



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

DATE OF MEETING: **September 13, 2022**

TITLE: **Approval of Lease Agreement with the Pima County Joint Technological Education District No. 11**

BACKGROUND:

The District has had a lease agreement in place with the Pima County Joint Technical Education District No. 11 (“JTED”) since Fiscal Year 2016-2017 to permit JTED to operate technical education classes pertaining to veterinarian science out of the Amphi Land Lab located at 450 E. Wetmore Road. The classes that JTED offers at the Amphi Land Lab provide enhanced and valuable educational opportunities for shared Amphi students and promote the District to the greater Pima County community. This agenda item is presented to permit the District to renew its lease with JTED at the Amphi Land Lab and to extend the area to be included in the lease to the entire front building of the Amphi Land Lab.

The lease with JTED previously only extended to the east side of the front building at the Land Lab and to a limited classroom and office space in the back building. The District is not currently using the west side of the front building, and JTED wishes to use it to extend its classroom offerings this year. The proposed lease agreement is for one-year with optional annual one-year renewal periods for four additional years. As a result, the District retains the option to amend the area being used by JTED if it needs to use any of the classroom space in the front building in future years. At this point, administration advises allowing JTED to use the entire front building to expand its veterinarian science offerings since that benefits students within the District.

Counsel has reviewed the agreement and has determined that it is within the power and authority of the Amphitheater Governing Board to enter into the agreement.

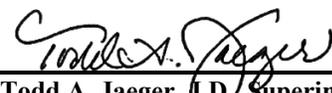
RECOMMENDATION:

This item is presented for the Board’s action. The administration recommends approval of this lease with JTED.

INITIATED BY:


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

Date: September 6, 2022


Todd A. Jaeger, J.D., Superintendent

LEASE AGREEMENT

This Lease Agreement (hereinafter "Lease" or "Agreement") is entered into this _____ day of _____, 2022, ("Effective Date") by Amphitheater Unified School District No. 10 of Pima County, Arizona ("Amphi") and the Pima County Joint Technological Education District ("JTED").

The parties have executed this Agreement for the following reasons:

1. Amphi is an Arizona public school district operating pursuant to Title 15 of the Arizona Revised Statutes. A.R.S. §15-1105(A) permits the use of school buildings, school grounds and other school property by organizations whose services are open to the public.

2. JTED is an Arizona joint technological education district, organized and operating pursuant to Title 15 of the Arizona Revised Statutes whose primary function is the provision of career and technical education to students of Pima County, Arizona, including shared and common students of Amphi.

3. In the 2016-2017 fiscal year, the parties executed a lease agreement ("16-17 Lease") through which Amphi leased portions of the Amphi Land Lab to JTED to operate a veterinary science program. Now, the parties desire to renew and amend the 16-17 Lease under the terms and conditions set forth in this Lease.

4. Pursuant to A.R.S. § 15-1105(A), Amphi must charge reasonable use fees for the lease of school district property for educational and other lawful purposes by organizations such as JTED; however, reasonable use fees may include the in-kind value of goods and services provided to Amphi by organizations whose activities promote the educational function of Amphi as determined in good faith by Amphi's Governing Board or Superintendent. Amphi has determined that JTED will be providing enhanced and valuable educational opportunities for Amphi students and will therefore promote the educational function of the School District.

5. The parties to this Agreement have determined that their individual and common interests and goals to serve the needs of public school students will be furthered by the execution of this Agreement, the terms of which provide for the lease of property by Amphi to the JTED, in order to allow the JTED to operate its programs.

6. Pursuant to this Lease Agreement, Amphi is the lessor for purposes of physical possession and occupation of certain leased premises described below. Pursuant to this Lease Agreement, the JTED is the lessee for purposes of physical possession and occupation of certain leased premises described below.

7. Although the parties to this Agreement recognize the desirability of operating a JTED central veterinary science program on Amphi campus(es), they also

each recognize the separate and distinct but substantial interest each party has in determining the scope and manner of its operations.

