

**LOAN AGREEMENT**

Dated as of [\*], 2024

among

Zions Bancorporation, N.A. d/b/a Zions First National Bank,  
as Lender

Salt Lake County, Utah,  
as Issuer

and

Rowland Hall-St. Mark's School,  
as Borrower

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THIS INSTRUMENT CONSTITUTES A SECURITY AGREEMENT  
UNDER THE UTAH UNIFORM COMMERCIAL CODE.

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## LOAN AGREEMENT

Lender: Zions Bancorporation, N.A. d/b/a Zions First National Bank  
One S. Main St., Ste. 300  
Salt Lake City, UT 84113  
Attn: Adam Whitefield

With a copy to: Zions Bancorporation, National Association  
Corporate Legal Services  
One South Main Street, Suite 1100  
Salt Lake City, Utah 84133-1109

With a copy to: Dorsey & Whitney LLP  
111 South Main Street, Suite 2100  
Salt Lake City, Utah 84111  
Attn: Nathan Canova, Esq. and Ken Logsdon, Esq.

Issuer: Salt Lake County, Utah Finance Department  
2001 South State Street, Ste #N4-200  
PO Box 144575  
Salt Lake City, Utah 84115-4575  
Attn: Deputy Mayor of Finance & Administration

With a copy to: Gilmore & Bell, P.C.  
15 West South Temple, Suite 1450  
Salt Lake City, Utah 84101  
Attn: Randall Larsen, Esq.

Borrower: Rowland Hall-St. Mark's School  
720 South Guardsman Way  
Salt Lake City, Utah  
Attn: Stephen Cross

With a copy to: Parr Brown Gee & Loveless  
101 South 200 East, Suite 700  
Salt Lake City, Utah 84111  
Attn: Robert McConnell, Esq. and Dane Johansen, Esq.

THIS LOAN AGREEMENT (this "Loan Agreement") is entered into as of [\*], 2024, among ZIONS BANCORPORATION N.A. D/B/A ZIONS FIRST NATIONAL BANK, a national banking association, as lender (with its successors and assigns, "Lender"), SALT LAKE COUNTY, UTAH, a political subdivision and body politic and corporate duly organized and validly existing under the Constitution and laws of the State of Utah (the "State"), as issuer (the "Issuer"), and ROWLAND HALL-ST. MARK'S SCHOOL, a Utah nonprofit corporation and an organization recognized under Section 501(c)(3) of the Internal Revenue Code of 1986, as borrower (the "Borrower").

### RECITALS

WHEREAS, the Issuer is authorized and empowered under the laws of the State, including the Utah Industrial Facilities and Development Act, Title 11, Chapter 17, Utah Code Annotated 1953, as amended (the "Act"), to issue revenue bonds and loan the same to any corporation for the purpose of defraying the

cost of financing, acquiring, constructing, reconstructing, improving, maintaining, equipping, furnishing, or funding any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, whether or not in existence or under construction, that is suitable for use by any corporation engaged in educational services; and

WHEREAS, the Borrower owns vacant land located at 1481 E. Sunnyside Avenue, Salt Lake City, Utah and intends to construct and operate a certain educational facilities of the Borrower, including, 154,000 square feet of facilities expected to comprise a new middle and upper school, learning commons, kitchen and dining area, performing arts center, theatre and athletic complex, and miscellaneous capital expenditures (the “Facilities”) thereon within the corporate boundaries of the Issuer, and has determined that it is desirable and in its best interest that the Issuer finance the construction; and

WHEREAS, Borrower has requested that the Issuer provide in this Loan Agreement for the issuance of its Industrial Development Revenue Bonds (Rowland Hall Project), Series 2024A and Series 2024B (collectively, the “Bonds”), in accordance with the terms of this Loan Agreement for the benefit of Borrower; and

WHEREAS, the Issuer has adopted a bond resolution authorizing the issuance of the Bonds in one or more series in the aggregate principal amount of not to exceed \$85,000,000 for the purpose of (i) financing the Project (as defined herein), and (ii) of costs of issuance and other costs related to the financing of the Bonds; and

WHEREAS, the Issuer will direct the Borrower to make and the Borrower will make all Bond Payments (as defined herein), which payments correspond with the payments on the Loan (as defined herein) directly to Lender pursuant to the terms set forth in this Loan Agreement; and

WHEREAS, this Loan Agreement and the Bonds shall not be deemed to constitute or give rise to a general obligation or liability of the Issuer or the State or any political subdivision thereof, or a pledge of or charge against the general credit or taxing power of the Issuer or the State or any political subdivision thereof, but shall be a special limited obligation of the Issuer payable solely from the Bond Payments payable hereunder by the Borrower to the Lender, as assignee of Issuer and holder of the Bonds;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and in consideration of the premises contained in this Loan Agreement, the Lender, Issuer, and Borrower agree as follows.

## ARTICLE I

### DEFINITIONS AND EXHIBITS

Section 1.1 Definitions. The following terms used herein will have the meanings indicated below unless the context clearly requires otherwise:

“Act” has the meaning set forth in the recitals hereto.

“Affiliate” means, with respect to any Person, any Person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person. A Person shall be deemed to control another Person for the purposes of this definition if such first Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the second Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise.

“Appraisal” shall mean an appraisal ordered by Lender and prepared by an appraiser satisfactory to Lender, which appraisal complies with all federal and state standards for appraisals and is otherwise in form and substance satisfactory to Lender.

“Architect” means the architect responsible for the construction of the Project.

“Authorized Officer” means with respect to the Borrower, its Chief Executive Officer, Chief Financial Officer or any other person designated to act on behalf of the Borrower by written certificate furnished to the Issuer and the Lender, containing the specimen signature of such person and signed on behalf of the Borrower by the President, any Vice President, the Secretary, the Assistant Secretary, or the Treasurer of the Borrower. Such certificate may designate an alternate or alternates.

“Bond Registrar” means the County Treasurer of the Issuer, hereby designated as the initial bond registrar for the Bonds and any additional or successor bond registrar appointed pursuant hereto.

“Bond Payments” means the payments payable by the Borrower pursuant to the provisions of this Loan Agreement and the Notes. As provided in Article II hereof, Bond Payments shall be payable by the Borrower directly to the Lender, as assignee of the Issuer and holder of the Bonds, in the amounts and at the times as set forth in Section 2.2 hereof.

“Bond Proceeds” means the total amount of money advanced by Lender to Borrower on behalf of Issuer pursuant to Article II hereof.

“Bonds” has the meaning set forth in the recitals hereto.

“Borrower” means Rowland Hall-St. Mark’s School, a Utah nonprofit corporation, its successors and assigns.

“Budget” means the budget for construction of the Project.

“Business Day” means a day other than a Saturday, Sunday or holiday on which banks are generally open for business in Salt Lake City, Utah.

“Certificate of Substantial Completion” shall mean a certificate in the form of AIA Form G-704, or in another format approved by Lender, executed by the Lender, Borrower and the General Contractor.

“Change Orders” shall mean any change in the Plans and Specifications, the General Contract or any subcontracts relating thereto, the Construction Schedule, or any subcontracts relating thereto, which change has been approved by (a) the Borrower, (b) the Lender and (c) the General Contractor.

“Closing Date” means [\*], 2024.

“CMT” has the meaning set forth in Section 2.9 hereof.

“Code” means the Internal Revenue Code of 1986, as amended, and United States Treasury regulations promulgated thereunder.

“Collateral” means all rights, title, interest and privileges of the Borrower in and to the Property and the Revenues and any and all other rights, title, interest and privileges of the Borrower in any other real or personal property covered by the Collateral Documents now existing or hereafter acquired, in each case,

that may at any time be or become subject to a security interest or Lien granted or purported to be granted to Lender pursuant to any Collateral Documents to secure the Obligations.

“Collateral Documents” means, collectively, all security agreements, assignments, pledges, control agreements, financing statements, deeds of trust, mortgages, and other documents creating, granting, evidencing or perfecting a Lien upon the Collateral as security for payment of the Obligations, including the Deed of Trust, and all amendments, modifications, addendums, and replacements thereof, whether presently existing or created in the future.

“Completion Date” means the earlier of (i) the date of completion of the Project evidenced by a certificate of occupancy for the Project issued to the Borrower and provided to the Lender and (ii) the fourth anniversary of the Closing Date or such later date as approved by Lender in its sole discretion.

“Compliance Certificate” shall have the meaning set forth in the Continuing Covenant Agreement.

“Conditional Lien Waivers and Releases” shall mean a written conditional waiver and release of mechanic’s lien or bond rights stating the amount due and date such amount covers in form and substance acceptable to Lender.

“Construction Contract” shall mean any contract (other than the General Contract) relating to work performed or to be performed for the Project executed or to be executed by Borrower Subcontractors.

“Construction Contractor” means any contractor who is a party to the Construction Contract.

“Construction Schedule” shall mean a construction schedule in a form approved by Lender showing a trade-by-trade breakdown of the estimated periods of commencement and completion of construction of the improvements of the Project.

“Continuing Covenant Agreement” means the Continuing Covenant Agreement dated as of the Closing Date, between Borrower and the Lender.

“Contractor” means, collectively or severally, as the context thereof shall suggest or require the General Contractor and any other person or entity with whom Borrower or General Contractor contracts either directly or indirectly for the construction of the Project or any portion thereof.

“Controlled Group” means all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with the Borrower, are treated as a single employer under Section 414 of the Code.

“Deed of Trust” means the Construction Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, dated as of the Closing Date, from the Borrower, as trustor, in favor of [TBD], as trustee, on behalf of Lender as beneficiary.

“Default” means an event that, with giving of notice or passage of time or both, would constitute an Event of Default as provided in Article IX hereof.

“Default Rate” means three percent (3%) per annum.

“Determination of Taxability” means any final, non-appealable determination, decision, or decree by the Commissioner of Internal Revenue, or any District Director of Internal Revenue or any court of



competent jurisdiction that an Event of Taxability shall have occurred. A Determination of Taxability also shall be deemed to have occurred on the first to occur of the following:

(a) the date when Borrower files any statement, supplemental statement, or other tax schedule, return, or document, which discloses that an Event of Taxability shall have occurred; or

(b) on the date when the Lender or any other Person who was a Lender hereunder notifies the Issuer and the Borrower that it has received a written opinion by a nationally recognized firm of attorneys of substantial expertise on the subject of tax-exempt municipal finance to the effect that an Event of Taxability shall have occurred unless, within one hundred eighty (180) days after receipt by the Borrower of such notification from such Lender or such other Person who was a Lender hereunder, as applicable, the Borrower shall deliver to such Lender or such other Person who was a Lender hereunder, as applicable, a ruling or determination letter issued to or on behalf of the Issuer or the Borrower by the Commissioner of the Internal Revenue Service or the Director of Tax-Exempt Bonds of the Tax-Exempt and Government Entities Division of the Internal Revenue Service (or any other government official exercising the same or a substantially similar function from time to time) to the effect that, after taking into consideration such facts as form the basis for the opinion that an Event of Taxability has occurred, an Event of Taxability shall not have occurred; or

(c) on the date when the Issuer or the Borrower shall be advised in writing by the Commissioner of the Internal Revenue Service or the Director of Tax-Exempt Bonds of the Tax-Exempt and Government Entities Division of the Internal Revenue Service (or any other government official exercising the same or a substantially similar function from time to time, including an employee subordinate to one of these officers who has been authorized to provide such advice) that, based upon filings of the Borrower, or upon any review or audit of the Borrower or upon any other ground whatsoever, an Event of Taxability shall have occurred; or

(d) on the date when Borrower shall receive notice from Lender or any other Person who was a Lender hereunder that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed as includable in the gross income of such Lender or such other Person who was a Lender hereunder the interest on the Bonds due to the occurrence of an Event of Taxability.

“Direct Costs” or “Hard Costs” shall mean all costs incurred for labor performed in the construction of the Project and the materials incorporated into the Project.

“Donations” means, at the time of determination, any and all capital campaign donations in readily available funds made to Borrower under or in connection with the Subject Campaign but excluding donations designated or specified by the donor or maker thereof as being for a specific purpose other than the Project and thus not legally available for payment of debt service on the Bonds.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“Event of Default” has the meaning assigned to such term in Section 9.1 hereof.

“Event of Taxability” means if as the result of any act, failure to act, or use of the proceeds of the Loan, a change in use of the Project or any misrepresentation or inaccuracy in any of the representations, warranties, or covenants contained in this Loan Agreement or the Tax Certificate, the interest is or becomes includable in Lender’s gross income for federal income tax purposes.

“Facilities” has the meaning assigned to such term in the recitals of this Loan Agreement.

“Fiscal Year” means the Borrower’s Fiscal Year which begins on July 1 and ends on June 30 of each calendar year.

“Foundation Endorsement” shall mean a CLTA 102.5 or equivalent to the Title Insurance Policy.

“GAAP” means accounting principles generally accepted in the United States of America.

“General Contract” shall mean the AIA Document A133 – 2009 Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the cost of the work plus a fee with a guaranteed maximum price, to be executed between Borrower and the General Contractor relating to the construction of the Project.

“General Contractor” means the general contractor responsible for the construction of the Project.

“Governmental Authority” means any federal, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (including any zoning authority, the Federal Deposit Insurance Corporation or the Federal Reserve Board, any central bank or any comparable authority), or any arbitrator with authority to bind the Borrower at law.

“Gross Up Rate” means the rate necessary to make a total payment such that the interest payments plus any additional payments after being reduced by the federal tax payable thereon will equal an interest payment such that Lender is made whole as if all payments were made at the original tax-exempt rates.

“Hard Costs” or “Direct Costs” shall mean all costs incurred for labor performed in the construction of the Project and the materials incorporated into the Project.

“Indebtedness” means (a) all indebtedness for borrowed money which has been incurred in connection with the acquisition of assets or as working capital, and (b) the capitalized value of the liability under any financing lease of real or personal property which is properly capitalized on the statement of assets, liabilities, and fund balances of the obligor in accordance with generally accepted accounting principles consistently applied.

“Independent,” when used with reference to an attorney, engineer, architect, certified public accountant, or other professional person, means a person who (i) is in fact independent, (ii) does not have any material financial interest in the Borrower, the Issuer, or the transaction to which his or her certificate or opinion relates (other than the payment to be received for professional services rendered), and (iii) is not connected with the Issuer or the Borrower as an officer, commissioner, director or employee.

“Issuer” means Salt Lake County, Utah, acting as issuer of the Bonds under this Loan Agreement.

“Lender” means (i) Zions Bancorporation, N.A. d/b/a Zions First National Bank, acting as lender under this Loan Agreement, (ii) any surviving, resulting, or transferee association or corporation of Zions Bancorporation, N.A. d/b/a Zions First National Bank and (iii) except where the context requires otherwise, any assignee(s) of Lender.

“Lien” shall have the meaning set forth in the Continuing Covenant Agreement.

“Lincoln Campus” means that certain real property known as 843, 848, 852 and 856 Lincoln Street, Salt Lake City, Utah 84102.

“Lincoln Campus Sale Leaseback Agreement” means that certain Real Estate Purchase Contract and all amendments thereto in respect of the Lincoln Campus dated as of February 13, 2023 between Borrower and 276 Metro, LLC.

“Liquidation Costs” means the reasonable costs and out of pocket expenses incurred by Lender in obtaining possession of any Collateral, in storage and preparation for sale, lease or other disposition of any Collateral, in the sale, lease, or other disposition of any or all of the Collateral, and/or otherwise incurred in foreclosing on any of the Collateral, including, without limitation, (a) reasonable attorneys’ fees and legal expenses, (b) transportation and storage costs, (c) advertising costs, (d) sale commissions, (e) sales tax and license fees, (f) costs for improving or repairing any of the Collateral, and (g) costs for preservation and protection of any of the Collateral.

“Loan” means the loan of the Bond Proceeds from the Issuer to the Borrower pursuant to this Loan Agreement, as evidenced by the Notes.

“Loan Agreement” means this Loan Agreement, including all exhibits hereto, as any of the same may be supplemented or amended from time to time in accordance with the terms hereof.

“Loan Documents” means collectively, this Loan Agreement, the Tax Certificate, the Bonds, the Continuing Covenant Agreement, the Notes, the Revolving Loan Agreement and the Collateral Documents.

“Material Adverse Effect” means any change in the operations, business, financial position or prospects of the Borrower, including any change in the regulatory, statutory or other governmental requirements applicable to the operations conducted by, or the properties owned or operated by, the Borrower, which, in the reasonable determination of the Lender, is likely to materially adversely affect the capability of the Borrower to perform its obligations hereunder.

“Maturity Date” means [\*], 2039, with respect to the Series 2024A Bonds and [\*], 2031, with respect to the Series 2024B Bonds, as such dates may be accelerated in accordance with the provisions hereof.

“Maximum Series 2024B Amount” means, at the time of determination, an amount equal to the lesser of (a) \$47,000,000 and (b) the sum of (i) 90% of the aggregate amount of all pledged Donations and legally enforceable commitments of Donations for which amounts have not been paid and which are executed in writing and receivable within 0 to 3 years, (ii) 85% of the aggregate amount of all pledged Donations and legally enforceable commitments of Donations for which amounts have not been paid and which are executed in writing and receivable after 3 years, but within 4 to 5 years, (iii) 100% of the net cash proceeds yet-to-be received by Borrower, but legally enforceable and obligated to be paid to Borrower under the terms and conditions of the Lincoln Campus Sale Leaseback Agreement and (iv) cash on deposit in the Subject Campaign Account.

“Note” or “Notes” means, collectively, the Series 2024A Note and the Series 2024B Note.

“Obligations” means and includes without limitation: (i) any and all obligations, indebtedness and liabilities of Borrower and any guarantor, if applicable, whether individual, joint and several, absolute or contingent, direct or indirect, liquidated or unliquidated, now or hereafter existing, in favor of Lender including without limitation all unpaid principal of and accrued and unpaid interest (including any interest accruing after the filing of any petition in bankruptcy or the commencement of any proceeding relating to

Borrower and any guarantor, if applicable, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) on the Loan, all accrued and unpaid fees and all expenses (including all reasonable fees and expenses of counsel to Lender incurred and payable by Borrower and any guarantor, if applicable, pursuant to this Loan Agreement or any other Loan Document), reimbursements, indemnities and other obligations of Borrower and any guarantor, if applicable, to Lender or any indemnified party arising under the Loan Documents; (ii) any and all obligations of Borrower and any guarantor, if applicable, whether individual, joint and several, absolute or contingent, direct or indirect, liquidated or unliquidated, now or hereafter existing, in favor of Lender with respect to any treasury management services, including, without limitation, controlled disbursements, automated clearinghouse transactions, interstate depository network services, credit or debit or purchasing cards, or other cash management services; (iii) any and all obligations of Borrower and any guarantor, if applicable, to Lender or its Affiliates arising under or in connection with any hedging or swap transaction now existing or hereafter entered into between Borrower and any guarantor, if applicable, and any such Lender or its Affiliates, in each case, together with all renewals, extensions, modifications or refinancings thereof; and (iv) the due and punctual performance of all covenants, agreements, obligations and liabilities of Borrower and any guarantor, if applicable, under or pursuant to the Loan Documents, in each case, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising.

“Paying Agent” means Borrower, hereby designated as the initial paying agent for the Bonds and any additional or successor paying agent appointed pursuant hereto.

“Payment Date” has the meaning set forth in Section 2.2.

“PBGC” means the Pension Benefit Guaranty Corporation or any successor thereto.

“Permitted Encumbrances” shall have the meaning set forth in the Continuing Covenant Agreement.

“Person” means any individual, corporation, nonprofit corporation, partnership, limited liability company, joint venture, association, professional association, joint stock company, trust, unincorporated organization, government, or any agency or political subdivision thereof or any other form of entity.

“Plan” means, with respect to Borrower at any time, an employee pension benefit plan which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code and either (a) is maintained, or has within the preceding five plan years been maintained, by a member of the Controlled Group for employees of a member of the Controlled Group of which the Borrower is a part; or (b) is maintained pursuant to a collective bargaining agreement or any other arrangement under which more than one employer makes contributions and to which a member of the Controlled Group of which Borrower is a part is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions.

“Plans and Specifications” means the Borrower’s plans and specifications for the Project, as amended from time to time, which include the Budget for the Project and an allocation of the sources and uses of funds for the Project.

“Prepayment Amount” means the amount which the Borrower may or must from time to time pay or cause to be paid to Lender as assignee of Issuer and holder of the Bonds in order to prepay the Loan and the Bonds, as provided in Section 2.9 hereof, which equals the principal amount to be prepaid together with accrued interest thereon.

“Project” means the acquisition, construction, improvement, renovation, repair, equipping, and furnishing of the Facilities.

“Project Costs” shall mean the total, as shown on the Budget, of all costs, expenses and fees required to construct the Project and the net operating deficit of the Project from the Completion Date to the Maturity Date of the Series 2024A Bonds.

“Property” means the Subject Property, including the Facilities.

“Registered Owner” means the registered owner of any Bonds herein authorized.

“Request for Advance” has the meaning set forth in Section 2.5(a) hereof.

“Revenues” means **[all legally available revenues of the Borrower including all tuition, third-party payments, receipts, donations, contributions or other income of the Borrower, but excluding the rights to receive any gifts, donations, pledges, grants, legacies, bequests, demises or contributions heretofore or hereafter made and designated or specified by the donor or maker thereof as being for a specific purpose other than the Project and thus not legally available for payment of debt service on the Bonds].**

“Revolving Loan Agreement” means that certain Revolving Loan Agreement dated as of the Closing Date between Borrower and Lender pertaining to a revolving loan credit facility subject to the terms and conditions therein, as such agreement may be amended, restated, supplemented or otherwise modified from time to time.

“Series 2024A Advance Termination Date” has the meaning set forth in Section 2.4 hereof.

“Series 2024A Bonds” has the meaning set forth in Section 2.1 hereof.

“Series 2024A Loan Date” has the meaning set forth in Section 2.9 hereof.

“Series 2024A Note” means that certain Series 2024A Promissory Note dated as of the Closing Date executed by the Borrower in favor of the Issuer in the principal amount of \$38,000,000.

“Series 2024A Prepayment Date” has the meaning set forth in Section 2.9 hereof.

“Series 2024A Project Account” means a deposit account in the name of Borrower and maintained by Lender subject to the terms and conditions herein.

“Series 2024A Stated Principal Amount” has the meaning set forth in Section 2.4 hereof.

“Series 2024B Advance Termination Date” has the meaning set forth in Section 2.4 hereof.

“Series 2024B Bonds” has the meaning set forth in Section 2.1 hereof.

“Series 2024B Borrowing Base Certificate” means the certificate prepared by the Borrower in substantially the form attached hereto as Exhibit F.

“Series 2024B Note” means that certain Series 2024B Promissory Note dated as of the Closing Date executed by the Borrower in favor of the Issuer in the principal amount of \$47,000,000.

“Series 2024B Stated Principal Amount” has the meaning set forth in Section 2.4 hereof.

“Soft Costs” shall mean all costs designated as “Soft Costs” on the Budget.

“Subject Campaign” means the capital campaign commenced by Borrower in 2017 for purposes of building a new middle school, upper school, athletic complex, and performing arts center with such campaign known as *The World Awaits: The Campaign for Rowland Hall*.

“Subject Campaign Account” means a deposit account in the name of Borrower and maintained by Lender subject to the terms and conditions herein.

“Subject Property” has the meaning set forth in the Deed of Trust.

“Substantial Completion” shall mean such time as Lender shall have approved the completed work under the General Contract and shall have received a Certificate of Substantial Completion.

“State” means the State of Utah.

“Stored Materials” shall mean materials purchased or to be purchased by Borrower, the General Contractor or a Construction Contractor at the date of a request for disbursement, but not yet installed or incorporated into the Project.

“Subcontract” shall mean a contract relating to any work performed or to be performed for the Project and executed or to be executed by General Contractor with a Subcontractor.

“Subcontractor” shall mean any contractor who is a party to a Subcontract other than General Contractor.

“Tax Certificate” means the Tax Compliance Agreement of Borrower endorsed by the Issuer dated the Closing Date.

“Title Company” means Anderson-Oliver Title Insurance Agency.

“Title Insurance Policy” means a title insurance policy in the form of an ALTA Loan Policy with extended coverage (without revision, modification or amendment) issued by the Title Company, in form and substance satisfactory to Lender and containing such endorsements as Lender may require (in form and substance satisfactory to Lender in its sole and absolute discretion).

“UCC” means the Uniform Commercial Code as adopted and in effect in the State.

“Unconditional Lien Waiver and Release” shall mean a written unconditional waiver and release of mechanic’s lien or bond rights in form and substance acceptable to Lender.

“Yield Rate” has the meaning set forth in Section 2.9 hereof.

“Welfare Plan” means a “welfare plan,” as such term is defined in Section 3(1) of ERISA.

Section 1.2 Exhibits. The exhibits attached hereto are incorporated in and hereby made a part hereof this Loan Agreement.

Section 1.3 Rules of Construction.

