MEMORANDUM

Date: September 8, 2017

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

Re: **Operating and Management Agreement between Pima Community College and Pima County Regarding their Learning Center and Community Performing Arts Center in Green Valley, Arizona**

There have been numerous discussions regarding the future management of the Community Performing Arts Center in Green Valley. The entire complex was constructed using bonds from both Pima Community College (PCC) and Pima County. In our view, the entire complex forms the Performing Arts Center and Learning Center.

Management of the complex has been somewhat difficult, as PCC ceased offering classes at this site some time ago and leases a portion of the building to The Osher Lifelong Learning Institute. The balance of their space is leased to the Community Performing Arts Center (CPAC).

CPAC has also leased the County-controlled facilities in the past and is currently on a month-to-month lease with the County. The County pays for certain expenses to operate the facility that are not fully reimbursed. Per the current agreement, for example, the County will pay PCC approximately $14,000 in utility costs (electricity, water and natural gas) for Calendar Year 2016.

This revised operating and management agreement now allows the County to move forward with plans to select a third-party operator and enter into a longer lease for the entire complex. The primary goal is to have the facilities managed and operated by the third-party operator at no cost to the County or PCC.

We hope this third-party operator will be the existing month-to-month lessee (CPAC) for the County's portion of the complex, as well as a portion of PCC's complex.

CHH/anc

c: Tom Burke, Deputy County Administrator for Administration
Lisa Josker, Director, Facilities Management

BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS

○ Award ◉ Contract ○ Grant

Requested Board Meeting Date: September 19, 2017

or Procurement Director Award ☐

** = **Mandatory,** information must be provided*

***Contractor/Vendor Name/Grantor (DBA):**
Pima County Community College District

***Project Title/Description:**
Operating and Management Agreement of the Pima Community College Learning Center and the Pima County Performance Arts Center in Green Valley.

***Purpose:**
In 2002, Pima County completed construction of the Green Valley Performing Arts Center (the "Performing Arts Center") and, in coordination with Pima Community College, constructed administrative offices and classrooms (the "Learning Center") for Pima Community College. The Performing Arts Center and the Learning Center are adjacent to each other and share parking. Although the two centers form one complex, the County has operated the Performing Arts Center separately from the College's operation of the Learning Center. The separate management of the two centers is an inefficient use of the complex as a whole. The College and the County would like to operate the two centers as a single facility. This Operating Agreement would transfer the management of the Learning Center from Pima Community College to Pima County as a single building complex instead of two separate centers. The principle limitation requires the the County continues to have the Learning Center used for educational purposes. The County plans to select a third party operator of the complex to manage the complex at no cost to the College or the County.

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***Procurement Method:**
Procurement Exempt Policy D 29.6

***Program Goals/Predicted Outcomes:**
As a result of this Operating Agreement, the scheduling of activities in the Learning Center and Performing Arts Center will be consolidated enabling greater efficiencies in program management, will emphasize complimentary space usage and stimulate demands for a wide range of artistic and recreational programming.

***Public Benefit:**
The southern Arizona community and public will continue to have access to activities in the Learning Center which includes courses offered by the Osher Lifelong Learning Institute at the University of Arizona, and a variety of events in the Performance Arts Center.

***Metrics Available to Measure Performance:**
The Learning Center and the Arts Center complex of buildings at this site will continue to be used in the manner described when the Pima County voters approved bond funds in 1997 and 2004, respectively.

***Retroactive:**
No.

To COB: 9-6-17 (2)
Vers: 1
Pgs: 37

Procure Dept 09/06/17 PM03:21

Contract / Award Information

Document Type: CT Department Code: FM Contract Number (i.e.,15-123): 18*42

Effective Date: 09/01/2017 Termination Date: 6/30/2027 Prior Contract Number (Synergen/CMS): _____

☒ **Expense Amount: $*** 0 ☐ Revenue Amount: $ _____

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

Funding from General Fund? ◉ Yes ○ No If Yes $ _____ % 100

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

***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 22-73.

Amendment / Revised Award Information

Document Type: _____ Department Code: _____ Contract Number (i.e.,15-123): _____

Amendment No.: _____ AMS Version No.: _____

Effective Date: _____ New Termination Date: _____

Prior Contract No. (Synergen/CMS): _____

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

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

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

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

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

Document Type: _____ Department Code: _____ Grant Number (i.e.,15-123): _____

Effective Date: _____ Termination Date: _____ Amendment Number: _____

☐ Match Amount: $ _____ ☐ Revenue Amount: $ _____

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

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

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

***Funding Source:** _____

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

Contact: Melissa Loeschen

Department: Facilities Management 9/6/17 Telephone: 724-8230

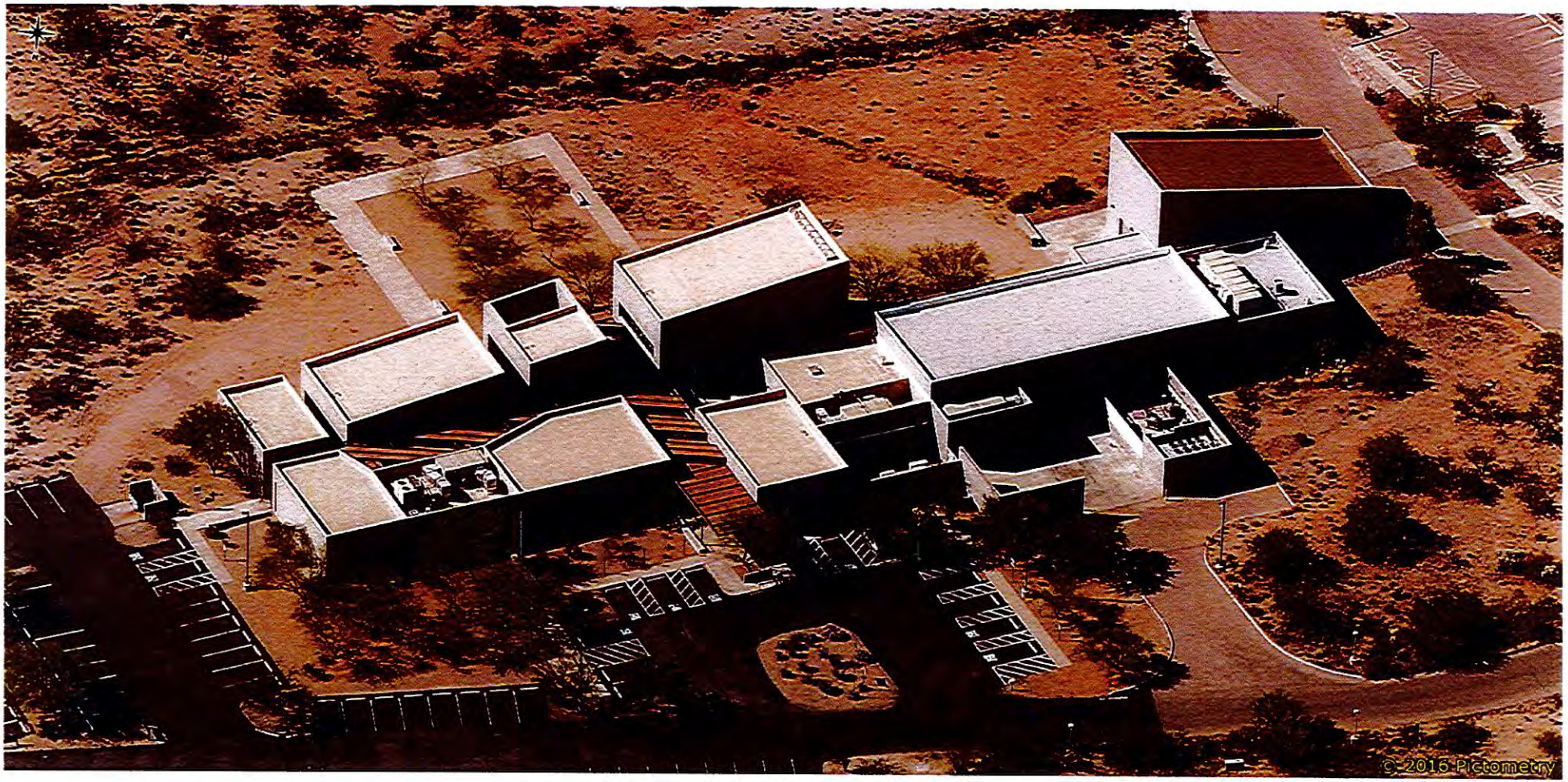
Department Director Signature/Date: 9/6/17

