

## FACILITIES USE AGREEMENT

This Facilities Use Agreement (“Agreement”) is made by and between the Hollister School District (“District”) and Navigator Public Schools, Inc., a California non-profit public benefit corporation (“Non-Profit”), which operates Hollister Prep School (the “Charter School”). The Non-Profit and District are collectively referred to as the “Parties.”

### RECITALS

- A. WHEREAS, District is the owner of certain real property located at R.O. Hardin Elementary School, 881 Line Street, Hollister, California (the “Site”).
- B. WHEREAS, the Charter School is duly formed and approved by the District under the laws of the Charter Schools Act of 1992 (Education Code §§ 47600, *et seq.*) The Charter School will serve students in grades Kindergarten through 8th grade in the 2022-2023 school year.
- C. WHEREAS, the Charter School submitted an application to the District for facilities pursuant to Proposition 39 for the 2022-2023 school year.
- D. WHEREAS, the District has allocated facilities to the Charter School for the 2022-2023 school year pursuant to Proposition 39.

### AGREEMENT

NOW THEREFORE, in consideration of the covenants and conditions of this Agreement, the Parties hereby agree as follows. All obligations imposed hereby on the Charter School are equally imposed on the Non-Profit.

- 1. Facilities.
  - 1.1 *Purpose.* Use of the Facilities shall be for the purposes set forth in Section 4.1, and on the terms and conditions set forth herein. The District grants, in the form of a license, use to the Charter School of the Site facilities identified in **Exhibit A** attached to this Agreement and incorporated herein by reference (the “Facilities”) under the terms and conditions set forth in this Agreement. The Charter School shall not have exclusive use of the Site.
  - 1.2 *Description.* The Charter School’s use of the Facilities is comprised of exclusive use of nineteen (19) classrooms, exclusive use of three (3) rooms for office and other administrative and non-classroom use, exclusive use of the garage for storage, and shared access and use of a storage container, as designated on **Exhibit A**. The Charter School will also have shared use of the playfields, multipurpose room, and library; non-exclusive use of a reasonable number of non-designated parking spaces; and non-exclusive use of a reasonable number of faculty and student rest rooms at the Site. The District will

continue to provide an eight-foot high, portable partition wall in Room E, and four-foot high bookshelves along one wall in Room E, which allows Room E to be used both as a library and for administrative purposes.

The Charter School shall be entitled to non-exclusive use the Site playfields for 50% of the available school hours, determined on a weekly basis. The Charter School shall also be entitled to non-exclusive use the R.O. Hardin library for 25% of the available school hours, determined on a weekly basis. The Charter School shall also be entitled to non-exclusive use the multipurpose room for 50% of the available school hours, determined a weekly basis. The Charter School shall also be entitled to use of 50% of the storage container during the Term of this Agreement. District staff, including the Site's principal, shall meet and confer with the Charter School prior to the beginning of each school year to determine a mutually acceptable schedule outlining the times and circumstances that each Party will have access to the playfields, the library, the multipurpose room, and any other shared use areas.

- 1.3 *Automatic Pro-rata Reduction.* The Charter School projects an in-District classroom ADA of 500.6 students for the 2022-2023 school year, and on the basis of that projection which the District, in good faith, refrains from challenging, the District grants the use of the Facilities as described herein. The District has also considered the Charter School's facilities needs for its total projected enrolled student population of 540 students, even though the District is only required by law to provide facilities at no charge for in-District students, which is 499.02 projected in-district ADA for the 2022-2023 year. However, the Parties agree that, based on the speculative nature of such enrollment projections, failure to meet enrollment projections shall result in a pro-rata reduction of Facilities. Accordingly, based on an enrolled student to classroom ratio of 28 to 1, the Charter School forfeits access to one classroom for every 28 enrolled students below the Charter School's enrolled student projection for the 2022-2023 school year. Classrooms eligible for such forfeiture are Rooms 410 to 412, inclusive. Classrooms chosen for forfeiture shall be made at the District's sole and not unreasonable discretion.
2. Term. The term of this Agreement shall be from July 1, 2022, to June 30, 2023 ("Term"), unless earlier terminated as provided herein.
3. Rent-Free Facilities. For the Term, the District will not charge the Charter School a fee for use of the Facilities. Because the District is providing the Charter School with rent-free facilities, the District is entitled, in accordance with Education Code Section 47613, subdivision (b), to three percent (3%) of all of the Charter School's revenues, including the funding allocated through the Local Control Funding Formula, the Base grant and any Supplemental and Concentrated grants ("Oversight Fee"), which amount the Parties agree represents the actual cost of the District's supervisory oversight of the Charter School. The District reserves the right, after the Term, to impose a fee for any use of its facilities by the Charter School, in accordance with applicable law.
4. Conditions of Use.