- a) The singular form of any word used herein, including the terms defined in Section 1.1 hereof, shall include the plural, and vice versa. The use herein of a word of any gender shall include correlative words of all genders.
- b) Unless otherwise specified, references to articles, sections, and other subdivisions of this Loan Agreement are to the designated articles, sections, and other subdivisions of this Loan Agreement as originally executed. The words “hereof,” “herein,” “hereunder,” and words of similar import refer to this Loan Agreement as a whole.
- c) The headings or titles of the several articles and sections shall be solely for convenience of reference and shall not affect the meaning, construction or effect of the provisions hereof.

## ARTICLE II

### TERMS OF BONDS AND LOAN; SECURITY FOR THE BONDS; REFUNDING AND PREPAYMENT

Section 2.1 Bonds and Loan. Lender hereby agrees, subject to the terms and conditions of this Loan Agreement, to purchase the Bonds in the amount of up to \$85,000,000. Issuer hereby agrees, subject to the terms and conditions of this Loan Agreement, to issue the Bonds and to lend the proceeds thereof to Borrower. The Bonds shall be issued in two separate series as follows: (a) the Issuer’s “\$38,000,000 Industrial Development Revenue Bonds (Rowland Hall Project), Series 2024A” (the “Series 2024A Bonds”); and (b) the Issuer’s “\$47,000,000 Industrial Development Revenue Bonds (Rowland Hall Project), Series 2024B” (the “Series 2024B Bonds”). Borrower hereby agrees to borrow such proceeds from Issuer and to issue (i) the Series 2024A Note substantially in the form set forth in Exhibit H-1 attached hereto and (ii) the Series 2024B Note substantially in the form set forth in Exhibit H-2 attached hereto. Upon fulfillment of the conditions set forth in Article III hereof, Lender shall disburse on the Closing Date the Bond Proceeds from the Series 2024A Bonds in the amount of \$38,000,000 directly to the Series 2024A Project Account, for the project fund established for advances to be made as provided in Sections 2.4 and 2.5 hereof. Lender shall disburse Bond Proceeds from the Series 2024B Bonds as advances as provided in Sections 2.4, 2.5 and 2.6 hereof. If Borrower directs Lender to disburse any Bond Proceeds directly to Borrower with respect to the Project, such direction by Borrower shall be deemed a representation and warranty by Borrower that that portion of the construction of the Project has been completed free of any liens or encumbrances except for Permitted Encumbrances. Issuer’s obligation to make payments on the Bonds, and Borrower’s obligation to repay the Loan, shall commence, and interest on the Loan shall begin to accrue, on the date that any portion of the Bond Proceeds are disbursed to or for the benefit of Borrower on behalf of Issuer. The Series 2024A Bonds will be fully registered and will be in the form of Exhibit D-1 attached hereto. The Series 2024B Bonds will be fully registered and will be in the form of Exhibit D-2 attached hereto.

#### Section 2.2 Principal and Interest.

- a) Principal and interest on the Series 2024A Bonds shall mature and be due and payable as follows: (i) interest only payments on the Series 2024A Bonds shall be paid monthly on the first day of each month, commencing [ \* ], 2024 (each, a “Payment Date”); (ii) commencing on the first Payment Date following the fourth anniversary of the Closing Date, principal and interest payments on the Series 2024A shall be paid on each Payment Date pursuant to a 30 year straight-line amortization schedule; and (iii) all remaining and outstanding principal and accrued interest on the Series 2024A Bonds shall be due and payable on the Maturity Date. The Series 2024A Bonds shall bear interest on the outstanding principal amount advanced from the date of each advance, or from such later date to which interest has been paid or duly provided for, until paid or discharged at the rate of

[TBD]% per annum; provided that upon a Determination of Taxability, the interest on the Series 2024A Bonds shall be payable at the Gross Up Rate.

- b) Principal and interest on the Series 2024B Bonds shall mature and be due and payable as follows:
  - (i) interest only payments on the Series 2024B Bonds shall be paid on each Payment Date commencing on the first Payment Date following the initial advance made with proceeds of the Series 2024B Bonds; (ii) commencing on the first Payment Date following the initial advance made with proceeds of the Series 2024B Bonds, principal payments on the Series 2024B Bonds shall be paid on each Payment Date in amount equal to the greater of \$0.00 and 100% of all cash on deposit in the Subject Campaign Account (each a “Series 2024B Principal Payment Amount”) and Lender is hereby authorized and directed to disburse all such funds in the Subject Campaign Account equal to the Series 2024B Principal Payment Amount towards payment of principal on the Series 2024B Bonds on each such Payment Date; and (iii) all remaining and outstanding principal and accrued interest on the Series 2024B Bonds shall be due and payable on the Maturity Date. The Series 2024B Bonds shall bear interest on the outstanding principal amount advanced from the date of each advance, or from such later date to which interest has been paid or duly provided for, until paid or discharged at the rate of [TBD]% per annum; provided that upon a Determination of Taxability, the interest on the Series 2024B Bonds shall be payable at the Gross Up Rate.
- c) Upon the occurrence and during the continuation of an Event of Default, the Bonds shall bear interest on the outstanding principal amount at the interest rate in effect at such time plus the Default Rate. Interest will be computed on the basis of a 360 day year and actual days elapsed. Borrower understands and agrees that all interest that accrues on the Bonds shall be paid by Borrower from Borrower’s own funds and not from Bond Proceeds.

### Section 2.3 Payments.

- a) Issuer shall pay the principal of and interest on the Bonds, but only out of the amounts paid by Borrower pursuant to this Loan Agreement. Borrower shall pay to Lender, as assignee of Issuer, Bond Payments, in the amounts and on the dates set forth in Section 2.2. All payments due under this Loan Agreement are to be paid to Lender at the address specified by Lender in writing. Such Bond Payments and other payments shall be made by Borrower directly to Lender, as Issuer’s assignee and holder of the Bonds, and shall be credited against Issuer’s payment obligations hereunder and under the Bonds. No provision, covenant, or agreement contained in this Loan Agreement or any obligation imposed on Issuer hereunder or under the Bonds, or the breach thereof, shall constitute or give rise to or impose upon Issuer a pecuniary liability, a charge upon its general credit or taxing powers or a pledge of its general revenues. In making the agreements, provisions, and covenants set forth in this Loan Agreement, Issuer has not obligated itself except with respect to the Collateral and the application of the Bond Payments to be paid by Borrower hereunder. All amounts required to be paid by Borrower hereunder shall be paid in lawful money of the United States of America in immediately available funds. No recourse shall be had by Lender or Borrower for any claim based on this Loan Agreement or the other Loan Documents against any director, officer, employee, or agent of Issuer alleging personal liability on the part of such person, unless such claim is based on the willful dishonesty of or intentional violation of law by such person.
- b) This Loan Agreement and the Bonds shall not be deemed to constitute or give rise to a general obligation or liability of Issuer or the State or any political subdivision thereof, or a pledge of or charge against the general credit or taxing power of Issuer or the State or any political subdivision thereof, but shall be a special limited obligation of Issuer payable solely from the Bond Payments payable hereunder by Borrower to Lender as assignee of Issuer and holder of the Bonds.



- c) Borrower shall pay Lender (i) a nonrefundable loan origination fee on account of the Series 2024A Bonds in an amount equal to \$114,000 and (ii) a nonrefundable loan origination fee on account of the Series 2024B Bonds in an amount equal to \$141,000, in each case, which shall be fully earned by Lender and due and payable upon the Closing Date. No portion of such fee shall be refunded in the event of failure of Borrower to satisfy all of the requirements for Lender to release all of the Bond Proceeds, early termination of this Loan Agreement, or any Event of Default. Such fee shall be a cost of issuance and shall be paid from funds of the Borrower rather than Bond Proceeds.
- d) Borrower shall also pay amounts due under Section 10.1.

**Section 2.4    Advance of Bond Proceeds.**

- a) The Bond Proceeds in respect of the Series 2024A Bonds will be deposited into the Series 2024A Project Account under Section 2.1 hereof. The Issuer acknowledges and agrees that on or prior to the earliest to occur of (i) the date when the sum of the aggregate advances disbursed from the Series 2024A Project Account hereunder equals \$38,000,000 (the “Series 2024A Stated Principal Amount”), (ii) the Completion Date, (iii) the occurrence of an Event of Default, or (iv) a Determination of Taxability (the earliest to occur of the foregoing, a “Series 2024A Advance Termination Date”), the Bond Proceeds in respect of the Series 2024A Bonds will be disbursed from the Series 2024A Project Account by the Lender in accordance with the provisions of Section 2.5 hereof. In no event may the total amount of all advances disbursed from the Series 2024A Project Account exceed the Series 2024A Stated Principal Amount. Following the Series 2024A Advance Termination Date, no additional advances may be disbursed from the Series 2024A Project Account and, to the extent that on the Series 2024A Advance Termination Date the Series 2024A Stated Principal Amount is greater than the principal amount outstanding in respect of the Series 2024A Bonds (excluding for this purpose any partial redemptions of principal), then an amount equal to the difference between the Series 2024A Stated Principal Amount and the principal amount outstanding in respect of the Series 2024A Bonds shall be deemed to have been prepaid automatically and without any further notice or act by the Issuer or any other Person. Any such automatic prepayment of principal shall not be taken into consideration in determining the principal amount of the Series 2024A Bonds and shall not be recorded on the Table of Partial Prepayments attached to the Series 2024A Bonds.
- b) The Issuer acknowledges and agrees that on or prior to the earliest to occur of (i) the date when the sum of the aggregate advances made on account of the Series 2024B Bonds hereunder equals \$47,000,000 (the “Series 2024B Stated Principal Amount”), (ii) the Completion Date, (iii) the occurrence of an Event of Default, or (iv) a Determination of Taxability (the earliest to occur of the foregoing, an “Series 2024B Advance Termination Date”), the Bond Proceeds in respect of the Series 2024B Bonds will be disbursed in installments through the making of advances by the Lender in accordance with the provisions of Section 2.5 and 2.6 hereof. The date and amount of each advance shall be noted on the Table of Advances attached to the Series 2024B Bonds; provided that the failure to record any such advance on the Table of Advances shall not affect the principal amount due. In no event may the total amount of all advances in respect of the Series 2024B Bonds exceed the Series 2024B Stated Principal Amount. Following the Series 2024B Advance Termination Date, no additional advances may be made and, to the extent that on the Series 2024B Advance Termination Date the Series 2024B Stated Principal Amount is greater than the principal amount outstanding in respect of the Series 2024B Bonds (excluding for this purpose any partial redemptions of principal), then an amount equal to the difference between the Series 2024B Stated Principal Amount and the principal amount outstanding in respect of the Series 2024B Bonds shall be deemed to have been prepaid automatically and without any further notice or act by the Issuer

or any other Person. Any such automatic prepayment of principal shall not be taken into consideration in determining the principal amount of the Series 2024B Bonds.

Section 2.5 Procedure for Advances of Bonds; Use of Disbursements; Revision of the Budget.

- a) Each advance or disbursement for costs of the Project in respect of Bond Proceeds shall be made only in accordance with the provisions of this Section 2.5 and, in the event of the Series 2024B Bonds, Section 2.6. The Issuer and the Borrower acknowledge and agree that the Lender shall not be obligated to make advances or disbursements in respect of Bond Proceeds except in accordance with the terms of this Loan Agreement. Borrower shall request disbursements from the Series 2024A Project Account or, in the case of Series 2024B Bonds, advances of the Loan, not more frequently than monthly. Lender shall disburse from the Series 2024A Project Account or fund each approved requisition, as the case may be, in respect of Bond Proceeds upon satisfaction of the conditions in Section 2.5(h) and within ten (10) Business Days following receipt of all supporting instruments and documents which Lender may require. Concurrently with the request for (a) any disbursement of funds in the Series 2024A Project Account or (b) any disbursement of proceeds of the Loan in respect of Bond Proceeds of the Series 2024B Bonds, Borrower shall furnish to Lender, separately with respect to each advance or disbursement request, (i) a request for advance or disbursement on Lender's form (the "Request for Advance") executed by Borrower in the form attached hereto as Exhibit E, together with AIA forms G702 and G703 (or acceptable equivalents), (ii) a log reflecting all Change Orders, and (iii) such other forms and schedules of values as may from time to time be approved or required by Lender in its reasonable discretion duly signed and sworn to by Borrower and the General Contractor (if any), with all blanks appropriately filled in, setting forth such details concerning construction of the Project as Lender shall require. Upon request of Lender at any time or from time to time, Borrower shall also deliver to Lender (i) a list of the names and addresses of all material dealers, laborers and subcontractors with whom written agreements have been made by Borrower or the General Contractor (if any) and (ii) lien waivers and releases with respect to all work performed and materials supplied in connection with the Project. Each Request for Advance and all such other items and information shall be delivered to Lender at least ten (10) Business Days prior to the date of such advance or disbursement request, as applicable. The Borrower further agrees that it will not request any advance or disbursement which, if paid, would result in (i) less than substantially all (at least ninety-five percent (95%)) of the Bond Proceeds being used to provide land or property subject to the allowance for depreciation under Section 167 of the Code, (ii) less than all of the Bond Proceeds being used towards the Project under the Act, or (iii) the inclusion of the interest on any of the Bonds in the gross income of any owner of such Bonds for purposes of federal income taxation. Lender may, in its sole discretion, elect to use the Built online construction loan advance platform ("Built Platform") as the exclusive method for Borrower's submission of loan advance or draw requests as a condition to any advance or disbursement under the Loan. Borrower shall be responsible for any and all fees and costs arising from the Built Platform attributable to the Loan. Borrower shall solely be responsible for the creation of an account on the Built Platform for advances under the Loan. In the event Lender incurs any fees from Built directly related to the Loan in connection with the Borrower's use thereof, Borrower shall reimburse Lender for the same within fifteen (15) days of Lender's written request. If Borrower does not reimburse Lender within fifteen (15) day period, Lender may advance such amounts from the Loan on Borrower's behalf to Lender to reimburse Lender for such fees.
- b) Borrower shall use disbursements of the Loan in respect of Bond Proceeds only for the payment of or reimbursement for Project Costs as shown on the Budget and approved by Lender pursuant to Section 2.5(a), as such Project Costs are incurred by Borrower. Project Costs shall be deemed to have been "incurred" by Borrower at the following times: (i) Hard Costs (other than Stored Materials): when the labor has been performed or the materials have been supplied and

incorporated into the Project, payment therefor has been requested by the General Contractor or another Construction Contractor, and such contractor is entitled thereto based on a percentage of completion basis, as determined by the General Contractor; (ii) Soft Costs: when such costs have been paid or are due and payable and the services relating thereto have been rendered or the value thereof has been received by Borrower; and (iii) Stored Materials: as provided in Section 2.5(k). Except as set forth in Section 2.5(k), Lender shall have no obligation to make disbursements for Stored Materials. As of the date hereof, Project Costs consist of the total of all the costs, expenses and fees listed on the Budget.

- c) The Budget shall be subject to revision from time to time as Lender may require or approve in accordance with this Section 2.5(c). Lender shall have the right, in its sole discretion, to increase or decrease the allocation to the contingency and to determine whether any item of cost, expense or fee for which Borrower requests a disbursement constitutes a Project Cost and to which category such cost, expense or fee will be applied. The maximum amount that Lender shall be obligated to disburse for any item of Project Costs shall not exceed the amount designated for such category on the Budget as it may be amended from time to time by Lender pursuant to the last preceding sentence. Based on its review and verification of costs set forth in the Budget, Lender shall have the right to reduce the dollar amount of any line items in the Budget or reallocate between line items in the Budget. All modifications to the Budget will be evidenced by a new Budget approved by Lender in its sole discretion.
- d) In connection with advances in respect of Bond Proceeds or disbursements from the Series 2024A Project Account, Lender may require on-site inspections and a review of construction (i) to verify percentage of completion and the estimated cost to complete the Project, and (ii) to certify disbursement requests. Any such inspections shall be for the sole use and benefit of Lender, and neither Borrower nor any third party shall be entitled to rely thereon for any purpose. Lender shall be reimbursed for its costs in connection with such requisitions and reviews thereof.
- e) Each requisition and disbursement shall thereby constitute, without the necessity of specifically containing a written statement, a representation and warranty by Borrower with respect to the item for which payment is requested that (i) if the item is work or materials, it has been physically incorporated into or stored on the Property, free of all liens and encumbrances (except for those to be discharged in full with the proceeds of the requested advance or otherwise permitted to continue under the terms of this Loan Agreement), (ii) the item is included in the Budget, (iii) the cost of the item is as specified in the requisition and Budget (or if not, that Borrower has paid any excess), (iv) the work, materials or other item substantially conforms to the Plans and Specifications and/or Budget and all applicable statutes, laws, ordinances, administrative rules, regulations and other legal requirements, (v) the item has been approved by all zoning, building and other governmental officers, offices or departments having jurisdiction and whose approval is required, and (vi) the representations and warranties of Borrower contained in this Loan Agreement are true and correct in all respects as if made on the date of the request for disbursement.
- f) If the costs set forth in the General and/or Construction Contract are less than the construction costs previously reviewed and approved by Lender, Lender, at its option, shall reallocate the amount of any such reduction to the hard cost contingency line item set forth in the Budget.
- g) During the continuance of an Event of Default or if Lender shall determine that Borrower is not paying the General Contractor or Construction Contractor or that the General Contractor or any Construction Contractor is not paying any Subcontractors or other persons, as and when payments are due, Lender may, at its option, disburse Bond proceeds (A) directly to Borrower or to any Construction Contractor, (B) jointly to Borrower, the General Contractor, and any Construction

Contractor, (C) directly to Persons supplying labor, materials and services in connection with the Project, or (D) jointly to Borrower and said Persons.

- h) Borrower shall not be entitled to any disbursement from the 2024A Project Account or advance in respect of Bond Proceeds of the Series 2024B Bonds unless:
- i. with respect to the initial advance for the Project only, the following are first provided to Lender:
    - a. a completed Plan cost review;
    - b. a final Budget;
    - c. a fully executed Construction Contract;
    - d. a final Construction Schedule;
    - e. final Plans and Specifications;
    - f. payment and performance bonds;
    - g. building permits; and
    - h. [TBD].**
  - ii. the representations and warranties as specified in Section 5.1 hereof shall be true and correct at the date of the advance;
  - iii. the costs set forth in all prior requisitions have been duly paid by Borrower;
  - iv. the Title Company issues to Lender, at Borrower's expense, the endorsements to the Title Insurance Policy as may be required by Lender, including, without limitation, the foundation endorsements described in Section 2.5(1);
  - v. Borrower shall have furnished to Lender (1) copies of all invoices and Conditional Lien Waivers and Releases covering work completed and/or materials furnished in connection with the pending request for advance, and (2) copies of receipts for the payment of bills and copies of Unconditional Lien Waivers and Releases covering work completed and/or materials furnished in connection with the work which was to have been paid from the prior disbursement;
  - vi. no Event of Default or event that could, with the passage of time, become a Default, exists under this Loan Agreement or any of the other Loan Documents;
  - vii. if required by Lender, Lender has received and approved true, correct and complete copies of all Construction Contracts and Subcontracts executed since the last disbursement and not previously delivered to Lender, all construction bonds on those Construction Contracts and Subcontracts which have been obtained by such Construction Contractor or the General Contractor, and all Change Orders as required under Section 6.26 of this Loan Agreement not previously delivered to Lender;
  - viii. the Loan is "in balance" as required in Section 2.5(j);
  - ix. Borrower has satisfied the conditions of Section 2.5(i) with respect to the disbursement of Retainage (if applicable);
  - x. Borrower has satisfied the conditions in Section 2.5(k) with respect to a disbursement for Stored Materials (if applicable);

- xi. no condemnation proceedings or moratorium is pending or, to Borrower's knowledge, threatened against the Project or the Property (or any portion thereof) which would materially and adversely impair the use, occupancy or full operation of the Project in any manner whatsoever; and
- xii. in the case of an advance from Bond Proceeds of the Series 2024B Bonds, all funds on deposit in the Series 2024A Project Account shall have been fully disbursed towards costs of the Project in accordance with the terms hereof and Borrower shall be in compliance with Section 2.6.

If the foregoing conditions are satisfied, Lender shall disburse or advance (within the period set forth in Section 2.5(a)), the amount of the disbursement or advance requested by Borrower, which amount shall not exceed the difference between (i) the cost of construction work in place, disbursements for Stored Materials, if any, and any other costs, expenses and fees actually paid or payable by Borrower for approved Project Costs as of the date of the request for a disbursement or advance, and (ii) any required Retainage and any amounts previously disbursed hereunder. "Retainage" shall mean a holdback of five percent (5%) of all amounts due the General Contractor, each Construction Contractor, and each Subcontractor retained by the General Contractor or a Construction Contractor.

- i) Each disbursement in respect of Bond Proceeds for Direct Costs shall be subject to the Retainage, which shall be disbursed upon satisfaction of the conditions in this Section 2.5(i). Retainage under a Construction Contract or the General Contract, as applicable, shall be released upon Borrower's delivery of the requisition documents described in Section 2.5(a), Borrower's satisfaction of the conditions set forth in Section 2.5(h), and the following applicable conditions:
  - i. With respect to any retainage under the General Contract, any other Construction Contract or Subcontract, the portion of the Project to which such contract relates shall be substantially complete (as determined by Lender) unless otherwise agreed by Lender. Substantial Completion shall be deemed to have occurred despite the existence of punch-list items that require correction or completion, as determined by the Lender and the Architect and as approved by Lender; provided, however, that if punch-list items exist upon Substantial Completion, Lender shall have the right to withhold an amount equal to one hundred fifty percent (150%) (or such greater amount that Borrower is permitted to withhold) of the cost to complete all such punch-list items. The punch-list holdback will be disbursed upon lien-free completion of the punch-list items and approval thereof by the Lender and the Architect;
  - ii. Lender shall have received (i) an Unconditional Lien Waiver and Release (upon progress payment) from the General Contractor, each Construction Contractor and each Subcontractor covering the full amount of the disbursement for Direct Costs through the date of the previous disbursement request; and (ii) an Unconditional Lien Waiver and Release (upon final payment) from each Construction Contractor and each Subcontractor who had completed the work covered by its Construction Contract or Subcontract, respectively, as of the previous disbursement request, covering the full amount due such Construction Contractor or Subcontractor, as the case may be.
  - iii. With respect to the final release of Retainage under the General Contract, Lender shall have received appropriate approvals from: (1) all Governmental Authorities

regarding completion of the Project, which approvals shall be evidenced by an irrevocable certificate of occupancy for Project to the extent such approval is a condition to the lawful use and occupancy; (2) the local board of fire underwriters or its equivalent; and (3) all other Governmental Authorities having jurisdiction over the contemplated uses, operation and occupancy of the Project;

- iv. If required by Lender, Borrower shall have submitted to Lender copies of all licenses, permits and agreements necessary for the use, operation and occupancy of the Project not previously delivered to Lender;
- v. If required by Lender, Borrower shall have provided to Lender, an ALTA as-built survey or other satisfactory evidence showing that (i) the Project has been built substantially in accordance with the Plans and Specifications (subject to Section 6.26) and do not encroach on any easement or public or private right of way; (ii) the Project has been constructed within the boundaries of the Property; and (iii) the Project has been constructed within the setback lines as required by applicable zoning ordinances and do not encroach upon any other lot or other property;
- vi. If required by Lender, Borrower shall have provided to Lender “as-built” Plans and Specifications of the Project, showing the final specifications of all improvements thereof;
- vii. If required by Lender, Borrower shall have provided to Lender a warranty book, together with all guaranties and maintenance agreements, etc., on all improvements of the Project;
- viii. Borrower shall have provided to Lender executed AIA Form G706 (Contractor’s Affidavit of Payments of Debts), AIA Form G706A (Contractor’s Affidavit of Release of Liens), and AIA Form G707 (Consent of Surety of final Payment) pertaining to all bonded projects;
- ix. Borrower shall have provided to Lender executed AIA Form G704 or other document satisfactory to Lender by the Architect, the General Contractor and Borrower;
- x. A notice of completion on Lender’s approved form executed by Borrower and duly recorded in the official records of the County;
- xi. If required by Lender, Borrower shall have provided to Lender satisfactory evidence of continuing insurance coverage in accordance with Section 6.8;
- xii. If required by Lender, Borrower shall submit a certified copy of the final project report as prepared by the architect/engineer providing final inspection for the Project; and
- xiii. Such other documentation, including, but not limited to, endorsements to the Title Insurance Policy, as Lender may reasonably require.

Within five (5) Business Days after the payment of any Retainage, Borrower shall deliver to Lender an Unconditional Lien Waiver and Release from the General Contractor, or Construction Contractor, as applicable for all amounts due for work, labor and materials in connection with the

Project (or applicable portion thereof). Within thirty (30) Business Days after payment of final Retainage, Borrower shall deliver to Lender Unconditional Lien Waivers and Releases from each Subcontractor performing work or providing materials to the General Contractor or Subcontractor in connection with the Project (or applicable portion thereof) for the full amounts due for work, labor and materials.