Deputy County Administrator Signature/Date: 9-6-17

County Administrator Signature/Date: C. Barkley 9/6/17

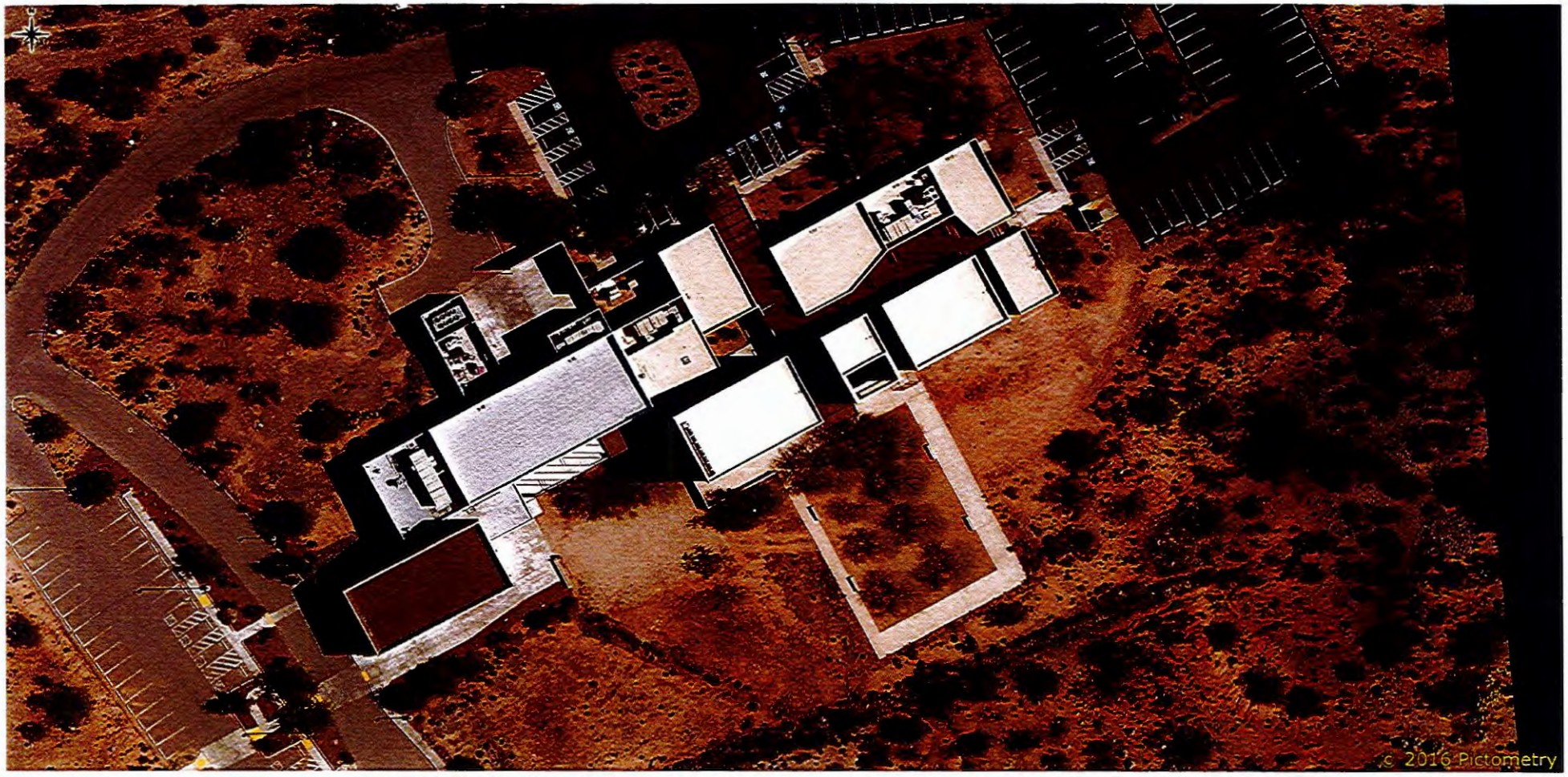
(Required for Board Agenda/Addendum Items)

Pima County Performing Arts Center and Pima Community College Learning Center



05/20/2016

Pima County Performing Arts Center and Pima Community College Learning Center



05/20/2016

Contract No: CT-FM-18-042 Amendment No: _____

This number must appear on all correspondence and documents pertaining to this contract

Operating and Management Agreement
of the Pima Community College Learning Center
and the Pima County Performance Arts Center in Green Valley

This Operating Agreement ("Agreement") is made and entered into by and between Pima County, a political subdivision of the state of Arizona (hereinafter the "County"), and Pima County Community College District, a political subdivision under the laws of the state of Arizona (hereinafter the "College"). The County and the College are sometimes referred to herein as a "Party" or collectively the "Parties."

WITNESSETH

WHEREAS, the County and the College share common concerns for the education, health and leisure pursuits of the residents of Pima County; and

WHEREAS, the College and the County entered into an Intergovernmental Agreement (the "IGA") dated May 21, 2002, for design and construction of a community performing arts and learning center in Green Valley, which consists of a learning center including, but not limited to administrative offices, classrooms, a meeting room, and activity rooms (the "Learning Center") owned by the College depicted in Exhibit A, and a performing arts center including, but not limited to a rehearsal hall, store room, and office space (the "Arts Center") owned by the County depicted in Exhibit B, together with attendant furnishings and equipment, parking lots, driveway areas and related facilities, landscaping, and related improvements (collectively the "Facilities"); and

WHEREAS, in Article 2.2 of the IGA, each Party has granted to the other Party a license for the joint use of the portion of the Facilities owned and controlled by such Party and the Parties have agreed to reasonably cooperate with one another with respect to scheduling such use; and

WHEREAS, under Article 3.1 and Article 3.3 of the IGA, each Party is responsible for staffing and scheduling with respect to the portion of the Facilities owned by such Party; and

WHEREAS, the County and the College have entered into a Ground Lease Agreement dated May 21, 2002, (the "Ground Lease") pursuant to which the County leases to the College the ground underlying the Learning Center; and

WHEREAS, the Parties entered into an Operating Agreement dated June 15, 2004, as amended, pursuant to which the College will perform maintenance with respect to the Facilities and the County will reimburse the College for a portion of the costs thereof; and

WHEREAS, "final completion" of the Facilities occurred on September 15, 2003; and

WHEREAS, the Operating Agreement dated June 15, 2004, and the corresponding amendments expired on May 20, 2015; and

WHEREAS, both the County and the College manage and operate portions of the Facilities, with the County operating the Arts Center and the College operating the Learning Center; and

WHEREAS, the County and the College desire to enter into this Agreement to address the day-to-day management, operations and maintenance of the Facilities as a single building complex rather than separately as the Learning Center and the Arts Center with the County being primarily responsible for the Facilities.

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

1) **Incorporation by Reference**: The Parties hereby incorporate the foregoing recitals of this Agreement as though fully set forth herein, agreeing that such recitals are material, true and correct. This Agreement is intended to be, and shall be interpreted to be, consistent in all material ways with the IGA and the Ground Lease.

2) **Agreement of the Parties**. The principal function of this Agreement is to effect a mutually satisfactory planned operation and maintenance of the Facilities. The County is hereby empowered to exercise primary responsibility and oversight concerning such maintenance, unless otherwise specifically provided for herein or subsequently otherwise agreed by the Parties.

3) **Term**. The term of this Agreement shall commence on September 1, 2017, and shall continue until June 30, 2027. The College and the County may renew the term of this Agreement for three (3) additional terms of ten (10) years each by agreeing in writing to do so at least ninety (90) days prior to the expiration of the initial term hereof, and any subsequent term hereof, in which event the Parties' rights and obligations shall continue to be governed by the terms, conditions, covenants and provisions hereof.

4) **Control and Scheduling of Facilities**. County shall have the primary management and control of the activities undertaken within the Facilities. For purposes of this Agreement, the Parties agree the County will continue to utilize the Learning Center for educational purposes to further the greater good of the community. The Parties intend and agree that County is responsible for the day-to-day scheduling and conducting of activities and programs of the Facilities.

5) **Utilities, Maintenance and Custodial**. The County will no longer pay the College a square foot cost for the Arts Center as specified in the Operating Agreement dated June 15, 2004. The County will be responsible for the routine maintenance and custodial services for the Facilities. The

County will obtain utility service for the Facilities including (water, sewer and electrical). The landscape areas surrounding the Facilities will be maintained by the County at its sole expense. County will maintain, in a neat and clean condition, the associated parking lots and roadways surrounding the Facilities and both the interior and exterior portions of the Facilities.

6) **Capital Improvements.** College and County acknowledge that the County will, from time to time, have to make certain capital improvements to maintain the Facilities in a condition suitable for County's activities. Capital Improvements, as defined by General Accepted Accounting Practices (GAAP), include the cost of design and construction of building additions, construction of additional parking, paving of existing parking lots, roof replacement, HVAC unit replacement, structural repairs, replacement or installation of life safety systems such as sprinkler systems or alarm systems, replacement of plumbing or electrical systems and other major building equipment replacement or installations. Capital Improvements to the Learning Center portion of the Facilities shall be approved by College and shall include verification that the dollars spent are for "Capital Improvement Costs". Said costs shall be approved, in writing, in advance by the College. Any improvements made to the Learning Center for the direct purpose of accommodating the County's occupancy (e.g. communication wiring, interior partition walls, upgrades to the class rooms, bathrooms) and not specifically requested by the College shall be defined as County improvements and not Capital Improvements.

