

**Public
Education
Commission**

School Relocation or Additional Square Footage Amendment Form

The Charter Contract was entered into by and between the New Mexico Public Education Commission and [EXPLORE ACADEMY - LAS CRUCES], hereafter "the School" effective [1st] of [JULY], [2021]. The school was approved for a [FIVE-YEAR TERM] Charter Contract.

The school requests consideration from the Public Education Commission (PEC) to change the terms of its Contract as follows:

Charter Contract currently states:

SCHOOL NAME: Explore Academy - Las Cruces

ORIGINAL ADDRESS: 900 N Telshor Blvd Las Cruces, NM 88011

AUTHORIZED GRADE LEVELS: 6-12

The School requests the Public Education Commission approve Section ____ of the School's contract to read:

EFFECTIVE DATE OF CHANGE: July 2022 *Exact date is dependent upon receipt of eOccupancy.*

SCHOOL NAME: Explore Academy - Las Cruces

NEW PHYSICAL ADDRESS: 850 N. Telshor Blvd Las Cruces, NM 88011


AUTHORIZED GRADE LEVELS: 6-12

ADDITIONAL SQUARE FOOT AMENDMENT:

Submit this form and all supporting documents to charter.schools@state.nm.us

The School's School Relocation or Additional Square Footage Amendment is hereby submitted by [Clara Welles] on [June 8, 2022], and affirms the school meets the following eligibility criteria:

- ☒ Amendment must be submitted and approved by the PEC prior to the physical move; and
- ☒ The School's governing board is in compliance with all reporting requirements.



Charter School Representative Signature

June 8, 2022

Date

The School's School Relocation or Additional Square Footage Amendment was:

☐ Approved ☐ Denied

Chair, Public Education Commission

Date

Narrative*

☐ **Provide the rationale for moving the school to a new location.**

Explore Academy - Las Cruces was located in a temporary facility (900 N. Telshor Blvd. 88011) for its first year of operations in 2020-2021. The staff, student, and families are very excited about moving into the school's permanent home at 840/850 N. Telshor Blvd. The administrative offices will be located in the 850 section and, therefore, the official address will be 850 N. Telshor Blvd., Las Cruces, NM 88011.

The new facility was formerly home to Vista College and requires very little remodeling to obtain a certificate of eOccupancy for serving students in 2022-2023. The school has received keys to the building and expects to receive the eOccupancy certificate in July 2022.

☐ **Identify the number of students displaced by the move and discuss the plan to support these students:**

- **Discuss communication of the planned move to the school community;**
- **Discuss how displaced students will be/have been supported in identifying other educational options; and**
- **Enrolling in another school.**

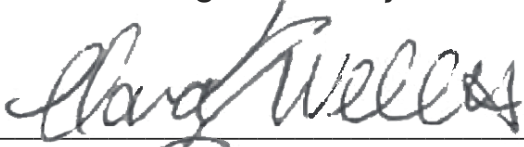
No students are being displaced by the move as the new facility is literally two businesses down from the current temporary facility. Of course, the move has been communicated to the school community via the weekly announcements and the school website. All stakeholders are very excited about the upcoming move to the new building.

CERTIFICATE OF GOVERNING BODY VOTE

This document certifies that on June 8, 2022 at 6:00 pm, a meeting of the Governing Body of **Explore Academy - Las Cruces**, a New Mexico public state charter school, was held virtually via the Zoom platform. The meeting and all votes were conducted in compliance with the New Mexico Open Meetings Act.

A quorum of the Governing Body's members being present and voting, it was voted four (4) in favor and zero (0) opposed to submitting the Amendment Request for the school location. The board had previously approved the lease agreement and all details related to the facility.

I, the undersigned, certify that this is a true copy.



Board President Clara Welles

FACILITY ASSURANCES




EXPLORE ACADEMY - LAS CRUCES


TO: Public Education Commission
FROM: Explore Academy- Las Cruces Governing Board
DATE: June 8, 2022

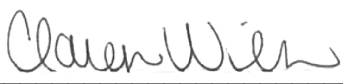
The Governing Board of Explore Academy - Las Cruces hereby assures that the school will not occupy any space until/unless the following four (4) conditions are met:

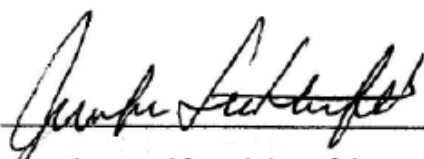
1. The school possesses a Certificate of Occupancy and provides the same to the PEC; and
2. The facility has a sufficient capacity load to sustain the enrollment requested and provides documentation of the capacity load to the PEC; and

The undersigned officials certify that we have read and understand the obligations as described and that the school will comply with the aforementioned requirements.

1. 
Chair Clara Wells

2. 
Vice Chair Gabriela Graham

3. 
Secretary Claren Wilson Mulhall

4. 
Member Jenifer Lichtenfels

**State of New Mexico
Public School Facilities Authority**



Martica Casias, Director

Ryan Parks, Deputy Director

1312 Basehart Road, SE, Suite 200
Albuquerque, NM 87106
(505) 843-6272 (Phone); (505) 843-9681 (Fax)
Website: www.nmpsfa.org

May 3, 2022
Justin Baiardo, Executive Director
Explore Academy

RE: wNMCI for potential facility located in Las Cruces, NM

VIA E-MAIL

Mr. Baiardo,

Per your request, the Public School Facilities Authority (PSFA) assessed the potential facility located at 840 and 850 Telshor in Las Cruces, NM on April 18th, 2022. PSFA understands that Explore Academy is need of a new permanent facility. Following the assessment, the potential facility's weighted New Mexico Condition Index (wNMCI) was calculated, pursuant to 22-8B-4.2 NMSA 1978 and 22-20-1(A) (2) NMSA 1978. The wNMCI represents the facility condition related to systems and adequate space for students.

The potential facility located at 840 and 850 Telshor has a current wNMCI score of **16.8%**. This score does meet or exceed the current wNMCI statewide average of 23.4%, as required by statute (lower is better). Therefore, this facility meets the requirements for a charter school to move into.

Please update the PSFA as the charter school moves forward with plans to move into this potential facility for the upcoming school year. The school will need to obtain and provide an E-occupancy certificate to the PSFA.

Respectfully,

Alyce Ramos, Research Analyst
Public School Facilities Authority

Cc; Martica Casias, Deputy Director

LEASE AGREEMENT

Dated as of May 26, 2022,

by and between

EXPLORE ACADEMY LAS CRUCES FOUNDATION
A New Mexico Nonprofit Corporation,

and

EXPLORE ACADEMY – LAS CRUCES,
A New Mexico state-authorized public Charter School.

LEASE AGREEMENT

This Lease Agreement ("Lease") is entered into by and between Explore Academy Las Cruces Foundation, a New Mexico nonprofit corporation (the "Foundation"), as lessor, and Explore Academy – Las Cruces, a New Mexico public Charter School (the "Charter School"), as lessee, effective as of May 26, 2022.

RECITALS

A. On March 8, 2022, the Foundation entered into a Purchase and Sale Agreement to acquire approximately 3.71 acres of land ("Land"), and improvements consisting of approximately 45,641 square-feet of existing classroom facilities (the "Buildings") located at 840 and 850 North Telshor, Las Cruces, Doña Ana County, New Mexico, 88011, as more particularly described on Exhibit A hereto. The Buildings and Land together are referred to herein as the "Property."

B. Under the terms of this Lease, the Foundation shall cause certain improvements to be made to the Property. The improvements will be completed in two phases as set forth in Exhibit B.

C. The Foundation was organized to support the Charter School, and for the specific purpose of providing the Charter School with a facility pursuant to NMSA 1978, §22-8B-4.2 (D) (2) (b) (2) (2011) and, as of the date of execution of this Lease, has entered a Loan Agreement (as defined herein)) and secured the necessary funds to purchase the Property, and to complete improvements to the Property.

D. The Foundation requested that Public Finance Authority, a body corporate and politic under the laws of the State of Wisconsin ("Authority"), to issue its Educational Facility Revenue Bonds (Explore Academy Las Cruces Project) Series 2022A and its Taxable Educational Facility Revenue Bonds (Explore Academy Las Cruces Project) Series 2022B (collectively, the "Bonds") to, among other things (i) acquire the Property, and (ii) finance certain renovations and improvements to the Buildings including, but not limited to, installation of a fire sprinkler system, widening of certain hallways and doorways, and other Americans with Disabilities compliance improvements (the "Improvements") as described in Exhibit B hereto, all for use as a public Charter School (the Property as improved by the Improvements and Land are collectively, the "Facility").

E. The Charter School is a public Charter School authorized by the New Mexico Public Education Commission and duly organized and validly existing pursuant to the New Mexico Charter Schools Act, NMSA 1978, §§ 22-8B-1, *et seq.* (the "Act"), and the Charter School is authorized by Section 22-8B-4(D) of the Act to contract with any third party for the use of a Charter School building and grounds.

F. The Foundation is a non-profit corporation organized, existing, and in good standing under the laws of the State of New Mexico and is authorized under its articles of incorporation, bylaws, action of its board of directors, and applicable law, to own and manage its properties, to conduct its affairs in the state of New Mexico, to lease the Facility to the Charter School, and to otherwise act in the manner contemplated herein.

G. As of the Rental Commencement Date (as hereinafter defined), the Foundation agrees to cause the Facility to meet the educational occupancy requirements of the governmental authorities with jurisdiction and the Statewide Adequacy Standards for New Mexico public school as contemplated by NMSA 1978, §22-8B-4.2(D)(2).

H. The Foundation is expected to execute a certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing, on May 31, 2022 or such later date approved by the Bondholder Representative, (the "Deed of Trust"), to Doña Ana Title Company, Inc., Deed of Trust trustee for the benefit of UMB Bank, n.a., as beneficiary (hereinafter "Beneficiary, "Assignee" or "Trustee" as defined herein) thereunder, to secure the Foundation's obligations under the Loan Agreement, and otherwise related to acquisition, as trustee, and improvement of the Facility as described above, pursuant to which the Foundation assigned to the Beneficiary all of the Foundation's right, title, and interest in, to, and under this Lease. The Charter School shall promptly comply with all of the Foundation's written instructions related to the Charter School's compliance with its obligations under this Lease.

I. Pursuant to the Loan Agreement and Deed of Trust, the Foundation has (a) assigned to the Authority all of the Foundation's right, title and interest in, to and under this Lease; (b) granted a security interest to the Authority in the Foundation's Gross Revenues (as defined in the Loan Agreement) and the equipment and fixtures relating to the Facility; and (c) granted a lien on and encumbered the Facility for repayment of amounts due under the Loan Agreement for the benefit of the Authority and its successors and assigns. The Authority has assigned these rights and interest to the Trustee as security for the 2022 Bonds.

J. The Base Rent and Additional Rent (both as hereinafter defined) payable by the Charter School hereunder shall constitute currently appropriated expenditures of the Charter School and the Charter School shall for the Initial Term and any Extended Term authorize and appropriate the payments required hereunder for such year. No obligation for payment hereunder shall constitute a debt or multiple fiscal year direct or indirect obligation whatsoever of the Charter School, or a mandatory charge or requirement against the Charter School in any fiscal year (as hereinafter defined) beyond the fiscal year for which such payments have been appropriated.

K. The execution, delivery and performance of this Lease by the Charter School are in the best interest of the Charter School, serve a public purpose and have been duly authorized by the governing board of the Charter School.

L. The Foundation desires to lease the Property to the Charter School and the Charter School desires to lease the Property from the Foundation, pursuant to the terms and conditions and contingencies and for the purposes set forth in this Lease, subject in all respects to the liens evidenced by the Loan Agreement and the Deed of Trust.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE I DEFINITIONS AND EXHIBITS

Section 1. Definitions. The following terms shall have the meaning set forth below:

“ACH” means Federal Automated Clearing House electronic network for financial transactions in the United States.

“ACH Authorization Agreement” means a debit authorization in the form attached hereto as Exhibit E.

"Additional Rent" means all amounts due by the Charter School under the terms of this Lease, except Base Rent, as provided herein.

"Agreement" means this Lease Agreement, dated as of May 26, 2022, by and between the Foundation and the Charter School and any amendments or supplements hereto, including all exhibits hereto and thereto.

