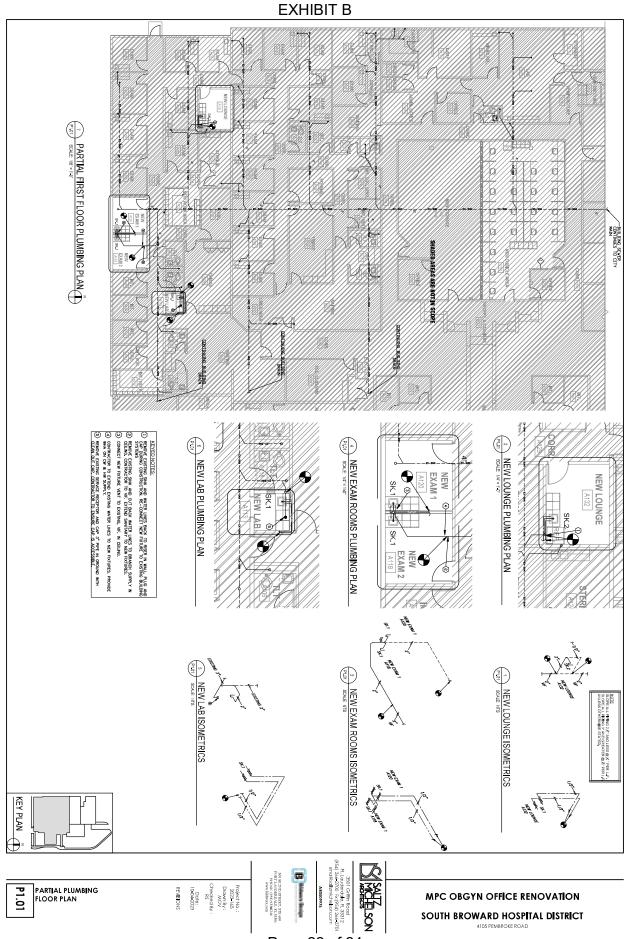
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ATMA ON BURIED PIPE DETAIL 1 W/TRAS ROOF WATER SUPPLY WATER OF PIPE TO BOTTON OF SLAD SEE ARCHITECUTURAL DWGS FOR MAKE, I CONCRETE SLAJ DI GRAZE SPACING SPACING CDPACTO TREATO CONDECTE SUPPORT ABBREVIATIONS EXTERIOR CLEAN OUT FLOOR CLEAN OUT FLOOR DRAW GRADE CLEANOUT HOSE BIB HOT ALTE HOT MATER CIRC, PUMP 21 HOT WATER SUPPLY WEET ELEVATION WALL CLEAN OUT WATER HAMMER STORM DRAIN HUT OFF VALVE "AP PRINER PLANTER DRAIN PRESSURE REDUC RESSURE TANK ISTROOM -OWNSPOUT ISHWASHER OLD WATER OLD WATER SUPPLY FINKING FOUNTAIN ELOW FINISH FLOOR ONDENSATE LEAN OUT HEN SINK RERCOND WAILER LEADER ESS WATER HEATER FOOT FINISH CRADE PANEL OR DOOR FOR MAKE, MODEL, FAUCET AND ACCESSO JOING VALVI MODE FAUCEI AND ACCESS S MARE SON 3501 Griffin Road Pt. Lauderdale, FL 33312 4) 266-2700 Fx:(954) 266-22 sma@saltzmichekon.com Barry Project No. : 2023-165 Drawn By : MOV Checked By : RS PARTIAL PLUMBING Date: 10-04-2023 REVISIONS MPC OBGYN OFFICE RENOVATION

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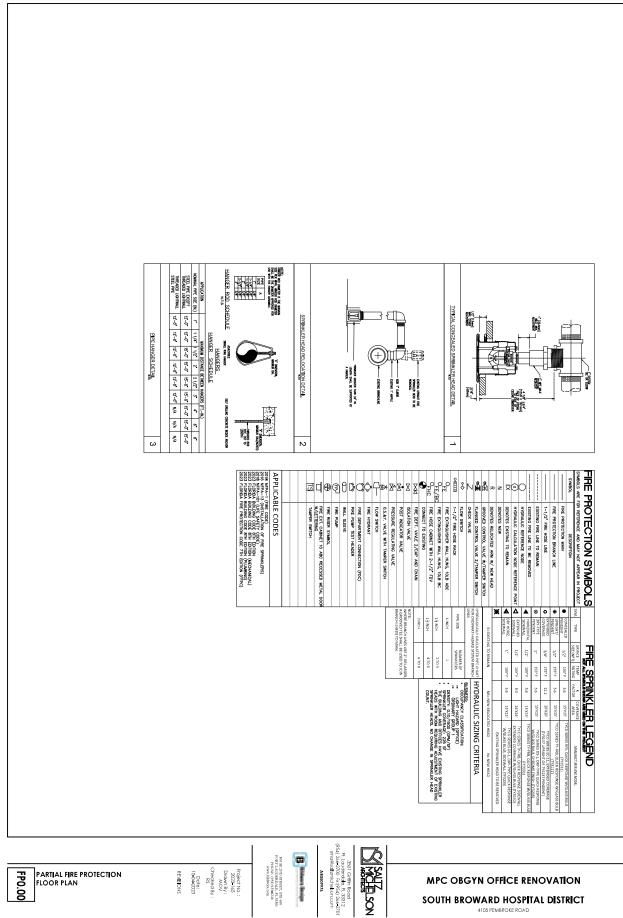
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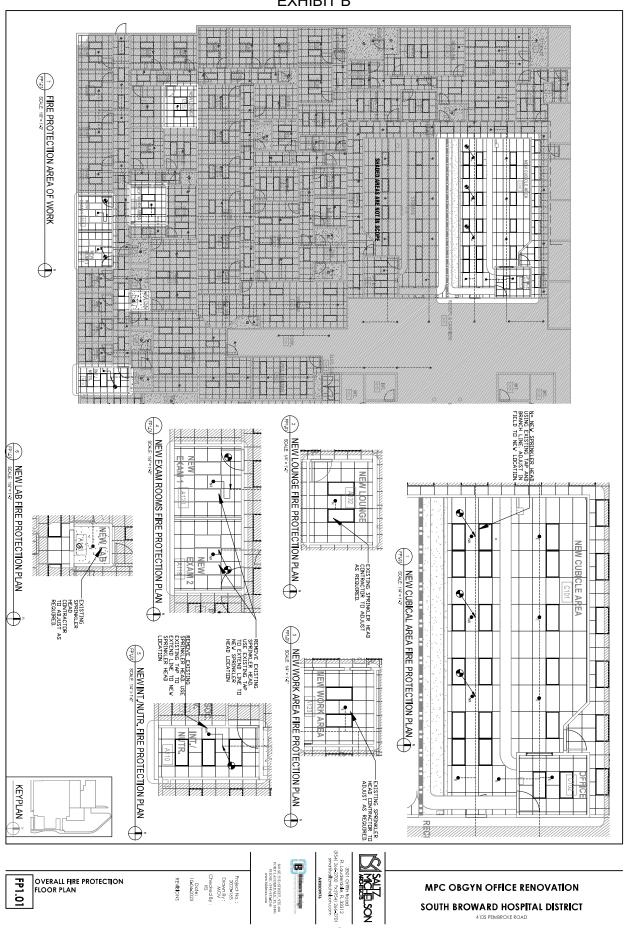


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