7) **Repairs**.

a) By entry hereunder, the County shall be deemed to have accepted the Facilities as being in good, sanitary order, condition and repair except as identified on Exhibit C. County shall, at County's sole cost and expense, keep the Facilities and every part thereof in good condition and repair including without limitation, the maintenance, replacement and repair of any doors, window casements, glazing, plumbing, pipes, electrical wiring and lighting fixtures and conduits, heating and air conditioning system and maintain them. County shall, upon the expiration or sooner termination of this Agreement, surrender the Learning Center to College in good condition, clean, ordinary wear and tear and damage from causes beyond the reasonable control of County excepted. Any damage to the Learning Center or adjacent property caused by County's use of the Facilities shall be repaired at the sole cost and expense of County ordinary wear and tear and damage from causes beyond the reasonable control of County excepted.

b) Notwithstanding any other provisions hereof, County shall, also at its expense, maintain and repair the heating and air conditioning system, structural portions of the Facilities, including the exterior walls and the structural portions of the roof. Except as provided in Sections 7(c) and 8 hereof, there shall be no liability of College by reason of any injury to or interference with County's business arising from the making of any repairs,

alterations or improvements in or to any portion of the Facilities, property or to fixtures, appurtenances and equipment therein.

c) Notwithstanding the stated provisions above in paragraphs a and b, should the County replace items which are Capital Improvements, as defined in Section 6, the costs of these replacements, if approved in advance by the College, shall be shared equally by the College and County. The County will invoice the College for College approved Capital Improvements.

i) Except in the case of emergencies, the County is responsible for obtaining such Capital Improvements and shall notify the College in writing prior to conducting the work. The notice shall describe the repairs needed, why they are needed, and the estimated costs thereof. If the College does not, within ten (10) business days of receipt of such notification, object to the proposed repairs, it shall be deemed to have approved them and the County may proceed to obtain the repairs. Both Parties recognize that funding for repairs or replacement could require a capital funding requests, such requests could also require the approval of either Parties governing board or officers. Parties agree that sufficient time will be granted for the approval and funding process, prior to obtaining services and or equipment for Capital Improvements. If the College does object, and the Parties are unable to reach agreement, this shall be treated as a dispute under Section 22 hereof, and Article 6 of the IGA. In such event, the County may, but shall not be obligated to, obtain the repair, but the College shall not be obligated to pay its share of the cost until the dispute is resolved by agreement of the Parties or otherwise. Except in the case of such a dispute, the College shall reimburse the County for 50% of the cost of the repair within thirty (30) days of receipt of an invoice.

8) **Reconstruction.**

a) In the event the Facilities are damaged by fire or other perils covered by extended coverage insurance required hereunder, County agrees to forthwith repair same, and this Agreement shall remain in full force and effect.

b) In the event the Learning Center is damaged to any extent as a result of any cause other than the perils covered by fire and extended coverage insurance, College shall have the option: (1) to repair, reconstruct or restore the Learning Center, in which event this Agreement shall continue in full force and effect; (2) to give notice to County at any time within sixty (60) days after such damage, terminating this Agreement as of the date specified in such notice, which date shall be no more than thirty (30) days after the giving of such notice. In the event of giving such notice, this Agreement shall expire and

all interest of County in the Learning Center shall terminate on the date so specified in such notice.

c) College shall not be required to repair an injury or damage by fire or other causes, or to make any repairs or replacement of any improvements, fixtures, or other personal property of County.

9) **Damage Caused by Parties**. Notwithstanding the above, each Party shall be solely responsible for repairing any damage to the Facilities caused by the negligence or intentional misconduct of such Party's employees, licensees, invitees, agents or contractors.

10) **Not-to -Exceed Amount/Non-Appropriation**. The total amount paid by the College under this Agreement shall not exceed $100,000 per year or $1,000,000 total over the initial term. The annual amount thereafter shall be agreed upon at the time of any extension to this Agreement. Notwithstanding any other provision herein, this Agreement may be terminated if for any reason there are not sufficient appropriated and available monies for the purpose of maintaining the College's obligations under this Agreement. In the event of such a termination, College shall have no further obligation hereunder other than to pay County for services rendered prior to the termination.

11) **Furnishings and Equipment**. County shall be solely responsible for all attendant furnishings and equipment in the Facilities. However, to further the collaborative nature of this agreement, the College will allow the County use of its furnishings and equipment currently located at the Learning Center and listed on Exhibit D. County will update this inventory as needed, but not less than annually. College will, at its expense prior to the effective date of this Agreement:

a) Cause to be removed any and all of Colleges' information technology data and voice network equipment including all of the College's personal computers, monitors and printers listed on Exhibit E. The existing data and voice cabling from the MDF/IDF rooms to the office data and voice outlets; fiber cabling between the MDF and IDF; Century Link business fiber; the two (2) post racks in the MDF and IDF will remain within the Learning Center. County and College will coordinate and collaborate efforts during the transition to minimize disruption with daily operations.

b) Cause the Fireworks fire suppression system alarm panel and annunciator to be reprogramed by a contractor selected by the College, so notifications will be transmitted to the County, instead of to the College.

12) **Energy Management System.** County will, at County's expense, modify, alter or install a new energy management system for the Facilities.

13) **Telephone Service**. County shall provide and pay for telephone and Internet service.

14) **Access Control.** The County shall be solely responsible for all Access Control measures including keys and any future equipment for the Facilities. County may, at County's expense install a new electronic access control system that currently does not exist. County will receive all keys and an itemization of the names of who the keys have been issued to from College immediately after this document is fully executed. College will coordinate and collaborate in efforts during the transition to minimize disruption with daily operations.

15) **Existing Licensee.** College has an existing Facility License Agreement as shown in Exhibit F for portions of the Facilities with the Osher Lifelong Learning Institute at the University of Arizona (OLLI-UA) which expires on July 31, 2020 which will be assigned to County. County or any subsequent Operator contracted by County, will honor the remaining term of the OLLI-UA agreement and may renew the OLLI-UA agreement upon its expiration provided that any such renewal complies with A.R.S. § 11-256.01 and is in the best interests of the community.

16) **Rehearsal Hall**. College or its lessee (OLLI-UA) who occupies portions of the Facilities shall be permitted to utilize the Rehearsal Hall, room 105 in the Arts Center, for a maximum of twenty (20) hours per week under the terms of this Agreement. Any additional use of the Rehearsal Hall shall be billed by County to the user as specified at the time of rental at the County's current rate. Any request by the College or their lessee to use the Rehearsal Hall will be submitted to the County and coordinated by the County. The County shall schedule all uses of the Rehearsal Hall and shall approve all reasonable requests for use of the Rehearsal Hall, unless such a request conflicts with a previously scheduled activity. Written requests for the use of the Rehearsal Hall must be received by the County no later than two (2) weeks prior to each planned activity.

17) **Insurance.** Each Party shall procure and maintain insurance, covering both liability and premises, in accordance with the provisions of Article 5.2 of the IGA. The Parties agree to act cooperatively in the application for, issuance of, and maintenance of such insurance coverage.

18) **Licenses, Permits, etc.** The College and the County shall each procure and maintain each and every license, permit, certificate or other authorization, and any and all renewals, extensions and/or continuations thereof, necessary in order to operate the Facilities and their respective programs thereat, all in connection with the uses and purposes thereof.

19) **Employees of Parties:** Neither the College, its governing board, officers, and employees, nor persons or entities engaged by the College shall be considered as employees or agents of the County. Neither the County, its elected officials, officers, and employees, nor persons or entities engaged by the County, shall be considered employees or agents of the College.

20) **Indemnification:** To the extent permitted by law, each Party shall indemnify, defend and hold harmless the other Party, its officers, employees, agents, and governing board from and against any and all suits, actions, legal or administrative proceedings, claims, demands, liens, losses, fines, damages, consequential damages, liability, interest, attorney's and accountant's fees, costs and expenses, of whatsoever kind and nature, in any manner, directly or indirectly caused, occasioned or contributed to, in whole or in part, by reason of any act, omission, fault, negligence, or violation or alleged violation of any law, whether active or passive, of the indemnifying Party its agents, employees, or anyone acting under its control, in connection with or incident to the performance of the obligations of the indemnifying Party under this Agreement. The foregoing indemnity from the indemnifying Party to the other Party shall not, however, be applicable to any claim, suit, action, proceeding, situation, occurrence or matter arising solely from any act, negligence, conduct, fault or omission of the indemnified Party, its officers, agents, contractors, servants, employees, representatives, governing board or anyone acting under its control. The foregoing indemnity, hold harmless and defense obligations shall survive the expiration of the term of this Agreement, including any renewal thereof, or any other termination of this Agreement.

21) **Cross-Default.** A default by either Party in the obligations under this Agreement shall also constitute a default under the IGA and the Ground Lease.

22) **Negotiated Resolution.** Nothing in this Agreement shall preclude the Parties from agreeing upon alternate terms pertaining to the foregoing contingencies, obligations, duties and provisions in light of the circumstances in existence at the time of any such subsequent agreement, provided, however, that no Party shall be compelled to negotiate for or to accept any such alternate terms. Disputes hereunder shall be resolved as set forth in Article 6 of the IGA.

23) **Termination.** Termination or cancellation of this Agreement shall be resolved as set forth in Article 7.3 of the IGA.

24) **General Provisions.**

a) This Agreement is subject to the provisions of A.RS. §38-511 regarding the cancellation of contracts involving conflict of interest.

b) If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

c) The various headings and numbers herein and the groupings of the provisions of the Agreement into separate articles and paragraphs are for the purpose of convenience only, and shall not be considered or construed otherwise.

d) Time is of the essence of this Agreement.

e) This Agreement, and any exhibit or addendum attached hereto, sets forth the entirety of all covenants, promises, agreements, conditions and undertakings, either oral or written, between the County and the College with respect to the subject matter hereof, namely, the day-to-day maintenance of the Facilities, provided that the Parties acknowledge the existence and validity of the IGA and the Ground Lease between the County and the College relating to the Facilities (as therein defined), which are intended to be read in concert with this Agreement. Except as herein otherwise provided no subsequent alteration, amendment, change, or addition to this Agreement shall be binding upon the County or the College unless reduced to writing and signed by both Parties.

f) This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

g) No covenant, term or condition of this Agreement shall be waived except by a writing signed by the Party against whom such waiver is sought, and the forbearance or indulgence by a Party in any regard whatsoever shall not constitute a waiver of any provision.