- 4.1 *Public Charter School.* The Facilities shall be used and occupied by the Charter School for the sole purpose of operating a California public charter school, and activities reasonably related thereto, and for no other purpose without the prior written consent of the District.
- 4.2 *Insurance Risk.* The Charter School shall not do or permit anything to be done in or about the Facilities nor bring or keep anything therein which will in any way increase the existing insurance rate or affect any fire or other insurance upon the Facilities or any of their contents (unless the District gives its prior approval and the Charter School pays any increased premium as a result of such use or acts), or cause a cancellation of any insurance policy covering said Facilities or any part thereof or any of its contents, nor shall the Charter School sell or permit to be kept, used, or sold in or about the Facilities any articles which may be prohibited by a standard form policy of fire insurance.
- 4.3 *Rights of the District.* The Charter School shall not do or permit anything to be done in or about the Facilities that will in any way obstruct or interfere with the rights of the District as owner of the Site or allow the Facilities to be used for any unlawful purpose, nor shall the Charter School cause, maintain or permit any nuisance in or about the Facilities. The Charter School shall not commit or suffer to be committed any waste in or upon the Facilities.
- 4.4 *Illegal Uses.* The Charter School shall not use the Facilities or permit anything to be done in or about the Facilities that will in any way conflict with any applicable law. The Charter School shall at its sole cost and expense promptly comply with all applicable laws now in force or which may hereafter be in force relating to or affecting the use or occupancy of the Facilities by the Charter School. The judgment of any court of competent jurisdiction or oversight body or the admission of the Charter School in any action involving the Charter School, whether the District be a party thereto or not, that the Charter School has violated any law, statute, ordinance or governmental rule, regulation or requirement, shall be conclusive of the fact as between the District and the Charter School.
- 4.5 *District Responsibility.* The District has ensured that the Facilities comply with all applicable laws governing charter school facility use (for example, the Americans with Disabilities Act (“ADA”), the California Environmental Quality Act (“CEQA”), State and local building codes, environmental laws including asbestos, lead, etc.). If any portion of the Facilities is found to be out of compliance with any such applicable law, the District shall ensure, within reasonable time limits, that such Facilities are brought into compliance with such applicable law, except to the extent that the Facilities’ noncompliance with applicable law are a direct result of the Charter School’s modification or alteration of the Facilities after the effective date of this Agreement, in which case the Charter School, at its sole cost and expense, will make any and all alterations, improvements, additions and/or repairs to the Facilities necessary to ensure such compliance with applicable law.

- 4.6 *Civic Center Act.* The Charter School agrees to comply with the provisions of the Civic Center Act (Education Code Section 38131, *et seq.*) in making use of the Facilities accessible to members of the community. The Parties understand that the Facilities are to be primarily used for school programs and activities and as such any use of the Facilities by members of the community shall not interfere with school activities at any time. District Board Policy and Administrative Regulations related to the Civic Center Act shall control scheduling, use and collection of fees related to use of the Facilities by members of the public. Consistent with that policy and the regulations, the District shall be solely responsible for coordinating access to the Facilities under the Civic Center Act and shall require users to provide appropriate proof of insurance related to use of the Facilities and to indemnify and hold harmless the District and Charter School for injury, risk of loss, or damage to property as a result of that access by members of the community. The District agrees to promptly clean and repair, if necessary, any portion of the Facilities used by members of the community immediately following such use. All requests for use of the Facilities made directly to the Charter School shall be forwarded to the District for coordination of use consistent with Board Policy and Administrative Regulations. The District agrees to coordinate with the Charter School regarding public access to the space occupied by the Charter School. If the Charter School has scheduled uses for the space, the Charter School shall have priority use of the space over members of the public on the same terms as the District has priority use of space that is occupied by the District.
- 4.7 *Alarms.* The Charter School shall have access to activate burglar alarms and intruder alerts, if any, corresponding to the Facilities provided at the Site (“Alarms”), and shall be responsible for responding to Alarms. The Charter School agrees that in the event that any of Charter School’s employees, directors, trustees, officers, agents, students, visitors, or contractors, trigger a false Alarm at the Site, the Charter School shall be responsible for costs incurred.
- 4.8 *Security/Safe Campus Program.* The Charter School shall be responsible for securing the Facilities, including all of the equipment and furnishings contained therein, in manner that reasonably prevents or deters the theft or destruction of District property. Such reasonable measures may include but are not limited to locking doors, locking windows, setting Alarms, keeping valuable materials out of public view or restricting access to the Facilities. The Charter School agrees to participate in the District’s Safe Campus Program and to comply with all security protocols established therein. In order to assist the Charter School in complying with the Safe Campus Program, the District shall provide security badges and all necessary training to the Charter School staff.

The responsibility to maintain the security of the Facilities under this subparagraph shall not be interpreted as the District’s authorization of the alteration of the Facilities. If Charter School desires to make alterations or improvements to the Facilities as a result of its obligation to maintain the security of the Facilities or its contents, then Charter School must follow the procedures stated in Section 13 (“Alterations and Additions”) prior to

making any such alterations or improvements, including but not limited to the changing door locks, the placement of surveillance cameras and the installation of Alarms or deterrent devices.

5. Furnishings and Equipment. The furnishings and equipment to be provided by the District for the Facilities are those furnishings and equipment that exist at the Facilities as of the date of execution of this Agreement. Said furnishings and equipment will be provided pursuant to Education Code Section 47614(b), and Title 5, California Code of Regulations, Section 11969.2. The Charter School is responsible for any furnishings and equipment over and above those provided by the District.