“Assignee” means the Beneficiary under the Deed of Trust.

“Authority” means the Public Finance Authority, a body corporate and politic under the laws of the State of Wisconsin.

“Base Rent” means the amount of “Base Rent” shown on Exhibit C attached hereto for each month of this Lease.

"Business Day" means any day other than a Saturday, Sunday, holiday or a day on which banking institutions in the State of New Mexico are authorized to be closed.

“Building” shall have the meaning set forth in paragraph A of the Recitals.

"Capital Improvements" means the acquisition of land, easements, facilities, and equipment (other than ordinary repairs and replacements), and the construction or reconstruction of improvements, betterments, and extensions which, under generally accepted accounting principles as prescribed by the Governmental Accounting Standards Board, are properly chargeable as capital items.

"Certificate of Occupancy" means the governmental authorization to permit the Charter School to occupy the Building.

“Commencement Date” means the date the Foundation takes title to the Property.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement made by the Foundation to provide certain financial and other related information to the benefit of the owners of the Bonds.

"E-Occupancy" shall have the meaning set forth in Section 6.1 hereof.

"Event of Default" shall have the meaning ascribed to it in Section 8.1.

“Extended Term” shall have the meaning ascribed to it in Section 4.

“Facility” shall have the meaning ascribed thereto in paragraph B of the Recitals including furnishings and equipment, if any, leased by the Foundation to the Charter School under this Agreement.

"Fiscal year" means the Charter School's fiscal year, which begins on July 1 of any year and ends on June 30 of the following calendar year.

"Force Majeure" shall have the meaning ascribed in Section 8.4.

“Improvements” shall have the meaning ascribed thereto in paragraph E of the Recitals.

“Indenture” means the Indenture of Trust, dated as of May 1, 2022, between the Authority and the Trustee.

"Initial Term" shall have the meaning ascribed to it in Section 4.1 hereof.

"Land" shall have the meaning ascribed thereto in paragraph A of the Recitals and as described in Exhibit A.

"Lease" means this Lease Agreement, dated as of May 26, 2022, by and between the Foundation and the Charter School and any amendments or supplements thereto, including all exhibits hereto and thereto.

“Loan Agreement” means that certain Loan and Security Agreement, dated as of May 1, 2022, between the Foundation and the Authority.

“Net Proceeds” means, when used with respect to any insurance payment or condemnation award, the gross proceeds thereof less the costs and expenses (including attorneys' fees) incurred in the collection of such proceeds.

“Operating Expenses” shall have the meaning ascribed to it in Section 5.2.

“Public Education Department” means the New Mexico Public Education Department.

“PSFA” means the New Mexico Public School Facilities Authority.

"Requirements of Law" means any material federal, state, or local statute, ordinance, rule, or regulation, any judicial or administrative order (whether or not on consent), request or judgment, any applicable common-law doctrine, any provision or condition of any permit required to be obtained or maintained, or any other binding determination of any governmental authority relating to the ownership or operation of property, including any of relating to environmental, health, or safety matters.

"State" means the State of New Mexico.

"Statewide Adequacy Standards" means the standards set forth in Title 6, Chapter 27, Part 30 NMAC (08/31/2005), and any subsequent versions thereof, subject to any variances granted to the Charter School by the Public Charter School Capital Outlay Council pursuant to Section 22-8B-4.2(F)(2) NMSA 1978.

"Term " or "term of this Lease" shall mean unless sooner terminated as provided herein, the Initial Term and all Extended Terms as provided herein.

"Trustee" means UMB Bank, n.a., its successors and assigns.

Section 2. Exhibits.

Exhibit A	Legal Description
Exhibit B	Improvements
Exhibit C	Base Rent Schedule
Exhibit D	ACH Authorization Agreement
Exhibit E	Reporting Requirements

ARTICLE II
REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 3. Representations, Covenants, and Warranties of the Charter School. The Charter School represents, covenants, and warrants as follows:

- (a) It is a duly authorized and chartered Charter School by the New Mexico Public Education Commission under the provisions of the Charter Schools Act, NMSA 1978, §22-8B-1, *et seq.* (“Act”).
- (b) It is, and will use its best efforts to remain, a public Charter School duly organized and validly existing under the Act.
- (c) It is authorized: (i) to lease the Facility from the Foundation pursuant to this Lease; and (ii) to execute, deliver and perform its Obligations under this Lease and related documents and instruments.
- (d) The execution, delivery, and performance of this Lease has been duly authorized by the Charter School and this Lease is enforceable against the Charter School in accordance with its terms, subject only to bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors’ rights generally and equitable principles, whether considered at law or in equity.
- (e) It will perform its obligations under this Lease including making appropriations for the payment of all scheduled obligations hereunder, subject to the limitations and conditions stated herein and the availability of sufficient appropriations and revenues therefor.
- (f) Nothing in this Lease shall be construed as diminishing, unlawfully delegating, or otherwise restricting any legal authority of the Charter School.
- (g) The execution, delivery, and performance of this Lease are in the best interests of the Charter School and serve a valid public purpose.
- (h) None of the execution and delivery of this Lease, the fulfillment of or compliance with the terms and conditions of this Lease, or the consummation of the transactions contemplated by this Lease, conflicts with or results in a breach of the terms, conditions, or provisions of any material restriction or any agreement or instrument to which the Charter School is now a party or by which the Charter School is bound, or constitutes a default under any of the foregoing or, except as specifically provided in this Lease, results in the creation or imposition of a lien or encumbrance whatsoever upon any of the property or assets of the Charter School.
- (i) To the knowledge of the Charter School after diligent inquiry, there is no litigation or proceeding currently pending or threatened against the Charter School or any other person affecting the right of the Charter School to execute and deliver this Lease, the ability of the Charter School to make the payments required hereunder, or the ability of the Charter School otherwise to comply with its obligations under this Lease.

(j) The Charter School will observe and perform all conditions and agreements on its part to be performed as the Lessee.

(k) The Facility will be operated in accordance with all Requirements of Law.

(l) The Facility is necessary and essential to the Charter School's operations.

Section 2.2 Representations, Covenants, and Warranties of the Foundation. The Foundation represents, covenants, and warrants as follows:

(a) It is a non-profit corporation (i) duly organized, existing, and in good standing under the laws of New Mexico, (ii) is possessed of full power to purchase, own, hold, and lease (as owner and landlord) real and personal property, (iii) has all necessary power to lease the Facility to the Charter School pursuant to this Lease, (iv) with the power, and authorized to execute, deliver, and perform its obligations under this Lease and (v) has duly authorized the execution, delivery, and performance of its obligations under this Lease.

(b) It shall at all times maintain its corporate existence and will use its best efforts to maintain, preserve, and renew its tax exempt status and all the rights and powers provided to it under its articles of incorporation, bylaws, action of its board of directors, and applicable law.

(c) This Lease is enforceable against the Foundation in accordance with its respective terms, subject only to bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors' rights generally and equitable principles, whether considered at law or in equity.

(d) The new components that will comprise the Facility and the existing Building are and will be constructed to educational occupancy standards and will meet all applicable Statewide Adequacy Standards. The Facility will be leased from the Foundation in accordance with all Requirements of Law, and the Foundation shall maintain the Facility at a level that satisfies all applicable State Adequacy Standards at no additional cost to the Charter School or the State of New Mexico.

(e) Neither the execution and delivery of this Lease, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions, and provisions of any restriction or any agreement or instrument to which the Foundation is now a party or by which the Foundation is bound or constitutes a default under any of the foregoing.

(f) Except as specifically provided in this Lease and the Loan Agreement, the Foundation shall not assign the Lease, its rights to payments from the Charter School or its duties and obligations hereunder or thereunder to any other person, firm, or corporation other than to the Trustee.

(g) To the knowledge of the Foundation after diligent inquiry, there is no litigation or proceeding pending or threatened against the Foundation or any other person affecting the right of the Foundation to execute and deliver this Lease, or the ability of the Foundation otherwise to comply with its obligations under this Lease.

(j) The Foundation will observe and perform all covenants, conditions and agreements on its part to be performed in the Loan Agreement, as well as in all other documents and agreements related to the Loan (as defined in the Loan Agreement) to which the Foundation is a party.

ARTICLE III AGREEMENT TO LEASE

Section 3.1 Lease of Facility. The Foundation hereby leases the Facility to the Charter School, and the Charter School hereby leases the Facility from the Foundation, upon the terms and conditions set forth in this Agreement, provided that any term or condition herein in contravention of any applicable laws shall be automatically stricken from this Lease. This Agreement, once fully executed, shall supersede any prior written agreement between the Parties for the lease of the Facility.

Section 3.2 Possession and Enjoyment. The Foundation shall turn over to the Charter School possession of the Facility on the Rental Commencement Date, as defined Section 5.1. During the Term of this Agreement, the Foundation shall provide the Charter School with quiet use and enjoyment of the Facility and during such term the Charter School shall peaceably and quietly have and hold and enjoy the Facility, without suit, trouble, or hindrance from the Foundation, except as expressly set forth herein. The Foundation will, at the request of the Charter School and at the Charter School's cost, join in any legal action in which the Charter School asserts its right to such possession and enjoyment to the extent the Foundation may lawfully do so. Notwithstanding the foregoing, the Foundation shall have the right to inspect the Facility as provided in Section 3.3 hereof.

Section 3.3 The Foundation's Access to Facility. The Charter School further agrees that the Foundation shall have such rights of access to the Facility upon compliance with any security requirements imposed by the Charter School as may be reasonably necessary to complete the Improvements, to inspect the Facility and to cause the proper maintenance of the Facility in the event of failure by the Charter School to perform its obligations hereunder, provided that at no time shall the Foundation be compelled or required to make any improvements, alterations, or additions to the Facility for which it is not obligated to do so according to the terms of this Agreement.

Section 3.4 Use. The Facility shall be used and occupied only for educational and related purposes, and for no other purpose. No portion of the Facility shall be used primarily for pervasively sectarian purposes. The Charter School will comply with all applicable state and federal laws concerning discrimination on the basis of disability, physical or mental handicap, serious medical conditions, race, creed, color, sex, gender identity, sexual orientation, spousal affiliation, national origin, religion, ancestry or need for special education services, or any other state or federally protected classification of persons.

ARTICLE IV TERM OF AGREEMENT

Section 4.1 Initial Term. The Initial Term of this Lease shall be for a period commencing on the Commencement Date and ending no later than June 30, 2023 (the “Initial Term”), unless sooner terminated pursuant to any provision of this Lease. Notwithstanding the length of the Initial Term, the Foundation acknowledges and agrees that the Charter School’s charter(s) is/are granted for terms up to five years each and are subject to renewal and revocation by the Charter School’s charter authorizer. By entering into this Lease, the Charter School does not guarantee or represent that it will continue to exist for the full length of the Initial Term, though it will make best efforts to do so. The Foundation further acknowledges and agrees that, should the Charter School’s charter be revoked or non-renewed, the Foundation shall, subject to the requirements of the Act, only be entitled to payments for the Charter School’s obligations described in this Lease for the remainder of the Charter School’s then-current fiscal year, and not through the remainder of the Term (as defined herein). The obligations of the Charter School to make payments hereunder are contingent upon sufficient appropriations being made therefor, by the State of New Mexico for performance of this Lease. If an Event of Non-appropriations occurs, the payment obligations of the Charter School under this Lease may terminate prior to the end of the Term subject to the obligations of the Charter School in Section 4.3(d).

Section 4.2 Extended Terms. The Charter School shall be entitled to extend the term of this Lease beyond the Initial Term for thirty (30) additional one-year terms (each an “Extended Term”) through and including June 30, 2052, commencing on July 1st of a given year and ending on June 30th of the following year, provided that this Lease has not been previously terminated and that the Charter School is not in default under the terms of this Lease at the time of such extension. The Charter School shall give written notice of the intent to extend this Lease at least thirty (30) days prior to the expiration of the Initial Term and for every Extended Term, thereafter. Written notice may be established by the Charter School including sufficient appropriations in its annual budget for the Base Rent and Additional Rent as defined herein and as set forth in Exhibit C, which approved annual budget shall be provided to the Foundation. The Charter School is under no obligation to extend the term of this Lease at any time, and the Charter School shall have no further right to extend the term of this Lease beyond the expiration of the extensions provided in this paragraph. The Initial Term and any Extended Term shall hereinafter be known collectively as (the “Term”). The obligations of the Charter School to make payments hereunder are contingent upon sufficient appropriations being made therefor, by the State of New Mexico for performance of this Lease. If an Event of Non-appropriations occurs, the payment obligations of the Charter School under this Lease may terminate prior to the end of the Term subject to the obligations of the Charter School in Section 4.3(d).