25) **Notices:** All notices, demands or other communications required or permitted to be given hereunder shall be in writing and shall be served upon the other Party by personal delivery (including by any messenger or courier service) or by first class registered or certified U.S. mail, postage prepaid, with return receipt requested, addressed to the Parties as follows:

To the College: Pima County Community College District
Facilities Fiscal and Management Operations
4905D E. Broadway Blvd.
Tucson, Arizona 85709-1400

With a copy to: Pima County Community College District
Attn: Fiscal Analyst
6680 S. Country Club Rd.

Tucson, Arizona 85709

Pima County Community College District
Attn: Contracts Office
4905 E. Broadway Blvd., Building D, Room 232
Tucson, Arizona 85709

To the County: Pima County Facilities Management Department
Attn: Director
150 W. Congress, 3rd Floor
Tucson, Arizona 85701

Or to such other address as any Party notifies the other Party of by advance writing. Such notices or communications shall be deemed effective, if by personal delivery, on the date of such delivery, against receipt therefore (or upon refusal of acceptance), or if by first class or certified mail, on the earlier of three days after the date of such mailing or the signature date of the return receipt.

26) **Further Development of Facilities.** The IGA contemplates that the Parties may further develop the Facilities. In the event of such further development, the Parties will amend this Agreement to provide for the maintenance and operation of the added improvements.

27) **Alcohol.** Parties agree to permit any person or entity with appropriate permission to be on the property for such event to serve alcohol for special events or fundraisers on the property, including outdoor patios, provided that the party serving alcohol has, prior to any such event or fundraiser, provided proof of liquor liability insurance in the amount of Two Million Dollars ($2,000,000.00) per occurrence, or such other reasonable amount requested by County, naming both County and College as an additional insured. The party serving alcohol shall further agree to defend, indemnify, and hold County and College, and their officers, agents, and employees, harmless from and against any and all claims, demands , causes of action, complaints, suits, losses, damages, injuries and liabilities whatsoever (including costs, expenses and attorney's fees) suffered or incurred as a result of (1) the party's use of the Facilities and/or (2) alcohol being served at the Facilities at the direction or with the approval of the party. County agrees that, with respect to any special event or fundraiser where alcohol is served, it shall require the party (1) to conduct the special event or fundraiser in a manner so as not to disrupt any educational activities, and (2) to provide reasonable supervision of and cleanup after such special event or fundraiser.

28) **Management By Third Party.** The Parties acknowledge that the County may, in its discretion, contract with a third party entities through operating agreements or lease agreements to perform the management contemplated by the Agreement on behalf of the County, provided any such agreement with a third party entity shall be subject to the terms of this agreement.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the day and year first above written.

PIMA COUNTY BOARD OF SUPERVISORS

By: Sharon Bronson
Title: Chair
Date:_____

PIMA COUNTY COMMUNITY COLLEGE DISTRICT

By:
Title:
Date:_____

ATTEST

Clerk of the Board of Supervisors

APPROVED AS TO FORM

By: Tobin Rosen
Title: Deputy County Attorney

Date: 9/5/17

APPROVED AS TO FORM

By:
Title:

Date:_____

APPROVED AS TO CONTENT

By: Lisa Josker
Title: Director, Facilities Management Department
Date: 9/6/17

Exhibits:

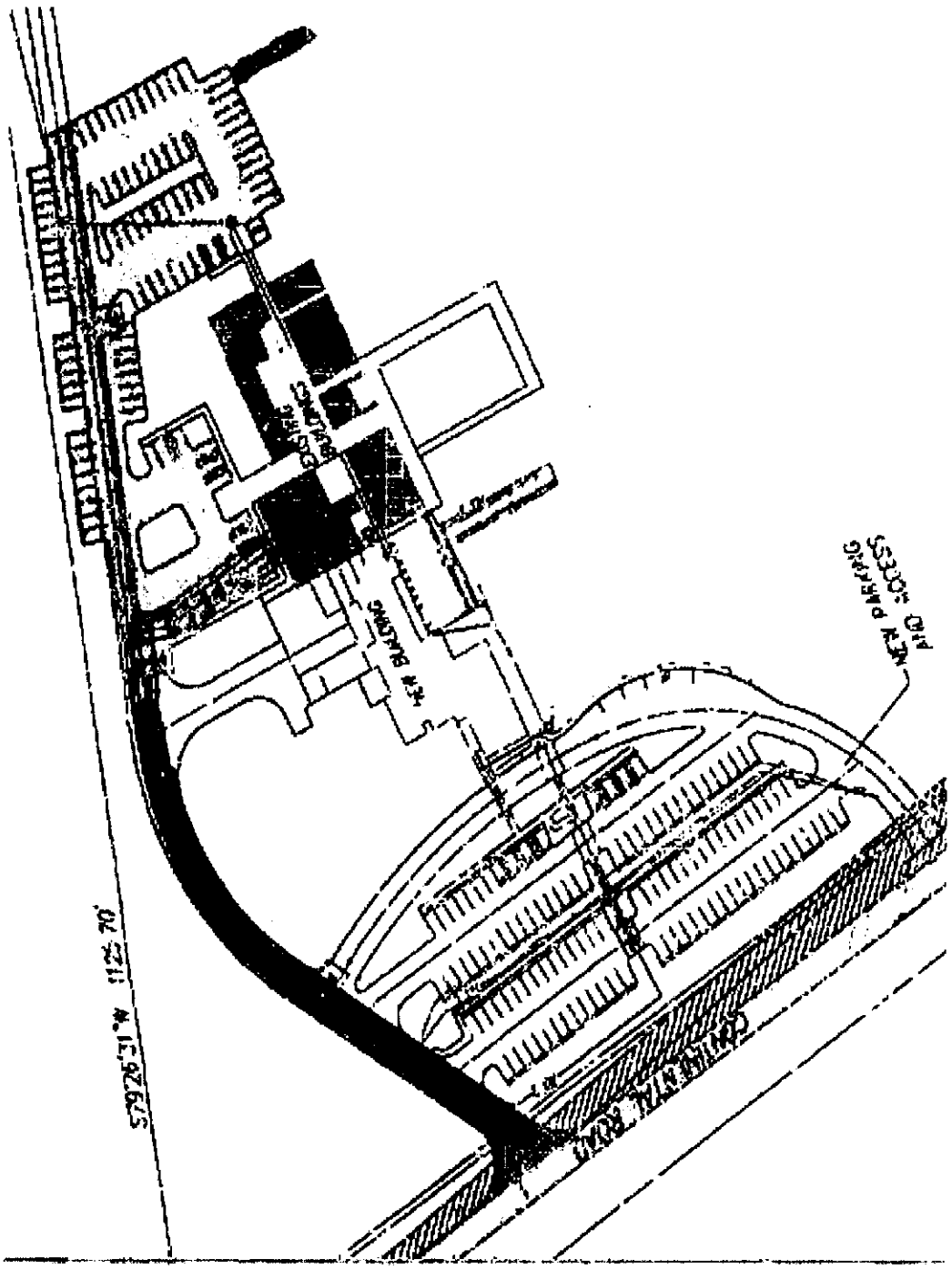
A – College Learning Center
B – County Arts Center
C – Exceptions to the Facilities being in good condition
D – College furnishings and equipment to remain
E – College furnishings and equipment to be removed
F – College's Facility License Agreement with Osher Lifelong Learning Institute at the University of Arizona

EXHIBIT A

ROOM INFORMATION			
ROOM NUMBER	ROOM NAME	AREA (SQUARE FEET)	SCHEDULING RIGHTS
100	REGISTRATION CASHIER	537	PCC
101	PROGRAM MANAGER OFFICE	142	COUNTY
102	OFFICE	142	PCC
103	OFFICE	142	PCC
104	LOBBY	155	SHARED
105	MULTI-PURPOSE ROOM	1878	SHARED
106	WOMENS RESTROOM	249	SHARED
107	STORAGE	263	COUNTY
108	MENS RESTROOM	194	SHARED
109	CUSTODIAL	45	SHARED
110	STORAGE	211	SHARED
111	MDF	221	COMMON
112	ELECTRICAL	519	COMMON
200	FINE ARTS LAB	1685	PCC
201	CONFERENCE ROOM	567	PCC
202	MENS RESTROOM	241	COMMON
203	MULTI-PURPOSE ROOM	1787	PCC
204	WOMENS RESTROOM	314	COMMON
205	COMPUTER CLASSROOM A	748	PCC
206	ELECTRICAL	110	COMMON
207	ICF ROOM	39	COMMON
208	CUSTODIAL	72	COMMON
210	COMPUTER CLASSROOM B	1060	PCC

AREA TOTALS (SQUARE FEET)	
PCC AREA	7,892
COUNTY AREA	3,148
COMMON AREA	740
CORRIDOR	0,452

EXHIBIT B



Phase I = ■
Phase II = white/no color

EXHIBIT C

Address :	P.C.C. Learning Center 1250 W. Continental Rd Green Valley 85622
Building Inspection Date: 7/14/2017	

