

In the opinion of Hodgson Russ LLP, Bond Counsel, based on existing statutes, regulations, rulings and court decisions and assuming compliance with certain covenants and the accuracy of certain representations, (1) interest on the Series 2021A Bonds is excluded from gross income for federal income tax purposes, and is not an “item of tax preference” for purposes of the individual and corporate alternative minimum taxes imposed by the Internal Revenue Code of 1986, as amended (the “Code”), except that (a) the Institution (as hereinafter defined) or another Person, by failing to comply with certain requirements contained in the Code, may cause interest on the Series 2021A Bonds to become subject to federal income taxation and certain other taxes from the date of issuance thereof, and (b) interest on the Series 2021A Bonds is included in the tax base for purposes of computing the branch profits tax imposed on foreign corporations doing business in the United States under Section 884 of the Code, and (2) so long as interest on the Series 2021A Bonds is excluded from gross income for federal income tax purposes, interest on the Series 2021A Bonds is exempt under existing law from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York). Interest on the Series 2021B Bonds is not excludable from gross income for federal income tax purposes and is not exempt under existing law from personal income taxes imposed by the State of New York or any political subdivision thereof (including the City of New York). For a more complete discussion, including certain other tax considerations, see “TAX MATTERS” herein.



**Brighter Choice
Charter School**

\$11,820,000

**City of Albany Capital Resource Corporation
Tax-Exempt Revenue Refunding Bonds
(Brighter Choice Elementary Charter Schools Project),
Series 2021A**

\$345,000

**City of Albany Capital Resource Corporation
Taxable Revenue Refunding Bonds
(Brighter Choice Elementary Charter Schools Project),
Series 2021B**

Dated: Date of Delivery

Due: April 1, as shown on the inside cover

The City of Albany Capital Resource Corporation (the “Issuer”) is issuing its Tax-Exempt Revenue Refunding Bonds (Brighter Choice Elementary Charter Schools Project), Series 2021A, in the aggregate principal amount of \$11,820,000 (the “Series 2021A Bonds” or the “Tax-Exempt Bonds”) and its Taxable Revenue Refunding Bonds (Brighter Choice Elementary Charter Schools Project), Series 2021B, in the aggregate principal amount of \$345,000 (the “Series 2021B Bonds” or the “Taxable Bonds,” and together with the Series 2021A Bonds, the “Series 2021 Bonds”) pursuant to an Indenture of Trust dated as of November 1, 2021 (the “Indenture”), between Manufacturers and Traders Trust Company, as trustee (the “Trustee”) and the Issuer. Proceeds of the Series 2021 Bonds will be loaned by the Issuer to Brighter Choice Elementary Charter Schools (the “Institution”), pursuant to a Loan Agreement, dated as of November 1, 2021, by and between the Issuer and the Institution. The Series 2021 Bonds will be secured in part by an assignment and pledge by the Issuer of loan payments due from the Institution under the Loan Agreement. The Series 2021 Bonds will also be secured by mortgage lien on and security interest in two school buildings and a related parking facility owned by the Institution pursuant to a mortgage dated as of November 1, 2021, from the Institution to the Issuer (the “Mortgage”), as assigned by the Issuer to the Trustee under the terms of an Assignment of Mortgage dated as of November 1, 2021 (the “Assignment of Mortgage”).

The Series 2021 Bonds are limited obligations of the Issuer payable solely from the moneys received under the Loan Agreement described herein or held by the Trustee under the Indenture described herein. Interest on the Series 2021 Bonds will accrue from the date of delivery and will be payable semi-annually on each April 1 and October 1, commencing April 1, 2022.

