



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

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: 9/17/2019

\* = Mandatory, information must be provided

or Procurement Director Award ☐

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

Portable Practical Educational Preparation, Inc., an Arizona nonprofit corporation ("PPEP")

**\*Project Title/Description:**

Ground Lease Agreement between Pima County and Portable Practical Educational Preparation, Inc. for Amado Youth Center

**\*Purpose:**

The County owns a parcel of land in Sopori Park, approximately 4125 square feet in size, together with appurtenant easements, which the County wishes to lease to PPEP for construction of a new Youth Center.

**\*Procurement Method:**

This is a non-procurement contract and is exempt from procurement rules.

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

The conveyance of a parcel of land within the Sopori Park to PPEP for the construction of a Youth Center.

**\*Public Benefit:**

The Youth Center to be developed on the site will provide school programs for at-risk students, rural, farmworkers, international students, career and technology education as well as adult employment training.

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

The Youth Center will help to reduce dropout rates for students age 14-21, increase educational opportunities and practical job skills in the southern part of the County.

**\*Retroactive:**

Yes. Required public notice was not complete prior to 8/19/2019 Board of Supervisor's meeting. This agenda item was moved to the next earliest meeting following completion of published notice. If BOS does not approve this lease, it will delay the building of the new Youth Center and potentially have a negative impact on funds already allocated to PPEP for the building of the new Youth Center.

TO: COB 9/4/19 (1)

vers.: 1

pgs.: 17

**Contract / Award Information**Document Type: CTN Department Code: FM Contract Number (i.e., 15-123): 20\*31Effective Date: 8/19/2019 Termination Date: 08/19/2044 Prior Contract Number (Synergen/CMS): \_\_\_\_\_☐ Expense Amount: \$\* \_\_\_\_\_ ☒ Revenue Amount: \$ 250.00**\*Funding Source(s) required:**Funding 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 22-73.***Amendment / Revised Award Information**

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

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

Effective Date: \_\_\_\_\_ New Termination Date: \_\_\_\_\_

Prior Contract No. (Synergen/CMS): \_\_\_\_\_

☐ Expense or ☐ Revenue ☐ Increase ☐ Decrease Amount This Amendment: \$ \_\_\_\_\_Is there revenue included? ☐ Yes ☐ No If Yes \$ \_\_\_\_\_**\*Funding Source(s) required:**Funding from General Fund? ☐ Yes ☐ No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_**Grant/Amendment Information** (for grants acceptance and awards) ☐ Award ☐ Amendment

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

Effective Date: \_\_\_\_\_ Termination Date: \_\_\_\_\_ Amendment Number: \_\_\_\_\_

☐ Match Amount: \$ \_\_\_\_\_ ☐ Revenue Amount: \$ \_\_\_\_\_**\*All Funding Source(s) required:****\*Match funding from General Fund?** ☐ Yes ☐ No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_**\*Match funding from other sources?** ☐ Yes ☐ No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_**\*Funding Source:** \_\_\_\_\_**\*If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?** \_\_\_\_\_Contact: Kevin ButtonDepartment: Facilities Management Telephone: 520-724-8230Department Director Signature/Date: [Signature] 8/26/19Deputy County Administrator Signature/Date: [Signature] 8-29-19County Administrator Signature/Date: [Signature] 8/29/19  
(Required for Board Agenda/Addendum Items)

**GROUND LEASE AGREEMENT  
PIMA COUNTY AND PORTABLE PRACTICAL EDUCATIONAL PREPARATION, INC.  
AMADO YOUTH CENTER**

This Ground Lease Agreement ("**Agreement**") is entered into, effective as of August 19, 2019 (the "**Effective Date**"), by and between Pima County, a political subdivision of the state of Arizona (the "**County**"), and Portable Practical Educational Preparation, Inc., an Arizona nonprofit corporation ("**PPEP**").

**1. Background and Purpose.**

- 1.1. The County has authority, under A.R.S. § 11-256.01, to lease County-owned property to a nonprofit corporation for less than fair rental value.
- 1.2. PPEP is a nonprofit corporation that provides a number of community-assistance programs in and around Amado, an area of unincorporated Pima County located just north of the border with Santa Cruz County and east of Interstate 19. That includes programs that provide tutoring, academic assistance, and training and skill development activities to teens and young adults in the Amado area. Historically, PPEP has offered its youth-focused programs at the Amado Teen Center located at 28800 S. Nogales Highway. The Teen Center was flooded and severely damaged in September 2018 and PPEP must relocate its youth programs.
- 1.3. County is in the process of acquiring, from the Sahuarita Unified School District No. 30, a parcel of land in the Amado area, approximately 4125 square feet in size, together with appurtenant easements on adjacent land for access, construction and maintenance of a septic system serving the property, use of a well, and parking, all as described on Exhibit A to this Lease (the "**Land**").
- 1.4. Upon acquiring the Land County wishes to lease it to PPEP for construction of a new teen center.
- 1.5. Notice of this proposed Agreement was published as provided in A.R.S. § 11-256.01, and the County received no offers to lease the Land for fair market value under the same terms and conditions.

**2. Premises.**

- 1.1. **Lease of Premises.** Subject to County's acquisition of the Land, County hereby lets to PPEP, and PPEP leases from County, the Land, together with all improvements now on or later located on the Land, and including the appurtenant easements described in Section 1.3 above (the "**Premises**"), for the Term, under the terms and conditions set forth in this Agreement (the "**Lease**"). PPEP will comply with all County obligations under the easement agreements.
- 1.2. **Condition of Land.** PPEP is fully familiar with the physical and legal condition of the Land. County makes no representation or warranty with respect to the condition or state of the Land or its fitness or availability for any particular use, and County will not be liable for any latent or patent defect. PPEP's use of the Land is subject to all existing easements, rights-of-way and set-backs existing as of the Effective Date of this Agreement.

