



## BOARD OF SUPERVISORS AGENDA ITEM REPORT CONTRACTS / AWARDS / GRANTS

Award  Contract  Grant

\* = *Mandatory, information must be provided*

**Requested Board Meeting Date:** August 15, 2022

**or Procurement Director Award**

**\*Contractor/Vendor Name/Grantor (DBA):**

Community Performing Arts Center Foundation, Inc.

**\*Project Title/Description:**

Community Performing Arts Center Operating Agreement

**\*Purpose:**

To establish an operating agreement for a portion of the Green Valley Community Performing Arts and Learning Center with Community Performing Arts Center Foundation Inc., an Arizona non-profit.

**\*Procurement Method:**

Exempt per Section 11.04.020

**\*Program Goals/Predicted Outcomes:**

To establish terms and conditions for the ongoing operations and maintenance of the "performing arts side" of the Green Valley Community Performing Arts and Learning Center (1250 W. Continental Rd) which includes a 200+ seat theatre and other space for presentation of the lively arts, music, art instruction and other art related endeavors.

**\*Public Benefit:**

Maintaining, preserving and enhancing a long-standing, multi-generational community and social center organized around visual and performing arts, music, art education and entertainment.

**\*Metrics Available to Measure Performance:**

Greater opportunities for social interaction and exposure to new experiences, ideas and art education. Public has greater accessibility to local, national and international performers and art education. Stronger, well-rounded, healthier individuals and communities.

**\*Retroactive:**

Yes. CPAC Board had to review and approve agreement. Board approved at 7/27/22 meeting.

TO: COB 8-2-22 W  
Vers.: 1  
pgs.: 28

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**Contract / Award Information**

Document Type: CTN Department Code: FM Contract Number (i.e., 15-123): 22\*152

Commencement Date: July 1, 2022 Termination Date: June 30, 2023 Prior Contract Number (Synergen/CMS):

 **Expense Amount:** \$\*  Revenue Amount: \$ 24,000.00**\*Funding Source(s) required:** Operator's FeeFunding from General Fund?  Yes  No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_Contract is fully or partially funded with Federal Funds?  Yes  No**If Yes, is the Contract to a vendor or subrecipient?** \_\_\_\_\_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 22-10.

**Amendment / Revised Award Information**

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

Amendment No.: \_\_\_\_\_ AMS Version No.: \_\_\_\_\_

Commencement 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

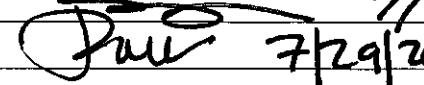
Document Type: \_\_\_\_\_ Department Code: \_\_\_\_\_ Grant Number (i.e., 15-123): \_\_\_\_\_

Commencement 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: Kevin Button

Department: Facilities Management Telephone: 520-724-8230

Department Director Signature/Date:  7/29/2022Deputy County Administrator Signature/Date:  7/29/2022County Administrator Signature/Date:  7/29/2022  
(Required for Board Agenda/Addendum Items)

**Pima County Department of Facilities Management**

**Project: Community Performing Arts Center Operating Agreement**

**Contractor: Community Performing Arts Center Foundation, Inc.,**

**Amount: \$24,000.00**

**Contract No.: CTN-FM-22-152**

## **OPERATING AGREEMENT**

- 1. Parties.** This operating agreement ("Agreement") is made and entered into between Pima County, a political subdivision of the State of Arizona ("County") and the Community Performing Arts Center Foundation, Inc., an Arizona non-profit corporation ("Foundation" or "Operator"). County and Foundation are each individually a "Party" and collectively the "Parties."
- 2. Background and Purpose.**
  - 2.1.** Pursuant to an Intergovernmental Agreement ("IGA") between County and Pima County Community College ("College") dated May 21, 2002, a community performing arts and learning center (the "Facility"), funded through a multi-million dollar special bond election, was designed and constructed at 1250 W. Continental Road, Green Valley, Arizona ("Building").
  - 2.2.** County operates and manages the Facility pursuant to an Operating and Management Agreement between County and College, which was entered into on or about August 1, 2017 (CT-FM-18\*042).
  - 2.3.** Construction of the Facility was completed in two phases. The spaces associated with the first phase ("Phase 1") and the second phase ("Phase 2"). The Facility consists of a learning center (the "Learning Center"), owned by College, and Performing Arts Center (the "Arts Center") owned by County and depicted in **Exhibit A**. County and College entered into an irrevocable license in, on, over, and across the Learning Center and the Arts Center for a term of 40 years.
  - 2.4.** On June 15, 2004, County and College entered into an operating agreement to address day-to-day operations and maintenance of the Facility after construction and have agreed to reasonably cooperate with each other with respect to scheduling and use.
  - 2.5.** In October of 2004, County and Foundation entered into a management agreement with the Foundation related to scheduling and use of Rehearsal Hall/Room 105 and Office (Room 101).
  - 2.6.** In 2009, the County and Foundation entered into a lease agreement ("Lease Agreement") for portions of the Arts Center. On September 1, 2009, the first

amendment to the Lease Agreement allowed alcohol to be served on premises for special events. The Lease Agreement expired June 30, 2010.

- 2.7.** In 2013, the second amendment superseded, replaced and restated the Lease Agreement. In 2014, the third amendment extended the Lease Agreement to June 30, 2015.
    - 2.8.** Foundation continues to occupy and use the Facility, notwithstanding the expiration of the Lease Agreement on June 30, 2015. County and Foundation now wish to enter into a new Agreement for the Arts Center.
  - 3. Premises.** The Premises are defined as the space within the Building identified as the Art Center, consisting of approximately 15,661 rentable square feet, the Common Areas, and the Parking Lot, shown in **Exhibit B** and **Exhibit C** (the "Premises").
  - 4. Term.**

    - 4.1.** Initial Term. The initial term of this Agreement will be for a period of one year (the "Initial Term") beginning on the July 1, 2022 (the "Commencement Date") and ending on the June 30, 2023 (the "Expiration Date").
    - 4.2.** Effective Date. Regardless of the date that the Parties approve and execute this Agreement, it will be deemed to be effective as of July 1, 2022.
    - 4.3.** Option to Extend. If Foundation is not in default under the Agreement, Foundation may extend the Initial Term of the Agreement for up to four additional 1-year periods (each, an "**Extension Term**"), by providing written notice to County of Foundation's desire to exercise option to extend, not more than 9 months nor less than 6 months prior to end of the Initial Term or the prior Extension Term, as applicable. "Term" means the Initial Term and any Extension Term(s) exercised by Foundation.

      - 4.3.1** If Foundation properly exercises an option to extend the Term, County will prepare an amendment (the "**Amendment**") to reflect any mutually agreed upon changes in fees, Term, Expiration Date and other appropriate terms and conditions, and Foundation will execute and return the Amendment to County within 15 days after Foundation's receipt of Amendment. If no changes are mutually agreed upon, the terms and conditions of the Agreement, except for the ending date of the Term, will remain the same during all Extension Terms.
    - 4.4.** AS IS. Foundation hereby agrees to accept the Premises in its "AS IS" condition during the Initial Term and any Extension Term. County has no obligation to make any improvements, alterations or modifications to the Premises, nor will County provide Foundation with any improvement allowances or other allowances or payments.

5. **Operator's Fee.** Operator's Fee is comprised of two components, the annual base fee for the Premises and the cost of electricity Foundation consumes, as defined in Section 6 of this Agreement (collectively, "Operator's Fee").

5.1. **Annual Base Fee.** Beginning with the Commencement Date and each year thereafter during Term, Foundation will pay to County the annual Base Fee ("Base Fee") in equal monthly installments. Base Fee is shown in table below.