The Charter School shall return all such furniture, fixtures and equipment to the District in like condition at the termination of this Agreement, excepting ordinary wear and tear. Upon return of the furniture, fixtures, and equipment, the District will inspect said items within sixty (60) calendar days. The Non-Profit shall be responsible for costs to repair or replace furniture, fixtures, and equipment to like condition, excepting ordinary wear and tear. All furniture, fixtures, and equipment that are not the property of the District or are not otherwise reimbursed by the District shall remain the property and under the ownership of Non-Profit and shall be disposed of according to the provisions of the approved charter petition.

6. Utilities. District agrees to furnish or cause to be furnished to the Facilities necessary utilities. Utilities include, but are not limited to, electrical, natural gas, sewer, waste disposal/recycling and water services. Due to cost containment efforts by the District, the number of bins associated with the Site and the number of removals per week shall only increase during the Term proportionally based on an increase in ADA. The District's failure to furnish or cause to be furnished necessary utilities when such failure is caused by (i) Acts of God or other acts beyond the control or fault of the District; (ii) strikes, lockouts, or other labor disturbances or labor disputes of any kind; (iii) any laws, rules, orders, ordinances, directions, regulations, requirements, or any other action by federal, state, county or municipal authority; (iv) inability despite the exercise of reasonable diligence by the District to obtain electricity, water, or fuel; or (v) any other unavoidable delay, shall not cause the District to be in default and shall not result in any liability of the District.

The Charter School shall reimburse the District for the cost of utilities at the Site, as charged to the District by its utility providers, pro-rated to reflect use by other users of the Site. Thirty (30) days prior to the commencement of the 2022-2023 school year, and every subsequent school year during the Term of this Agreement, the District shall endeavor to notify the Charter School of its estimated monthly charge for utilities. The Charter School shall pay such charge to the District throughout the Term on a monthly basis. Within one hundred twenty (120) days after the expiration of each school year, or earlier termination of this Agreement, the District shall provide the Charter School with a reconciliation of the Charter School's actual utility usage throughout the Term and the cost thereof. The District shall either refund the Charter School for any overpayment or

shall invoice the Charter School for any underpayment. The Charter School shall reimburse the District for such underpayment, if any, within thirty (30) days after receipt of said invoice.

7. Proposition 39/Conditions Reasonably Equivalent. The Non-Profit and Charter School acknowledge by execution of the Agreement that the Facilities provided by the Agreement are “reasonably equivalent,” as that term is defined by Proposition 39. The Non-Profit and Charter School agree that upon execution of this Agreement, all obligations of the District to the Non-Profit and Charter School under Proposition 39 have been satisfied for the Term of the Agreement.

The District is not aware of any defect in or condition of the Facilities that would prevent their use for the Charter School’s purposes. The District has not received any notice of violation of statute, ordinance, regulation, order, or holding from any state or federal agency with jurisdiction over the Facilities that call into question the appropriateness or sufficiency of the Facilities for their intended purpose. The District, at its expense, shall remain responsible for compliance with all applicable laws regarding the Facilities during the Term of this Agreement. Charter School, at its expense, shall comply with all applicable laws, regulations, rules and orders with respect to its use and occupancy of the Facilities, including, without limitation, those relating to the health, safety, noise, environmental protection, zoning compliance and approvals, waste disposal, and water and air quality. The Charter School shall not be responsible for any and all environmental conditions that existed prior to the Charter School’s occupancy of the Site, so long as such environmental conditions are not exacerbated by the Charter School’s negligence or willful misconduct. The District shall remain responsible for compliance with the ADA, the California Fair Housing and Employment Act (“FEHA”) and other applicable building code standards for any existing compliance issue prior to the date of execution of this Agreement or that are not triggered by any modifications or improvements made by the Charter School. The Charter School shall only assume responsibility for compliance with ADA and FEHA access rights to the extent of any modifications or improvements made by the Charter School.

8. Signage. The Charter School shall be allowed to place signage on the exterior of the Facilities. The District will keep its own signage exhibited at the Site, identifying the school as operated by the District. The District shall have final approval over the design, content and location of the Charter School’s signage, but shall not unreasonably deny such design, content or location. The Charter School must remove the signage upon termination of this Agreement. The Charter School must restore the Facilities, following removal of the signage, to the condition existing prior to installation of the signage to District’s reasonable satisfaction. All such signage shall be subject to compliance with all applicable laws at Charter School’s sole cost.
9. Routine Maintenance. The Charter School desires that the District provide routine maintenance and repairs, for which the Charter School is responsible, for the Facilities, furnishings, and equipment used exclusively by the Charter School. The routine

maintenance and repairs for the Facilities shall be consistent with the routine maintenance and repairs provided for the District's facilities. The District shall also keep the furnishings and equipment provided to the Charter School under Section 5 of this Agreement in good order, condition, and repair. The Charter School will reimburse the District for the costs, including time, labor and materials, to maintain the Facilities in good order, condition and repair. Work invoices shall be provided by the District to the Charter School for all routine maintenance and repairs performed, and shall be paid by the Charter School within thirty (30) days of receipt. The District reserves the right to conduct periodic inspections of the Facilities to determine if routine maintenance or repairs are needed.