- 1.3. **Quiet Enjoyment.** County covenants and agrees that upon PPEP paying the Rent and performing and observing all of the PPEP's obligations under this Agreement, PPEP may peaceably and quietly have, hold and enjoy the Premises for the Term, without hindrance or molestation by anyone claiming paramount title or claims through County.
2. **Term.** PPEP will be given possession of the Land on the day after the closing of County's acquisition of the Land (the "**Commencement Date**"), provided that PPEP has in place all the insurance required under this Lease. This Lease will be for an initial period of 25 years from the Commencement Date (the "**Initial Term**"). If not in material default, PPEP may extend the term of the Lease for a period of 15 years (the "**Extension Term**" and, together with the Initial Term, the "**Term**"). In order to exercise this extension option, PPEP must send written notice to County no more than two years, and no less than six months before the end of the Initial Term.
3. **Rent.**
  - 3.1. **Base Rent.** PPEP will pay County, in advance, rent in the amount of \$10 per year.
  - 3.2. **Taxes.**
    - 3.2.1. **Government Property Lease Excise Tax.** PPEP will promptly pay when due any applicable property taxes or government property lease excise taxes ("**GPLET**") (A.R.S. §§ 42-6201 through 42-6210) with respect to the Premises.
    - 3.2.2. **Rental Taxes and Assessments.** PPEP will pay, or will reimburse County for its payment of, any taxes or assessments related to this Lease, the Premises, or the rent paid to County.
4. **Construction of Project.**
  - 4.1. **Project.** PPEP will construct a building (the "**Building**"), together with related parking, landscaping, driveways, and other improvements (together, the "**Project**") on the Land. The Building must be a complete independent building containing approximately 2,400 square feet of interior space, including restrooms, offices, storage, reading/study area, activity and meeting areas.
  - 4.2. **Off-Site Improvements.** Any off-site public improvements required as a result of PPEP's construction of the Project or use of the Premises will be solely the responsibility of PPEP.
  - 4.3. **Plans and Specifications.** PPEP must obtain the County's approval of plans and specifications for the Project. County will not unreasonably withhold its approval of plans and specifications, will communicate its approval or disapproval in writing, and will explain the grounds for any disapproval. If County disapproves of submitted plans and specifications, PPEP will submit revised plans and specifications addressing the County's concerns. The Director of the County's Facilities Management Department is authorized to conduct the review and give approvals and disapprovals on behalf of the County.

- 4.3.1. **Preliminary Plans.** PPEP will deliver to County three full hard-copy sets, and an electronic (Autocad) set of preliminary construction plans and specifications for the Project, no later than 2 months after the Commencement Date. The plans must be prepared by an architect or engineer licensed to practice in Arizona, and must include preliminary grading and drainage plans, soil tests, utilities, sewer and service connections, locations of ingress and egress to and from public thoroughfares, curbs, gutters, parkways, street lighting, designs and locations for outdoor signs, storage areas, and landscaping. The plans must be sufficiently clear and detailed for the County make an informed judgment about the design and quality of construction, and about the impact of the Project on adjacent and nearby properties.
- 4.3.2. **Final Plans.** Within 2 months after County's approval of the preliminary plans, PPEP will prepare and deliver to County three full hard copy sets and one electronic (Autocad) set of final plans and specifications ("**Final Plans**") substantially conforming to the preliminary plans previously approved by County.
- 4.3.3. **Plan Modifications.** Any subsequent modification of the Final Plans must be submitted for County review and approval.
- 4.4. **Conditions Precedent for Construction.** PPEP will not commence construction or have building materials delivered to the Land until each of the following has occurred:
  - 4.4.1. **Plan Approvals.** The County approves the Final Plans.
  - 4.4.2. **Lender Approval.** PPEP delivers to County the written approval of the Final Plans by the financial institution that has agreed to provide financing for the Project, unless PPEP is not obtaining financing but is instead funding the Project with cash on hand. If PPEP is funding the Project with its own money, PPEP must furnish, at County's request, proof that it has sufficient available funds to finish the Project.
  - 4.4.3. **Contract.** PPEP provides to County a copy of PPEP's contract with the general contractor that will construct the Project. The contract must give County the right, but not the obligation, to assume PPEP's obligations and rights under that contract if PPEP defaults.
  - 4.4.4. **Insurance.** PPEP furnishes County with proof that PPEP has obtained the liability and worker's compensation insurance required under **Section 11** below.
  - 4.4.5. **Builder's Risk Insurance.** PPEP furnishes County with proof that PPEP, or PPEP's contractor, has obtained "all risks" builder's risk insurance including vandalism and malicious mischief, in broad form and with a company reasonably acceptable to County, with limits equal to the value of the completed Project, covering improvements in place and all material and equipment at the job site furnished under contract, but excluding contractor's, subcontractor's and construction manager's tools and equipment and property owned by contractor's or subcontractor's employees. PPEP must maintain this

insurance in effect until the Project is complete and a permanent Certificate of Occupancy has been issued for the Project.