- j) As a material condition of the Loan and as a condition precedent to Lenders' duty to disburse from the Series 2024A Project Account or proceeds of the Loan in respect of Bond Proceeds of the Series 2024B Bonds, Borrower shall pay all Project Costs in excess of the Loan Amount. Except for the payment of advances under Section 2.1 and expenses, charges and costs, Lender shall be obligated to disburse from the Series 2024A Project Account or disburse proceeds of the Loan in respect of Bond Proceeds of the Series 2024B Bonds only when the Loan is "in balance." The Loan shall be "in balance" only at such times as Borrower has invested sufficient funds into the payment of Project Costs so that, in Lender's sole judgment, the undisbursed portion of the Loan shall be sufficient to complete and operate fully the Project and pay all Project Costs until repayment in full of the Loan. The determination as to whether or not the Loan is "in balance" may be made by Lender at any time, including with each request for a disbursement from the Series 2024A Project Account or advance of the Loan in respect of Bond Proceeds of the Series 2024B Bonds. Project Cost categories listed as "contingencies" on the Budget shall be deemed to be Project Costs for purposes of loan balancing, and all Budget categories listed as "contingencies" shall be deemed to be Loan funds available for disbursement for purposes of loan balancing. Borrower shall within ten (10) days after notice from Lender that the Loan is not "in balance," deposit with Lender, in cash, the amount necessary to put the Loan "in balance." No interest shall be paid by Lender on such deposited funds. Borrower hereby grants to Lender a security interest in all such deposited funds and accounts, including proceeds thereof to secure Borrower's obligations to Lender under the Loan Documents. All funds deposited by Borrower with Lender under this Section 2.5(j) shall be disbursed by Lender to pay Project Costs prior to any further disbursements of the Loan.
- k) Lender shall have the right to approve or disapprove specifically, in its sole judgment, all disbursements for Stored Materials. Without limiting Lender's approval rights as set forth in the preceding sentence, Lender will not approve disbursements for Stored Materials until Borrower shall supply to Lender:
- (i) evidence satisfactory to Lender that the Stored Materials are included in the coverage of the insurance policies required by Section 6.8;
  - (ii) evidence satisfactory to Lender from the seller or fabricator of the Stored Materials that, upon payment, ownership thereof will vest in Borrower free of any liens or claims of third parties; and
  - (iii) (A) evidence satisfactory to Lender that the Stored Materials are satisfactorily stored on the Property to protect against theft or damage, or (B) if the Stored Materials are not stored on the Property, (1) evidence satisfactory to Lender that the Stored Materials are stored in a bonded warehouse or storage yard approved by Lender, and the warehouse or yard has been notified that Lender has a security interest in the subject Stored Materials, and (2) Lender shall have received from Borrower the original warehouse receipt. With Lender's prior written approval, Stored Materials may be stored in the yard or warehouse of the seller or fabricator, subject to satisfaction of conditions (i) and (ii) in this Section 2.5(k), and provided further that Lender receives satisfactory evidence that the Stored Materials are protected against theft or damage, have been suitably identified as belonging to

Borrower for use in the Project and that such seller or fabricator has been notified of the security interest of Lender therein.

- (iv) Lender shall have the right to inspect all offsite Stored Materials at such times and in such frequency as Lender shall require, in Lender's sole discretion. Borrower will cause all third parties to cooperate with any representatives, inspectors or consultants retained by Lender to enable them to perform their functions under this Loan Agreement. Borrower shall pay all costs for such inspections and the review by Lender of any inspection reports prepared in connection with such inspections.
- 1) Upon completion of the construction of any foundation on the Project, and as a condition precedent to any further disbursements or advance under this Loan Agreement in respect of Bond Proceeds, Borrower shall (if required by Lender), at Borrower's own cost and expense, deliver or cause to be delivered to Lender a foundation endorsement with respect to each such foundation, to be attached to the Title Insurance Policy, which endorsement shall insure that such foundation is within the boundary lines of the Project, does not violate any applicable covenants, conditions, restrictions or agreements affecting the Project which are referred to in the Title Insurance Policy, and does not encroach upon any easements, rights or rights-of-way affecting or covering the Project. Provided Lender receives a certificate from the engineer stating that the location of the foundation for each building is within the boundary lines and otherwise does not violate any applicable restrictions or encroach on any easements, which certificate shall be in form and substance reasonably acceptable to Lender, Lender shall only require one (1) foundation endorsement upon completion of all buildings constituting the Project. In all other instances, Lender may obtain additional foundation endorsements.

**Section 2.6 Procedure for Advances re Series 2024B Bonds.** The Issuer and the Borrower acknowledge and agree that the Lender shall not be obligated to make advances or disbursements in respect of Bond Proceeds of the Series 2024B Bonds except in accordance with the terms of this Section. In addition to all conditions contained in Sections 2.4 and 2.5, together with each Request for Advance made in respect of the Series 2024B Bonds, Borrower shall furnish to Lender with each such Request for Advance a completed and executed Series 2024B Borrowing Base Certificate reflecting that the amount of the advance requested by Borrower, together with all prior advances made hereunder on account of the Series 2024B Bonds, shall not exceed the Maximum Series 2024B Amount.

**Section 2.7 Payment on Non-Business Days.** Whenever any payment to be made hereunder or under the Bonds shall be stated to be due on a day which is not a Business Day, such payment may be made on the next succeeding Business Day, with the same force and effect as if made on such due date (whether or not such next succeeding Business Day occurs in a succeeding month), and no interest shall accrue for the intervening period.

**Section 2.8 Bond Payments to Be Unconditional.** The obligations of Borrower to make the Bond Payments required under this Article II and to make other payments hereunder and to perform and observe the covenants and agreements contained herein shall be absolute and unconditional in all events, without abatement, diminution, deduction, setoff, or defense for any reason, including (without limitation) any failure of the Project to be delivered or installed, any defects, malfunctions, breakdowns, or infirmities in the Project or any accident, condemnation, destruction, or unforeseen circumstances. Notwithstanding any dispute between Borrower and any of Issuer, Lender, any contractor, or any other person, Borrower shall make all Bond Payments when due and shall not withhold any Bond Payments pending final resolution of such dispute, nor shall Borrower assert any right of set-off or counterclaim against its obligation to make such payments required under this Loan Agreement.



## Section 2.9 Prepayments.

- a) Borrower shall prepay the Loan and the Bonds in whole or in part at any time prepayment is required pursuant to Article VII hereof by paying the applicable Prepayment Amount.
- b) Borrower shall prepay the Loan and the Bonds in full immediately upon demand of Lender after the occurrence of an Event of Default by paying the applicable Prepayment Amount.
- c) Borrower may prepay at Borrower's option any or all of the outstanding principal amount of the Loan in respect of Bond Proceeds of the Series 2024A Bonds and the Series 2024A Bonds at any time and from time to time without any prepayment penalty provided such prepayment is made exclusively with internally generated funds of Borrower and not with proceeds from any other source. To the extent Borrower wishes to prepay the Loan in respect of Bond Proceeds of the Series 2024A Bonds and the Series 2024A Bonds with proceeds from anything other than internally generated funds of Borrower, such prepayment shall be permitted provided that Borrower shall pay to Lender a prepayment fee equal to the difference between: (a) the sum of the present value of the remaining Loan payments in respect of Bond Proceeds of the Series 2024A Bonds and the Series 2024A Bonds, discounted by the yield on the Yield Rate in effect as of the later of (i) the origination date of the Loan in respect of Bond Proceeds of the Series 2024A Bonds and the Series 2024A Bonds ("Series 2024A Loan Date") or (ii) the last interest rate reset date; and (b) the sum of the present value of the remaining Loan payments in respect of Bond Proceeds of the Series 2024A Bonds and the Series 2024A Bonds, discounted by the current yield on the Yield Rate in effect as of the date of the prepayment ("Series 2024A Prepayment Date"). As used herein "Yield Rate" means the rate per annum which is the daily yield on United States Treasury Securities, adjusted to a constant maturity of the applicable nominal term (i.e., the same term/tenor as used to calculate the interest rate of this Note) as published in the Federal Reserve Statistical Release H.15 (519) ("CMT"). For purposes of Lender's calculation of the prepayment fee herein, for (a) above, the Yield Rate shall be the CMT in effect as of the Series 2024A Loan Date adjusted to a constant maturity closest to the earlier of (i) the maturity date of the Series 2024A Note or (ii) the next interest rate reset date following the Series 2024A Loan Date, and for (b) above, the Yield Rate shall be the CMT in effect as of the Series 2024A Prepayment Date adjusted to a constant maturity closest to the earlier of (i) the maturity date of the Series 2024A Note or (ii) next interest rate reset date following the Series 2024A Prepayment Date. Early payments will not, unless agreed to by Lender in writing, relieve Borrower of Borrower's obligation to continue to make payments under the payment schedule. Rather, early payments will reduce the principal balance due and may result in Borrower's making fewer payments. Borrower agrees not to send Lender payments marked "paid in full", "without recourse", or similar language. If Borrower sends such a payment, Lender may accept it without losing any of Lender's rights under this Loan Agreement or the other Loan Documents, and Borrower will remain obligated to pay any further amount owed to Lender.
- d) Borrower may prepay at Borrower's option any or all of the outstanding principal amount of the Loan in respect of Bond Proceeds of the Series 2024B Bonds and the Series 2024B Bonds at any time and from time to time without any prepayment penalty. If at any time the aggregate amount of all funds advance hereunder in respect of the Series 2024B Bonds exceeds the Maximum Series 2024B Amount, Borrower shall promptly pay to Lender, to be applied towards a prepayment of the Loan in respect of the Series 2024B Bonds, an amount equal to the aggregate amount so advanced that exceeds the Maximum Series 2024B Amount.

Section 2.10 Grant of Security Interest; Assignment of Security Interest. In addition to the security interests created under and pursuant to the Collateral Documents, Borrower hereby grants to Issuer a security interest in the Revenues other Collateral which shall secure payment of the Bond Payments, the

Bonds, and all other amounts payable to Lender under this Loan Agreement and all other Obligations. Issuer hereby irrevocably assigns to Lender all of Issuer's right to receive Bond Payments from Borrower hereunder, all of Issuer's rights hereunder (except any indemnification payable to Issuer, any notice to Issuer pursuant hereto, any fees due to Issuer and any consents required of Issuer under this Loan Agreement) and all of Issuer's right, title, and interest in and to the Revenues as well as its rights as a Secured Party under the UCC, and Issuer irrevocably constitutes and appoints Lender and any present or future officer or agent of Lender as its lawful attorney, with full power of substitution and resubstitution, and in the name of Issuer or otherwise, to collect the Bond Payments and any other payments due hereunder and under the Bonds and to sue in any court for such Bond Payments or other payments, to exercise all rights hereunder with respect to the Revenues, and to withdraw or settle any claims, suits, or proceedings pertaining to or arising out of this Loan Agreement upon any terms. Borrower hereby consents to said assignment of the security interest in the Revenues by Issuer to Lender.

**Section 2.11 Mutilated, Lost, Stolen or Destroyed Bonds.** In the event any Bond is mutilated, lost, stolen or destroyed, the Issuer may execute and the Bond Registrar may authenticate a new Bond of like date, series, maturity and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Bond Registrar, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the Bond Registrar evidence of such loss, theft or destruction satisfactory to the Bond Registrar, together in all cases with indemnity satisfactory to the Bond Registrar and Issuer, unless otherwise specified herein. In the event any such Bond shall have matured, instead of issuing a duplicate Bond, the Paying Agent may pay the same without surrender thereof upon compliance with the foregoing. Unless otherwise specified the Bond Registrar may charge the Registered Owner of such Bond with its reasonable fees and expenses in connection therewith. Any Bond issued pursuant to this Section shall be deemed part of the series of Bonds in respect of which it was issued and an original additional contractual obligation of the Issuer.

**Section 2.12 Registration of Bonds; Transfer of Bonds; Persons Treated as Owners.** The Issuer shall cause the books for the registration and for the transfer of the Bonds to be kept by the County Treasurer of the Issuer, who is hereby constituted and appointed the Bond Registrar of the Issuer with respect to the Bonds. Any Bond may, in accordance with its terms, be transferred only upon the registration books kept by the Bond Registrar, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a written instrument of transfer in a form approved by the Bond Registrar, duly executed. No transfer shall be effective until entered on the registration books kept by the Bond Registrar. Upon surrender for transfer of any Bond at the office of the Bond Registrar, duly endorsed by, or accompanied by a written instrument or instruments of transfer in form satisfactory to the Bond Registrar and duly executed by, the Registered Owner or its attorney duly authorized in writing, the Issuer shall execute and the Bond Registrar shall authenticate and deliver in the name of the transferee or transferees, a new Bond or Bonds of the same series and the same maturity for a like aggregate principal amount as the Bond surrendered for transfer. Bonds may be exchanged at the offices of the Bond Registrar for a like aggregate principal amount of Bonds of the same Series and the same maturity. The execution by the Issuer of any Bond of any authorized denomination shall constitute full and due authorization of such denomination, and the Bond Registrar shall thereby be authorized to authenticate and deliver such Bond. The Issuer, the Borrower and the Bond Registrar shall not be required to transfer or exchange any Bond (i) during the period from and including any Record Date, to and including the next succeeding date on which a Loan Payment is due, (ii) during the period from and including the day fifteen days prior to the mailing of notice calling any Bonds for prepayment, to and including the date of such mailing, or (iii) at any time following the mailing of notice calling such Bond for prepayment.

The Issuer, the Bond Registrar and the Paying Agent may treat and consider the person in whose name each Bond is registered on the registration books kept by the Bond Registrar as the holder and absolute

owner thereof for the purpose of receiving payment of, or on account of, the Principal or prepayment price thereof and Interest due thereon and for all other purposes whatsoever, and neither the Issuer, nor the Bond Registrar nor the Paying Agent shall be affected by any notice to the contrary. Payment of or on account of either Principal or Interest on any Bond shall be made only to or upon order of the Registered Owner thereof or such person's legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

The Bond Registrar shall require the payment by the Lender requesting exchange or transfer of Bonds of any tax or other governmental charge and by the Issuer of any service charge of the Bond Registrar which are required to be paid with respect to such exchange or transfer and such charges shall be paid before such new Bond shall be delivered.

Section 2.13 Designation of Bond Registrar. The County Treasurer of the Issuer is hereby designated as the Bond Registrar for the Bonds.

Section 2.14 Designation of Paying Agent. Borrower is hereby designated as Paying Agent for the Bonds, which appointment shall be evidenced by a written acceptance from the Paying Agent.

### ARTICLE III

#### CONDITIONS PRECEDENT

Section 3.1 Required Documents. Lender's agreement to purchase the Bonds and to disburse the Bond Proceeds shall be subject to the condition precedent that Lender shall have received all of the following, each in form and substance satisfactory to Lender:

- a) This Loan Agreement, properly executed on behalf of Issuer and Borrower, and each of the exhibits hereto properly completed.
- b) The Bonds, properly executed on behalf of Issuer.
- c) The Note, properly executed on behalf of the Borrower.
- d) The Tax Certificate, properly executed on behalf of Issuer and Borrower.
- e) The Deed of Trust and other Collateral Documents properly executed on behalf of and acknowledged by Borrower.
- f) A certificate of an authorized signatory of Borrower, certifying as to (i) the consents of the Board of Directors of Borrower, authorizing the execution, delivery, and performance of this Loan Agreement, the other Loan Documents and any related documents, (ii) the articles of incorporation and bylaws of Borrower, (iii) the good standing of the Borrower, and (iv) the signatures of the officers or agents of Borrower authorized to execute and deliver this Loan Agreement, the other Loan Documents and other instruments, agreements, and certificates on behalf of Borrower.
- g) A corporate resolution of the Borrower authorizing the Loan Documents.
- h) Certificates of the insurance required under this Loan Agreement.

- i) A completed and executed IRS Form 8038.
- j) A resolution or evidence of other official action taken by or on behalf of the Issuer to authorize the transactions contemplated hereby.
- k) Evidence that the issuance of the Bonds for the purpose of financing the Project has been approved by the “applicable elected representative” of Issuer after a public hearing held upon reasonable notice as required by the Code.
- l) The Title Company’s unconditional commitment to issue the Title Insurance Policy, insuring that the Deed of Trust with respect to the Property is a first lien on the Property, subject only to Permitted Encumbrances.
- m) UCC financing statements authorized by Borrower, as debtor, and naming Lender, as secured party.
- n) Current searches of appropriate filing offices showing that (i) no state or federal tax liens have been filed and remain in effect against Borrower and (ii) no financing statements have been filed and remain in effect against Borrower relating to the Collateral except those financing statements filed by Lender.
- o) An opinion or opinions of counsel to Borrower, addressed to Lender and Issuer, in the general form attached hereto as Exhibit A, subject to customary assumptions, qualifications, and exceptions.
- p) An opinion of counsel to Issuer, addressed to Lender and Borrower, in the general form attached hereto as Exhibit B, subject to customary assumptions, qualifications, and exceptions.
- q) An opinion of bond counsel, addressed to Issuer and Lender, in the form attached hereto as Exhibit C.
- r) Payment of Lender’s commissions, and expenses required by Section 2.3.
- s) Payment of Issuer’s fees, commissions, and expenses incurred in connection with this Loan Agreement and the transactions contemplated hereby.
- t) A current survey in respect of the Project in form and substance as required by Lender in its reasonable discretion.
- u) A current and unredacted list of all donors, all Donations and all commitments for future Donations in connection with and under the Subject Campaign with such detail and specificity as Lender may request in its reasonable discretion.
- v) A detailed Budget approved by Lender and signed by Borrower and the General Contractor, of the over-all cost of the Project, both on-site and off-site improvements, the cost of fixtures and equipment, loan fees, professional fees, estimated interest cost and such other matters as may be required by Lender.
- w) An environmental questionnaire or report approved by Lender with respect to the Project satisfactory to Lender, evidencing that there is no Hazardous Materials (as defined in the Deed of Trust) on the Property and certifying that the construction of the planned improvements will not be negatively affected by any environmental health and safety laws of any municipal or state agency or board.

- x) A copy of a soils report prepared by a geotechnical engineer acceptable to Lender and a letter from the Architect stating that the Architect has reviewed the soils report; and (b) based upon such soils report and upon Architect's estimates of construction costs, which represent Architect's best professional judgment as a design professional knowledgeable about the construction industry, such soils conditions will not prevent construction of the Project at the cost provided in the Budget. Architect shall deliver to Lender a letter stating that Architect shall exercise due professional skill and care to design the Project in a manner consistent with the recommendations of the soils report and any addenda issued with respect thereto.
- y) Any other documents or items reasonably required by Lender.

Section 3.2 Further Conditions. Lender's agreement to purchase the Bonds and to disburse the Bond Proceeds after the Closing Date shall be subject to the further conditions precedent that on the date thereof:

- a) The representations and warranties contained in Articles IV, V, and VI hereof are correct on and as of the date of such disbursement as though made on and as of such date, except to the extent that such representations and warranties relate solely to an earlier date;
- b) No event has occurred and is continuing, or would result from the Bonds or the Loan which constitutes a Default, an Event of Default, or a Determination of Taxability; and
- c) No event has occurred, no court decision has been rendered, and no law or rule has been passed or proposed which may have the effect of changing the federal income tax incidents of Issuer or of ownership of the Bonds or the interest thereon or the transactions contemplated herein, and no national or international crisis or event has occurred that would have a material impact on the price of the Bonds or other type of banking moratorium that would do the same or affect the Lender's ability to make loans at the rate set forth herein.

## ARTICLE IV

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF ISSUER

Section 4.1 Representations, Warranties and Covenants of Issuer. Issuer represents, warrants, and covenants for the benefit of Lender and Borrower, as follows:

- a) Issuer is a body corporate and politic and a legal subdivision of the State, duly created and validly existing under the Constitution and laws of the State.
- b) Issuer will exercise its best efforts to preserve and keep in full force and effect its existence.
- c) Issuer is authorized under the Constitution and laws of the State to issue the Bonds, to enter into this Loan Agreement and the transactions contemplated hereby and to perform all of its obligations hereunder.
- d) Issuer has duly authorized the issuance of the Bonds and the execution and delivery of this Loan Agreement and the endorsement of the Tax Certificate under the terms and provisions of the resolution of its governing body or by other appropriate official approval, and further represents, covenants, and warrants that all requirements have been met and procedures have occurred in order to ensure the enforceability of the Bonds, this Loan Agreement, and the Tax Certificate against Issuer. Issuer has taken all necessary action and has complied with all provisions of the Act,

including but not limited to the making of the findings required by the Act, required to make the Bonds, this Loan Agreement, and its endorsement to the Tax Certificate the valid and binding obligations of the Issuer.

- e) The officers of the Issuer executing the Bonds, this Loan Agreement, the endorsement to the Tax Certificate, and any related documents have been duly authorized to issue the Bonds and to execute and deliver this Loan Agreement, and the endorsement to the Tax Certificate, and such related documents under the terms and provisions of a resolution of Issuer's governing body, or by other appropriate official action.
- f) The Bonds, this Loan Agreement, and the endorsement to the Tax Certificate are legal, valid, and binding special limited obligations of Issuer, enforceable in accordance with their respective terms, except to the extent limited by bankruptcy, reorganization, or other laws of general application relating to or affecting the enforcement of creditors' rights.
- g) Issuer has assigned to Lender all of Issuer's rights in the Collateral and this Loan Agreement (except any indemnification payable to Issuer, any notice to Issuer pursuant hereto, any fees due to Issuer and any consents required of Issuer under this Loan Agreement) including the assignment of all rights in the security interest granted to Issuer by Borrower.
- h) Issuer will not pledge, mortgage, or assign this Loan Agreement or its duties and obligations hereunder to any person, firm, or corporation, except as provided under the terms hereof.
- i) The issuance of the Bonds, the execution and delivery of this Loan Agreement or the endorsement to the Tax Certificate, the consummation of the transactions contemplated hereby or the fulfillment of and compliance with the terms and conditions of the Bonds, this Loan Agreement or the Tax Certificate do not violate any law, rule, regulation, or order, conflict with or result in a breach of any of the terms, conditions, or provisions of any restriction or any agreement or instrument to which Issuer is now a party or by which it is bound or do not constitute a default under any of the foregoing or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Issuer under the terms of any instrument or agreement.
- j) There is no action, suit, proceeding, claim, inquiry, or investigation, at law or in equity, before or by any court, regulatory agency, public board, or body pending or, to the best of Issuer's knowledge, threatened against or affecting Issuer, challenging Issuer's authority to issue the Bonds or to enter into this Loan Agreement, or the Tax Certificate or any other action wherein an unfavorable ruling or finding would adversely affect the enforceability of the Bonds, this Loan Agreement, or the Tax Certificate or any other transaction of Issuer which is similar hereto, or the exclusion of the Interest from gross income for federal tax purposes under the Code, or would materially and adversely affect any of the transactions contemplated by this Loan Agreement.
- k) Issuer will submit or cause to be submitted to the Secretary of the Treasury a Form 8038 (or other information reporting statement) at the time and in the form required by the Code.
- l) Issuer will comply fully at all times with the provisions of the Tax Certificate, and Issuer will not take any action, or omit to take any action, which, if taken or omitted, respectively, would violate the Tax Certificate.
- m) Issuer will take no action that would cause the interest on the Bonds to become includable in gross income for federal income tax purposes under the Code.

- n) Based on representations and information furnished to Issuer by or on behalf of Borrower, Issuer has found that (i) the Bonds will promote the health, safety, and general welfare of the people of the State and in particular those within the boundaries of Issuer and the public purposes of the Act, (ii) the Project is located within the boundaries of the State and within the boundaries of Issuer, and (iii) the Project will constitute a “project” within the meaning of the Act.
- o) The Bonds have been approved by the County Council of the Issuer (i) as the “applicable elected representative,” as that term is defined under the Code, after a public hearing held upon reasonable notice, as required by the Code, and (ii) as required by the Act.
- p) Issuer has not and will not pledge the income and revenues derived from this Loan Agreement other than pursuant to and as set forth herein.
- q) Within the meaning of the Utah Public Officers’ and Employees’ Ethics Act (Title 67, Chapter 16, Utah Code Annotated 1953, as amended), to the best knowledge of Issuer after due inquiry, no “public officer” or “public employee” as defined in the Act, has a “substantial interest” in or is an officer, director, agent, employee, or owner of, or investor in, Borrower.