Upon the expiration or earlier termination of this Agreement, the Charter School shall surrender the Facilities, and any mutually agreed upon improvements or modifications, in the same condition as received, ordinary wear and tear excepted.

10. Major Facilities Maintenance Costs. The District shall bear all major facilities maintenance costs with respect to the buildings and grounds of the Facilities, except to the extent major facilities maintenance is required as a result of the Charter School's negligent or intentional acts occurring during its occupancy of the Facilities and is beyond the scope of maintenance provided at other District schools, in which case the Charter School shall directly reimburse the District for such major facilities maintenance costs. "Major facilities maintenance" includes all non-routine maintenance, replacement and repair services, including major maintenance and replacement of the roof, mechanical systems (heat, ventilation, air conditioning, electrical, plumbing), and other major maintenance and upgrades and any projects identified during the term of this Agreement that the District deems eligible to be included in its deferred maintenance plan established pursuant to Education Code Section 17582, at a level comparable with other District schools, and includes all such major facilities maintenance for which the District normally utilizes funding from the State or local facilities bond proceeds, developer fees, redevelopment agency revenue, and other non-operational sources not provided to the Charter School. To the extent that in any fiscal year the District's necessary major facilities maintenance costs for the Facilities are not funded by the State or other non-operational sources or are underfunded, during that fiscal year the District shall undertake major facilities maintenance at the Facilities only to the extent and on the same level that the District undertakes such maintenance at its other facilities.
11. Custodial Services. The Charter School shall be solely responsible for providing and paying directly for custodial services for the Facilities. Said services shall result in a level of performance consistent with custodial services maintained by the District for its other District schools. The Charter School shall bear the cost of such custodial services, including the salary and benefits of the Custodian and the cost of any cleaning supplies and tools necessary for the Custodian to provide services. The Charter School shall purchase, store and provide all consumable materials which the custodian shall use in provisioning the Facilities' restrooms, including but not limited to toilet paper, soap, and paper towels. In the event that Charter School fails to meet these standards, the District

may, at its sole option, provide custodial services for the Facilities, and the Charter School will become responsible for the salary and benefits of the District-supplied plant manager/custodian and the cost of the cleaning supplies, tools, and materials used by the custodian. This Section shall not apply to the provision of custodial services during breakfast and lunch periods, as described in Section 12.

12. Food Services. The District shall provide the R.O. Hardin cafeteria as the preparation site for all meals and snacks prepared for the Charter School by the District. R.O. Hardin's Multi-Purpose Room and covered outdoor seating area shall be used as shared seating space for all meals provided to R.O. Hardin and Charter School students. All food services and related custodial services shall be provided by District employees during all breakfast and lunch periods. The Charter School shall be responsible for all actual District costs for employees (pro-rated by enrollment), including salary and benefits, associated with the District's provision of food and related custodial services for the Charter School. For those breakfast and lunch periods where the District is not in session, and the Charter School requires meals for its students, the Charter School shall be responsible for all actual District costs for employees, including salary and benefits, associated with the District's provision of food and related custodial services for the Charter School. The District is participating in the Community Eligibility Provision (CEP) at R.O. Hardin. The District will invoice the Charter School for all meals served to Charter School students at the R.O. Hardin CEP funding model percentage each month as long as the CEP program continues at R.O. Hardin. In addition, the District will invoice the Charter School for the labor involved in feeding its students, including food preparation and custodial services, based on a percentage of total meal participation at R.O. Hardin. The District will invoice monthly, and the Charter School shall submit payment to the District in such form as required by the District on or before the last day of the following month.
13. Alterations and Additions. The Charter School shall add no fixtures, as that term is defined in Civil Code Section 660 ("Fixtures"), to the Facilities or any part thereof without obtaining the prior written consent of the District's Superintendent or designee. Any such Fixtures at the Facilities requested by the Charter School shall be paid for by the Charter School, and shall be contracted for and performed in accordance with all applicable law. The District may impose as a condition to the aforesaid consent such requirements as the District may deem necessary in its sole discretion, including without limitation, the manner in which the work is done, a right of approval of the contractor by whom the work is to be performed, and the times during which it is to be accomplished. Title to all Fixtures shall vest in the District or, at the District's request, any or all Fixtures shall be removed from the Facilities by the Charter School upon the expiration or earlier termination of this Agreement.
14. Entry by District. The District may enter the interior of the Facilities to which the Charter School has exclusive access with forty-eight (48) hours' notice to inspect the Facilities for repairs and maintenance, to supply any service to be provided by the District to the Charter School hereunder, and to alter, improve or repair the Facilities. In the case of an



emergency, the District may enter those Facilities without notice. The District may enter the Facilities to which the Charter School has shared access, and may be on the grounds outside of the rooms to which the Charter School has exclusive access, at any time.

