



**GOVERNING BOARD AGENDA ITEM  
AMPHITHEATER UNIFIED SCHOOL DISTRICT NO. 10**

---

**DATE OF MEETING:**      **June 11, 2019**

**TITLE:**    **Approval to Renew Lease with Marana Health Center, Inc.**

---

**BACKGROUND:**

The District has been leasing space to Marana Health Center, Inc. (MHC") since July 1, 2007 for MHC to operate a clinic at Keeling Elementary School. MHC is an Arizona non-profit corporation whose primary function is the delivery of health care services which may include medical, vision and dental services. At Keeling, MHC provides primary care services to students and their families, with parental consent, in a manner that emphasizes and promotes healthy lifestyle decisions, disease prevention and positive psycho-social functioning.

District students and families have benefitted substantially during the 12 years that this lease has been in place with MHC. The District began leasing the space at Keeling to MHC in 2007 and renewed the lease under the same terms in 2015. Through this lease, students and families have had easier access to medical services that they may not otherwise been able to obtain.

The current lease is set to expire on June 30, 2019. A new lease is attached for approval by the Governing Board. The terms of the attached lease are the same terms that have been in effect since 2007. If approved, this lease becomes effective on July 1, 2019 and remains in effect for four (4) years with the option to renew for additional one-year periods as approved.

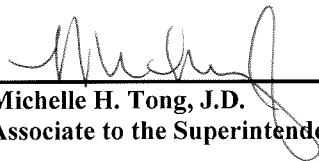
---

**RECOMMENDATION:**

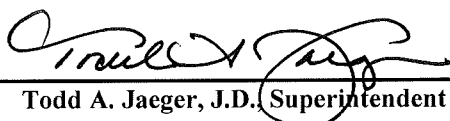
It is the recommendation of Administration that the Governing Board approve entering into the lease renewal as presented with Marana Health Center, Inc.

---

**INITIATED BY:**

  
\_\_\_\_\_  
**Michelle H. Tong, J.D.**  
Associate to the Superintendent and General Counsel

Date: June 10, 2019

  
\_\_\_\_\_  
Todd A. Jaeger, J.D., Superintendent

## LEASE AGREEMENT

This Lease Agreement ("Agreement") is entered into this \_\_\_\_\_ day of June, 2019, by and between Amphitheater Unified School District No. 10 of Pima County, Arizona ("District") and Marana Health Center, Inc., an Arizona corporation ("Provider").

The parties have executed this Agreement for the following reasons:

1. The District is an Arizona public school district operating pursuant to Title 15 of the Arizona Revised Statutes. A.R.S. § 15-1105(B) permits the use of school buildings, school grounds and other school property by organizations whose services are open to the public and whose activities promote the educational function of the school district as determined in good faith by the school district's governing board or superintendent.

2. The Provider is an Arizona non-profit corporation whose primary function is the delivery of health care services, which may include but is not limited to medical, vision and dental services. The Provider is the sole party providing health care services under this Agreement.

3. The District recognizes a need for its students to have health care services reasonably accessible in order to maximize their chances for success at school. In this regard, it is the District's experience that, as a result of economic and other barriers, many students do not have such health care services reasonably accessible and thus are unable to achieve their full academic potential.

4. The District has determined that the placement of student wellness clinics ("Clinics") at one or more District campuses ("Campuses") would serve the best interest of its students, and that Clinics would improve the students' overall health, well-being and academic performance. This is especially true if Clinics, in conjunction with the delivery of primary care services, emphasize and promote healthy lifestyle decisions, disease prevention and positive psycho-social functioning.

5. The Provider has expressed a willingness, and remains willing, to assist the District by establishing Clinics on one or more District Campuses. The Provider agrees to operate all Clinics and, in conjunction with the delivery of primary care services, to emphasize and promote healthy lifestyle decisions, disease prevention and positive psycho-social functioning.