## ARTICLE V

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF BORROWER

Section 5.1 Representations and Warranties of Borrower. Borrower represents, warrants, and covenants for the benefit of Lender and Issuer, as follows:

- a) Borrower is a nonprofit corporation, validly existing and in good standing under the laws of the State, has power to enter into this Loan Agreement and by proper corporate action has duly authorized the execution and delivery of this Loan Agreement and each of the other Loan Documents to which it is a party. Borrower is duly licensed or qualified to transact business in the State and in all jurisdictions where the character of the property owned or leased or the nature of the business transacted by it makes such licensing or qualification necessary. Borrower’s exact legal name is as set forth on the execution page hereof.
- b) Borrower is authorized to execute and deliver this Loan Agreement and each of the other Loan Documents to which it is a party under the terms and provisions of the consent of its Board of Directors, or by other appropriate official approval, and further represents, covenants, and warrants that with respect to Borrower, all requirements have been met, and procedures have occurred in order to ensure the enforceability of this Loan Agreement and, each of the other Loan Documents to which it is a party, and each of this Loan Agreement and the other Loan Documents to which it is a party have been duly authorized, executed, and delivered.
- c) The authorized representatives of Borrower executing this Loan Agreement and each of the other Loan Documents to which it is a party have been duly authorized to execute and deliver this Loan Agreement and each of the other Loan Documents to which it is a party under the terms and provisions of a consent of its Board of Directors.
- d) This Loan Agreement and each of the other Loan Documents to which it is a party constitute valid and legally binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms, except to the extent limited by bankruptcy, reorganization, general principles of equity, or other laws of general application relating to or affecting the enforcement of creditors’ rights.

- e) The execution and delivery of this Loan Agreement and each of the other Loan Documents, the consummation of the transactions contemplated hereby and the fulfillment of the terms and conditions hereof do not and will not violate any law, rule, regulation, or order, conflict with or result in a breach of any of the terms or conditions of the articles of incorporation and bylaws of Borrower or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, or loan agreement to which Borrower is a party or by which it or its properties are otherwise subject or bound and do not and will not constitute a default under any of the foregoing or result in the creation or imposition of any liens, charges, or encumbrances of any nature upon any of the property or assets of Borrower contrary to the terms of any instrument or agreement which would result in a Material Adverse Effect on the Project or the Borrower's ability to perform its obligations hereunder.
- f) The authorization, execution, delivery, and performance of this Loan Agreement and each of the other Loan Documents by Borrower do not require submission to, approval, consent, permission, authorization, order or license of, or other action by any Governmental Authority, except (i) such action with respect to this Loan Agreement and the other Loan Documents that has been taken and is final and nonappealable, (ii) with respect to Borrower's performance, such licenses and permits as are ordinarily required in Borrower's business or as shall be required to construct the Project, and (iii) with respect to any state securities or "Blue Sky" laws.
- g) No consent or approval of any trustee or holder of any Indebtedness of Borrower or any guarantor of Indebtedness of or other provider of credit or liquidity to Borrower, is necessary in connection with the execution and delivery of this Loan Agreement or any of the other the Loan Documents by Borrower, or the consummation of any transaction herein or therein contemplated, or the fulfillment of or compliance with the terms and conditions hereof or thereof, except as have been obtained or made and as are in full force and effect.
- h) There is no action, suit, proceeding, claim, inquiry, or investigation, at law or in equity, before or by any court, regulatory agency, public board, or body pending or, to the Borrower's knowledge, threatened against or affecting Borrower, challenging Borrower's authority to enter into this Loan Agreement and any other Loan Document to which it is a party or any other action wherein an unfavorable ruling or finding would adversely affect the enforceability of this Loan Agreement or any other Loan Document to which it is a party, or the exclusion of the interest on the Bonds from gross income for federal tax purposes under the Code, would materially and adversely affect the financial conditions of the Borrower, or would reasonably be expected to have a Material Adverse Effect, or contesting Borrower's corporate existence or powers, or its status as an organization described in Section 501(c)(3) of the Code or which would subject any income of Borrower to federal income taxation to such extent as would result in loss of the exclusion from gross income for federal income tax purposes of interest on the Bonds under Section 103 of the Code.
- i) No event has occurred that would reasonably be expected to have a Material Adverse Effect.
- j) The Project is of the type authorized and permitted to be financed with Bond Proceeds pursuant to the Act.
- k) Borrower owns or will own the Property and intends to operate the Property, or cause the Property to be operated, as a "project," within the meaning of the Act, until the date on which all of the Bond Payments have been fully paid.
- l) Borrower will not take any action that would cause the interest on the Bonds to become includable in gross income of the recipient for federal income tax purposes under the Code (including, without



limitation, intentional acts under Treas. Reg. § 1.148-2(c) or deliberate action within the meaning of Treas. Reg. § 1.141-2(d)), and Borrower will take and will cause its officers, employees, and agents to take all affirmative actions legally within its power necessary to ensure that the interest does not become includable in gross income of the recipient for federal income tax purposes under the Code.

- m) All financial and other information provided to Lender by or on behalf of Borrower in connection with Borrower's request for the Loan contemplated hereby is true and correct in all material respects and Borrower has not omitted to provide Lender with any information which would be material to Lender's decision to enter into this Loan Agreement and, as to projections, valuations, or pro forma financial statements, present a good faith opinion as to such projections, valuations, and pro forma condition and results.
- n) Borrower will aid and assist Issuer in connection with preparing and submitting to the Secretary of the Treasury a Form 8038 (or other applicable information reporting statement) at the time and in the form required by the Code.
- o) Borrower has never and does not now sponsor, maintain, or contribute to a Plan. Neither the Borrower nor its subsidiaries has any contingent liability with respect to any post-retirement benefits under a Welfare Plan, other than liability for continuation of coverage described in Part 6 of Title I of ERISA;
- p) Each Plan of the Borrower and each member of the Controlled Group is in compliance in all material respects with ERISA and other laws to the extent applicable thereto, and neither the Borrower nor a member of the Controlled Group has received notice to the contrary from the PBGC or any other Governmental Authority. No condition exists or event or transaction has occurred with respect to any Plan which could reasonably be expected to result in the incurrence by the Borrower or a member of the Controlled Group of any material liability, fine or penalty. The Borrower does not have any contingent liability with respect to any post-retirement benefits under a Welfare Plan, other than liability for continuation of coverage described in Part 6 of Title I of ERISA;
- q) The Project will promote the stimulation of economic growth and the health, safety, and general welfare of the residents of the State and will otherwise further the purposes of the Act.
- r) The use of Bond Proceeds and the Project will be used in furtherance of the Borrower's charitable, educational or other purpose or function constituting the basis for its exemption under Section 501 of the Code and will not be used for activities that constitute an unrelated trade or business activity of the Borrower (determined by applying Section 513(a) of the Code), except as permitted by the Code.
- s) The Borrower has been determined to be a 501(c)(3) organization and the Borrower will maintain its status as a 501(c)(3) organization and will take no action or permit any action to be taken that could result in the alteration or loss of its status as a 501(c)(3) organization.
- t) The Bond Proceeds in the amount advanced pursuant to Article II hereof will not exceed the costs of the Project.
- u) During construction of the Project, the Borrower will maintain complete and accurate accounting records reflecting the total costs of the Project (including but not limited to, the date, payee, amount, invoice number, and backup invoice for each Project cost paid), and records reflecting the sources

of funds used to pay such costs including Bond Proceeds received by the Borrower pursuant to this Loan Agreement, monthly bank statements showing the deposit of, investment earnings received, and disbursement of Bond Proceeds.

- v) Upon completion of the Project, the Borrower will complete or engage an Independent certified public accounting firm or firm of attorneys of nationally recognized standing to complete a final written allocation for the Bonds.
- w) Borrower agrees to (i) engage an Independent certified public accounting firm or firm of attorneys of nationally recognized standing in order to calculate and (ii) make such payments to the Internal Revenue Service of, any arbitrage rebate that may be owing with respect to the Bonds under Section 148 of the Code and to pay the costs and expenses of said Independent certified public accounting firm or firm of attorneys so engaged. The obligation of Borrower to make such payments shall remain in effect and be binding upon Borrower notwithstanding the release and discharge of this Loan Agreement.
- x) Borrower will pay to or for the account of Issuer all amounts needed to comply with the requirements of Section 148 of the Code, concerning arbitrage bonds, including Section 148(f), which requires generally a rebate payment to the United States of arbitrage profit from investment of the Bond Proceeds in obligations other than tax-exempt obligations. The obligation of Borrower to make such payments is unconditional and is not limited to funds representing the Bond Proceeds or income from the investment thereof or any other particular source.
- y) Upon reasonable request and notice, Borrower will obtain all licenses and permits to construct the Project and upon request will provide Lender with copies of the same.
- z) Borrower shall comply with all applicable federal, state and local laws, regulations, rules and ordinances governing the handling, storage, generation, transportation and disposal of Hazardous Materials (as defined in the Deed of Trust) as the same affect or may affect the operation of Borrower's present business on or with respect to the Subject Property. In addition, Borrower shall not without the prior written consent of the Lender undertake any new business venture or operation on or affecting the Subject Property which now requires or may hereafter require compliance with any federal, state or local law, regulation, rule or ordinance governing Hazardous Materials. If requested by Lender from time to time during the continuance of this Loan Agreement, Borrower shall submit to Lender a report, in form satisfactory to Lender, certifying that the Subject Property is not being used in any regulated activities directly or indirectly involving the use, handling, storage, generation, transportation and disposal of Hazardous Materials. Lender reserves the right, in its sole and absolute discretion, to retain, at Borrower's expense, an independent professional consultant to review any report prepared by Borrower and to conduct its own investigation of the Subject Property. Borrower hereby grants to Lender, its agents, employees, consultants and contractors, the right to enter upon the Subject Property and to perform such tests as are reasonably necessary to conduct such a review or investigation.

## ARTICLE VI

### AFFIRMATIVE AND NEGATIVE COVENANTS OF THE BORROWER

So long as the Bond and Loan shall remain unpaid, Borrower will comply with the following requirements:

Section 6.1 Improvements. Borrower will acquire, improve, construct, install, equip or order the improvements in respect of the Project pursuant to one or more purchase agreements or construction contracts from one or more vendors and contractors. Borrower shall remain liable to the vendors or contractors in respect of its duties and obligations in accordance with each purchase agreement and construction contract and shall bear the risk of loss with respect to any loss or claim relating to any of the construction and improvements of the Project covered by any purchase agreement or construction contracts, and neither Lender nor Issuer shall assume any such liability or risk of loss. Borrower covenants and agrees to pay or cause to be paid (at no additional cost to Issuer) such amounts as may be necessary to complete the Project and to ensure that the Project is operational to the extent that the Bond Proceeds are insufficient to cause such improvement, construction, acquisition, equipping and installation. Promptly upon receipt by the Borrower of a certificate of occupancy for the Project, the Borrower shall provide the Lender a copy thereof and the date thereof shall be the Completion Date for purposes of this Loan Agreement.

Section 6.2 Beneficial Ownership. Borrower agrees to promptly notify Lender (a) of any change in direct or indirect ownership interests in the Borrower as reported in any beneficial ownership certification provided to Lender in connection with the execution of this Loan Agreement, the Bonds, or the Loan (the "Certification"), or (b) if the individual with significant managerial responsibility identified in the Certification ceases to have that responsibility. Borrower hereby agrees to provide such information and documentation as Lender may reasonably request during the term of the Loan to confirm or update the continued accuracy of any of the foregoing information.

Section 6.3 Assignment, Due on Sale or Change of Control. Borrower shall not, without the prior written consent of Lender, mortgage, assign, convey, transfer, sell or otherwise dispose of or encumber (collectively a "conveyance") the Property, or Borrower's interest in the Project or any part of the Property. Moreover, Lender has approved the Loan in material reliance upon the ownership and control of Borrower and the Property. It is acknowledged that any change in such ownership or control of (a) Borrower and/or (b) the Property (whether direct or indirect and regardless of the percentage of interest conveyed) materially affects the financial risks anticipated by Lender in extending the Loan. Accordingly, other than as set forth herein or with the prior written consent of Lender, Borrower shall not convey any ownership interest or beneficial interest (regardless of the percentage interest conveyed or whether such interest is held as a partner, member, shareholder, beneficiary or otherwise) in: (i) Borrower or in the Property, or (ii) any entity holding an ownership or beneficial or controlling interest in Borrower or in the Property, or (iii) any entity which through one or more intermediaries holds any ownership interest or beneficial interest, or controlling interest (direct or indirect) in Borrower or the Property. "Control" hereunder means the ability of any person or entity to (1) direct the business operations or voting procedures for any entity, (2) cause the election, selection or the appointment of entity officers or managers, (3) cause the appointment of the management managing any entity or (4) cast a majority of the votes in any election or decision making process for any entity, or (5) do any of the foregoing for any intermediary entity holding any ownership or beneficial or majority interest (whether direct or indirect) in Borrower or in the Property.

If this Section 6.3 is breached, at the option of Lender and without demand or notice, the full principal amount of the Bonds, all unpaid accrued interest on the Loan and the Bonds, and other obligations under this Loan Agreement and the other Loan Documents shall immediately become due and payable to Lender.

The foregoing limitations in this Section 6.3 regarding conveyance and control (collectively a "transfer") shall not apply to the following situations: (a) a transfer to which Lender has given its prior written consent, (b) a transfer of personal property or equipment due to obsolescence or ordinary wear and tear or fire or casualty, or (c) any transfer by Borrower leasing any portion of the Property to a tenant, provided, however, Lender holds a security interest in the lease, or (d) where the transfer under applicable state or federal law governing Lender and the Loan (pursuant to either statutory authority or judicial

opinion) expressly prohibits the use, exercise or enforcement of said due on sale or change of control clause in the form set forth in this Section 6.3, or (e) Permitted Encumbrances.

**Section 6.4 Unlawful Use.** Borrower shall not use or occupy or permit the use or occupancy of the Property in any manner that would be a violation of federal, state or local law or regulation, regardless of whether such use or occupancy is lawful under any conflicting law, including without limitation any law relating to the use, sale, possession, cultivation, manufacture, distribution or marketing of any controlled substances or other contraband or any law relating to the medicinal use or distribution of marijuana.

**Section 6.5 Right of Inspection; Third Party Consultants.**

- a) Throughout the term of the Loan and during normal business hours, Borrower will permit Lender and Lender's representatives, inspectors and consultants to enter upon the Property, to inspect the improvements thereon and materials to be used therein, to audit, examine and copy all contracts, records (including, but not limited to, financial and accounting records pertaining to the Loan or the Project), plans and shop drawings which are kept at the construction site or at Borrower's offices, and to discuss the affairs, finances and accounts of Borrower with representatives of Borrower. Borrower will cooperate with and shall cause the General Contractor and Subcontractors to cooperate with any such representatives, inspectors or consultants retained by Lender to enable them to perform their functions under this Loan Agreement. Borrower will have the General Contractor maintain and make available for inspection by Lender or its representatives on demand, daily log sheets covering the period since the immediately preceding inspection, which log sheets shall show dates, weather conditions, number of workers, Construction Contractors and Subcontractors on the job and the progress of construction.
- b) Lender may hire such third-party consultants as it reasonably deems necessary, the costs of which shall be paid by Borrower, to provide the following services: (a) review final Plans and Specifications and final construction cost breakdown and the Construction Schedule; (b) conduct compliance inspections with respect to the progress of construction of the Project and approve each element of a request for disbursement relating to construction costs; and (c) perform such other services as may, from time to time, be required by Lender. This obligation on the part of Borrower shall survive the closing of the Loan and the repayment thereof. Notwithstanding the provisions of Section 2.5 hereof, the Borrower hereby authorizes Lender, in its discretion, to pay such expenses, charges, costs and fees at any time by a disbursement of the Loan, subject to Section 2.1.

**Section 6.6 Payment of Interest.** Borrower, notwithstanding any other provision in this Loan Agreement or in the Loan Documents, shall pay to Lender the interest on the Loan and the Bonds as and when the same are due and payable.

**Section 6.7 No Encroachments.** The Project shall be constructed entirely on the Property and will not encroach upon or overhang any easement or right of way, nor upon the land of others, and when erected shall be wholly within any building restriction lines.

**Section 6.8 Insurance.**

(a) Until Borrower has fully paid and performed all obligations under the Loan Documents and Lender has released or assigned the Collateral Documents, Borrower shall at all times maintain the following insurance policies and comply with the following obligations (such policies and compliance, collectively, the "Required Insurance"):

(i) Liability Insurance. Borrower shall maintain the following insurance for bodily injury, property damage, personal/advertising injury (collectively, the “Liability Insurance”): (i) public liability insurance including commercial general liability insurance combined with Umbrella /Excess liability to provide minimum limits of at least \$1,000,000.00 per occurrence and \$2,000,000.00 in the annual aggregate (per location). Liability Insurance shall include coverage for liability arising from premises and operations, elevators, escalators, independent contractors, contractual liability (including liability assumed under contracts and leases), and products and completed operations. All Liability Insurance shall name Lender as an “Additional Insured” on a primary and non-contributory basis by endorsement satisfactory to Lender.

(ii) Special Perils Insurance. Borrower shall maintain property insurance against all risks of loss to the Project customarily covered by “All Risk” or “Special Perils Form” (including Windstorm) policies as available in the insurance market as of the Closing Date (collectively, the “Special Perils Insurance”). Each Special Perils Insurance policy shall cover (i) additional expense of demolition and increased cost of construction, including increased costs that arise from any changes in Laws regulating any restoration of the Improvements; (ii) at least 100% of the replacement cost value of the Project; (iii) all tenant improvements and betterments that any Tenant Lease requires Borrower to insure. Any Special Peril Insurance policy shall contain an agreed amount endorsement or a coinsurance waiver. The Special Perils Insurance policy shall also cover damage caused by the acts of terrorists under the Terrorism Risk Insurance Act (TRIA).

(iii) Builder’s Risk Insurance. During any construction, Borrower shall maintain Builder’s Risk insurance for not less than the full completed project insurable value of the building in which the construction is being performed, covering the same risks and otherwise complying with the same requirements as Special Perils Insurance, to such limits and with such coverage extensions as Lender may require, except to the extent included in Borrower’s Special Perils Insurance. Any Builder’s Risk Insurance shall be written on a “completed value” form (100% non-reporting) or its equivalent and shall include an endorsement granting permission to occupy. Builder’s Risk Insurance shall cover (i) the same perils that Special Perils Insurance must cover (ii) loss of materials, equipment, machinery, and supplies, whether on-site, in transit or stored off-site, or of any temporary structures, hoists, sidewalks, retaining walls and underground property, (iii) soft costs, plans specifications, blueprints, and models, (iv) demolition and increased cost of construction, including increased costs arising from changes in laws at the time of restoration and coverage for operation of building Laws, all subject to a sublimit satisfactory to Lender, and (v) rental interruption (delayed opening) on an actual loss sustained basis and otherwise in compliance with the requirements for the Rent Loss Insurance.

(iv) Worker’s Compensation Insurance. Worker’s compensation insurance against liability from claims of workers with respect to and during the period of any work on or about the Property. Borrower shall require the Contractor and each of Contractor’s subcontractors employed to perform work on the Property to carry worker’s compensation insurance prior to the commencement of any work on the Property.

(v) Flood Insurance. Flood insurance in an amount satisfactory to Lender in the event that any material part of the Property is, or will be, within an area designated as a flood hazard area by the Federal Insurance Administration, Department of Housing and Urban Development.

(vi) Earthquake Insurance. Borrower shall maintain earthquake insurance in any area of increased risk as Lender or Rating Agencies require.

(vii) Boiler & Machinery Insurance. Borrower shall maintain comprehensive boiler and machinery insurance (or equivalent form) covering all mechanical and electrical equipment against physical damage, extra expense and expediting expense covering Borrower's property and any improvements. Borrower shall provide Boiler & Machinery Insurance on a replacement cost value basis.

(viii) Business Income Insurance. As an extension to its Special Perils Insurance, Flood Insurance, Earthquake Insurance, Boiler and Machinery Insurance, and Builder's Risk Insurance, Borrower shall maintain Business Income insurance on an "actual loss sustained" basis or on a specified limit based upon a worksheet filed with the insurance company ("Property Insurance" collectively refers to all forms of insurance mentioned in this section). Borrower shall maintain Business Income Insurance in an amount equal to at least 12 months of Borrower's actual gross revenue/net profit plus continuing and extra expenses of the Project. In addition, coverage shall be endorsed to include an extended period of indemnity of at least 180 days.

(ix) Environmental Liability. When required by Lender, Borrower shall maintain environmental insurance covering unknown environmental hazards as of the Closing Date in an amount not less than \$1,000,000 per discovery/occurrence. Such coverage shall identify Lender as an "Additional Named Insured" through an endorsement satisfactory to Lender. The carrier shall agree in writing that the policy shall be automatically assigned to Lender, with no further action required by any Person, if (i) control of the Project passes to Lender or its designee as the result of an Event of Default or any exercise of Lender's remedies or (ii) Lender or its Insurance Advisor otherwise at any time so require.

(x) Other Insurance. Borrower shall maintain such other types and amounts of insurance for the Project and its operations as Lender or the Rating Agencies shall from time to time require, consistent with insurance commonly maintained for comparable properties.

(b) Borrower shall cause Lender to be named as "Mortgagee" or "Lender Loss Payee" on a standard noncontributory mortgagee endorsement or its equivalent, in either case satisfactory to Lender, for all Required Insurance. Each endorsement shall name Lender (or such party as Lender may designate) as the party to which the carrier shall pay any insurance proceeds. At the request of Lender, Borrower shall deliver to Lender, immediately upon issuance, copies of the insurance policies for all Required Insurance, including required endorsements, certified as true and complete by the carrier or its authorized representative. On the Closing Date, if policies are not available, Borrower shall provide evidence of all Required Insurance in the way of a completed and signed ACORD 28 Evidence of Commercial Property Insurance and/or ACORD 25 Certificate of Liability Insurance forms. Attached to the evidence/certificate shall be copies of required and applicable Mortgagee/Lender Loss Payee/Additional Insured endorsements (if available from carrier). At least 30 days before any policy expires, Borrower shall deliver evidence, acceptable to Lender, of renewal in compliance with the Loan Documents. If Borrower fails to do so by such date, then without limiting Lender's remedies, Lender may (but shall have no obligation to) force place any Required Insurance. Lender's cost of doing so shall constitute a protective advance. Borrower shall secure all Required Insurance from insurer(s) authorized to do business in the State of Utah and reasonably satisfactory to the Lender with an A.M. Best's Rating of not less than A-

VIII. Borrower shall obtain Lender's reasonable approval of the form, substance, amount, risk coverage, sub-limits, deductibles, lender's loss payees and insureds for all Required Insurance.

(c) If Lender consents to Borrower providing any of the required insurance through blanket policies carried by Borrower and covering more than one location, then Borrower (i) may provide any Required Insurance under a blanket policy provided that any such blanket policy otherwise complies with the requirements for Required Insurance, specifies how much coverage, and which sublimits, apply exclusively to the Project and such allocated coverage shall equal or exceed the Required Insurance and (ii) shall cause the insurance company to deliver to Lender a certificate of insurance, in a form satisfactory to Lender, of such policy which sets forth the coverage, the limits of liability, the name of the carrier, the policy number, expiration date and a statement that the insurance company will not cancel or materially modify or alter the coverage evidenced by the endorsement without first affording Lender at least thirty (30) days prior written notice. In the event Borrower fails to provide, maintain, keep in force or deliver to Lender the policies of insurance required by this Section 6.8, Lender may, but without any obligation to do so, procure such insurance for such risks covering Lender's interest and Borrower shall pay all premiums thereon promptly upon demand by Lender. If Borrower fails to pay any premiums after demand by Lender, Lender, at Lender's option, may advance any sums necessary to maintain and to keep in force such insurance. Any sums so advanced, together with interest on such sums at the Default Rate, shall be secured by the Deed of Trust.

(d) Upon reasonable request and notice, Borrower shall deliver to Lender a copy of the original of each of the policies of insurance that Borrower is required to obtain and maintain, or cause to be provided and maintained, under this Agreement.

(e) As among Lender, Borrower, and Issuer, Borrower assumes all risks and liabilities from any cause whatsoever, whether or not covered by insurance, for loss or damage to the Project and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of Borrower or of third parties, and whether such property damage be to Borrower's property or the property of others, but excluding all risks and liabilities that shall have resulted from the gross negligence or willful misconduct of the Lender or the Issuer as determined pursuant to a non-appealable judgement rendered by a court of competent jurisdiction.

Section 6.9 Restrictions on Liens. Borrower will not create, incur, assume, or suffer to exist any Lien, except Permitted Encumbrances (as defined in the Continuing Covenant Agreement).

Section 6.10 Appraisals. If deemed reasonably necessary by Lender or if required by law, Lender shall have the right to order Appraisals of the Project from time to time from an appraiser selected by Lender, which Appraisals shall comply with all federal and state standards for appraisals and otherwise shall be satisfactory to Lender in all material respects. Borrower agrees to pay the cost and expense for all Appraisals and reviews thereof ordered by Lender pursuant to this paragraph.

Section 6.11 Americans with Disabilities Act. The Project, when completed, will be accessible to and usable by persons with disabilities pursuant to the accessibility requirements of the Americans With Disabilities Act (the "ADA"), and all applicable regulations promulgated by the U.S. Architectural and Transportation Barriers Compliance Board by the U.S. Department of Justice, and by all other applicable agencies. The Project will comply with all accessibility requirements of the ADA and regulations, together with the requirements of the Americans With Disabilities Act Accessibility Guidelines for Buildings and Facilities.