Section 4.3 Nonrenewal of Lease due to Event of Non-appropriation.

(a) An "Event of Non-appropriation" shall mean (i) a failure by the State legislature to appropriate or the Public Education Department to distribute sufficient funds to the Charter School to make the Base Rent and Additional Rent payments required by this Lease; or (ii) a failure by the Charter School to appropriate sufficient amounts to proceed under Section

7.3(c) of this Lease following the occurrence of an event described in Section 7.3(a) of this Lease.

(b) In the event that the Charter School shall determine to exercise its annual right not to renew this Lease through an Event of Non-appropriation, effective on June 30 of any fiscal year, the Charter School shall give written notice within one (1) Business Day of such determination to such effect to the Foundation, the Bondholder Representative and to the Trustee. The exercise of the Charter School's annual option to not renew this Lease shall be conclusively determined by the Charter School's failure, for any reason, (a) to appropriate by June 30 of each Fiscal Year sufficient amounts authorized and directed to be used to pay all Base Rent and Additional Rent due in the next ensuing Fiscal Year or (b) upon the occurrence of any of the other events described in the definition of Event of Non-appropriation herein.

(c) Any decision not to renew this Lease through an Event of Non-appropriation shall be made solely by the governing authority of the Charter School and not by any other agency or official of the Charter School except as otherwise provided in the New Mexico Public School Code. *e.g.*, NMSA 1978, §22-8-39. The Charter School shall in any event furnish the Foundation and the Trustee (so long as the 2022 Bonds are outstanding) a copy of its annual budget as evidenced by a resolution or other appropriate action of the governing authority of the Charter School by no later than June 30 of each Fiscal Year, provided that this Lease has not been previously terminated and that the Charter School is not in default under the terms of this Lease at the time of each extension. Such resolution or written evidence of other action shall be signed by an authorized representative of the Charter School.

(d) If an Event of Non-appropriation occurs, the Charter School shall not be obligated to pay the Base Rent and Additional Rent or any other payments provided for herein other than the amounts specifically appropriated by the Charter School for the fiscal year during which such Event of Non-appropriation occurs; provided, however, and notwithstanding anything to the contrary herein, the Charter School shall continue to be liable for Base Rent and Additional Rent, to the extent payable from legally available moneys, allocable to any period during which the Charter School shall continue to occupy or retain possession of the Facility.

(e) The Charter School shall, in all events, vacate the Facility and surrender it to the Foundation or the Trustee, if the Foundation has any payment obligation under any financing, whether a bond financing or otherwise within 30 days or by June 30th following an Event of Non-appropriation.

ARTICLE V

RENT AND EXPENSES

Section 5.1 Base Rent. The Charter School shall pay Base Rent according to Exhibit C commencing when the respective Certificate of Occupancy for each phase of the Improvements is issued by the governmental authority with jurisdiction after completion of the Improvements (Phase I and II per Exhibit B), (such date being called the "Rental Commencement Date"). The Foundation acknowledges and agrees that the Charter School shall have possession of the Property as of the Rental Commencement Date. The Charter School shall pay Base Rent directly to the Trustee, or to any "assignee" or person or entity designated by the Foundation as the Foundation's representative for rent collection purposes, on the tenth (10th) of each month of the Term following the Rental Commencement Date. The Base Rent for this Lease for the Initial Term and any Extended Term shall be in the monthly amounts set forth in Exhibit C hereto. Any partial month will be calculated on a *pro rata* basis.

Section 5.2 Additional Rent.

(a) In addition to Base Rent, the Charter School shall pay Additional Rent during the Term directly to the Trustee, or to any "assignee" or person or entity designated by the Foundation as the Foundation's representative for rent collection purposes, on the tenth (10th) day of each month of the Term following the Rental Commencement Date. Any partial month will be calculated on a *pro rata* basis. The Additional Rent may be adjusted during the Term of this Agreement in the discretion of Foundation, subject to the consent of Charter School. Charter School's obligation under this Lease to pay Additional Rent during any Fiscal Year shall be limited to the amount so appropriated for Additional Rent. The Foundation must notify the Charter School by no later than February 1 of each year of this Lease if the prior year's estimated Additional Rents will increase for the subsequent Fiscal Year.

(b) Additional Rent shall be in an amount sufficient to pay the following costs during the next ensuing fiscal year, without limitation: (i) the reasonable fees and expenses of Foundation related to the Facility, including but without limitation, all reasonable fees and expenses related to administration and management as determined by Foundation, including without limitation expenses incurred by the Foundation in enforcing any obligation of the Charter School under the terms of this Lease; (ii) the cost of insurance premiums for insurance deemed necessary or desirable in Foundation's reasonable discretion, including without limitation insurance required by Foundation's lender; (iii) taxes and assessments against the Facility; and (iv) all other costs expressly required to be paid by Foundation hereunder if any, as determined by the Foundation, including, but not limited to costs of the Foundation for Trustee, Bondholder Representative, Digital Assurance Corporation, L.L.C. and related accounting services. All such foregoing expenses described in this Section 5.2 shall be defined as "Operating Expenses." Notwithstanding the foregoing, nothing in this section shall be interpreted as a waiver or release of Foundation's obligation to comply with NMSA 1978, §22-8B-4.2(D)(2) requiring the Foundation to maintain the Property to statewide adequacy standards at no additional cost to the Charter School or the State.

(c) If the Charter School elects to extend the Lease for an Extended Term, the Charter School's obligation under this Lease to pay Additional Rent during such fiscal year shall be limited to the amount so appropriated for Additional Rent and any amounts that may be subsequently appropriated for payment of Additional Rent during such fiscal year. Additional Rent obligations in excess of the amounts so appropriated shall, in no event, be due or owing from the Charter School.

Section 5.3 Nature of Payment. The Charter School and the Foundation expressly acknowledge and agree that the Base Rent and Additional Rent hereunder shall constitute currently appropriated expenditures of the Charter School and shall be paid from any legally available funds and the Charter School shall take all actions necessary to achieve said results. The Charter School's obligations under this Lease shall not constitute a mandatory charge or requirement for payment of any amounts in excess of amounts appropriated for any fiscal year beyond the fiscal year for which such appropriation has been made. No provision of this Lease shall be construed or interpreted as creating a debt or multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the Charter School within the meaning of any New Mexico constitutional or statutory limitation or requirement. No provision of this Lease shall be construed or interpreted as creating a delegation either of governmental powers or as a donation by or a lending of the credit

of the Charter School within the meaning of any New Mexico constitutional or statutory limitation or requirement. This Lease does not directly or indirectly obligate the Charter School to make any payments beyond those appropriated for any fiscal year for which payments have been appropriated.

Section 5.4 Manner of Payment; No Abatement. The Total Monthly Rent shall be paid, commencing on the Rental Commencement Date and continuing on the tenth (10th) day of every month of the Term thereafter by lawful money of the United States of America. The Charter School agrees to make payment of Base Rent and Additional Rent by ACH debit directly to the Trustee or its assignee according to the requirements of Section 5.5 below. The obligation of the Charter School to pay the Base Rent or Additional Rent required under this Lease shall not be abated through accident or unforeseen circumstances. The Charter School shall, during the Initial Term (and any Extended Term) of this Lease, make all payments of Base Rent and Additional Rent as and when due and has no right to withhold nor shall it withhold any rent amount, nor shall the Charter School assert any right of set-off or counter-claim against its obligation to make such payments required hereunder; provided, however, that the making of such payments shall not constitute a waiver by the Charter School of any rights, claims, or defenses which the Charter School may assert except as otherwise limited herein. No action or inaction on the part of the Foundation shall affect the Charter School's obligation to pay Base Rent and Additional Rent of this Lease.

Section 5.5 ACH Debt/Authorization Agreement. The Charter School shall make all Base Rent and Additional Rent payments pursuant to an ACH debit authorization in the form of Exhibit E ("Authorization Agreement"). Upon execution of this Lease, the Charter School shall deliver to the Trustee, for rent collection purposes, a completed Authorization Agreement together with a voided check for account verification, establishing arrangements whereby payments of the Base Rent and Additional Rent are transferred by ACH debit initiated by the Foundation or the Assignee, from an account established by Charter School at a United States bank or other financial institution to such account as the Trustee may designate. The Charter School shall continue to pay all Base Rent and Additional Rent by ACH debit unless otherwise directed by the Trustee or as otherwise required by the Indenture, unless or until this Lease is terminated.

Section 5.6 Budgeting; Annual Lease Reimbursement Application. In each fiscal year during the Lease term, an authorized officer of the Charter School responsible for the preparation of the annual budget shall include in the budget proposal to the Public Education Department for the next succeeding fiscal year of the Charter School an amount equal to one-hundred percent (100%) of the Base Rent and Additional Rent and one-hundred five percent (105%) of the estimated Operating Expenses hereunder for such ensuing fiscal year. The Base Rent and Additional Rent and other obligations payable by the Charter School under this Agreement shall constitute and be deemed for all purposes currently appropriated expenditures of the Charter School and shall not constitute a debt or multiple fiscal year direct or indirect obligations whatsoever of the Charter School or a mandatory charge or requirement against the Charter School in any fiscal year beyond the fiscal year for which such payments have been approved. The Charter School shall, in a timely manner, make application each year for lease payment assistance funds pursuant to NMSA 1978, §22-24-4(I), as amended.

Section 5.7 Taxes and Assessments. During the Term, if the Facility or any portion thereof shall, for any reason, be deemed subject to taxation, assessments, or charges lawfully made by any governmental body or otherwise, the Charter School shall pay, as Additional Rent, the amount of all such taxes, assessments, and governmental charges then due. With respect to special assessments or other governmental charges that may be lawfully paid in installments over a period of years, the Charter School shall be obligated to provide only for such installments as are required to be paid during the Term of this Lease. The Charter School shall not allow any liens for taxes, assessments, or governmental charges to exist with respect to the Facility or Improvements or any portion thereof (including any taxes levied thereon which, if not paid, will become a charge on the rentals and receipts from the Facility or any portion thereof, or any interest therein, including the interest of the Foundation) or the rentals and revenues derived therefrom or hereunder. If the Charter School shall first notify in writing the Foundation of the intention of the Charter School to do so, the Charter School may, at the expense and in the name of the Charter School, in good faith contest any such tax, assessment, and other charges and, in the event of any such contest, may permit the tax, assessment, or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Foundation shall notify the Charter School that, in the opinion of independent counsel, whose fees and costs shall be paid by the Charter School, by nonpayment of any such items, the Facility or the Improvements or any portion thereof will be subject to loss or forfeiture, or the Foundation will be subject to liability, in which event such tax, assessment, or other charges shall be paid promptly or secured by posting a bond with the Foundation in form satisfactory to the Foundation (provided, however, that such payment shall not constitute a waiver of the right to continue to contest such tax, assessment, or other charges). The Foundation shall reasonably cooperate in any efforts by the Charter School to contest any taxes or assessments.

Section 5.8 Utilities. During the Term, the Charter School shall pay, as the same respectively become due, all gas, water, electricity, heat, sewer and waste disposal, and other utility charges incurred in the maintenance and upkeep of the Facility, and the Charter School shall place all such utilities relating to the Facility in its name or otherwise.

ARTICLE VI IMPROVEMENTS AND MAINTENANCE

Section 6.1 Improvements. As soon as reasonably practicable after execution of this Lease as determined by the Parties, the Foundation shall commence the Improvements described in Exhibit B. The Foundation shall make all Improvements at the Foundation's sole cost and expense, using properly licensed, insured and bonded contractors, in accordance with plans and specifications approved by the Charter School, PSFA, and all other required governmental authorities. The Improvements shall be designed and constructed to meet all requirements for Educational Occupancy ("E-Occupancy") in the International Building Code, and to meet all applicable Statewide Adequacy Requirements. The Foundation shall use reasonable efforts to target completion of the Improvements and certified for the Charter School's occupancy by all required authorities no later than September 10, 2022.

