COMMERCIAL LEASE AGREEMENT
BETWEEN
MARY C. O'BRIEN ACCOMMODATION DISTRICT
AND
PINAL COUNTY

This Commercial Lease Agreement (hereinafter referred to as this "Agreement") is made and entered into by and between Mary C. O'Brien Accommodation District, a political subdivision of the state of Arizona (hereinafter referred to as "MCOB"), and Pinal County, a political subdivision of the state of Arizona (hereinafter referred to as "COUNTY"). MCOB and COUNTY may each be referred to individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, MCOB is the owner of land and improvements located at 3740 N. Toltec Road in Eloy, Pinal County, Arizona, and 1400 Eleven Mile Corner Road in Casa Grande, Pinal County, Arizona (hereinafter collectively referred to as the "Premises"); and,

WHEREAS, MCOB warrants and represents that it owns the Premises, primarily occupies the Premises, and additional space at the Premises is available to be leased to COUNTY, including approximately 900 square feet located at 3740 N. Toltec Road, Eloy, Arizona, which includes COUNTY having access to and use of bathrooms, kitchen and break areas, and meeting and conference rooms and approximately 3,500 square feet located at 1400 Eleven Mile Corner Road, Casa Grande, Arizona, which includes COUNTY having access to and use of bathrooms, kitchen and break areas, and meeting and conference rooms (hereinafter collectively referred to as the "Leased Premises"); and,

WHEREAS, pursuant to A.R.S. §§ 15-1105(A) and 15-1444, MCOB may lease available space to COUNTY for use and occupancy by the Pinal County School Superintendent and related operations; and,

WHEREAS, pursuant to A.R.S. § 11-251(54), COUNTY may lease for public purposes any real property; and,

WHEREAS, MCOB desires to lease the Leased Premises to COUNTY, and COUNTY desires to lease the Leased Premises from MCOB in accordance with this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises and conditions set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Term.** Based upon appropriate funding, this Agreement is effective on July 1, 2024, and will continue through June 30, 2025, unless sooner terminated or further extended pursuant to the provisions of this Agreement. This Agreement will automatically renew annually for

up to five (5) supplemental one-year terms with the final term ending June 30, 2030.

2. **Termination/Cancellation.**

   a. **Mutual Termination.** The Parties, by mutual written agreement, may terminate or cancel this Agreement at any time for any reason.

   b. **Termination for Convenience/Without Cause.** A Party may terminate or cancel this Agreement at any time for any reason, with or without just cause, with thirty (30) days written notice to the other Party specifying the termination date.

   c. **Termination for Breach.** If a Party materially breaches this Agreement, the non-breaching Party shall notify the breaching Party in writing and set forth the basis for the alleged breach. If the breaching Party fails to cure the breach within 15 days of the date of the notice, then the non-breaching Party may terminate this Agreement without further notice.

   d. **Non-appropriation of Funds.** The Parties recognize and acknowledge that both Parties are governmental entities and this Agreement's validity is based upon the availability of public funding. In the event public funds are not appropriated for the performance of either Party's obligations under this Agreement, then the Party that public funds are not appropriated shall notify the other Party in writing of any such non-allocation of funds at the earliest possible date, and this Agreement shall automatically expire without penalty to the Party that public funds are not appropriated. If either Party's allocation of funds is reduced, then the scope of this Agreement may be reduced, if appropriate, or this Agreement may be cancelled without further duty or obligation.

   e. **Conflict of Interest.** This Agreement is subject to cancellation pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated herein by reference.

3. **Extension.** The Parties, by mutual written agreement, may extend this Agreement at any time.

4. **Amendment.** The Parties, by mutual written agreement, may amend or supplement the terms of this Agreement at any time.

5. **COUNTY's Lease and Use of Leased Premises.**

   a. COUNTY shall lease the Leased Premises during the term of this Agreement, and COUNTY will coordinate with MCOB and MCOB agrees to cooperate with COUNTY for COUNTY's use of kitchen and break areas and meeting and conference rooms.

   b. During the term of this Agreement, the Leased Premises will be occupied by COUNTY and COUNTY shall use the Leased Premises for the conduct of authorized Pinal County School Superintendent's Office operations. COUNTY shall use the Leased

Premises in conformance with all applicable federal, state, county, and city laws, rules, ordinances, and regulations. COUNTY shall use the Leased Premises in a safe and secure manner. The Parties shall also minimize the likelihood of damage to or destruction of the Premises, including the Leased Premises, and its improvements.

6. **Rent.** Pursuant to A.R.S. § 15-1105(E), MCOB shall annually approve a fee schedule for the lease of school property and shall invoice COUNTY annually for the fees attributable to COUNTY's use and occupancy of the Leased Premises.

7. **Security Deposit.** MCOB does not require a security deposit from COUNTY under this Agreement.