6. The parties to this Agreement have determined that the District's goals of facilitating the placement of health care services Clinics on Campuses will be furthered by the execution of this Agreement, the terms of which provide for the lease of property by the District to the Provider, in order to allow the Provider to operate Clinics.

7. Pursuant to this Agreement, the District is the lessor for purposes of

physical possession and occupation of certain leased premises described below. Pursuant to this Agreement, the Provider is the lessee for purposes of physical possession and occupation of certain leased premises described below.

8. Although the parties to this Agreement recognize the desirability of operating Clinics on Campuses, they also each recognize the separate and distinct but substantial interest each party has in determining the scope and manner of its operations. The District's interest results from the fact that Clinics will operate on its grounds, the Provider's interest stems from the fact that it will be responsible for all services delivered by the Clinics.

**THEREFORE AND IN CONSIDERATION OF THE MUTUAL PROMISES SET FORTH BELOW, THE PARTIES AGREE AS FOLLOWS:**

**A. Premises Leased.**

The District hereby grants to Provider the right to use the real property of the District and leases to the Provider, and the Provider hereby leases from the District, on a nonexclusive basis, certain premises within the Campus more particularly designated in Exhibit A, attached hereto and incorporated by reference ("Premises").

Exhibit A to this Agreement sets forth the number of Clinics the Provider will operate within the District, the designation of each Campus where a Clinic will be maintained, and the location of Clinic space on each campus where a Clinic will be maintained.

The District's Superintendent and the Provider's Chief Executive Officer may agree to modify Exhibit A as they deem desirable to increase or decrease the number of Clinics or to alter the designated placement of Clinics and, assuming all remaining terms of this Agreement remain in full force and effect, such modification shall not require the specific approval of the District's Governing Board and/or the Provider's Board of Directors. Any such modifications of Exhibit A, however, shall be reported to the members of the District's Governing Board and the members of the Provider's Board of Directors within ten (10) business days.

**B. Term of Lease.**

This Agreement for the lease of the Premises shall commence on July 1, 2019. The term of this Agreement shall be for four (4) years.

Subject to any applicable legal limitations, the parties may renew this Agreement for additional one-year periods for a total of not more than five (5) one-year terms, unless notice of termination has been given in accordance with the provisions below.

Notwithstanding the above-stated term of this Agreement, either party to this Agreement may terminate the Agreement, for any reason or no reason, by giving

the other party sixty (60) days written notice of that party's intention to terminate. Upon termination of this Agreement, Provider and Provider's employees, officers, agents and invitees shall vacate the Premises, except to the extent that their presence is required for removal of Provider's improvements in accordance with this Agreement, and the District is granted full authority to take possession of the Premises with or without process of law and to expel any persons who may be occupying the Premises.

In interpreting the provisions of this Agreement, the word "term" shall be construed to mean the initial term or any renewal term of this Agreement, unless specified to the contrary.

**C. Rent.**

The Provider shall pay to the District as rent for the Premises at no cost (\$0.00) for each whole or partial calendar year that occurs during the term of this Agreement, or any extension thereof. Pursuant to statute and Governing Board policy, the District may provide uncompensated use of its facilities where there is an in-kind benefit for the District or its students. The District specifically finds that, although the Provider will not be making a cash payment of rent to the District, the Provider will be providing services of substantial benefit to the District and its students and that the Provider's activities on the Premises will promote the educational function of the District.

**D. Purpose.**

The Premises leased by the District to the Provider shall be used by the Provider only for the operation by the Provider of one and more Clinics, in the manner described and as limited by this Agreement.

The Provider represents and promises that, to the best of its knowledge, the Premises will not be used for the commission of any act which is prohibited by law, or for the commission of any crime.

The services provided by Provider on the Premises shall be primarily for the benefit of children and their families residing within the District's geographical boundaries.

**E. Cleanliness.**

The Provider shall, throughout the term of this lease, keep and maintain the Premises, including any improvements thereon, in good, sanitary and neat order, condition and repair.

1. Maintenance.

The District shall be responsible for maintaining the Premises at no cost to the Provider, so long as the Premises are kept in reasonably good order and repair, as provided above.