- 4.4.6. **Payment and Performance Bonds.** PPEP will deliver to County payment and performance bonds meeting the requirements of Title 34 of the Arizona Revised Statutes, issued by a surety company licensed to do business in the State of Arizona, running to County as obligee, conditioned on the completion of the Project in accordance with the Final Plans and the provisions of this Agreement, free and clear of all mechanics' and other liens.
- 4.5. **Liens.** PPEP will timely pay all contractors, subcontractors, mechanics, laborers, and materialmen providing materials or services with respect to the Project and the Premises, and will not permit any lien to attach to the Premises or any interest in the Premises, except as permitted by Section 5 below.
- 4.6. **Commencement of Construction.** PPEP will commence construction of the Project within 2 months after County's approval of the Final Plans. Construction of the Project will be deemed to have commenced when PPEP begins grading of the Project. If PPEP fails to commence construction in a timely manner (without regard to delays occasioned by "force majeure"), County will have the right as its sole and exclusive remedy to cancel this Lease by written notice to PPEP, in which event this Lease will terminate 30 days after the giving of such notice, unless PPEP, prior to that date, commences construction of the Project. After construction is commenced, PPEP will continue it diligently, in accordance with the Final Plans, in a good workmanlike manner, and in compliance with all applicable codes, laws and regulations.
- 4.7. **County Inspection.** County representatives may, but are not obligated to, inspect the Project as it is being constructed, and PPEP will provide them access to the work for that purpose.
- 4.8. **Substantial Completion.** Construction must be substantially completed within 12 months after it commences, subject to delays occasioned by "force majeure." If it is not substantially completed in a timely manner, the County may cancel this Lease by written notice to PPEP. The Project will be deemed to be substantially complete when all of the following has occurred:
  - 4.8.1. **Interior.** The interior of the Project has been sufficiently completed that the Project can be utilized by PPEP for all permitted uses under this Lease, notwithstanding that minor or insubstantial details of construction, mechanical adjustment or decoration remain to be performed, the non-completion of which does not interfere with the opening of the Project for business.
  - 4.8.2. **Exterior.** Any parking areas and driveways have been paved and striped and parking lot lighting installed and operating.
- 4.9. **Final Completion.** Notwithstanding that the Project has been substantially completed, PPEP will diligently proceed to complete the Project and obtain a permanent certificate of occupancy for the Project.
- 4.10. **Title to the Project.** PPEP will own the Project as it is built, "brick by brick." At all times during the Term, title to the Project will belong solely to the PPEP. Upon

termination or expiration of this Lease, other than as a result of PPEP purchasing the Land, title to the Project then situated on the Land will pass automatically to County.

5. **Leasehold Mortgage.** PPEP may give a mortgage or deed of trust on its leasehold interest to a lending institution (the "**Lender**") to secure a loan, the proceeds of which will be used entirely to pay for design and construction of the Project (the "**Leasehold Deed of Trust**"). The Leasehold Deed of Trust must be in a form, and contain terms, that are reasonably satisfactory to County.
  - 5.1. **Cure.** If the Lender forecloses upon PPEP's leasehold interest, or takes an assignment of this Agreement in lieu of foreclosure, Lender must promptly cure any defaults, pay any sums due under this Agreement, and attorn to County.
  - 5.2. **New Lease.** If this Agreement is terminated by County for a default by PPEP before Lender forecloses or takes an assignment in lieu of foreclosure, County will enter into a new lease with the Lender for the remainder of the Term, effective as of the date of such termination, on the same terms and conditions of this Agreement, provided that the lender (a) requests such a new lease from County, in writing, within thirty (30) days after the termination date, (b) pays County any sums then due it under this Agreement and thereafter pays all amounts as they come due, and (c) cures any other PPEP defaults. The Premises may only be sublet, or the new lease assigned, to a nonprofit entity, and the permitted uses of the Premises will not change.
  - 5.3. **Notice of Default.** If, before any default occurs under this Agreement, the Lender gives County a written request to do so, County will give Lender, at the address provided by Lender, a copy of any default notice sent by County to PPEP at the same time that County gives such notice to PPEP. County will accept performance by the Lender of any PPEP obligation, just as if performed by PPEP, provided that at the time of such performance County is furnished satisfactory evidence that the person or entity tendering such performance is in fact at that time the holder of the Leasehold Deed of Trust. This will not operate to extend any cure periods.
6. **Alterations.** PPEP, after completion of the Project, may from time to time during the Term make changes, alterations, additions, substitutions or improvements to the Premises and the Project (collectively, "**Alterations**"), at PPEP's sole cost and expense, as set forth below:
  - 6.1. **Minor Alterations.** PPEP may make any non-structural Alterations as PPEP reasonably considers necessary or desirable to adapt or equip the Project for PPEP's use and occupancy, except as set forth below.
  - 6.2. **Substantial Alterations.** PPEP may not, without the County's prior written consent, make an Alteration that will (i) cost in excess of \$100,000; (ii) involve structural work or changes; (iii) involve work or changes to the electrical, plumbing, or HVAC systems; or (iv) involve the installation or construction of a new structure on the Premises ("**Substantial Alterations**"). PPEP will provide County with plans and specifications for the proposed Substantial Alteration, for County's review. County's approval will not be unreasonably withheld or delayed. The requirements applicable to the initial construction of the Project, as set forth in **Section 4** above, including but not limited to insurance and bonding requirements and approval of plans and specifications, apply to Substantial Alterations.