Section 6.2 Maintenance. During the period of the Foundation's construction of the Improvements hereunder, the Foundation shall maintain, preserve and keep the portion of the

Facility on which the Improvements are being constructed, at its expense; the Land and Building shall be maintained, preserved and kept by the Charter School during construction of the Improvements as set forth herein. On and after the Rent Commencement Date, the Charter School shall maintain, preserve and keep the entire Facility as described herein. Thereafter, and for the remainder of the Term, the Charter School agrees to maintain, preserve, and keep the entire Facility or cause the Facility to be maintained, preserved, and kept, with the appurtenances and every part and parcel thereof, in good repair, working order, and condition, subject to normal wear and tear, and that the Charter School will from time to time make or cause to be made all necessary and proper repairs. Notwithstanding the foregoing, the Foundation shall maintain the Facility to all applicable Statewide Adequacy Standards applicable to Charter Schools, at no additional cost to the Charter School or the State of New Mexico as set forth in NMSA 1978, §22-8B-4.2(D)(2)(a) or a successor statute. Except as expressly set forth in this Lease, the Foundation shall not have any other responsibility for the making of any additions, modifications, or replacements to the Facility during the Term of this Lease.

Section 6.3 Modifications. During the Term of this Lease, with the Foundation's prior written consent, the Charter School may remodel or make substitutions, additions, modifications, or improvements to the Facility, and the same (if permanently affixed) shall be part of the Facility, subject to, and shall be included under the terms of this Lease; provided, however, that (i) such remodeling, substitutions, additions, modifications, and improvements shall not in any way damage the Facility; and (ii) the Facility, as remodeled, improved, or altered, upon completion of such remodeling, or such making of substitutions, additions, modifications, and improvements, shall be of a value not less than the value of the Facility immediately prior to such remodeling or such making of substitutions, additions, modifications, and improvements.

Section 6.4 Equipment. The Charter School may, from time to time, in its sole discretion and at its own expense, install equipment and personal property in the Facility. All such equipment and personal property shall remain the sole property of the Charter School in which the Foundation shall not have any interest; provided, however, that any such equipment and personal property which becomes a fixture or is otherwise permanently affixed and becomes a part of the Facility, shall be subject to this Lease and shall be included under the terms of this Lease. Upon termination of the Lease, the Charter School may remove its equipment and personal property, but shall be responsible for all damage caused by said removal. The Charter School shall repair the Facility or pay for all damages within sixty (60) days of vacating the Facility.

Section 6.5 Title to the Facility. Any improvements permanently affixed to the Facility shall become part of the Facility. The Charter School shall have no right, title, or ownership interest in the Facility or any fixtures or other permanent additions and modifications thereto or replacements thereof by virtue of this Lease.

Section 6.6 Compliance with Law. The Charter School shall at all times operate the Facility, or cause the Facility to be used and operated, such that (a) the Facility at all times shall be operated in substantial compliance with all Requirements of Law; (b) all permits required by Requirements of Law in respect of the Facility shall be obtained and maintained in full force and effect and the Charter School shall substantially comply with the material terms and conditions of such permits; (c) there shall be no hazardous substance, pollutant or contaminant (as those terms

are defined in the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 9601, *et seq.*, any applicable state law or regulations promulgated under either), solid or hazardous waste (as defined in the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, *et seq.*, any applicable state law or regulations promulgated under either), special waste, petroleum or petroleum derived substance, radioactive material or waste, polychlorinated biphenyls, asbestos or any constituent of any of the foregoing located on, in or under the Facility in violation of any Requirements of Law; (d) there shall be no disposal of any of the items referred to in clause (c) on, from, into or out of the Facility or on, from, into or out of the Improvements in violation of any Requirements of Law; and (e) there shall be no spillage, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, disposing, depositing, or dispersing of any of the items referred to in clause (c) into the indoor or outdoor environment from, into, or out of the Facility including the movement of any such items through or in the air, soil, surface water, ground water from, into or out of the Facility or the abandonment or discard of barrels, containers, or other open or closed receptacles containing any such items from, into or out of the Facility in violation of any Requirements of Law.

ARTICLE VII INSURANCE

Section 7.1 The Charter School's Insurance.

(a) Liability Insurance. Beginning upon the Commencement Date, the Charter School shall procure and maintain or cause to be carried and maintained in full force and effect during the term of this Lease and any extension thereof at the Charter School's sole cost and expense and as Additional Rent above the Base Rent hereunder, such public liability insurance covering bodily injury, disease, illness or death and property damage liability, as is available from and provided by the New Mexico Public Charter Schools Insurance Authority ("NMPSIA") or its successor with limits of coverage not less than \$300,000 for each person for all past and future medical and medically-related expenses arising out of a single occurrence and \$400,000 in the aggregate for all claims other than medical or medically-related expenses arising out of a single occurrence, and \$100,000 for each accident for property damage liability for the benefit of the Charter School and the Foundation as protection against all liability claims arising from activities on the Facility, causing the Foundation to be named as additional-named insureds on such policy of insurance, and delivering a copy thereof to the Foundation upon the commencement of the term of this Lease. The Charter School shall adjust such minimum coverage limits annually or as necessary to conform to the minimum coverage limits required for local public bodies pursuant to NMSA 1978, §§41-4-19 and 41-4-20 and NMSA 1978, §§22-29-1 through 22-29-11, as amended.

(b) Property Insurance. Subject to the availability of such coverage from NMPSIA, the Charter School shall also carry and maintain or cause to be carried and maintained in full force and effect during the term of this Lease and any renewal thereof, at the Charter School's sole cost and expense, fire and extended coverage insurance upon the Facility and Improvements, including all buildings, alterations, and additions in an amount equal to their replacement values [excluding the Land. The Foundation and any financing entity(ies) of record or otherwise identified by the Foundation shall be named as additional insureds and loss payees on the Facility Insurance Policy and the Foundation shall be provided with a copy of the policy or declaration of coverage certificate at renewal. In the event that the Facility should be destroyed

or substantially damaged in whole or in part, and such loss is covered by fire and extended coverage insurance, the provisions of Section 7.3, below, shall apply. If for any reason the Charter School is prohibited by law or regulation from carrying such insurance, the Foundation may obtain such insurance, and the Charter School shall pay the premiums of such insurance as Additional Rent.

(c) Business Personal Property Insurance. Subject to the availability of such coverage from NMPSIA, the Charter School shall also carry and maintain Business Personal Facility Insurance. Special form insurance for perils on all business personal property on the Facility including fixtures, machinery and equipment installed by the Charter School, and such other insurance as the Foundation may require if available to the Charter School by NMPSIA. Such insurance to be in an amount equal to one hundred percent (100%) of the insurable value thereof, if available by NMPSIA.

(d) Business Interruption Insurance. The Charter School shall obtain Business Interruption Insurance with sufficient coverage to provide for payment of Base Rent, Additional Rent and all other fixed costs during any interruption of the Charter School's operations by reason of fire or other casualties contemplated in Section 7.1(b), above.

(e) Worker's Compensation Insurance. If required by state law as of the Commencement Date, the Charter School shall carry worker's compensation insurance covering all of its respective employees on, in, near or about the Facility and upon request, shall furnish certificates to the Foundation evidencing such coverage.

Section 7.2 The Foundation's Insurance. The Foundation shall, from the date of approval of this Lease, obtain and maintain Commercial general liability insurance with coverage limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

Section 7.3 Damage, Destruction, or Condemnation; Use of Net Proceeds.

(a) Damage, Destruction, or Condemnation. If, during the Term of this Lease, (i) the Facility, Improvements, or any portion thereof shall be destroyed (in whole or in part), or damaged by fire or other casualty; (ii) title to, or the temporary or permanent use of, the Facility or any portion thereof or the estate of the Charter School, or the Foundation in the Facility or any portion thereof, shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm, or corporation acting under governmental authority; (iii) a breach of warranty or any material defect with respect to the Facility shall become apparent; or (iv) title to or the use of all or any portion of the Facility shall be lost by reason of defect in the title thereto, then, the Charter School shall be obligated, subject to the provisions of Subsection (c) of this Section 7.3 hereof, to continue to pay the amounts specified in Subsection (b) of this Section 7.3 hereof and, to the extent of amounts specifically appropriated by the Charter School, to pay Base Rent and Additional Rent.

(b) Repair and Replacement. To the extent not contrary to applicable law, the Charter School and, to the extent such Net Proceeds are within its control, the Foundation, shall cause such Net Proceeds to be deposited in a separate trust fund held by the Trustee (so long as the 2022 Bonds are outstanding) and otherwise as directed by the Foundation. Except as set forth in Subsection (c) of this Section 7.3 hereof, all Net Proceeds of any insurance, performance bonds, or condemnation awards owed to either the Charter School or the Foundation shall be applied to the prompt repair, restoration, modification, improvement, or replacement of the Facility or the Improvements, as the case may be, by the Charter School upon receipt of requisitions acceptable

to the Foundation setting forth: (i) the requisition number; (ii) the name and address of the person, firm, or corporation to whom payment is due or has been made; (iii) the amount to be paid or reimbursed; and (iv) that each obligation mentioned therein has been properly incurred, is a proper charge against the separate trust fund and has not been the basis of any previous withdrawal and specifying in reasonable detail the nature of the obligation, accompanied by a bill or a statement of account for such obligation. The Foundation shall cooperate with the Charter School and, the Trustee in the administration of such fund and shall not unreasonably withhold its approval of requisitions under this Section but shall ensure that such approval is preceded by approval by the Bondholder Representative (or, in the event the Bondholder Representative does not represent a majority of the Beneficial Owners, by approval of the majority of the Beneficial Owners). Any repair, restoration, modification, improvement, or replacement of the Facility or Improvements paid for in whole or in part out of Net Proceeds of the Charter School's Insurance shall be the property of the Foundation, subject to this Lease, and shall be included as part of the Facility or the Improvements under this Lease.

(c) *Insufficiency of Net Proceeds for Facility.* If there occurs an event described in Subsection (a) hereof, and if any Net Proceeds received as a consequence of such event shall be insufficient to pay in full the cost of any repair, restoration, modification, improvement, or replacement of the Facility required under Subsection (b) hereof, the Charter School shall elect one of the following options:

(i) The Charter School may, to the extent permitted by law, in accordance with Subsection (b) hereof, repair, restore, modify, or improve the Facility or replace the Facility (or portion thereof) with property of a value equal to or in excess of the Facility, and pay as Additional Rent any cost in excess of the amount of the Net Proceeds. To the extent the amounts for Additional Rent, which have been specifically appropriated by the Charter School, are available for the payment of such costs, and the Charter School agrees to make Additional Rental payments pursuant to the provisions of this paragraph and to the extent permitted by law, the Charter School shall not be entitled to any reimbursement therefor from the Foundation, nor shall the Charter School be entitled to any diminution of the Base Rent and Additional Rent.

(ii) If, by June 30th of the fiscal year in which an event described in Subsection (a) hereof occurs (or June 30th of any subsequent fiscal year in which the insufficiency of Net Proceeds to repair, restore, modify, improve, or replace the Facility become apparent), the Charter School has not appropriated amounts sufficient to proceed under clause (i) of this Subsection, the Charter School may make demand on the Foundation to make up the insufficiency in the Net Proceeds and if the Foundation refuses, the Charter School may terminate the Lease.

(d) *Insufficiency of Net Proceeds for Improvements.* If there occurs an event described in Subsection (a) hereof, and if any Net Proceeds received as a consequence of such event shall be insufficient to pay in full the cost of any repair, restoration, modification, improvement, or replacement of the Improvements required under Subsection (b) hereof, the Charter School shall elect one of the following options:

(i) The Charter School may, to the extent permitted by law, in accordance with Subsection (b) hereof, repair, restore, modify, or improve the Improvements or replace the Facility (or portion thereof) with property of a value

equal to or in excess of the Facility, and pay as Additional Rent any cost in excess of the amount of the Net Proceeds. To the extent the amounts for Additional Rent, which have been specifically appropriated by the Charter School, are available for the payment of such costs, and the Charter School agrees to make Additional Rental payments pursuant to the provisions of this paragraph and to the extent permitted by law, the Charter School shall not be entitled to any reimbursement therefor from the Foundation, nor shall the Charter School be entitled to any diminution of the Base Rent and Additional Rent.