The District may erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed so long as the Charter School's operations do not suffer unreasonable interference. The Parties understand that the District may be performing construction or facility modernization projects at the Site and that from time to time such activities may result in noise, dust, or other nuisance factors during the Charter School's regular school hours. The District agrees to use its best efforts at all times to provide the Charter School with advance notice of such activities and to keep interference to the academic programs at Charter School to a minimum. The Charter School waives any claim for damages for any inconvenience to or interference with the Charter School's business, any loss or use of quiet enjoyment of the Facilities related to District's entry for the purposes identified in this Section.

15. Employees, Contractors and Independent Contractors. The Charter School and the District, their employees, agents, contractors and subcontractors shall comply with the requirements of Education Code Sections 45125.1 and 45125.2 related to access to the Facilities and protection of minor students.
16. Indemnity. The Non-Profit and Charter School shall, jointly and severally, indemnify, hold harmless, and defend the District, its Board of Trustees, the members of its Board of Trustees, officers, employees and agents, individually and collectively, against and from any and all claims, demands, actions, suits, losses, liabilities, expenses and costs for any injury, death or damage to any person or property arising from the Charter School's use of the Facilities, excepting those claims, demands, actions, suits, losses, liabilities, expenses and costs arising from the negligent or intentional acts of the District, its employees, agents, officers and invitees.

The Non-Profit and Charter School shall further, jointly and severally, indemnify, hold harmless, and defend the District, its Board of Trustees, the members of its Board of Trustees, officers, employees and agents, individually and collectively, against and from any and all claims arising from any breach or default in the performance of any obligation on the individual or collective Charter School's part to be performed under the terms of this Agreement, and from all costs, attorneys' fees, and liabilities incurred in or about the defense of any such claim or any action or proceeding brought thereon.

The District shall indemnify, hold harmless, and defend the Charter School, its directors, the members of its Board of Directors, officers, employees and agents, individually and collectively, against and from any and all claims, demands, actions, suits, losses, liabilities, expenses and costs for any injury, death or damage to any person or property arising from the District's conduct of business at the Site, excepting those claims, demands, actions, suits, losses, liabilities, expenses and costs arising from the negligent or intentional acts of the Charter School, their employees, agents, officers and invitees.

The District shall further indemnify, hold harmless, and defend the Charter School, its directors, the members of its Board of Directors, officers, employees and agents, individually and collectively, against and from any and all claims arising from any breach or default in the performance of any obligation on the District's part to be performed under the terms of this Agreement, and from all costs, attorneys' fees, and liabilities incurred in or about the defense of any such claim or any action or proceeding brought thereon.

Upon becoming aware of any casualty or accident in or on the Facilities, each Party to this Agreement shall give prompt written notice thereof to the other Party.

In the event of a third party claim or potential claim covered by these provisions, the Parties agree to take all steps reasonable or necessary to cooperate in defending and protecting their joint interests, and in expediting all reasonable or necessary efforts to gain coverage for the Parties under any liability policy or indemnity agreement issued in favor of the Non-Profit, including indemnity rights or agreements existing in contracts between the Non-Profit and any third party (such as contract with a supplier of goods or services), and further including efforts to reduce defense costs (through joint representation whenever possible), expenses and potential liability exposures.

17. Insurance. In addition to all such insurance coverage required pursuant to the terms of any Operational Memorandum of Understanding ("MOU") entered into by and between the Parties, the Charter School shall, at all times during the term of this Agreement, and at its own cost and expense, procure and continue in force the following insurance coverage: Bodily Injury and Property Damage Liability insurance with a combined single limit for bodily injury and property damage of not less than One Million Dollars (\$1,000,000) per occurrence and Five Million Dollars (\$5,000,000) annual aggregate combined single limit ("CSL"). Such minimum limits of policies shall in no event limit the liability of the Charter School hereunder. Such insurance shall name the District as an additional insured. The Charter School may satisfy the insurance coverage requirements in this Agreement through participation in the California Charter School Association's Joint Powers Authority ("CCSAJPA") insurance program, provided that the limits of coverage provided through CCSAJPA must be equal to or great in its coverage than the coverage required in this Agreement. Insurance, unless obtained through CCSAJPA, shall be with companies having a rating of not less than A- in "Best's Insurance Guide". The Charter School shall furnish from the insurer or cause the insurer to furnish certificates of coverage to the District. No such policy shall be cancelable or subject to reduction of coverage or other modification or cancellation except after thirty (30) days prior written notice to the District by the insurer and with the consent of the District thereto.

In the event of property damage or personal injury caused by the Charter School, its officers, employees or agents, all such policies, including but not limited to coverage obtained through CCSAJPA, shall be considered primary policies not contributing with

and not in excess of the coverage that the District must carry. In the event property damage or personal injury is caused by the District, its officers, employees or agents, or any unaffiliated third party, the Charter School policies shall be secondary and in excess of the coverage that the District may carry. The Charter School shall, at least twenty (20) days prior to the expiration of such policies, furnish the District with renewals or binders. The Charter School agrees that if the Charter School does not take out and maintain such insurance, then the District may (but shall not be required to) procure said insurance on the Charter School's behalf and charge the Charter School the premiums together with a 15% handling charge, payable upon demand.