7. **Fixtures and Furnishings.** PPEP will retain ownership of all personal property, fixtures, equipment and furnishings (collectively, "**Fixtures**") from time to time installed in the Premises by PPEP. PPEP may remove any Fixtures at any time during the Term and will remove all Fixtures prior to the expiration of the Term, except those Fixtures that County agrees, in writing, may be left on the Premises. Any Fixtures not removed at the expiration of the Term will, at the election of County, become the property of County without payment to PPEP, or be deemed abandoned and (if PPEP did not have County's written permission to leave the Fixtures in place) removed by County at PPEP's expense. Upon any removal of Fixtures, PPEP will promptly repair any and all resulting damage to the Premises. PPEP will reimburse County for any costs and expenses in removing any Fixtures that are left in place by PPEP without County's prior written permission, and repairing any resulting damage; this covenant will survive the termination of the Lease.
8. **Use of Premises.**
  - 8.1. **Permitted Uses.** PPEP will at all times during the Term use the Premises, and may *only* use the Premises, for office space and operation of a youth center including programs such as those described in Section 1.
  - 8.2. **Compliance with Laws.** PPEP will, at its sole cost and expense, promptly comply with all applicable laws, rules and regulations, whether federal, state or local, in connection with its use of the Premises. The judgment of any court of competent jurisdiction or the admission of PPEP in any action against PPEP, whether County is a party thereto or not, that PPEP has violated any law, will be conclusive of that fact as between County and PPEP.
  - 8.3. **Prohibited Activities.** PPEP will not permit any unlawful activities on the Premises, or any activities that unduly interfere with activities on, or unduly disturb the quiet enjoyment of, neighboring properties. PPEP will not permit anything to be done in or on the Premises that would in any way (i) violate any of the covenants, agreements, provisions and conditions of this Agreement; (ii) violate the certificate of occupancy for the improvements; (iii) make it difficult to obtain fire or other insurance required by this Agreement; or (iv) constitute a public or private nuisance.
9. **Environmental Compliance.**
  - 9.1. **Hazardous Materials Prohibited; Clean Air Act.** PPEP will not cause or permit any Hazardous Material (as defined below) to be brought upon, kept, or used in or about the Premises without the prior written consent of County, other than such Hazardous Materials as are customarily necessary or useful to the type of operations permitted under this Agreement and actually being carried out by PPEP on the Premises which will be used, kept and stored in a manner that complies with all laws regulating any such Hazardous Materials. PPEP's operations on the Premises will comply with applicable provisions of the Clean Air Act, 42 U.S.C. 7401 et seq. and Arizona Revised Statutes, Title 49, Chapter 3 and any other applicable environmental laws or regulations.
  - 9.2. **Indemnity.** If (i) PPEP breaches the obligations stated in the preceding paragraph, (ii) the presence (whether consented to by County or otherwise) of Hazardous Material on the Premises or on or in the soil or ground water under or adjacent to the



Premises is caused or permitted by PPEP, its agents, employees, contractors or invitees, (iii) contamination of the Premises or soil or ground water under or adjacent to the Premises by Hazardous Material otherwise occurs for which PPEP is legally liable, or (iv) contamination occurs elsewhere in connection with the transportation by PPEP of Hazardous Material to or from the Premises, then PPEP will indemnify, protect, defend and hold County harmless from any and all claims, judgments, damages, penalties, fines, costs, expenses, liabilities or losses (including, without limitation, diminution in value of the Premises or any part thereof, damages for the loss or restriction on use of usable space or of any amenity of the Premises or any part thereof, damages arising from any adverse impact on marketing of space with respect to the Premises or any part thereof, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) which arose or arises during or after the term of this Agreement as a result of such contamination. The foregoing obligation of PPEP to indemnify, protect, defend and hold County harmless includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, restoration or other response work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material present, as a result of any action or inaction on the part of PPEP, its agents, employees, contractors or invitees, in the Premises or the soil or ground water on, under or adjacent to the Premises, or elsewhere in connection with the transportation by PPEP of Hazardous Material to or from the Premises.

- 9.3. **Clean-Up.** Without limiting the foregoing, if the presence of any Hazardous Material on or in the Premises, or the soil or ground water under or adjacent to the Premises caused or permitted by PPEP, or its agents, employees, contractors or invitees results in any suspected contamination of the Premises, the soil or ground water under or adjacent to the Premises, PPEP will promptly notify County in writing and take all actions at its sole expense as are necessary to return the Premises, or such soil or ground water to the condition existing prior to the introduction of any such Hazardous Material to the Premises, or to such soil or ground water; provided that County's approval of such actions will first be obtained, which approval will not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Premises.
- 9.4. **Pre-existing Contamination.** County agrees that any Hazardous Materials contaminating the Premises prior to possession of the Premises by PPEP will not result in liability for PPEP under this Paragraph except to the extent such contamination is aggravated by the action or inaction of PPEP.
- 9.5. **Notices Regarding Environmental Conditions.** PPEP will, within ten (10) business days following receipt thereof, provide County with a copy of (i) any notice from any local, state or federal governmental authority of any violation or administrative or judicial order or complaint having been filed or about to be filed against PPEP or the Premises alleging any violation of any local, state or federal environmental law or regulation or requiring PPEP to take any action with respect to any release on or in the Premises or the soil or ground water under or adjacent to the Premises of Hazardous Material, or (ii) any notices from a federal, state or local governmental agency or private party alleging that PPEP may be liable or responsible for cleanup, remedial, removal, restoration or other response costs in connection with Hazardous

Material on or in the Premises or the soil or ground water under or adjacent to the Premises or any damages caused by such release.

9.6. **Hazardous Material.** As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of Arizona or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance that is (i) defined as a "hazardous waste" under NRS 459.400 et. seq., (ii) petroleum, (iii) asbestos, (iv) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), (v) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. 6901 et. seq. (42 U.S.C. 6903), (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et. seq. (42 U.S.C. 9601) or (vii) defined as a "regulated substance" pursuant to Subchapter IX, Solid Waste Disposal Act (Regulation of Underground Storage Tanks), 42 U.S.C. 6991 et. seq.

9.7. **Survival.** PPEP's obligations under this Section 9 will survive the expiration or earlier termination of this Agreement and vacating of the Premises.