Agreement Year	Annual Base Fee	Monthly Payment
Year 1	\$ 24,000.00	\$ 2,000.00
Year 2	\$ 25,200.00	\$ 2,100.00
Year 3	\$ 26,460.00	\$ 2,205.00
Year 4	\$ 27,783.00	\$ 2,315.25
Year 5	\$ 29,220.00	\$ 2,435.00

5.2. **Payment of Rent.** Foundation will pay Base Fee in advance, in equal monthly installments as provided above, on or before the Commencement Date and the first day of each month thereafter during the Term. Base Fee must be delivered to Pima County Government, Finance-Revenue Management Division, 33 N. Stone, 6th floor, Mail Stop DT-BAB6-404, Tucson, Arizona 85701. Foundation will pay 9% per annum simple interest on any late Base Fee payments or any other sum due under this Agreement that is not paid when due, from the date due until paid.

6. **Foundation's Cost for Electrical Utility.** During the Term of this Agreement, Foundation will be solely responsible for:

6.1. The cost of electricity for Phase 2, depicted in **Exhibit D**. Electrical service for Phase 2 is separately metered and may be held in the name of Foundation and Foundation will pay electrical provider directly for service.

6.2. A proportional share of the cost of electricity for Phase 1 which equals 40.96%, shown in **Exhibit D**. County will invoice Foundation monthly for their proportional share of electrical service for Phase 1 utility.

## 7. Use of Premises.

### 7.1. Rights of College and County.

**7.1.1** Foundation will have the right to use and operate the Art Center during the Term, subject to the right of County or College, or their licensee or lessee, to use the Rehearsal Hall/Room 105 for educational purposes, when it is not otherwise in use, at no cost to County or College, or their licensee or lessee, for up to 20 hours per week, provided that County or College will pay for any extraordinary costs associated with a particular use. For purposes of the preceding sentence, extraordinary costs will not include utility cost or similar expenses. County or College will submit a written request for use of the Rehearsal Hall/Room 105 to Foundation no less than one week prior to the planned date. Foundation will approve all reasonable requests for use of the Rehearsal Hall/Room 105, unless such a request conflicts with a previously scheduled activity. Due to the collaborative nature and overall mission of this Facility to promote Arts and Education, the Foundation has, over the years, worked closely with UA Osher Lifelong Learning Institute (OLLI), a County Licensee, when scheduling class time for the Rehearsal Hall/Room 105 and agrees to continue this collaboration and cooperation over the Term of this Agreement.

**7.1.2** Foundation will have the right to use the Common Areas on a non-exclusive basis, in common with other occupants of the Building.

**7.1.3** Foundation will have the right to utilize the Parking Lot on a non-exclusive and non-reserved basis, in common with other occupants of the Building.

**7.2.** Permitted Uses and Subleasing. Foundation will use and operate the Premises to promote art in general, performing and lively arts, rehearsal and exhibition venue for the arts including art education and may rent the Premises facilities to outside agencies for arts related, or other community related purposes, provided that (i) all subtenants are subject to the terms and conditions of this Agreement, including but not limited to the insurance requirements in Section 15 of this Agreement; (ii) Foundation complies with Section 10 of this Agreement; and (iii) any sublease or rental of the Premises for a period in excess of 30 days receives prior written approval of County. Foundation may use the Premises offices to carry out its duties pursuant to this Agreement.

**7.3.** Sublease and Assignment. Except in cases of short-term rental for the permitted uses specified Section 7.2 of this Agreement, Foundation may not assign its rights and obligations under this Agreement or sublease any portion of the Premises without County's prior written consent, which may be withheld by County at County's sole and unfettered discretion. Such an assignment or sublease, if permitted, does not constitute a release of any obligations of the Foundation due under this Agreement.

- 7.4. Prohibited Activities.** Foundation will not permit any unlawful activities in or around the Building or Premises by its employees or invitees, or any activities that unduly interfere with activities of the other Building occupants.
- 7.5. Hazardous Materials Prohibited; Clean Air Act.** Foundation will not cause or permit any hazardous or toxic materials or substances to be brought upon, kept, or used in or about the Premises by Foundation, its agents, employees, contractors or invitees, without the prior written consent of County. If Foundation requires any hazardous or toxic materials or substances that are necessary or useful to Foundation's business, Foundation must first receive written approval from County for their use. If approved, Foundation will use, keep and store those materials in a manner that complies with all laws regulating any such materials or substances. Foundation's operations on the Premises will comply with all applicable provisions of environmental laws and regulations, including the Clean Air Act, 42 U.S.C. 7401 et seq. and Arizona Revised Statutes, Title 49, Chapter 3. Foundation will remediate and clean up, at its sole cost and expense, any contamination of the Premises during the term of this Agreement.
- 7.6. Mechanical Operating Systems.** All mechanical operating systems for the Premises, including energy management systems ("EMS"), will be under the direct control of County. The EMS are actively and remotely monitored by County. Foundation will not have access to any such systems except as expressly permitted by an authorized representative of Pima County Facilities Management.
- 7.7. Rules and Regulations.** Foundation and its employees, agents, invitees, subcontractors and subtenants, will abide by all County rules and regulations shown in **Exhibit F**.

**8. Management of the Premises.** Foundation will manage the day-to-day operations of the Premises. Such operations will include, but not be limited to, providing programming for the general public, maintaining a schedule for use of the Premises, administering the policy for renting the Premises to outside agencies, staffing, and maintenance as further provided in this Agreement.

**9. Access / Keys.**

- 9.1. Access by County.** County, and its employees and agents, will at all times have keyed access to the Premises.
- 9.2. Hours of Access.** Foundation will have access to the Premises 24 hours a day, seven days per week, 365 days per year. If issued a master key, Foundation is responsible for all costs associated with rekeying Building if master key is lost.
- 9.3. Keys.** Keys/Key Cards for the Building will be provided by County to designated Foundation staff. Foundation will pay to County a standard charge (\$100.00) for any key that is lost, stolen or damaged and must be replaced by County.

- 9.4. County Access to the Premises.** Foundation will permit County and County's authorized representatives to enter the Premises, with reasonable prior notice for purposes of inspection, making any repairs and performing any work therein as may be necessary for County to comply with its obligations under this Agreement. County, in the performance of any such work, will cause as little inconvenience, annoyance, disturbance, or damage to Foundation as is reasonably possible under the circumstances, but without being required to incur additional expenses. If necessary, during emergencies, County may access the Premises at any time should County be required to respond to any emergency situation at the Premises. If necessary, Foundation will provide access and/or keys to first responders.
- 9.5. Common Areas.** The Common Areas will at all times be subject to the control and management of County and County will have the right from time to time to change the area, level, location, appearance and furnishing or landscaping of the Common Areas provided that such activity does not materially interfere with Foundation's operations. County will have the right at any time to temporarily close any portion of the Common Areas for the purpose of making repairs, changes or additions thereto and County may enter into agreements with adjacent owners for cross-easements for parking, ingress or egress.
- 9.6. Use of Building by Others.** It is County's intent to utilize a portion of the Building for educational and related purposes, and County may lease space within the Building to other public and/or non-profit organizations and agencies for such use. County will, however, have the right to make any legal use of the Building or portions thereof, provided that such use does not materially interfere with Foundation's operations.
- 9.7. Fire Safety Systems.** County will, at all times have access to any and all Fire Risers and all related fire safety infrastructure and will be responsible to maintain all fire safety systems.

## **10. Obligations of the Foundation.**

- 10.1. Expenses of Foundation.** Foundation will conduct all of its operations at the Premises at its own expense.
- 10.2. Compliance with Laws.** Foundation will comply with all applicable federal, state, and local laws, statutes, ordinances, rules, regulations, standards, policies, and executive orders with respect to its operations in the Premises.
- 10.3. Alcohol.** Foundation may serve and sell alcoholic beverages for consumption at the Premises only on (i) property owned by County, or (ii) in other locations with the advance written permission of College; provided Foundation complies with applicable liquor laws and provides County, and College if on College property, with the required insurance as provided in this Agreement.