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

A. Premises Leased.

Amphi hereby leases to JTED and grants to JTED the right to use, and JTED hereby leases from the Amphi, on a nonexclusive basis, certain premises on the Amphi campus(es) more particularly designated in Exhibit A, attached hereto and incorporated by reference (hereinafter the "Premises"), except the computer server rooms designated on Exhibit A as "MDF" and "IDF", both of which are expressly excluded from the Premises and the Lease. Both the MDF and the IDF computer server rooms shall remain the sole and exclusive property of Amphi at all times while this Lease is in effect.

Because the MDF and IDF computer server rooms can only be accessed through the Premises, JTED also hereby authorizes and agrees that Amphi, as well as its employees, agents, and/or contractors, have an exclusive right to enter the Premises at any time, without prior notice to JTED, to access the MDF and/or the IDF room(s). While JTED maintains an alarm on the Premises, JTED shall provide Amphi a separate alarm code solely for the use of Amphi in order to permit Amphi continuous and uninterrupted access the MDF and/or IDF computer server rooms.

B. Term of Lease.

The Lease of the Premises shall commence on the Effective Date identified above and shall continue through June 30, 2023, and shall thereafter automatically renew in one-year increments, beginning each July 1 and ending the following June 30, for an additional three (3) years, unless notice of termination has been given in accordance with the provisions below.

Notwithstanding the above-stated term of the Lease, either party to this Agreement may terminate the Lease, for any reason or no reason, by giving the other party one hundred twenty (120) days written notice of that party's intention to terminate. Upon termination of this Agreement, JTED and JTED's employees, officers, agents and invitees shall vacate the Premises, except to the extent that their presence is required for removal of JTED's improvements in accordance with this Agreement, and Amphi 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 and Reasonable Use Fees.

The JTED shall pay Amphi rent and reimbursement of certain costs for JTED's use of the Premises in the amounts detailed in Exhibit B for each whole or partial calendar year that occurs during the term of this Lease, or any extension thereof.

D. Purpose.

The Premises leased by the Amphi to the JTED shall be used by the JTED only for the operation by the JTED of veterinary science classroom facilities and a veterinary clinic, in the manner described and as limited by this Lease Agreement.

The JTED 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.

E. Cleanliness.

The JTED 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.

JTED shall be responsible for maintaining the Premises at no cost to Amphi, and shall keep the Premises in reasonably good order and repair, as provided above.

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

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

2. Improvements and Alterations.

JTED accepts the Premises "as is" condition from Amphi. Amphi makes no warranty, express or implied, with regard to the suitability of the Premises for any particular use or purpose. JTED shall be solely responsible for making determinations for as to the suitability of the Premises for its intended purpose(s).

JTED shall be financially responsible for any alterations or improvements required to make the Premises suitable.

JTED shall not make or allow to be made any alterations or improvements to the Premises or any part thereof without the prior written consent of Amphi. It is agreed that all improvements made by JTED on the Premises will become the sole property of Amphi,

except for the fixtures and equipment listed in Exhibit C which the parties expressly agree may be removed by JTED upon termination of this lease for any reason.

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

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

3. Custodial Services.

Effective September 1, 2022, JTED will provide its own janitorial/custodial services for the Premises.

4. Bio-Hazardous Waste.

The JTED shall be exclusively responsible for the management and disposal of all bio-hazardous waste on all the Premises and shall exercise such responsibility in accordance with all applicable industry standards.

F. Utilities.

Any use by JTED of water, gas, heat, cooling, light, power and other utilities of every kind furnished to the Premises by Amphi shall be reimbursed as provided in Exhibit B.

G. Equipment and Supplies.

JTED shall be responsible for provision of any equipment or supplies required for its use of the Premises and operation of its educational programs thereon.

H. Security.

JTED shall be responsible for providing any desired security services for the Premises.

