



## Navigator Schools

### NS Special Board Meeting

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#### Date and Time

Wednesday January 13, 2021 at 3:00 PM PST

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This meeting will take place via teleconference pursuant to Executive Orders N-25-20 and N-29-20.

The Board of Directors and employees of Navigator Schools shall meet via Zoom. Members of the public who wish to access this board meeting may do so online at <https://zoom.us/join> or via telephone by calling Zoom phone numbers: (669) 900-6833 or (646) 876-9923. The meeting ID is: **92707533943**. The meeting password is: **248273**.

Members of the public attending online who wish to comment during the board meeting will use the online “raise hand” tool in Zoom when the chairperson elicits public comments. Members of the public planning to attend by phone are requested to confirm their intent to comment up to one hour prior to the meeting by calling (831) 217-4894.

Individual comments will be limited to three minutes. If an interpreter is needed, comments will be translated into English and the time limit shall be six minutes. At its discretion, the board may limit the total time allotted to public comments and set new time limits for individual comments. The board reserves the right to mute and remove a participant from the meeting if the participant unreasonably disrupts the meeting.

Requests for disability-related modifications or accommodations to participate in this public meeting should be made forty-eight hours prior to the meeting by calling (831) 217-4894. All efforts will be made for reasonable accommodations. The agenda and public documents will be modified upon request as required by Section 202 of the Americans with Disabilities Act.

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#### Agenda

	Purpose	Presenter	Time
<b>I. Opening Items</b>			<b>3:00 PM</b>
Opening Items			
<b>A.</b> Record Attendance and Guests		John Flaherty	2 m
The chairperson will direct S. Martin to confirm attendance via roll call.			
<b>B.</b> Call the Meeting to Order		John Flaherty	1 m
<b>C.</b> Public Comments		John Flaherty	5 m
The board will receive public comments regarding non-agenda items, if any, following expectations and time limits reviewed by the chairperson.			
<b>II. Topical Items</b>			<b>3:08 PM</b>
<b>A.</b> Watsonville Prep School Facilities	Discuss	Kevin Sved	25 m
Board members and staff will discuss plans to utilize 407 Main Street as the permanent home for Watsonville Prep School.			
<b>III. Closed Session</b>			<b>3:33 PM</b>
<b>A.</b> Announcement of Reasons for Closed Session	FYI	John Flaherty	1 m
<b>B.</b> Vote to Enter Closed Session	Vote	John Flaherty	2 m
The board will vote to enter closed session.			
<b>C.</b> Closed Session	FYI	John Flaherty	15 m
The board will meet in closed session. During closed session the board will discuss			
1. Negotiations for real property at 407 Main Street, Watsonville, CA, Gov't Code Section 54956.8			
2. Negotiations for real property at 437 Rogers Avenue, Watsonville, CA, Gov't Code Section 54956.8			
<b>IV. Open Session</b>			<b>3:51 PM</b>
<b>A.</b> Announcement of Actions Taken During Closed Session	FYI	John Flaherty	2 m
The board chair will announce actions taken during closed session, if any.			

	Purpose	Presenter	Time
<b>B.</b> Board Resolution 2021-05: Watsonville Prep School Financing	Vote	John Flaherty	5 m
The board will consider voting on the approval of BR 2021-05, Watsonville Prep School Financing.			

**V. Closing Items** **3:58 PM**

<b>A.</b> Adjourn Meeting	Vote	John Flaherty	2 m
Board members will vote to adjourn the meeting. The board chair will direct S. Martin to record votes via roll call.			

# Coversheet

## Board Resolution 2021-05: Watsonville Prep School Financing

<b>Section:</b>	IV. Open Session
<b>Item:</b>	B. Board Resolution 2021-05: Watsonville Prep School Financing
<b>Purpose:</b>	Vote
<b>Submitted by:</b>	
<b>Related Material:</b>	Lease Agreement 407 Main 01-12-21.pdf BR 2021_05 WPS Financing 01-13-21.pdf

**MASTER LEASE AGREEMENT****BASIC LEASE INFORMATION**

1. **Date of Lease:** January 13, 2021
2. **Building:**
  - a. Address: 407 Main Street, Watsonville, CA (the “Building”)
  - b. Building Rentable Area: 75,500 square feet
3. **Tenant:** 407 MAIN STREET, LLC, a California limited liability company
4. **Premises:**

Approximately 37,750 square feet on the second floor and approximately 3,417square feet of enclosed play space on the first floor which shall include a dedicated first floor entrance.
5. **Basic Rent:** Commencing as of July 1<sup>st</sup> of each year set forth below:

<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026, et sequenti</u>
\$0.00	\$100,000.00	\$200,000.00	\$280,000.00	\$320,000.00	\$460,000.00	per §2.1.1

6. **Tenant's Share:** 55.5% (See Section 1.1.2)
7. **Operating Expense Base Year:** 2020
8. **Tax Base Year:** 2020
9. **Initial Term:** July 1, 2020 – June 30, 2051
10. **Commencement Date:** Rent commencement shall be July 1, 2020.
11. **Expiration Date:** June 30, 2051.
12. **Option (s):** Lessee is granted three (3) options to renew this lease for additional seven (7) year periods for each option, on the same terms and conditions as specified in this lease, except the monthly rental amount will be increased by 2% each year over the previous year's lease rate.
13. **Permitted Use:** An educational facility for grades between TK through 12<sup>th</sup> Grade and all uses ancillary thereto.
14. **Security Deposit:** \$25,000.00.

15. **Addresses:**

Landlord:

800 E. Lake Ave.

Watsonville, CA 95076

Attn: William Hansen, Co-Trustee

Tenant:

650 San Benito Street, Suite 230

Hollister, CA 95023

Attn: Kevin Sved, CEO

16. **Parking:**

20 parking spaces and a pick-up and drop-off zone in front of the Northern entrance of the alley to be available at arrival and dismissal times. Each year after the 2020-2021 school year, four additional parking spaces will be added until school reaches full enrollment in 2025-26 when 40 parking spaces will be allocated. (See Section 15.12.)

17. **Tenant Broker:** None (See Section 15.6)

18. **Landlord Broker:** None (See Section 15.6)

## **MASTER LEASE**

This MASTER LEASE (this "Lease") is made by and between HANSEN FAMILY TRUST ("Landlord"), and 407 MAIN STREET, LLC, a California limited liability company ("Tenant") or affiliated entity. The Basic Lease Information attached hereto as pages(i) and (ii) (the "Basic Lease Information") and all exhibits and other attachments to this Lease are incorporated into this Lease and made a part hereof. Capitalized terms used in this Lease without definitions have the respective meanings assigned to them in the Basic Lease Information.

### **1. TERM AND POSSESSION**

#### **1.1 LEASE OF PREMISES, COMMENCEMENT AND EXPIRATION.**

**1.1.1 Lease of Premises.** The Building is constructed on the land described in Exhibit A attached hereto (the "Land"). In consideration of the mutual covenants herein, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises, subject to all the terms and conditions of this Lease. The Premises are shown as the crosshatched area on Exhibit B attached hereto. The Building, the Land and all other improvements located thereon and appurtenances thereto are referred to collectively herein as the "Property."

**1.1.2 Rentable Area.** The agreed rentable area of the Premises is stipulated to be the Premises Rentable Area, which is set forth in the Basic Lease Information. The Tenant's Share stipulated in the Basic Lease Information has been calculated by dividing the Premises Rentable Area by the Building Rentable Area, then expressing such quotient as a percentage.

**1.1.3 Term and Commencement.** The Term of this Lease shall commence on the Commencement Date, and, unless sooner terminated pursuant to the terms of this Lease, shall expire, without notice to Tenant, on the Expiration Date. In the event the Commencement Date occurs on other than on the first day of the month, such partial month shall be added to the Term and the Expiration Date shall be the last day of the last month of the Term.

#### **1.2 COMPLETION AND DELIVERY OF PREMISES.**

**1.2.1 Construction of Tenant's Work.** Tenant, at its sole cost and expense, shall construct on the Premises the works of improvement (the "Tenant's Work") as described in, and pursuant to, the work letter attached hereto as Exhibit D (the "Work Letter").

**1.2.2 Occupancy of the Premises.** Tenant shall have no right to occupy any portion of the Premises prior to the Commencement Date except to construct Tenant's Work. Notwithstanding the foregoing, so long as Landlord has received from Tenant certificates satisfactory to Landlord evidencing the insurance required to be carried by Tenant under this Lease, Landlord shall use reasonable efforts to give Tenant access to the Premises for approximately twenty (20) business days prior to the Commencement Date (the "Early Access Period") for purposes of installing Tenant's furniture, fixtures, and operational equipment. Tenant's access to the Premises during the Early Access Period shall be subject to all terms and conditions of this Lease; provided, however, so long as Tenant does not commence business operations in any part of the Premises, Tenant shall not be obligated to pay any monthly installments of Basic Annual Rent during the Early Access Period until the Commencement Date.

**1.3 REDELIVERY OF THE PREMISES.** Upon the expiration or earlier termination of this Lease or upon the exercise by Landlord of its right to re-enter the Premises without terminating this Lease pursuant to Section 13.2.2 below, Tenant shall immediately deliver to Landlord the Premises in a safe, clean, neat, sanitary and operational condition, ordinary wear and tear, damage by

casualty and/or condemnation and repairs required to be made by Landlord hereunder excepted, together with all keys and parking and access cards. At Landlord's option, all permanent fixtures installed and all voice and data cabling and wiring installed by Tenant in the Premises shall remain therein and become the property of Landlord unless Landlord requests removal which shall be removed at Tenant's expense; provided, the removal of Installations (defined in Section 6.3.3 below) and restoration of the Premises shall be governed by the terms of Section 6.3.3.

**1.4 HOLDING OVER.** In the event Tenant retains possession of the Premises after the expiration or earlier termination of this Lease, such possession shall constitute a tenancy at sufferance only, subject, however, to all of the terms, provisions, covenants and agreements on the part of Tenant hereunder. In such event, Tenant shall be subject to immediate eviction and removal and shall pay Landlord as rent for the period of such holdover an amount equal to one hundred and twenty five percent (125%) the Basic Annual Rent and Additional Rent (each as hereinafter defined) in effect immediately preceding expiration or termination, as applicable, which payments shall be due and payable on or before the first (1<sup>st</sup>) day of each month during any holdover period. Tenant shall also pay any actual damages sustained by Landlord as a result of such holdover but Tenant shall not be liable for punitive or exemplary damages.

**1.5 OPTION PERIODS.** Tenant shall have three (3) options to extend the Initial Term for seven (7) years each (each such option period, an "Option" and, collectively with the Initial Term, the "Term"). The Option must be exercised if at all by written notice (the "Option Notice") delivered by Lessee to Lessor not less than six (6) months prior to the then-scheduled Expiration Date, provided, however, that the Option shall not be exercisable unless, as of the date of the Option Notice and at the then-scheduled Expiration Date, Lessee is not in default hereunder. In the event the Term of this Lease shall be extended under this Section, then all of the terms, covenants and conditions of the Lease shall remain unmodified and in full force and effect, except that each Option Period shall commence immediately upon the expiration of the Initial Term or prior Option Period, as applicable.

## **2. RENT**

**2.1 BASIC RENT.** Tenant shall pay as annual rent for the Premises the Basic Rent identified in the Basic Lease Information ("Basic Annual Rent"). The Basic Annual Rent shall be payable in equal monthly installments due in advance, without demand, offset or deduction, commencing on the Commencement Date and continuing on the first (1<sup>st</sup>) day of each calendar month thereafter All payments shall be submitted through the Landlord's online payment processing portal unless otherwise designated by Landlord.

**2.1.1 Escalation of Basic Rent.** Commencing July 1, 2026, and continuing upon each anniversary date thereafter during the Term, the Basic Annual Rent shall be increased by two percent (2.0%) over the Basic Annual Rent in effect immediately prior thereto.

### **2.2 ADDITIONAL RENT.**

**2.2.1 Definitions.** For purposes of this Lease, the following definitions shall apply:

- (a) "Additional Rent" shall mean the sum of: (i) Tenant's Share multiplied by the amount by which Operating Expenses (hereinafter defined) for such calendar year exceed the Operating Expenses for the Operating Expense Base Year, plus (ii) Tenant's Share multiplied by the amount by which Taxes (hereinafter defined) for such calendar year



exceed Taxes (as defined in Section 2.2.1(c) for the Tax Base Year, plus (iii) any applicable rental, excise, sales, transaction, business activity tax or levy, imposed upon or measured by the rental required to be paid by Tenant under this Lease during the calendar year in question, plus (iv) all other costs, expenses, liabilities, and amounts which Tenant is required to pay under this Lease except for Basic Rent, including any applicable interest and/or late charges due Landlord hereunder.

- (b) "Operating Expenses" shall mean all of the costs and expenses Landlord incurs, pays or becomes obligated to pay in connection with operating, maintaining, insuring and managing the Property and Premises for a particular calendar year or portion thereof, as reasonably determined by Landlord in accordance with sound accounting principles and all taxes thereon, including, without limitation, all costs of maintaining and managing the Building and Premises. Notwithstanding the foregoing, the term Operating Expenses shall not include:
- (i) legal services, if incurred:
    - (A) in connection with tenant defaults, lease negotiations, except to review an assignment of said lease pursuant to section 11 or procuring new tenants, or
    - (B) as the result of a specific claim or action for which another tenant in the Building is obligated under its lease to pay Landlord's legal fees; and
  - (ii) any capital expenditures not agreed to by Tenant whose approval will not be unreasonably withheld;
  - (iii) any costs or expenses associated with the leasing, marketing, solicitation, negotiation and execution of leases in the Building including without limitation promotional and advertising expenses, commissions, finders fees and referral fees, accounting, legal and other professional fees and expenses relating to the negotiation and preparation of any lease;
  - (iv) any costs or expenses originally incurred in connection with the initial design and construction of the Building;
  - (v) any portion of the wages, salaries, benefits, reimbursable expenses and taxes (or allocations thereof) paid to full and part time personnel of Landlord (collectively, "Compensation Expenses") to the extent any employee's time is devoted to efforts unrelated to the maintenance and operation of the Building, provided that in no event shall Compensation Expenses of Landlord which are included in Operating Expenses exceed the then prevailing market compensation expense for a full-time building manager in comparable office buildings;
  - (vi) any costs or expenses related to monitoring, testing, removal, cleaning, abatement or remediation of any Hazardous or Toxic Materials (hereinafter defined) in the Building or on the Land except for such costs and expenses which relate to monitoring, testing, removal, clearing, abatement or remediation of substances which were designated as Hazardous or Toxic Materials after the Effective Date;

- (vii) any costs of any service or items sold or provided to tenants or other occupants for which Landlord or Landlord's managing agent has been or is entitled to be reimbursed by such tenants or other occupants for such service;
  - (viii) any costs for the purchase of sculptures, paintings, fountains or other objects of art or the display of such items;
  - (ix) any increase in Landlord's insurance premiums caused by a specific use of another tenant;
  - (x) any Operating Expense covered by insurance or condemnation proceeds or reimbursed pursuant to warranty or service contracts;
  - (xi) any costs or expenses incurred in connection with the renovation of space or construction of improvements for another tenant of the Building;
- (c) "Taxes" shall mean (i) all real estate taxes and other taxes or assessments which are levied with respect to the Property or any portion thereof for each calendar year (but excluding any penalties thereon), (ii) any tax, surcharge or assessment, however denominated, including any excise, sales, capital stock, assets, franchise, transaction, business activity, privilege or other tax (other than any rental tax, if applicable), which is imposed upon Landlord or the Property and which is attributable to rent or other revenue derived from the Property or which is imposed as a supplement to or in lieu of real estate taxes or as a means of raising government revenue to replace revenue lost because of a reduction in real estate taxes, and (iii) the costs and expenses of a consultant, if any, or of contesting the validity or amount of any tax, surcharge or assessment described in clause (i) or (ii) above. As a public school, Tenant is eligible for an exemption from property taxes levied against the Premises. Tenant shall submit an exemption application to the County each year and Landlord shall cooperate as necessary in same, and any benefit of said exemption shall inure to Tenant in the form of Tenant not being billed for said property taxes.