(ii) If, by June 30th of the fiscal year in which an event described in Subsection (a) hereof occurs (or June 30th of any subsequent fiscal year in which the insufficiency of Net Proceeds to repair, restore, modify, improve, or replace the Facility become apparent), the Charter School has not appropriated amounts sufficient to proceed under clause (i) of this Subsection, the Charter School may make demand on the Foundation to make up the insufficiency in the Net Proceeds and if the Foundation refuses, the Charter School may terminate the Lease.

(f) *Cooperation.* The parties to this Lease shall cooperate fully with the other in filing any proof of loss with respect to any insurance policy or performance bond covering the events described in Subsection (a) hereof, in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Facility or the Improvements or any portion thereof, and in the prosecution of any action relating to defaults or breaches of warranty under any contract relating to the Facility or the Improvements. In no event shall either party voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim, performance or payment bond claim, prospective or pending condemnation proceeding, or any action relating to defaults or breaches of warranty under any contract relating to the Facility or the Improvements or any portion thereof without the written consent of the other party. Each party shall be responsible for their respective fees and expenses incurred under this section.

ARTICLE VIII EVENTS OF DEFAULT AND REMEDIES

Section 8.1 Events of Default Defined. Each of the following shall constitute an “Event of Default” under this Agreement, and the terms “Event of Default” and “Default” shall mean, whenever they are used herein, any one or more of the following events whether occurring voluntarily or involuntarily, by operation of law, or pursuant to any order of any State governmental agency or court of competent jurisdiction:

(a) Failure by the Charter School to pay any specifically appropriated Base Rent or Additional Rent during the Term of this Agreement on, before, or within five (5) days of the applicable due date, up to the amount specifically appropriated for the payment of Base Rent and Additional Rent in accordance with the provisions hereof;

(b) Any representations made by the Charter School, or the Foundation hereunder later found to be untrue in any material respect as of the date it was made;

(c) Failure by the Charter School to observe and perform any covenant, condition, or agreement on its part to be observed or performed, for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied shall be given to the Charter School, the Foundation, and the Trustee and the Bondholder Representative by any of the

Foundation, the Trustee or the Bondholder Representative (so long as the 2022 Bonds are outstanding, unless the Bondholder Representative shall agree to an extension of such thirty (30) day period or, if there is no Bondholder Representative, if the party giving such notice shall agree in writing, prior to the expiration of the thirty-day period, to an extension of no more than ninety (90) days; provided, however, that if there is no Bondholder Representative, and the failure stated in the notice cannot be corrected within the original thirty-day period, the party giving such notice shall not withhold its consent to an extension of up to ninety (90) days if corrective action shall be instituted by the Charter School within such time period and diligently pursued until the default is corrected;

(d) Failure by the Charter School to vacate the Property in accordance with Section 7(e) hereof following an Event of Nonappropriation;

(e) The filing by Charter School of a voluntary petition in bankruptcy, or failure by the Charter School promptly to lift any execution, garnishment, or attachment of such consequence as would impair the Charter School's ability to carry on its operations at the Facility, or adjudication of the Charter School as a bankrupt, or assignment by the Charter School for the benefit of creditors, or the entry by the Charter School into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Charter School in any proceedings instituted under the provisions of the federal Bankruptcy Act, as amended, or under any similar acts which may hereafter be enacted; or

(f) The revocation or nonrenewal of the Charter School's charter by the Public Education Commission and the failure by the district court to set aside or reverse any adverse final decision by the Secretary of Public Education on such prior action by the chartering authority, pursuant to the provisions of NMSA 1978, §39-3-1.1.

Section 8.2 Remedies of the Foundation upon Event of Default. Whenever any Event of Default shall have occurred and be continuing, the Trustee, acting for the Foundation and at the direction of the Bondholder Representative so long as the 2022 Bonds are outstanding (for so long as the Bondholder Representative represents the majority of the Beneficial Owners), may, and, if the 2022 Bonds are no longer outstanding, the Foundation may, without any further demand or notice, take one or any combination of the following remedial steps:

(a) terminate this Lease and give notice to the Charter School to vacate the Facility within one-hundred twenty (120) days from the date of such notice without further demand or notice, to reenter and take possession of the Facility, repossess the same, expel the Charter School and those claiming through or under the Charter School, and remove the effects of both or either, using such force for such purposes as may be lawful and necessary, without being liable for prosecution, without being deemed guilty of any manner of trespass, and without prejudice to any remedies for arrears of Base Rent or Additional Rent or other amounts payable under this Lease or as a result of any preceding breach of covenants or conditions;

(b) pursue any and all other rights and remedies available under New Mexico law, in law or in equity;

(c) lease all or any portion of the real property included in the Facility;

(d) recover from the Charter School: (i) to the extent the recovery thereof is permitted by law, the fair rental value of the use of the Facility during any period beyond the thirtieth (30th) day following the occurrence of the Event of Default; and (ii) Base Rent and Additional Rent, to the extent amounts for such Base Rent and Additional Rent have been specifically appropriated in accordance with the provisions hereof, which would otherwise have been payable by the Charter School hereunder during the remainder of the Fiscal Year in which such Event of Default occurs; or

(e) take whatever action at law or in equity may appear necessary or desirable to enforce its rights in and to the Facility under this Lease.

Section 8.3 Remedies of the Charter School upon Event of Default. Upon the happening and continuance of any Event of Default specified in Article XI of this Agreement, the Charter School or its assigns may, without any further demand or notice to the Foundation, take one or any combination of the following remedial steps:

(a) Give notice to the Foundation of the Charter School's intent to terminate this Agreement as of the end of the Charter School's then current fiscal year or sooner as determined by the Charter School, however, such obligations of the Charter School to pay Base Rent and Additional Rent under Article V, shall continue until the Charter School vacates the Facility; or

(b) Take whatever action either at law or in equity as the Charter School or its legal counsel shall deem most effectual to protect and enforce this Agreement and the Charter School's rights hereunder.

Section 8.4 Force Majeure. The provisions of Sections 8.1 and 8.2 of this Agreement are subject to the following limitations: if by reason of *force majeure* the Charter School or the Foundation is unable in whole or in part to carry out its obligations under this Agreement, the Foundation or the Charter School shall not be deemed in default during the continuance of such inability or during any other delays which are a direct consequence of the *force majeure* inability. The term "*force majeure*" as used herein shall mean, without limitation: acts of God; strikes, lockouts, or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or any of its departments, agencies or officials, or any civil or military authority other than the Charter School or the Foundation; insurrections; riots; earthquakes; fires; storms; drought; floods; explosions; epidemics or pandemics that lead to the Charter School losing its funding; breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of the Foundation or the Charter School and not resulting from the negligence of the party claiming a force majeure event. The Foundation and the Charter School agree, however, to remedy with all reasonable dispatch the cause or causes preventing them from carrying out their respective obligation under this Agreement; provided that the settlement of strikes, lockouts and other industrial disturbances shall not be required if in the judgment of the party raising the defense of *force majeure*, acceding to the demands of the person or persons creating the strike, lockout or industrial disturbance, would be injurious to such party.

Section 8.5 Remedies Cumulative. The above-provided rights and remedies to which either party is entitled hereunder, at law or in equity, are cumulative and not exclusive of all other rights and remedies to which a party may be entitled herein, at law or in equity, in the event of breach or threatened breach by a party in default of any of the terms, conditions, and provisions contained herein.

Section 8.6 No Additional Waiver Implied by One Waiver. The failure, neglect, or omission of a non-defaulting party to terminate this Agreement for any breach or default shall not be deemed a consent by the non-defaulting party of such breach or default and shall not stop, bar, or prevent the non-defaulting party from thereafter terminating this Agreement, either for such violation or for prior or subsequent violation of any covenant hereof. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE IX MISCELLANEOUS

Section 9.1 Further Assurances and Corrective Instruments. The Foundation and the Charter School agree that so long as this Lease is in full force and effect and no Event of Default shall have occurred, the Foundation and the Charter School shall have full power to carry out the acts and agreements provided herein and they will, so far as it may be authorized by law, from time to time, execute, acknowledge, and deliver or cause to be executed, acknowledged, and delivered such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Facility hereby leased or intended so to be, or for otherwise carrying out the intention of or facilitating the performance of this Agreement.

Section 9.2 Compliance with Requirements of Law. During the Term of this Lease, the Charter School and the Foundation shall observe and comply promptly with all current and future Requirements of Law applicable to the Facility (including those set forth in NMSA 1978, §22-8B-4.2(D)(2)) and the Improvements or any portion thereof and all current and future requirements of all insurance companies writing policies covering the Facility or any portion thereof.

Section 9.4 Binding Effect. This Lease shall inure to the benefit of and shall be binding upon the Foundation and the Charter School and their respective successors and permitted assigns.

Section 9.5 No Individual Liability. All covenants, stipulations, promises, agreements, and obligations of the Charter School or the Foundation, as the case may be, contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and obligations of the Charter School or the Foundation, as the case may be, and not of any member, director, officer, employee, attorneys or other agent of the Charter School or the Foundation in his or her individual capacity, and no recourse shall be had on account of any such covenant, stipulation, promise, agreement, or obligation, or for any claim based thereon or hereunder, against any member, director, officer, employee, attorneys or other agent of the Charter School or the Foundation or any natural person executing this Lease or any related document or instrument.

Section. 9.6 Waiver. No term of this Lease shall be deemed waived unless such waiver is in writing signed by the party making the waiver. No delay or omission by either party in exercising or enforcing any right or power hereof shall impair such right or power or be construed to be a waiver thereof. No custom or practice that may evolve between the parties shall be construed to lessen the right of a party to require the performance of the other party in strict accordance with the terms of this Lease. A waiver by one party of a failure of the other party to fully comply with any of the terms of this Lease shall not be construed to be a waiver of any subsequent failure to comply or any other failure to comply.

Section 9.7 Assignment and Subleasing. This Lease may not be assigned by the Charter School for any reason, whether by operation of law or pursuant to any contract. However, the Facility may be subleased, as a whole or in part, by the Charter School, with the consent of the Foundation, the Trustee and the Bondholder Representative; subject to each of the following conditions: (i) this Lease, and the obligations of the Charter School hereunder, shall, at all times during the Term of this Lease, remain direct obligations of the Charter School; (ii) no additional lease shall change the use of the Facility; and (iii) the terms of this Lease shall remain in full force and effect and the Charter School assumes all obligations of the Foundation hereunder.

Section 9.8 Acknowledgement of Series 2022 Bonds; Subordination of Lease. The Charter School acknowledges the issuance of the Series 2022 Bonds by the Authority and the Foundation's execution of the Loan Agreement and agrees to provide the Foundation requested information it deems sufficient to comply with the Foundation's obligations under the continuing disclosure agreement that the Foundation will enter into in connection with the issuance of the Series 2022 Bonds. The Charter School acknowledges and consents to the assignment of this Agreement by the Foundation to the Authority and the Trustee, pursuant to the Loan Agreement and the Deed of Trust, respectively and the subsequent assignment by the Authority to the Trustee, pursuant to the Indenture, of all rights, title and interest of the Foundation in, to and under this Agreement. This Lease and all rights of the Charter School to the Facility hereunder are expressly subordinated to the liens of the Deed of Trust given by the Foundation to secure the Loan Agreement and the Series 2022 Bonds issued under the Indenture. This Lease shall be subordinate to the liens of the Loan Agreement and the Deed of Trust and any liens or security interests created under the Indenture and any other mortgage, deed of trust (now or hereafter placed upon the Facility) and to any and all advances made under any mortgage or deed of trust and to all renewals, modifications, replacements or extensions thereof; provided, however, that in the event of foreclosure on the Deed of Trust caused by the Foundation's default under this Lease, the Charter School shall continue to have the right to possess the Facility or otherwise enjoy its rights under the Lease provided that it fully performs its obligations hereunder. The Charter School agrees, with respect to any of the foregoing documents, that no documentation other than this Lease shall be required to evidence such subordination. Notwithstanding the foregoing, upon the written request of the Foundation, the Authority or the Trustee, the Charter School agrees to deliver a subordination, non-disturbance and attornment agreement to the holder of the Deed of Trust or to any other holder of any debt incurred in connection with a refinancing of the debt evidenced by the Loan Agreement and the Indenture.