ITEM #	DESCRIPTION	CONDITION	COMMENTS
1	Parking Lot	FAIR	Asphalt seems good. No holes minor fractures or shrinkage. Will need a sealant coat to maintain.
~~2~~	~~Grounds~~	~~GOOD~~	~~Desert plants and grounds trimed low maintenance~~
3	Exterior Walls	NEEDS ATTENTION	Block needs to be sealed, and some fracturing where iron structure penetrates walls.
4	Chiller	FAIR	Trane Mod # RAUCC404BX13A0DF00010. 33Ton. Aircooled.
5	Air Handler	FAIR	Supplied from the one chiller,Trane Mod.information plate sun bleached blank
~~6~~	~~A.C.~~	~~GOOD~~	~~Trane 5 Ton system supplies Elect and Idf rooms.~~
7	Heat	FAIR	In duct heat strips at where supplies enter room. At 5 rooms . 208 V
~~8~~	~~Exhaust Fan~~	~~GOOD~~	~~One on roof exhausting restrooms.~~
~~9~~	~~Water Heater~~	~~GOOD~~	~~Electric, American Water Heater Company, 40gl 208V Mod #E62-40R-045D~~
10	Water Heater	GOOD	Electric, Rheem, 10gl 120V, Mod# 81VP10S. Expansion tank has hole and leaks . Calcium sealed now.
~~11~~	~~Water Heater~~	~~GOOD~~	~~Under sink Tankless, Powerstream, 240V Mod# 45793214~~
12	Fire Riser	NEEDS ATTENTION	At South end of facility system needs inspection plate to be compliant.
13	Electrical	FAIR	Panels labeled and good condition. Some have clutter in front of needs removed.
14	Light Fixtures	FAIR	T-8 dimmable fixtures. Some recessed fixtures
~~15~~	~~Mens Rm~~	~~GOOD~~	~~2 Toilets, 2 Urinals, 3 Sinks No sign of leaks or damage~~
~~16~~	~~Womens Rm~~	~~GOOD~~	~~4 Toilets, 3 Sinks No sign of damage, minor leak at toilet head.~~
~~17~~	~~Ceiling~~	~~GOOD~~	~~Mostly open w/ suspended lighting and circular duct work. Felt lined deck.~~
~~18~~	~~Floors~~	~~GOOD~~	~~Mostly stained concrete, some tile~~
~~19~~	~~Interior~~	~~GOOD~~	~~Interior walls, saw no signs of leaks or damage~~
20	Ductwork	NEEDS ATTENTION	Exterior ducting between the structures bowing some and connecting straps beginning to fail
21	Roof	FAIR	Some fractures around the parapets and some needed sealing at penetrations roof is good