Section 6.12 Document Imaging. Lender shall be entitled, in its sole discretion, to image or make copies of all or any selection of the agreements, instruments, documents, and items and records governing, arising from or relating to any Bonds, the Loan, this Loan Agreement and the other Loan Documents, and Lender may destroy or archive the paper originals. The parties hereto (i) waive any right to insist or require that Lender produce paper originals, (ii) agree that such images shall be accorded the same force and effect as the paper originals, (iii) agree that Lender is entitled to use such images in lieu of destroyed or archived originals for any purpose, including as admissible evidence in any demand, presentment or other proceedings, and (iv) further agree that any executed facsimile (faxed), scanned, or other imaged copy of this document or any Loan Document shall be deemed to be of the same force and effect as the original manually executed document.

Section 6.13 Reporting Requirements. Borrower will deliver, or cause to be delivered, to Lender each of the items and within the timelines described in Section 5.01 of the Continuing Covenant Agreement.

Section 6.14 Books and Records; Inspection and Examination. Borrower will keep accurate books of record and account for itself pertaining to the Collateral and pertaining to Borrower's business and financial condition in which true and complete entries will be made in accordance with GAAP consistently applied. For purposes of assessing compliance with the requirements of this Loan Agreement, Borrower will permit Lender, or its employees, accountants, attorneys, or agents, to examine and copy any or all of its records and to examine and inspect the Property at any time following prior notice of at least two Business Days during Borrower's business hours.

Section 6.15 Compliance with Laws. Borrower will comply with the requirements of applicable laws and regulations, the noncompliance with which would materially and adversely affect its business or its financial condition. Borrower shall secure all permits and licenses, if any, necessary for the installation and operation of the Property, the noncompliance with which would materially and adversely affect its business or its financial condition. Borrower shall comply in all respects (including, without limitation, with respect to the use, maintenance, and operation of each item of the Property) with all laws of the jurisdictions in which its operations involving any component of Property may extend and of any legislative, executive, administrative, or judicial body exercising any power or jurisdiction over the items of the Property or its interest or rights under this Loan Agreement, the noncompliance with which would materially and adversely affect its business or its financial condition.

Section 6.16 Payment of Taxes, Assessments and Governmental Charges. Borrower will pay or discharge, when due, (a) all taxes, assessments, and governmental charges levied or imposed upon it or upon its income or profits, upon any properties belonging to it (including, without limitation, the Collateral) or upon or against the creation, perfection or continuance of the security interest created pursuant to this Loan Agreement, prior to the date on which penalties attach thereto, (b) all federal, state and local taxes required to be withheld by it, and (c) all lawful claims for labor, materials, and supplies which, if unpaid, might by law become a lien or charge upon any properties of Borrower; provided, that Borrower shall not be required to pay any such tax, assessment, charge, or claim whose amount, applicability, or validity is being contested in good faith by appropriate proceedings.

Section 6.17 Preservation of Company Existence. Borrower will preserve and maintain its nonprofit corporation or corporate existence, as applicable, and all of its rights, privileges, and franchises necessary or desirable in the normal conduct of its business; and shall conduct its business in an orderly, efficient, and regular manner.

Section 6.18 Bank Accounts; Treasury Management; Control Agreements. As a factor in determining the interest rate charged by the Lender on the Loan and to provide additional security for



Lender, Borrower shall maintain its principal depository and substantially all of its payment accounts with Lender and shall use Lender for its treasury management services (including, without limitation, controlled disbursements, automated clearinghouse transactions, interstate depository network services, credit cards, stored value cards and other cash management services), unless Borrower has obtained the prior written approval of Lender. If Lender grants such approval, Borrower agrees to enter into and cause the bank or other financial institution at which the account is to be maintained to enter into a control agreement (in form and substance as approved by Lender) simultaneously with the opening of such account. Without limiting any of the foregoing, on the Closing Date Borrower shall have established, and hereby covenants to maintain, with Lender each of the Series 2024A Project Account and the Subject Campaign Account. At all times each of the Series 2024A Project Account and the Subject Campaign Account shall remain in complete and sole control by Lender and Borrower shall not be permitted to close or make any withdrawals or transfers of funds on deposit from either such deposit account. Pursuant to the terms and conditions of the Collateral Documents, each of the Series 2024A Project Account and the Subject Campaign Account, and all cash and funds on deposit therein, shall constitute Collateral in support of the full repayment and performance of the Obligations. The Series 2024A Project Account shall be used exclusively to hold Bond Proceeds in respect of the Series 2024A Bonds with the funds contained therein to be disbursed in accordance with Sections 2.4 and 2.5 of this Agreement. The Subject Campaign Account shall be used exclusively to hold all past, present and future Donations made or paid to Borrower and 100% of the net cash proceeds received by and paid to Borrower under the terms and conditions of the Lincoln Campus Sale Leaseback Agreement. Borrower hereby covenants and agrees that (i) all cash and deposits that Borrower has on the Closing Date on account of Donations made prior to the Closing Date shall be transferred to and deposited into the Subject Campaign Account and (ii) promptly, and in any event not later than two Business Days following receipt, it shall deposit or have deposited into the Subject Campaign Account (a) all Donations made or paid to Borrower on or after the Closing Date and (b) 100% of the net cash proceeds received by and paid to Borrower under the terms and conditions of the Lincoln Campus Sale Leaseback Agreement.

**Section 6.19 Denial Clause.** If the incurring of any Indebtedness by Borrower or the payment of any money or transfer of property to Lender by or on behalf of Borrower should for any reason subsequently be determined to be “voidable” or “avoidable” in whole or in part within the meaning of any state or federal law (collectively “voidable transfers”), including, without limitation, fraudulent conveyances or preferential transfers under the United States Bankruptcy Code or any other federal or State law, and Lender is required to repay or restore any voidable transfers or the amount or any portion thereof, or upon the advice of Lender’s counsel is advised to do so, then, as to any such amount or property repaid or restored, including all reasonable costs, expenses, and attorneys’ fees of Lender related thereto, the liability of Borrower shall automatically be revived, reinstated and restored and shall exist as though the voidable transfers had never been made.

**Section 6.20 Additional Indebtedness.** Borrower shall not create, incur, assume, or suffer to exist any indebtedness except Permitted Indebtedness expressly permitted and as defined under the Continuing Covenant Agreement.

**Section 6.21 Compliance with ERISA.** Except as would not reasonably be expected to result in a Material Adverse Effect, the Borrower and each member of the Controlled Group shall (a) remain at all times in compliance with all applicable laws (including any legally available grace periods) with respect to any Plan, and (b) maintain each Plan as to which it may have any liability in compliance in all material respects with the applicable provisions of ERISA, the failure to comply with which could subject the Borrower or a member of its Controlled Group to any tax or penalty.

**Section 6.22 Consolidation and Merger.** Except as provided in this Loan Agreement or the other Loan Documents, Borrower shall not wind up, liquidate, or dissolve itself, reorganize, merge, or consolidate

with or into, or convey, sell, assign, transfer, or otherwise dispose of (whether in one transaction or a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to any person or entity.

**Section 6.23 Sale, Lease or Release of Assets.** Borrower shall not sell, lease, assign, transfer, or otherwise dispose of all or substantially all of the Collateral (whether in one transaction or in a series of transactions), except as otherwise permitted herein. Notwithstanding the foregoing, the Borrower may lease or rent portions of the Lincoln Campus in the ordinary course of business upon fair and reasonable terms in an arm's-length transaction with the consent of the Lender, and provided the Borrower is in compliance with the terms of this Loan Agreement, the Borrower may use and apply, spend, invest or otherwise manage its assets, including the Collateral, without restriction and in its sole discretion without any consent of the Lender.

**Section 6.24 Modifications and Substitutions.** Except as provided in this Loan Agreement or the other Loan Documents, Borrower shall not make any material alterations, modifications, or additions to, or substitutions of, the Collateral without the prior written consent of Lender; provided, however, that any substitutions made pursuant to Borrower's obligations to make repairs referenced under any provision of this Loan Agreement shall not require such prior written consent. Borrower shall provide such documents or assurances as Lender may reasonably request to maintain or confirm the lien in favor of Lender on the Collateral as so altered, modified, or substituted.

**Section 6.25 Prohibited Activities.** The Borrower shall not use any portion of the proceeds of the Loan to finance or refinance any facility, place or building used or to be used (a) for sectarian instruction or study or as a place for devotional activities or religious worship, or (b) by a Person that is not a 501(c)(3) organization or a governmental entity or by an organization (including Borrower) described in Section 501(c)(3) of the Code (including Borrower) in an unrelated trade or business, in such manner or to such extent as would result in any portion of the Bonds treated as an obligation not described in Section 103(a) of the Code.

**Section 6.28 Creation of Trusts and Transfers to Trusts.** Borrower shall not create as settlor any trust, or transfer any assets into any trust, without giving written notice to Lender at least ninety (90) days prior to such creation or transfer. That notice shall describe in reasonable detail the trust to be created and/or the asset transfer to be made. Failure by any such settlor to provide that notice shall be an event of default under this Loan Agreement and the Bonds.

Borrower shall not create as settlor any actual or purported spendthrift trust, asset protection trust or any other trust intended by its terms or purpose (or having the effect) to protect assets from creditors or to limit the rights of existing or future creditors (an "Asset Protection Trust") without the prior written consent of Lender. Lender may withhold that consent in its sole discretion. Creation of any Asset Protection Trust, and each transfer of assets thereto, by any such settlor without Lender's prior written consent: (a) shall be an event of default under this Loan Agreement, (b) shall have the effect of, and shall be deemed as a matter of law, regardless of that settlor's solvency, of having been made by that settlor with the actual intent of hindering and delaying and defrauding Lender as that settlor's creditor, and (c) shall constitute a fraudulent transfer that is unenforceable and void (not merely voidable) as against Lender.

With respect to each such fraudulent transfer, Lender shall have all the rights and remedies provided by State fraudulent transfer laws, or otherwise provided at law or equity. Lender shall have the right to obtain an ex parte court order directing the trustee of the Asset Protection Trust to give Lender written notice a reasonable time (of no less than ten business days) prior to making any distribution from said trust. Nothing in this paragraph shall limit or affect any rights or remedies otherwise provided to Lender by law, equity or any contract.

Section 6.26 Commence and Continue Construction; Correction of Work; Change Orders; Stop Notices; Prompt Payment Requirements.

- a) Borrower acknowledges that construction of the improvements on the Project has not begun and that construction of such improvements shall commence immediately following the Closing Date and shall continue with diligence and continuity, as determined by Lender in its sole discretion, in compliance with the Construction Schedule, in order that Substantial Completion of the improvements of the Project shall occur on or before the Completion Date. In the event Borrower fails to commence construction of the improvements of the Project as set forth in this Section, such failure shall constitute an immediate Event of Default, with no notice or right to cure required to be given by Lender.
- b) All construction shall be free and clear of defects in and liens or claims for liens for materials supplied or labor or services performed in connection with the improvements of the Project. The improvements of the Project shall be in substantial conformity with the Plans and Specifications and, except for off-site improvements designated thereon, shall be contained wholly within the lot lines of the Property and will not encroach on any other real estate, easements, building lines or set-back requirements.
- c) Upon reasonable demand of the Lender, the Borrower shall correct any defect in the Project or any departure from the Plans and Specifications. The disbursement of any Bond Proceeds shall not constitute a waiver of the right of Lender to require compliance with this covenant with respect to any such defects or departures from the Plans and Specifications not theretofore discovered by Lender.
- d) Borrower will not change or in any manner cause or seek a change in any laws, requirements of Governmental Authorities and obligations created by private contracts and leases which now or hereafter may significantly affect the ownership, construction, equipping, fixturing, use or operation of the Project without the prior written consent of Lender, which consent shall not be unreasonably withheld or delayed.
- e) Any Change Order over \$100,000 for any single occurrence and \$500,000 in the aggregate for all such Change Orders must be submitted to Lender for review and approval; provided, however, no approval shall be needed in the event that 100% of the amount of any Change Order is paid for by Borrower with internally generated funds. Borrower will not, without the prior written approval of Lender, permit the performance of any work pursuant to, or request a disbursement for, any Change Orders which result in a material change in the Plans and Specifications, General Contract or any Construction Contract. Proposed Change Orders requiring Lender's approval shall be submitted to Lender on a form acceptable to Lender containing such information as to the nature, scope and cost for such change as Lender may require together with a marked copy of the portion of the Plans and Specifications affected by the proposed change. The amount of any Change Order shall be included in any computation of required "loan balancing" payments pursuant to Section 2.5(i). In addition, if required by Lender, Borrower shall provide to Lender on a monthly basis a log reflecting all Change Orders. Borrower shall not agree to any increases in the cost or amount of the General Contract or any Construction Contract without Lender's prior written consent.
- f) In the event Lender has approved and established separate contingencies accounts for Hard Costs and Soft Costs in the Budget and the actual cost of any item specified in the Budget is determined to be greater than the amount allocated to such item in the Budget, Borrower may

request that such amount be withdrawn from the related contingency line item in the Budget and transferred to the Budget line item in question, provided that (a) Borrower shall furnish Lender with evidence satisfactory to Lender that such excess costs will actually be incurred and the amount previously allocated to such item is no longer sufficient; (b) Borrower shall furnish Lender with a revised Budget reflecting, in detail satisfactory to Lender, such withdrawal from the contingency account; (c) such withdrawal from the contingency account, in Lender's judgment, will not result in a material change in the scope or quality of, or a delay in the completion date for, the Project or otherwise make the contingency insufficient for other anticipated or possible cost overruns; and (d) such withdrawal is otherwise satisfactory to Lender in its reasonable discretion and will not change amounts allocated to interest reserve or development fees unless approved by Lender in its sole discretion. Lender's consent to a withdrawal from the contingency account shall not waive or diminish Lender's right to later require a loan balancing payment pursuant to Section 2.5(i).

- g) Borrower shall not cause or permit any "stop notice" or similar notice to be filed or served on Lender with respect to the Property. Borrower shall defend, indemnify and hold Lender and its officers, directors, agents and employees harmless from and against all claims, damages, loss, liability, costs and expenses (including attorneys' fees and internal costs) arising from or relating to any such stop notice, the compliance therewith and the defense thereof. Lender may require Borrower to provide a release bond for any stop notice, which bond shall be subject to Lender's review and approval and/or may take such action with respect to any stop notice as Lender may deem appropriate in Lender's sole and absolute discretion and Lender may withhold such amounts from disbursement in connection with the Loan as Lender may elect in Lender's sole and absolute discretion, and whether or not Lender is obligated to withhold funds pursuant to applicable law or any demands made in connection with any stop notice. Borrower irrevocably appoints Lender as its attorney-in-fact, coupled with an interest and with full power of substitution, to file for record, at the Borrower's cost and expense and in Borrower's name, any notices of completion, notices of cessation of labor, or any other notices that Lender considers necessary or desirable to protect its security. At Lender's request, Lender may require that construction of any site improvements be set forth in a separate construction contract and not included in any other construction contract for non-site improvements. At any time, Lender shall be entitled to make written demand on any lien claimant relating to the Property, demanding that any such lien claimant serve a stop notice within thirty (30) days after such written demand by Lender. With respect to any Loan "balancing" set forth herein or in the Loan Documents, any Loan funds which are subject to any stop notice or which Lender has determined to withhold such funds from disbursement shall be excluded from any calculation of available Loan funds under the Loan.

#### Section 6.27 Prompt Payment Statute.

Borrower shall at all times comply with the provisions of prompt payment under applicable under Law (collectively, the "Prompt Payment Statute"). Borrower represents and warrants to Lender that Borrower is the "Owner" of the Project for purposes of the Prompt Payment Statute. Lender shall not be an "Owner" for purposes of the Prompt Payment Statute and Lender shall not be a "third party designated by Owner as the person responsible for making progress payments on the Construction Contract" (a "Designated Payor") as used in the Prompt Payment Statute. Borrower shall not cause or permit any statements or representations to be made or agreements to be entered into pursuant to which Lender would or might be asserted to be a Designated Payor. Borrower agrees that Lender is not responsible for compliance with the Prompt Payment Statute and as more particularly provided in this Section. Borrower shall be solely responsible for such compliance. Borrower's obligation of compliance with the Prompt Payment Statute shall not in

any way expand the obligations of Lender and Lender shall at all times retain the right to approve or disapprove advances in accordance with this Agreement regardless of Borrower's obligations to the Contractor or any subcontractor. In no event will Lender have any liability or obligation to Borrower or any other Person to approve advances or make advances within any time periods required pursuant to the Prompt Payment Statute, nor will Lender have any liability or obligation for costs, fees, expenses, or damages of any nature incurred by Borrower by reason of any failure to comply with the Prompt Payment Statute. Without limiting the generality of the foregoing, Borrower acknowledges, represents and warrants to Lender that (a) Borrower has taken into consideration the period of time within which Lender has to approve advances (the "Lender's Review Period"), (b) Borrower has taken into consideration the period of time within which Lender has to make advances once the conditions precedent to advances have been satisfied ("Disbursement Period") and (c) to the extent that Lender's Review Period or the Disbursement Period may extend beyond any period of time required pursuant to the Prompt Payment Statute within which Borrower may either approve and certify any billing or estimate (or within which any billing or estimate may be deemed approved) or make payments to the Contractor or any subcontractor, then Borrower has complied with the provisions of the Prompt Payment Statute extending the billing cycle, payment provisions or approval periods in order to conform such periods to Lender's Review Period and the Disbursement Period. Without limiting any of the other requirements or provisions of this Section, in addition to all other requirements of this Agreement with respect to requests for and the making of advances, Borrower shall provide to Lender a Request for Advance together with all other supporting materials (including, without limitations, invoices and lien waivers) each month at least ten (10) days prior to the date on which a billing or estimate by the General Contractor or any Contractor may be deemed approved by Owner pursuant to the Prompt Payment Statute or any similar or successor provision of the Prompt Payment Statute. Borrower represents and warrants that the General Contract and each Construction Contract provides for the right of the Borrower to withhold retention from requested payments under such contracts in an amount at least equal to the Retainage pursuant to this Agreement. Borrower represents and warrants that Borrower has required the General Contractor and each Construction Contractor to include in all Subcontracts a retention requirement that is at least equal to the amount of the Retainage pursuant to this Agreement. Borrower agrees to defend, indemnify and hold Lender and Lender's agents, employees, representatives, directors, officers, successors and assigns for, from and against any and all claims, damages, loss, liability, judgments, costs and expenses arising from or related to the breach or violation by Borrower, the General Contractor or any Construction Contractor of the Prompt Payment Statute, the failure by Borrower, the General Contractor or any Construction Contractor to pay any Person as and when required under the Prompt Pay Statute, and/or any suspension or termination by General Contractor, Contractor or any Subcontractor of the applicable General Contract, Construction Contract or Subcontract regardless of whether caused in whole or in part by any Person indemnified hereunder. This indemnity will survive the payment and performance of the Loan.

## ARTICLE VII

### DAMAGE AND DESTRUCTION; USE OF NET PROCEEDS

Section 7.1 Damage to or Destruction of Property. If the Property is partially or wholly damaged or destroyed by fire or any other cause, and (a) all insurance proceeds received by Lender together with any cash funds delivered by Borrower to Lender are sufficient to fully restore and repair the Property as determined by Lender, in Lender's sole discretion, and (b) Borrower is not in default under any of the Loan Documents, Lender shall disburse such proceeds in the manner provided herein for the disbursement of the proceeds of the Loan toward the cost of such restoration and repair. If Lender determines that such proceeds together with any cash funds provided by Borrower are insufficient to fully restore the Property,

Lender will apply any sums received by Lender under this Section 7.1 to the payment of all of Lender's costs and expenses (including but not limited to legal fees and costs) incurred in obtaining those sums, and then, in Lender's sole discretion and without regard to the adequacy of its security, to the payment of the Loan. If the amount of such proceeds exceeds the cost of restoration of the Property, Lender shall apply the excess proceeds to the payment of the Loan. If the proceeds of insurance are used to restore the Property and if the total estimated cost to restore the Property exceeds the amount of the proceeds of insurance, Borrower shall deliver to Lender prior to any disbursement of the proceeds of insurance, an amount equal to such difference in cash or cash equivalents satisfactory to Lender. After all obligations of Borrower under the Loan Documents have been paid in full, then all proceeds in excess of such obligations will be paid to Borrower.

**Section 7.2 Condemnation.** If the Property, or any part thereof, shall be condemned for any reason, including without limitation fire or earthquake damage, or otherwise taken for public or quasi-public use under the power of eminent domain, or be transferred in lieu thereof, all damages or other amounts awarded for the taking of, or injury to, the Property shall be paid to Lender who shall have the right, in its sole and absolute discretion, to apply the amounts so received against (a) the costs and expenses of Lender, including attorneys' fees incurred in connection with collection of such amounts, and (b) the balance against the amounts due hereunder; provided, however, that if (i) no Event of Default shall have occurred and be continuing hereunder, (ii) Borrower provides evidence satisfactory to Lender of its ability to pay all amounts becoming due hereunder during the pendency of any restoration or repairs to or replacement of the Property, (iii) Lender determines, in its sole discretion, that the proceeds of such award are sufficient to restore, repair, replace and rebuild the Property as nearly as possible to its value, condition and character immediately prior to such taking (or, if the proceeds of such award are insufficient for such purpose, if Borrower provides additional sums to Lender's satisfaction so that the aggregate of such sums and the proceeds of such award will be sufficient for such purpose), and (iv) Borrower provides evidence satisfactory to Lender that none of the tenants of the Property, if applicable, will terminate their lease agreements as a result of either the condemnation or taking or the repairs to or replacement of the Property, the proceeds of such award, together with additional sums provided by Borrower, shall be placed in a separate account for the benefit of Lender and Borrower to be used to restore, repair, replace and rebuild the Property as nearly as possible to its value, condition and character immediately prior to such taking. All work to be performed in connection therewith shall be pursuant to a written contract therefor, which contract shall be subject to the prior approval of Lender. To the extent that any funds remain after the Property has been so restored and repaired, the same shall be applied against the amounts due hereunder in such order as Lender may elect. To enforce its rights hereunder, Lender shall be entitled to participate in and control any condemnation proceedings and to be represented therein by counsel of their own choice, and Borrower will deliver, or cause to be delivered to Lender such instruments as may be requested by them from time to time to permit such participation. In the event Lender, as a result of any such judgment, decree, or award, believes that the payment or performance of the Loan or the Bonds is impaired, Lender may declare all of the amounts due hereunder immediately due and payable.

## ARTICLE VIII

### ASSIGNMENT OF LOAN AGREEMENT BY LENDER

**Section 8.1 Assignment by Lender.** This Loan Agreement, and the obligations of Borrower to make payments hereunder, may be assigned and reassigned in whole or in part to one or more assignees or subassignees (who shall be purchaser of the Bonds or an interest therein) by Lender at any time subsequent to its execution, without the necessity of obtaining the consent of Issuer or Borrower; provided, however, that no such assignment or reassignment shall be effective unless and until (a) Issuer and Borrower shall have received notice of the assignment or reassignment disclosing the name and address of the assignee or subassignee, which notice Issuer and Borrower shall maintain as evidence of the ownership and registration

of the Bonds, and (b) in the event that such assignment or reassignment is made to a bank or trust company as trustee for holders of certificates representing interests in this Loan Agreement and the Bonds, such bank or trust company agrees to maintain, or cause to be maintained, a registration system by which a record of the names and addresses of such holders as of any particular time is kept and agrees, upon request of Issuer or Borrower, to furnish such information to Issuer or Borrower. Upon receipt of written notice of assignment, Borrower will reflect in a book-entry the assignee designated in such notice of assignment, and shall agree to make all payments to the assignee designated in the notice of assignment, notwithstanding any claim, defense, setoff, or counterclaim whatsoever (whether arising from a breach of this Loan Agreement or otherwise) that Issuer and Borrower may from time to time have against Lender or the assignee. Issuer and Borrower agree to execute all documents, including notices of assignment and chattel mortgages, or financing statements, which may be reasonably requested by Lender or its assignee to protect their interest in the Collateral and in this Loan Agreement. Lender (and any successor or assignee) (not the Issuer or the Borrower) shall be responsible for compliance with law in any transfer or sale of the Bonds and assignment of this Loan Agreement.