Section 9.9 Amendments, Changes, and Modifications. This Lease shall not be altered, changed, or amended other than by a written instrument executed by the parties and, to the extent permitted by law, the Trustee, and the Bondholder Representative so long as the 2022 Bonds are

outstanding (or, in the event fewer than a majority of Beneficial Owners are represented by the Bondholder Representative, by a majority of the Beneficial Owners).

Section 9.10 Notices. All notices and communications required or permitted under this Lease (including change of address, telephone number email addresses set forth below) shall be in writing and shall be deemed given to, and received by, the receiving party: (i) when hand-delivered to the street address of the receiving party set forth below; (ii) when sent by electronic mail to the email address set forth below with a receipt showing delivery; (iii) one (1) day after deposit with a national overnight courier addressed to the receiving party at the street address set forth below; or (iv) three (3) days after deposit in the U. S. mail, certified mail, return receipt requested, postage prepaid, addressed to the receiving party at the mailing address set forth below.

The Foundation: Explore Academy Foundation Las Cruces
850 N. Telshor
Las Cruces, NM 88011
Attn: President
Telephone: (505) 257-5244
casedy@exploreacademy.org

With a copy to: Modrall Sperling
500 4th St. NW
Albuquerque, NM 87102
Attn: Margaret L. Meister
Telephone: (505) 848-1800
mmeister@modrall.com

The Charter School: Explore Academy Las Cruces
850 North Telshor Blvd.
Las Cruces, NM 88011
Attn: Governing Council President
Telephone: 575.888.4476
cwelles@nmsu.com

With a copy to: Matthews Fox, P.C.
1925 Aspen Drive, Suite 301A
Santa Fe, NM 87505
Attn: Patricia Matthews
Telephone: (505) 473-3020
pmatthews@matthewsfox.com
sfox@matthewsfox.com

With a copy to: UMB Bank, n.a., Trustee
120 S. 6th Street, Suite 1400
Minneapolis, MN 55402
Attn: Jay Smith, Vice President
Telephone: (612) 337-7014

jay.smith@umb.com

RPM Capital Management
c/o Michele Newland
800 Westchester Avenue, Suite 641 North
Rye Brook, New York 10573
Attn: Michele M. Newland, Managing Member
Telephone: 203-992-1100
Facsimile: (203) 900-1000
mnewland@rpmcapitalmgt.com

The Notice information by be revised by sending a writing delivered to the addresses stated in or pursuant to this Section 9.10, any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 9.11 Reporting Requirements. The Charter School shall comply with the reporting requirements set forth in Exhibit E ("Reporting Requirements") hereto and provide such reporting to the Foundation or any third party designated by the Foundation. In addition, to the extent not expressly prohibited by New Mexico and federal law, the Charter School shall permit the Foundation and any third party designated by the Foundation so long as this Lease is in effect, to have access to its books and records during normal business hours upon reasonable prior notice (of no more than five (5) Business Days) unless the requesting party believes there is an emergent situation, in which case no such notice shall be required. For purposes of this Section "books and records" shall mean the public records maintained by the Charter School, other than those records which are excepted from public inspection pursuant to NMSA 1978, §14-2-1(A); or as otherwise provided by state or federal law, including without limitation the Family Educational Records Privacy Act (20 U.S.C. §1232g). If the Charter School fails to comply with the Reporting Requirements as described in this Section 9.11 and in Exhibit E, the Charter School shall, within ten (10) business days, make all books and records available to the Foundation or its designee, to complete the Reporting Requirements. The Charter School shall, to the extent permitted by law, be responsible for all costs, fees and other associated expenses of the Foundation or its designee in performing the Reporting Requirements contemplated as the Charter School's responsibility hereunder and in Exhibit E.

Section 9.12 Calculation of Time. Any time period herein calculated by reference to "days" means calendar days, *i.e.*, including Saturdays, Sundays, and holidays as observed by the State of New Mexico; provided, however, that if the last day for a given act falls on a Saturday, Sunday, or such observed holiday, the day for such act shall be the first day following such Saturday, Sunday, or observed holiday that is not a Saturday, Sunday, or such observed holiday.

Section 9.13 Interpretation. The captions and paragraph headings of this Lease are not necessarily descriptive, or intended or represented to be descriptive, of all the terms thereunder, and shall not be deemed to limit, define, or enlarge the terms of this Lease. Whenever used herein, unless otherwise indicated by the context, the singular shall include the plural, the plural shall include the singular, the use of any gender shall include all genders, and the use of the words "include" and "including" shall be construed as if the phrases "without limitation" or "but not [be] limited to" were annexed thereafter. The parties were, or had ample opportunity to be represented

by counsel, and as such this Lease shall not be interpreted for or against either party based on authorship.

Section 9.14 Incorporation. Each and all of the recitals set forth at the beginning of this instrument and any exhibits referenced herein and attached hereto, are incorporated herein by this reference.

Section 9.15 Applicable Law. Each party shall perform its obligations hereunder in accordance with all applicable laws, rules, and regulations now or hereafter in effect. This Lease shall be governed by the laws of the State of New Mexico (without giving effect to the State of New Mexico's choice of law provisions). All legal proceedings arising from unresolved disputes under this Lease shall be brought in Albuquerque before the Second Judicial District Court of the State of New Mexico.

Section 9.16 Severability. In the event that any provision of this Lease, other than the requirement of the Charter School to pay Base Rent and Additional Rent, the requirement of the Foundation to provide quiet enjoyment of the Facility, and the requirement that the obligations of the Charter School to pay Base Rent and Additional Rent under this Lease are conditioned upon the prior specific appropriation by the Charter School of amounts for such purposes in accordance with the requirements of State law, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 9.17 Counterparts. This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including “.pdf,” “.jpeg” or any electronic signature complying with the U.S. federal ESIGN Act of 2000 (e.g., www.docusign.com) or other transmission method mutually acceptable to the parties and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes. t.

Section 9.18 Additional Acts. The Parties agree to execute any and all further documents and writings and perform such other reasonable actions which may be or become necessary or expedient to effectuate and carry out the business of the Charter School (which shall not include any obligation to make payments on the Bonds) to operate as a charter school in New Mexico.

Section 9.19. Dispute Resolution. The parties (a) hereby irrevocably and unconditionally submit to the sole and exclusive jurisdiction of the New Mexico courts for the purpose of any suit, action or other proceeding arising out of or based upon this Lease, (b) agree not to commence any suit, action or other proceeding arising out of or based upon this Lease except in the State of New Mexico, and (c) hereby waive, and agree not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding, any claim that it is not subject personally to the jurisdiction of the above-named courts, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Agreement or the subject matter hereof may not be enforced in or by such court.

Section 9.20 Waiver of Jury Trial. TO THE EXTENT PERMITTED BY LAW EACH PARTY HEREBY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS, THE SUBJECT MATTER HEREOF OR THEREOF. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS AGREEMENT AND RELATED DOCUMENTS, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS (INCLUDING NEGLIGENCE), BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. THIS SECTION HAS BEEN FULLY DISCUSSED BY EACH OF THE PARTIES HERETO AND, TO THE EXTENT PERMITTED BY LAW THESE PROVISIONS WILL NOT BE SUBJECT TO ANY EXCEPTIONS. EACH PARTY HERETO HEREBY FURTHER WARRANTS AND REPRESENTS THAT SUCH PARTY HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT SUCH PARTY KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

Nothing herein shall constitute a waiver by the Charter School of its privileges and immunities as contemplated by the New Mexico Tort Claims Act, NMSA 1978, §41-4-1, et seq. or otherwise provided by state law.

Section 9.21 Attorney Fees and Costs. Each of the Foundation and the Charter School will bear its own costs in respect of any disputes arising under this Lease. Any attorney fees or costs incurred by the Trustee shall be paid in accordance with the Additional Rent provision as set forth above.

Section 9.22 Entire Agreement. This this Lease constitutes the full and entire understandings and agreements between the Parties with respect to the subject matters thereof, and any other written or oral agreements relating to the subject matters thereof existing between the Parties are expressly superseded and canceled.

Section 9.23. Titles and Subtitles. The titles and subtitles used in this Lease are used for convenience only and are not to be considered in construing or interpreting this Lease.

IN WITNESS WHEREOF, Explore Academy Las Cruces Foundation and Explore Academy – Las Cruces, each acting through their duly authorized agent or legal representative, have made and executed this Agreement as of the date first written above.

Signature pages to follow.

IN WITNESS WHEREOF, Explore Academy Las Cruces Foundation and Explore Academy – Las Cruces, each acting through their duly authorized agent or legal representative, have made and executed this Agreement as of the date first written above.

EXPLORE ACADEMY – LAS CRUCES, a New Mexico public charter school

By: 

Name: Clara Welles

Title: Governing Council Chair

EXPLORE ACADEMY LAS CRUCES FOUNDATION, a New Mexico nonprofit corporation

By: _____

Name: Karen Casedy

Title: Chair of the Board of Directors

IN WITNESS WHEREOF, Explore Academy Las Cruces Foundation and Explore Academy – Las Cruces, each acting through their duly authorized agent or legal representative, have made and executed this Agreement as of the date first written above.

EXPLORE ACADEMY – LAS CRUCES, a New Mexico public charter school

By: _____
Name: Clara Welles
Title: Governing Council Chair

EXPLORE ACADEMY LAS CRUCES FOUNDATION, a New Mexico nonprofit corporation

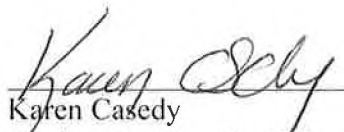
By:  _____
Name: Karen Casady
Title: Chair of the Board of Directors

EXHIBIT A
LEGAL DESCRIPTION

LOT NUMBERED 5A OF AMERIWEST SUBDIVISION NO, 3 REPLAT NO. 1, LAS CRUCES, NEW MEXICO, AS THE S A M E IS SHOWN AND DESIGNATED ON THE PLAT OF SAID AMERIWEST SUBDIVISION NO, 3 REPLAT NO. 1, FILED IN THE OFFICE OF THE COUNTY CLERK OF DONA ANA COUNTY, NEW MEXICO ON APRIL 15,1998 IN PLAT BOOK 19, FOLIO 85-86.

LOT 5B OF AMERIWEST SUBDIVISION NO. 3 REPLAT NO. 1, LOCATED IN THE CITY OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO AS SHOWN ON THE PLAT THEREOF FILED FOR RECORD IN THE OFFICE OF THE COUNTY CLERK OF SAID COUNTY ON APRIL 15, 1998 AND RECORDED IN BOOK 19 AT PAGES 85-86, PLAT RECORDS.