Photo of Item #3 Exterior Walls Needs Sealed - Needs Attention

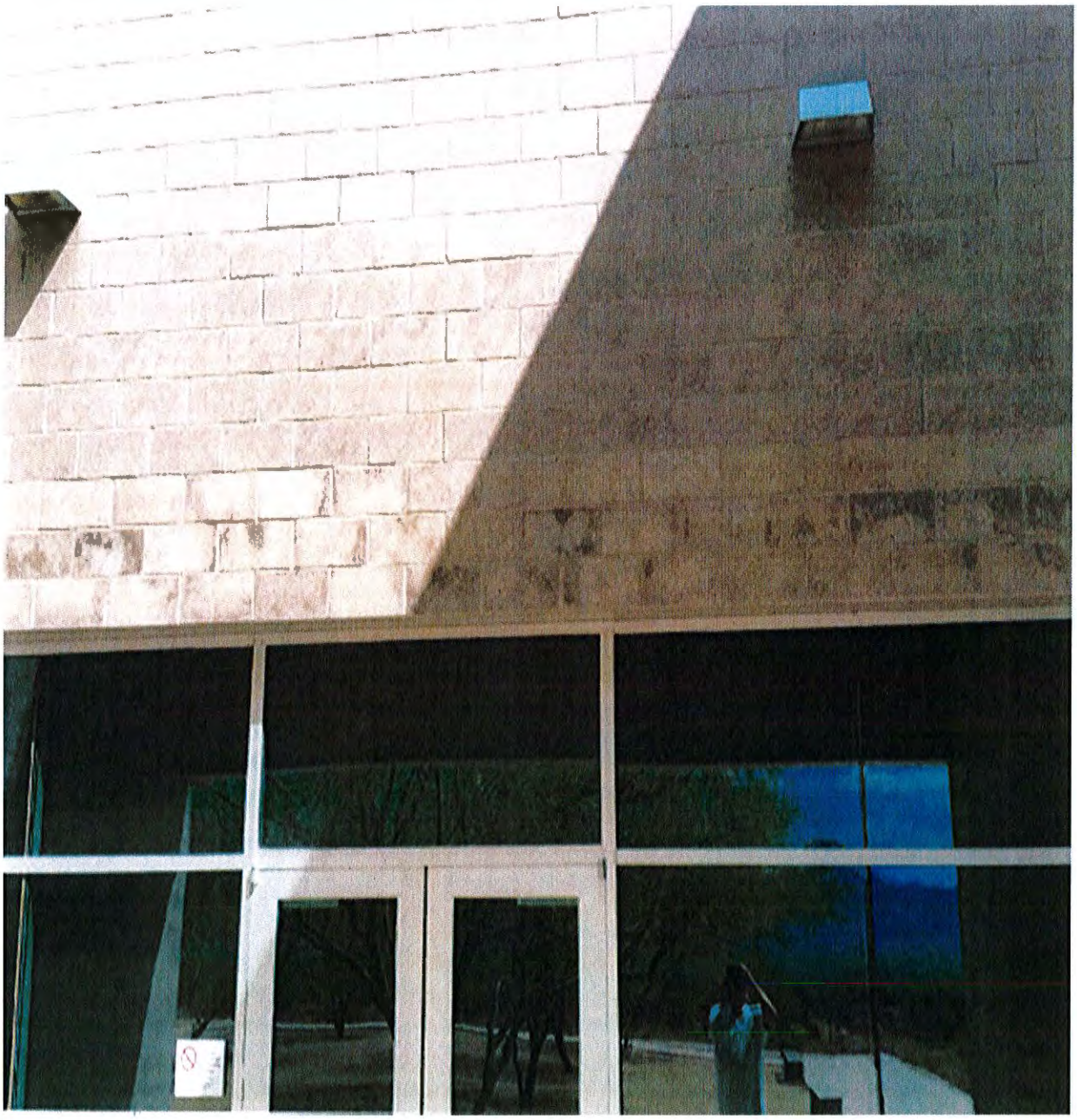


Photo of Item #3 Exterior Walls Needs Sealed - Needs Attention

Photo of Item #3 Exterior Walls Needs Sealed - Needs Attention

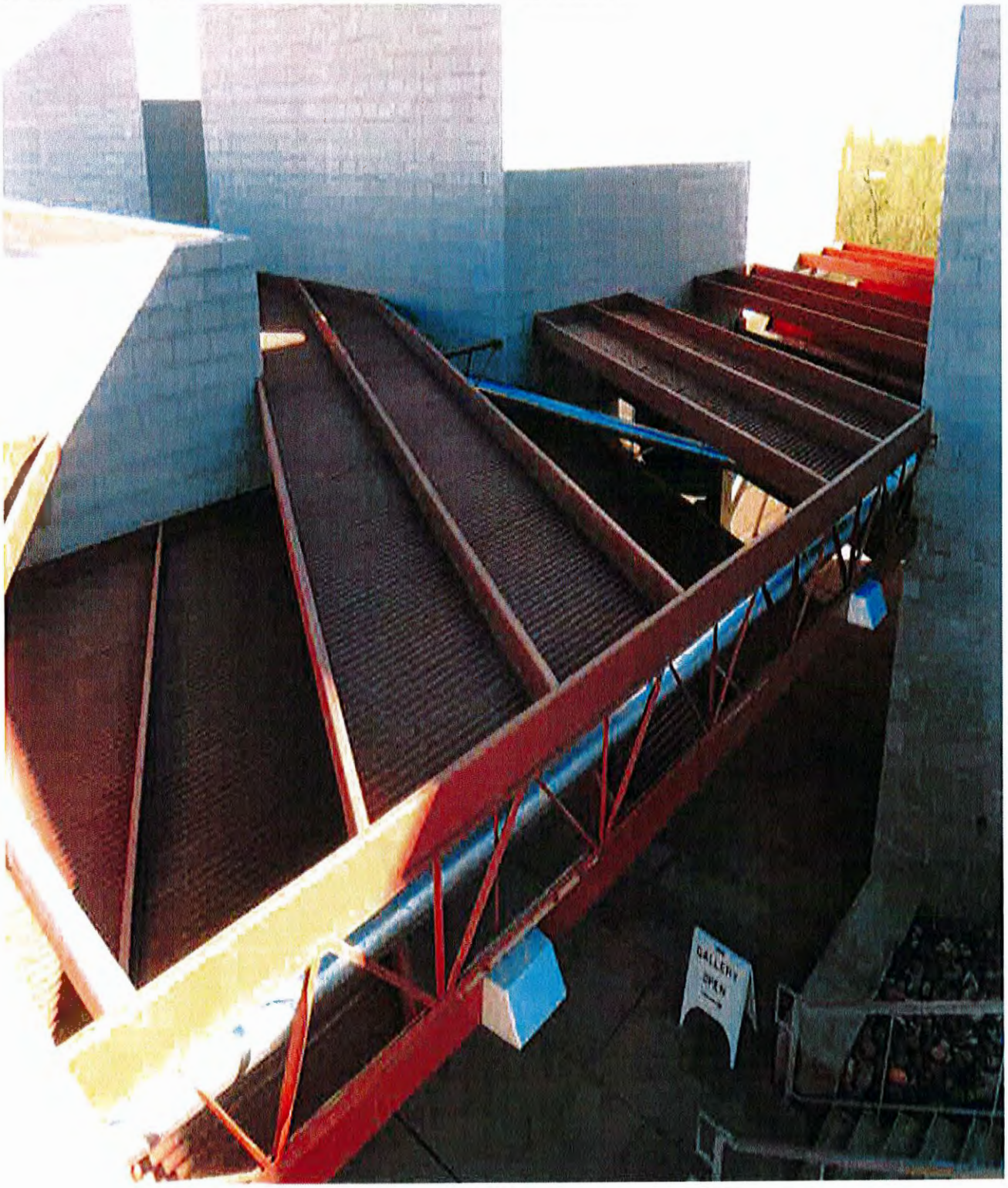


Photo of Item #3 Exterior Walls - Needs Attention

Photo of Item #10 Rheem Water Heater Model 81VP10S - Needs Attention

Photo of Item #12 Fire Riser on South End - Needs Attention

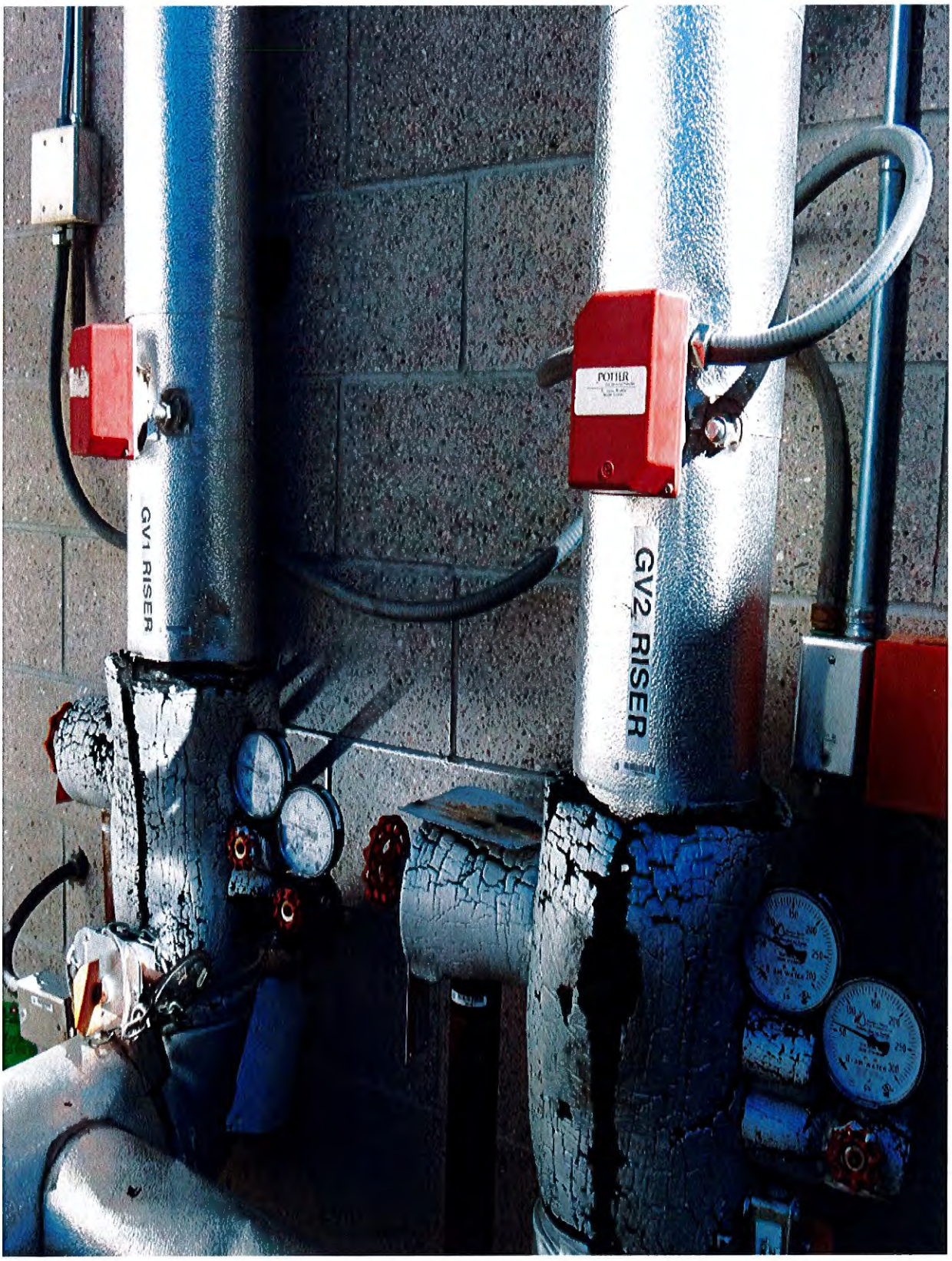


Photo of Item #12 Close Up of Fire Riser South End - Needs Attention

Photo of Item #20 Exterior Duct Work Needs Attention

Photo of Item #21 Parapet Roof Fracture - Needs Attention

Photo of Item #21 Inside of Parapet Located Directly Below the Photo Above - Needs Attention

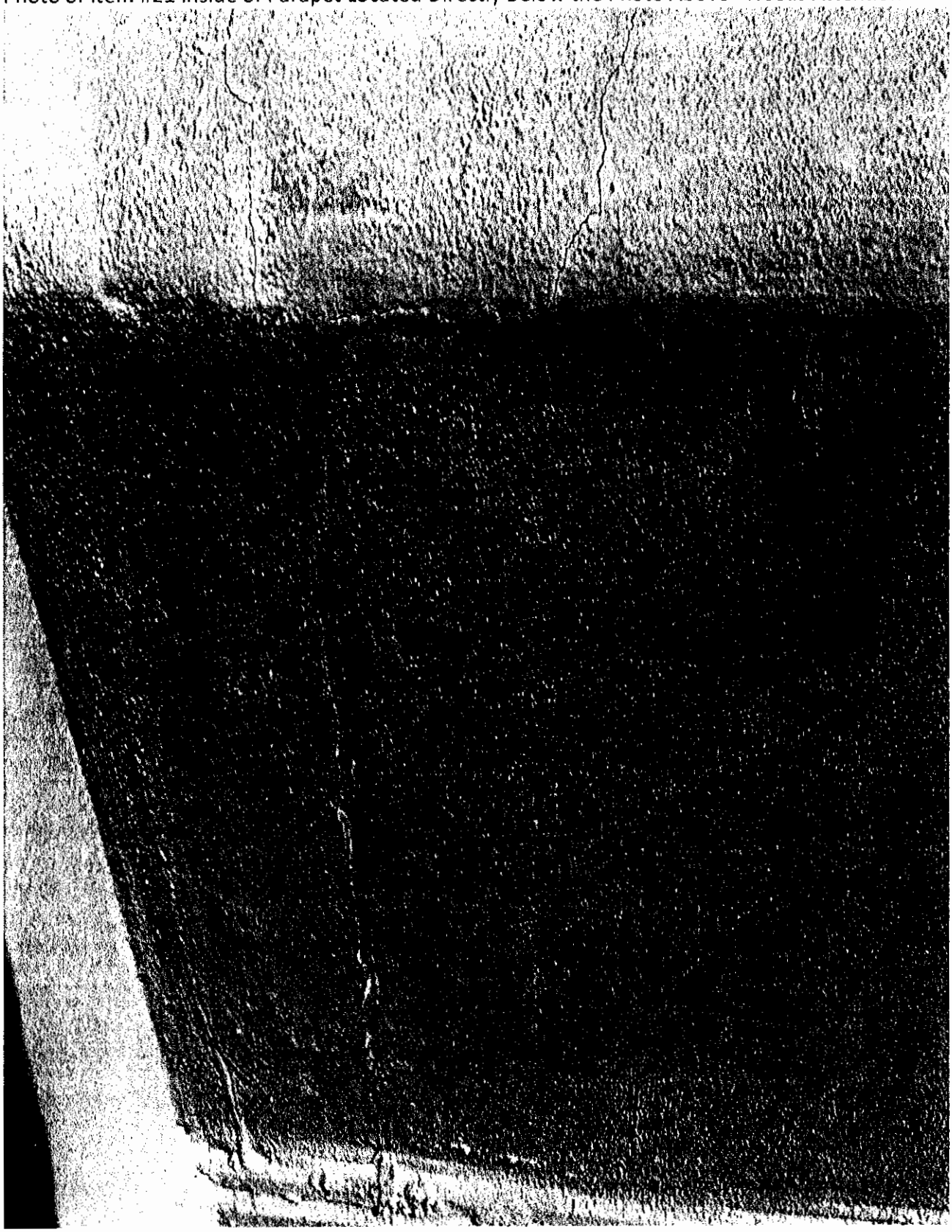


EXHIBIT D

Description	Location													Totals
	100	101	102	103	200	201	203	205	206	207	208	210	Courtyard	
A/V Cart			1			1	1	1				1		5
Arm Chair							4							4
Avaya Phone			1	1	1		1	1				1		6
Cabinet					1		1		1					3
Conference Table						1								1
Corkboard							3	1						4
Desktop Podium												1		1
Epson Projector					1		1	1				1		4
Fire Extinguisher - In wall	1				1		1	1				1		5
Fire Extinguisher - Wall Mounted						1								1
Georgia Pacific Towel Dispenser						1								1
Kimberly Clark Soap Dispenser					1									1
Kimberly Clark Towel Dispenser					2									2
Lateral File Cabinets												3		3
Lateral+Cabinet Combo		1	1	1										3
Leg Chairs	6	3	2	1	34		10	11				22		89
Master Lock Keybox									1			2		3
NEC Display 50"												1		1
Overhead Screen					1		1							2
Podium							1							1
Portable Heater												1		1
Rolling Chairs		1	2	1	10	12	24	11	2			1		64
Shure Wireless Audio System					1		1	1				1		4
Smartboard							1	1				1		3
Stool					1		2							3
Systems Furniture (office arrangement)		1	1	1										3
Systems Furniture (work area - 3 stations)	1													1
Table	4				19		25	11	1			3		63
TC Enriched Hand Sanitizer Dispenser					1			1				1		3
Trash Can			1		1	1		1				1		5
Trash Receptacle - Concrete													3	3
Wall Mounted Bulletin Board													2	2
Wall Mounted Key Cabinet				1										1
Whiteboard					2		3	2				3		10
Whiteboard Cabinet						1								1
Whiteboard Portable						1								1
WIFI Ceiling Mount	1													1