The Charter School shall have the right to provide such insurance coverage pursuant to blanket policies obtained by the Charter School provided such blanket policies expressly afford coverage to the Facilities and to the Charter School as required by this Agreement.

During the term of this Agreement, the District shall continue to maintain insurance against claims for injuries to persons or damages to property (real and personal, including any personal property of the District in amounts equal to that maintained by the District prior to the Charter School's occupancy.

18. Damage to or Destruction of School Site. The cost of restoring the Facilities under this Section shall be borne by the Non-Profit if the cause of the casualty is the negligence or intentional act of the Charter School, its employees, agents, students or invitees. The cost of restoring the Facilities under this Section shall be borne by the District if the cause of the casualty is the negligence or intentional act of the District, its employees, agents, or invitees. The Parties shall tender the cost of restoring the Facilities to their respective insurance carriers if the casualty is caused by a third party, natural events, acts of God, or any other non-human causes.

If the Facilities are damaged by any casualty which is covered under fire and extended coverage insurance carried by District, then District may restore such damage provided insurance proceeds are available to pay eighty percent (80%) or more of the cost of restoration and provided such restoration can be completed within ninety (90) days after the commencement of the work in the opinion of a registered architect or engineer appointed by District. In such event, this Agreement shall continue in full force and effect, except that Charter School shall be entitled to a proportionate reduction of use payments while such restoration takes place, such proportionate reduction to be based upon the extent to which the restoration efforts interfere with Charter School's business in the Facilities. The District shall provide the Charter School alternative space in the District for any part of the Charter School's program that is displaced by the partial damage and/or the repair work of the same. If the Charter School secures alternative space, the Charter School shall be entitled to the proportionate reduction in use payments while such restoration takes place.

If the Facilities are totally destroyed (defined as the destruction of more than fifty percent (50%) of the usable classroom space) or the Facilities cannot be restored as required

herein under applicable laws and regulations, notwithstanding the availability of insurance proceeds, then this Agreement shall be terminated effective the date of the damage. Immediately upon the effective date of the damage, the District must provide a reasonably equivalent school facility to the Charter School as soon as reasonable so as to avoid any interruption in the educational program of the Charter School.

19. Liens and Encumbrances. Charter School shall keep the Facilities free from any liens or encumbrances arising out of any work performed, materials furnished or obligations incurred by or on behalf of Charter School. Notwithstanding anything stated herein to the contrary, if the Charter School fails to promptly release and remove any such lien or encumbrance, District, at its sole option, may immediately (but shall not be obligated to) take all action necessary to release and remove such lien or encumbrance, without any duty to investigate the validity thereof, and all sums, costs and expenses, including reasonable attorneys' fees and costs, incurred by District in connection with such lien or encumbrance shall be immediately due and payable by Charter School.
20. Holding Over. Charter School shall not remain in possession of the Facilities or any part thereof after the expiration of this Agreement or after termination thereof without the express written consent of District. Notwithstanding the foregoing, if the Charter School holds over, the Charter School shall pay the District the monthly fair market value for use of the Facilities, which amount shall be calculated and assessed at the time of the holdover, plus all other charges payable required by this Agreement. Any holdover by Charter School requires the Charter School to comply with all terms of this Agreement. A holdover by the Charter School shall not trigger any additional term. The District shall have the right to remove the Charter School at any time after the expiration of the Term or termination of this Agreement.
21. Assignment and Sublicensing. The Charter School may not assign its rights under this Agreement or sublicense any portion of the Facilities without the prior written consent of the District.
22. Rules, Regulations and Law. The Charter School and the Charter School's agents, employees, students, visitors and invitees shall observe and comply fully and faithfully with all reasonable and nondiscriminatory policies, rules, and regulations adopted by the District for the care, protection, cleanliness, and operation of the Facilities, and the Facilities' furnishings and equipment, and shall comply with all applicable laws. The District will provide the Charter School with copies of the relevant written custodial and maintenance policies. The District will provide any such written policies that are amended during the term of the Agreement.
23. Default by Charter School. The occurrence of any one or more of the following events shall constitute a default and material breach of this Agreement by Charter School or the Non-Profit:
  - a. The failure by Non-Profit to utilize the Facilities for the sole purpose of operating

the Charter School, and activities reasonably related thereto.

b. The failure by Charter School to make timely payments required under this Agreement.

c. The failure by Non-Profit or the Charter School to observe or perform any of the material express covenants, conditions or provisions of this Agreement.

d. The revocation or non-renewal of the Charter School's charter. Notwithstanding the foregoing, this Agreement shall not be terminated pursuant to this provision provided that the Charter School continues to operate in accordance with the terms of this Agreement and is diligently pursuing a statutory or judicial appeal of the revocation or nonrenewal of its charter. In the instance of a default pursuant to this Subsection (d), the District may impose the following remedy: The Facilities allocated to the Charter School shall revert back to District possession and use.