2.1.1 Payment Obligation. In addition to the Basic Rent specified in this Lease, Tenant shall pay to Landlord the Additional Rent in monthly installments as hereinafter provided. Landlord shall use reasonable efforts to provide Tenant with written notice of Tenant's estimated Additional Rent for the next calendar year and the amount of the monthly installment of Additional Rent due for such year by December 31st of each calendar year or as soon thereafter as practicable. Landlord shall have the right to increase Tenant's estimated Additional Rent during any calendar year if Landlord reasonably believes Operating Expenses and/or Taxes have increased (or are likely to increase) during such year. Beginning on the Commencement Date and continuing on the first day of each month thereafter, Tenant shall pay to Landlord the applicable monthly installment of Additional Rent, without demand, offset or deduction, provided, however, if the applicable installment covers a partial month, then such installment shall be prorated on a daily basis.

2.1.1.1 This subparagraph applies to each calendar year during which Additional Rent is owing except for the calendar year in which the Expiration Date occurs. Within ninety (90) days after the end of each calendar year or as soon thereafter as is reasonably possible, Landlord shall prepare and deliver to Tenant a statement showing Tenant's actual Additional Rent for the applicable calendar year. If Tenant's total monthly payments of estimated Additional Rent for the applicable year are less than

Tenant's actual Additional Rent, then Tenant shall pay to Landlord the amount of such underpayment. If Tenant's total monthly payments of estimated Additional Rent for the applicable year are more than Tenant's actual Additional Rent, then Landlord shall pay such amount to Tenant or, at Landlord's option, credit against the next Additional Rent payment or payments due from Tenant the amount of such overpayment. This provision shall survive the expiration or earlier termination of this Lease with respect to the calendar year in which the Expiration Date or termination occurs.

2.1.1.2 Within ninety (90) days after the Expiration Date or termination date of this Lease or as soon thereafter as practicable, Landlord shall prepare and deliver to Tenant a statement (the "Final Additional Rent Statement") showing Tenant's actual Additional Rent for the period beginning January 1 of the year in which the Expiration Date or termination date occurs and ending on the Expiration Date or termination date (such period is herein called the "Final Additional Rent Period"). Landlord shall have the right to calculate the actual Operating Expenses and Additional Rent allocable to the Final Additional Rent Period which are not determinable within such ninety (90) day period. If the aggregate of Tenant's monthly payments of estimated Additional Rent for the Final Additional Rent Period are less than Tenant's actual Additional Rent for such period as set forth in the Final Additional Rent Statement, then Tenant shall pay to Landlord the amount of such underpayment. If Tenant's monthly payments of estimated Additional Rent for the Final Additional Rent Period are more than Tenant's actual Additional Rent for such period as set forth in the Final Additional Rent Statement, Landlord shall pay to Tenant the amount of such excess payments, less any amounts then owed to Landlord.

2.1.1.3 Landlord will cause adequate books and records for Operating Expenses and Taxes and other amounts relevant to Tenant's obligations under this Lease to be maintained in accordance with the provisions set forth herein. Unless Tenant takes written exception to any item within thirty (30) days after delivery to Tenant of an annual statement or a statement delivered for the final Additional Rent period, such statement shall be considered as final and accepted by Tenant. Within twenty (20) business days following a request from Tenant, Landlord shall furnish written explanations to Tenant in reasonable detail for any computation made under this Lease. If Tenant questions such computation following receipt of such explanation, Tenant shall give notice thereof to Landlord, and Landlord and Tenant shall, within twenty (20) business days thereafter, discuss, in good faith, such computation.

**2.2 RENT DEFINED AND NO OFFSETS.** Basic Annual Rent, Additional Rent and all other sums (whether or not expressly designated as rent) required to be paid to Landlord by Tenant under this Lease (including, without limitation, any sums payable to Landlord under any addendum, exhibit or schedule attached hereto) shall constitute rent and are sometimes collectively referred to as "Rent". Each payment of Rent shall be paid by Tenant when due, without prior demand therefor and without deduction or setoff.

**2.3 LATE CHARGES; INTEREST RATE.** If any Rent under this Lease shall not be paid within five (5) days of the date such payment is due, a "Late Charge" of five percent (5%) of the payment then overdue may be charged by Landlord to defray Landlord's administrative expense incident to the handling of such overdue payments. Furthermore, any amount due from Tenant to Landlord which is not paid within ten (10) days after the date due shall bear interest at the lower of (i) ten percent (10%) per annum or (ii) the highest rate from time to time allowed by applicable law, from the date such payment is due until paid.

### **3. SECURITY DEPOSIT**

Landlord acknowledges that Tenant has paid to Landlord the Security Deposit described in Section 13 of the Basic Lease Information as security for the performance of the terms hereof by Tenant. Tenant shall

not be entitled to interest thereon and Landlord may commingle such Security Deposit with any other funds of Landlord. The Security Deposit shall not be considered an advance payment of rental or a measure of Landlord's damages in case of default by Tenant. If a default by Tenant shall occur under this Lease, Landlord may, but shall not be required to, from time to time, without prejudice to any other remedy, use, apply or retain all or any part of this Security Deposit for the payment of any Rent or any other sum in default or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default, including, without limitation, costs and attorneys' fees incurred by Landlord to recover possession of the Premises. If Landlord shall use, apply or retain all or any part of the Security Deposit as provided for above, Tenant shall restore the Security Deposit to the amount set forth in the Basic Lease Information within thirty (30) days after receipt of notice from Landlord. The Security Deposit, if not previously used or applied by Landlord, shall at the election of Tenant be applied to Rent owing in the last month of the Term or be returned to Tenant within thirty (30) days after the Expiration Date.

#### 4. OCCUPANCY AND USE

##### 4.1 USE OF PREMISES.

4.1.1 General. The Premises shall, subject to the remaining provisions of this Section, be used solely for the Permitted Use. Without limiting the foregoing, Tenant shall comply with all laws, statutes, ordinances, orders, permits and regulations affecting Tenant's use and occupancy of the Premises. Tenant will not do or permit anything which may disturb the quiet enjoyment of any other tenant of the Property.

4.1.2 Landlord's Compliance Obligation. Landlord shall comply with all laws, statutes, ordinances, orders and regulations relating to the Property (exclusive, however, of those with which Tenant is obligated to comply by reason of Section 4.1.1) as of the Date of Lease.

##### 4.1.3 Hazardous and Toxic Materials.

- (a) For purposes of this Lease, hazardous or toxic materials shall mean asbestos containing materials and all other materials, substances, wastes and chemicals classified as hazardous or toxic substances, materials, wastes or chemicals (individually and collectively, "Hazardous or Toxic Materials") under then-current applicable governmental laws, rules or regulations or that are subject to any right-to-know laws or requirements (individually and collectively, "Environmental Laws").
- (b) Tenant shall not knowingly incorporate into, or use or otherwise place or dispose of at the Premises or any other portion of the Property, any Hazardous or Toxic Materials, except for use and storage of cleaning and office supplies used in the ordinary course of Tenant's business and then only if (i) such materials are in small quantities, properly labeled and contained, and (ii) such materials are handled and disposed of in accordance with the highest accepted industry standards for safety, storage, use and disposal. If Tenant or its employees, agents or contractors shall ever violate the provisions of paragraph (b) of this Section 4.1.3 or otherwise contaminate the Premises or the Property, then, at Landlord's election, either Tenant or Landlord shall clean, remove and dispose of the material causing the violation, in compliance with all applicable governmental standards, laws, rules and regulations and then prevalent industry practice and standards (the "Remediation Work"). In the event Tenant performs such work, Tenant shall repair any damage to the Premises or the Property (collectively with the Remediation Work, "Tenant's Environmental Corrective Work")

in such period of time as may be reasonable under the circumstances after written notice by Landlord. In the event Landlord performs the Tenant's Environmental Corrective Work, within thirty (30) days after receiving an invoice, Tenant shall reimburse Landlord for the costs incurred by Landlord to perform such Tenant's Environmental Corrective Work. Tenant's obligations under this Section 4.1.3(b) shall survive the expiration or earlier termination of this Lease.

- (c) Landlord has no current knowledge of the presence of, and Landlord shall not knowingly dispose of at the Premises or any other portion of the Property, any Hazardous or Toxic Materials that would materially and adversely affect Tenant's access, use or occupancy of the Premises or otherwise pose any material risk or material threat to the health, safety or welfare of Tenant or any of its employees or guests. If Landlord or Landlord's employees, agents or contractors cause Hazardous or Toxic Materials to be located at the Property or if any Hazardous or Toxic Materials exists that predates Tenant's occupancy of the Property (including any Early Occupancy Period), Landlord shall perform the Remediation Work at its sole cost and expense. If Tenant is prevented from using, and does not use, the Premises or any portion thereof for five (5) consecutive business days or fifteen (15) days in any twelve (12) month period ("Eligibility Period") as a result of the presence of Hazardous or Toxic Materials in, on the Premises or the Building which were not caused or introduced by Tenant or Tenant's agents, employees, licenses or invitees, where such Hazardous or Toxic Materials pose a health risk to occupants of the Premises as determined by a governmental body or agency and such health risk renders the Premises unsuitable for Tenant's Permitted Use, then Tenant's obligation to pay Rent shall be abated or reduced, as the case may be, from and after the first (1st) day following the Eligibility Period and continuing for such time that Tenant continues to be so prevented from using, and does not use, the Premises or a portion thereof, in the proportion that the rentable square feet of the portion of the Premises that Tenant is prevented from using, and does not use, bears to the total rentable square feet of the Premises.

**4.2 RULES AND REGULATIONS.** Tenant will comply with all rules and regulations applying to tenants in the Building (the "Rules and Regulations") as may be adopted and uniformly applied from time to time by Landlord for (a) the management, safety, care and cleanliness of, and the preservation of good order and protection of property in, the Premises and the Building and at the Property, (b) the increase in energy efficiency of the Building and the Property, (c) the decrease in the use of natural resources in the Building and the Property or the waste of the same, (d) recycling of reusable items, and (e) such other goals which result in the decrease in the carbon footprint of the Building and the Property. Landlord may rescind, supplement and amend any Rules and Regulations so long as any change in the Rules and Regulations does not diminish the rights granted to Tenant in this Lease, cause harm to Tenant, or interfere with Tenant's use of the Premises for the Permitted Use. The Rules and Regulations in effect on the date hereof are attached hereto as Exhibit C to this Lease. All changes and amendments to the Rules and Regulations sent by Landlord to Tenant in writing and conforming to the foregoing standards shall be carried out and observed by Tenant. In the event of any conflict between the Rules and Regulations and the provisions of this Lease, the provisions of this Lease shall prevail. Landlord hereby reserves all rights necessary to implement and enforce the Rules and Regulations.

**4.3 ACCESS.** Without being deemed guilty of an eviction of Tenant and without abatement of Rent, Landlord and its authorized agents shall have the right to enter the Premises during Normal Business Hours upon forty-eight (48) hours' notice to Tenant to inspect the Premises, to show the Premises to prospective lenders or purchasers, and to fulfill Landlord's obligations or exercise its rights

under this Lease and, upon Landlord's receipt of a notice of non-renewal from Tenant and in any event during the last nine (9) months of the Term, to show the Premises to prospective tenants; provided, however, that Landlord and Landlord's invitees shall comply with all reasonable requirements of Tenant with respect to the preservation of student privacy and safety, and instructional efficacy during school hours. Landlord shall have the right to use any and all means which Landlord may deem proper to enter the Premises in an emergency. Tenant hereby waives any claim for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises and any other loss occasioned thereby. Landlord shall at all times have and retain a key with which to unlock the doors to and within the Premises, excluding Tenant's vaults and safes.

**4.4 QUIET POSSESSION.** Provided Tenant timely pays Rent and performs all of the covenants, conditions and provisions on Tenant's part to be performed hereunder, Tenant shall have the quiet possession and enjoyment of the Premises for the entire Term hereof, subject to all of the provisions of this Lease. Landlord covenants that the Property does not contain, and will not contain during the term of this Lease, any business or establishment selling, or permitting the use of, marijuana, tobacco, or alcohol, wine, beer, or other intoxicating liquor.

**4.5 PERMITS.** If any governmental license or permit shall be required for the proper and lawful conduct of Tenant's business in the Premises or any part thereof, Tenant, at its expense, shall procure and thereafter maintain such license or permit. Additionally, if any subsequent alteration or improvement is made to the Premises by Tenant, Tenant shall, at its expense, take all actions to procure any such modification or amendment or additional permit.

**4.6 BACKGROUND CHECKS.** All Landlord employees, agents, contractors, or other individuals sent to the Premises by Landlord who will have regular or unsupervised contact with Tenant's students and employees shall submit to a criminal background check (with a request for subsequent arrest notifications) and furnish Tenant with verification that Landlord has received and reviewed the criminal record summary consistent with the terms of Education Code Sections 44237 and 45125.1 for all employees, agents, contractors, or other individuals sent to the Premises by Landlord, and has determined that they have not been convicted of a violent felony listed in Penal Code Section 667.5(c), a serious felony listed in Penal Code Section 1192.7(c), a sex offense listed in Education Code Section 44010, a controlled substance offense listed in Education Code Section 44011, a crime involving moral turpitude (e.g., embezzlement, perjury, fraud, etc.), or any offense which may make the employee unsuitable/undesirable to work around students. Any Landlord employee, agent, contractor, or other individual sent to the Premises by Landlord who has been convicted of a violent felony listed in Penal Code Section 667.5(c), a serious felony listed in Penal Code Section 1192.7(c), a sex offense listed in Education Code Section 44010, a controlled substance offense listed in Education Code Section 44011, a crime involving moral turpitude (e.g., embezzlement, perjury, fraud, etc.), or any offense which may make the employee unsuitable/undesirable to work around students shall not be allowed to enter the Premises. Should Landlord receive a subsequent arrest notification, Landlord shall immediately notify Tenant and the parties will determine, consistent with applicable law and School policies, whether that individual may continue to enter the Premises.

In addition, all Landlord employees, agents, contractors, or other individuals sent to the Premises by Landlord who will have regular contact with Tenant students and employees shall not enter the Premises unless the person has submitted to a risk assessment and/or be examined and determined to be free of active tuberculosis (TB) within the period of 60 days prior to employment/service, or otherwise meet the requirements of Education Code section 49406. Landlord shall maintain proof of compliance with these provisions and shall provide written confirmation of compliance for each employee and volunteer who comes into contact with Tenant's students and/or staff at Tenant's request.