8. **Utilities.** MCOB shall pay all charges for water, sewer, gas, electricity, trash removal, pest control, janitorial, and other services and utilities used by COUNTY at the Leased Premises during the term of this Agreement unless otherwise expressly agreed in writing by the Parties and signed by both Parties. COUNTY shall pay all charges for COUNTY telecommunications, including telephone and Internet services, during the term of this Agreement unless otherwise expressly agreed to in writing by the Parties and signed by both Parties.

9. **Repairs and Maintenance.**

   a. MCOB shall maintain and keep the Premises, including the Leased Premises, in good condition at MCOB's expense throughout the term of this Agreement. MCOB shall maintain the roof of the building or buildings at the Premises, and shall maintain all other improvements including, but not limited to, interior walls; floors; windows; doors; heating and cooling systems, including changing filters at least quarterly; plumbing; gas and electric facilities; fire systems; security systems and access control systems; and the Premises' landscape, grounds, and parking lot.

   b. COUNTY shall keep the Leased Premises neat and clean.

10. **Alterations and Improvements.** With the express written consent of MCOB, COUNTY, at COUNTY's expense, shall have the right to remodel, redecorate, and make additions, improvements and replacements of and to all or any part of the Leased Premises from time to time as COUNTY may deem desirable, provided the same are made in a workmanlike manner and utilizing good quality materials. COUNTY shall have the right to place and install personal property, trade fixtures, equipment and other temporary installations in and upon the Leased Premises, and fasten the same to the Premises. All personal property, equipment, machinery, trade fixtures and temporary installations, whether acquired by COUNTY at the commencement of the term of this Agreement or placed or installed on the Leased Premises by COUNTY thereafter, shall remain COUNTY's property free and clear of any claim by MCOB. COUNTY shall have the right to remove the same at any time during the term of this Agreement or at the end of the term of this Agreement provided that all damage to the Premises caused by such removal shall be repaired by COUNTY at COUNTY's expense.

11. **Condition of Leased Premises Upon Occupancy.** COUNTY accepts the Leased Premises "as is, where is, with all faults" on the date of occupancy.

12. **Visitors.** All visitors must report to the school office upon arrival. No visitors may enter onto the school premises without approval by the Superintendent. Anyone in violation of this regulation may be asked to leave the Premises.

13. **Ownership of Real and Personal Property.** Title to the real property described as the Premises, along with its improvements, is vested in MCOB as of this Agreement's inception date. Title to removable fixtures and personal property is vested in the Party who purchased the fixtures or personal property. When this Agreement terminates, title to the real property and all securely attached improvements will remain with MCOB. COUNTY may remove any of its owned personal property.

14. **Condition of Leased Premises Upon Termination/Surrender of Leased Premises.** On the expiration of the term of this Agreement or if either MCOB or COUNTY terminates this Agreement, COUNTY shall quit and surrender the Leased Premises in good order, condition and repair, reasonable wear and tear excepted.

15. **Assignment, Sublease, or Encumbrance.** If a Party purports to assign, lease, sublease, mortgage, pledge, hypothecate, or otherwise encumber this Agreement or any interest in the Premises, the purported assignment or other transfer constitutes a material breach of this Agreement and constitutes grounds for Termination for Breach.

16. **Insurance.** Throughout the term of this Agreement, MCOB shall obtain and maintain insurance coverage in such policy limits and forms as required to protect the Premises against damage or destruction by fire or other hazard. COUNTY shall obtain and maintain Liability coverage available to it for the Leased Premises through the Arizona Counties Insurance Pool naming MCOB as an additional insured. COUNTY shall provide to MCOB a certificate of additional insured as required by A.R.S. § 15-1105. A Party shall provide to the other Party notice, in writing, of changes in coverage, including changes to policy forms, policy limits, cancellations, non-renewals, or changes in insurance carriers. The notice must be given at least 10 days before the change, unless the insurer notifies the Party of a non-negotiable change, in which event the affected Party shall promptly notify the other of the change.

17. **Mutual Indemnification.** To the maximum extent permitted by law, each Party (as "Indemnitor") agrees to indemnify, defend and hold harmless the other Party, its officers, officials, agents, employees, or volunteers from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of actions taken in performance of this Agreement to the extent that such Claims are caused by the acts, omissions, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

18. **Relationship of Parties.** Nothing contained in this Agreement shall be deemed or

construed as creating a joint venture, partnership, agency, employment or fiduciary relationship between the Parties. The Parties' employees shall not be considered employees of the other Party, and neither Party's personnel will, by virtue of this Agreement, be entitled or eligible, by reason of this Agreement, to participate in any benefits or privileges given or extended by the other Party to its employees. Neither Party shall be liable for any debts, accounts, obligations or other liabilities whatsoever of the other, including (without limitation) the other Party's obligation to withhold Social Security and income taxes for itself or any of its employees.