In the event of any default or material breach, as described in Subsection (a) or (b), the District may, but shall not be obligated to, terminate this Agreement and the Charter School's right to possession of the Facilities upon fifteen (15) days written notice therefore to the Charter School if the default is not cured within the fifteen (15) day period. In the event of any other material default or breach by the Charter School, the District may, but shall not be obligated to, terminate this Agreement and the Charter School's right to possession of the Facilities upon thirty (30) days written notice thereof to the Charter School if the default is not cured within the thirty (30) day period. If the nature of the default is such that the same cannot reasonably be cured within said thirty (30) day period, the Charter School shall not be in default if the Charter School shall within such thirty (30) day period commence such cure and thereafter, diligently prosecute the same to completion. In no event shall such period to cure exceed sixty (60) days.

Upon termination, District shall retain the right to recover from the Charter School, without limitation, any amounts due under this Agreement or applicable law. Unpaid fees due to the District pursuant to this Agreement shall bear interest from the date due at the maximum legal rate. In the event of termination by the District by reason of the Charter School's default or breach of this Agreement, the District shall not be obligated to provide facilities to the Charter School pursuant to Proposition 39 for the remainder of that school year.

24. Waiver. The waiver by either Party of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of any charge hereunder by District or payment of any charge by the Charter School shall not be deemed to be a waiver of any preceding default by the Charter School or the District of any term, covenant or condition of this Agreement, other than the failure of the Charter School to pay the particular charge so accepted, regardless

of the District's knowledge of such preceding default at the time of the acceptance of such charge.

25. Successors and Assigns. The covenants and conditions herein contained, subject to the provisions as to assignment, apply and bind the heirs, successors, executors, administrators and assigns of the Parties hereto.
26. Amendment. No provision of this Agreement may be amended or modified except by an agreement in writing signed by the Parties hereto.
27. Construction. Each of the Parties acknowledges and agrees that this Agreement is to be construed as a whole according to its fair meaning and not in favor of nor against any of the Parties as draftsman or otherwise.
28. Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California applicable to instruments, persons, transactions and subject matter which have legal contacts and relationships exclusively within the State of California. Any action or proceeding seeking any relief under or with respect to this Agreement shall be brought solely in the Superior Court of the State of California for San Benito County, subject to any motion for transfer of venue.
29. Severability. If any provision or any part of this Agreement is for any reason held to be invalid, unenforceable or contrary to public policy, law, or statute and/or ordinance, the remainder of this Agreement shall not be affected thereby and shall remain valid and fully enforceable.
30. Prevailing Authority. In the event of a conflict between the law and the terms of this Agreement, the law shall prevail, and any such conflicting terms shall be severed from this Agreement and nullified. In the event of a conflict between the terms of the Charter and the terms of this Agreement, the terms of this Agreement shall prevail. The Parties shall meet and confer to determine how to correct any conflicts so this Agreement complies with the Charter.
31. No Admission. Except as expressly agreed herein, nothing contained herein shall constitute an admission of fact or law.
32. Binding Obligation. The Non-Profit expressly agrees that this Agreement is a binding obligation on the Non-Profit and the Charter School and the District agrees that this Agreement is a binding obligation on the District.
33. Prior Agreements. This Agreement contains all of the agreements of the Parties hereto with respect to any matter covered or mentioned in this Agreement, and no prior agreements or understanding other than the Charter School's petition approved by the District's Governing Board and expiring June 30, 2023 ("Charter") and any Operational MOU between the Hollister School District and the Charter School pertaining to any

such matters shall be effective for any purpose. In case of any conflict between this Agreement and the Charter, the Charter shall prevail. In case of any conflict between this Agreement and an Operational MOU, the Operational MOU shall prevail.

34. Subject to Approval by Governing Board. This Agreement shall become effective upon ratification by the District's Governing Board.
35. Notices. All notices and demands that may be or are to be required or permitted to be given by either Party to the other hereunder shall be in writing. All notices and demands by the District to the Non-Profit or the Charter School shall be sent by United States Mail, postage prepaid, addressed to the Non-Profit or the Charter School at the address set forth below. All notices and demands by the Non-Profit and/or the Charter School to the District shall be sent by United States Mail, postage prepaid, addressed to the District at the address set forth below.

To the District:

Hollister School District  
Attn: Erika Sanchez, Superintendent  
2690 Cienega Road  
Hollister, California 95023  
esanchez@hesd.org

To Non-Profit or Charter School:

Hollister Prep School  
Attn: Kevin Sved, Chief Executive Officer  
650 San Benito Street, Suite 230  
Hollister, CA 95023  
ksved@navigatorschools.org

36. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original of the Agreement. Signatures transmitted via facsimile or portable document format ("pdf") to other Parties to this Agreement shall be deemed equivalent to original signatures on counterparts.
37. Warranty of Authority. Each of the persons signing this Agreement represents and warrants that such person has been duly authorized to sign this Agreement on behalf of the Party indicated, and each of the Parties by signing this Agreement warrants and represents that such Party is legally authorized and entitled to enter into this Agreement.