EXHIBIT E

Description	102	103	200	206	210	Totals
HP Printer	1	1	1		1	4
PC Computer		1	1	1	1	4
PC Display		1	1	1	1	4

EXHIBIT F

FIRST AMENDMENT TO FACILITY LICENSE AGREEMENT

THIS FIRST AMENDMENT TO FACILITY LICENSE AGREEMENT ("Amendment") is dated as of the 1st day of December, 2016 by and between Pima County Community College District ("**District**"), a political subdivision of the State of Arizona, and the Osher Lifelong Learning Institute at the University of Arizona (OLLI-UA)("**Licensee**"), a non-profit 501(c)3 organization.

THIS AMENDMENT IS ENTERED INTO on the basis of the following facts, intentions and understanding of the parties:

A. District and Licensee entered into a Facility License Agreement dated June 9th, 2015 ("**Agreement**"), Pursuant to the Agreement, Licensee has licensed from District certain Facilities described in the Agreement as: Four (4) classrooms, one (1) conference room, and one (1) office (collectively "Facilities") located at the District's Green Valley Learning Center ("Green Valley Campus"), with an address at 1250 W. Continental Road, Green Valley, Arizona. The Facilities licensed by the Agreement are identified on the floor plan of the Green Valley Campus in Attachment A-1, which is attached to and made part of the Agreement.

B. Licensee shall have access to and use of the Facilities on the dates and during the hours described in Attachment A-2, which is attached to and made part of the Agreement.

C. District and Licensee desire to modify the dates of use described in **Section** 1.1 of **Attachment A-2** of the Agreement.

NOW, THEREFORE, IN CONSIDERATION of the usual covenants and promises, the parties agree as follows.

1. Section 1.1 of Attachment A-2 shall be deleted in its entirety and replaced with:

1.1 **Weeks**

Semester	Number of Weeks of Facilities Use	Dates of Facilities Use
Fall Semester (August 1 – December 31)	8 consecutive weeks	From the last Monday in the month of September until the third Friday of the month of November
Spring Semester (January 1 – May 31)	13 consecutive weeks	From the first Monday in the month of January until the last Friday of the month of March

2 Third Party Charges. Each party shall be responsible for paying its own third party charges associated with all License amendments, extensions, renewals and/or expansions, including, but not limited to, all legal costs and brokerage fees, if any.

3. **Expiration.** If this Amendment is not signed by Licensee and received by District prior to December 1, 2016, this Amendment shall be null and void

In all other respects, the terms, covenants and conditions of the Agreement shall remain in full force and effect.

This Amendment may be executed in counterparts, each of which shall be deemed an original and shall be deemed duly executed upon the signing of the counterparts by the parties hereto. The parties agree that facsimile signatures hereto shall have the same force and effect as original signatures.

IN WITNESS WHEREOF, the parties have executed the Amendment to the Agreement on the date(s) set forth below.

For DISTRICT	For LICENSEE
PIMA COUNTY COMMUNITY COLLEGE DISTRICT:	OSHER LIFELONG LEARNING INSTITUTE AT UNIVERSITY OF ARIZONA OLLI-UA:
By: _____	By: _____
Print Name: David Bea	Print Name: Jana Eaton
Title: Executive Vice Chancellor for Finance and Administration	Title: OLLI-UA Board President
Date: 11/30/16	Date: 10-29-16

FACILITY LICENSE AGREEMENT

This FACILITY LICENSE AGREEMENT ("**Agreement**") is made as of June 9th, 2015, between the Pima County Community College District ("**District**"), a political subdivision of the State of Arizona, and the Osher Lifelong Learning Institute at the University of Arizona (OLLI-UA) ("**Licensee**"), a non-profit 501(c)3 organization.

In consideration of mutual promises and other good and valuable consideration described herein, the parties agree as follows:

1. LICENSE.

1.1 Subject to the conditions set forth of this Agreement, District grants Licensee limited, temporary and non-exclusive license ("**License**") to access and use the following facilities owned by District: Four (4) classrooms, one (1) conference room, and one (1) office (collectively "**Facilities**") located at the District's Green Valley Learning Center ("**Green Valley Campus**"), with an address at 1250 W. Continental Road, Green Valley, Arizona. The Facilities licensed by this Agreement are identified on the floor plan of the Green Valley Campus in Attachment A-1, which is attached to and made part of this Agreement.

1.2 Licensee may also have access to the parking lot, hallways, and restrooms located at the Green Valley Campus on the days and during hours Licensee uses the Facilities under this Agreement.

2. **TERM.** The License shall commence on August 1, 2015 and expire on July 31, 2020 ("**Term**"). Each year during the Term, with each year commencing on August 1 and ending on July 31 ("**Academic Year**"), Licensee shall have access to any use of the Facilities on the dates and during hours described in Attachment A-2, which is attached to and made part of this Agreement.

3. **PURPOSE.** Licensee shall have the right to use the Facilities during the Term for the following and no other purpose. Continuing and Professional Education courses and related activities and events ("**Activities**") conducted by the Osher Lifelong Learning Institute at the University of Arizona ("**OLLI – UA**").

4. LICENSE FEE; PAYMENTS; OTHER CHARGES

4.1 Licensee shall pay District for License granted by this Agreement the total fee of twenty five thousand ($25,000) dollars ("**License Fee**"), paid in ten (10) equal installments of twenty five hundred dollars ($2,500) each.

4.2 Each installment payment of twenty five hundred dollars ($2,500) is due twice per Academic Year, on or before December 31 and on or before April 30, with the first such payment due on or before December 31, 2015.

4.3 Other than the existing equipment included in the Facilities and specified in Attachment A-2, the License Fee does not cover any other costs associated with the Licensee's use of the Facilities, including but not limited to, the use of the District-owned media and audio equipment. Any additional equipment may be available to Licensee for a fee in accordance with the District's rental fee schedule.

4.4 Additionally, Licensee shall be responsible for the payment of all additional charges resulting from Licensee's use of the Facilities, including any damages or alterations to the Facilities, or failure to leave the Facilities upon expiration of the Term. District will assess charges for late departures in accordance with District's Facilities Rental Fee Schedule. All other charges will be assessed based on District's actual costs. Licensee shall submit all payments for additional charges within thirty (30) days of receiving an invoice from District.

4.5 For any payment received after the due date, District shall charge Licensee a late fee of ten (10%) percent.

5. TERMINATION; CANCELLATION

5.1 Either party may cancel this Agreement upon one (1) year's prior written notice to the other party.

5.2 In the event Licensee fails to comply with or observe any provision of this Agreement, District may, in addition to any other remedy available, immediately terminate this Agreement and all rights of Licensee. In the event of termination, Licensee forfeits any amounts already paid to District and shall be responsible for payment of any additional charges provided in Article 4.3. In no event shall District be liable to Licensee for any other costs expended by Licensee or for any lost profits and revenue.

5.3 Additionally, the parties understand that the continuation of the Agreement from each fiscal year to the next during the Term shall be contingent upon the obligation of sufficient funding by the governing bodies for Licensee and District. Each party shall notify the other party in writing of insufficient funding as soon as reasonably possible.

6. TERMS OF LICENSE

6.1 **No Unlawful Purpose.** Licensee shall not use the Facilities for any unlawful purpose.

6.2 **No Interference.** Licensee shall not interfere with the normal operation and activities of District.

6.3 **Smoking.** Smoking is permitted in designated areas only. Smoking is prohibited in all indoor areas and within twenty five (25) feet of main entrances and exits to and from indoor facilities.

6.4 **Firearms.** Firearms are prohibited at all times while in the Facilities and at any other location on District property, except by specially-designated persons.

6.5 **Third-party Vendors.** Licensee may use services of third-party vendors ("**Vendors**") during the Term, provided that Licensee will be responsible for ensuring Vendor's compliance with the terms of this Agreement.

6.6 **Control and Access to Facilities.** The Facilities shall at all times be under the control of District. District's authorized personnel may access the Facilities at any time for any business purpose of District and in the event of emergency.

6.7 **Manner of Use.** Licensee shall use the Facilities in safe manner and shall comply with all applicable state, federal, and local laws and regulations applicable to the intended use of the Facilities.

6.8 **Use of District's Name.** Licensee shall not use the name or any sign, symbol, or mark of District for any purpose without prior written consent of District in each instance. Furthermore, Licensee shall not make any statement, including any promotional materials, related to Licensee's use of the Facilities which could cause confusion as to the entity sponsoring the Activities taking place within the Facilities.