19. **Third Parties.** Nothing in this Agreement shall be deemed to create any right in any person not a Party hereto. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against MCOB or COUNTY. This Agreement is not intended to benefit any third party.

20. **Implied Contract Terms.** Each provision of law and any terms required by law to be in this Agreement are a part of this Agreement as if fully stated herein.

21. **Assignment.** No Party to this Agreement may assign any of its rights or responsibilities under this Agreement, either voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law, or any other manner, except with the prior written consent of the other Party. No Party may delegate any performance under this Agreement, except with the prior written consent of the other Party. Any purported assignment of rights or delegation of performance in violation of this section is void.

22. **Waiver.** No waiver of any default of MCOB or COUNTY hereunder shall be implied from any omission or refusal to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in such express waiver and that only for the time and to the extent therein stated. One or more waivers by MCOB or COUNTY of any term of this Agreement shall not be construed as a waiver of a subsequent breach or default of the same covenant, term, or condition.

23. **Headings and Construction of Agreement.** In construing this Agreement, all headings and titles are for the convenience of the Parties and for organizational purposes only and shall not be considered in interpreting the meaning of any provision in this Agreement or considered a part of this Agreement. Whenever required by the context, each number shall include the plural, each gender shall include all genders, and unless the context otherwise requires, the word "person" shall include corporation, firm, or association.

24. **Fair Meaning.** This Agreement is intended to express the mutual intent of the Parties and shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

25. **Compliance with Law.** The Parties shall comply with all applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities in performing this Agreement, including environmental laws.

26. **Legal Arizona Workers Act Compliance.** The Parties hereby warrant that they will at all times during the term of this Agreement comply with all federal immigration laws applicable to their employment of their employees and with the requirements of A.R.S. §§ 23-214 and 41-4401 (together the "State and Federal Immigration Laws"). A breach of the foregoing warranty shall be deemed a material breach, and the Parties shall have the right to terminate this Agreement for such a breach, in addition to any other applicable remedies. The Parties retain the legal right to inspect the papers of each contractor or subcontractor employee who performs work pursuant to this Agreement to verify performance of the foregoing warranty of compliance with the State and Federal Immigration Laws.

27. **Fingerprint and E-verify.** If required, and only to the extent required, the Parties shall comply with the fingerprinting provisions in A.R.S. § 15-512(H) and the e-verify provisions in A.R.S. § 41-4401. The County shall ensure that all county staff working on the Premises are in compliance with the fingerprinting requirements. The County shall provide the District with proof of compliance for audit purposes.

28. **Non-Discrimination.** The Parties shall comply with the Office of the Arizona Governor Executive Order 2009-09, which mandates that all persons, regardless of race, color, religion, sex, age, national origin, or political affiliation, shall have equal access to employment opportunities, and all other applicable federal and state employment laws, rules and regulations, including the Americans with Disabilities Act. The Parties shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin, or disability.

29. **Americans with Disabilities Act.** The Parties shall comply with all applicable provisions of the Americans with Disabilities Act (Pub. L. 101-336, 42 U.S.C. §§ 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

30. **Audits.** Pursuant to A.R.S. §§ 35-214 and 35-215, the Parties shall retain all records relating to this Agreement for a period of five years after completion of this Agreement. All records shall be subject to inspection and audit by the state of Arizona at reasonable times. Upon request of either Party, the other Party shall produce the original of any or all such records at the offices of the requesting Party.

31. **Workers' Compensation.** Each Party will comply with the notice of A.R.S. § 23-1022(E). For purposes of A.R.S. § 23-1022, irrespective of the operations protocol in place, each Party is solely responsible for the payment of Workers' Compensation benefits for its employees.

32. **Governing Law.** This Agreement shall in all respects be interpreted and construed in accordance with and governed by the laws of the state of Arizona.

33. **Material Change in Law or Regulation.** Any changes in the governing laws, rules, or regulations that do not materially affect the Parties' obligations under this Agreement will apply but do not require an amendment. In the event of adoption of legislation, regulations, or instructions or the initiation of an enforcement action by a governmental agency, any of

which materially affects the legality of this Agreement or the relationship among the Parties hereto, either Party may propose amendments to this Agreement to bring this Agreement into conformity with such laws. If the Parties are unable to reach agreement on the renegotiation of this Agreement within thirty (30) calendar days of the initiation of negotiations, then either Party may terminate this Agreement upon written notice to the other Party.

34. **Severability/Unenforceable Provisions.** In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions shall not be affected and effect shall be given to the intent manifested by the provisions held enforceable and valid. If any of the provisions of this Agreement are inapplicable to a person or circumstance, the same provisions shall remain applicable to all other persons and circumstances.