- 10.4. Performing Arts to be Promoted.** Nothing in this Agreement implies permission to conduct any business, or allow any occupancy or use, except for the purposes stated herein. Disorderly or objectionable conduct by Foundation or those occupying the Premises with its permission will, upon proof thereof, be cause for termination of this Agreement. Advertisements, signs, brochures, and promotional publicity will not misrepresent in any way the services provided.
- 10.5. Hours of Operation.** Foundation recognizes the public service nature of this Agreement and hereby agrees to operate the Premises for the promotion of the Arts, and to keep it open to provide performing arts events and art education. Foundation or a designated representative will be present at the Premises at all times when the Premises is open to the public. County has the right to use the Premises at any time when it is not otherwise occupied or used for other events and will pay any extraordinary costs associated with the use, excluding utilities.
- 10.6. Fees and Charges.** Foundation currently charges the fees shown on **Exhibit E** for use of space within the Premises by third parties. Foundation may, from time to time and upon 60 days prior notice to the County Administrator or their designee, adopt new fees for use of the Premises to reflect market conditions. Foundation may charge the County's current rate of \$30.00 per hour to College's lessee or licensee for use of the Rehearsal Hall/Room 105 (in excess of 20 hours per week). College, or their lessee or licensee, will submit a written request for use of the Rehearsal Hall/Room 105 to Foundation no less than two weeks prior to the planned date. Foundation will approve all reasonable requests for use of the Rehearsal Hall/Room 105, unless such a request conflicts with a previously scheduled activity.
- 10.7. Licensure/Permits.** Foundation will apply for and obtain any license, registration or permit which will be required during the Term of this Agreement by the State of Arizona or any other governmental or regulatory authority and will maintain such license, registration or permit in good standing throughout the Term of this Agreement. Foundation will immediately notify County in writing if the license, registration or permit is denied or terminated. In the event of such denial or termination County may, in its sole discretion, terminate this Agreement with no further obligation to Foundation.
- 10.8. Taxes.** Foundation will be responsible for all taxes related to this Agreement and will pay to County, in addition to any other sums due hereunder, any applicable rental taxes for which County is responsible including, if applicable, the government property lease excise tax pursuant to A.R.S. § 42-6201 *et seq.*
- 10.9. Revenues.** All revenues derived from the operation of the Premises, including donations, will be used exclusively by Foundation for the maintenance, development, improvement, management, and/or operation of the Premises.

**11. Services Performed by Foundation.**

**11.1. Janitorial Services.** Foundation will be responsible for all janitorial services for the Premises.

**11.2. Telephone and Internet Service.** Foundation will at its expense provide telephone and internet service to the Premises as needed.

**12. Alterations/Modifications.** Foundation will not make, or cause to be made, any structural modifications ("Alterations") to the Premises without written approval of County.

**12.1. Quality.** All County-approved Alterations will be carried out by Foundation using licensed contractors and subcontractors in good standing with the Arizona Registrar of Contractors and reasonably acceptable to County. Alterations will be constructed in a good and workmanlike manner using materials of a quality that is at least equal to the quality approved by County and in compliance with any County-approved Plans. Foundation shall assure that the Alterations comply with all insurance requirements and all applicable laws. County's approval of Alterations will not be a representation by County that the Alterations comply with applicable laws or will be adequate for Foundation's use.

**12.2. Liens.** Foundation will timely pay all contractors, subcontractors, mechanics, laborers, or materialmen providing materials or services with respect to the Alterations, and will not permit any lien to attach to the Premises or any interest therein, or will bond or insure over the lien, or discharge the lien, and will indemnify and defend County against all legal costs and charges resulting from any such lien. If Foundation fails to discharge the lien, then, in addition to any other right or remedy of County, County may bond or insure over the lien or otherwise discharge the lien. Foundation will reimburse County for any amount paid by County to bond or insure over the lien or discharge the lien, including, without limitation, reasonable attorney fees (if and to the extent permitted by law) within 30 days after receipt of an invoice from County.

**13. Change in Ownership.** If ownership of the Premises or the name or address of the party entitled to Operator's Fee changes, Foundation may, until receipt of written notice of such change, continue to pay Operator's Fee to the party to whom and in the manner in which the last preceding installment of Operator's Fee was paid. Foundation will not be subject to double liability for any Operator's Fee so paid. Any transfer of title to the Premises will be subject to this Agreement.

**14. Repairs.** County will maintain and repair the Arts Center, except Foundation will repair at its own expense any damage (other than normal wear and tear) it causes or that is caused by any employee, agent or invitee of Foundation, to any part of the Arts Center or associated grounds and other Building areas except to the extent the damage is covered by a third-party insurance policy.

- 14.1. Respective Areas.** Pursuant to Section 6(1) of the Operating Agreement between County and College (CT-FM-18\*042), College and County are each responsible for major repairs of their respective areas. County is responsible for repaving and major repair of the parking areas and driveways associated with the Arts Center, with costs for repairs shared equally between the College and County.
- 14.2. Landscaping Services.** County will maintain the exterior portions of the Premises at all times hereunder in a good, clean, safe and sanitary condition, at its sole cost and expense, except as otherwise stated herein.
- 14.3. Pest Control.** County is responsible for the provision of Pest Control services.
- 14.4. Notification.** If a repair to the Arts Center is needed for which the County is responsible, Foundation will notify the County by email addressed to FM-TenantRequest@pima.gov, and County will make any necessary repairs within a reasonable period of time.
- 14.5. Capital Improvements.** Foundation and County acknowledge the need to provide for the ongoing maintenance of the Arts Center. No less than annually, Foundation agrees to meet with County to assess overall condition of Arts Center, discuss capital improvements, and plan, prioritize and negotiate budgeting of capital improvements.
- 15. Insurance.** Foundation will procure and maintain at its own expense insurance policies (the “**Required Insurance**”) satisfying the below requirements (the “**Insurance Requirements**”) until all its obligations under this Agreement have been met. The below Insurance Requirements are minimum requirements for this Agreement and in no way limit Foundation’s indemnity obligations under this Agreement. The County in no way warrants that the required insurance is sufficient to protect the Foundation for liabilities that may arise from or relate to this Agreement. If necessary, Foundation may obtain commercial umbrella or excess insurance to satisfy the Insurance Requirements.

  - 15.1. Insurance Coverages and Limits:** Foundation will procure and maintain, until all its obligations have been discharged, coverage with limits of liability not less than those stated below. Coverage must be placed with insurers acceptable to the County with A.M. Best rating of not less than A-VII, unless otherwise approved by the County.
  - 15.2. Commercial General Liability (CGL) – Occurrence Form with limits not less than \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy shall include coverage for liability arising from premises, operations, independent Foundations, personal injury, bodily injury, broad form contractual liability and products-completed operations. Any standard coverages excluded from the CGL policy, such as products/completed operations, etc. shall be covered by endorsement or separate policy and documented on the Certificates of Insurance.**
  - 15.3. Business Automobile Liability – Coverage for bodily injury and property damage on any owned, leased, hired, and/or non-owned autos assigned to or used in the performance of this Agreement with minimum limits not less than \$1,000,000 Each Accident.**

**15.4. Workers' Compensation and Employers' Liability** – Statutory coverage for Workers' Compensation. Workers' Compensation statutory coverage is compulsory for employers of one or more employees. Employers Liability coverage with limits of \$1,000,000 each accident and \$1,000,000 each employee – disease.

**15.5. Additional Insured:** The General Liability and Business Automobile Liability Policies shall each be endorsed to include Pima County, its departments, districts, boards, commissions, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.

**15.6. Subrogation:** The General Liability, Business Automobile Liability and Workers' Compensation Policies shall each contain a waiver of subrogation endorsement in favor of Pima County, and its departments, districts, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor

**15.7. Additional Coverage Requirements:**

15.7.1 **Claims Made Coverage:** If any part of the Required Insurance is written on a claims-made basis, any policy retroactive date must precede the effective date of this Agreement, and Foundation must maintain such coverage for a period of not less than three (3) years following Agreement expiration, termination or cancellation.

15.7.2 **Primary Insurance Endorsement:** The Required Insurance policies must stipulate that they are primary and that any insurance carried by County, or its agents, officials, or employees, is excess and not contributory insurance.

15.7.3 The Required Insurance policies may not obligate County to pay any portion of Foundation's deductible or Self Insurance Retention (SIR).

15.7.4 **Subcontractors:** Foundation must either (a) include all subcontractors as additional insureds under its Required Insurance policies, or (b) require each subcontractor to separately meet all Insurance Requirements and verify that each subcontractor has done so, Foundation must furnish, if requested by County, appropriate insurance certificates for each subcontractor. Foundation must obtain County's approval of any subcontractor request to modify the Insurance Requirements as to that subcontractor.