#### 10. **Repair, Maintenance, Taxes and Utilities.**

10.1. **Entry by County.** County may enter and inspect the Premises from time to time. If such entry is outside of normal business hours, County will give PPEP at least twenty-four (24) hours advance written notice. County will use its reasonable best efforts to not interrupt PPEP's business at the Premises. County may use any and all means that County deems proper to open gates or doors in an emergency in order to obtain entry to the Premises, without liability to PPEP, except for any failure to exercise due care for PPEP's property. Any such entry will not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of PPEP from the Premises or any portion of the Premises.

10.2. **Maintenance and Repairs.** PPEP will keep the Premises in good order and repair and will make all repairs and replacements—ordinary, as well as extraordinary, foreseen and unforeseen, structural or otherwise—that are necessary to do so, except as provided in **Section 10.3** below. This includes maintenance and repair of the improvements to the easement areas described in Section 1.3, above. If PPEP fails to make needed repairs, the County may make the repairs, in which case PPEP will reimburse the County for all its costs, within 10 days after billed by County.

10.3. **Damage from Casualty.** If any improvement on the Premises is damaged or destroyed by any cause whatsoever during the Term, PPEP will, with reasonable promptness, repair and replace the same at its own expense, to at least the condition existing immediately prior to the damage or destruction, and will do so even if the proceeds of any insurance policies covering the loss are insufficient to cover the cost, and PPEP's obligations under this Agreement will not be terminated or suspended; *except that*, that if the Building is substantially destroyed by fire or other casualty at any time during the last five (5) years of the Term, then PPEP may terminate this Agreement by written notice given to County within sixty (60) days

after the date of such destruction, and PPEP will be discharged from responsibility to repair the damage, but PPEP will in that event assign to County all rights to payments under PPEP's insurance policies related to the damage.

- 10.4. **Utilities.** PPEP will, at its sole cost and expense, arrange for the furnishing of all utilities, including electricity, gas, water and sewer, and telecommunication services, fire protection lines and hydrants, that are necessary for its operations on the Premises, and will pay when due all charges for such utilities and services. County will not be liable in any way to PPEP for any failure or defect in the supply or character of utilities or telecommunications services furnished to the Premises for any reason.

## **11. Insurance; Indemnification.**

- 11.1. **Types of Insurance Required.** PPEP will procure, prior to beginning any activities on the Premises, and maintain throughout the term of this Agreement, the following insurance from an insurance company or companies reasonably acceptable to County:

11.1.1. **Commercial General Liability (CGL):** Occurrence Form covering liability arising from premises, independent contractors, personal injury, bodily injury, broad form contractual liability and products-completed operations with minimum limits not less than \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate.

11.1.2. **Business Automobile Liability:** Coverage for any owned, leased, hired, and/or non-owned autos assigned to or used in connection with the Premises, with minimum limits not less than \$1,000,000 Each Accident.

11.1.3. **Workers' Compensation (WC) and Employers' Liability:** If required by law, Workers' Compensation with Employers Liability limits of \$1,000,000 each accident and \$1,000,000 each employee – disease. Workers' Compensation statutory coverage is compulsory for employers of one or more employees.

11.1.4. **Property:** Commercial Property, Boiler and Machinery insurance with coverage at least as broad as ISO forms CP 00 01 and BM 00 20, covering the full replacement cost of all improvements on the Premises.

### **11.2. Additional Coverage Requirements:**

11.2.1. **Claims Made Coverage:** If any part of the required insurance is written on a claims-made basis, any policy retroactive date must precede the Commencement Date, and PPEP must maintain such coverage for a period of not less than three (3) years following expiration or termination of this Agreement.

11.2.2. **Insurer Financial Ratings:** Coverage must be placed with insurers acceptable to County with A.M. Best rating of not less than A- VII, unless otherwise approved by County.

- 11.2.3. **Additional Insured:** The General Liability policy must be endorsed to include Pima County and all its related special districts, elected officials, officers, agents, employees and volunteers (collectively "**County and its Agents**") as additional insureds with respect to liability arising out of the activities performed by or on behalf of PPEP. The full policy limits and scope of protection must apply to County and its Agents as an additional insured, even if they exceed the limits required by this Agreement.
- 11.2.4. **Wavier of Subrogation:** Commercial General Liability and Workers' Compensation coverages must each contain a waiver of subrogation in favor of County and its Agents for losses arising from work performed by or on behalf of PPEP.
- 11.2.5. **Primary Insurance:** The required insurance policies, with respect to any claims related to this Agreement or the Premises, must be primary and must treat any insurance carried by County as excess and not contributory insurance. The required insurance policies may not obligate the County to pay any portion of PPEP's deductible or Self Insurance Retention (**SIR**).

**11.3. Verification of Coverage:**

- 11.3.1. **Certificates.** PPEP's Insurer or Broker must evidence compliance with the insurance requirements by furnishing certificates of insurance executed by a duly authorized representative of each insurer. Each certificate must include a notation of policy deductibles or SIRs relating to the specific policy, and must specify that the policy is endorsed to include additional insured and subrogation wavier endorsements for the County and its Agents.
- 11.3.2. **Renewal Certificate:** A renewal certificate must be provided to County not less than 15 days prior to the policy's expiration date, along with actual copies of the additional-insured and wavier-of-subrogation endorsements.
- 11.3.3. **Policies:** County reserves the right to, at any time, require complete copies of any or all required insurance policies.
- 11.3.4. **Cancellation Notice:** PPEP must notify the County in advance, in writing, if a required insurance policy will expire, be cancelled, be suspended, or be materially changed. The notice must be provided to the County by the earlier of (a) 30 days before the change will take effect, and (b) 2 business days after PPEP receives notice of the change from its insurer. For cancellation for non-payment, Insurer must provide County with written notice ten (10) days prior to cancellation of policy.
- 11.3.5. **Approval and Modifications:** The Pima County Risk Manager may approve a modification of the above insurance requirements without the necessity of a formal Contract amendment, but the approval must be in writing. Neither the County's failure to receive a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, or the County's receipt of any other information from the Contractor, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