Non-Profit and Charter School

District

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

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

Kevin Sved,  
Chief Executive Officer

Erika Sanchez,  
Superintendent

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

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

Approved and ratified this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by the Board of Trustees of the Hollister School District by the following vote:

AYES:

NOES:

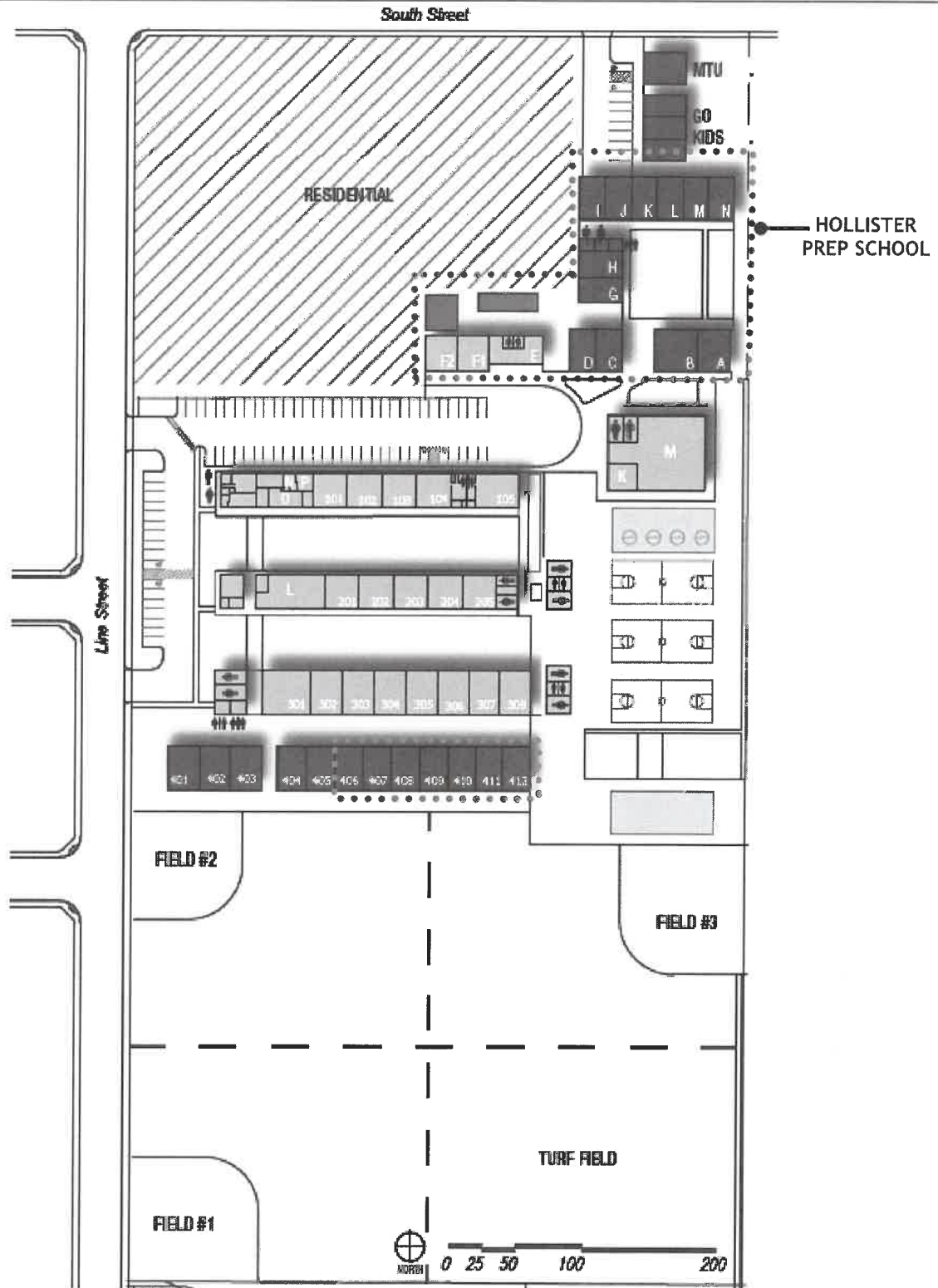
Abstentions:

\_\_\_\_\_  
Secretary to the Board of Trustees





R. O. HARDIN ELEMENTARY SCHOOL / HOLLISTER PREP SCHOOL  
CAMPUS MAP



	CAMPUS BUILDINGS	<b>K</b>	Kitchen	<b>O</b>	Office
	SOLAR STRUCTURE	<b>L</b>	Library	<b>P</b>	Principal Office
	RESTROOMS	<b>M</b>	Multipurpose	<b>S</b>	Storage
		<b>N</b>	Nurse		

## **Exhibit A**

Facilities consist of: Rooms A to D, inclusive, E, F1, F2, and G to N, inclusive  
Rooms 27 – 31, inclusive (known as Rooms 406 - 412, inclusive)  
Garage  
Storage container (adjacent to office/administrative rooms)  
Multi-purpose room  
Library  
Playfields: Fields #2 and #3