15.7.5 **Commercial Liquor Liability.** Coverage in an amount not less than \$2,000,000.00 per occurrence if alcohol is sold or provided on the Premises, endorsed to include Pima County as an additional insured.

**15.7.6 Injury Reports.** By the 15<sup>th</sup> of each month, Foundation will provide to County, Risk Management Department, 130 S. Congress, 6<sup>th</sup> Floor, Tucson, Arizona 85701 with a copy to Facilities Management whose address is provided in Section 22 of this Agreement, a report listing any incident involving injury to persons or damage to property occurring at the Premises. If any such injury to persons requires emergency medical treatment, Foundation will contact County within one (1) business day of such incident. County will have the right to investigate any incident involving injury to persons or property occurring at the Premises and Foundation will provide County with all information available to Foundation about such incident.

**15.7.7 Insurance Certificates.** Foundation will provide County with current certificates of insurance which will show County as an additional insured where required. All certificates of insurance must provide for guaranteed thirty (30) days written notice of cancellation, non-renewal or material change.

**15.7.8 Waiver of Subrogation.** Each party waives its claims and subrogation rights against the other for losses typically covered by property insurance coverage.

**15.7.9 Changes to Insurance Requirements.** County retains the right to reasonably increase the limits or types of coverage from time to time as determined in the best interests of County by Pima County Risk Management.

**16. Furniture, Fixtures and Equipment.** Foundation will be responsible for the cost of the maintenance, repair and replacement of all furnishings and equipment for the Premises and for insuring all of Foundation's personal property in the Premises.

**17. Personal Property.** Foundation will maintain a current inventory of all items of personal property owned by Foundation and placed or kept at the Premises by Foundation. Any items of personal property left at the Premises 30 days after expiration or earlier termination of this Agreement will become the property of County and may be sold or otherwise disposed of by County without liability to County or Foundation.

**18. Accounting and Budget.**

**18.1. Accounting.** Foundation will maintain an accounting system that conforms to generally accepted accounting principles and accurately reflects the operation of the Premises. Within 60 days of the end of Foundation's fiscal year, Foundation will submit to County Facilities Management Department an annual statement reflecting the income statement and balance sheet for the operation of the Premises. Foundation will keep and maintain complete books, records, and accounts, and the same will be opened for inspection and audit by duly authorized representatives of County at all reasonable times. The manner of record keeping will be subject to the approval of the Director of the Pima County Department of Finance and Risk Management.

- 18.2. Budget.** Foundation will provide County with a yearly budget by May 31 of each calendar year, beginning May 31, 2022, that outlines projected costs associated with managing and operating the Premises for the upcoming calendar year.
- 19. No Partnership.** Foundation is and will remain a separate entity from County, and employees of Foundation will not be County employees. Foundation retains the ability and right to enter into agreements with other entities for the purpose of fulfilling its obligations under this or any other agreement, except that Foundation may not assign or otherwise transfer its obligations under this Agreement.
- 20. Indemnification.** Foundation will indemnify and hold harmless County, its officers, agents and employees from and against any and all suits, actions and legal administrative proceedings, claims or demands and costs attendant thereto, arising out of any act, omission, fault or negligence of Foundation, its agents, employees or anyone under its direction or control or on its behalf in the performance of this Agreement. Conversely, County will indemnify and hold harmless Foundation, its officers and employees from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs attended thereto arising out of any act, omission, fault or negligence of County, its authorized agents or employees in the performance of this Agreement.
- 21. DEFAULT.** The occurrence of any one or more of the following events will constitute a default and breach of this Agreement by Foundation for which County or Foundation may immediately terminate this Agreement:

  - 21.1. Operation of Arts Center.** The vacating or abandonment of the Arts Center, or cessation of activities thereon, or any portion thereof, by Foundation, where such abandonment continues for a period of 10 calendar days after County sends notice of such default to Foundation.
  - 21.2. Monetary Obligations.** The failure by Foundation to make any payment required to be made by Foundation hereunder, as and when due, where such failure continues for a period of 10 calendar days after the receipt by Foundation of written notice from County that such payment is due.
  - 21.3. Violation of Law.** Violation of any law by Foundation, or the conduct of any unlawful activities on the Arts Center that are permitted by Foundation, either tacitly or explicitly, or which Foundation has not taken reasonable means to prevent after Foundation becomes or in the exercise of reasonable diligence should have become aware that such activities are being conducted.
  - 21.4. Health and Safety Violation.** Any action or omission by Foundation that, in the County's reasonable judgment, causes a threat to the health or safety of the general public or the users of the Building, which continues for a period of three days after written notice from County. Foundation's failure to obtain and maintain any required

license and/or registration for its operations at the Premises is considered a violation under this paragraph.

**21.5. Other Covenants.** The failure by Foundation to observe or perform any other of the covenants, conditions or provisions of this Agreement to be observed or performed by Foundation, where such failure continues for a period of 30 days after written notice thereof by County to Foundation (unless the failure is of such a character as to require more than 30 days to cure, in which event Foundation will be in default only if it fails to initiate the cure within thirty days, and thereafter diligently pursue the same to completion provided such cure is completed within 120 days of the notice by County).

**21.6. County Default.** County will be in default hereunder if County fails to perform any covenant or condition of this Agreement to be performed by County and such failure continues for 30 days after written notice and demand from Foundation to County (unless the failure is of such a character as to require more than 30 days to cure, in which event County will be in default only if it fails to initiate the cure within thirty days, and thereafter diligently pursue the same to completion provided such cure is completed within 120 days of the notice by Foundation).

**21.7. Remedies.** Either party may pursue any remedies provided by law and in equity for the breach of this Agreement, including termination of the Agreement under Section 23 of this Agreement.

**22. Notice.** Any notice required or permitted to be given under this Agreement will be in writing and will be served by personal delivery, United States mail service, email or electronic transmission, or certified mail upon the other party as follows:

County: Director, Pima County Facilities Management  
150 West Congress, 3rd Floor  
Tucson, AZ 85701  
Email: [FM\\_Leasing\\_Services@pima.gov](mailto:FM_Leasing_Services@pima.gov)

Foundation: Executive Director/Premises Manager  
Community Performing Arts Center Foundation  
1250 West Continental Road  
PO Box 1301  
Green Valley, AZ 86522  
EMAIL: [chris@cpacfoundation.org](mailto:chris@cpacfoundation.org)

Any notice given as indicated in this Section will be deemed to have been given on the date of receipt, or if delivery is refused, on the date of such refusal.

**23. Termination; Surrender.**

- 23.1.** In the event of a default by Foundation, County will present written notice of the default to Foundation specifying the nature of the default. Upon the failure of Foundation to remedy the default within 30 days of receipt of such notice, County may terminate this Agreement. Both parties may pursue any other remedies provided by law for the breach of this Agreement. No right or remedy conferred or reserved is intended to be exclusive of any other right or remedy, and each will be cumulative and in addition to any other right or remedy conferred or reserved in this Agreement. In the event of termination for Foundation's default, County may enter the Premises to take possession with or without process of law; such entry will not constitute forcible entry or detainer, nor a waiver of any covenant or condition in this Agreement that is to be performed by Foundation. Foundation will make no claim of any kind against County, its officers, employees or other representatives by reason of such acts.
- 23.2. Surrender / Holding Over.** Upon termination of this Agreement, Foundation shall surrender the Premises in the condition in which Foundation is required to maintain it under this Agreement. Foundation will repair any damage done by the removal of Foundation's personal property and be responsible for all associated costs. If Foundation for any reason and with written consent of County remains in the Premises after the expiration of this Agreement (including any optional extension), or after the date specified in any notice of termination given by either party, such hold over will be on a month-to-month basis and Foundation will be, subject to all conditions of this Agreement except the term hereof, and the Base Fee for the first 6 months will be 125% of the Base Fee being paid by Foundation's prior to the expiration or termination, and for the next 6 months will be 150% of that amount. Additionally, during any hold over period, Foundation will continue to pay the cost of its electricity consumption as defined in this Agreement.
- 23.3.** Foundation may terminate this Agreement upon not less than 120 days written notice to County should it become economically unfeasible for Foundation to continue operating the Premises.
- 23.4.** Upon termination, Foundation will:
  - 23.4.1.** Provide County with a current accounting of all revenues and Foundation will be responsible for payment of any outstanding expenses due at the time of termination, including but not limited to utilities, maintenance and janitorial;
  - 23.4.2.** Immediately vacate the Premises and surrender all keys to County.

