



**HOLLISTER ELEMENTARY SCHOOL DISTRICT
ACTING SUPERINTENDENT EMPLOYMENT AGREEMENT**

The following is an employment agreement (“Agreement”) between the Governing Board of the Hollister School District (“Board” or “District”) and Dr. William Barr (“Acting Superintendent”).

1. **Term:** The Board hereby employs Acting Superintendent subject to the terms and conditions set forth below. This Agreement shall commence on July 18, 2018, for a total of 46 days. The Agreement shall terminate when the District hires a permanent Superintendent, or when this Agreement terminates for any other reason, whichever comes first. In no event shall this agreement extend beyond June 30, 2019, unless the parties agree otherwise in a writing signed by both parties.

2. **Acting Superintendent’s Duties:**

General. The Acting Superintendent shall perform the duties of District Superintendent as prescribed by the laws of the State of California and his job description. The Acting Superintendent shall have primary responsibility for execution of Board Policy and the duties prescribed by Education Code section 35035. The Acting Superintendent shall be the Board’s chief administrative officer.

Personnel Matters. The Acting Superintendent shall have primary responsibility in making recommendations to the Board regarding all personnel matters.

Administrative Functions. The Acting Superintendent shall: (1) review all policies adopted by the Board and make appropriate recommendations; (2) periodically evaluate or cause to be evaluated all District employees; (3) advise the Board of sources of funds that might be available to implement present or contemplated District programs; (4) perform duties specified in Education Code section 35250; (5) maintain and improve his or her professional competence; (6) establish and maintain positive staff and Board relations; (7) establish and maintain positive community relations by participating in and attending community events and activities; (8) serve as liaison to the Board with respect to all employer-employee relations matters; (9) recommend District goals and objectives to the Board; (10) unless unavoidably detained, attend all regular and special meetings of the Board; (11) serve as secretary to the Board; (12) ensure that the Board is informed at regular intervals of the economic status of the District and ensure that the District’s expenditures in any school year do not exceed its income in any school year unless approved in advance by the Board; (13) serve as the District’s negotiator for negotiations under

the EERA (Government Code section 3540 et seq.); (14) properly classify all classified and certificated employees as required by the applicable provisions of California law; and (15) perform such other duties as may be assigned by the Board.

3. **Salary / Duty Days**: The Acting Superintendent shall be paid at the daily rate of \$935.00 per day from July 18, 2018 through June 30, 2019 for service provided, less applicable taxes and withholdings. Acting Superintendent and the Board shall work cooperatively to select a mutually agreeable schedule of duty days. The Board reserves the right to set Acting Superintendent's duty days at the level the Board determines is consistent with the District's needs. Acting Superintendent agrees that a variable schedule is acceptable.

5. **Benefits**: The Acting Superintendent will not receive health benefits or any other allowances from the District.

6. **Expense Reimbursement**: The District shall reimburse the Acting Superintendent for the actual and necessary expenses incurred by the Acting Superintendent within the course and scope of his or her employment. For reimbursement, the Acting Superintendent shall complete and submit expense claims in writing in accordance with the District's policies, rules and regulations and shall provide the Board with copies of the Acting Superintendent's monthly expense reports. The Acting Superintendent's expense claims shall be supported by appropriate documentation prior to and as a condition of reimbursement.

a. **Mileage Reimbursement**: The Acting Superintendent shall complete and submit a mileage claim form to be reimbursed at the current 2018 Internal Revenue Service (IRS) mileage rate of \$0.54/mile for mileage to and from the Hollister School District and his/her residence.

7. **CalSTRS Post-Retirement Employment Notice**. The parties acknowledge that the Acting Superintendent is a CalSTRS retiree and is subject to post-retirement employment restrictions set forth in Education Code section 22714, 24214 and 24214.5. Specifically, the Acting Superintendent is subject to the annual earnings limitation set by CalSTRS, as that limit may change from time to time. The Acting Superintendent agrees that this paragraph satisfies all notice requirements imposed by law, and agrees he or she shall be solely responsible for monitoring his or her annual compensation to ensure compliance with the earnings limitation. If the Acting Superintendent exceeds the annual earnings limitation set by CalSTRS, he or she shall be solely liable for any penalties or re-payments imposed by CalSTRS on either the Acting Superintendent or the District.