EXHIBIT B
IMPROVEMENTS
(see attached)

EXHIBIT B

IMPROVEMENTS

PHASE I: The Lessee will occupy Phase I as depicted in purple on the attachment to Exhibit B. Work to be completed by Lessor prior to occupancy, includes:

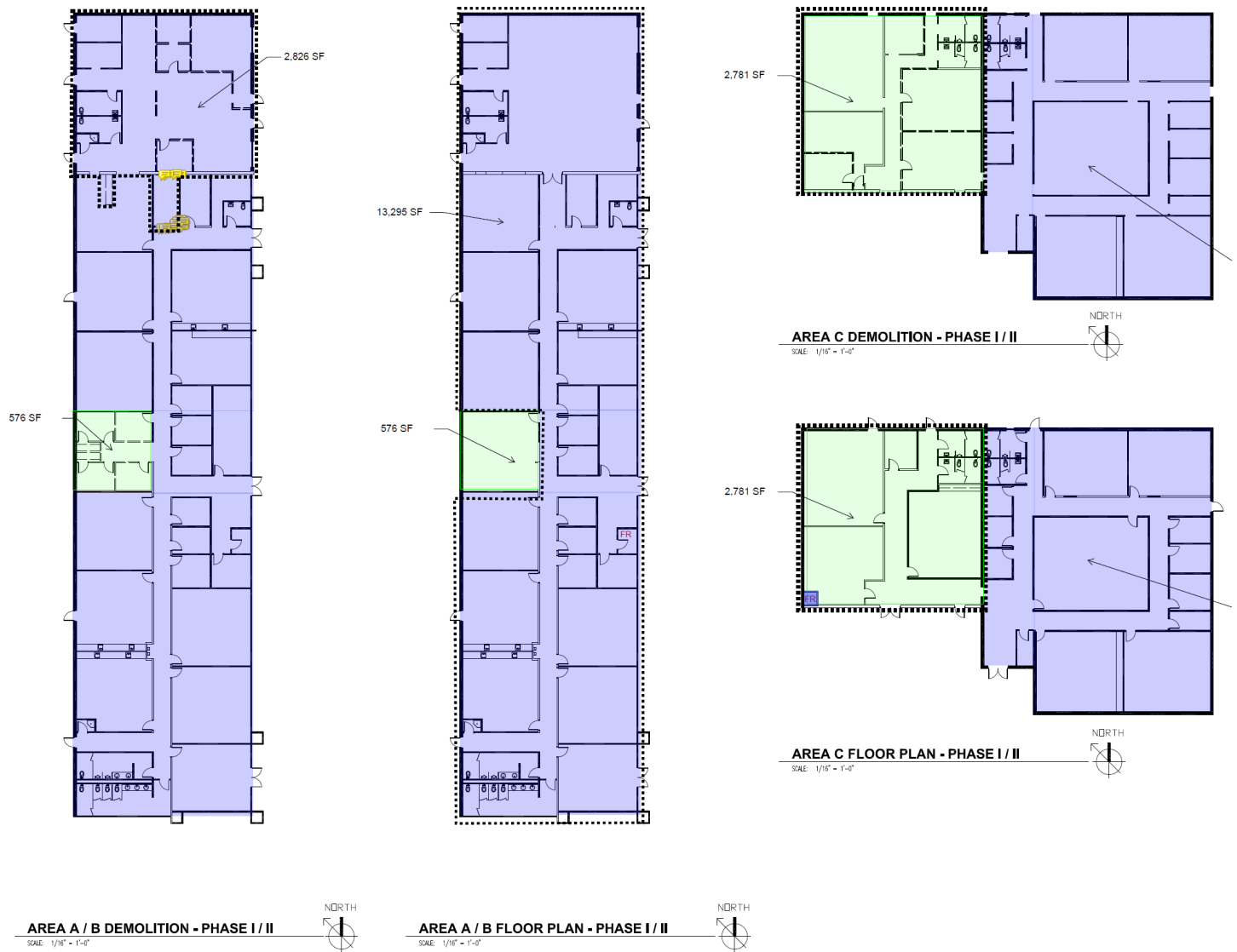
Demolishing work:

- Remove walls and finishes in Areas A, B, and C as shown in figure below (purple)
- Demolish walls and doors in Area A, B, and C as shown in figure below (purple)
- Remove and replace flooring
- Demolition required for installing fire line, riser and distribution

Remodel work:

- Work to ensure that doors and frames meet code compliance in Area A including installation of all required hardware
- Replace restroom accessories and install fire extinguishers for code compliance
- Electrical work to bring occupied area to up to code compliance, including exit and emergency signage.
- Installation of fire suppression as required by building code, including:
 - Install fire alarm distribution according to plan
 - Tie in water main to three locations as required with flange, POV and Fire Department connections
 - Demolition and removal of asphalt, concrete, saw-cutting, sidewalk and other related components
 - Replace asphalt, concrete, sidewalk and other related components as related main line and riser installation

See below for modifications to take place in Phase I, as shown in purple. Each figure has a demolition plan and a construction plan to show where modifications are being made.



- **SUCH OTHER REPAIRS AND REPLACEMENTS AS REQUIRED TO SECURE E-OCCUPANCY BEFORE SCHOOL TAKES POSSESSION OF PHASE I**

PHASE II: The Charter School will occupy Phase II depicted in green and orange on the attachment to Exhibit B. Work to be completed by Lessor prior to occupancy, includes:

Demolishing work:

- Remove walls and finishes in Areas C, D, and E as shown in figure below (green and orange)
- Demolish walls and doors in Area C, D, and E as shown in figure below (green and orange)
- Demolition required for installing fire line, riser and distribution

Remodel work:

- Work to ensure that doors and frames meet code compliance in Areas C, D, and E including installation of all required hardware
- Replace restroom accessories and install fire extinguishers for code compliance
- Electrical work to bring occupied area to up to code compliance, including exit and emergency signage.
- Installation of fire suppression as required by building code in areas shown in green, orange, and red, including:
 - Install fire alarm distribution according to plan
 - Tie in water main to three locations as required with flange, POV and Fire Department connections
 - Demolition and removal of asphalt, concrete, saw-cutting, sidewalk and other related components
 - Replace asphalt, concrete, sidewalk and other related components as related main line and riser installation

**SUCH OTHER REPAIRS AND REPLACEMENTS AS REQUIRED TO SECURE
REQUIRED OCCUPANCY BEFORE SCHOOL TAKES POSSESSION OF PHASE II**

See below for modifications to take place in Phase II, as shown in green and orange. Each figure has a demolition plan and a construction plan to show where modifications are being made. The difference between areas marked green and orange relate to school occupancy only (areas marked in green will be used by the school for students in the fall of 2023, areas marked in orange will not be used until fall of 2024 and beyond. Areas marked in red have not yet been planned for development but will still have fire sprinkler installation).



EXHIBIT C
BASE RENT AND ADDITIONAL RENT SCHEDULE
(see attached)

BASE RENT SCHEDULE

Date	Total
9/15/2022	26,337.86
10/15/2022	26,337.86
11/15/2022	18,391.34
12/15/2022	18,391.34
1/15/2023	18,391.34
2/15/2023	18,391.34
3/15/2023	18,391.34
4/15/2023	18,391.34
5/15/2023	18,391.34
6/15/2023	18,391.34
7/15/2023	36,832.29
8/15/2023	36,832.29
9/15/2023	36,832.29
10/15/2023	36,832.29
11/15/2023	34,536.91
12/15/2023	34,536.91
1/15/2024	34,536.91
2/15/2024	34,536.91
3/15/2024	34,536.91
4/15/2024	34,536.91
5/15/2024	88,723.63
6/15/2024	88,723.63
7/15/2024	88,723.63
8/15/2024	88,723.63
9/15/2024	88,723.63
10/15/2024	88,723.63
11/15/2024	88,723.63
12/15/2024	88,723.63
1/15/2025	88,723.63
2/15/2025	88,723.63
3/15/2025	88,723.63
4/15/2025	88,723.63
5/15/2025	94,965.30
6/15/2025	94,965.30
7/15/2025	94,965.30
8/15/2025	94,965.30
9/15/2025	94,965.30
10/15/2025	94,965.30
11/15/2025	94,965.30
12/15/2025	94,965.30
1/15/2026	94,965.30
2/15/2026	94,965.30
3/15/2026	94,965.30
4/15/2026	94,965.30
5/15/2026	95,223.63
6/15/2026	95,223.63
7/15/2026	95,223.63
8/15/2026	95,223.63
9/15/2026	95,223.63
10/15/2026	95,223.63
11/15/2026	95,223.63
12/15/2026	95,223.63
1/15/2027	95,223.63

2/15/2027	95,223.63
3/15/2027	95,223.63
4/15/2027	95,223.63
5/15/2027	94,959.05
6/15/2027	94,959.05
7/15/2027	94,959.05
8/15/2027	94,959.05
9/15/2027	94,959.05
10/15/2027	94,959.05
11/15/2027	94,959.05
12/15/2027	94,959.05
1/15/2028	94,959.05
2/15/2028	94,959.05
3/15/2028	94,959.05
4/15/2028	94,959.05
5/15/2028	95,040.30
6/15/2028	95,040.30
7/15/2028	95,040.30
8/15/2028	95,040.30
9/15/2028	95,040.30
10/15/2028	95,040.30
11/15/2028	95,040.30
12/15/2028	95,040.30
1/15/2029	95,040.30
2/15/2029	95,040.30
3/15/2029	95,040.30
4/15/2029	95,040.30
5/15/2029	95,015.30
6/15/2029	95,015.30
7/15/2029	95,015.30
8/15/2029	95,015.30
9/15/2029	95,015.30
10/15/2029	95,015.30
11/15/2029	95,015.30
12/15/2029	95,015.30
1/15/2030	95,015.30
2/15/2030	95,015.30
3/15/2030	95,015.30
4/15/2030	95,015.30
5/15/2030	95,378.84
6/15/2030	95,378.84
7/15/2030	95,378.84
8/15/2030	95,378.84
9/15/2030	95,378.84
10/15/2030	95,378.84
11/15/2030	95,378.84
12/15/2030	95,378.84
1/15/2031	95,378.84
2/15/2031	95,378.84
3/15/2031	95,378.84
4/15/2031	95,378.84
5/15/2031	95,329.88
6/15/2031	95,329.88
7/15/2031	95,329.88
8/15/2031	95,329.88

9/15/2031	95,329.88
10/15/2031	95,329.88
11/15/2031	95,329.88
12/15/2031	95,329.88
1/15/2032	95,329.88
2/15/2032	95,329.88
3/15/2032	95,329.88
4/15/2032	95,329.88
5/15/2032	95,190.30
6/15/2032	95,190.30
7/15/2032	95,190.30
8/15/2032	95,190.30
9/15/2032	95,190.30
10/15/2032	95,190.30
11/15/2032	95,190.30
12/15/2032	95,190.30
1/15/2033	95,190.30
2/15/2033	95,190.30
3/15/2033	95,190.30
4/15/2033	95,190.30
5/15/2033	95,376.75
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3/15/2034	95,376.75
4/15/2034	95,376.75
5/15/2034	95,025.71
6/15/2034	95,025.71
7/15/2034	95,025.71
8/15/2034	95,025.71
9/15/2034	95,025.71
10/15/2034	95,025.71
11/15/2034	95,025.71
12/15/2034	95,025.71
1/15/2035	95,025.71
2/15/2035	95,025.71
3/15/2035	95,025.71
4/15/2035	95,025.71
5/15/2035	95,000.71
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7/15/2035	95,000.71
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12/15/2035	95,000.71
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3/15/2036	95,000.71

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3/15/2037	95,271.55
4/15/2037	95,271.55
5/15/2037	95,391.34
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12/15/2037	95,391.34
1/15/2038	95,391.34
2/15/2038	95,391.34
3/15/2038	95,391.34
4/15/2038	95,391.34
5/15/2038	95,360.09
6/15/2038	95,360.09
7/15/2038	95,360.09
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4/15/2039	95,360.09
5/15/2039	95,177.80
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4/15/2040	95,177.80
5/15/2040	95,261.13
6/15/2040	95,261.13
7/15/2040	95,261.13
8/15/2040	95,261.13
9/15/2040	95,261.13
10/15/2040	95,261.13

11/15/2040	95,261.13
12/15/2040	95,261.13
1/15/2041	95,261.13
2/15/2041	95,261.13
3/15/2041	95,261.13
4/15/2041	95,261.13
5/15/2041	95,163.21
6/15/2041	95,163.21
7/15/2041	95,163.21
8/15/2041	95,163.21
9/15/2041	95,163.21
10/15/2041	95,163.21
11/15/2041	95,163.21
12/15/2041	95,163.21
1/15/2042	95,163.21
2/15/2042	95,163.21
3/15/2042	95,163.21
4/15/2042	95,163.21
5/15/2042	95,300.71
6/15/2042	95,300.71
7/15/2042	95,300.71
8/15/2042	95,300.71
9/15/2042	95,300.71
10/15/2042	95,300.71
11/15/2042	95,300.71
12/15/2042	95,300.71
1/15/2043	95,300.71
2/15/2043	95,300.71
3/15/2043	95,300.71
4/15/2043	95,300.71
5/15/2043	95,226.75
6/15/2043	95,226.75
7/15/2043	95,226.75
8/15/2043	95,226.75
9/15/2043	95,226.75
10/15/2043	95,226.75
11/15/2043	95,226.75
12/15/2043	95,226.75
1/15/2044	95,226.75
2/15/2044	95,226.75
3/15/2044	95,226.75
4/15/2044	95,226.75
5/15/2044	95,358.00
6/15/2044	95,358.00
7/15/2044	95,358.00
8/15/2044	95,358.00
9/15/2044	95,358.00
10/15/2044	95,358.00
11/15/2044	95,358.00
12/15/2044	95,358.00
1/15/2045	95,358.00
2/15/2045	95,358.00
3/15/2045	95,358.00
4/15/2045	95,358.00
5/15/2045	95,247.59