## 5. UTILITIES

### 5.1 UTILITIES.

**5.1.1 Responsibility for Payment.** Landlord shall pay for all water, sewer, gas, heat, light, power, and (except as provided in the immediately following sentence) any other services or utility provided to and consumed on the Premises, and Tenant shall pay to Landlord its Tenant's Share of the cost thereof in the manner set forth in Section 2.2.1(b) ("Operating Expenses"). Tenant shall pay for janitorial services and garbage collection services for the Premises.

**5.1.2 Non-Liability of Landlord.** Landlord shall not be liable for any failure or interruption for any reason of any utility service being furnished to the Premises, except in cases of Landlord's negligence or misconduct.

**5.1.3 Separate Metering.** Landlord reserves the right to require, or Tenant may, subject to Landlord's reasonable approval, elect to install and maintain its own meter for any utilities that are jointly metered by written notice delivered to Landlord sixty (60) days prior to the initiation by Tenant of any work to effectuate such change. All separate meters shall be installed and maintained at Tenant's sole cost and expense.

**5.1.4 Elevator Service.** For the automatic elevator located within Tenant's leased Premises, Tenant will manage maintenance of the elevator facility, at Tenant's expense..

**5.1.5 Access.** Subject to the terms of this Lease, Landlord shall provide Tenant with access to the Property twenty-four (24) hours a day seven (7) days a week.

### 5.2 SERVICE INTERRUPTION.

**5.2.1 Service Interruption/Waiver of Landlord Liability.** Landlord shall not be liable for and, except as provided in Section 5.2.2 below, Tenant shall not be entitled to any abatement or reduction of Rent by reason of, interruption of any of the foregoing services when such interruption is caused by circumstances beyond Landlord's reasonable control, nor shall any such interruption be construed as an eviction (constructive or actual) of Tenant or as a breach of the implied warranty of suitability, or relieve Tenant from the obligation to perform any covenant or agreement herein and in no event shall Landlord be liable for damage to persons or property (including, without limitation, business interruption), or be in default hereunder, as a result of any such interruption or results or effects thereof. Tenant hereby waives the provisions of any applicable existing or future law, ordinance or governmental regulation permitting the termination of this Lease due to an interruption, failure or inability to provide any services (including, without limitation, the provisions of California Civil Code Section 1932(1)).

**5.2.2 Limited Right to Abatement of Rent.** If any portion of the Premises becomes unfit for occupancy because of actions or decisions made by Landlord or any other tenants within the Property, Tenant shall be entitled to a fair partial abatement of Basic Annual Rent and Additional Rent for any such portion of the Premises until such portion is again fit for occupancy.

**5.3 TELECOMMUNICATION EQUIPMENT.** In the event that Tenant wishes at any time to utilize the services of a telephone or telecommunications provider whose equipment is not then servicing the Building, no such provider shall be permitted to install its lines or other equipment within

the Building without first securing the prior written approval of Landlord which shall not be unreasonably withheld, conditioned, or delayed.

## **6. MAINTENANCE, REPAIRS, ALTERATIONS AND IMPROVEMENTS**

**6.1 LANDLORD'S OBLIGATION TO MAINTAIN AND REPAIR.** Landlord shall maintain the foundation, floor and ceiling slabs, roof, curtain wall, 1<sup>st</sup> Floor exterior glass and mullions, columns, beams, all Common Areas, Service Corridors and Service Areas (collectively the "Building Structure") and core Building mechanical, electrical, life safety, plumbing, sprinkler systems and core HVAC systems (collectively, the "Building Systems") in first class condition and repair and shall operate the Building in a manner comparable to similar commercial buildings in the area. Notwithstanding anything in this Lease to the contrary, Tenant shall be neither required nor permitted to make any repair to, modification of, or addition to the Building Structure and/or the Building Systems except to the extent required (and after prior written approval by Landlord using contractors approved in writing by Landlord) because of Tenant's use of all or a portion of the Premises for other than normal and customary business office operations. Except for the elements of the Building described herein, Landlord shall not be required to maintain or repair any portion of the Premises.

### **6.2 TENANT'S OBLIGATION TO MAINTAIN AND REPAIR.**

**6.2.1 Tenant's Obligation.** Tenant shall, at Tenant's sole cost and expense, (i) maintain and keep the Premises (including, but not limited to, all fixtures, walls, ceilings, floors, doors, windows except replacement of 1<sup>st</sup> Floor exterior plate glass, appliances, HVAC units installed by Tenant, data and phone cables, satellite dishes, antennas and any and all other equipment which is a part of or serves the Premises other than those items that are the obligation of the Landlord pursuant to Section 6.1 above) in good repair and condition, ordinary wear and tear excepted, and (ii) repair or replace any damage or injury done to the Building or any other part of the Property caused by Tenant, Tenant's agents, employees, licensees, invitees or visitors. All repairs and replacements performed by or on behalf of Tenant shall be performed diligently, in a good and workmanlike manner and in accordance with applicable governmental laws, rules, and regulations.

### **6.3 IMPROVEMENTS AND ALTERATIONS.**

**6.3.1 Tenant's Construction Obligations.** Tenant's sole construction obligations under this Lease are as set forth in Exhibit D attached hereto.

**6.3.2 Alteration of Building.** Provided it does not materially interfere with, impede or otherwise limit Tenant's use of the Premises for its Permitted Use, Landlord shall have the right to repair, change, redecorate, alter, improve, modify, renovate, enclose or make additions to any part of the Property (including, without limitation, structural elements and load bearing elements within the Premises and to enclose and/or change the arrangement and/or location of driveways or parking areas or landscaping or other Common Areas of the Property), all without being held guilty of an actual or constructive eviction of Tenant or breach of the implied warranty of suitability and without an abatement of Rent (the "Reserved Right") as long as said Reserved Right would not interfere with Tenant's Permitted Use. When exercising the Reserved Right, Landlord will ensure that Tenant's use of the Premises is not materially interfered with.

**6.3.3 Installations and Installations by Tenant.** Tenant shall not, without the prior written consent of Landlord, not to be unreasonably withheld, conditioned or delayed, make any alterations to, or install any equipment or machinery of any kind (other than office and school equipment and unattached personal property) in the Premises (all such alterations are herein collectively referred to



as "Installations"). All work performed by Tenant or its contractor relating to the Installations shall be performed diligently and in a good and workmanlike manner, and shall conform to applicable governmental laws, rules and regulations, Landlord's insurance requirements and all rules for performing work in the Building. Landlord may also require, as a condition to its consent to any Installations, that any architect retained by Tenant in connection with such Installations be certified as a Certified Access Specialist (CASp), and that following the completion of such Installations, such architect shall certify the Premises as meeting all applicable construction-related accessibility standards pursuant to California Civil Code Section 55.53. Upon completion of the Installations, Tenant shall deliver to Landlord "as built" plans in a format reasonably acceptable to Landlord. All Installations that constitute fixtures within the Premises shall be surrendered with the Premises at the expiration or earlier termination of this Lease, unless prior to construction of the Installations and as a condition of Landlord's approval thereof, Landlord requires that some or all of the Installations be removed by Tenant at Tenant's sole cost and expense upon termination or expiration of this Lease. Landlord will have the right to periodically inspect the work on the Premises and may require changes in the method or quality of the work if necessary to cause the work to comply with the requirements of this Lease. Tenant shall also deliver to Landlord evidence of Tenant's payment of the general contractor and subcontractors for the portions of Tenant's Installations and the absence of any liens generated by such portions of the Installations as may be reasonably required by Landlord (i.e., either unconditional lien releases in accordance with California Civil Code Sections 8132 through 8135, inclusive, or release bond(s) in accordance with California Civil Code Sections 8424).

## **7. INSURANCE AND CASUALTY**

### **7.1 TOTAL OR PARTIAL DESTRUCTION OF THE BUILDING OR THE PREMISES.**

**7.1.1 Total Destruction.** If the Building should be totally destroyed by fire or other casualty or if either the Building, or the Premises should be so damaged that rebuilding or repairs cannot be completed, in Landlord's reasonable opinion, within one hundred eighty (180) days after commencement of repairs to the Building or the Premises, as applicable, Landlord shall within thirty (30) days of the casualty provide written notice of its opinion to Tenant, and either Landlord or Tenant may, at its option, terminate this Lease, in which event Basic Annual Rent and Additional Rent shall be abated during the unexpired portion of this Lease effective as of the date of such damage. Landlord shall exercise the termination right pursuant to the preceding sentence, if at all, by delivering written notice of termination to Tenant within ten (10) days after determining that the repairs cannot be completed within one hundred eighty (180) days. Tenant shall exercise its termination right pursuant to this Section 7.1.1, if at all, by delivering written notice of termination to Landlord within ten (10) days after being advised by Landlord that the repairs cannot be completed within one hundred eighty (180) days or that the Premises will be unfit for occupancy or inaccessible by reasonable means for at least one hundred eighty (180) days after commencement of repairs to the Building.

**7.1.2 Partial Destruction; Failure to Terminate.** If the Building and/or the Premises should be partially destroyed by fire or other casualty or if the Building and/or the Premises is completely destroyed and neither Landlord nor Tenant elects to terminate this Lease pursuant to Section 7.1.1, then Landlord shall promptly commence (and thereafter pursue with reasonable diligence) preparation of the plans and specifications for the repair of the Building and/or the Premises (including the Tenant's Work, except as set forth in the next sentence) and thereafter diligently pursue repairing the Building and/or the Premises to substantially the same condition which existed immediately prior to the occurrence of the casualty. To the extent the Tenant's Work include any items required to be insured by Tenant under

Section 7.2.1 below, Landlord shall have the obligation to repair such items only to the extent the proceeds of such insurance are disbursed to Landlord for such repair.

**7.1.3 Limitation on Landlord's Obligations; Abatement of Rent.** In no event shall Landlord be required to rebuild, repair or replace any part of the furniture, equipment, fixtures, inventory, supplies or any other personal property or any other improvements (except the Tenant's Work), which may have been placed by Tenant within the Building or the Premises. Landlord shall allow Tenant a fair diminution of Basic Annual Rent and Additional Rent during the time the Premises are unfit for occupancy; provided, however, if the casualty in question was caused by the gross negligence of Tenant, its agents, employees, or licensees, Basic Annual Rent and Additional Rent shall be abated only to the extent Landlord is compensated for such Basic Annual Rent and Additional Rent by loss of rents insurance, if any.

**7.1.4 Insurance Proceeds.** Any insurance which may be carried by Landlord or Tenant against loss or damage to the Building or the Premises shall be for the sole benefit of the party carrying such insurance and under its sole control and shall be used as required by this Section 7.1.

## **7.2 TENANT'S INSURANCE.**

**7.2.1 Types of Coverage.** From and after the date of this Lease, Tenant will carry, at its expense, the insurance set forth in this Section. Notwithstanding the foregoing, if Tenant assigns this Lease to, or sublets the entirety of the Premises to, an Affiliate pursuant to Section 11.1 below, Tenant shall have satisfied its obligations under this Section 7.2 if such Affiliate provides for the benefit of Landlord the insurance required of Tenant pursuant to this Section 7.2.

**7.2.2 Commercial General Liability Insurance.** Commercial General Liability Insurance covering the Premises and Tenant's use thereof against claims for personal or bodily injury or death or property damage occurring upon, in or about the Premises (including contractual indemnity and liability coverage), such insurance to provide coverage of not less than \$2,000,000.00 per occurrence and \$2,000,000.00 annual aggregate, with a deductible reasonably acceptable to Landlord. All insurance coverage required under this Section 7.2.2 shall extend to any liability of Tenant arising out of the indemnities provided for in this Lease to the extent such indemnity would be covered by commercial general liability insurance. Additionally, each such policy of insurance required under this Section 7.2.2 shall expressly insure Tenant and, as and additional insured, Landlord.

**7.2.3 Personal Property Insurance.** Property insurance on an all-risk basis (including coverage against fire, wind, tornado, vandalism, malicious mischief, water damage and sprinkler leakage) covering all tenant owned fixtures, equipment and leasehold improvements, and other personal property located in the Premises and endorsed to provide one hundred percent (100%) replacement cost coverage. Such policy will be written in the name of Tenant. The property insurance may, with the consent of the Landlord, provide for a reasonable deductible.

**7.2.4 Workers Compensation' and Employer's Liability Insurance.** Worker's compensation insurance with limits as mandated pursuant to the laws in the State of California or \$1,000,000.00, whichever is greater, together with employer's liability insurance in an amount at least \$1,000,000.00.

**7.2.5 Hired and Non-Owned Auto Liability Insurance.** Hired and Non-Owned Auto Liability Insurance covering Tenant and its employees and agents in an amount of at least \$1,000,000 combined single limit.

**7.2.6 Professional Liability Insurance.** Professional Liability (also known as errors and omissions insurance): Not less than the minimum limits required by law for Tenant's profession, and in any event, not less than One Million Dollars (\$1,000,000.00) per occurrence.

**7.2.7 Other Requirements of Insurance.** All such insurance will be issued and underwritten by companies with an AM Best rating of A/VIII or better or by a joint powers authority, and will contain endorsements that (a) such insurance may not lapse with respect to Landlord or be canceled or amended with respect to Landlord without the insurance company giving Landlord at least thirty (30) days prior written notice of such cancellation or amendment, (b) Tenant will be solely responsible for payment of premiums, and (c) Tenant's insurance is primary in the event of overlapping coverage which may be carried by Landlord; provided however, if Tenant's insurance company cannot provide the notice required under clause (a), Tenant shall provide the notice required under clause (a). Additionally, each such policy of insurance required under this section, except as to Worker's Compensation insurance shall expressly insure both Tenant and, as additional insureds, Landlord as an additional insured thereunder.

**7.2.8 Proof of Insurance.** Within fifteen (15) days after the Effective Date of this Lease, but in any event prior to the Commencement Date, Tenant shall deliver to Landlord certified copies of all policies of insurance required by this Section 7.2 or duly executed, original certificates of such insurance evidencing in-force coverage. Further, at least fifteen (15) days prior to the expiration of the policy in question, Tenant shall deliver to Landlord a duly executed, original certificate of insurance evidencing the renewal of each insurance policy required to be maintained by Tenant hereunder.

### **7.3 LANDLORD'S INSURANCE.**

**7.3.1 Property Insurance.** From and after the date of this Lease, Landlord will carry a policy or policies of all risk extended coverage insurance covering the Property endorsed to provide replacement cost coverage and providing protection against perils included within the standard California form of fire and extended coverage insurance policy, together with insurance against sprinkler damage, vandalism, malicious mischief and such other risks as Landlord may from time to time determine and with any such deductibles as Landlord may from time to time reasonably determine.

**7.3.2 Commercial General Liability Insurance.** Landlord will carry Commercial General Liability policy or policies covering the Building against claims for personal or bodily injury, or death, or property damage resulting from the negligence of the Landlord or its agents, occurring upon, in or about the Building to afford protection to the limit of not less than \$2,000,000 per occurrence, and \$2,000,000 annual aggregate. This insurance coverage shall extend to any liability of Landlord arising out of the indemnities provided for in this Lease.