The Provider shall be responsible for payment for repair of any damage to the District's facilities that occur in connection with the Provider's activities, reasonable wear and tear excepted.

The Provider shall immediately notify the District if any condition develops which poses a hazard on or near the Premises.

2. Improvements and Alterations.

The Provider shall not make or allow to be made any additions or improvements to or of the Premises or any part thereof without the prior written consent of the District. It is agreed that all improvements on the Premises are the sole property of the District, except as otherwise agreed in writing between the parties. The Provider accepts the Premises' "as is" condition.

The Provider may purchase and install equipment and fixtures in conjunction with its use of the Premises, with prior written approval by the District. All costs of such purchases and installations shall be borne by the Provider unless otherwise agreed in writing. The District shall have the right to set standards for location, design safety and other aspects of such purchases and installations, and the Provider will adhere to such standards. Fixtures or equipment installed in a permanent manner shall become the property of the District upon installation, unless the District elects otherwise and requests removal which shall be at Provider's expense.

The Provider shall immediately notify the District if, through the installation, use or maintenance of medical equipment/technology, any condition develops which poses a hazard on or near the Premises.

3. Janitorial Services.

Except as provided in subsection (E)(4), and if applicable, (E)(5) below, the District shall provide daily janitorial services for the Premises at no cost to the Provider, so long as the Premises are kept in reasonably good order and repair, as provided above.

4. Bio-Hazardous Waste.

The Provider shall be exclusively responsible for the management and disposal of all bio-hazardous waste on all the Premises and at all the Clinics.

5. Optional Election of Provider to Provide Janitorial Services.

Notwithstanding the above, the Provider may, but is not required to, elect to provide its own daily janitorial services at no cost to the District for certain Premises more particularly set forth in Exhibit 8, attached hereto and incorporated by reference.

**F. Utilities.**

The District shall pay for all water gas, heat, cooling, light, power and other public utilities of every kind furnished to the Premises through the term thereof. The District shall provide and pay for telephone service for those Premises at which the District has sufficient capacity on existing telephone service. In this situation, neither Provider nor its employees will make, cause to make, or accept for collect charges, long distance or other toll calls. The Provider shall provide and pay for telephone service for those Premises, more particularly set forth in Exhibit B, at which the District does not have sufficient capacity on existing telephone service. The Provider may, but is not required to, elect to provide and pay for its own telephone service although the District has sufficient capacity on existing telephone service.

The District's Superintendent and the Provider's Chief Executive Officer may agree to modify Exhibit B as they deem desirable to increase or decrease the number of Premises for which the Provider desires to provide telephone service without any requirement to seek specific approval of the District's Governing Board and/or the Provider's Board of Directors.

**G. Equipment and Supplies.**

The District shall allow the Provider to use, without cost, general office equipment on the Premises, provided such use does not interfere with school or District functions or activities.

**H. Security.**

The District shall provide at no cost to the Provider security at the Premises to the extent the District provides security measures and/or security personnel at the Campus on which the Clinic is located.

The Provider will establish appropriate emergency procedures for all Clinic personnel. Provider shall notify the District annually of its emergency procedures which shall include, at a minimum, a list of emergency contact information, by site, for responsible Provider personnel.

**I. Furniture.**

The District shall allow the Provider to use, without cost, any office furniture that is at the Campus on which the Clinic is located to the extent that such furniture is not

needed by the District for any school or District activity or function. With the permission of the District, the Provider shall be allowed to replace built in furniture or cabinetry with updated materials to better facilitate patient flows and business operations.

**J. Disruption of Educational Activities.**

The Provider agrees to operate Clinics in a manner so as not to disrupt the educational activities of the District.

**K. Requirements for Provider Personnel.**

1. Provider shall not employ, at any of the sites listed in Exhibit A, an individual convicted of any criminal offense enumerated under A.R.S. 15-512, without prior written permission of the District.
2. Provider acknowledges and shall inform its employees that smoking by employees or invitees of Provider, or by any person, is not allowed at any District facility.
3. Provider employees shall be well groomed and adhere to the dress code standards set for the District's employees.
4. The District reserves the right to request verification of compliance with any of the above mentioned requirements at any time during the term of the Agreement.