**23.4.3.** Remove all of Foundation's equipment, trade fixtures and/or other property ("FF&E") within the Premises within 30 days after the termination of this Agreement. If County removes any such property 31 days after the expiration of the Agreement or termination date, it will be at Foundation's sole cost and expense. If any removal pursuant to this Section results in injury or damage to the Premises, Foundation will repair the damage and place the Premises in the same condition it would have been in if such removal had not been made, reasonable wear and tear excepted. FF&E remaining on the Premises for more than 60 days after termination, will be considered abandoned by Foundation and will become property of County.

**23.4.4.** Aside from matters of removal, Foundation will surrender the Premises in as good condition as when this Agreement commenced, reasonable wear and tear excepted.

**24. Signs.** With advance written approval from County, Foundation may, upon obtaining any necessary permits from governmental authorities, erect, maintain, and repair at Foundation's own expense, signs of such dimensions and materials as it may desire. Foundation is responsible for all costs associated with the design, manufacture, installation, permitting, and connecting of any utilities necessary for any signage on the interior or exterior of the Building or in the Premises.

**25. Miscellaneous.**

**25.1. Severability.** Each provision of this Agreement stands alone, and any provision of this Agreement found to be contrary to law will be ineffective to the extent of such prohibition without invalidating the remainder of this Agreement.

**25.2. Entire Agreement.** This Agreement and the attachments constitute the entire agreement between the parties pertaining to the subject matter it addresses, and this Agreement supersedes all prior or contemporaneous agreements and understandings, oral or written.

**25.3. Amendment.** The parties may modify, amend, alter or extend this Agreement only by written amendment signed by both parties.

**25.4. Survival.** The parties' respective obligations to indemnify, defend and hold harmless each other as provided elsewhere in this Agreement shall survive the expiration of the term hereof and/or the termination of this Agreement.

**25.5. Conflict of Interest.** This Agreement is subject to cancellation for conflict of interest

pursuant to ARS § 38-511, the pertinent provisions of which are incorporated into this Agreement by reference.

- 25.6. Waiver. The waiver of any term, condition, or covenant, or breach of any term, condition, will not constitute the waiver of any subsequent breach of any other term, condition, or covenant. The failure of either party to insist upon the complete performance of any of the terms and provisions of this Agreement to be performed on the part of the other, or to take any action permitted as a result thereof, will not constitute a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future.
- 25.7. Non-Discrimination. The parties will comply with all provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this Agreement, including flow down of all provisions and requirements to any subcontractors. During the performance of this Agreement, neither party will discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.
- 25.8. Americans with Disabilities Act. Foundation will comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.
- 25.9. Choice of Law. The laws of the State of Arizona will apply to any action relating to this Agreement and any court action will be brought in a court in Pima County, Arizona.
- 25.10. Liens. Foundation will timely pay all contractors, subcontractors, mechanics, laborers, or material men providing materials or services with respect to the Premises, and will not allow any lien to attach to the Premises or any interest therein, and will indemnify and defend County against all legal costs and charges resulting from any such lien.
- 25.11. Assignment/Subletting. Any attempted assignment of this Agreement, or subletting of the Premises except pursuant to Sections 7.2 and 7.3 of this Agreement, by Foundation without the prior written consent of County will be void. This Agreement will be binding on any and all successors and permitted assigns of County and Foundation.
- 25.12. Non-Appropriation of Funds. Notwithstanding any other provision in this Agreement, this Agreement may be terminated if for any reason the Pima County Board of Supervisors does not appropriate sufficient monies for the purpose of maintaining this Agreement. In the event of such termination, County will have no further obligations to Foundation.

**25.13. Waiver of Claims Against County.** Upon execution of this Agreement, Foundation waives any and all rights or claims against County that existed prior to the execution of this Agreement by County.

**25.14. Mediation.** In the event that there is a dispute hereunder which the parties cannot resolve between themselves, the parties agree that there will be a 45 day moratorium on litigation during which time the parties agree to attempt to settle the dispute by nonbinding mediation. The matter in dispute will be submitted to a mediator mutually selected by County and Foundation. In the event that the parties cannot agree upon the selection of a mediator within seven days, then within three days thereafter, County and Foundation will request the presiding judge of the Superior Court in and for Pima County, State of Arizona, to appoint an independent mediator. The cost of any such mediation will be divided equally between County and Foundation. The results of the mediation will be nonbinding on the parties, and any party will be free to initiate litigation subsequent to the moratorium.

**25.15. Sustainability Plan.** In accordance with County's Sustainability Plan, Foundation will use all reasonable efforts to use recycled products or re-use and recycle materials used in the Premises.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day, month and year written below.

PIMA COUNTY

\_\_\_\_\_  
Sharon Bronson  
Chair, Board of Supervisors

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

COMMUNITY PERFORMING ARTS CENTER  
FOUNDATION, Inc.

By:   
Authorized signer

Name: Chris Ashcraft

Title: Executive Director

Date: 07/28/22

ATTEST:

\_\_\_\_\_  
Melissa Manriquez, Clerk of Board

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Lisa Josker  
Director, Facilities Management

Date: 7/29/2022

APPROVED AS TO FORM:

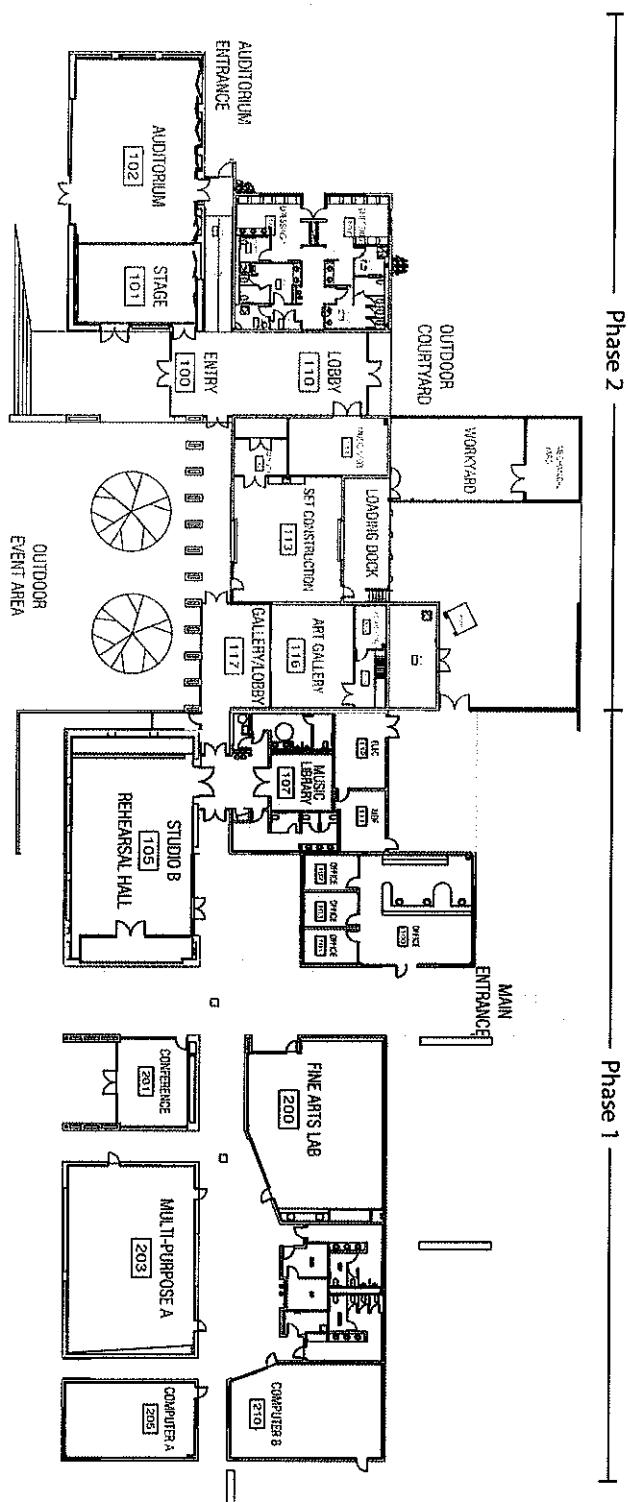
  
\_\_\_\_\_  
Kathryn O're Bobby Yu  
Deputy County Attorney

Date: 7/29/2022

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## EXHIBIT A

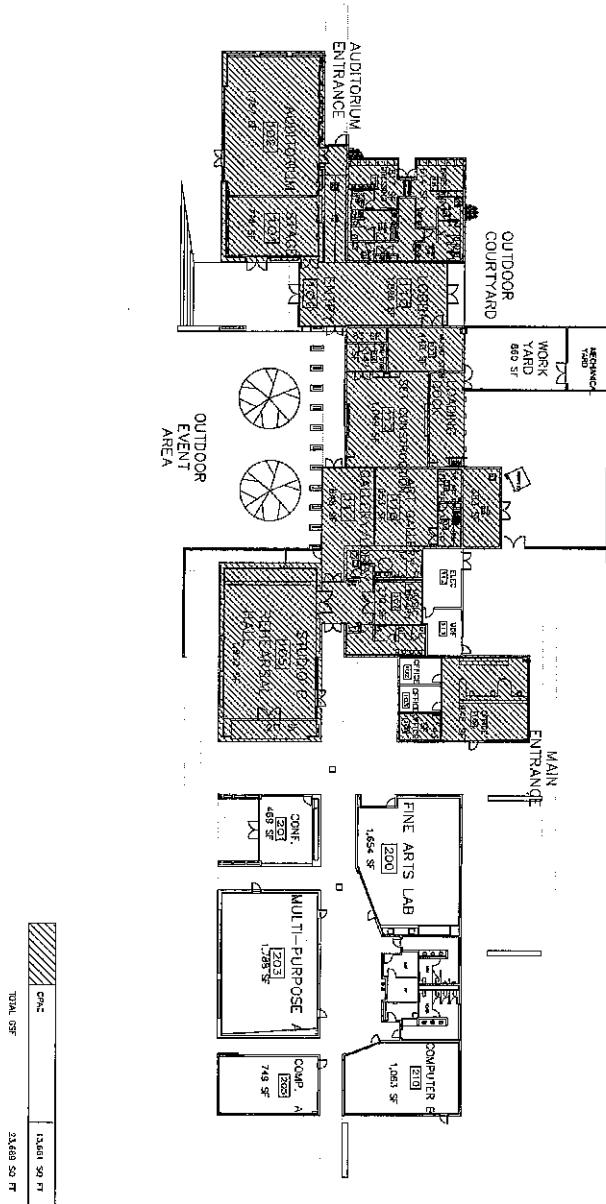


PIMA COUNTY FACILITIES MANAGEMENT, 150 WEST CONGRESS, TUCSON ARIZONA 85701 (520)724-3085  
 GWIN PERFORMING ARTS CENTER  
 1250 W. CONSTITUTION RD.  
 GREEN VALLEY, ARIZONA

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EXHIBIT B Premises  
15,661 RSF  
23,689 GSF



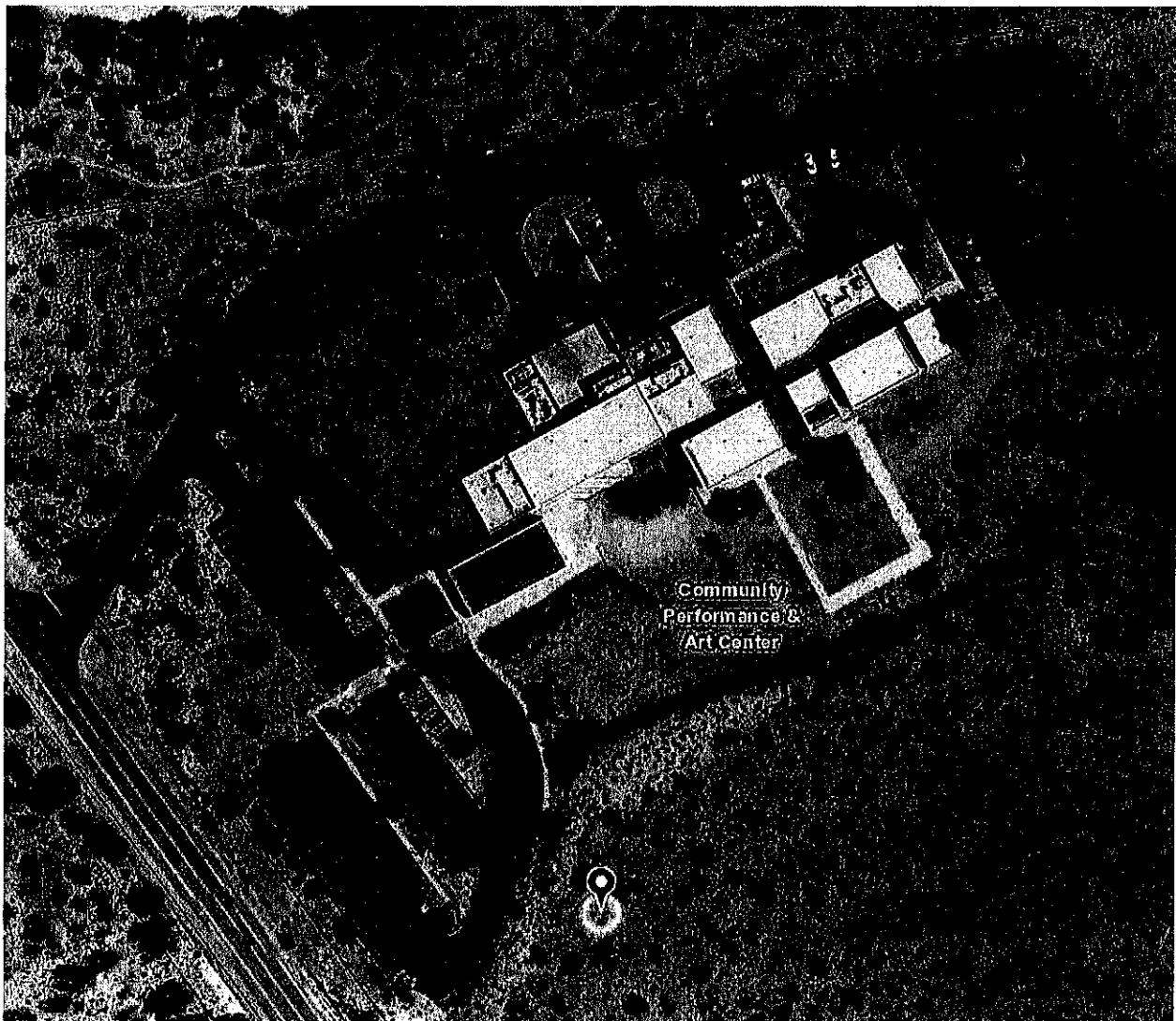
PIMA COUNTY FACILITIES MANAGEMENT, 150 WEST CONGRESS, TUCSON ARIZONA 85701 (520)724-3085