11.4. **Indemnification.** To the fullest extent permitted by law, PPEP will indemnify, defend, and hold harmless County, its officers, employees and agents from and against any and all losses, costs, or expenses (including reasonable attorney fees) incurred or suffered by County as a result of any damages to property or injuries to persons (including death), or any suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of or directly related to any act, omission, fault or negligence by the PPEP, its agents, employees, invitees, contractors or anyone under its direction or control or acting on its behalf, or anyone permitted by PPEP to conduct any activity on the Premises, or in connection with any use or occupancy of the Premises under the terms of this Agreement.

12. **Purchase Option.**

12.1. **Grant of Option.** PPEP may purchase the Land at any time during the Term of this Agreement after substantial completion of the Project, under the terms and conditions in this Section 12. If PPEP exercises this option no later than 1 year after completion of the Project, the purchase price for the Land (the "**Purchase Price**") will be \$1,000. If PPEP exercises this option at a later date, the Purchase Price will be set by the County based on an internal appraisal, which will be shared with PPEP.

12.2. **Notice.** If PPEP elects to purchase the Land, PPEP must send County a written notice of its election (the "**Option Notice**").

12.3. **Title.** County will convey good and marketable title to the Land to PPEP by special warranty deed, and the title will be free and clear of any monetary liens and encumbrances, but otherwise subject to all matters of record, and subject to a deed restriction requiring the property to be used for a youth center as generally described in this Ground Lease.

12.4. **Closing.** The closing of the conveyance will occur within forty-five (45) days after the Option Notice or establishment of the Purchase Price, whichever is later. At closing, PPEP will pay the Purchase Price in cash, and this Ground Lease will terminate. PPEP may, at its cost, purchase an Owner's Policy insuring PPEP's title to the Land.

13. **Default/Termination.** Either party may present written notice of default or non-performance to the other party.

13.1. **PPEP Default.** The occurrence of any one or more of the following events will constitute a default and breach of this Agreement by PPEP for which County may terminate this Agreement:

13.1.1. **Operation of Premises.** The vacating or abandonment of the Premises, or cessation of activities thereon, or any portion thereof, by PPEP, where such abandonment will continue for a period of 30 calendar days after notice of such default is sent by County to PPEP.

13.1.2. **Monetary Obligations.** The failure by PPEP to make any payment required to be made by PPEP hereunder, as and when due, where such failure will continue for a period of ten (10) calendar days after notice from County that such payment is due.

13.1.3. **Insurance.** The failure by PPEP to maintain insurance policies as set forth above for any period of time, in which event PPEP must immediately cease all operations at the Premises until such insurance is obtained. In the event of such a default, County may, in County's sole discretion, obtain necessary insurance coverage in which event PPEP will, within five (5) days of demand, reimburse and pay to County the full amount of any costs and premiums expended by County to obtain such coverage.

13.1.4. **Violation of Law.** Violation of any law by PPEP, or the conduct of any unlawful activities on the Premises that are permitted by PPEP, either tacitly or explicitly, or which PPEP has not taken reasonable means to prevent after PPEP becomes or in the exercise of reasonable diligence should have become aware that such activities are being conducted.

13.1.5. **Health and Safety Violation.** Any action or omission by PPEP that, in the County's reasonable judgment, causes a threat to the health or safety of the general public.

13.1.6. **Other Covenants.** The failure by PPEP to observe or perform any other of the covenants, conditions or provisions of this Agreement to be observed or performed by PPEP, where such failure will continue for a period of thirty (30) days after written notice thereof by County to PPEP; provided, however, that if the nature of PPEP's default is such that more than thirty (30) days are reasonably required for its cure, then PPEP will not be deemed to be in default if PPEP commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

13.2. **County Default.** County will be in default if it fails to comply with any material obligation under this Agreement, and fails to cure that failure within 30 days after receiving a written default notice from PPEP detailing the nature of the obligation. If, however, the nature of County's default is such that more than 30 days are reasonably required for its cure, then County will not be deemed to be in default if County commences such cure within that period and thereafter diligently prosecutes such cure to completion.

13.3. **Remedies.** Either party may pursue any remedies provided by law and in equity for the breach of this Agreement, including termination of the Lease. No right or remedy 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 existing at law or in equity or by virtue of this Agreement.

14. **Notices.** Any notices required hereunder will be delivered personally or by certified mail, directed as follows:

If to County:

Director  
Pima County Facilities Management  
150 West Congress St., 5<sup>th</sup> Floor  
Tucson, Arizona 85701  
Fax: 520-724-3900

If to PPEP:

Dr. John D Arnold, CEO, PPEP, Inc.  
Portable Practical Education Preparation  
802 E. 46<sup>th</sup> Street  
Tucson, Arizona 85713  
Fax: 520-622-1480