6.9 **Hazardous Substances.** Licensee will not permit any hazardous substance to be used, stored, generated or disposed of on, in or about, or transported to or from, the Facilities, by Licensee, Licensee's employees, agents, and invitees.

6.10 **Supervision; Security.** Licensee shall be solely responsible for the activities, supervision, safety and welfare of its employees, agents, and invitees at all times during the Term, while occupying the Facilities and while in common areas, parking, restrooms, and other property of District.

7. **ALTERATIONS; DAMAGES.**

7.1 Licensee shall leave the Facilities in the same condition as of the commencement of the Term, except for ordinary wear and tear.

7.2 Licensee shall not displace or remove District-owned furniture, equipment, and property from the Facilities without prior written authorization from District.

7.3 Licensee shall be responsible for any damages or alterations to the Facilities, and for any damages to or loss of furnishings, fixtures and equipment caused by Licensee, its employees, agents, or patrons.

8. **ABANDONED PROPERTY.** Any property left at the Facilities shall, after thirty (30) days from the expiration, termination, or cancellation of this Agreement be deemed abandoned and shall become property of District to be disposed of or utilized at the District's sole discretion.

9. **INSURANCE.**

9.1 Licensee agrees to procure, at its expense, and maintain during the term hereof, a policy of general liability insurance against claims for bodily injury, death, and property damage occurring in connection with Licensee's use of any portion of facility and/or facility's contents, which insurance shall name College as an additional insured and be primary and non-contributing to any coverage maintained by or on behalf of College. Such insurance shall have minimum limits of $1,000,000.00 per

occurrence and Licensee shall provide College with evidence such insurance coverage is in effect.

9.2 Licensee shall, prior to commencement of the Term of this Agreement, provide District proof of coverage required by this Article 9.

10. **COMPLIANCE WITH ALL LAWS.** The parties shall comply with the requirements of all applicable state and federal rules and regulations, including the Equal Employment Opportunity, Non-Discrimination, and Immigration.

11. **NON-ASSIGNMENT.** The right to use the Facilities is personal to Licensee. Licensee shall not transfer or assign its right to use the Facilities to others. Any attempt to transfer or assign shall terminate this Agreement.

12. **FORCE MAJEURE.** In the event that the Facilities are rendered unsuitable for general use or for a specific purpose of intended use by Licensee by reason or cause beyond the control or authority of District, District shall not be liable to Licensee for any fees already paid to District by Licensee, or for any revenue loss and other inconvenience that may result.

13. **NOTICE.** Any notice to be given under this Agreement must be in writing and sent to the intended party's address indicated below:

To DISTRICT:
Pima County Community College District
Attn: William Ward – VC of Facilities
4905 E. Broadway Blvd.
Tucson, AZ 85709

To LICENSEE:
OLLI-UA
Attn: Jana Eaton – Board President
888 N. Euclid Avenue
Tucson, AZ 85721

With copies to:
UA Global Initiatives
Attn: Rebecca Cook – Director, Continuing & Professional Education
888 N. Euclid Avenue
Tucson, AZ 85721

and

OLLI-UA/GV Campus
Attn: Blaine Nisson - Council Chair
132 E. Santa Rebecca Drive
Green Valley, AZ 85614

14. STANDARD PROVISIONS

14.1 Scope of Relationship; Non-Endorsement. Nothing in this Agreement will be construed as establishing a partnership, joint venture or similar relationship between District and Licensee, and nothing in this Agreement will be construed to authorize either party to act as agent for the other.

14.2 Inspection and Audit. Each party shall retain all books, accounts, reports, files, and other records related to this Agreement ("**Records**") for Five (5) years after the expiration, termination, or cancellation of the Agreement. The parties acknowledge that, to the extent applicable, all such Records are subject to audit pursuant to A.R.S. § 35-214 and the public records law, A.R.S. § 39-121 *et seq*.

14.3 Cancellation for Conflict of Interest. Either party may cancel this Agreement for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Agreement by reference.

14.4 Indemnification. Each party shall be responsible only for liabilities arising out of the conduct of its employees, officers, and agents in connection with the License under this Agreement.

14.5 Governing Law. Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona without regard to its conflicts of law principles. Jurisdiction and venue for any dispute arising out of this Agreement shall exclusively rest in the Pima County, Arizona.

14.6 Dispute Resolution. This Agreement is subject to arbitration to the extent required by A.R.S. §§ 12-133 and 12-1518, and Rule 3.9 of Pima County Superior Court Local Rules.

14.7 Entire Agreement; Amendments. This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter. No prior or contemporaneous agreement or understanding will be effective. This Agreement may not be modified or amended except by written instrument signed by both parties.

[CONTINUES ON NEXT PAGE]

IN WITNESS WHEREOF, the persons duly authorized to execute this Agreement on behalf Licensee and District executed this Agreement as of the last date ind cated below

For **DISTRICT**

PIMA COUNTY COMMUNITY COLLEGE DISTRICT:

By: _____

Print Name: David Ben

Title: Executive Vice Chancellor for Finance and Administration

Date: June 9, 2015

For **LICENSEE**

OSHER LIFELONG LEARNING INSTITUTE AT UNIVERSITY OF ARIZONA (OLLI-UA):

By: _____

Print Name: JANA EATON
Title: OLLI-UA BOARD PRESIDENT
Date: JUNE 9, 2015

Attachments:

A-1 – Facilities Floor Plan
A-2 – Schedule of Facilities Use

GREEN VALLEY

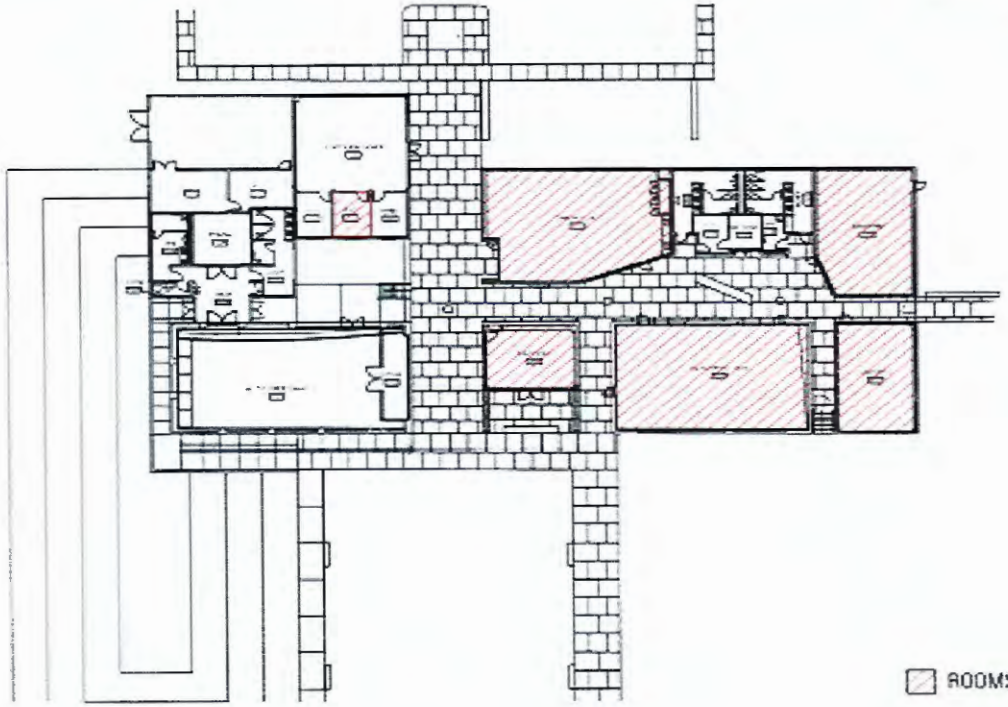
SCALE 1" = 40'

5 0 5 10 20 30 40 60 80

GREEN VALLEY LEARNING CENTER

NORTH

ATTACHMENT A-1



ROOMS OCCUPIED BY OLU-UA/GV

ATTACHMENT A-2
To FACILITY LICENSE AGREEMENT

SCHEDULE OF FACILITIES USE

1. Each Academic Year during the Term of this Agreement, Licensee will have access to and use of the Facilities for a total of twenty (20) weeks, Monday through Friday during each week, according to the following schedule:

1.1 **Weeks**

Semester	Number of Weeks of Facilities Use	Dates of Facilities Use
Fall Semester (August 1 - December 31)	8 consecutive weeks	From the last Monday in the month of September until the third Friday of the month of November
Spring Semester January 1 - May 31)	8 consecutive weeks	From the first Monday in the month of February until the last Friday in the month of March
Summer Semester (June 1 - July 31)	4 consecutive weeks	During the entire month of June

1.2 **Hours**. During each day of the Facilities use, Licensee shall have access to and use of the Facilities from 8 a.m. to 5 p.m.

2. Notwithstanding Section 1 of this Attachment, the days and hours for the Licensee's access to and use of Room 201("**Conference Room**"), during the Term of the Agreement shall be based upon the room's availability as determined by District.

3. Additionally, Licensee may have access to and use of one (1) classroom at the Facilities ("**Classroom**") each Academic Year during the Term of this Agreement for a total of forty (40) consecutive weeks, Monday through Friday during each week, subject to such Classroom's availability as determined by District

4. As part of this agreement, Licensee will have access to use the equipment and furniture that is part of the room infrastructure in the Facilities, including existing computers and related hardware, phones, printers, projectors, smart boards and/or overhead screens. Internet and local telephone service access will be provided on the District's public network. Licensee to contact District User Support Services for maintenance on computer related equipment as required.