**7.4 WAIVER OF SUBROGATION.** Except to the extent that insurance required to be maintained by Tenant under this Section 7 covers loss to Landlord, Landlord and Tenant each waive any rights each may have against the other on account of any loss or damage occasioned to Landlord or Tenant, as the case may be, their respective property, the Premises or its contents, or to other portions of the Property arising from any liability, loss, damage, or injury caused by fire or other casualty for which property insurance is carried or required to be carried under this Lease and that the applicable carrier has acknowledged and accepted the tender of the claim for indemnification. The insurance policies obtained by Landlord and Tenant under this Lease will contain endorsements waiving any right of subrogation that the insurer may otherwise have against the noninsuring party.

## 7.5 INDEMNIFICATION.

**7.5.1 Tenant's Indemnification.** Tenant will pay for, defend, indemnify, and hold Landlord harmless against and from any real or alleged damage or injury and from all claims, judgments, liabilities, costs, and expenses, including attorneys' fees and costs, arising out of or connected with Tenant's use of the Premises, or any repairs to the Premises or Installations (including original improvements and fixtures specified as Tenant's Work) that Tenant may make or cause to be made on the Premises, any breach of this Lease by Tenant and any loss or interruption of business or loss of rental income resulting from any of the foregoing. Tenant will not be liable for any of the obligations outlined herein to the extent, and in the proportion, that the same is ultimately determined to be attributable to the negligence or misconduct of Landlord. This obligation to indemnify will include all of Landlord's attorneys' fees, litigation costs, investigation costs, court costs and all other costs, expenses, and liabilities reasonably incurred by Landlord or its counsel from the first notice that any claim or demand is to be made or may be made. Tenant's obligations under this Section 7.5.1 shall survive the termination of this Lease.

**7.5.2 Landlord's Indemnification.** Landlord agrees to indemnify Tenant and hold it harmless from any and all loss, cost, damage, expense and liability (including without limitation court costs and reasonable attorneys' fees) incurred in connection with or arising from any Losses, caused by the gross negligence or willful misconduct of Landlord and/or any of Landlord's Agents. The obligations of Landlord under this Section 7.5.2 shall survive the termination of this Lease with respect to any claims or liability arising in connection with any event occurring prior to such termination

## 8. CONDEMNATION

**8.1** If the Property or any portion thereof that, in Landlord's or Tenant's reasonable opinion, is necessary to the continued efficient and/or economically feasible use of the Property or the Premises shall be taken or condemned for public purposes, or sold to a condemning authority in lieu thereof, then either party may, at its option, terminate this Lease on the effective date of such taking by delivering written notice thereof to the other party on or before ten (10) days after the effective date of the taking, condemnation or sale in lieu thereof. If neither Landlord nor Tenant elects to exercise such termination right, then this Lease shall continue in full force and effect, provided that if the taking, condemnation or sale includes any portion of the Premises, the Basic Annual Rent and Additional Rent shall be redetermined on the basis of the remaining square feet of Premises. Landlord, at Landlord's sole option and expense, shall restore and reconstruct the Building to substantially its former condition to the extent that the same may be reasonably feasible, but such work shall not be required to exceed the scope of the work done by Landlord in originally constructing the Building. Landlord shall receive the entire award (which shall include sales proceeds) payable as a result of a condemnation, taking or sale in lieu thereof. Tenant shall, however, have the right to recover from such authority through a separate award, any compensation as may be awarded to Tenant on account of moving and relocation expenses and depreciation and removal of Tenant's physical property.

## 9. LIENS

**9.1 MECHANICS' LIENS.** Tenant shall keep the Premises and the Property free from all liens arising out of any work performed, materials furnished or obligations incurred by Tenant, and Tenant shall defend indemnify and hold harmless Landlord from and against any and all claims, causes of action, damages and expenses (including reasonable attorneys' fees) arising from or in connection with any such liens. If Tenant shall not, within ten (10) days following notification to Tenant of the imposition of any such lien, cause the same to be released of record by payment or the posting of a bond in amount, form and substance acceptable to Landlord, Landlord shall have, in addition to all other remedies provided herein and by law, the right but not the obligation, to cause the same to be released by such

means as it shall deem proper, including payment of or defense against the claim giving rise to such lien. All amounts paid or incurred by Landlord in connection therewith shall be paid by Tenant to Landlord on demand and shall bear interest from the date of demand until paid at the rate set forth in Section 2.4 above. Nothing contained in this Lease shall constitute any consent by Landlord to subject Landlord's estate to liability under any mechanics' or other lien law. Tenant shall give Landlord adequate opportunity, and Landlord shall have the right at all times, to post such notices of non-responsibility as may be allowed under California law.

**9.2 LEASEHOLD MORTGAGE.** Notwithstanding Section 9.1 above, Tenant shall have the right without Landlord's prior written consent to subject its leasehold estate and all of its rights and interests in and to the Premises under this Lease (sometimes referred to herein as the "Leasehold Interest") to a Leasehold Mortgage in accordance with and subject to the provisions of Exhibit E, attached hereto and incorporated herein as if fully set forth below.

## **10. TAXES ON TENANT'S PROPERTY**

**10.1** Tenant shall be liable for and shall pay, prior to their becoming delinquent, any and all taxes and assessments levied against any personal property or trade or other fixtures placed by Tenant in or about the Premises. Tenant shall submit a personal property tax exemption application at Tenant's sole cost and expense, and Landlord shall use its commercially reasonable efforts to reasonably cooperate with Tenant's application at no cost to Landlord. Any personal property tax exemption received in connection with Tenant's application shall inure to the benefit of Tenant in the form of Tenant not being billed for said property taxes.

## **11. SUBLETTING AND ASSIGNING**

**11.1** Except as otherwise permitted herein and by Section 11.2 and Section 11.3 below, Tenant shall not assign this Lease, or allow it to be assigned, in whole or in part, by operation of law or otherwise (it being agreed that for purposes of this Lease, assignment shall include, without limitation, the transfer of a majority interest of stock, partnership or other forms of ownership interests, merger or dissolution) or mortgage or pledge the same, or sublet the Premises or any part thereof or permit the Premises to be occupied by any individual or business entity, or any combination thereof, other than Tenant, without the prior written consent of Landlord. Notwithstanding the foregoing, Landlord's consent shall not be required and the requirements of Section 11.2 shall not apply for Tenant to assign this Lease to an "Affiliate" of Tenant. The term "Affiliate" as used herein means a corporation, limited liability company or other entity that controls, is controlled by, or is under common control with Tenant including, without limitation, Navigator Schools, a California nonprofit public benefit corporation doing business as Watsonville Prep, or an entity affiliated therewith. Tenant shall provide written notice to Landlord no less than ten (10) days after the effective date of any transfer to an Affiliate. Notwithstanding any subletting or assignment by Tenant hereunder or any provision herein to the contrary, Tenant shall remain fully liable for the performance of all the covenants, agreements, terms, provisions and conditions contained in this Lease on the part of Tenant to be performed. No assignee or subtenant of the Tenant may assign or sublet the Premises or any portion thereof. Any assignment made by Tenant shall contain a covenant of assumption by the assignee running to Landlord. All reasonable legal fees and expenses incurred by Landlord in connection with any assignment or sublease proposed by Tenant will be paid by Tenant within thirty (30) days of receipt of an invoice from Landlord, which shall not exceed \$1,000.

**11.2 LANDLORD'S RIGHTS.** If Tenant desires to sublease any portion of the Premises or assign this Lease, Tenant shall submit to Landlord (a) in writing, the name of the proposed subtenant or assignee, the nature of the proposed subtenant's or assignee's business and, in the event of a sublease, the portion of the Premises which Tenant desires to sublease, (b) a current balance sheet and income



statement for such proposed subtenant or assignee, (c) a copy of the assignment, and (d) such other information as Landlord may reasonably request (collectively, the "Required Information"). Landlord shall, within thirty (30) days after Landlord's receipt of the Required Information, deliver to Tenant a written notice (a "Landlord Response") in which Landlord either (i) consents to the proposed sublease or assignment, or (ii) withholds its consent to the proposed sublease or assignment, which consent shall not be unreasonably withheld so long as Tenant is not in default hereunder and Landlord has received all Required Information. The reason for which Landlord shall be deemed to have reasonably withheld its consent to any sublease or assignment includes but is not limited to (i) Landlord's determination (in its sole discretion) that such subtenant or assignee is not of the character or quality of a tenant to whom Landlord would generally lease space in the Building, (ii) the proposed subtenant's or assignee's primary business is prohibited by a non-compete clause then affecting the Building, (iii) the proposed subtenant or assignee is a tenant of the Building, or Landlord is negotiating with the proposed subtenant or assignee to become a tenant of the Building, or (iv) such subtenant or assignee does not meet the creditworthiness standards applied by Landlord generally in the selection of tenants for the Building (but taking into consideration the fact that Tenant remains liable under this Lease). In lieu of consenting to any such proposed sublease or assignment (and without regard to whether Landlord's action is "reasonable" or "unreasonable") Landlord shall have the right, within thirty (30) days after Landlord's receipt of the Required Information to, if the proposed assignment or sublease is for the remainder of the term of this Lease, terminate this Lease as to the space so affected as of the date so specified by Tenant in its notice to Landlord, in which event Tenant shall be relieved of any and all further obligations hereunder as to such space.

**11.3 LANDLORD'S RIGHTS RELATING TO ASSIGNEE OR SUBTENANT.** If this Lease or any part hereof is assigned or the Premises or any part thereof are sublet, Landlord may at its option collect directly from such assignee or subtenant all rents becoming due to Tenant under such assignment or sublease and apply such rent against any sums due to Landlord by Tenant hereunder. Tenant hereby authorizes and directs any such assignee or subtenant to make such payment of rent directly to Landlord upon receipt of notice from Landlord, and Tenant agrees that any such payments made by an assignee or subtenant to Landlord shall, to the extent of the payments so made, be a full and complete release and discharge of rent owed to Tenant by such assignee or subtenant. No direct collection by Landlord from any such assignee or subtenant shall be construed to constitute a novation or a release of Tenant or any guarantor of Tenant from the further performance of its obligations hereunder. In the event that, following an assignment or subletting, this Lease or the rights and obligations of Tenant hereunder are terminated for any reason, including without limitation in connection with default by or bankruptcy of Tenant, Landlord may, at its option, consider this Lease to be thereafter a direct lease to the assignee or subtenant of Tenant upon the terms and conditions contained in this Lease.

## **12. TRANSFERS BY LANDLORD, SUBORDINATION AND TENANT'S ESTOPPEL CERTIFICATE**

**12.1 SALE OF THE PROPERTY.** In the event of any transfer of title to the Property, the transferor shall automatically be relieved and freed of all obligations of Landlord under this Lease accruing after such transfer, provided that the transferee expressly assumes in writing all obligations of Landlord hereunder accruing after the date of such transfer and further provided that if a Security Deposit has been made by Tenant, Landlord shall not be released from liability with respect thereto unless Landlord's transferee assumes responsibility for the Security Deposit.

**12.2 SUBORDINATION, ATTORNMENT AND NOTICE.** This Lease is subject and subordinate (i) to the lien of each mortgage and deed of trust encumbering all or any portion of the Property, regardless of whether such lease, mortgage or deed of trust now exists or may hereafter be created, (ii) to any and all advances (including interest thereon) to be made under each such lease,

mortgage or deed of trust and (iii) to all modifications, consolidations, renewals, replacements and extensions of each such lease, mortgage or deed of trust; provided that the foregoing subordination to any mortgage or deed of trust placed on the Property after the date hereof shall not become effective until and unless the holder of such mortgage or deed of trust delivers to Tenant a non-disturbance agreement (which may include Tenant's agreement to attorn as set forth below) permitting Tenant, if Tenant is not then in material default under any provision of, this Lease, to remain in occupancy of the Premises in the event of a foreclosure of any such mortgage or deed of trust. Tenant shall, in the event of the sale or assignment of Landlord's interest in the Premises, attorn to and recognize such purchaser, assignee or lessor as Landlord under this Lease. Tenant shall, in the event of any proceedings brought for the foreclosure of, or in the event of the exercise of the power of sale under, any mortgage or deed of trust covering the Premises, attorn to and recognize the purchaser at foreclosure as Landlord under this Lease. The above subordination and attornment clauses shall be self-operative and no further instruments of subordination or attornment need be required by any mortgagee, trustee, lessor, purchaser or assignee. In confirmation thereof, Tenant agrees that, upon the request of Landlord, or any such mortgagee, trustee, lessor, purchaser or assignee, Tenant shall execute and deliver whatever instruments may be required for such purposes and to carry out the intent of this Section 12.2.

**12.3 TENANT'S ESTOPPEL CERTIFICATE.** Tenant shall, upon the request of Landlord or any mortgagee of Landlord (whether under a mortgage or deed of trust), without additional consideration, deliver an estoppel certificate within ten (10) days after a request therefor, consisting of reasonable statements required by Landlord, any mortgagee or purchaser of any interest in the Property, which statements may include but shall not be limited to the following: this Lease is in full force and effect, with rental paid through the date specified in the certificate; this Lease has not been modified or amended; Tenant is not aware that Landlord is in default or that Landlord has failed to fully perform all of Landlord's obligations hereunder; and such other statements as may reasonably be required by the requesting party. If Tenant is unable to make any statements contained in the estoppel certificate because the same is untrue or inaccurate, Tenant shall with specificity state the reason why such statement is untrue or inaccurate.

## **13. DEFAULT**

**13.1 DEFAULTS BY TENANT.** The occurrence of any of the events described Sections 13.1.1 through 13.1.3 shall constitute a default by Tenant under this Lease.

**13.1.1 Failure to Pay Rent.** The failure by Tenant to make such payment to Landlord within five (5) business days after Landlord gives Tenant written notice specifying that the payment was not made when due.

**13.1.2 Failure to Perform Other Obligations.** Any failure by Tenant to observe and perform any provision of this Lease to be observed or performed by Tenant where such failure continues for thirty (30) days after Landlord gives Tenant written notice of such failure, provided that if such failure by its nature cannot be cured within such thirty (30) day period, Tenant shall not be in default hereunder so long as Tenant commences curative action within such thirty (30) day period, and diligently and continuously pursues the curative action to completion.

**13.1.3 Abandonment.** Tenant's complete abandonment of the Premises, other than scheduled school holidays or vacations.

**13.1.4 Bankruptcy, Insolvency, Etc.** Tenant or any Guarantor (i) becomes or is declared insolvent according to any law, (ii) makes a transfer in fraud of creditors according to any applicable law, (iii) assigns or conveys all or a substantial portion of its property for the benefit of

creditors or (iv) files a petition for relief, or is the subject of an order for relief, under the Federal Bankruptcy Code or any other present or future federal or state insolvency, bankruptcy or similar law (collectively, "applicable bankruptcy law") or a receiver or trustee is appointed for Tenant or any Guarantor or its property; the interest of Tenant or any Guarantor under this Lease is levied on under execution or under other legal process; or any involuntary petition is filed against Tenant or any Guarantor under applicable bankruptcy law; provided, however, no action described in this Section 13.1.4 shall constitute a default by Tenant if Tenant or any Guarantor shall vigorously contest the action by appropriate proceedings and shall remove, vacate or terminate the action within sixty (60) days after the date of its inception.

**13.2 REMEDIES OF LANDLORD.** In the event of any default by Tenant, the rights and remedies of Landlord shall be as provided by the California Civil Code.