35. **Disputes.** Should any dispute arise concerning this Agreement between MCOB and COUNTY, the Parties shall first meet and confer to resolve the issues. It is incumbent upon the Parties to act in good faith to achieve compliance in a timeframe that permits timely disbursement and use of funds. Should the effort to meet and confer not resolve the issues, the Parties shall follow the dispute resolution procedures established in the Administrative Office of the Pinal County Superintendent, Policies and Procedures Manual No. 7.04(C) and (D). If, after exhausting the administrative remedies set forth in those provisions, pursuant to A.R.S. § 12-1518, disputes under this Agreement shall be resolved through the use of arbitration when the case or lawsuit is subject to mandatory arbitration pursuant to rules adopted under A.R.S. § 12-133.

36. **Waiver of Jury Trial.** The Parties hereby waive their respective rights to trial by jury in any action or proceeding arising out of this Agreement.

37. **Parol Evidence.** This Agreement is intended by the Parties as a final and complete expression of their agreement. No course of prior dealings between the Parties and no usage of the trade shall supplement or explain any terms used in this Agreement.

38. **Modification.** Any modification to this Agreement must be in writing and signed by all Parties.

39. **Entire Agreement.** This Agreement contains the entire, integrated agreement of the Parties and there are no oral agreements, understandings, or representations relied upon by the Parties. This Agreement supersedes and merges all prior negotiations, representations, or agreements, whether written or oral.

40. **Counterparts and Electronic Signatures.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon, provided such signature page is attached to any other counterpart identical thereto. The Parties understand and agree that they have the right to execute this

Agreement through paper or through electronic signature technology, and to the extent they sign electronically, their electronic signature is the legally binding equivalent to their handwritten signature. Signatures sent by electronic means (facsimile, scanned and sent via e-mail, or signed by electronic signature service where legally permitted) shall be deemed original signatures. The Parties expressly waive any objection to the admissibility of this Agreement on the grounds that it is an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature. Each Party may sign any number of copies of this Agreement, and each signed copy shall be deemed to be an original, but all of them together shall represent one and the same agreement.

41. **Legal Agreement.** This Agreement is an important, binding legal document, and each Party warrants it has had an opportunity to consult with an attorney about the terms set forth herein. By signing this Agreement, each person signing this Agreement represents and warrants that he or she is duly authorized and has the legal capacity to execute this Agreement and understands the meaning of all terms contained herein and agrees to their application and enforceability.

42. **Notices.** All notices required or permitted to be given under the terms of this Agreement shall be in writing, and shall be effective upon hand delivery, transmission by electronic mail, deposit with a reputable overnight courier such as FedEx for overnight delivery, or three (3) business days after deposit with the U.S. Mail via certified or registered mail, postage prepaid, return receipt requested as follows:

MCOB:
Mary C. O'Brien Accommodation District
Attn: Marty Bassett, Superintendent
3740 N. Toltec Road
Eloy, AZ 85131

COUNTY:
Pinal County
Attn: Jill Broussard, Pinal County School Superintendent
75 Bailey Street
Florence, Arizona 85132

A Party shall have the right from time to time to change the place notice is to be given under this paragraph by written notice thereof to the other Party.

43. **Dual Representation Waiver of Conflict.** The Parties to this Agreement have been advised of and are aware that the Pinal County Attorney's Office (the "PCAO") represents both Parties. The PCAO is the attorney for COUNTY pursuant to A.R.S. § 11-532(A)(9) and is also the attorney for MCOB pursuant to A.R.S. § 11-532(A)(10). Even though the Parties have been advised to seek the advice of outside counsel, the Parties have chosen attorneys employed by the PCAO to act as their attorney for the purpose of drafting and reviewing this Agreement. In so doing, by each Party's signature below, each Party expressly and mutually waives any adverse interest that may exist and expressly and mutually waives any allegations of conflict

of interest by the PCAO in expressly approving of the PCAO multiple (or dual) representation. Therefore, by the Parties signatures below, each Party hereby provides its written informed consent to multiple (or dual) representation by the PCAO in the drafting and review of this Agreement, acknowledges that the PCAO will represent both Parties to this Agreement, and expressly waives any conflict created thereby.

APPROVALS

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized officials in their official capacities with legal authority to do so, and have affixed their signatures to this Agreement on the date(s) written below, with the Effective Date of this Agreement commencing July 1, 2024, as stated above herein.

MCOB: Mary C. O'Brien Accommodation District

Jill M. Broussard

Jill Broussard, Governing Board President

Date: 12/19/2024

COUNTY: Pinal County

Mike Goodman, Chairman
Pinal County Board of Supervisors

Date: _____

ATTEST:

Natasha Kennedy, Clerk of the Board
Pinal County Board of Supervisors

APPROVED AS TO FORM:

April Holley

April Holley, Deputy Pinal County Attorney

12/20/2024

Date: _____