15. **Assignment/Subletting.** PPEP will not encumber the Lease or Premises or assign its rights or obligations under this Agreement except as permitted under Section 5 above, and will not sublet the Premises in whole or in part, or allow any other person (the employees, agents, servants and invitees of PPEP excepted) to occupy or use any part of the Premises, without first obtaining the written consent of County. PPEP acknowledges that County has approved this Agreement based on the economic benefits that the Board believes will be provided by PPEP's operations, and that County may therefore withhold consent to a proposed sublease or assignment if in County's reasonable judgment the operations of the proposed subtenant or assignee do not provide the same type and level of public benefit. Consent to one assignment, subletting, occupation or use by any other person will not be deemed to be consent to any other assignment, subletting, occupation, or use by another person. Consent to any such assignment or subletting will in no way relieve PPEP of any liability under this Agreement and will not impose any additional burden or obligation on County. Any such assignment or subletting without such consent will be void, and will constitute a default under the terms of this Agreement.
16. **Surrender of Premises; Holding Over.** On the last day or earlier termination of the Term of this Agreement, PPEP will quit and surrender the Premises, together with the Project and all Alterations, in good condition and repair (except as provided in **Section 10.3** above), normal wear and tear excepted. Any holding over with the consent of County after the termination of the Term will be construed to be a tenancy from month-to-month upon the same terms and conditions as provided in this lease, to the extent applicable.
17. **Cancellation for Conflict of Interest.** This Lease may be cancelled for conflict of interest pursuant to A.R.S. § 38-511, the provisions of which are incorporated herein by this reference.
18. **PPEP not an Agent of County.** PPEP is not an agent of County for any purpose under this Agreement or otherwise. PPEP will control activities on the Premises, and County will not control those activities. PPEP's employees and servants will not be under the control of County.
19. **Non-Discrimination.** PPEP will comply with applicable local, state and federal laws, rules and regulations concerning equal employment opportunity and non-discrimination. PPEP will further comply with the Americans with Disabilities Act, to the extent applicable to PPEP's operation and the Premises.
20. **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.
21. **Non-Waiver.** The failure of either party to insist in any one or more instances upon the full and complete performance of any of the terms and provisions of this Agreement to be performed by the other party, or to take any action permitted as a result thereof, will not be construed as 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. The acceptance by either party of sums less than may be due and owing to it at any time will not be construed as an accord and satisfaction.
22. **Entire Agreement.** This Lease will constitute the entire contract between County and PPEP with respect to the Premises and no modification hereof will be binding unless in writing and signed by both parties.

23. **Amendment.** This Lease will not be amended except by a written instrument duly executed by both parties. County will not enter into any modification of this Agreement without the prior written consent of the holder of the Leasehold Deed of Trust provided that County has notice of such secured party's interest in this Agreement.

**LANDLORD:**

PIMA COUNTY, ARIZONA

By: \_\_\_\_\_  
Chairman of the Board of Supervisors  
Date: \_\_\_\_\_

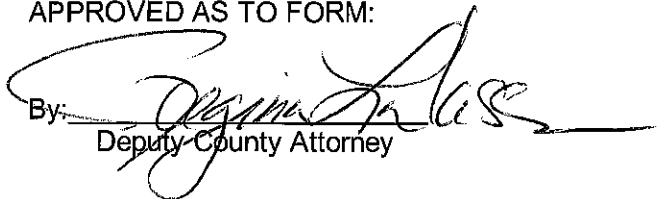
ATTEST:

\_\_\_\_\_  
Clerk of the Board of Supervisors

APPROVED AS TO CONTENT:

By:   
Director, Facilities Management Department

APPROVED AS TO FORM:

By:   
Deputy County Attorney

**TENANT:**

Portable Practical Educational Preparation, Inc.

By:   
Dr. John D. Arnold, CEO, PPEP, Inc.  
Date: 8/6/19



June 11, 2019  
Psomas #7PIM140210

**EXHIBIT A  
LEGAL DESCRIPTION**

A portion of that parcel recorded in Docket 12919, Page 660, records of Pima County, Arizona, located in the southwest one-quarter of Section 36, Township 19 South, Range 12 East, Gila and Salt River Meridian, Pima County, Arizona, described as follows:

**COMMENCING** at the south one-quarter corner of said Section 36, monumented by a 2-1/2" brass cap on 1" steel pipe, marked "1917, U.S., General Land Office" from which the southwest corner of said Section, monumented by a 2-1/2" brass cap on 1" steel pipe, marked "U.S., General Land Office" bears S 89°29'02" W (basis of bearing for this legal description) a distance of 2641.03 feet;

**THENCE** upon the east line of said southwest one-quarter, N 00°23'37" W a distance of 1169.03 feet to a 1/2" rebar at the southeast corner of the first exception from Parcel 1 as recorded in said Docket 12919, Page 660 (said exception recited as "that property described in docket Book 4156 at page 968");

**THENCE** upon the south line of said first exception, S 89°36'23" W a distance of 664.98 feet to a 60d Nail at the southeast corner of Parcel 2 as recorded in said Docket 12919, Page 660;

**THENCE** N 82°33'05" W a distance of 3.60 feet to the **POINT OF BEGINNING**;

**THENCE** N 90°00'00" W a distance of 75.00 feet;

**THENCE** N 00°00'00" W a distance of 55.00 feet;

**THENCE** N 90°00'00" E a distance of 75.00 feet;

**THENCE** S 00°00'00" E a distance of 55.00 feet to the **POINT OF BEGINNING**,

Containing an area of 4125 square feet  
(0.095 acres), more or less.

See Depiction of Exhibit A attached  
hereto and made a part hereof.