**L. Procedure for District Objection to Specific Provider Employees and Volunteers working at Clinics; Appeal Procedure.**

The parties agree that the Provider shall be solely responsible for the adequacy and quality of all services that the Provider provides at Clinics. Nevertheless, the Provider recognizes that, while operating on the Campuses, the District retains an interest in reserving a procedure whereby it can object to actions of a specific health care services provider or other Provider employee or agent assigned by the Provider to the Clinics. The District's interest in this regard is not as a supervisor or evaluator of the adequacy or quality of the health care services provided. Rather, the District's interest is limited to ensuring that persons interacting with District students do so in a reasonable and amicable fashion, and in a manner consistent with the educational goals and philosophy of the District.

If the District objects to the actions of any health care services provider or other employee or agent of the Provider operating at or in connection with any of the Clinics, the District's Superintendent shall notify the Provider's Chief Executive Officer of this fact, and shall meet with the Provider's Chief Executive Officer in a good faith effort to resolve the situation.

If the efforts to resolve the District's objections are unsuccessful, the District may require of the Provider, in writing, that the Provider not permit that health care services provider or other employee or agent to continue to work at, or in connection with, the Clinics. If the Provider declines or fails to agree to the District's request within ten (10) calendar days after receipt of such a request, the District may, but is not obligated to, terminate this Agreement upon ten (10) days written notice thereafter.

**M. Restrictions Involving the Delivery of Health Care Services and Consent Form.**

The Provider has developed, in cooperation with the District, a consent form that will be provided to the parents or guardians of District students requesting the parent's or guardian's permission for the Provider to provide designated health care services (referred to as "offered services") for the parent's child or children at the Clinics. The Provider and the District shall agree to the health care services to be offered at Clinics. The parties shall also agree on the persons to whom such health services shall be offered.

Any offered services will be provided only with the written, signed consent of the student's parent or guardian, and after the student's parent or guardian has completed proper intake procedures. The Provider agrees to receive the District's approval of the consent form prior to its being sent to the parents or guardians of District students. The District agrees that it will assist with the dissemination of the collectively approved consent form. The parties agree, however, that all legal issues relating to the use of the consent form, and that all legal responsibilities and obligations that inhere from the use of the form, remain the sole responsibility of the Provider and not the District.

The form of the consent, containing a summary of offered services, shall be approved by the District's Superintendent. The consent form shall not limit Provider from referring patients to other locations or providers for health care services not offered at Clinics. Attached as Exhibit C is a sample form of consent. The parties may agree to use Exhibit C or may use a different, agreed-upon, consent form.

**N. Days and Hours of Operation.**

The Premises are leased by the District to the Provider for use as Clinics during the days and hours to be mutually agreed upon by the District's Superintendent and the Provider's Chief Executive Officer during the term of the Agreement.



**O. Absence of Partnership or Joint Venture.**

The District and the Provider agree that this Agreement contemplates solely a lessor/lessee relationship, and that the parties are engaging in neither a partnership nor a joint venture. The parties agree:

- (i) That the Provider shall not be responsible or liable for educational decisions made by the District, its agents and employees; and
- (ii) That the District shall not be responsible or liable for medical decisions made by, or the quality of medical services rendered by, the Provider, its agencies and employees, including volunteers working under the Provider's direction and control.

**P. Assignment and Subletting.**

The Provider shall not assign this Agreement or sublet the Premises or any interest thereon or any right or privilege appurtenant thereto without the express written permission of the District, which permission may, in the District's complete discretion, be withheld for any reason or no reason.

**Q. Administration.**

The Provider shall assign appropriate and adequate administrative staff to be responsible for Clinics, although the administrators assigned this task need not necessarily be located on the Premises.