JTED will establish appropriate emergency procedures for JTED students and personnel. JTED shall notify Amphi annually of its emergency procedures which shall

include, at a minimum, a list of emergency contact information for responsible JTED personnel.

I. Furniture.

Amphi shall allow the JTED 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 Amphi for any school or District activity or function.

J. Disruption of Educational Activities.

The JTED agrees to operate its programs on the Premises in a manner so as not to disrupt the educational activities of Amphi occurring elsewhere on the campus(es) described in Exhibit A.

K. Requirements for JTED Personnel.

1. JTED 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 Amphi.
2. JTED acknowledges and shall inform its employees that smoking by employees or invitees of JTED, or by any person, is not allowed on the Premises.
3. JTED employees shall be well groomed and adhere to the dress code standards set for Amphi's employees.
4. Amphi 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 JTED Employees and Volunteers working at Clinics; Appeal Procedure.

The parties agree that the JTED shall be solely responsible for operation of its programs on the Premise. Nevertheless, JTED recognizes that Amphi retains an interest in reserving a procedure whereby it can object to activities undertaken by JTED on the Premises which raise health or safety concerns. Amphi's interest in this regard is not as a partner, director, supervisor or evaluator of the JTED programs. Rather, Amphi's interest is limited to ensuring the safety of its own students, personnel or visitors.

If Amphi objects to the activities of JTED, the Amphi Superintendent shall notify the JTED's Superintendent of this fact, and shall attempt to resolve the situation in good faith.

If the efforts to resolve Amphi's objections are unsuccessful, Amphi may require JTED, in writing, to cease the specified activity. If JTED declines or fails to comply with Amphi's request within ten (10) calendar days after receipt of such a request, Amphi may, but is not obligated to, terminate this Lease upon ten (10) days written notice.

M. Days and Hours of Operation.

The Premises are leased by Amphi to JTED for, among other purposes, use as a veterinary clinic. Such operations shall be permitted during the days and hours to be mutually agreed upon by Amphi's Superintendent and the JTED's Superintendent during the term of the Lease.

N. Absence of Partnership or Joint Venture.

Amphi and JTED 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 JTED shall not be responsible or liable for decisions and actions made by the Amphi, its agents and employees; and
- (ii) that Amphi shall not be responsible or liable for decisions or actions made by, or the quality of veterinary services rendered by, JTED, its agents, employees, volunteers and students.

O. Assignment and Subletting.

JTED shall not assign this Lease Agreement or sublet the Premises or any interest therein or any right or privilege appurtenant thereto without the express written permission of Amphi, which may, in Amphi's sole discretion, be withheld for any reason or no reason.

P. Administration.

JTED shall assign appropriate and adequate administrative staff to be responsible for supervision of its programs on the Premises, although the administrator(s) assigned this duty need not necessarily be located on the Premises.

Q. Compliance with Laws – Confidentiality.

JTED shall comply with all applicable laws, rules, regulations and ordinances relating to the operation of a veterinary services clinic. The parties agree that each party to this Lease has imposed upon it, and its agents and employees, certain confidentiality restrictions, which include FERPA 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/parent information between the parties.

R. Licensing.

JTED, and all of the JTED's employees and agents involved in the operation of the veterinary programs on the Premises, shall at all times obtain and maintain all appropriate licenses and permits necessary to operate such programs.

S. Default/Suspensions.

1. Default. A breach, in any material respect, by any party to this Lease of any obligation or undertaking contained in this Lease 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 Lease, a non-Defaulting party may, by written notice to the Defaulting party,

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

(b) Suspend the provisions of programs at the Premises if the Defaulting party is Amphi.

T. Indemnity.

To the extent permitted by Arizona law, JTED agrees at all times to indemnify, protect and hold Amphi 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 from its operation of any program or clinic on the Premises, or simply arising from JTED'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 Amphi employee or other person not under JTED's care or control.