**13.3 DEFAULTS BY LANDLORD.** Landlord shall be in default under this Lease if Landlord fails to perform any of its obligations hereunder and such failure continues for a period of thirty (30) days after Tenant gives written notice to Landlord and each mortgagee who has a lien against any portion of the Property and whose name and address has been provided to Tenant stating that (a) Landlord is in breach of this Lease and (b) describing the breach with specificity, provided that if such failure cannot reasonably be cured within such thirty (30) day period, Landlord shall not be in default hereunder if the curative action is commenced within such thirty (30) day period and is thereafter diligently pursued until cured. Upon any such uncured default by Landlord, Tenant may exercise any of its rights provided at law or in equity.

## 14. NOTICES

**14.1 Notices.** All notices (including requests, demands, approvals or other communications) under this Lease shall be in writing and addressed as set forth in the Basic Lease Information or to such other address or to the attention of such other person as shall be designated from time to time in writing by the applicable party and sent in accordance herewith.

**14.2 Method of Delivery.** Notice shall be sufficiently given for all purposes as follows:

- (a) When personally delivered to the recipient, notice is effective on delivery.
- (b) When mailed first class to the last address of the recipient known to the party giving notice, notice is effective on delivery.
- (c) When mailed by certified mail with return receipt requested, notice is effective on receipt if delivery is confirmed by a return receipt.
- (d) When delivered by an overnight delivery service including but not limited to United Parcel Service and Federal Express with charges prepaid or charged to the sender's account, notice is effective on delivery if delivery is confirmed by the delivery service.

**14.3 Refused, Unclaimed, or Undeliverable Notices.** Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be considered to be effective as of the first date that the notice was refused, unclaimed or considered undeliverable by the postal authorities, messenger, or overnight delivery service.



## 15. MISCELLANEOUS PROVISIONS

15.1 **SIGNAGE.** Tenant may, at Tenant's sole expense, install identification signs (including its logo) on the exterior of the Building subject to the following requirements:

15.1.1 Tenant must obtain Landlord's prior written approval for such signs.

15.1.2 All signs must meet all applicable Laws and Tenant must obtain the sign permit issued by the City of Watsonville.

15.1.3 Tenant is solely responsible for the removal of such sign(s) at the expiration or termination of the Lease and the repair to the reasonable satisfaction of the Landlord to any surface of Building, or to the Property where such signs are removed.

15.2 **NO WAIVER.** No waiver by Landlord or Tenant of any provision of this Lease shall be deemed to have been made unless such waiver is expressly stated in writing signed by the waiving party. No waiver by Landlord or Tenant of any breach by the other party shall be deemed a waiver of any subsequent breach of the same or any other provision. The failure of Landlord or Tenant to insist at any time upon the strict performance of any covenant or agreement or to exercise any option, right, power or remedy contained in this Lease shall not be construed as a future waiver thereof. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly installment of Rent due under this Lease shall be deemed to be other than on account of the earliest Rent due hereunder, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy which may be available to Landlord.

15.3 **APPLICABLE LAW.** This Lease shall be governed by and construed in accordance with the laws of the State of California without regard to the conflicts of laws provisions thereof.

15.4 **COMMON AREAS.** "Common Areas" shall mean all areas, spaces, facilities and equipment (whether or not located within the Building) made available by Landlord for the common and joint use of Landlord, Tenant and others designated by Landlord using or occupying space in the Building, including but not limited to, any tunnels, walkways, sidewalks and driveways necessary for access to the Building, Building lobbies, landscaped areas, public corridors, public rest rooms, Building stairs, elevators open to the public, service elevators (provided that such service elevators shall be available only for tenants of the Building and others designated by Landlord), drinking fountains and any such other areas and facilities as are reasonably designated by Landlord from time to time as Common Areas. "Service Corridors" shall mean all loading docks, loading areas and all corridors that are not open to the public but which are available for use by Tenant and others designated by Landlord. "Service Areas" will refer to areas, spaces, facilities and equipment serving the Building (whether or not located within the Building) but to which Tenant and other occupants of the Building will not have access, including, but not limited to, mechanical, telephone, electrical and similar rooms and air and water refrigeration equipment. Tenant is hereby granted a nonexclusive right to use the Common Areas and Service Corridors during the Term of this Lease for their intended purposes, in common with others designated by Landlord, subject to the terms and conditions of this Lease. The Building, Common Areas, Service Corridors and Service Areas will be at all times under the exclusive control, management and operation of Landlord. Tenant agrees and acknowledges that the Premises (whether consisting of less than one floor or one or more full floors within the Building) do not include, and Landlord hereby expressly reserves for its sole and exclusive use, any and all mechanical, electrical, telephone and similar rooms, janitor closets, elevator, pipe and other vertical shafts and ducts, flues, stairwells, any area above the acoustical ceiling and any other areas not specifically shown on Exhibit B as being part of the Premises.

**15.5 SUCCESSORS AND ASSIGNS.** Subject to Section 11 hereof, all of the covenants, conditions and provisions of this Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

**15.6 BROKERS.** Tenant and Landlord each warrants to the other that it has had no dealings with any real estate broker or agent in connection with the negotiation of this Lease other than that referenced in Section 16 of the Basic Lease Information ("Tenant's Broker") on behalf of Tenant and that referenced in Section 17 of the Basic Lease Information ("Landlord Broker") on behalf of Landlord, and that it knows of no other real estate brokers or agents who are or claim to be entitled to a commission in connection with this Lease. Landlord and Tenant each agrees to defend, indemnify and hold harmless the other from and against any liability or claim, whether meritorious or not, arising with respect to any broker and/or agent known to Landlord or Tenant, respectively, and not so named and claiming to be entitled to a commission by, through or under such party. Landlord has agreed to pay the fees of Landlord's Broker and Tenant's Broker strictly in accordance with and subject to the terms and conditions of separate written commission agreement(s).

**15.7 SEVERABILITY.** If any provision of this Lease or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the application of such provisions to other persons or circumstances and the remainder of this Lease shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

**15.8 TIME.** Time is of the essence in this Lease and in each and all of the provisions hereof. Whenever a period of days is specified in this Lease, such period shall refer to calendar days unless otherwise expressly stated in this Lease. If any date provided under this Lease for performance of an obligation or expiration of a time period is a Saturday, Sunday or a holiday generally recognized by businesses, the obligation shall be performed or the time period shall expire, as the case may be, on the next succeeding business day. The "Date of this Lease" shall mean the date of execution hereof by the last of Landlord and Tenant, as set forth on the signature page.

**15.9 DEFINED TERMS AND MARGINAL HEADINGS.** The words "Landlord" and "Tenant" as used herein shall include the plural as well as singular. If more than one person is named as Tenant, the obligations of such persons are joint and several. The headings and titles to the articles, sections and Sections of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part of this Lease.

**15.10 AUTHORITY.** Landlord and Tenant and each person signing this Lease on behalf of such party represents to the other party as follows: Such party, if a corporation, limited liability company, limited partnership, limited liability partnership or partnership is duly formed and validly existing under the laws of the state of its formation and is duly qualified to do business in the State of California. Such party, if a limited liability company, partnership, limited partnership, limited liability partnership or other joint venture, is duly organized and legally existing under the laws of the state of its organization and is duly qualified to do business in the State of California. Tenant has all requisite power and all governmental certificates of authority, licenses, permits, qualifications and other documentation to lease the Premises and to carry on its business as now conducted and as contemplated to be conducted. Each person signing on behalf of Landlord or Tenant is authorized to do so. The foregoing representation in this Section 15.10 shall also apply to any corporation, limited liability company, limited partnership, limited liability partnership or partnership which is a general partner or joint venturer of Tenant. Tenant will be required to provide a corporate resolution evidencing such authority to enter into the lease agreement.

**15.11 FORCE MAJEURE.** Whenever a period of time is herein prescribed for action to be taken by Landlord or Tenant, the party taking the action shall not be liable or responsible for, and there shall be excluded from the computation for any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other causes which are beyond the reasonable control of such party; provided, however, in no event shall the foregoing apply to the financial obligations of either Landlord or Tenant to the other under this Lease, including Tenant's obligation to pay Basic Annual Rent, Additional Rent or any other amount payable to Landlord hereunder.

**15.12 PARKING AND LOADING.** Landlord hereby licenses to Tenant, for the use of Tenant, its faculty, administrators, students and their families, and their respective licensees and invitees, for no additional consideration, (a) not less than twenty (20) parking spaces in the existing parking lot on the Property and (b) a pick-up and drop-off zone in the front of the Northern entrance of the alley to be available at pick-up and drop-off times. Each year after the 2020-2021 school year, four additional parking spaces will be added until school reaches full enrollment in 2025-26 when 40 parking spaces will be allocated.

**15.13 ATTORNEY'S FEES.** In the event of any legal action or proceeding brought by either party against the other arising out of this Lease, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs incurred in such action (including, without limitation, all costs of appeal) and such amount shall be included in any judgment rendered in such proceeding.

**15.14 SURVIVAL OF INDEMNITIES.** Each indemnity agreement and hold harmless agreement contained herein shall survive the expiration or termination of this Lease.

**15.15 PROHIBITED PERSONS AND TRANSACTIONS.** Tenant represents to Landlord: (i) that neither Tenant nor any person or entity that directly owns a 10% or greater equity interest in it, nor any of its officers, directors or managing members, is a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under Executive Order 13224 (the "Executive Order") signed on September 24, 2001, and entitled "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", or other Laws, (ii) that Tenant's activities do not violate the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, or the regulations or orders promulgated thereunder, as they may be amended from time to time, or other anti-money laundering Laws (the "Anti-Money Laundering Laws"), and (iii) that throughout the Term of this Lease Tenant shall comply with the Executive Order and with the Anti-Money Laundering Laws.

**15.16 DIGITAL RECORDS.** The parties agree that electronic signatures, including those delivered by PDF or signed through the electronic signature system known as "DocuSign", shall have the same effect as originals. All parties to this Lease waive any and all rights to object to the enforceability of this Lease based on the form or delivery of signature. Landlord and Tenant agree to accept a digital image of this Lease, as executed in counterparts, as a true and correct original and admissible for the purposes of state law, Federal Rule of Evidence 1002, and like statutes and regulations.

**15.17 ENTIRE AGREEMENT.** This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease and no prior agreement, understanding or representation pertaining to any such matter shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest.

**15.18 COUNTERPARTS.** This Lease may be executed in one or more counterparts, each of which shall constitute an original and all of which shall be one and the same agreement.

**15.19 ADA DISCLOSURE, CASP INSPECTION.** For purposes of Section 1938 of the California Civil Code, Landlord hereby discloses to Tenant, and Tenant hereby acknowledges, that Landlord has not caused the Premises to undergo inspection by a Certified Access Specialist (CASp) to determine if the Premises meet applicable construction- related accessibility standards pursuant to California Civil Code Section 55.53. In accordance with Civil Code Section 1938(e), Landlord hereby states the following:

A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs to correct violations of the construction-related accessibility standards within the premises.

In connection therewith: (i) Tenant assumes all risk of, and agrees that neither Landlord nor Landlord's property managers, directors, officers, attorneys, contractors or agents, (collectively "Landlord Parties") shall be liable for, any and all loss, cost, damage, expense and liability (including without limitation court costs and reasonable attorney's fees) sustained as a result of the Premises not having been inspected by a CASp, and (ii) Tenant hereby acknowledges and agrees that Tenant's indemnity obligations set forth in the Lease shall include any and all claims relating to or arising as a result of the Premises not having been inspected by a CASp or any suit brought against Landlord and/or any Landlord Party if a visit to Tenant's Premises is wholly or partially the triggering basis for such a suit against Landlord.

Tenant may, at its sole risk and expense, elect to have the Premises inspected by a CASp for purposes of determining whether or not the Premises comply with all of the applicable construction-related accessibility standards under California law ("Tenant CASp Inspection"). Any such Tenant CASp Inspection shall be performed in a noninvasive manner to the Premises. It is the express intent and understanding of the parties that Tenant's right to perform such Tenant CASp Inspection shall be solely for Tenant's own benefit and Landlord and Landlord Parties shall have no duty or responsibility whatsoever of any kind for any claims, expenses, actions, repairs, alterations, modifications, damages, liabilities, or losses arising from or in connection with such Tenant CASp Inspection ("CASp Inspection Claims") or the reports or recommendations resulting therefrom (each or collectively "CASp Inspection Results"). Tenant also agrees to correct any violations of construction related accessibility standards identified in such CASp Inspection Results at Tenant's sole cost and expense, and to indemnify, defend, and hold harmless Landlord and Landlord Parties from and against any and all CASp Inspection Claims or CASp Inspection Results arising from or in connection with such Tenant CASp Inspection.

**15.20 WAIVER OF JURY TRIAL/JUDICIAL REFERENCE.** To the greatest extent permitted by existing law, each party to this agreement hereby expressly waives any right to trial by jury of any claim, demand, action or cause of action either arising under this agreement or any other instrument, document or agreement executed or delivered in connection therewith or in any way connected with or related or incidental to the dealings of the parties hereto or any of them with respect to this agreement or any other instrument, document or agreement executed or delivered in connection herewith, or the transactions related hereto or thereto, in each case whether now existing or hereafter

arising, and whether sounding in contract or tort or otherwise; and each party hereby agrees and consents that any such claim, demand, action or cause of action shall be decided by court trial without a jury.

If this jury waiver is found to be invalid, then the parties agree that all questions of fact or law shall be submitted to a referee in accordance with Code of Civil Procedure Section 638 et seq., for issuance by the referee of a Statement of Decision as to all such matters. The parties agree that the referee shall be a retired judge who served as a judge for no less than ten years to be mutually agreed upon between the parties. If the parties are unable to agree, any party may request an appointment of the referee by the presiding judge of the Santa Cruz County Superior Court.

***[Signature page follows.]***

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Lease effective as of the Date of Lease set forth in the Basic Lease Information.