6/15/2045	95,247.59
7/15/2045	95,247.59
8/15/2045	95,247.59
9/15/2045	95,247.59
10/15/2045	95,247.59
11/15/2045	95,247.59
12/15/2045	95,247.59
1/15/2046	95,247.59
2/15/2046	95,247.59
3/15/2046	95,247.59
4/15/2046	95,247.59
5/15/2046	95,312.17
6/15/2046	95,312.17
7/15/2046	95,312.17
8/15/2046	95,312.17
9/15/2046	95,312.17
10/15/2046	95,312.17
11/15/2046	95,312.17
12/15/2046	95,312.17
1/15/2047	95,312.17
2/15/2047	95,312.17
3/15/2047	95,312.17
4/15/2047	95,312.17
5/15/2047	95,104.88
6/15/2047	95,104.88
7/15/2047	95,104.88
8/15/2047	95,104.88
9/15/2047	95,104.88
10/15/2047	95,104.88
11/15/2047	95,104.88
12/15/2047	95,104.88
1/15/2048	95,104.88
2/15/2048	95,104.88
3/15/2048	95,104.88
4/15/2048	95,104.88
5/15/2048	95,042.38
6/15/2048	95,042.38
7/15/2048	95,042.38
8/15/2048	95,042.38
9/15/2048	95,042.38
10/15/2048	95,042.38
11/15/2048	95,042.38
12/15/2048	95,042.38
1/15/2049	95,042.38
2/15/2049	95,042.38
3/15/2049	95,042.38
4/15/2049	95,042.38
5/15/2049	95,094.46
6/15/2049	95,094.46
7/15/2049	95,094.46
8/15/2049	95,094.46
9/15/2049	95,094.46
10/15/2049	95,094.46
11/15/2049	95,094.46
12/15/2049	95,094.46

1/15/2050	95,094.46
2/15/2050	95,094.46
3/15/2050	95,094.46
4/15/2050	95,094.46
5/15/2050	95,230.92
6/15/2050	95,230.92
7/15/2050	95,230.92
8/15/2050	95,230.92
9/15/2050	95,230.92
10/15/2050	95,230.92
11/15/2050	95,230.92
12/15/2050	95,230.92
1/15/2051	95,230.92
2/15/2051	95,230.92
3/15/2051	95,230.92
4/15/2051	95,230.92
5/15/2051	95,004.88
6/15/2051	95,004.88
7/15/2051	95,004.88
8/15/2051	95,004.88
9/15/2051	95,004.88
10/15/2051	95,004.88
11/15/2051	95,004.88
12/15/2051	95,004.88
1/15/2052	95,004.88
2/15/2052	95,004.88
3/15/2052	95,004.88
4/15/2052	95,004.88

EXHIBIT D
ACH AUTHORIZATION AGREEMENT

Explore Academy - Las Cruces, a New Mexico Public Charter School, authorizes Wells Fargo Bank, N.A. to make the following ACH debits from its checking account as herein described.

1. Explore Academy Las Cruces Checking Account Number: _____
2. Explore Academy Las Cruces Routing Number: _____
3. Bank Name: Wells Fargo, N.A.
4. Payee: UMB BANK, n.a.
5. [need information for receiving]
6. Date and Amount of ACH debit: As set forth in the attached Base Rent Schedule.
7. Commencement Date of ACH payments: As set forth in the attached Base Rent Schedule
8. Purpose: Making all rent payments due and owing according to that certain Lease Agreement by and between Explore Academy Las Cruces and Explore Academy Las Cruces Foundation, a New Mexico nonprofit corporation, dated May 26, 2022.

Explore Academy - Las Cruces understands that this authorization will remain in effect until cancelled by an authorized representative of Explore Academy Las Cruces, which authorization shall be evidenced by a signed resolution of Explore Academy Las Cruces' governing body. Explore Academy shall provide no less than thirty (30) days' notice to the Bank prior to the next transfer date of its intent to terminate this ACH Authorization Agreement. If the above noted payment date falls on a weekend or holiday, Explore Academy Las Cruces understands that the payments may be executed on the preceding business day. For each ACH debit from Explore Academy Las Cruces' checking account, Explore Academy Las Cruces authorizes the transfer to be made on the above noted periodic transaction dates. Explore Academy Las Cruces acknowledges that the origination of ACH transactions to its account must comply with the provisions of United States laws. The undersigned certifies that he/she is an authorized agent for Explore Academy Las Cruces' Bank Account as described above.

EXPLORE ACADEMY LAS - CRUCES

By: _____,
_____, its Authorized Representative

Accepted by:
WELLS FARGO, N.A.

By: _____,
_____, its Authorized Representative

EXHIBIT E
REPORTING REQUIREMENTS
(To Foundation)

- Quarterly financial statements prepared by the Charter School's designated financial consultant, within 30 days of the end of each fiscal quarter.
- Certain financial statements as follows: (i) by no later than December 15 of each year, the Charter School shall submit a copy of the Charter School's draft financial statements which are required pursuant to New Mexico State law to be submitted to the New Mexico State Auditor for preparation of the audited financial statements of the Charter School, and (ii) within ten (10) business days after they are distributed by the New Mexico State Auditor pursuant to New Mexico State law, a copy of the audited financial statements required of the Charter School under State law for the preceding fiscal year, including a balance sheet and operating statements, or, alternatively, a notice that such audited financial statements of the Charter School have been posted and are publicly available on the website of the New Mexico State Auditor. The Charter School and the Foundation acknowledge that the Charter School's audited financial statements are prepared by the New Mexico State Auditor as a component part of the financial statements of the New Mexico Public Education Department, and as such are not under the control of the Charter School. The Charter School shall be deemed to have complied with this reporting and disclosure requirement so long as the Charter School provides (i) its draft financial statements by December 15 of each year, and (ii) its annual audited financial statements (or notice that such audited financial statements of the Charter School have been posted and are publicly available on the website of the New Mexico State Auditor) to the Trustee within ten (5) business days of when such audited financial statements are distributed by the New Mexico State Auditor.
- Annual capital and operating budgets within five (5) days of final approval by the Charter School's governing body.
- Notice of changes in the Charter School's governing body and senior management.
- Any and all other information as relates to the Charter School as requested by the Foundation or any designee acting on behalf of the Foundation, including information the Foundation is required to provide about the Charter School pursuant to the Loan Agreement or Continuing Disclosure Agreement.

CERTIFICATE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)
5/24/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

If this certificate is being prepared for a party who has an insurable interest in the property, do not use this form. Use ACORD 27 or ACORD 28.

PRODUCER Poms & Associates Insurance Brokers CA License #0814733 5700 Canoga Ave. #400 Woodland Hills, Ca 91367	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2">CONTACT NAME: Risk Services</td> </tr> <tr> <td>PHONE (A/C, No, Ext): (800)578-8802</td> <td>FAX (A/C, No): (818) 449 9449</td> </tr> <tr> <td colspan="2">E-MAIL ADDRESS: rservices@pomsassoc.com</td> </tr> <tr> <td colspan="2">PRODUCER CUSTOMER ID #: 00016280</td> </tr> </table>	CONTACT NAME: Risk Services		PHONE (A/C, No, Ext): (800)578-8802	FAX (A/C, No): (818) 449 9449	E-MAIL ADDRESS: rservices@pomsassoc.com		PRODUCER CUSTOMER ID #: 00016280							
CONTACT NAME: Risk Services															
PHONE (A/C, No, Ext): (800)578-8802	FAX (A/C, No): (818) 449 9449														
E-MAIL ADDRESS: rservices@pomsassoc.com															
PRODUCER CUSTOMER ID #: 00016280															
INSURED New Mexico Public Schools Insurance Authority Member: Explore Academy-Las Cruces 410 Old Taos Highway Santa Fe, NM 87501	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A : New Mexico Public Schools Insurance Authority</td> <td style="text-align: center;">N/A</td> </tr> <tr> <td>INSURER B : Hanover Insurance Company</td> <td></td> </tr> <tr> <td>INSURER C :</td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : New Mexico Public Schools Insurance Authority	N/A	INSURER B : Hanover Insurance Company		INSURER C :		INSURER D :		INSURER E :		INSURER F :	
INSURER(S) AFFORDING COVERAGE	NAIC #														
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INSURER B : Hanover Insurance Company															
INSURER C :															
INSURER D :															
INSURER E :															
INSURER F :															

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

LOCATION OF PREMISES / DESCRIPTION OF PROPERTY (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE		POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	COVERED PROPERTY		LIMITS
A	<input type="checkbox"/>	PROPERTY	MOC NO. P0024	07/01/2021	07/01/2022	<input checked="" type="checkbox"/>	BUILDING	\$ Per Schedule
	<input type="checkbox"/>	CAUSES OF LOSS				<input type="checkbox"/>	PERSONAL PROPERTY	\$ On File
	<input type="checkbox"/>	BASIC				<input type="checkbox"/>	BUSINESS INCOME	\$
	<input type="checkbox"/>	BROAD				<input checked="" type="checkbox"/>	EXTRA EXPENSE	\$ Per Schedule
	<input checked="" type="checkbox"/>	SPECIAL				<input type="checkbox"/>	RENTAL VALUE	\$ On File
	<input checked="" type="checkbox"/>	EARTHQUAKE				<input type="checkbox"/>	BLANKET BUILDING	\$
	<input checked="" type="checkbox"/>	WIND				<input type="checkbox"/>	BLANKET PERS PROP	\$
	<input checked="" type="checkbox"/>	FLOOD				<input type="checkbox"/>	BLANKET BLDG & PP	\$
	<input type="checkbox"/>					<input checked="" type="checkbox"/>	CONTENTS	\$ Per Schedule
	<input type="checkbox"/>					<input type="checkbox"/>		\$ On File
	<input type="checkbox"/>					<input type="checkbox"/>		\$
	<input type="checkbox"/>					<input type="checkbox"/>		\$
	<input type="checkbox"/>	INLAND MARINE	TYPE OF POLICY			<input type="checkbox"/>		\$
	<input type="checkbox"/>	CAUSES OF LOSS				<input type="checkbox"/>		\$
	<input type="checkbox"/>	NAMED PERILS	POLICY NUMBER			<input type="checkbox"/>		\$
	<input type="checkbox"/>					<input type="checkbox"/>		\$
	<input type="checkbox"/>	CRIME				<input type="checkbox"/>	Employee Theft	\$
	<input type="checkbox"/>					<input type="checkbox"/>	Forgery or Altercation	\$
	<input type="checkbox"/>	TYPE OF POLICY				<input type="checkbox"/>	Faithful Performance	\$
	<input type="checkbox"/>	BOILER & MACHINERY / EQUIPMENT BREAKDOWN				<input type="checkbox"/>		\$
	<input type="checkbox"/>					<input type="checkbox"/>		\$
	<input type="checkbox"/>					<input type="checkbox"/>	Deductible Comp \$750	\$
	<input type="checkbox"/>					<input type="checkbox"/>	Deductible Coll \$750	\$

SPECIAL CONDITIONS / OTHER COVERAGES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

RE: Location - 840 & 850 Telshor Blvd., Las Cruces, NM. UMB Bank, N.A., as Trustee under the Public Finance Authority Educational Facility Revenue Bonds (Explore Academy Las Cruces Foundation Project) Series 2022 Bonds. TIV=\$11,675,000. Business Interruption Value=\$1,000,000.Certholder is named as loss payee if required by written contract.

CERTIFICATE HOLDER CANCELLATION

UMB Bank, N.A., as Trustee 120 S. 6th Street #1400 Minneapolis, MN 55402	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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