U. Insurance.

JTED agrees to provide, pay for and maintain during the term of this Lease, at its sole cost and expense, a policy or policies of comprehensive general liability insurance and property damage insurance covering JTED's activities on the Premises in a form satisfactory to Amphi, and such policies shall name Amphi as additional insured. This insurance shall cover bodily injury or death to any one person or number of person 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 JTEDs agrees to furnish the Amphi with certificates of all insurance policies required pursuant to this section prior to commencement of operation of programs on the Premises. The endorsement on each such policy or policies shall state that the insurer agrees to provide the Amphi at least thirty (30) days written notice prior to the alteration, cancellation, amendment or other occurrence which in any way affects the coverage provided.

V. Prescription Medicine at the Clinics; Controlled Substances.

JTED agrees to inform Amphi concerning each prescription medication, if any, that it intends to dispense or maintain on the Premises. No controlled substances shall be maintained on the Premises.

W. Enforcement of the Terms of this Lease.

If any action at law or in equity shall be brought on account of any breach of, or to enforce or interpret any of the covenants terms, or conditions or this Lease, 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.

X. Binding Effect.

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

Y. Severability of Lease.

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

Z. Waiver.

The waiver by Amphi or the failure of Amphi 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.

AA. Remedies Cumulative.

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

BB. Integrated Agreement – Amendments.

The making, execution and delivery of this Lease 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 Lease supersedes all other previous and/or other agreements bearing upon the above Premises. It is further agreed that no changes to or in this Lease shall be made without such changes being in writing, signed by the parties hereto, unless otherwise stated in this agreement.

CC. Headings.

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

DD. Time Is Of The Essence.

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

EE. Notices.

All notices, demands or elections whatsoever which this Lease 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:

Amphi:
Richard LaNasa
Executive Manager
Operational Support
Amphitheater Public Schools
701 W Wetmore Rd
Tucson AZ 85705

JTED:
Kathy Prather
Superintendent
Pima JTED
2855 W. Master Pieces
Tucson, AZ 85741

With a copy to:
Legal Department
Amphitheater Public Schools
701 W. Wetmore Road
Tucson, AZ 85705

SIGNED by an authorized representative for each party on the date identified below to confirm consent to terms and conditions set forth in this Lease Agreement .

**Amphitheater Unified School District
No. 10 of Pima County**

**Pima County Joint Technological
Education District**

Richard LaNasa
Executive Manager of Operational Support
Date: _____

By: _____
Its: _____
Date: _____

EXHIBIT B

Reasonable Use and Utility Reimbursement Fees To be paid to Amphi by JTED

As acknowledged in and permitted by the 16-17 Lease, JTED has made approximately \$84,000.00 in tenant improvements to the Premises which will remain affixed to the Premises at the expiration of the Lease. Amphi acknowledged in the 16-17 Lease, and continues to acknowledge in this Lease, that the value of these improvements combined with increased educational opportunities for Amphi students at the Premises, represent considerable in-kind contribution and value to Amphi.

Under the 16-17 Lease, JTED has paid Amphi the sum of One Thousand Five Hundred Fifty-Eight Dollars and Fifty Cents (\$1,558.50) per month. Although the square footage under the current Lease has increased, JTED will continue to pay Amphi the sum of One Thousand Five Hundred Fifty-Eight Dollars and Fifty Cents (\$1,558.50) per month as a reasonable use and utility reimbursement fee from the Effective Date through June 30, 2023, and the reasonable use and utility reimbursement monthly fee that will be owed by JTED each month thereafter shall automatically increase at the start of each annual renewal period by twenty percent (20%) (annually) while the Lease is in effect.

EXHIBIT C

Fixtures and Equipment to Remain Property of JTED Upon Termination of Lease

No fixtures or equipment were identified in the 16-17 Lease so the parties are intentionally leaving Exhibit C blank for this Lease.