LANDLORD:

HANSEN FAMILY TRUST

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, Co-Trustee

By: \_\_\_\_\_  
\_\_\_\_\_, Co-Trustee

TENANT:

407 MAIN STREET, LLC,  
a California limited liability company

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

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## **EXHIBIT A**

### **LEGAL DESCRIPTION**

The Land referred to herein below is situated in the City of Watsonville, County of Santa Cruz, State of California, and is described as follows:

PARCEL B AS SHOWN ON CERTIFICATE OF COMPLIANCE AS EVIDENCED BY DOCUMENT RECORDED FEBRUARY 13, 2017 AS INSTRUMENT NO. 2017-0005243 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING A PORTION OF PARCEL 2 AS SHOWN ON THAT CERTAIN MAP ENTITLED "WATSONVILLE M.L.D. NO. PP 2014-165 - PARCEL MAP - A SUBDIVISION OF THE LANDS OF THE HANSEN FAMILY TRUST, DATED MARCH 27, 2001 PER INSTRUMENT NO. 2009-0003296, OFFICIAL RECORDS, SANTA CRUZ COUNTY" FILED FEBRUARY 27, 2015 AT 1:28 PM IN VOLUME 62 OF PARCEL MAPS, PAGE 28, SANTA CRUZ COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST EASTERN CORNER OF THE ABOVE SAID PARCEL 2, BEING THE CORNER OF MAIN STREET (80' WIDE) AND WEST BEACH STREET (60' WIDE), FROM WHICH A LEAD & TAG (L.S. 4715) SET ON A NORTHEASTERLY 2' OFFSET BEARS NORTH 47°36'57" EAST 2.00 FEET DISTANT AND A PK NAIL & WASHER (L.S. 4715) SET ON A NORTHWESTERLY 2' OFFSET FROM THE CORNER OF MAIN STREET AND WEST LAKE AVENUE (60' WIDE) BEARS NORTH 42°25'00" WEST 608.65 FEET DISTANT; THENCE FROM SAID POINT OF BEGINNING AND ALONG SAID SIDELINE OF MAIN STREET NORTH 42°25'00" WEST 257.58 FEET TO THE MOST EASTERN CORNER OF THE LANDS CONVEYED TO THE PAJARO LODGE NO. 90, INDEPENDENT ORDER OF ODD FELLOWS OF SANTA CRUZ COUNTY BY GRANT DEED RECORDED NOVEMBER 14, 1991 AT 8:00 AM IN VOLUME 4926, PAGE 718, OFFICIAL RECORDS OF SANTA CRUZ COUNTY; THENCE LEAVING SAID SIDELINE OF MAIN STREET AND ALONG THE SOUTHEASTERN BOUNDARY OF THE ODD FELLOWS AND THE PROLONGATION OF SAID BOUNDARY THEREOF SOUTH 47°37'35" WEST, AT 151.50 FEET THE SOUTHERN CORNER OF SAID ODD FELLOWS PARCEL, A TOTAL OF 152.56 FEET; THENCE SOUTH 42°25'00" EAST 257.61 FEET TO THE AFOREMENTIONED NORTHWESTERN SIDELINE OF WEST BEACH STREET FROM WHICH A LEAD & TAG (L.S. 4715) SET AT THE MOST EASTERN CORNER OF THE LANDS CONVEYED TO PAJARO WALL STREET INN, LLC BY SPECIAL WARRANTY DEED RECORDED OCTOBER 20, 2004 AT 1:49 PM IN DOCUMENT 2004-0075039 OFFICIAL RECORDS OF SANTA CRUZ COUNTY BEARS SOUTH 47°36'57" WEST 124.73 FEET DISTANT; THENCE ALONG SAID SIDELINE OF WEST BEACH STREET NORTH 47°36'57" EAST 152.56 FEET TO THE POINT OF BEGINNING.

For conveyancing purposes only: Old APN 017-641-12 (portion)  
New APN: 017-641-14 (Not yet assessed)

**EXHIBIT B**  
**PREMISES FLOOR PLAN**



**EXHIBIT C**

**RULES AND REGULATIONS**

**EXHIBIT D**  
**Tenant's Work**

The Premises will be improved (the "Tenant's Work") by Tenant at Tenant's cost and expense in accordance with the construction plans and specifications prepared by Artik Art and Architecture and dated September 11th 2020 (the "Construction Plans") transmitted to the Landlord. The Tenant has retained the general contracting services of Green Valley Corporation DBA Swenson Builders to complete the work referenced in the Construction Plans and has obtained a Payment and Performance Bond as well as a Builder's Risk Insurance Policy for the purpose of completing this scope of work. The duration of the project is anticipated as being 177 work days from the Tenant issuing the notice to proceed.

**EXHIBIT E****LEASEHOLD MORTGAGE PROVISIONS**

Tenant shall be entitled to subject its leasehold estate and all of its rights and interests in and to the Premises under this Lease (sometimes referred to herein as the “Leasehold Interest”) to a mortgage, mortgages, deed of trust or deeds of trust from time to time on the Leasehold Interest its rights, title, and interests in and to the Premises under or pursuant to this Lease (each a “Leasehold Mortgage”), for the benefit of, and to secure financing from, any mortgage lender(s) from time to time providing construction, interim, or permanent financing or refinancing for the Installations and/or the business of Tenant being conducted on the Premises (each a “Leasehold Mortgagee”). There may be one or more Leasehold Mortgages and Leasehold Mortgagees, at Tenant’s discretion. To facilitate the financing of the Installations, Landlord agrees to the following:

A. Consent to Leasehold Mortgages. Landlord’s consent and approval shall not be required in connection with any Leasehold Mortgage, the transfer of Tenant's interest in this Lease and Premises in connection with a judicial or non-judicial sale proceeding pursuant to the Leasehold Mortgage, any transfer pursuant to a deed or assignment in lieu of foreclosure, any sale or transfer in any bankruptcy or insolvency proceedings, or any similar transfer pursuant to any exercise of remedies under any Leasehold Mortgage (collectively, a “Foreclosure”), subject to compliance with the terms of this Exhibit and subject to such transferee expressly assuming all of the Tenant's obligations under the Lease. Notwithstanding the foregoing, Tenant shall provide Landlord with prompt notice of the creation of any Leasehold Mortgage.

B. Effect on Landlord’s Interests. The Leasehold Mortgage and other lender documents shall be subject to the terms of this Lease, and nothing contained in herein or in any Landlord Agreement (as defined below at Exhibit Section U) shall be construed as consent by Landlord that any mortgage, deed of trust or other encumbrance granted or permitted to exist by Tenant shall encumber Landlord's ownership of the Premises, or affect Landlord's rights hereunder or under the Lease, except as specifically provided herein.

C. Forbearance by Landlord. For as long as any Leasehold Mortgage remains in effect, Landlord will delay and forbear from the exercise of its remedies (including the acceleration of rentals) as hereinafter provided in Exhibit Sections D., E., F., G., H, and I.

D. No Changes to Lease. Landlord will not make or accept any voluntary surrender, cancellation, modification or amendment of or to this Lease at any time while the Leasehold Mortgage is in effect, nor will Landlord convey all or any part of the property subject to the Leasehold Interest to Tenant, or Tenant accept such conveyance, without first obtaining the prior written consent of each Leasehold Mortgagee. In no event shall any transfer of the Leasehold Interest to Landlord result in a merger or termination of this Lease so long as any Leasehold Mortgage shall be in effect, and Landlord, Tenant and Leasehold Mortgagee shall remain bound by the provisions of this Exhibit and the Lease.

E. Voluntary Termination. In no event shall any abandonment of the Premises or any action by Tenant to terminate this Lease be effective without the prior written consent of each Leasehold Mortgagee who has provided Landlord written notice of such mortgage and the address and other contact information of such Leasehold Mortgagee. Landlord agrees that it shall give notice of any such abandonment or action by Tenant to Leasehold Mortgagee of which Landlord has

knowledge of and contact information for, and Leasehold Mortgagee shall thereupon be entitled to exercise its rights and remedies under its Leasehold Mortgage and the provisions of this Exhibit.

F. New Lease. In the event that, for any reason, this Lease terminates prior to satisfaction of all indebtedness and obligations secured or intended to be secured by any Leasehold Mortgage, the holder(s) of any such Leasehold Mortgage shall be entitled to enter into a new lease with Landlord, for the balance of the term of this Lease (including rights to all extension or renewal options that have not been exercised), and on the same terms as set forth in this Lease (a "New Lease"). The Leasehold Mortgagee shall be permitted to sublease all or a portion of the Premises to one or more new subtenants (i) without the further consent or approval of the Landlord so long as such subtenants operate the Premises for school use (including, without limitation, a public charter school) and related educational and administrative purposes, including, without limitation, classrooms, and administrative offices, and for any other lawful use reasonably related to the foregoing operates an educational facility, or (ii) subject to the prior written consent of the Landlord, which consent shall not be unreasonably withheld, conditioned or delayed, with respect to such subtenants operating the Premises for non-school use (including, without limitation, any office or retail use) (an "Expanded Use"). The Leasehold Mortgagee shall provide written notice to the Landlord with respect to any Expanded Use request, and the Landlord agrees that upon receipt of such request, Landlord shall provide its approval or disapproval to Leasehold Mortgagee within fifteen business (15) days. Landlord agrees that with respect to any Expanded Use request, provided (i) the financial strength of the new subtenant is such that it is reasonably projected to be able to support the timely making of the rent payments thereunder, (ii) the business reputation of the new subtenant is in accordance with generally acceptable commercial standards, (iii) the proposed Expanded Use will not violate or create any potential violation of any applicable laws, and (iv) the proposed Expanded Use will not violate any other agreements between Landlord and other tenants, Landlord will provide its written consent. In the event the Landlord does not provide its approval or disapproval within such 15 business day period, it shall be deemed to have approved the Leasehold Mortgagee's Expanded Use request. Such right shall be exercisable by Leasehold Mortgagee within thirty (30) days following written notice by Landlord to Leasehold Mortgagee of the termination of this Lease, by written notice from Leasehold Mortgagee to Landlord given within such 30-day period. Upon exercise of such right, Landlord and Leasehold Mortgagee (or an affiliate or nominee of Leasehold Mortgagee, as Leasehold Mortgagee may elect) shall enter into the New Lease within thirty (30) days thereafter. Upon execution of any such New Lease, the tenant thereunder shall be required to cure outstanding defaults of the Tenant under this Lease in the same manner, and within the same time period, as required under the provisions of this Exhibit, except to the extent such defaults are noncurable personal defaults to the Tenant, such as bankruptcy or insolvency, provided any monetary default and any other sum that may be due from Tenant to Landlord under the Lease or by reason of Tenant's default thereunder shall be cured and/or paid at the time Leasehold Mortgagee, its affiliate or nominee executes the New Lease.

G. Notices by Landlord. Leasehold Mortgagee shall promptly provide Landlord written notice of when the Leasehold Mortgage is made or released. Until such time as this Leasehold Mortgage is released or canceled of record, Landlord agrees that it will provide Leasehold Mortgagee whose Leasehold Mortgage is most senior in priority (unless otherwise directed in writing by such senior Leasehold Mortgagee and delivered to Landlord) with a copy of any notices sent to Tenant under this Lease, including any default notices, within one business day of delivery of such notices to Tenant. Landlord agrees that no notice to Leasehold Mortgagee shall be effective unless it is reduced to writing and delivered to Tenant and such Leasehold Mortgagee, at the address and in the manner indicated in this Lease (in the case of Tenant) and at the address and in the manner indicated in the Landlord Agreement (in the case of Leasehold

Mortgagee), and no grace or cure periods for Tenant's cure of a default of its obligations under this Lease or the time permitted to a Leasehold Mortgagee to cure such default shall be deemed to commence unless and until such notice is so delivered.

H. Leasehold Mortgagee Performance and Cure Rights. Landlord hereby agrees to accept from any Leasehold Mortgagee any and all payments and performance of Tenant's obligations under this Lease, whether before or after default (but within the applicable periods provided for in this Exhibit), with the same force and effect as if paid or performed by Tenant. Landlord agrees that in the event that Tenant shall not cure or remedy any default or breach of covenant by Tenant under this Lease within the curative period provided for such cure or remedy in this Lease, then Leasehold Mortgagee shall have the right, at its sole option, to exercise any one or more of the following rights:

(i) to cure or remedy, or cause to be cured or remedied, for an additional period following the "Leasehold Mortgagee Curative Commencement Date" (as hereinafter defined), such default or breach of covenant, and Landlord shall accept such cure or remedy; it being agreed that (a) in the case of any default in the payment of any sum of money, Leasehold Mortgagee shall have ten (10) business days following the Leasehold Mortgagee Curative Commencement Date in which to cure such default, (b) in the event that the default of Tenant is not a default in the payment of a sum of money, Leasehold Mortgagee shall have thirty (30) days following the Leasehold Mortgagee Curative Commencement Date in which to cure such default, provided that if such default cannot reasonably be cured within such thirty (30) day period and that Leasehold Mortgagee has commenced efforts to cure such default (or efforts to exercise remedies to enable it to cure such default) within thirty (30) days following the Leasehold Mortgagee Curative Commencement Date, Leasehold Mortgagee shall have an additional reasonable period of time following the end of such thirty (30) day period within which to cure such default, and so long as Leasehold Mortgagee shall be diligently pursuing its efforts to cure, Landlord shall accept such cure or remedy when effected, (c) in no event shall any Leasehold Mortgagee be required to cure any defaults by Tenant that by their nature are not susceptible to cure by Leasehold Mortgagee, and with respect to such defaults, the same shall be deemed cured by Leasehold Mortgagee if Leasehold Mortgagee has commenced efforts to exercise remedies under its Leasehold Mortgage and succeeding to the Leasehold Interest in accordance with the provisions of this Exhibit; it being agreed that Landlord shall not terminate this Lease, commence eviction proceedings or accelerate rent during the foregoing curative periods extended to Leasehold Mortgagee; provided, that it is hereby expressly agreed that the time permitted to the Leasehold Mortgagee to cure defaults shall include and shall be extended by the time required to pursue any remedies necessary to enable Leasehold Mortgagee to effect such cure, and the time permitted to the Leasehold Mortgagee to cure defaults shall include and shall be extended by any period in which Leasehold Mortgagee is prevented from curing by reason of any stay in any bankruptcy of Tenant or other stay of enforcement proceedings to which Leasehold Mortgagee may be subject (but such extension shall apply only to those defaults that Leasehold Mortgagee is so prevented from curing);

(ii) to require Landlord to terminate Tenant's rights under this Lease by reason of such default, and to substitute Leasehold Mortgagee as lessee of the Premises with Landlord for the balance of the term of this Lease (including any renewal options) by entering into a New Lease (as defined above) and upon payment to Landlord of Landlord's reasonable attorneys' fees in connection therewith and payment of Rent, damages and other sums due under the Lease at the time of execution of the New Lease by Leasehold Mortgagee, its affiliates or nominees, Tenant hereby agreeing to execute such cancellations as may be reasonably required in connection therewith; and

(iii) to acquire pursuant to any Foreclosure the Leasehold Interest and Tenant's rights under this Lease and assume the obligations of Tenant under this Lease as required under this Exhibit, and in such event, Landlord shall not exercise its right of termination with respect to such default, provided that upon such acquisition, Leasehold Mortgagee shall be entitled to cure any and defaults within the curative periods provided above other than payment of Rent, damages and other sums due under the Lease at the time of execution of the New Lease, which shall be paid by Leasehold Mortgagee, its affiliates or nominees no later than ten (10) days following such acquisition.

As used herein, "Leasehold Mortgagee Curative Commencement Date" shall mean (a) in the case of monetary defaults, upon receipt of written notice from Landlord of the lapse of Tenant's curative period; or (b) in the case of non-monetary defaults for which a curative period is provided under this Lease, when both the following have occurred: (x) Leasehold Mortgagee's receipt of notice of such default, and (y) receipt of written notice from Landlord of Tenant's failure to cure such default within the applicable curative period provided in this Lease. Leasehold Mortgagee may cure any monetary default under this Lease by payment of the Rent and other sums or damages then due and owing under the Lease, but Landlord will not require Leasehold Mortgagee to pay any accelerated or future rents in curing such a payment default and will accept such payment as full satisfaction and cure of the outstanding default with respect to the payment of Rent, damages or other sums due under the Lease.