Prepared for and on behalf of Psomas



Richard Iman, AZ. R.L.S. 68764

**SOUTHWEST ONE-QUARTER**  
SEC. 36, T19S, R12E



SCALE: 1" = 1000'  
0 1000 2000

LINE	BEARING	DISTANCE
L1	S 89°36'23" W	664.98'
L2	N 82°33'05" W	3.60'
L3	N 90°00'00" W	75.00'
L4	N 00°00'00" W	55.00'
L5	N 90°00'00" E	75.00'
L6	S 00°00'00" E	55.00'

SW. COR. SEC. 36  
2-1/2" G.L.O. BC

S 89°29'02" W 2641.03'  
(BASIS OF BEARING)

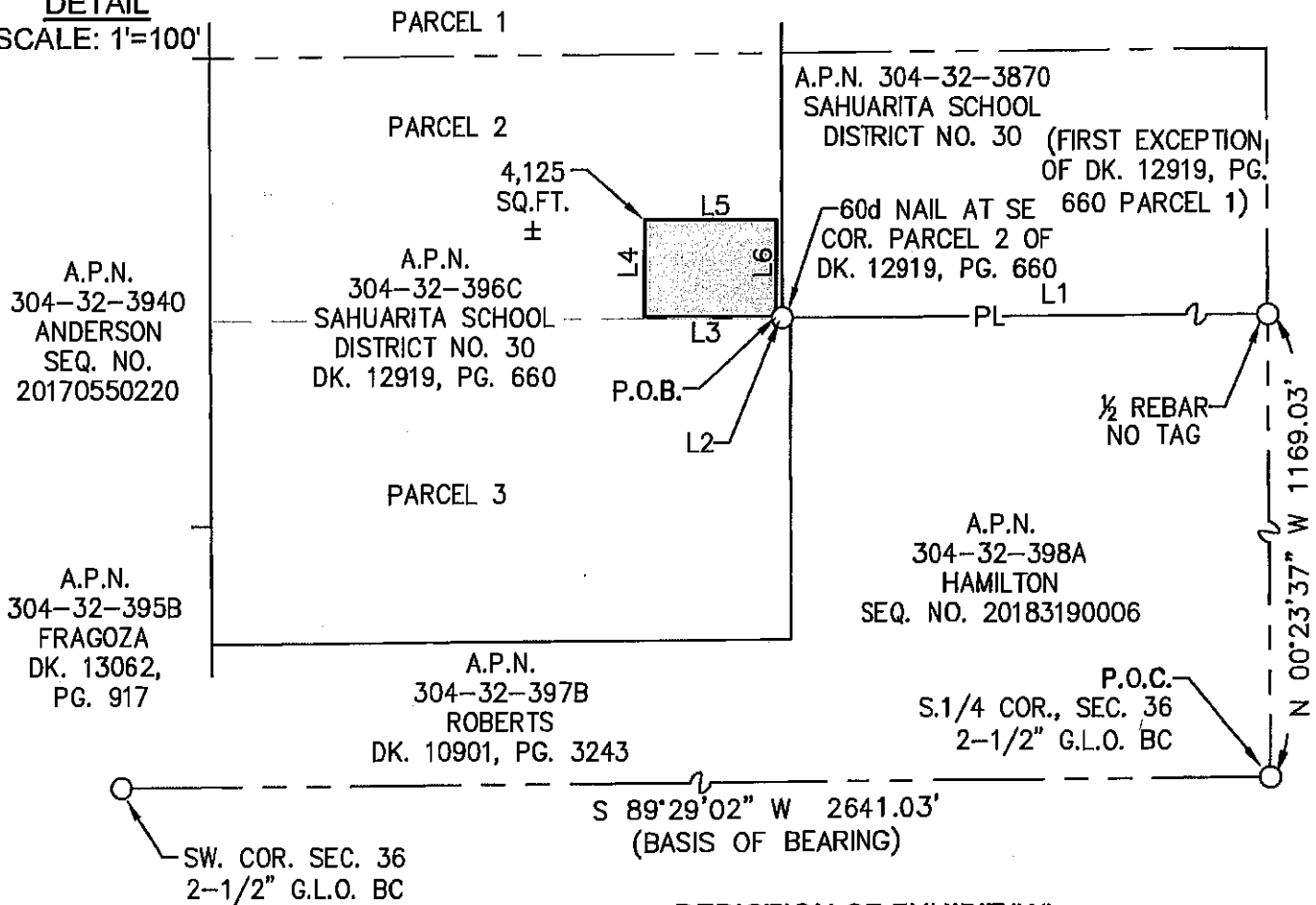
CTR. 1/4 COR.  
SEC. 36

SEE DETAIL  
BELOW

N 00°23'37" W  
1169.03'

S. 1/4 COR.,  
SEC. 36  
2-1/2" G.L.O. BC

**DETAIL**  
SCALE: 1"=100'



**DEPICTION OF EXHIBIT "A"**

A PORTION OF THAT PARCEL RECORDED IN DK. 12919, PG. 660  
LOCATED IN THE SW 1/4 OF SECTION 36,  
TOWNSHIP 19 SOUTH, RANGE 12 EAST  
GILA & SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA

**PSOMAS**

333 E. Wetmore Road, Suite 450  
Tucson, AZ 85705  
(520) 292-2300 (520) 292-1280 fax  
www.psomas.com

7PIM140210

DATE: JUNE, 2019 • DRAWN BY: SM

PAGE 2 OF 2



# Sopori Elementary School & Kay Stupy Park

EXHIBIT A continued (overview)

## Legend

☐ Parcels

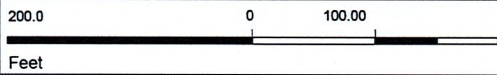
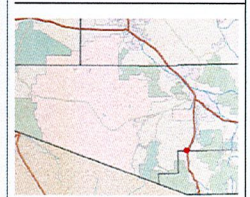
Estimated Water Connection to Well (blue)

Estimated Shared Septic System (green)

Access and Shared Parking (red)

Shared Dumpster

New Parcel Location



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map are subject to Pima County's ITD GIS disclaimer and use restrictions.

7/9/2019