## ARTICLE IX

### EVENTS OF DEFAULT AND REMEDIES

Section 9.1 Events of Default. Time is of the essence in this Loan Agreement. The following constitute “Events of Default” under this Loan Agreement:

- a) failure by Borrower to pay to Lender, as assignee of Issuer, when due any Bond Payment or to pay any other payment required to be paid hereunder and the continuation of such failure for a period of 10 days;
- b) failure by Borrower or Issuer to observe and perform any other covenant, condition, or agreement contained herein or in any other Loan Document to which it is a party, or in any other document or agreement executed in connection herewith on its part to be observed or performed for a period of 30 days after written notice is given to Borrower or Issuer, as the case may be, specifying such failure and directing that it be remedied; provided, however, that, if the failure stated in such notice cannot be corrected within such 30-day period, Lender will not unreasonably withhold its consent to an extension of such time for an additional 60-day period if corrective action is instituted by Borrower or Issuer, as the case may be, within the applicable period and diligently pursued until the default is corrected;
- c) initiation by Borrower of a proceeding under any federal or state bankruptcy or insolvency law seeking relief under such laws concerning the Indebtedness of Borrower;
- d) Borrower shall be or become insolvent, or admit in writing its inability to pay its debts as they mature, or make an assignment for the benefit of creditors; or Borrower shall apply for or consent to the appointment of any receiver, trustee, or similar officer for it or for all or any substantial part of its property; or such receiver, trustee, or similar officer shall be appointed without the application or consent of Borrower; or Borrower shall institute (by petition, application, answer, consent, or otherwise) any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, liquidation, or similar proceeding relating to it under the laws of any jurisdiction; or any such proceeding shall be instituted (by petition, application, or otherwise) against Borrower; or any judgment, regulatory fine, writ, warrant of attachment, or execution or similar process shall be issued or levied against Borrower which may have a Material Adverse Effect on the ability of Borrower to perform hereunder;

- e) if at any time the Deed of Trust or any other applicable Collateral Document creating a lien on any of the Collateral may be impaired by any lien, encumbrance or other defect other than the Permitted Encumbrances;
- f) Borrower conceals, removes, or permits to be concealed or removed, any part of its property, with intent to hinder, delay or defraud its creditors, or makes or suffers a transfer of any of its property which may be fraudulent under any bankruptcy, fraudulent conveyance or similar law; or makes any transfer of its property to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid; or suffers or permits while insolvent, any creditor to obtain a lien upon any of its property through legal proceedings which is not vacated within sixty (60) days from the date thereof;
- g) the lien or security interest of the Collateral Documents shall lose validity or first priority, or any Liens which are not Permitted Encumbrances are imposed upon the Collateral (subject to Borrower's rights hereunder to contest such lien) or foreclosure is instituted on any liens against the Collateral;
- h) any judgment, writ, warrant of attachment or execution or similar process shall be issued or levied against the Borrower or its assets in excess of \$3,000,000 which is not covered by insurance, or which exceeds any applicable insurance policy by more than \$3,000,000, and which remains unvacated, unpaid, unbonded or unstayed for a period of 30 days; provided, however, nothing herein shall preclude the Borrower's right to contest in good faith by appropriate proceedings any such judgment, writ, warrant of attachment or execution or similar process; or
- i) default in the payment of the principal of or interest on any Indebtedness of the Borrower for borrowed money, as and when the same shall become due, if such Indebtedness is in the principal amount of at least \$500,000, or under any mortgage, agreement or other instrument under or pursuant to which such Indebtedness, is issued, if such default shall continue beyond the period of grace, if any, allowed with respect thereto.

Section 9.2 Remedies on Default. Whenever an Event of Default described in Section 9.1(d) hereof shall have occurred until such Event of Default has been cured, the Prepayment Amount automatically shall be due and payable, whereupon the Prepayment Amount automatically shall become and be forthwith due and payable without presentment, notice of dishonor, protest, or further notice of any kind, all of which are hereby expressly waived by Borrower. Whenever any other Event of Default shall have occurred, Lender, as assignee of Issuer, shall, as permitted by law, have the right, at its sole option without any further demand or notice, to take any one or any combination of the following remedial steps insofar as the same are available to secured parties under Article 9 of the UCC in effect in the State from time to time and which are otherwise accorded to Lender, as assignee of Issuer, by applicable law, or under the Deed of Trust:

- a) by notice to Issuer and Borrower, declare the Prepayment Amount to be forthwith due and payable, whereupon the Prepayment Amount shall become and be forthwith due and payable, without presentment, notice of dishonor, protest, or further notice of any kind, all of which are hereby expressly waived by Borrower;
- b) realize upon the security interest in the Revenues and exercise all of the rights and remedies of a secured party under the UCC with respect thereto;
- c) take possession of the Property wherever situated, without any court order or other process of law and without liability for entering the premises, and lease, sublease, or make other disposition of the



Property for use over a term in a commercially reasonable manner, all for the account of Lender, provided that Borrower shall remain directly liable for the deficiency, if any, between the rent or other amounts paid by a lessee or sublessee of the Property pursuant to such lease or sublease during the same period of time, after deducting all costs and expenses, including reasonable attorneys' fees and expenses, incurred with respect to the recovery, repair and storage of the Property during such period of time;

- d) take possession of the Collateral wherever situated, without any court order or other process of law and without liability for entering the Property, and sell the Collateral in a commercially reasonable manner; all proceeds from the Collateral arising from the remedies described herein shall be applied in the following manner:

FIRST, to pay all proper and reasonable costs and expenses associated with the recovery, repair, storage, and sale of the Collateral, including reasonable attorneys' fees and expenses;

SECOND, to pay (i) Lender the amount of all unpaid Bond Payments which are then due and owing, (ii) Lender the then applicable Prepayment Amount (taking into account the payment of past-due Bond Payments as aforesaid), and (iii) any other amounts due to hereunder, including indemnity payments, taxes, charges, reimbursement of any advances and other amounts payable to Lender or Issuer hereunder; and

THIRD, to pay the remainder of the Revenues or the remainder of the sale proceeds, purchase moneys or other amounts paid by a buyer of the Property to Borrower;

- e) proceed by appropriate court action to enforce specific performance by Issuer or Borrower of the applicable covenants of this Loan Agreement or to recover for the breach thereof, including the payment of all amounts due from Borrower. Borrower shall pay or repay to Lender or Issuer all costs of such action or court action, including, without limitation, reasonable attorneys' fees;
- f) exercise all rights and remedies under any Loan Document;
- g) take whatever action at law or in equity that may appear necessary or desirable to enforce its rights with respect to the Collateral. Borrower shall pay or repay to Lender or Issuer all costs of such action or court action, including, without limitation, reasonable attorneys' fees;
- h) enter upon any premises where the Property or records relating thereto may be and take possession of the Property and such records;
- i) exercise all rights and remedies under the UCC or the Collateral Documents, existing at law, in equity, or by statute or provided in this Loan Agreement or the Collateral Documents;
- j) upon request of Lender, Borrower shall, at the expense of Borrower, assemble the Property and records relating thereto at a place designated by Lender and tender the Property and such records to Lender;
- k) without notice to Borrower, Lender may obtain the appointment of a receiver of the business, property and assets of Borrower and Borrower hereby consents to the appointment of Lender or such Person as Lender may designate as such receiver;

- l) sell, lease or otherwise dispose of any or all of the Property and, after deducting the Liquidation Costs, apply the remainder to pay the obligations secured by the Collateral; and
- m) Lender may, but without obligation and in addition to any other remedies which Lender may have under this Loan Agreement or the other Loan Documents or, by statute or rule of law, enter upon the Property and construct, equip, and complete the construction of the Project in accordance with the Plans and Specifications or such changes in the Plans and Specifications as Lender may from time to time and in Lender's sole discretion deem appropriate, all at the risk, cost and expense of Borrower. Lender shall have the right at any and all times to discontinue any work commenced by Lender in respect to the Project or to change any course of action undertaken by Lender and shall not be bound by any limitations or requirements of time whether set forth in this Loan Agreement or otherwise; Lender shall have the right and power at Lender's option to assume any construction contract made by or on behalf of Borrower in any way relating to the Project and take over and use all or any part or parts of the labor, materials, supplies and equipment contracted for by or on behalf of Borrower, including such equipment and supplies that have theretofore been delivered to the Property or stored in any facility for incorporation into the Property, all in the sole and absolute discretion of Lender. In connection with the completion of the construction of the Project undertaken by Lender pursuant to the provisions of this Loan Agreement, Lender may (a) engage builders, contractors, architects, engineers and others for the purpose of furnishing labor, materials and equipment in connection with the construction of the Project; (b) pay, settle, or compromise all bills or claims which may become Liens against the Property or the Project or both, or which have been or may be incurred in any manner in connection with the construction, completion and equipping of the Project or for the discharge of liens, encumbrances, or defects in the title of the Property or the Project; (c) use all or any portion of the undisbursed Bond Proceeds; (d) take such action as Lender may determine to protect the Project or the supplies delivered for incorporation into the Project; and/or (e) charge a fee for services rendered in connection with any of the foregoing. Borrower shall be liable to Lender for all sums paid or incurred by Lender for the completion of construction and equipping the Project, whether the same shall be paid or incurred pursuant to provisions of this Section 9.2(m) or otherwise and all payments made or liabilities incurred by Lender under this Loan Agreement of any kind whatsoever, including reasonable attorneys' fees shall be paid by Borrower to Lender upon demand with interest at the Gross Up Rate to the date of payment to Lender. Upon the occurrence of an Event of Default, Borrower hereby irrevocably constitutes and appoints Lender Borrower's true and lawful attorney in fact to execute, acknowledge and deliver any instruments and to do and perform any act such as referred to in this Section 9.2(m) in the name and on behalf of Borrower. This power of attorney is irrevocable and is coupled with an interest.

Notwithstanding any other remedy exercised hereunder, Borrower shall remain obligated to pay to Lender any unpaid portion of the Prepayment Amount. Lender shall not have any obligation to clean-up or otherwise prepare any Property for sale, lease or other disposition.

**Section 9.3 No Remedy Exclusive.** No remedy herein conferred upon or reserved to Lender or Issuer is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or the other Loan Documents or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lender or Issuer to exercise any remedy reserved to it in this Article IX, it shall not be necessary to give any notice other than such notice as may be required by this Article IX. All remedies herein conferred upon or reserved to Lender or Issuer shall survive the termination of this Loan Agreement. No waiver of a

default hereunder shall be construed as a waiver of any future default and shall not limit the rights or remedies of the Lender with respect to any future default hereunder.

Section 9.4 General. In recognition of Lender's right to have all its attorneys' fees and expenses incurred in connection with this Loan Agreement secured by the Collateral, notwithstanding payment in full of the obligations secured by the Collateral, Lender shall not be required to release, reconvey, or terminate any security interest in the Collateral unless and until Borrower has executed and delivered to Lender general releases in form and substance satisfactory to Lender.

## ARTICLE X MISCELLANEOUS

### Section 10.1 Payment of Expenses and Attorney's Fees of Lender and Issuer; Indemnification.

(a) Borrower shall pay all reasonable expenses of Lender and Issuer relating to the negotiation, drafting of documents, documentation of the Loan, and administration and supervision of the Loan, including, without limitation, appraisal fees, environmental inspection fees, field examination expenses, title insurance, recording fees, filing fees, and reasonable attorneys' fees and legal expenses, whether incurred in making the Loan, in future amendments or modifications to the Loan Documents, or in ongoing administration and supervision of the Loan.

(b) Upon occurrence of an Event of Default, Borrower agrees to pay all costs and expenses, including reasonable attorney fees and legal expenses, incurred by Lender and Issuer in enforcing, or exercising any remedies under, the Loan Documents, and any other rights and remedies. Additionally, Borrower shall pay all Liquidation Costs.

(c) Borrower agrees to pay all expenses, including reasonable attorney fees and legal expenses, incurred by Lender and Issuer in any bankruptcy proceedings of any type involving Borrower, this Loan Agreement, the Bonds, or the Collateral, including, without limitation, expenses incurred in modifying or lifting the automatic stay, determining adequate protection, use of cash collateral or relating to any plan of reorganization.

(d) TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER AGREES TO PROTECT, INDEMNIFY, DEFEND AND SAVE HARMLESS ISSUER AND LENDER, THEIR DIRECTORS, OFFICERS, AGENTS, ATTORNEYS, AND EMPLOYEES (EACH AN "INDEMNIFIED PARTY") FOR, FROM, AND AGAINST ANY AND ALL LIABILITY, EXPENSE, OR DAMAGE OF ANY KIND OR NATURE AND FOR, FROM, AND AGAINST ANY SUITS, CLAIMS, OR DEMANDS, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES ON ACCOUNT OF ANY MATTER OR THING OR ACTION, WHETHER IN SUIT OR NOT, ARISING OUT OF THIS LOAN AGREEMENT OR THE LOAN DOCUMENTS, OR IN CONNECTION HEREWITH, EXCLUDING HOWEVER, ANY MATTERS ARISING OUT OF AN INDEMNIFIED PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AS DETERMINED PURSUANT TO A NON-APPEALABLE JUDGEMENT RENDERED BY A COURT OF COMPETENT JURISDICTION OR ANY MATTERS ARISING AFTER LENDER HAS TAKEN TITLE TO OR POSSESSION OF THE PROPERTY. Upon receiving knowledge of any suit, claim, or demand asserted by a third party that Issuer or Lender believes is covered by this indemnity, Issuer or Lender, as applicable, shall give Borrower notice of the matter and an opportunity to defend it, at Borrower's sole cost and expense, with legal counsel satisfactory to the Indemnified Party. The Indemnified Party may also require Borrower to so defend the matter. The obligations on the part of Borrower under this Section 10.1 shall survive the closing of the Loan and the repayment thereof.

(e) To the extent not already covered by (a)-(d) above, the Borrower shall also pay to the Issuer the following as “Additional Payments”:

(a) All taxes and assessments of any type or character charged to the Issuer affecting the amount available to the Issuer from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including taxes and assessments assessed or levied by any public agency or Governmental Authority of whatsoever character having power to levy taxes or assessments); provided, however, that the Borrower shall have the right to protest any such taxes or assessments and to require the Issuer, at the Borrower’s expense, to protest and contest any such taxes or assessments levied upon them and that the Borrower shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Issuer;

(b) The reasonable fees and expenses of such accountants, consultants, attorneys and other experts as may be engaged by the Issuer to prepare audits, financial statements, reports, opinions or provide such other services required under this Loan Agreement or the other Loan Documents; and

(c) The reasonable fees and expenses of the Issuer or any agent or attorney selected by the Issuer to act on its behalf in connection with this Loan Agreement or the other Loan Documents, including, without limitation, any and all reasonable expenses incurred in connection with the Loan or in connection with any litigation, investigation, inquiry or other proceeding which may at any time be instituted involving this Loan Agreement, the other Loan Documents or any of the other documents contemplated hereby or thereby, or in connection with the reasonable supervision or inspection of the Borrower, its properties, assets or operations or otherwise in connection with the administration of this Loan Agreement or the other Loan Documents or any of the other documents contemplated hereby or thereby.

(d) Such amounts as may be necessary to satisfy the rebate requirements in accordance with the Tax Certificate and to pay the cost of calculation of such rebate requirements when required by the Code if the Borrower does not do so directly. To the extent the Borrower does not satisfy any of the exceptions to rebate, any rebate calculations must be computed by a third party rebate analyst and may not be computed solely by the Borrower.

(e) The Borrower agrees to pay the Issuer’s Issuance Fee on the Closing Date. The Borrower further agrees to pay the Issuer Annual Maintenance Fee annually at such times and in the amounts as required by Salt Lake County Ordinance 2.97.

Such Additional Payments shall be billed to the Borrower by the Issuer from time to time, together with a statement certifying that the amount billed has been incurred or paid by the Issuer for one or more of the above items. After such a demand, amounts so billed shall be paid by the Borrower within thirty (30) days after receipt of the bill by the Borrower.

**Section 10.2 Issuer Not Liable.** Notwithstanding any other provision of this Loan Agreement, neither Issuer nor any official, officer, agent, servant, or employee of Issuer shall be liable to Borrower, Lender, or any other person for (a) any action taken by Issuer or by any official, officer, agent, servant, or employee of Issuer under this Loan Agreement (except for its gross negligence or willful misconduct), or (b) any failure of Issuer or any official, officer, agent, servant, or employee of Issuer to take action under this Loan Agreement (except due to its gross negligence or willful misconduct) unless Issuer (i) is requested in writing by an appropriate person to take such action, (ii) is assured of payment of or reimbursement for any expenses in such action, and (iii) is afforded a reasonable period under the circumstances to take such

action, except that Issuer agrees to take, or refrain from taking, any action as required by an injunction and to comply with any final judgment for specific performance. In acting under this Loan Agreement, or in refraining from acting under this Loan Agreement, Issuer may conclusively rely on the advice of its counsel.

Section 10.3 Pledge of State. Pursuant to Section 11-17-13, Utah Code Annotated 1953, as amended, Issuer includes herein the pledge and undertaking of the State that the State will not alter, impair, or limit the rights vested hereunder or in the Bonds, this Loan Agreement, or any of the documents contemplated hereby until the Bonds, together with all Interest thereon, have been fully paid and discharged and all obligations of Issuer thereunder and under this Loan Agreement are fully performed.

Section 10.4 Disclaimer of Warranties. LENDER AND ISSUER MAKE NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR USE OF THE PROJECT, OR ANY OTHER WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, WITH RESPECT THERETO. In no event shall Lender or Issuer be liable for any loss or damage in connection with or arising out of this Loan Agreement, the Property or the existence, furnishing, functioning, or Borrower's use of any item or products or services provided for in this Loan Agreement.

Section 10.5 Notices. All notices, certificates, requests, demands, and other communications provided for hereunder shall be in writing and shall be (a) personally delivered, (b) sent by first class United States mail, (c) sent by overnight courier of national reputation, or (d) transmitted by telecopy, in each case addressed to the party to whom notice is being given at its address as set forth above and, if telecopied, transmitted to that party at its telecopier number set forth above or, as to each party, at such other address or telecopier number as may hereafter be designated by such party in a written notice to the other party complying as to delivery with the terms of this Section 10.5. All such notices, requests, demands, and other communications shall be deemed to have been given on (i) the date received if personally delivered, (ii) when deposited in the mail if delivered by mail, (iii) the date sent if sent by overnight courier, or (iv) the date of transmission if delivered by telecopy. If notice to Borrower of any intended disposition of the Property or any other intended action is required by law in a particular instance, such notice shall be deemed commercially reasonable if given (in the manner specified in this Section 10.5) at least 10 calendar days prior to the date of intended disposition or other action.

Section 10.6 Further Assurance and Corrective Instruments. Issuer and Borrower hereby agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged, and delivered, such further acts, instruments, conveyances, transfers, and assurances, as Lender reasonably deems necessary or advisable for the implementation, correction, confirmation, or perfection of this Loan Agreement and each other Loan Document and any rights of Lender hereunder or thereunder. The parties hereby agree that with the written or electronic (i.e., email) consent of each of the Lender, the Borrower and the Issuer (such consent to be provided on behalf of the Issuer by either the current [**Chair of the Board of Commissioners or the Commission Administrator**]) may be attached hereto, incorporated herein and made a part hereof as an amendment hereto without the need for execution of signature pages or other formal written amendment procedures or compliance with the requirements of Section 10.9, for the sole and limited purpose of aligning the negotiated provisions hereof relating to monitoring of construction of the Project and conditions to and procedures for advances hereunder and removing any ambiguities contained herein; *provided, however*, that notwithstanding the generality of the foregoing, the incorporation of any such addendum or attachment into this Loan Agreement as an amendment shall not in any way be construed or deemed to obligate the Issuer beyond the terms of the Loan Agreement as of the date hereof, to limit the protections afforded to the Issuer hereunder, to amend any representations or covenants of the Borrower relating to the tax-exemption of the bonds or compliance by the Borrower or the Issuer with any requirements of the Internal Revenue Code, or to otherwise amend, supplement or change any provisions of this Loan Agreement relating to or benefiting the Issuer, or relating to or affecting the authority of the

Issuer, the provisions of the Act and the purposes of the Bonds or the nature of the Project, the terms of the Bonds, or any covenants, obligations or provisions which could adversely affect the exclusion of the interest on the Bonds from gross income for federal income tax purposes.

Section 10.7 Binding Effect; Time of the Essence. This Loan Agreement shall inure to the benefit of and shall be binding upon Lender, Issuer, Borrower, and their respective successors and assigns. Time is of the essence.

Section 10.8 Severability. In the event any provision of this Loan Agreement 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 10.9 Amendments. Except as provided in Section 10.6, the terms of this Loan Agreement shall not be waived, altered, modified, supplemented, or amended in any manner whatsoever except by written instrument signed by all parties hereto and the parties have obtained an opinion of bond counsel that such amendment or modification will not adversely affect the exclusion of the interest on the Bonds from gross income for federal income tax purposes, and then such waiver, consent, modification, or change shall be effective only in the specific instance and for the specific purpose given.

Section 10.10 Execution in Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument, and any of the parties hereto may execute this Loan Agreement by signing any such counterpart.

Section 10.11 Applicable Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State.

Section 10.12 Captions. The captions or headings in this Loan Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections of this Loan Agreement.

Section 10.13 Entire Agreement. This Loan Agreement and the other Loan Documents and the exhibits hereto and thereto constitute the entire agreement among Lender, Issuer, and Borrower. There are no understandings, agreements, representations, or warranties, express or implied, not specified herein or in such documents regarding this Loan Agreement or the Project financed hereby. PURSUANT TO UTAH CODE SECTION 25-5-4, BORROWER IS NOTIFIED THAT THESE AGREEMENTS ARE A FINAL EXPRESSION OF THE AGREEMENT BETWEEN LENDER AND BORROWER AND THESE AGREEMENTS MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED ORAL AGREEMENT.

All prior and contemporaneous agreements, arrangements and understandings between the parties hereto as to the subject matter hereof are, except as otherwise expressly provided herein, rescinded.

Section 10.14 Limitations of Liability. In no event, whether as a result of breach of contract, warranty, tort (including negligence or strict liability), indemnity or otherwise, shall Lender, the Borrower or the Issuer, or their respective successors or assigns, be liable for any special, consequential, incidental, punitive or penal damages, including, but not limited to, loss of profit or revenue, loss of use of the Property, service materials or software, damage to associated equipment, service materials or software, cost of capital, cost of substitute property, service materials or software, facilities, services, or replacement power or downtime costs.

**Section 10.15 Waiver of Defenses and Release of Claims.** Borrower hereby (i) represents that it does not have any defenses to or setoffs against any Indebtedness or other Obligations owing by Borrower, or by Borrower's Affiliates or principals, to Lender or Lender's Affiliates, nor any claims against Lender or Lender's Affiliates for any matter whatsoever, related or unrelated to such Indebtedness or other Obligations, and (ii) releases Lender and Lender's Affiliates, officers, directors, employees and agents from all claims, causes of action, and costs, in law or equity, known or unknown, whether or not matured or contingent, existing as of the date hereof that Borrower has or may have by reason of any matter of any conceivable kind or character whatsoever, related or unrelated to any Indebtedness or other Obligations, including the subject matter of this Loan Agreement. The foregoing release does not apply, however, to claims for future performance of express contractual obligations that accrue or mature after the date hereof that are owing to Borrower by Lender or Lender's Affiliates. Borrower acknowledges that Lender has been induced to enter into or continue the Obligations by, among other things, the waivers and releases in this Section 10.15.

**Section 10.16 Money Laundering Activities.** Borrower is not (and will not be) a person with whom Lender is restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury of the United States of America (including, those Persons named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including, the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and shall not engage in any dealings or transactions or otherwise be associated with such persons. In addition, Borrower hereby agrees to provide to Lender any additional information that Lender deems necessary from time to time in order to ensure compliance with all applicable laws concerning money laundering and similar activities.

**Section 10.17 Usury.** It is the intention of the parties hereto to comply with any applicable usury laws; accordingly, it is agreed that, notwithstanding any provisions to the contrary in this Loan Agreement, in no event shall this Loan Agreement require the payment or permit the collection of interest or any amount in the nature of interest or fees in excess of the maximum permitted by applicable law.

**Section 10.18 Electronic Signatures.** The parties to this Loan Agreement expressly agree that they may, but are not obligated to, conduct this transaction electronically, including by scan, email, fax, or other electronic means, under the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq. and the applicable Uniform Electronic Transactions Act, as amended or substituted. The person signing this Loan Agreement by electronic means represents and warrants that he or she is the person represented through the electronic medium, and that he or she has full power and authority to electronically sign this Loan Agreement.

**Section 10.19 Consent to Utah Jurisdiction and Exclusive Jurisdiction of Utah Courts.** Borrower acknowledges that by execution and delivery of this Loan Agreement, Borrower has transacted business in the State and Borrower voluntarily submits to, consents to, and waives any defense to the jurisdiction of courts located in Salt Lake County, Utah as to all matters relating to or arising from this Loan Agreement and/or the transactions contemplated thereby. EXCEPT AS EXPRESSLY AGREED IN WRITING BY LENDER AND ISSUER, THE STATE AND FEDERAL COURTS LOCATED IN SALT LAKE COUNTY, UTAH SHALL HAVE SOLE AND EXCLUSIVE JURISDICTION OF ANY AND ALL CLAIMS, DISPUTES, AND CONTROVERSIES, ARISING UNDER OR RELATING TO THIS LOAN AGREEMENT AND/OR THE TRANSACTIONS CONTEMPLATED THEREBY. NO LAWSUIT, PROCEEDING, OR ANY OTHER ACTION RELATING TO OR ARISING UNDER THIS LOAN AGREEMENT AND/OR THE TRANSACTIONS CONTEMPLATED THEREBY MAY BE COMMENCED OR PROSECUTED IN ANY OTHER FORUM EXCEPT AS EXPRESSLY AGREED IN WRITING BY LENDER AND ISSUER.