8. **Applicable Laws**: This agreement is subject to all applicable laws, policies, and regulations of the State of California or District. Such laws, policies, and regulations as now enacted or as enacted in the future are made a part of this agreement as fully as though set forth herein.

9. **Termination of Agreement:**

a. Mutual Consent. This Agreement may be terminated at any time by mutual consent of the Board and the Acting Superintendent.

b. Resignation. The Acting Superintendent may resign and terminate this Agreement only by providing the Board with at least fifteen (15) calendar days advance written notice, unless the Parties agree otherwise.

c. Automatic Termination. This agreement shall automatically terminate without further action by the Board if the District hires a permanent Superintendent, or on June 30, 2019, whichever comes first, and shall not renew. To the extent that notice of termination to either party is required by law, the parties agree that this provision satisfies all required legal notice provisions.

d. Unilateral Termination by Board. The Board may terminate this Agreement without cause or a hearing, in the Board's absolute discretion, by giving Acting Superintendent ten (10) calendar days advance written notice of termination. In consideration for the exercise of this right to terminate without cause or a hearing, in the event of unilateral early termination by the Board, the Acting Superintendent shall receive salary earned to the date with pay at the Acting Superintendent's daily rate specified in paragraph number 3 of this Agreement. All payments made pursuant to this termination by Board provision shall be subject to applicable payroll deductions and shall be treated as compensation for state and federal tax purposes. Payments made pursuant to this termination by Board provision shall be considered as final settlement pay. The parties agree that any damages to the Acting Superintendent that may result from the Board's early termination of this Agreement cannot be readily ascertained. Accordingly, the parties agree that the payments made pursuant to this termination by Board provision constitutes reasonable liquidated damages for the Acting Superintendent, fully compensates the Acting Superintendent for all tort, contract and other damages of any nature whatsoever, whether in law or equity, and does not result in a penalty. The parties agree that the District's completion of its obligations under this provision constitutes the Acting Superintendent's sole remedy to the fullest extent provided by law. Finally, the parties agree that this provision meets the requirements governing maximum cash settlements as set forth in Government Code sections 53260, et seq., which provisions the Acting Superintendent acknowledges he or she has read and understands.

e. Termination for Inappropriate Fiscal Practices. Notwithstanding any other provision of this Agreement to the contrary, if the Board believes, and subsequently confirms through an independent audit, that the Acting Superintendent has engaged in fraud, misappropriation of funds, or other

illegal fiscal practices, then the Board may terminate the Acting Superintendent solely upon written notice to the Acting Superintendent, and the Acting Superintendent shall not be entitled to any compensation of any nature, whether as cash, salary payments, or other non-cash settlement (e.g., health benefits) as set forth above. This provision is intended to implement the requirements of Government Code section 53260, subdivision (b).

f. Death. Death of the Acting Superintendent terminates the Agreement immediately. In such event, all salary and other monetary amounts due to the Acting Superintendent at the time of death, if any, shall be paid to the Acting Superintendent's estate unless otherwise declared in writing by the Acting Superintendent.

10. Holidays. The Acting Superintendent shall receive all holidays granted to the District's certificated management employees, but without additional pay.

11. Vacation. The Acting Superintendent shall not accrue vacation days nor any entitlement to paid vacation.

12. Tax/Retirement Liability. Notwithstanding any other provision of this Agreement, the District shall not be liable for any retirement or state/federal tax consequences to the Acting Superintendent, any designated beneficiary, heirs, administrators, executors, successors or assigns of the Acting Superintendent. The Acting Superintendent shall assume sole responsibility and liability for all state and federal tax consequences of this Agreement and all related payroll and retirement consequences, including, but not limited to, whether compensation or service is creditable for purposes of retirement, all tax and retirement consequences stemming from any payments made to the Acting Superintendent as a result of the termination without cause provision of this Agreement, retirement payments, expense reimbursements, and payments for insurance.

13. Abuse of Office Provisions. In accordance with Government Code section 53243, *et seq.*, and as a separate contractual obligation, should the Acting Superintendent receive a paid leave of absence or cash settlement if this Agreement is terminated with or without cause, such paid leave or cash settlement shall be fully reimbursed to the District by the Acting Superintendent if the Acting Superintendent is convicted of a crime involving an abuse of the Acting Superintendent's office or position. In addition, if the District funds the criminal defense of the Acting Superintendent against charges involving abuse of office or position and the Acting Superintendent is then convicted of such charges, the Acting Superintendent shall fully reimburse the District all funds expended for his or her criminal defense.