**R. Compliance with Laws - Confidentiality.**

The Provider shall comply with all applicable laws, rules, regulations and ordinances relating to the operation of a health care services clinic and operation on a school property. The parties agree that each party to this Agreement has imposed upon it, and its agents and employees, certain confidentiality restrictions, which include FERPA and HIPAA restrictions. Each party shall respect the confidentiality restrictions imposed upon the other party and acknowledges that these confidentiality limitations may restrict the sharing of student or parent information between the parties.

**S. Licensing.**

The Provider, and all of the Provider's employees and agents involved in the operation of Clinics, shall at all times obtain and maintain all appropriate licenses and permits necessary to operate Clinics.

**T. Default/Suspensions.**

1. Default. A breach, in any material respect, by any party to this Agreement of any obligation or undertaking contained in this Agreement shall, upon written notice from a non-breaching party to the breaching party, constitute a "Default" by the breaching party.

2. Suspension. If and while there should occur and exist a Default by any party to this Agreement, a non-Defaulting party may, by written notice to the Defaulting party,

(a) Suspend all rights and entitlements of the Provider to use, possess and occupy the Clinics, if the Defaulting Party is the Provider; and

(b) Suspend the provisions of services at the Clinics if the Defaulting party is the District.

**U. Replacement of Provider.**

If a Default by the Provider continues uncured for more than ten (10) days after written notice from the District, the District may, once and as they agree to do so in writing, terminate Provider's tenancy of and right to use and occupy the Clinics, by written notice to the Provider, and shall thereafter be free to replace the Provider with another. Notwithstanding the preceding sentence, if a default by the Provider continues uncured for more than thirty (30) days after written notice from the District, the District may declare this Agreement terminated. Upon any termination of the Provider's tenancy, if the Provider has caused damages to the leased premises, the District shall be entitled to collect damages from the Provider.

**V. Bankruptcy, Assignment to Creditors.**

The Provider agrees that neither this Agreement nor any interest therein shall be assignable or transferable by operation of law. In the event of any proceedings under the Bankruptcy Act or any amendment thereto, being commenced by or against the Provider, or in the event the Provider is adjudged insolvent or makes an assignment for the benefit of their creditors, or if a writ of execution is levied on the business of the Provider, or the assets situated in the Premises, and such lien is not discharged within ten (10) days thereafter, this Agreement, at the option of the District, shall immediately cease and terminate, and the District shall have the right to enter and repossess the Premises.

**W. Indemnity.**

The Provider agrees at all times to indemnify, protect and hold the District harmless from each and every cost, expense, loss, claim, liability or damage, including but not limited to attorneys' fees and court costs, arising in any manner out of its

operation of Clinics and/or the Provider's use of the Premises, except to the extent, and only to the extent, that such cost, expense, loss claim, liability or damage is the result of a negligent act or intentional misconduct of a District employee or other person not under the Provider's care or control.

**X. Insurance.**

The Provider agrees to provide, pay for and maintain during the term of this Agreement, at its sole cost and expense, a policy or policies of comprehensive general liability insurance and property damage insurance covering the Provider's activities at Clinics in a form satisfactory to the District, all of which policies shall name the District as additional insured. This insurance shall cover bodily injury or death to any one person or number of persons in any one accident and property damage insurance in a policy amount of not less than one million dollars (\$1,000,000.00) per occurrence, and appropriate property damage limits not less than one million dollars (\$1,000,000.00) per occurrence.

The Provider also agrees to require that all health care services providers working at or in conjunction with the Clinics maintain in full force and effect a policy or policies of malpractice insurance, or maintain coverage for any covered event under the Federal Tort Claims Act, in an amount and with such terms approved by the District, but in no event in an amount less than two million dollars (\$2,000,000.00) per occurrence.

The Providers agrees to furnish the District with certificates of all insurance policies required pursuant to this paragraph prior to commencement of operation of Clinics. The endorsement on each such policy or policies shall state that the insurer agrees to provide the District at least thirty (30) days written notice prior to the alteration, cancellation, amendment or other occurrence which in any way affects the coverage provided.