I. Recognition of Leasehold Mortgagee. Upon any Foreclosure and resulting transfer of the Leasehold Interest, Landlord will recognize (i) Leasehold Mortgagee, (ii) any affiliate or nominee or Leasehold Mortgagee, or (iii) any other person, firm or corporation acquiring the Leasehold Interest as lessee under this Lease pursuant to any foreclosure, deed or assignment in lieu of foreclosure, or similar transfer pursuant to any exercise of remedies under any Leasehold Mortgage (collectively, a "Purchaser"), on the same terms and provisions for the remaining term of the Lease, including any unexpired option periods, and with all of the rights and privileges of Tenant, provided such Purchaser agrees to assume and be bound by all of the terms, covenants and conditions of this Lease pursuant to an assumption agreement in a form reasonably acceptable to Landlord (subject to the provisions of Exhibit Section Q below), and provided that Purchaser shall cure all defaults under this Lease as required under the provisions of this Exhibit, including those with regard to the payment of Rent, damages and other sums then due and owing under the Lease (which payment of defaults shall be cured within ten(10) days of such Foreclosure). Such Purchaser shall be permitted to sublease all or a portion of the Premises to one or more new subtenants (i) without the further consent or approval of the Landlord so long as such subtenants operate the Premises for school use (including, without limitation, a public charter school) and related educational and administrative purposes, including, without limitation, classrooms, and administrative offices, and for any other lawful use reasonably related to the foregoing operates an educational facility or (ii) subject to the prior written consent of the Landlord, which consent shall not be unreasonably withheld, conditioned or delayed, with respect to such subtenants operating the Premises for any Expanded Use. The Purchaser shall provide written notice to the Landlord with respect to any Expanded Use request, and the Landlord agrees that upon receipt of such request, Landlord shall provide its approval or disapproval to the Purchaser within fifteen business (15) days. Landlord agrees that with respect to any Expanded Use request, provided (i) the financial strength of the new subtenant is such that it is reasonably projected to be able to support the timely making of the rent payments thereunder, (ii) the business reputation of the new subtenant is in accordance with generally acceptable commercial standards, (iii) the proposed Expanded Use will not violate or create any potential violation of any applicable laws, and (iv) the proposed Expanded Use will not violate any other agreements between Landlord and other tenants, Landlord will provide its written consent. In the event the Landlord does not provide its approval or disapproval within such 15 business day

period, it shall be deemed to have approved the Purchaser's Expanded Use request. No consent or approval by Landlord shall be required in connection with the commencement or completion of any Foreclosure or any assignment or transfer of Tenant's rights under this Lease in connection with any such Foreclosure.

J. Attornment. In the event that any Purchaser shall acquire the rights of Tenant pursuant to the provisions of this Exhibit, such Purchaser will attorn to Landlord in a writing reasonably acceptable to Landlord, and Landlord will thereupon recognize Purchaser as the lessee under this Lease. In the attornment document, the Purchaser shall agree to assume all of the obligations of the Tenant to Landlord under this Lease, subject to the provisions of Exhibit Section Q below, and provided that the Purchaser shall not be deemed to have assumed any responsibility or liability for any unsatisfied indemnification obligations of Tenant under the Lease, nor any responsibility or liability to any third party for any liabilities or obligations of the Tenant under this Lease, arising prior to the Purchaser's acquisition of the Leasehold Interest.

K. Transfer Not a Default. In the event of the assignment or transfer of Tenant's Leasehold Interest pursuant to any Foreclosure, no such Foreclosure shall constitute a default by Tenant under this Lease, and any Purchaser of the Leasehold Interest shall be entitled to all the benefits of this Lease. Landlord agrees to execute such documents as may be reasonably necessary to evidence such Purchaser's rights as lessee under this Lease upon Purchaser's payment of Landlord's reasonable attorney's fees to review or revise such documents.

L. Exercise of Lease Options. It is expressly agreed that the Leasehold Mortgage includes a pledge and assignment of all rights and options of Tenant to extend or renew the Lease, and that upon any assignment or transfer of the Leasehold Interest pursuant to any Foreclosure, such assignment or transfer shall include all such rights and options. No option granted to Tenant to extend or renew this Lease shall be exercisable without the prior, written consent of Leasehold Mortgagee, and in the event of any exercise thereof without such consent, (i) Leasehold Mortgagee shall not be bound thereby and (ii) the option shall not have been validly exercised and Tenant shall be a holdover tenant. In addition, in any case in which Tenant has failed to exercise any option to extend or renew this Lease within the time required under this Lease, Landlord shall give Leasehold Mortgagee written notice of such failure, and at the written request of Leasehold Mortgagee, (i) Landlord shall extend the period for such exercise by a period of up to sixty (60) days, and (ii) during such 60-day period, if the Leasehold Mortgagee shall cure all defaults that Leasehold Mortgagee is capable of curing and, as to any other defaults, commences the exercise of remedies against Tenant and thereafter diligently pursues the same to completion within the applicable time periods set forth in this Exhibit, the right to exercise such option shall continue throughout the curative period provided in Exhibit Section H above, and upon succeeding to the Leasehold Interest from Tenant, Leasehold Mortgagee or other assignee thereof shall be entitled to exercise such option within fifteen (15) days of succeeding to Tenant's Leasehold Interest.

M. Assignments by Leasehold Mortgagee. In the event that the Leasehold Mortgagee or any affiliate or nominee thereof shall acquire the Leasehold Interest pursuant to the Leasehold Mortgage and the provisions set forth above, Leasehold Mortgagee or such affiliate or nominee shall be entitled to further assign the Leasehold Interest in connection with the sale and assignment of such interest and the Installations financed by the Leasehold Mortgagee, without the further consent or approval of the Landlord but subject to the terms conditions of this Lease and only to a transferee who expressly agrees to be bound by the terms of this Lease. Any subsequent assignment of the Leasehold Interest shall be subject to such consent as required under the terms of this Lease.



N. Leasehold Mortgagee as Beneficiary. Each Leasehold Mortgagee is an express third party beneficiary of the provisions of this Exhibit and shall be entitled to enforce the same directly against Landlord.

O. Bankruptcy of Landlord. In the event that the Landlord shall become subject to any bankruptcy or insolvency proceeding and subject to applicable law, any rights, elections, or actions available to Tenant therein shall be subject to the rights of Leasehold Mortgagee under the Leasehold Mortgage to consent to, or to exercise on behalf of Tenant, such rights, elections, or actions. Without limiting the foregoing but subject to applicable law, no consent or acquiescence by Tenant to any rejection of this Lease by Landlord or any successor or trustee in such proceeding shall be binding or effective without the prior, written consent thereto by each Leasehold Mortgagee, and the rights, liens, and claims of Leasehold Mortgagee shall extend to, encumber, and include all rights to damages for any such rejection and all rights to continued possession of the Premises.

P. Liability of Leasehold Mortgagee. In no event shall Leasehold Mortgagee have or be deemed to assume any personal liability under this Lease or any personal liability for performance of any of Tenant's obligations under this Lease prior to becoming the Tenant under the Lease and taking possession of the Premises. Prior to becoming the Tenant under the Lease and taking possession of the Premises, nothing in this Lease shall operate to give rise to or create any responsibility or liability for the control, care, management or repair of the Premises upon such Leasehold Mortgagee, or impose responsibility for the carrying out by the Leasehold Mortgagee of any of the covenants, terms and conditions of the Tenant under this Lease, or constitute such Leasehold Mortgagee a "mortgagee in possession," nor shall said instrument operate to make such Leasehold Mortgagee responsible or liable for any waste committed on the Premises by any person whatsoever, or for any dangerous or defective condition of the Premises, or for any negligence in the management, upkeep, repair or control of the Premises resulting in loss, injury or death to any tenant, licensee, invitee, guest, employee, agent or stranger; it being agreed that (i) Leasehold Mortgagee's commencement of any Foreclosure or any efforts to cure any default under this Lease shall be for its own protection and shall not by itself constitute and assumption of the Lease nor obligate Leasehold Mortgagee to complete any such proceedings or cure, and (iii) in the event Leasehold Mortgagee or any affiliate or nominee thereof shall have acquired the Leasehold Interest, upon any subsequent assignment of this Lease, Leasehold Mortgagee or such any affiliate or nominee shall be released from any further liability under this Lease accruing after the date of such assignment, other than any unsatisfied indemnification obligations of Tenant under the Lease or any responsibility or liability to any third party for any liabilities or obligations of the Tenant under this Lease, accruing during the assignor's tenancy period.

Q. Rights As Among Leasehold Mortgagees. In any case in which there shall be more than one Leasehold Mortgage, each Leasehold Mortgagee shall be entitled to the benefit of the provisions of this Exhibit, provided, that (i) any actions or elections permitted to be taken or made hereunder shall be determined and exercised by the Leasehold Mortgagee whose Leasehold Mortgage is most senior in priority (unless otherwise directed in writing by such senior Leasehold Mortgagee and delivered to Landlord), and (ii) the time periods in this Exhibit for any action or response by a Leasehold Mortgagee shall run concurrently for all Leasehold Mortgagees.

R. Encumbrances by Landlord. In the event the Landlord's interest in the Premises is subject to a mortgage or deed of trust ("Landlord Mortgage"), Landlord agrees on or before the funding of the Leasehold Mortgage to obtain such commercially reasonable Non-Disturbance Agreement or Tri Party Agreement as may be approved by such Leasehold Mortgagee, pursuant to which such Landlord Mortgagee agrees that in the event such Landlord Mortgagee, or its



successor in interest, including any purchaser at a foreclosure sale, whether judicial or non-judicial, should acquire title to the Premises, such Landlord Mortgagee or its successor in interest shall be subject to and bound by the terms of this Lease (expressly including this Exhibit) and that no foreclosure or other enforcement of such mortgage, deed of trust or other encumbrance in and of itself will disturb or effect this Lease or the rights of Leasehold Mortgagee hereunder.

S. Casualty and Condemnation. In the event of any casualty or condemnation affecting the Premises, and notwithstanding any other provision of this Lease to the contrary, (i) any net proceeds of insurance or condemnation that are required to be applied to restoration of the Premises or Installations shall be payable to Leasehold Mortgagee (or if there is more than one Leasehold Mortgage, to the Leasehold Mortgagee having senior priority) and administered by such Leasehold Mortgagee for application to such restoration in accordance with the provisions of the Lease and the terms and conditions governing such application as set forth in the Leasehold Mortgage, it being agreed that such terms and conditions may not change the obligation of Landlord or Tenant under the Lease to restore the Premises in a timely manner, (ii) in any case not involving a total condemnation of the Premises in which any such proceeds are not required under the Lease to be applied to restoration of the Premises or Installations, all such proceeds not required for such restoration shall be payable first to Leasehold Mortgagee (or if there is more than one Leasehold Mortgage, to each Leasehold Mortgagee in order of priority) until the indebtedness and obligations under each Leasehold Mortgage have been paid and satisfied in full, after which they shall be paid to or apportioned between Landlord and/or Tenant as provided under the other provisions of this Lease, and (iii) no election by Tenant to terminate this Lease upon any such casualty or condemnation shall be effective without the prior written consent of each Leasehold Mortgagee.

T. Landlord Agreement. At the request of any Leasehold Mortgagee (or prospective Leasehold Mortgagee) and upon payment of Landlord's reasonable attorney's fees in connection therewith, Landlord will enter into an agreement with such Leasehold Mortgagee (as executed, together with any amendments thereto and renewals and replacements therefor, the "Landlord Agreement"), containing in substantial substance the following assurances or undertakings, or such additional provisions as may be mutually acceptable to Landlord, Tenant and Leasehold Mortgagee:

(i) Stating that, as of the date of the Landlord Agreement, this Lease is valid and in full force and effect, and has not been altered, amended or modified, in any respect whatsoever, other than pursuant to disclosed amendments delivered to Leasehold Mortgagee;

(ii) Stating, if true, that (a) no notice of any default by Tenant under the Lease has been issued by Landlord, other than with respect to defaults that have been cured or waived by Landlord, and (b) to the best of Landlord's knowledge with no duty of investigation, no default, nor any event that, with the passage of time or the giving of notice, or both, would constitute a default under this Lease has occurred and is continuing as of the date of the Landlord Agreement;

(iii) Confirming the commencement and termination dates of this Lease, the amount of Base Rent currently payable by Tenant and the date through which such payments have been made, and whether any options to renew or extend the Lease or to purchase the Landlord's interests in the Premises have been exercised or have lapsed; and

(iv) Expressly identifying each Leasehold Mortgage and Leasehold Mortgagee and setting forth the address(es) of Landlord and each Leasehold Mortgagee for purposes of notices to be given and received pursuant to the provisions of this Exhibit, and providing that such

Leasehold Mortgagee shall have such rights and remedies as provided to Leasehold Mortgagee in the Lease, including this Exhibit.

In addition, in the event that there is any transfer of Landlord's interests in the Premises, in connection with the execution of all documents required in connection therewith, Landlord will cause any such transferee to provide a Landlord Agreement and acknowledge the rights of Leasehold Mortgagee pursuant to this Exhibit.

U. Nothing in this Exhibit shall prevent or hinder Landlord from exercising its right under the Lease or at law to self-help or to cure Tenant's breach or default under the Lease following issuance of written notice of such default to Tenant and Leasehold Mortgagee. Landlord need not wait until the Leasehold Mortgagee Curative Commencement Date before exercising such rights to self-help or cure. Landlord shall provide to Leasehold Mortgagee written notice of Landlord's election to exercise such rights as soon as reasonably practicable under the circumstances.

V. This Lease shall not be amended, modified, terminated or cancelled without the prior written consent of the Leasehold Mortgagee, with consent may not be unreasonably withheld, conditioned or delayed.

## **NAVIGATOR SCHOOLS**

### **RESOLUTIONS OF THE BOARD OF DIRECTORS BR 2021-05**

**January 13, 2021**

#### **(Watsonville Prep School Facility)**

The Board of Directors (the “Board”) of Navigator Schools hereby adopts the following Resolutions:

**WHEREAS**, Navigator Schools, a California nonprofit public benefit corporation (“Corporation”), is organized for charitable purposes;

**WHEREAS**, Corporation caused the formation of Navigator Schools Support Corporation, a California nonprofit public benefit corporation (“Support Corporation”), to be operated exclusively to support Corporation;

**WHEREAS**, Corporation caused Support Corporation to form, and become the sole member of, 407 Main Street LLC, a California limited liability company (the “Borrower”);

**WHEREAS**, Corporation caused Support Corporation to adopt an operating agreement the “Operating Agreement”) for Borrower pursuant to which Corporation is designated as the initial manager of Borrower;

**WHEREAS**, Corporation operates the public charter school currently known as Watsonville Prep School, CDS Code 44 77248 0138909 (the “School”), currently located on the campus of E.A. Hall Middle School, 201 Brewington Avenue, Watsonville, California 95076;

**WHEREAS**, the Borrower proposes to lease certain real property located in the County of Santa Cruz, State of California, commonly known as 407 Main Street, Watsonville, California 95076 (the “Property”) from Hansen Family Trust (“Hansen”), pursuant to the terms of a Master Lease Agreement by and between Hansen, as Lessor, and Borrower, as Lessee, (the “Master Lease”), substantially in the form presented to the Board, for the purpose of relocating the operations of the School to the Property;

**WHEREAS**, Corporation currently proposes to sublease the Property from the Borrower pursuant to the terms of one or more Sublease Agreements each for a term of one year, with the initial Sublease Agreement commencing on the date of the QLICI Loan (as defined herein) funding and ending on June 30, 2021, and each subsequent Sublease Agreement ending on June 30 of each year through and including 2026, and a final Sublease Agreement for a term concurrent for the then remaining term of the Master Lease (collectively, the “Sublease”) by and between the Borrower, as Sublessor, and Corporation, as Sublessee; substantially in the form presented to the Board.