GV PERFORMING ARTS CENTER  
1250 W CONTINENTAL RD  
GREEN VALLEY, ARIZONA

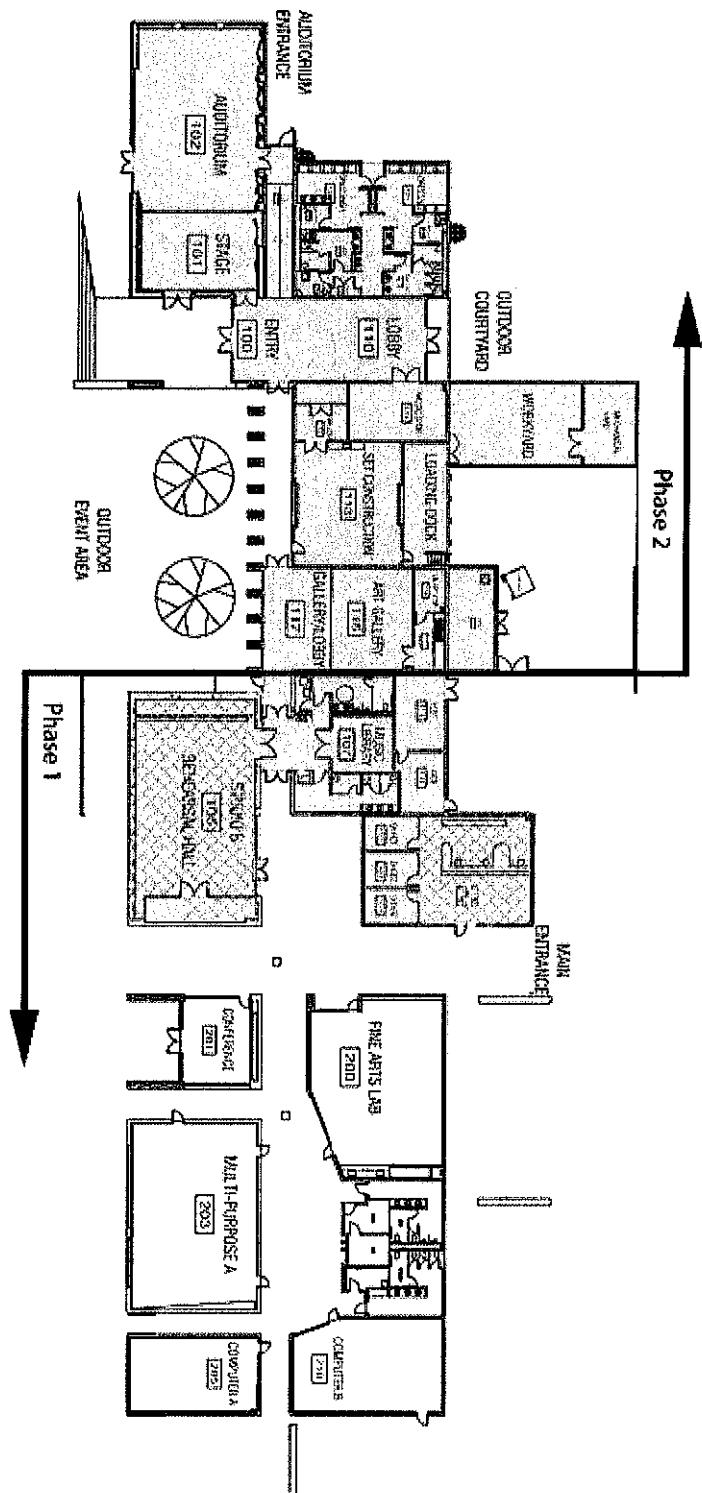
FLOOR PLAN

EXHIBIT C  
Parking



## EXHIBIT D

### Electrical



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**EXHIBIT E**  
**CPAC Fees and Charges**



**COMMUNITY PERFORMANCE & ART CENTER  
 RENTAL RATES, CHARGES AND FEES**

<b>FACILITY</b>	<b>TYPE OF USE</b>	<b>NONPROFIT</b>	<b>COMMERCIAL</b>
<b>PERFORMANCE THEATER</b>	Performance*	\$475	\$700
	Non-Performance	\$75 per Hour (3 hour Minimum)	\$125 per Hour (3 hour Minimum)
<b>MUSIC AND DANCE STUDIO</b>	Performance*	\$125	\$280
	Non-Performance	\$30 per Hour (2 hour Minimum)	\$65 per Hour (2 hour Minimum)

<b>ADDITIONAL FEES for PERFORMANCE THEATER (per performance)</b>	
▪ Selling of Tickets by CPAC (optional)	\$125
▪ Piano Tuning (optional)	\$80
▪ Table cloth rental (optional)	\$75

**PERTAINING TO RENTAL RATES**

- (\*) For all rental performances, \$20.00 per Hour for a sound and light technician will be charged.
- Non-profit rates shall apply to organizations that can provide a 501(C) (3) certificate copy from the Internal Revenue Service.
- CPAC Foundation reserves the right to adjust rental rates when service levels change or when the best interest of the Community Performing Arts Center would be served.
- Upon request of CPAC Foundation, Renter shall furnish an insurance certificate verifying there is a policy in force naming the renter as insured and which also contains the following language: "Community Performing Arts Center Foundation, Pima County and Pima Community College is named as an additional insured with respect to all activities by (renter) held on the premises of Community Performing Arts Center pursuant to insurance policy number -----." Such insurance shall provide for a minimum premises bodily injury liability of \$1,000,000 per occurrence.

1250 WEST CONTINENTAL ROAD \* PO BOX 1301 GREEN VALLEY, ARIZONA 85632  
 TEL (520)399.1750 \* FAX (520) 648.2001 \* WWW.PERFORMINGARTSCENTER.ORG \* INFO@CPACFOUNDATION.ORG

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## EXHIBIT F (page 1 of 3)

### COUNTY'S RULES & REGULATIONS

These Rules & Regulations have been adopted by County in order to set forth standards of conduct that will allow all tenants to enjoy a professional working environment that is compatible with the general character of the Building. County reserves the right to make amendments and/or additions to these Rules and Regulations from time to time. These Rules and Regulations are in addition to and shall not be construed to modify or amend any of the terms, covenants, or agreements and conditions of a tenant's lease. Each tenant shall be responsible for informing its employees and invitees as to the provisions of these Rules and Regulations and to enforce same with respect to its employees and invitees. County may waive compliance with any one or more of these Rules and Regulations for the benefit of a tenant. Such waiver shall not be construed as a waiver for any other tenant, nor shall it prevent County from enforcing the same against any or all other tenants. These rules may only be enforced by County. The failure of County to enforce any Rule or Regulation shall not give any tenant the right to enforce same against another Building occupant. Any concerns about violations of the Rules and Regulations should be addressed to the Building Manager's office or to such other place as County may designate from time to time.

1. No sign, placard, picture, advertisement, name or notice shall be inscribed, displayed, printed or affixed on or to any part of the inside of the Building without the prior written consent of County. County shall have the right to remove any unapproved sign, placard, picture, advertisement, name or notice without notice to and at the expense of Foundation. All approved signs must be placed or affixed on the wall adjacent to Foundation's entry doors. All approved signs shall be printed, painted, inscribed, affixed or removed at the expense of Foundation by a person approved by County. All walls or other structures where Foundation's signs have been affixed or attached must be restored to their original condition at Foundation's expense after removal of such signs.
2. Foundation shall not place anything or allow anything to be placed near any window, door, partition or wall that may appear unsightly from outside the Premises, nor shall Foundation cause any window in the Premises to be color treated.
3. The sidewalks, exits and entrances, shall not be obstructed by Foundation or used for any purpose other than for ingress and egress from Foundation's Premises.
4. Foundation shall not alter any lock or install any new or additional locks or any bolts on any doors or windows of the Premises without prior written consent of County, which will not be unreasonably withheld. County shall have no obligation to open Foundation's Premises due to the loss of keys by Foundation. All requests to open Foundation's Premises to guests or employees must be made by Foundation to County. If Foundation needs to have the Premises rekeyed for any reason, Foundation shall use the County's authorized building locksmith. Any rekeying shall keep the applicable lock on the existing building master keyway. Foundation shall bear the entire cost of rekeying, unless the rekeying is requested by County. Any installation or repair of specialty locks shall be at Foundation's expense.

Foundation assumes all responsibility for protecting its Premises from theft, robbery, and pilferage, including but not limited to, keeping all means of entry to Premises closed and locked.