**Y. Prescription Medicine at the Clinics; Controlled Substances.**

The Provider agrees to inform the District concerning the type of each prescription medicine that it intends to maintain at Clinics. No controlled substances shall be maintained at Clinics.

**Z. Enforcement of the Terms of this Lease Agreement.**

If any action at law or inequity shall be brought on account of any breach of, or to enforce or interpret any of the covenants, terms, or conditions or this Agreement, or for the recovery of the possession of the Premises, the prevailing party shall recover from any other party costs and reasonable attorney's fees, the amount of which shall be fixed by the court and shall be made a part of any judgment or any decree rendered.

**AA. Binding Effect.**

The terms and conditions of this Agreement are binding upon the parties' heirs, devisees, executors, successors and assigns.

**AB. Severability.**

In the event any provision of this Agreement is held invalid by any court of competent jurisdiction, the remaining provisions of the Agreement shall be deemed severable and shall remain in full force and effect.

**AC. Waiver.**

The waiver by the District or the failure of the District to take action with respect to any breach or any term, covenant or condition herein shall not be deemed to be a waiver of such term, covenant or condition, or subsequent breach of the same, or any other term, covenant or condition.

**AD. Remedies Cumulative.**

All remedies referenced in this Agreement shall be cumulative and any one remedy shall not be deemed exclusive of the other, or of any other remedy conferred by law.

**AE. Integrated Agreement - Amendments.**

The making, execution and delivery of this Agreement have not been induced by any representation, statement, warranty or agreements, other than those herein expressed. It is mutually agreed by and among the parties that the Agreement supersedes all other previous and/or other agreements bearing upon the above Premises. It is further agreed that no changes to or in this Agreement shall be made without such changes being in writing, signed by the parties hereto, unless otherwise stated in this agreement.

**AF. Headings.**

The headings herein are for convenience only and do not define, limit or construe the contents of the various articles in this Agreement.

**AG. Time Is Of The Essence.**

Time is of the essence of this Agreement and each and every covenant, term, condition and provision hereof.

**AH. Notices.**

All notices, demands or elections whatsoever which this Agreement requires or permits any party to give to the other, shall be in writing and shall be personally delivered or shall be delivered by registered or certified mail, return receipt requested, addressed to the respective parties as follows:

**School District:**

Michelle Tong, J.D.  
Associate to the Superintendent  
Amphitheater Unified School District  
701 West Wetmore Road  
Tucson Arizona 85705

**Provider:**

\_\_\_\_\_  
Chief Executive Officer  
MHC Healthcare  
13395 North Marana Main Street  
Marana Arizona 85653

**IN WITNESS THEREOF**, the parties have executed this Agreement on the date first-above written:

***Amphitheater Unified School District***

By: \_\_\_\_\_

Date: \_\_\_\_\_

Its: Associate to the Superintendent and General Counsel

***MHC Healthcare (Provider)***

By: \_\_\_\_\_

Date: \_\_\_\_\_

Its: Chief Executive Officer

## **EXHIBIT A**

### Description of Premises

Keeling Elementary School

435 E. Glenn Road Tucson, Arizona, 85705

Room 44

(Space previously used and presently equipped as a medical clinic.)

## **EXHIBIT B**

### Services, Equipment and Supplies Provided by District

1. Maintenance
2. Janitorial Services
3. Utilities: Water, Gas, Heat, Light, Power and other public utilities.
4. Telephone Service to the extent the District has sufficient capacity on existing Telephone Service.
5. Use of General Office Equipment on the Premises.
6. Security at the Premises to the extent the District has existing security measures and/or security personnel at the Campuses on which Clinics are located.
7. Office Furniture to the extent the District has office furniture at the Campus on which the Clinic is located if such furniture is not needed by the District for any school or District activity or function.

# **EXHIBIT C**

## **WELLNESS CLINIC CONSENT FORM**

*SAMPLE FORM*