Section 10.20 Disclosure of Financial and Other Information. Borrower hereby consents to Lender disclosing to any other lender who may participate in this Loan Agreement any and all information, knowledge, reports, and records, including, without limitation, financial statements, relating in any manner whatsoever to the Loan and the Borrower.

Section 10.21 Jury Trial Waiver; Class Action Waiver. As permitted by applicable law, the parties each waive their respective rights to a trial before a jury in connection with any claim, dispute or controversy arising between the parties with respect to this Loan Agreement, the Bonds or the transaction contemplated herein, and the same shall be resolved by a judge sitting without a jury. If permitted by applicable law, each party also waives the right to litigate in court or an arbitration proceeding any claim, dispute or controversy arising between the parties with respect to this Loan Agreement, the Bonds or the transaction contemplated herein as a class action, either as a member of a class or as a representative, or to act as a private attorney general.

[Signature Pages Follow]



IN WITNESS WHEREOF, the parties hereto have executed this Loan Agreement in their respective names by their duly authorized officers, all as of the date first written above.

Lender:

**ZIONS BANCORPORATION, N.A. DBA  
ZIONS FIRST NATIONAL BANK**

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

Name:

Title: Senior Vice President

[Signature page to Loan Agreement]  
Salt Lake County, Utah  
Industrial Development Revenue Bonds  
(Rowland Hall Project) Series 2024A and Series 2024B

Issuer:

**SALT LAKE COUNTY, UTAH**

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

Name:

Title:

COUNTERSIGN:

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

Name:

Title: County Clerk

Reviewed and Advised as to Form and Legality:

\_\_\_\_\_  
Deputy District Attorney  
Salt Lake County

[Signature page to Loan Agreement]  
Salt Lake County, Utah  
Industrial Development Revenue Bonds  
(Rowland Hall Project) Series 2024A and Series 2024B

Borrower:

**ROWLAND HALL-ST. MARK'S SCHOOL**

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

Name:

Title: [**Chief Financial Officer**]

[Signature page to Loan Agreement]  
Salt Lake County, Industrial Development Revenue Bonds  
(Rowland Hall Project) Series 2024A and Series 2024B

EXHIBIT A

FORM OF OPINION OF COUNSEL TO BORROWER

[\*], 2024

Dorsey & Whitney LLP  
111 S. Main St., Suite 2100  
Salt Lake City, UT 84111

Zions Bancorporation, N.A.  
1 S Main Street  
Salt Lake City, Utah 84133

Salt Lake County, Utah Finance Department  
2001 South State Street, Ste #N4-200  
PO Box 144575  
Salt Lake City, Utah 84115-4575

Gilmore & Bell, P.C.  
15 W. S. Temple, Suite 1400  
Salt Lake City, Utah 84101

Re: Salt Lake County, Utah Industrial Development Revenue Bonds (Rowland Hall Project) Series 2024A and Series 2024B

Ladies and Gentlemen:

I have acted as counsel to Rowland Hall-St. Mark's School, a Utah nonprofit corporation (the "Borrower"), in connection with the issuance and sale by Salt Lake County, Utah (the "County"), of its Industrial Development Revenue Bonds (Rowland Hall Project), Series 2024A and Series 2024B (the "Bonds"). All capitalized terms used herein and not defined herein have the meanings assigned to them in the Loan Agreement dated as of [\*], 2024 (the "Loan Agreement"), among the Borrower, the County and Zions Bancorporation, N.A. (the "Lender").

I have examined the [**Articles of Incorporation and Bylaws**] of the Borrower; a Certificate of Existence / Good Standing of the Borrower issued by the Utah Department of Commerce dated [\*], 2024; the Loan Agreement; a copy of the determination letter from the Internal Revenue Service dated [**March 21, 1997**], stating as of its date that the Borrower is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"); the Series 2024A Promissory Note dated [\*], 2024 and the Series 2024B Promissory Note dated [\*], 2024 from the Borrower to the County (together, the "Promissory Note"); the resolution of the Board of Directors of the Borrower adopted [\*], 2024 authorizing and approving various matters in connection with the issuance of the Bonds (the "Resolution"); a copy of a UCC-1 financing statement, naming the Borrower as debtor and the Lender as secured party (the "Financing Statement"); the Tax Compliance Agreement of the Borrower executed in connection with the issuance of the Bonds (the "Tax Certificate"); the Security Agreement dated as of [\*], 2024 between the Borrower and the Lender (the "Security Agreement"); the Collateral Assignment of Sale Leaseback Agreement dated as of [\*], 2024 from the Borrower to the Lender (the "Assignment of SLA"); the Collateral Assignment of Donations and Donation Commitments dated as of [\*], 2024 from the Borrower to the Lender (the "Assignment of Donations" and together with the Security Agreement and the Assignment of

SLA, collectively, the “Security Documents”); and the Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing dated as of [\*], 2024 from the Borrower to the Lender (the “Deed of Trust,” and together with the Loan Agreement, the Promissory Notes, the Tax Certificate, the Resolution, the Security Documents, collectively, the “Borrower Documents”), and such other documents as I consider necessary in order to deliver this opinion. I have also reviewed such questions of law as I have considered necessary and appropriate for the purposes of the opinions set forth below.

In rendering the opinions set forth below, I have assumed the authenticity of all documents submitted to me as originals, the genuineness of all signatures and the conformity to authentic originals of all documents submitted to me as copies.

I have also assumed the legal capacity for all purposes relevant hereto of all natural persons and, with respect to all parties to agreements or instruments relevant hereto other than the Borrower, that such parties had the requisite power and authority (corporate or otherwise) to execute, deliver and perform such agreements or instruments, that such agreements or instruments have been duly authorized by all requisite action (corporate or otherwise), executed and delivered by such parties and that such agreements or instruments are the valid, binding and enforceable obligations of such parties. As to questions of fact material to this opinion, I have relied upon the representations made in the Borrower Documents and upon certificates of officers of the Borrower and of public officials.

Based on the foregoing, I am of the opinion that:

1. The Borrower is a nonprofit corporation duly incorporated, validly existing and in good standing under the laws of the State of Utah, with corporate power to operate the facilities financed and refinanced by the Bonds and incur the indebtedness contemplated by the Borrower Documents.
2. The Borrower has the corporate power to execute, deliver and perform the Borrower Documents; and to own its own property and conduct its business as described in the Loan Agreement.
3. The Borrower Documents have been duly authorized by all requisite corporate action, executed and delivered by the Borrower. Each of the Borrower Documents has been duly executed and delivered by the Borrower.
4. The Borrower Documents constitute valid and binding obligations of the Borrower enforceable in accordance with their terms, except as enforcement of thereof may be limited by and subject to (a) bankruptcy, insolvency, equitable subordination, preference, fraudulent or voidable transfer or conveyance, reorganization, receivership, arrangement moratorium or other similar laws, now or hereafter in effect, relating to or affecting creditors’ rights (including the enforcement thereof) generally; and (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law), including, without limitation, principles of materiality, reasonableness, good faith and fair dealing, judicial discretion, public policy and availability of injunctive relief or other equitable remedies.
5. The Borrower is an organization described in Section 501(c)(3) of the Code and the Borrower is exempt from federal income taxation under Section 501(a) of the Code, but it is subject to taxation with respect to unrelated business taxable income.
6. For purposes of Section 145(a) of the Code, the activities to be carried on by the Borrower in connection with the use of the facilities financed and refinanced with the proceeds of the Bonds will not constitute an unrelated trade or business of the Borrower under Section 513(a) of the Code to an extent that would adversely impact the tax-exempt status of the Bonds. Neither the execution of the Borrower Documents by the Borrower nor the ownership and operation of the Borrower and its facilities as

contemplated in the Borrower Documents will jeopardize the Borrower's status as an organization described in Section 501(c)(3) of the Code.

7. The Loan Agreement and the Security Documents creates a valid security interest in the Collateral (as defined in the Loan Agreement) of the Borrower in favor of the Lender and the Deed of Trust creates a valid security interest in the Subject Property (as defined in the Deed of Trust) to secure the Borrower's obligations under the Loan Agreement. The Deed of Trust is in appropriate form for recordation in the land records of Salt Lake County, Utah, and upon recording of the Deed of Trust in the land records of Salt Lake County, Utah, and upon filing of the Financing Statement with the Utah Department of Commerce, the security interests granted in the Deed of Trust, the Loan Agreement and the Security Documents will be valid and perfected liens on the interests described therein. There are no Deed of Trust taxes or other payments required to be paid to record the Deed of Trust, other than customary per-page recording fees and there is no state or local mortgage tax, stamp tax, or other fee or tax (other than customary per-page or document filing and recording fees imposed by law) is required to be paid in the State of Utah in connection with the execution, delivery, filing, or recording of any other Borrower Document or the Financing Statement.

8. The execution and delivery of the Borrower Documents will not violate or conflict with the Articles of Incorporation or Bylaws of the Borrower or any organizational document or proceeding organizing or establishing the Borrower or any agreement or instrument known to me to which the Borrower is a party or by which the Borrower is bound.

9. The execution and delivery of the Borrower Documents will not, to my knowledge, violate any rule or regulation applicable to the Borrower, or any Governmental Authority or regulatory body of the United States or the State of Utah, or any judgment, order or decree known to me and applicable to the Borrower of any court, Governmental Authority or arbitrator (except for federal and state securities laws and antitrust laws, as to which I express no opinion). No consent, approval, authorization or order of, or registration or filing with, any Governmental Authority in the State of Utah is required for the execution and delivery by Borrower of the Borrower Documents or its performance of its obligations thereunder, other than any filings, notices or recordings that may be required for the perfection of any liens, pledges or security interests granted pursuant to the Borrower Documents.

10. After due inquiry, we know of no pending or overtly threatened lawsuits or claims against the Borrower that may adversely affect the transactions contemplated by the Borrower Documents, or that would challenge the Borrower's or any of the officers of the Borrower's authority to perform thereunder, or that would have a material adverse effect on the Borrower including its financial condition.

The opinions set forth above are subject to the following qualifications and exceptions:

1. The opinions in paragraphs 2, 3 and 4 above are subject to the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or other similar law of general application affecting creditors' rights, including (without limitation) applicable fraudulent transfer laws.

2. The opinions in paragraphs 2, 3 and 4 above are subject to the effect of general principles of equity, including (without limitation) concepts of materiality, reasonableness, good faith and fair dealing, and other similar doctrines affecting the enforceability of agreements generally (regardless of whether considered in a proceeding in equity or at law).

3. The opinions in paragraphs 2, 3 and 4 above are subject to possible judicial action giving effect to governmental actions or foreign laws affecting creditors' rights.

4. The opinion in paragraph 4 above, insofar as it relates to indemnification provisions, is subject to the effect of the federal and state securities laws and public policy relating thereto.

The foregoing opinions are being furnished to you solely for your benefit and may not be relied upon by, nor may copies be delivered to, any other person without my prior written consent.

Dated and effective as of [\*], 2024

Very truly yours,

EXHIBIT B

FORM OF OPINION OF COUNSEL TO ISSUER

[\*], 2024

Salt Lake County, Utah Finance Department  
2001 South State Street, Ste #N4-200  
PO Box 144575  
Salt Lake City, Utah 84115-4575

Rowland Hall-St. Mark's School  
720 South Guardsman Way  
Salt Lake City, Utah 84108

Zions Bancorporation, N.A.  
dba Zions First National Bank  
1 S. Main St., Ste. 300  
Salt Lake City, Utah 84113

Re: \$85,000,000 Salt Lake County, Utah Industrial Development Revenue Bonds (Rowland Hall Project), Series 2024A and Series 2024B

I have acted as counsel to Salt Lake County, Utah (the "Issuer") in connection with the authorization and issuance of the above-referenced bonds (the "Bonds"). The Bonds are issued under and pursuant to the Utah Industrial Facilities and Development Act, Title 11, Chapter 17, Utah Code Annotated 1953, as amended (the "Act"), resolutions of the Issuer adopted on June 4, 2024 and [June 25, 2024 (together, the "Resolution") authorizing the issuance of the Bonds, and a Loan Agreement dated as of [\*], 2024 (the "Loan Agreement"), among Zions Bancorporation, N.A. d/b/a Zions First National Bank, as lender ("Lender"), the Issuer, as issuer, and Rowland Hall-St. Mark's School, as borrower (the "Borrower").

The Bonds are being issued for the purpose of financing the Project.

The Issuer, the Borrower and the Lender have entered into the Loan Agreement providing, among other things, for application of the proceeds of the Bonds to finance the Project, and for loan payments by the Borrower in such amounts and at such times as are required to pay the interest on and principal of the Bonds when due.

In the course of serving as counsel to the Issuer, I have examined, or caused to be examined, the Loan Agreement and the related Issuer agreements, and such legislation, proceedings, certificates, records, approvals, resolutions and other documents as have been deemed necessary for the purposes of this opinion.

Based upon the foregoing, we are of the opinion that, under existing law:

1. The Issuer is a political subdivision, municipal corporation and body politic of the State of Utah. The Issuer has full legal right, power and authority to issue the Bonds and to use the proceeds thereof as provided in the Resolution and the Loan Agreement to finance the costs of the Project.



2. The Issuer has the right and power to adopt the Resolution, and the Resolution has been duly adopted by the Issuer and is in full force and effect in the respective form in which adopted as of the date hereof.

3. The Issuer has taken the actions required by the Issuer to duly authorize the issuance and sale of the Bonds and to authorize the transactions contemplated by the Loan Agreement and the Resolution. No additional or further approvals, consents or authorizations of the Issuer are required in connection with the participation of the Issuer in the transactions contemplated by the Resolution and the Loan Agreement.

4. The Loan Agreement has been duly authorized, executed and delivered by the Issuer, and assuming proper authorization, execution and delivery by the other parties thereto, the Loan Agreement represents the valid and legally binding agreement of the Issuer enforceable in accordance with its terms.

5. The officers of the Issuer identified in the General Certificate of the Issuer delivered at the closing for the issuance of the Bonds have been duly elected or appointed and are qualified to serve as such. To my knowledge, no such officer of the Issuer has any financial interest, direct or indirect, in the Project or the financing thereof which has not been disclosed.

6. There is no litigation, action, suit, proceeding or investigation by or before any court, agency, arbitrator, or other governmental or administrative board or body, pending or, to the best of our knowledge, threatened against the Issuer, challenging or contesting the powers of the Issuer, the authorization of any member of the County Council or officers of the Issuer to act in their respective capacities, or the issuance of the Bonds, or in which an unfavorable decision, ruling or finding would adversely affect the validity or enforceability of the Loan Agreement, the performance by the Issuer of any of its obligations thereunder, or the issuance or delivery of the Bonds.

7. To my knowledge, the issuance, execution and delivery of the Bonds by the Issuer and the execution and delivery of the Resolution and the Loan Agreement will not contravene the rules of procedure of the Issuer or any applicable judgment, order, decree or regulation of any court or any public or governmental agency or authority of the State of Utah and, to my knowledge, will not conflict with, result in any breach of or constitute a default under any agreement or instrument to which the Issuer is a party or by which the Issuer is bound.

Enforceability of the Bonds, the Resolution and the Loan Agreement may be limited by bankruptcy, insolvency, moratorium, reorganization or other similar laws relating to the enforcement of creditors' rights generally or by equitable principles, whether considered at law or in equity, including the exercise of judicial discretion. No opinion is given herein as to any addendum or exhibit which may be attached to the Loan Agreement after the date of this opinion.

In rendering this opinion, I have relied upon certifications of the Issuer with respect to certain material facts within the Issuer's knowledge. My opinion represents my legal judgment based upon our review of the law and the facts that we deem relevant to render such opinion and is not a guarantee of a result. This opinion is given as of the date hereof and I assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to my attention or any changes in law that may hereafter occur.

Respectfully submitted,

EXHIBIT C

FORM OF OPINION OF BOND COUNSEL

Salt Lake County, Utah Finance Department  
2001 South State Street, Ste #N4-200  
PO Box 144575  
Salt Lake City, Utah 84115-4575

Zions Bancorporation, N.A. d/b/a Zions First  
National Bank  
Salt Lake City, Utah

Re: \$85,000,000 Salt Lake County, Utah Industrial Development Revenue Bonds (Rowland Hall Project), Series 2024A and Series 2024B

Ladies and Gentlemen:

We have acted as bond counsel to Salt Lake County, Utah (the “Issuer”) in connection with the issuance with its \$85,000,000 Industrial Development Revenue Bonds (Rowland Hall Project), Series 2024A and Series 2024B (the “Series 2024 Bonds”), dated, as originally issued, as of the date hereof. The Series 2024 Bonds are being issued by the County pursuant to the Loan Agreement (defined herein), resolutions adopted by the governing body of the County and the Utah Industrial Facilities and Development Act, Title 11, Chapter 17, Utah Code Annotated 1953, as amended (the “Act”). Capitalized terms used herein but not otherwise defined have the meanings assigned to them in the Loan Agreement.

For the purpose of providing this opinion, we have examined (i) the Loan Agreement, dated as of [ \* ], 2024 (the “Loan Agreement”), among the Issuer, Rowland Hall-St. Mark’s School, a Utah nonprofit corporation (the “Borrower”) and Zions Bancorporation, N.A. d/b/a Zions First National Bank (the “Lender”); (ii) an inducement resolution adopted by the governing body of the Issuer on June 4, 2024 and an authorizing resolution adopted by the governing body of the Issuer on [ June, 25, 2024 ] (together, the “Resolution”); (iii) the Tax Compliance Agreement executed on [ \* ] (the “Tax Compliance Agreement”), and (iii) such other documents, certificates, matters of law and legal opinions as we consider necessary to deliver our opinions set forth herein.

In delivering this opinion, we have assumed the authenticity of all documents submitted to us as originals, the genuineness of all signatures and the conformity to authentic originals of all documents submitted to us as copies. We have also assumed, with respect to all parties to agreements or instruments relevant hereto, other than the Issuer, that such parties had the requisite power and authority to execute, deliver and perform such agreements or instruments, that such agreements or instruments have been duly authorized by all requisite action, executed and delivered by such parties and that all such agreements or instruments are the valid, binding and enforceable obligations of such parties.

As to questions of fact material to our opinions set forth herein, we have relied upon the representations of the Issuer and the Borrower contained in the Loan Agreement and the Tax Compliance Agreement, and the certified proceedings and other certifications of the Issuer, the Borrower and others furnished to us, without undertaking to verify them by independent investigation. We have also relied upon the legal opinion of counsel to the Borrower, dated the date of this opinion, regarding certain matters,

including (a) the corporate status and due organization of the Borrower, (b) the Borrower's status as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") and compliance with such status in relation to the Loan Agreement and Tax Compliance Agreement, (c) the corporate power of the Borrower to enter into and perform its obligations under the Loan Agreement and Tax Compliance Agreement, and (d) the due authorization, execution and delivery of the Loan Agreement and Tax Compliance Agreement by the Borrower and the binding effect and enforceability of such documents against the Borrower; and the opinion of counsel to the Issuer dated the date of this opinion, as to the power and authority of the Issuer to issue the Series 2024 Bonds and use the proceeds thereof as provided in the Loan Agreement, and as to certain other matters relating to the Issuer.

From such examination, assuming the authenticity of the documents examined by us, the genuineness of the signatures thereon and the accuracy of the facts stated therein, and based upon federal and Utah laws, regulations, rulings, and decisions in effect on the date hereof, it is our opinion that:

(1) The Issuer is a political subdivision, municipal corporation and body politic of the State and has full power and authority under the laws of the State, including the Act, to issue the Series 2024 Bonds, to loan the proceeds thereof to the Borrower and to pledge and assign the payments to be received pursuant to the Loan Agreement and the Note relating thereto to the Lender as security for the payment of the principal of, premium, if any, and interest on the Series 2024 Bonds.

(2) The Loan Agreement has been duly and validly authorized, executed and delivered by the Issuer and the provisions thereof represent the valid and binding special, limited obligations of the Issuer enforceable in accordance with the terms of the Loan Agreement, except to the extent to which the enforceability thereof may be limited by state and federal laws, rulings, decisions and principles of equity affecting remedies and by bankruptcy, reorganization, moratorium and other laws of general application relating to or affecting the enforcement of creditors' rights or laws relating to creditors' rights against public instrumentalities.

(3) The Series 2024 Bonds have been duly and validly authorized, executed and delivered by the Issuer and are valid and binding special, limited obligations of the Issuer enforceable in accordance with their terms and the terms of the Loan Agreement, except to the extent to which enforceability thereof may be limited by state and federal laws, rulings, decisions and principles of equity affecting remedies and by bankruptcy, reorganization, moratorium and other laws of general application relating to or affecting the enforcement of creditors' rights or laws relating to creditors' rights against public instrumentalities. The Series 2024 Bonds are not general obligations or indebtedness of the Issuer or the State within the meaning of any constitutional, statutory or charter limitation or a charge against their general credit or taxing powers, but are payable solely from the revenues pledged to the payment thereof, and secured by the provisions of the Loan Agreement.

(4) The interest on the Series 2024 Bonds (a) is excludable from gross income for federal income tax purposes, and (b) is not an item of tax preference for purposes of computing the federal alternative minimum tax imposed on individuals and corporations. The opinions set forth in this paragraph are subject to the condition that the Issuer and the Borrower comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Series 2024 Bonds in order that interest thereon be, or continue to be, excludable from gross income for federal income tax purposes. The Issuer and the Borrower have covenanted to comply with all of these requirements. Failure to comply with certain of these requirements may cause the interest on the Series 2024 Bonds to be included in gross income of the bondholder(s) for federal income tax purposes retroactive to the date of issuance of the Series 2024 Bonds.

(5) Interest on the Series 2024 Bonds is exempt from State of Utah individual income taxes.

Except as stated herein, we express no opinion regarding (a) the accuracy, completeness or sufficiency of any offering material relating to the Series 2024 Bonds, (b) the perfection or priority of any property pledged as security for the Series 2024 Bonds, or (c) federal, state, or other tax consequences arising with respect to the Series 2024 Bonds.

The rights of the owner(s) of the Series 2024 Bonds and the enforceability of the Series 2024 Bonds and the Loan Agreement and Tax Compliance Agreement may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally and by equitable principles whether considered at law or in equity.

This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may occur after the date hereof.

Dated: [\*], 2024.

Very truly yours,

EXHIBIT D-1

FORM OF BOND

THIS BOND MAY NOT BE TRANSFERRED EXCEPT IN ACCORDANCE WITH SECTION 2.12 OF  
THE LOAN AGREEMENT REFERRED TO HEREIN AND AS PROVIDED HEREIN

UNITED STATES OF AMERICA  
SALT LAKE COUNTY, UTAH  
INDUSTRIAL DEVELOPMENT REVENUE BONDS  
(ROWLAND HALL PROJECT)  
SERIES 2024A

No. R-1 \$38,000,000

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Issue Date</u>
AS STATED BELOW	[*]	[*], 2024

Registered Owner:                      ZIONS BANCORPORATION, N.A. D/B/A ZIONS FIRST NATIONAL  
BANK

FOR VALUE RECEIVED, the Salt Lake County, Utah, a body corporate and politic and a legal subdivision duly organized and validly existing under the laws of the State of Utah (the “Issuer”), hereby promises to pay to the Registered Owner specified above, or its registered assigns (each, an “Owner”), on the Maturity Date specified above, unless prepaid prior thereto, an aggregate principal amount equal to \$38,000,000 (the “Stated Principal Amount”) or the outstanding principal amount, whichever is less, together with interest thereon at the rates determined as set forth in the hereinafter defined Loan Agreement.

The Bonds shall bear interest on the outstanding principal amount advanced from the date of each advance, or from such later date to which interest has been paid or duly provided for, until paid or discharged at the rate of [\*]% per annum; provided that upon a Determination of Taxability, the interest on the Bonds shall be payable at the Gross Up Rate. Interest will be computed on the basis of the actual number of days elapsed in a 360 day year. Interest payments shall be paid monthly on the first day of each month, commencing [\*], 2024 (each, an “Interest Payment Date”).

Payment of the principal and interest on this Bond shall be made in lawful money of the United States of America which on the respective dates of payment thereof shall be legal tender for the payment of public and private debts. The Issuer has agreed that all amounts payable to the Owner with respect to any Bond held by the Registered Owner shall be made to the Registered Owner by the Borrower (without any presentment thereof, except upon payment of the final installment of principal, and without any notation of such payment being made thereon) in such manner or at such address in the United States of America as may be designated by the Registered Owner in writing to the Issuer and the Borrower. Upon final payment of principal of and interest on this Bond, the Registered Owner shall surrender this Bond for cancellation at the designated offices of the Paying Agent as follows: Rowland Hall-St. Mark’s School, 720 South Guardsman Way, Salt Lake City, Utah or its successors or at such other place designated by the Borrower and provided to the Registered Owner in writing. Partial payments of the principal on this Bond may be noted on the Table of Partial Prepayments attached herein in lieu of surrendering this Bond in connection with such payment. Whenever any payment to be made hereunder shall be stated to be due on a day which is not a Business Day, such payment may be made on the next succeeding Business Day, with the same

force and effect as if made on such due date (whether or not such next succeeding Business Day occurs in a succeeding month), and no interest shall accrue for the intervening period.