**WHEREAS,** Corporation proposes that the Borrower will construct certain improvements to the Property for an estimated total cost of approximately \$8,900,000 (the “Budget”);

**WHEREAS,** Corporation has requested Low Income Investment Fund, a California nonprofit public benefit corporation (“LIIF”), to make a loan to Twain Investment Fund 504, LLC, a Missouri limited liability company (the “Investment Fund”), in the form of a NMTC leverage loan of up to \$4,700,000 (the “LIIF Leverage Loan”). with such loan to be evidenced by a Loan Agreement (“LIIF Leverage Loan Agreement”) between LIIF and Investment Fund, a Promissory Note (the “LIIF Leverage Loan Note”) issued by Investment Fund to LIIF, and related loan documents;

**WHEREAS,** USB NMTC Fund 2020-6, LLC, a Delaware limited liability company (“USB Fund”) intends to make a capital contribution of approximately \$1,500,000 (“Fund Contribution”) to Investment Fund;

**WHEREAS,** Corporation has requested the Investment Fund use the proceeds of the LIIF Leverage Loan and the Fund Contribution to make an equity investment (the “QEI”), in Civic Builders Sub-CDE 17, LLC, a New York limited liability company (the CDE”);

**WHEREAS,** Corporation has requested LIIF to make a direct loan to the Borrower of up to \$1,545,758.00 (the “LIIF Direct Loan”), with such loan to be evidenced by a Loan Agreement (“LIIF Direct Loan Agreement”) between LIIF and the Borrower, a Promissory Note (the “LIIF Direct Loan Note”) issued by the Borrower to LIIF, and related loan documents;

**WHEREAS,** Corporation proposes that the Borrower and Corporation will secure or support the obligations of the Borrower and Corporation under the LIIF Direct Loan and the LIIF Leverage Loan pursuant to, among other agreements, for the LIIF Direct Loan (i) a first priority leasehold deed of trust (the “LIIF Deed of Trust”) executed by the Borrower encumbering the Property in favor of LIIF, (ii) an assignments of leases and rents (the “LIIF Assignment of Leases”) executed by the Borrower assigning the leases and rents of the Property to LIIF, (iii) an assignment of contracts, plans and specifications, assessments, entitlements and intangibles (the “LIIF Assignment of Contracts”) executed by the Borrower in favor of LIIF, and (iv) a construction payment and completion guaranty (the “LIIF Construction Guaranty”) executed by Corporation in favor of LIIF.

**WHEREAS,** Corporation has requested the CDE to use the proceeds of the QEI to make one or more loans to the Borrower of an aggregate amount up to \$5,880,000.00 (the “QLICI Loan”), with such loan to be evidenced by a Loan Agreement (“QLICI Loan Agreement”) between the CDE and the Borrower, one or more Promissory Notes (collectively, the “QLICI Notes”) issued by the Borrower to the CDE, and related loan documents;

**WHEREAS,** Corporation proposes to enter into that certain Unconditional Guaranty of New Markets Tax Credits, Put Price and Environmental Indemnification by and among the Borrower, Corporation and USBNA (the “QALICB Guaranty”);

**WHEREAS**, Corporation proposes to enter into that certain Investment Fund Put and Call Agreement, by and between USB Fund and Corporation (the “Put/Call Agreement” and collectively with the QALICB Guaranty the “NMTC Documents”);

**WHEREAS**, Corporation proposes that the Borrower and Corporation will secure or support the obligations of the Borrower under the QLICI Loan pursuant to, among other agreements, (i) a second priority leasehold deed of trust (the “QLICI Deed of Trust”) executed by the Borrower encumbering the Property in favor of the CDE, (ii) an assignments of leases and rents (the “QLICI Assignment of Leases”) executed by the Borrower assigning the leases and rents of the Property to the CDE, (iii) an assignment of contracts, plans and specifications, assessments, entitlements and intangibles (the “QLICI Assignment of Contracts”) executed by the Borrower in favor of the CDE, (iv) a security agreement (the “QLICI Security Agreement”) executed by Borrower in favor of the CDE encumbering all remaining personal property of Borrower, (v) a repayment and completion guaranty (the “QLICI Guaranty”) executed by Corporation in favor of the CDE, (vi) an environmental indemnity agreement (the “QLICI Environmental Indemnity”) executed by Borrower and Corporation in favor of the CDE, (vii) one or more account pledge agreements (the “QLICI Account Pledge Agreements”) executed by Corporation in favor of the CDE, (viii) one or more blocked account control agreements (the “QLICI Account Control Agreements”) executed by Corporation, the CDE, and U.S. Bank National Association, a national banking association (“USBNA”), and (ix) the New Markets Fee and Expense Agreement by and among Borrower, the Corporation, CDE, and Civic Builders , Inc., a New York not-for-profit corporation.

**WHEREAS**, Corporation proposes that the Borrower will use the proceeds of the LIIF Direct Loan and the QLICI Loan (collectively, the “Loans”) for the purpose of financing (i) the costs of construction of the improvements to the Property as contemplated by the Budget, including reimbursement of costs incurred by Corporation, (ii) capitalized interest needed to fund interest accrued from the date of the Loans to the date of the Borrower’s taking possession of the Property, and (iii) the payment of expenses incurred in connection with the making of the Loans;

**WHEREAS**, Corporation has requested Pacific Charter School Development, Inc., a California nonprofit public benefit corporation (“PCSD”), to make a loan (the “PCSD Loan”) to Corporation in the amount of up to approximately \$1,400,000.00 with such loan to be evidenced by a Loan and Security Agreement (“PCSD Loan Agreement”) between PCSD and Corporation, an Unsecured Subordinated Promissory Note (the “PCSD Note”) issued by Corporation to PCSD, and related loan documents;

**WHEREAS**, Corporation proposes that Corporation will use the proceeds of the PCSD Loan and other funds of the Corporation to purchase a controlling membership interest in Borrower, and to make a charitable contribution to Support Corporation to enable Support Corporation to make an equity contribution in the Borrower, all as may be necessary or desirable to capitalize Borrower for purposes of engaging in the transactions described above

**WHEREAS**, Corporation proposes that the rent payable under the Sublease will include amounts sufficient to enable the Borrower to satisfy its obligations under the Master Lease, to satisfy the Borrower’s obligations to LIIF and the CDE with respect to the Loans, to fund costs

of construction in excess of the amounts funded by the Loans, and to fund the Borrower's operating expenses, including expenses for audit and accounting services;

**WHEREAS**, Corporation proposes to make such other loans, lease payments, or charitable contributions to the Borrower as may be necessary or desirable to capitalize the Borrower for purposes of entering into the transactions described above;

**WHEREAS**, the individuals listed on Schedule 1 attached hereto have been elected or appointed to the offices of Corporation set forth after their names on Schedule 1, and such individuals are currently serving as such officers of Corporation;

**WHEREAS**, the Board finds that the terms of the foregoing transactions (collectively, the "Transactions"), including the Loans, the PCSD Loan, the Master Lease, the Sublease, and the NMTC Documents are fair and reasonable as to Corporation and the Borrower (collectively, the "Corporation Entities") and Support Corporation under the circumstances, are in the best interests of the Corporation Entities and Support Corporation, and are in furtherance of the charitable purposes of Corporation; and

**WHEREAS**, the Board desires the Corporation Entities and Support Corporation to take all actions necessary or advisable to facilitate the Transactions; now, therefore, be it

**RESOLVED**, that, the Board ratifies and approves the Transactions and authorizes the execution, delivery and performance by the Corporation Entities of the documents and agreements listed on Schedule 2 attached hereto (collectively, the "Primary Transaction Documents"), as applicable, to which the Corporation Entities may be a party and all such other all such documents, instruments and agreements as may be necessary or advisable to facilitate the Transactions (collectively, the "Transaction Documents");

**RESOLVED**, that the Board requests Support Corporation to take all actions necessary or advisable to facilitate the Transactions;

**RESOLVED**, that from the proceeds of the PCSD Loan and such other funds as may be available to the Corporation, and in consideration of the assignment by the Corporation to Borrower of certain agreements, property rights, plans and specifications acquired by the expenditure of the Corporation of approximately \$475,150 in pre-development expenses (as described in that certain Assignment and Assumption of Contracts, Ancillary Documents and Other Rights presented to the directors), the Corporation shall purchase a controlling membership interest in Borrower, and make a charitable contribution (the "Grant") to Support Corporation, all in an aggregate amount sufficient, in the judgment of the officers of the Corporation, together with the Direct Loan and the QLICI Loan, to capitalize Borrower for purposes of engaging in the Transactions.

**RESOLVED**, that the officers of the Corporation, on its behalf in its capacities as manager and a member of Borrower, are authorized to sign and deliver an Amended and Restated Operating Agreement of Borrower to amend and restate the operating agreement of Borrower to effect the admission of Corporation as a member, to reaffirm that the Corporation will be the manager of Borrower, to reaffirm Support Corporation as a member of Borrower and to reflect the resulting membership interests of the Corporation and Support Corporation, and



provide for such other matters as such officers deem in their judgment to be necessary and appropriate and in the best interests of the Corporation.

**RESOLVED**, that the officers of Corporation, are authorized make the Grant to Support Corporation and to sign and deliver (i) that certain Donation Letter Agreement by Corporation in favor of Support Corporation, and (ii) that certain Assignment and Assumption of Contracts, Ancillary Documents and Other Rights to Borrower.

**RESOLVED**, that the Board requests Support Corporation to contribute the Grant to the Borrower as a contribution to capital and to sign and deliver the above referenced Amended and Restated Operating Agreement of Borrower.

**RESOLVED**, that the Board hereby approves, confirms, and ratifies the election or appointment of the officers of Corporation listed on Schedule 1 attached hereto;

**RESOLVED**, that the Board appoints the officers of Corporation, and each of them individually (each, an "Authorized Signatory"), as authorized signatories of the Corporation Entities for purposes of executing the Transaction Documents on behalf of the Corporation Entities;

**RESOLVED**, that the Authorized Signatories, and each of them individually, are authorized and directed, for and in the name and on behalf of Corporation, for itself and as a member or manager of the Borrower, and for and in the name and on behalf of the Borrower, to open such deposit accounts or other bank accounts and to contract for such banking services for the Corporation Entities as such Authorized Signatories may deem necessary or advisable to facilitate the Transactions and to execute, on behalf of the Corporation Entities, all related standard form resolutions required by all banks, trust companies and financial institutions;

**RESOLVED**, that the Authorized Signatories, and each of them individually, are authorized and directed, for and in the name and on behalf of Corporation, for itself and as a member or manager of the Borrower, and for and in the name and on behalf of the Borrower, to execute, deliver, approve, and, as appropriate, declare final the Transaction Documents, together with such amendments or modifications thereto as an Authorized Signatory may approve as necessary or advisable to facilitate the Transactions, and all such other loan agreements, promissory notes, obligations, leases, subleases, deeds of trust, security agreements, account control agreements, subordination, non-disturbance and attornment agreements, tax certificates, tax and regulatory compliance agreements, disclosure agreements, assignments, indemnification agreements, guaranties, subordination agreements, escrow agreements, agreements with project managers, contractors, architects, engineers, consultants, or other persons, notices, certificates, and other documents, agreements, or instruments or amendments to any of the foregoing, as an Authorized Signatory may approve as necessary or advisable to facilitate the Transactions, each with such additions, deletions or changes therein as the Authorized Signatory executing the same may approve (the execution and delivery thereof by any such Authorized Signatory to be conclusive evidence of his or her approval of any such document, agreement, instrument, amendment, addition, deletion or change);



**RESOLVED**, that the Board hereby ratifies and confirms the acts of the officers, agents or employees of Corporation taken on behalf of Corporation, for itself or as a member or manager of the Borrower, in connection with the Transactions;

**RESOLVED**, that by the adoption of these resolutions, the Board hereby reconfirms, ratifies and adopts all prior actions of the Board and of the officers of this Corporation which may have previously been taken in connection with the Transactions;

**RESOLVED**, that all prior resolutions of the Board or any parts thereof in conflict with any or all of the foregoing resolutions are hereby repealed to the extent of such conflict;

**RESOLVED**, that these resolutions shall take effect and be in full force immediately after their adoption by the Board; and

**RESOLVED**, that the Authorized Signatories, and each of them individually, are authorized and directed, for and in the name and on behalf of Corporation, for itself and as a member or manager of the Borrower, and for and in the name and on behalf of the Borrower, to approve, execute and deliver any and all documents, instruments and agreements, and to perform or cause to be performed any and all acts as may, in their judgment, be necessary or desirable to accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby and by the agreements therein approved, and any such documents, instrument or agreements so executed and delivered or actions taken by them or any of them shall be conclusive evidence of their authority in so doing.

### **Certificate of Secretary**

The undersigned certifies that the undersigned is the duly appointed and acting Secretary of the Corporation and that the foregoing is a true and correct copy of Resolutions that were duly adopted on January 13, 2021, by the majority vote of the directors of the Corporation then in office at a meeting of the board of directors of the Corporation duly held on such date in compliance with the bylaws of the Corporation, in compliance with the notice, agenda, and open meeting requirements of the Ralph M. Brown Act, and while a quorum was present.

**IN WITNESS WHEREOF**, I have hereunto set my hand as Secretary of the Corporation this 13th day of January 13, 2021.

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Nora Crivello, Secretary

## **Schedule 1**

### **Officers of the Corporation**

Kevin Sved	President, Chief Executive Officer and Executive Director
Nora Crivello	Secretary
Amy Ortiz	Chief Financial Officer

## **Schedule 2**

### **Primary Transaction Documents**

1. LIIF Leverage Loan Agreement
2. LIIF Leverage Loan Note
3. LIIF Pledge Agreement
4. LIIF Direct Loan Agreement
5. LIIF Direct Loan Note
6. LIIF Deed of Trust.
7. LIIF Assignment of Leases
8. LIIF Assignment of Contracts
9. LIIF Guaranty
10. LIIF Indemnity Agreement on Environmental and Handicapped Access
11. QLICI Loan Agreement
12. QLICI Notes
13. QLICI Deed of Trust.
14. QLICI Assignment of Contracts
15. QLICI Assignment and Assumption of Contracts (Corporation to 407 Main St)
16. QLICI Guaranty
17. QLICI Environmental Indemnity
18. QLICI Account Pledge Agreements (Disbursement Account)
19. QLICI Account Control Agreements (Disbursement Account)
20. QLICI Account Pledge Agreements (Allocatee Fee Reserve)
21. QLICI Account Control Agreements (Allocatee Fee Account)
22. Disbursing Agreement
23. Unconditional Guaranty of New Markets Tax Credits, Put Price and Environmental Indemnification
24. Investment Fund Put and Call Agreement

25. New Markets Fee and Expense Agreement
26. PCSD Loan Agreement
27. PCSD Note
28. Master Lease Agreement
29. Master Sublease Agreements
30. Amended and Restated Operating Agreement of the Borrower
31. Donation Letter Agreement by Corporation in favor of Support Corporation
32. Community Benefits Agreement