14. General Provisions.

a. Governing Law. This Agreement, and the rights and obligations of the parties shall be construed and enforced in accordance with the laws of the State of California. Venue shall be in San Benito County, California.

b. Entire Agreement. This Agreement contains the entire agreement and understanding between the parties. There are no oral understandings, terms or conditions, and neither party has relied upon any representation, express or implied, not contained in this Agreement. Further, this Agreement shall supersede all prior oral or written contracts or agreements between the parties executed prior to this date.

c. No Assignment. The Acting Superintendent may not assign or transfer any rights granted or obligations assumed under this Agreement.

d. Modification. This Agreement cannot be changed or supplemented orally. It may be modified or superseded only by a written instrument executed by both parties.

e. Exclusivity. To the extent permitted by law, the parties agree that the employment relationship between the District and the Acting Superintendent shall be governed exclusively by the provisions of this Agreement, and not by Board policies, administrative regulations, management handbooks, or similar documents.

f. Management Hours. The parties recognize that the demands of the position may require Acting Superintendent to average more than eight (8) hours a day and/or more than forty (40) hours per week. The parties agree that Acting Superintendent shall not be entitled to overtime compensation.

g. Construction. This Agreement shall not be construed more strongly against either party regardless of which party is responsible for its preparation.

h. Execution of Other Documents. The parties shall cooperate fully in the execution of any other documents and in the completion of any other acts that may be necessary or appropriate to give full force and effect to this Agreement.

i. Independent Review. The parties have had the opportunity to obtain, and have obtained, independent legal or other professional advice with regard to this Agreement, including tax and retirement consequences. The Acting Superintendent and the Board each recognize that in entering into this Agreement, the parties have relied upon the advice only of their own attorneys or other representatives, and that the terms of this Agreement have been completely explained to them by their attorneys or representatives, and that those terms are fully understood and voluntarily accepted.

j. Binding Effect. This Agreement shall be for the benefit of and shall be binding upon all parties and their respective successors, heirs, and assigns.

k. Execution. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A copy, facsimile, photographic copy or an original, with all signatures appended

together, shall be deemed a fully executed Agreement and shall be as valid as an original for any purpose.

l. Savings Clause/Severability. If any provision of this Agreement or its application is held invalid, the invalidity shall not affect the other provisions or applications of the Agreement that can be given effect without the invalid provisions or applications and the provisions of this Agreement are declared to be severable.

m. Public Record. The parties recognize that, once final, this Agreement is a public record and must be made available to the public upon request.

n. Integration. This Agreement constitutes a complete and exclusive statement of the understanding between the parties with respect to its subject matter. This Agreement supersedes any and all other prior communications between the parties, whether written or oral. Any prior agreements, promises, negotiations or representations related to the subject matter not expressly set forth in this Agreement are of no force and effect.

o. Waiver. Any waiver of any breach of any term or provision of this Agreement shall be in writing and shall not be construed to be a waiver of any other breach of this Agreement.

p. Indemnity. As provided by Government Code sections 825 and 995, the District shall defend the Acting Superintendent from any and all demands, claims, suits, actions, and legal proceedings brought against the Acting Superintendent in the Acting Superintendent's individual or official capacity as an agent and employee of the District. Upon retirement from the District, the Acting Superintendent will continue to be indemnified for any actions taken against him to the extent required by law.

q. Board Approval. The effectiveness of this Agreement shall be contingent upon approval by District's Board in open session of a regular board meeting as required by law.

Hollister School District

Patricia Moore, Board President

Dated: _____, 2018

ACCEPTANCE OF OFFER

I accept the above offer of employment and the terms and conditions thereof and will report for duty as directed.

I have not entered into an Agreement of employment with the Governing Board of another school district or any other employer that would in any way conflict with the terms of this employment agreement.

I hold legal and valid administrative and teaching credentials, each of which is or will be recorded in the San Benito County Office of Education before receipt of my first payroll warrant and I agree to maintain in full force all of my credentials throughout the term of this Agreement.

Dated: _____
Dr. William Barr
Acting Superintendent

This Agreement was approved by the Governing Board in open session at a regularly called meeting held on _____, 2018.