This Bond shall be a limited obligation of the Issuer, the principal of, prepayment premium, if any, and interest on which are payable solely from and secured as described in the Loan Agreement, all as described in and subject to limitations set forth in the Loan Agreement, for the equal and ratable benefit of the Registered Owners, from time to time of this Bond.

THE PRINCIPAL OF AND INTEREST ON THIS BOND SHALL NOT CONSTITUTE OR GIVE RISE TO A GENERAL OBLIGATION OR LIABILITY OR A DEBT OR A PLEDGE OF FAITH AND CREDIT OF THE ISSUER, THE STATE OF UTAH, OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER. NEITHER THE ISSUER, THE STATE OF UTAH, NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER SHALL BE OBLIGATED TO PAY PRINCIPAL OF OR INTEREST ON THIS BOND OR OTHER COSTS INCIDENT THERETO EXCEPT FROM REVENUES (AS SUCH TERM IS DEFINED IN THE LOAN AGREEMENT). NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE ISSUER, THE STATE OF UTAH, OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THIS BOND OR OTHER COSTS INCIDENT THERETO.

This Bond is one of the Bonds of a duly authorized issue of bonds of the Issuer known as the Industrial Development Revenue Bonds (Rowland Hall Project), Series 2024A (the “Bonds”), dated as of the Issue Date specified above. All of the Bonds are issued under and pursuant to the laws of the State of Utah, including the Utah Industrial Facilities and Development Act, Title 11, Chapter 17, Utah Code Annotated 1953, as amended (the “Act”), and a Loan Agreement (as amended, restated, supplemented or otherwise modified from time to time the “Loan Agreement”), dated as of [\*] among the Issuer, Rowland Hall-St. Mark’s School (the “Borrower”) and Zions Bancorporation, N.A. dba Zions First National Bank, as Lender (the “Lender”). Reference is hereby made to the Loan Agreement for the provisions, among others, with respect to the custody and application of the Bond Proceeds, the nature and extent of the security for the Bonds, the terms and conditions under which the Bonds are or may be issued, the rights, duties and obligations of the Issuer and the rights of the Registered Owners of the Bonds. By the acceptance of this Bond, the Registered Owner hereof assents to all of the provisions of the Loan Agreement. Capitalized terms used herein and not defined shall have the meanings assigned to them in the Loan Agreement.

The Bonds have been issued for the purpose of financing costs of the Project. The Issuer has agreed to lend the proceeds of the sale of the Bonds to the Borrower, and the Borrower has agreed to make payments in an amount, corresponding to the Principal Amount of, interest rate on, and due dates of the Bonds.

The Bonds are issuable as fully registered Bonds in the principal amount of **[\$250,000]** and multiples of \$0.01 in excess thereof (an “Authorized Denomination”). This Bond may, at the option of the Registered Owner hereof, be exchanged for an equal aggregate principal amount of Bonds of the same aggregate principal amount and tenor as the Bond being exchanged and of any Authorized Denomination as provided in the Loan Agreement. This Bond may be registered as transferred as provided in the Loan Agreement, subject to certain limitations therein contained, accompanied by a written instrument of transfer (in substantially the form of the assignment attached hereto) duly executed by the Registered Owner hereof or his/her duly authorized attorney. Thereupon, one or more new Bonds of any Authorized Denomination and in the same aggregate principal amount and tenor as the Bond surrendered (or for which registration of transfer has been effected) will be issued to the designated transferee or transferees.

The Bonds are subject to prepayment as set forth in the Loan Agreement.

Under certain circumstances as described in the Loan Agreement, the principal of all the Bonds may be declared due and payable in the manner and with the effect provided in the Loan Agreement.

Modifications or alterations to the Loan Agreement may be made only to the extent and in the circumstances permitted by the Loan Agreement.

It is hereby certified that all acts, conditions and things required to happen, exist and be performed under the laws of the State of Utah and under the Loan Agreement precedent to and in the issuance of this Bond have happened, exist and have been performed as so required and that the issuance, authentication and delivery of this Bond have been duly authorized by the Issuer.

**IN WITNESS WHEREOF**, SALT LAKE COUNTY, UTAH has caused this Bond to be executed in its name and on its behalf by the manual or facsimile signature of the Mayor of the Issuer and its official seal to be impressed or imprinted hereon and attested by manual signature of the County Clerk of the Issuer, all as of the Issue Date referenced above.

SALT LAKE COUNTY, UTAH

(SEAL)

By: \_\_\_\_\_  
Title: Mayor or Designee  
Name:

ATTEST:

\_\_\_\_\_  
County Clerk



**ASSIGNMENT**

**FOR VALUE RECEIVED** the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ (Please print or type the Name and Address, including the Zip Code of the Transferee, and the federal taxpayer identification or social security number) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration and transfer thereof, with full power of substitution in the premises.

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

NOTICE: The signature on this Assignment must correspond with the name as it appears upon the face of the within-mentioned Bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed

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

TABLE OF PARTIAL PREPAYMENTS

Upon all partial prepayments (whether optional, mandatory or otherwise) the Registered Owner shall make the appropriate notation itself on the table below. The Registered Owner's records relating to the outstanding principal amount of the Bond shall in all cases prevail:

<u>Date</u>	<u>Amount Prepaid</u>	<u>Remaining Unpaid Principal Amount</u>	<u>Signature of Owner</u>

[End of Form of Bond]

EXHIBIT D-2

FORM OF BOND

THIS BOND MAY NOT BE TRANSFERRED EXCEPT IN ACCORDANCE WITH SECTION 2.12 OF  
THE LOAN AGREEMENT REFERRED TO HEREIN AND AS PROVIDED HEREIN

UNITED STATES OF AMERICA  
SALT LAKE COUNTY, UTAH  
INDUSTRIAL DEVELOPMENT REVENUE BONDS  
(ROWLAND HALL PROJECT)  
SERIES 2024B

No. R-1 \$47,000,000

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Issue Date</u>
AS STATED BELOW	[*]	[*], 2024

Registered Owner:                      ZIONS BANCORPORATION, N.A. D/B/A ZIONS FIRST NATIONAL  
BANK

FOR VALUE RECEIVED, the Salt Lake County, Utah, a body corporate and politic and a legal subdivision duly organized and validly existing under the laws of the State of Utah (the “Issuer”), hereby promises to pay to the Registered Owner specified above, or its registered assigns (each, an “Owner”), on the Maturity Date specified above, unless prepaid prior thereto, an aggregate principal amount equal to \$47,000,000 (the “Stated Principal Amount”) or the outstanding principal amount, whichever is less, together with interest thereon at the rates determined as set forth in the hereinafter defined Loan Agreement.

The Bonds shall bear interest on the outstanding principal amount advanced from the date of each advance, or from such later date to which interest has been paid or duly provided for, until paid or discharged at the rate of [\*]% per annum; provided that upon a Determination of Taxability, the interest on the Bonds shall be payable at the Gross Up Rate. Interest will be computed on the basis of the actual number of days elapsed in a 360 day year. Interest payments shall be paid monthly on the first day of each month, commencing [\*], 2024 (each, an “Interest Payment Date”).

Payment of the principal and interest on this Bond shall be made in lawful money of the United States of America which on the respective dates of payment thereof shall be legal tender for the payment of public and private debts. The Issuer has agreed that all amounts payable to the Owner with respect to any Bond held by the Registered Owner shall be made to the Registered Owner by the Borrower (without any presentment thereof, except upon payment of the final installment of principal, and without any notation of such payment being made thereon) in such manner or at such address in the United States of America as may be designated by the Registered Owner in writing to the Issuer and the Borrower. Upon final payment of principal of and interest on this Bond, the Registered Owner shall surrender this Bond for cancellation at the designated offices of the Paying Agent as follows: Rowland Hall-St. Mark’s School, 720 South Guardsman Way, Salt Lake City, Utah or its successors or at such other place designated by the Borrower and provided to the Registered Owner in writing. Partial payments of the principal on this Bond may be noted on the Table of Partial Prepayments attached herein in lieu of surrendering this Bond in connection with such payment. Whenever any payment to be made hereunder shall be stated to be due on a day which is not a Business Day, such payment may be made on the next succeeding Business Day, with the same

force and effect as if made on such due date (whether or not such next succeeding Business Day occurs in a succeeding month), and no interest shall accrue for the intervening period.

This Bond shall be a limited obligation of the Issuer, the principal of, prepayment premium, if any, and interest on which are payable solely from and secured as described in the Loan Agreement, all as described in and subject to limitations set forth in the Loan Agreement, for the equal and ratable benefit of the Registered Owners, from time to time of this Bond.

THE PRINCIPAL OF AND INTEREST ON THIS BOND SHALL NOT CONSTITUTE OR GIVE RISE TO A GENERAL OBLIGATION OR LIABILITY OR A DEBT OR A PLEDGE OF FAITH AND CREDIT OF THE ISSUER, THE STATE OF UTAH, OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER. NEITHER THE ISSUER, THE STATE OF UTAH, NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER SHALL BE OBLIGATED TO PAY PRINCIPAL OF OR INTEREST ON THIS BOND OR OTHER COSTS INCIDENT THERETO EXCEPT FROM REVENUES (AS SUCH TERM IS DEFINED IN THE LOAN AGREEMENT). NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE ISSUER, THE STATE OF UTAH, OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THIS BOND OR OTHER COSTS INCIDENT THERETO.

This Bond is one of the Bonds of a duly authorized issue of bonds of the Issuer known as the Industrial Development Revenue Bonds (Rowland Hall Project), Series 2024B (the “Bonds”), dated as of the Issue Date specified above. All of the Bonds are issued under and pursuant to the laws of the State of Utah, including the Utah Industrial Facilities and Development Act, Title 11, Chapter 17, Utah Code Annotated 1953, as amended (the “Act”), and a Loan Agreement (as amended, restated, supplemented or otherwise modified from time to time the “Loan Agreement”), dated as of [\*] among the Issuer, Rowland Hall-St. Mark’s School (the “Borrower”) and Zions Bancorporation, N.A. dba Zions First National Bank, as Lender (the “Lender”). Reference is hereby made to the Loan Agreement for the provisions, among others, with respect to the custody and application of the Bond Proceeds, the nature and extent of the security for the Bonds, the terms and conditions under which the Bonds are or may be issued, the rights, duties and obligations of the Issuer and the rights of the Registered Owners of the Bonds. By the acceptance of this Bond, the Registered Owner hereof assents to all of the provisions of the Loan Agreement. Capitalized terms used herein and not defined shall have the meanings assigned to them in the Loan Agreement.

The Bonds have been issued for the purpose of financing costs of the Project. The Issuer has agreed to lend the proceeds of the sale of the Bonds to the Borrower, and the Borrower has agreed to make payments in an amount, corresponding to the Principal Amount of, interest rate on, and due dates of the Bonds.

The Bonds are issuable as fully registered Bonds in the principal amount of **[\$250,000]** and multiples of \$0.01 in excess thereof (an “Authorized Denomination”). This Bond may, at the option of the Registered Owner hereof, be exchanged for an equal aggregate principal amount of Bonds of the same aggregate principal amount and tenor as the Bond being exchanged and of any Authorized Denomination as provided in the Loan Agreement. This Bond may be registered as transferred as provided in the Loan Agreement, subject to certain limitations therein contained, accompanied by a written instrument of transfer (in substantially the form of the assignment attached hereto) duly executed by the Registered Owner hereof or his/her duly authorized attorney. Thereupon, one or more new Bonds of any Authorized Denomination and in the same aggregate principal amount and tenor as the Bond surrendered (or for which registration of transfer has been effected) will be issued to the designated transferee or transferees.

The Bonds are subject to prepayment as set forth in the Loan Agreement.

Under certain circumstances as described in the Loan Agreement, the principal of all the Bonds may be declared due and payable in the manner and with the effect provided in the Loan Agreement.

Modifications or alterations to the Loan Agreement may be made only to the extent and in the circumstances permitted by the Loan Agreement.

It is hereby certified that all acts, conditions and things required to happen, exist and be performed under the laws of the State of Utah and under the Loan Agreement precedent to and in the issuance of this Bond have happened, exist and have been performed as so required and that the issuance, authentication and delivery of this Bond have been duly authorized by the Issuer.

**IN WITNESS WHEREOF**, SALT LAKE COUNTY, UTAH has caused this Bond to be executed in its name and on its behalf by the manual or facsimile signature of the Mayor of the Issuer and its official seal to be impressed or imprinted hereon and attested by manual signature of the County Clerk of the Issuer, all as of the Issue Date referenced above.

SALT LAKE COUNTY, UTAH

(SEAL)

By: \_\_\_\_\_  
Title: Mayor or Designee  
Name:

ATTEST:

\_\_\_\_\_  
County Clerk

**ASSIGNMENT**

**FOR VALUE RECEIVED** the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ (Please print or type the Name and Address, including the Zip Code of the Transferee, and the federal taxpayer identification or social security number) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration and transfer thereof, with full power of substitution in the premises.

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

NOTICE: The signature on this Assignment must correspond with the name as it appears upon the face of the within-mentioned Bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed

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

TABLE OF ADVANCES

Upon receipt of any Advance described in Section 2.4 of the Loan Agreement, the Registered Owner of this Bond shall make the appropriate notation on the table below:

<u>Date</u>	<u>Installment Amount Advanced</u>	<u>Total Principal Advanced</u>	<u>Signature of Registered Owner</u>



TABLE OF PARTIAL PREPAYMENTS

Upon all partial prepayments (whether optional, mandatory or otherwise) the Registered Owner shall make the appropriate notation itself on the table below. The Registered Owner's records relating to the outstanding principal amount of the Bond shall in all cases prevail:

<u>Date</u>	<u>Amount Prepaid</u>	<u>Remaining Unpaid Principal Amount</u>	<u>Signature of Owner</u>

[End of Form of Bond]

EXHIBIT E

FORM OF REQUEST FOR ADVANCE

Draw No. \_\_\_\_\_

The undersigned, on behalf of Borrower, hereby requests an advance in the amount, and on the date, set forth below, pursuant to that certain Loan Agreement (the "Agreement") dated as of [\*] among Rowland Hall-St. Mark's School ("Borrower"), Salt Lake County, Utah ("Issuer") and Zions Bancorporation N.A. dba Zions First National Bank, a national banking association ("Lender"). Capitalized terms used and not otherwise defined herein shall have the meanings set forth for them in the Agreement.

REQUESTED AMOUNT: \_\_\_\_\_

REQUESTED DATE: \_\_\_\_\_

SOURCE OF FUNDS: \_\_\_\_\_

Deposit Funds to Account No. \_\_\_\_\_ [or provide  
wire instructions]

Borrower hereby represents and warrants to Lender that:

(a) At the date hereof no suit or proceeding at law or in equity, and no investigation or proceeding of any governmental body, has been instituted or, to the knowledge of Borrower, is threatened, which in either case would materially adversely affect the condition or business operations of Borrower, taken as a whole, except the following:

\_\_\_\_\_

(b) At the date hereof, no default or event of default under the Loan Agreement or under any of the other Loan Documents has occurred and is continuing, and no event has occurred which, upon the service of notice and/or the lapse of time, would constitute an event of default thereunder, except the following:

\_\_\_\_\_

(c) The representations and warranties set forth in Article 6 of the Loan Agreement are hereby reaffirmed and restated, and Borrower represents and warrants to Lender that the same are true, correct and complete on the date hereof in all material respects, except as to the following:

\_\_\_\_\_

(e) The progress of construction of the Project is such that it can be completed on or before the Completion Date specified in the Loan Agreement for the cost originally represented to Lender, except for the following:

\_\_\_\_\_

- (d) No material adverse change has occurred in the financial condition or in the assets or liabilities of Borrower from those set forth in the latest financial statements for each furnished to Lender, except the following:
- 

- (e) The loan represented by the Bonds is in balance as required by the Loan Agreement, and the undisbursed proceeds of the Bonds, including the advance requested herein, are adequate and sufficient to pay for all labor, materials, equipment, work, services and supplies necessary for the completion of the Project, including the installation of all fixtures and equipment required for the operation of the Project, except for the following Project cost increases:
- 

- (f) The labor, materials, equipment, work, services and supplies described herein have been performed upon or furnished to the Project in full accordance with the Plans and Specifications, which have not been amended except as expressly permitted by the Loan Agreement.

- (g) There have been no changes in the costs of the Project.

- (h) All bills for labor, materials, equipment, work, services and supplies furnished in connection with the Addition, which could give rise to a mechanic's lien if unpaid, have been paid or will be paid out of the requested advance.

- (i) All claims for mechanics' liens which shall have arisen or could arise for labor, materials, equipment, work, services or supplies furnished in connection with the Project through the last day of the period covered by the requested advance have been effectively waived in writing, or will be effectively waived in writing when payment is made, and such written waivers shall be delivered to Lender or its disbursing agent.

- (j) All funds advanced under the Loan Agreement to date have been utilized as specified in the Request For Advance pursuant to which the same were advanced, exclusively to pay costs incurred for or in connection with constructing the Project or other costs approved by Lender in writing, and Borrower represents that no part of the Loan proceeds have been paid for labor, materials, equipment, work, services or supplies incorporated into or employed in connection with any project other than the Project or any other improvements other than the Project. Borrower further represents that all funds covered by this Request for Advance are for payment for labor, materials, equipment, work, services or supplies furnished solely in connection with the Project.

[Remainder of Page Intentionally Left Blank]

Borrower authorizes and requests Lender to charge the total amount of this Request For Advance against Borrower's Loan account and to advance from the proceeds of the Bonds the funds hereby requested, and to make or authorize disbursement of said funds to or for the account of the persons or firms and in amounts up to, but not exceeding, the amounts listed herein, subject to the requirements of and in accordance with the procedures provided in the Loan Agreement. The advance made pursuant to this Request for Advance is acknowledged to be an accommodation to Borrower and is not a waiver by Lender of any defaults or events of default under the Loan Documents or any other claims of Lender against Borrower, or the General Contractor.

ROWLAND HALL-ST. MARK'S SCHOOL

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

Its: **[Chief Financial Officer]**

Name:

EXHIBIT F

SERIES 2024B BORROWING BASE CERTIFICATE

Draw No. \_\_\_\_\_

The undersigned, on behalf of Rowland Hall-St. Mark's School ("Borrower"), hereby certifies to the calculation of the Maximum Series 2024B Amount on the date set forth below, pursuant to that certain Loan Agreement (the "Agreement") dated as of [\*] among Borrower, Salt Lake County, Utah ("Issuer") and Zions Bancorporation N.A. dba Zions First National Bank, a national banking association ("Lender"). Capitalized terms used and not otherwise defined herein shall have the meanings set forth for them in the Agreement.

As of the date of the advance to made in connection with the Request for Advance delivered concurrently herewith (the "Advance Date"), (i) the Maximum Series 2024B Amount shall be \$\_\_\_\_\_ and the (ii) the amount of such advance together with the aggregate amount of all advances made under the Agreement in respect of the Series 2024B Bonds is \$\_\_\_\_\_ (the "Current Aggregate Advanced Amounts"). Attached hereto are calculations demonstrating the calculation of the foregoing figures.

[ATTACH CALCULATIONS]

The Current Aggregate Advanced Amounts [IS] [IS NOT] equal to or less than the Maximum Series 2024B Amount.

The Borrower [WILL] [WILL NOT] be compliance with the covenant set forth in Section 2.6 as of the Agreement on the Advance Date.

The undersigned does not have actual knowledge of the existence of any event or condition constituting a Default or an Event of Default under the Agreement.

ROWLAND HALL-ST. MARK'S SCHOOL

By: \_\_\_\_\_  
Its: **[Chief Financial Officer]**  
Name: ]

EXHIBIT G

FLOW OF FUNDS MEMORANDUM

To: Working Group  
From: [\*]  
Date: [\*], 2024  
RE: \$85,000,000  
Salt Lake County, Utah  
Industrial Development Revenue Bonds (Rowland Hall Project), Series 2024A and Series 2024B  
Closing Flow of Funds

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1. Timing  
Closing will occur on [\*], 2024

2. Sources and Uses of Funds  
  
See attached Exhibit

3. [\*], 2024

Rowland Hall-St. Mark's School will deliver a check payable to [\*] the amount of \$[\*] for payment of title insurance.

Deliver to:  
[\*]

\_\_\_\_\_  
\_\_\_\_\_

Attn:

4. [\*]

5. Payment of Costs of Issuance

Rowland Hall-St. Mark's School will pay invoices as presented after closing of the transaction

Exhibit – Sources and Uses



EXHIBIT H-1

FORM OF SERIES 2024A PROMISSORY NOTE AND ENDORSEMENT

\$38,000,000

Salt Lake County, Utah  
[\*], 2024

For value received, the undersigned, Rowland Hall-St. Mark's School, a Utah nonprofit corporation (the "Borrower"), hereby promises to pay to the order of Salt Lake County, Utah ("Issuer"), in its capacity as Issuer under the Loan Agreement dated as of the date hereof (the "Loan Agreement"), between the Issuer, the Borrower and Zions Bancorporation, N.A., as lender ("Lender"), at the Lender's designated office in Salt Lake City, Utah, or at any other place designated at any time by the holder hereof, in lawful money of the United States of America and in immediately available funds, amounts advanced under the Loan Agreement in an amount not to exceed the principal sum of THIRTY EIGHT MILLION and 00/100 DOLLARS (\$38,000,000.00), together with interest on the advanced principal amount remaining unpaid from time to time, computed on the basis of a 360 day year and actual days elapsed, from the date hereof until this Series 2024A Promissory Note is fully paid. The advanced principal amount is payable in such amounts and at such times and at the rate or rates from time to time in effect under the Loan Agreement. The principal hereof and interest accruing thereon shall be due and payable as provided in the Loan Agreement. This Series 2024A Promissory Note may be prepaid only in accordance with the Loan Agreement.

Presentment or other demand for payment, notice of dishonor and protest are expressly waived.

ROWLAND HALL-ST. MARK'S SCHOOL

By: \_\_\_\_\_  
Its: **[Chief Financial Officer]**  
Name:

ENDORSEMENT

Pay to the order of Zions Bancorporation, N.A., without recourse, as lender under the Loan Agreement referred to in the within mentioned Series 2024A Promissory Note, as security for the Series 2024A Bonds issued under such Loan Agreement. This endorsement is given without any warranty as to the authority or genuineness of the signature of the Borrower of the Series 2024A Promissory Note.

DATED: [\*]

SALT LAKE COUNTY, UTAH

By: \_\_\_\_\_  
Title: Mayor or Designee  
Name:

By: \_\_\_\_\_  
Title: County Clerk

Endorsement to Promissory Note  
Salt Lake County, Utah  
Industrial Development Revenue Bonds (Rowland Hall Project), Series 2024A

EXHIBIT H-2

FORM OF SERIES 2024B PROMISSORY NOTE AND ENDORSEMENT

\$47,000,000

Salt Lake County, Utah  
[\*], 2024

For value received, the undersigned, Rowland Hall-St. Mark's School, a Utah nonprofit corporation (the "Borrower"), hereby promises to pay to the order of Salt Lake County, Utah ("Issuer"), in its capacity as Issuer under the Loan Agreement dated as of the date hereof (the "Loan Agreement"), between the Issuer, the Borrower and Zions Bancorporation, N.A., as lender ("Lender"), at the Lender's designated office in Salt Lake City, Utah, or at any other place designated at any time by the holder hereof, in lawful money of the United States of America and in immediately available funds, amounts advanced under the Loan Agreement in an amount not to exceed the principal sum of FORTY SEVEN MILLION and 00/100 DOLLARS (\$47,000,000.00), together with interest on the advanced principal amount remaining unpaid from time to time, computed on the basis of a 360 day year and actual days elapsed, from the date hereof until this Series 2024B Promissory Note is fully paid. The advanced principal amount is payable in such amounts and at such times and at the rate or rates from time to time in effect under the Loan Agreement. The principal hereof and interest accruing thereon shall be due and payable as provided in the Loan Agreement. This Series 2024B Promissory Note may be prepaid only in accordance with the Loan Agreement.

Presentment or other demand for payment, notice of dishonor and protest are expressly waived.

ROWLAND HALL-ST. MARK'S SCHOOL

By: \_\_\_\_\_  
Its: **[Chief Financial Officer]**  
Name:

ENDORSEMENT

Pay to the order of Zions Bancorporation, N.A., without recourse, as lender under the Loan Agreement referred to in the within mentioned Series 2024B Promissory Note, as security for the Series 2024B Bonds issued under such Loan Agreement. This endorsement is given without any warranty as to the authority or genuineness of the signature of the Borrower of the Series 2024B Promissory Note.

DATED: [\*]

SALT LAKE COUNTY, UTAH

By: \_\_\_\_\_  
Title: Mayor or Designee  
Name:

By: \_\_\_\_\_  
Title: County Clerk

Endorsement to Promissory Note  
Salt Lake County, Utah  
Industrial Development Revenue Bonds (Rowland Hall Project), Series 2024B