5. The plumbing facilities shall not be used for any purpose other than that for which they were constructed and no foreign substance of any kind whatsoever shall be thrown therein. The expense of any breakage, stoppage or damage resulting from a violation of this provision shall be borne by the Foundation whose employee, agent or invitee shall have caused it.
6. Foundation shall not deface the Premises or any part thereof. Foundation will not install, affix or fasten to the rooftop any signs, satellites, or antennas without the prior written approval of County. County may require design drawings, specifications and/or weight load structural tests prior to granting approval for any rooftop installation. Foundation shall bear the entire expense of any drawings or tests to be submitted to County for approval.
7. All moving of furniture, freight, equipment or any other items into or out of the Building shall be done at such time and in such manner as County will designate and considers the schedule of the other Building occupant. Any damage to the doors, frames, walls or ceilings caused by Foundation or Foundation's invitees or moving contractors will be repaired at Foundation's expense to County's satisfaction.
8. Foundation shall not use, keep or permit to be used or kept any foul or noxious gas or substance in the Premises, or permit or allow the Premises to be occupied or used in a manner offensive or objectionable to the County or the other occupant of the Building by reason of noise, odors and/or vibrations, or that would interfere in any way with the other Building occupant or those having business therein. No animals shall be brought in or kept in or about the Premises or the Building except service animals.
9. Foundation shall not use or keep in the Premises or the Building any kerosene, gasoline, or flammable or combustible fluid or material, or use any method of heating or air conditioning other than that supplied by County.
10. Foundation acknowledges that periodically the Tucson Fire Department or other contractor or representative of the County will inspect the Premises for Fire Code compliance and fire, sprinkler, and alarm testing. Foundation, and its employees, contractors and invitees shall comply with any fire safety and handicap procedures and regulations established by the County and/or any governmental agency. Foundation shall distribute to its employees, representatives, contractors and invitees a copy of these Rules and Regulations and all fire drill safety and handicap material provided to it from time-to-time by County and/or any governmental agency. If an audible fire alarm is sounded in the Building or Premises, Foundation must take immediate and prudent actions to evacuate its employees, or guests from the Building or Premises through designated exits as posted by County. Foundation shall notify County in writing of the emergency contact information of two on-site employees or representatives who are responsible for emergency evacuations or fire drills for their Premises. Foundation is responsible for notifying the County in writing of any changes to such assignments. Each Foundation will notify the County of any handicapped occupants or other individuals who may require special assistance in the event of an emergency.
11. County will direct electricians and/or phone installation employees or contractors as to where and how telephone and computer network cables are to be introduced. No boring or cutting for wires will be

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allowed without the consent of the County. The location of telephones, call boxes and other office equipment affixed to the Premises shall be subject to the approval of County.

12. Outside of Business Hours, Foundation and its employees may access the Building or the Premises by using keys assigned by County. The County shall in no case be liable for damages with regard to the admission to or exclusion from the Building or Premises of any person. In case of invasion, mob, fire alarm, bomb threat, riot, public excitement, or other commotion, County reserves the right to prevent access to the Building or Premises during the continuance of the same by closing of the doors or otherwise, for the safety of the Building or Premises occupants and the protection of the Building Or Premises.
13. County reserves the right to exclude or expel from the Building any person who, in the judgment of County, is intoxicated or under the influence of alcohol or drugs, or who shall in any manner do any act in violation of any of the rules and regulations of the Building or impair the safety of any Foundation, employee, or contractor of County.
14. No machines of any description shall be installed, maintained or operated upon the Premises without the written consent of the County.
15. Foundation shall not disturb, solicit, or canvass any occupant of the Building and shall cooperate to prevent same by others.
16. County shall have the right to control and operate the Common Area(s), and the public facilities, and heating and air conditioning, in such manner as County deems best for the benefit and safety of the Building occupants generally.
17. All entrance doors in the Premises shall be locked when the Premises are not in use. All emergency fire exit doors must remain free of debris from both the interior and exterior and remain locked when not in use.
18. All exterior areas adjacent to the Premises shall be kept clean and free from dirt and rubbish by Foundation and Foundation shall not place or permit any obstruction or merchandise in such areas.
19. There will be no storage, temporary or permanent, of bicycles, refuse containers or other such unsightly materials outside of the Premises except in County approved bike storage racks/ facilities or refuse containers.
20. Upon the termination of the tenancy, Foundation shall deliver to County all keys to the Premises and security access cards for the Building that have been furnished to Foundation.
21. No electrical cooking appliances of any type other than microwave ovens and coffee machines located in the kitchen/breakroom are allowed in the Premises.
22. No space heaters, floor fans or floor lamps are allowed at any time in the Premises.
23. Smoking is not permitted on or around the Premises. See Exhibit G.

**EXHIBIT G (page 1 of 2)**  
**Tobacco-Free Environment**

**PIMA COUNTY, ARIZONA**  
**BOARD OF SUPERVISORS POLICY**  
**Subject: Tobacco-Free Environment**

**Policy Number C3.18**

**Purpose:**

Smoking and the use of tobacco related products are a major cause of preventable disease and death. As a leading employer and health proponent Pima County is committed to the promotion of health, wellness, and the prevention / treatment of diseases. Pima County also serves as a model for the public influencing attitudes about smoking and the dangers of tobacco products. The purpose of this tobacco-free policy is to create tobacco-free environments for all Pima County facilities, public buildings and adjacent properties, to provide Pima County employees and the public with guidelines for managing and supporting this policy, and to encourage a healthy lifestyle for all personnel and visitors.

**Background:**

As a major entity involved in the promotion of public health and safety within Pima County, the Board of Supervisors promotes and encourages the establishment of a tobacco-free zone on County facilities, public buildings and adjacent properties. The Board of Supervisors has previously established wellness as a priority for all County employees, by the adoption of the long-range Sustainability Program and employee incentives in the way of premium discounts for health insurance benefits. The establishment of a tobacco-free policy is the natural continuance of those efforts.

**Policy:**

It is the policy of the Board of Supervisors that to provide a safe and healthy environment for all employees, and the general public.

The Board of Supervisors prohibits the use of tobacco products at all times on County facilities, public buildings and adjacent properties, and in County vehicles. This prohibition applies to all employees, and to all visitors and other persons at any County sponsored activity or event conducted on County facilities, in public buildings or on adjacent properties.

**Definitions:**

Tobacco Products include cigarettes, cigars, pipes, smokeless tobacco, water pipes, hookah, e-cigarettes, chewing tobacco, snuff and other products containing tobacco.

County Facilities, Public Buildings and Adjacent Properties including County owned or leased properties and a facility occupied or used by any County personnel, visitor, or vendor, and includes but 91473 / 01001257 / v 1

is not limited to buildings, courtyards, walkways, breeze-ways, parking lots, parking structures, County vehicles (owned or leased), loading docks or construction sites.

**PIMA COUNTY, ARIZONA**

**BOARD OF SUPERVISORS POLICY**

**Subject: Tobacco-Free Environment**

**Policy Number C3.18**

**Compliance:**

County personnel are responsible for compliance with the policy.

Visitors and vendors observed to violate this policy shall be respectfully informed of the Tobacco-Free Environment Policy and asked to comply. If a visitor or vendor neglects to comply, that neglect to comply may be used as grounds for prohibiting access to premises or facilities by said visitor or vendor.

If any individual violating the policy appears agitated or otherwise confrontational regarding compliance, then County personnel shall immediately inform the staff responsible for the facility or security personnel if available and shall engage in no further intervention.

All vendors doing business with Pima County shall be notified of the Tobacco-Free policy and shall be expected to comply with the policy. Organizers and supervisors of public events, conferences, meetings and work activities on County facilities, work sites, public buildings and adjacent properties shall be responsible to communicating the requirements of the Tobacco-Free Policy to such events or conferences for attendees.

All new employees of Pima County will be informed on and educated about the Tobacco-Free Policy and the requirement that employees comply with the policy. Additionally, new employees shall be made aware of the availability of tobacco cessation programs sponsored or funded by Pima County.

**References:**

Pima County Ordinance, Chapter 2.12 Pima County Code, Section 8.50

Adopted Date: November 13, 2012

Effective Date: January 1, 2013