The Series 2021 Bonds are being issued as fully registered bonds and initially will be registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York (“DTC”). DTC will act as the initial securities depository for the Series 2021 Bonds. Purchase of beneficial interests in the Series 2021 Bonds will be made in book-entry-only form (with no physical distributions of certificates made to the public) in denominations of \$5,000 or any integral multiple thereof. For so long as DTC or its nominee, Cede & Co., is the only registered owner of the Series 2021 Bonds, (i) payments of the principal interest and redemption premium, if any, with respect to the Series 2021 Bonds will be made directly to Cede & Co. for payment to its participants for subsequent disbursement to the Beneficial Owners, and (ii) all notices, including any notice of redemption shall be mailed by the Trustee only to Cede & Co.

The Series 2021A Bonds are subject to optional redemption and are also subject to mandatory and extraordinary redemption prior to maturity as described herein. The Series 2021B Bonds are not subject to optional redemption but are subject to extraordinary redemption prior to maturity as described herein.

THE SERIES 2021 BONDS ARE NOT GENERAL OR MORAL OBLIGATIONS OF AND DO NOT CONSTITUTE A CHARGE AGAINST THE GENERAL CREDIT OR PROPERTIES OR TAXING POWERS OF THE ISSUER, THE CITY OF ALBANY (THE “CITY”), THE COUNTY OF ALBANY (THE “COUNTY”), OR THE STATE OF NEW YORK (THE “STATE”) AND DO NOT GRANT TO ANY OWNER OF THE SERIES 2021 BONDS ANY RIGHT TO HAVE THE ISSUER, THE CITY, THE COUNTY, OR THE STATE LEVY ANY TAXES OR APPROPRIATE ANY FUNDS FOR THE PAYMENT OF THE PRINCIPAL THEREOF, OR INTEREST THEREON, NOR ARE THE SERIES 2021 BONDS A GENERAL OBLIGATION OF THE ISSUER, THE CITY, THE COUNTY, OR THE STATE OR THE INDIVIDUAL OFFICERS OR AGENTS THEREOF (OTHER THAN THE INSTITUTION). THE ISSUER HAS NO TAXING POWERS.

THIS COVER PAGE CONTAINS CERTAIN INFORMATION FOR QUICK REFERENCE ONLY. IT IS NOT A SUMMARY OF THIS ISSUE. PURCHASE OF THE SERIES 2021 BONDS INVOLVES A HIGH DEGREE OF RISK, AND THE SERIES 2021 BONDS ARE A SPECULATIVE INVESTMENT. INVESTORS MUST READ THIS ENTIRE OFFICIAL STATEMENT TO OBTAIN INFORMATION ESSENTIAL TO AN INFORMED INVESTMENT DECISION AND SHOULD GIVE PARTICULAR ATTENTION TO THE “RISK FACTORS” SECTION HEREIN.

The Series 2021 Bonds are offered, subject to prior sale, when, as and if issued and accepted by Robert W. Baird & Co. Incorporated (the “Underwriter”), subject to the unqualified approving opinion of Hodgson Russ LLP, Albany, New York, Bond Counsel, and certain other conditions. In connection with the issuance of the Series 2021 Bonds, certain legal matters for the Institution will be passed on by its counsel, Whiteman Osterman & Hanna LLP, Albany, New York, certain legal matters for the Issuer will be passed on by its counsel, Marisa Franchini, Esq., Corporation Counsel, Albany, New York, and certain legal matters for the Underwriter will be passed on by its counsel, Trespasz & Marquardt, LLP, Syracuse, New York. It is expected that the Series 2021 Bonds will be available in book-entry form for delivery against payment therefor on or about November 23, 2021.

BAIRD

MATURITY SCHEDULE

\$11,820,000

**City of Albany Capital Resource Corporation
Tax-Exempt Revenue Refunding Bonds
(Brighter Choice Elementary Charter Schools Project), Series 2021A**

\$6,185,000 Term Bond due April 1, 2031 at 3.250%; Yield: 2.250% Price 108.392; CUSIP® 012432DT4

\$5,635,000 Term Bond due April 1, 2037 at 4.000%; Yield: 2.350% Price 113.782†; CUSIP® 012432DU1

† Priced at the stated yield to the April 1, 2031 optional redemption date at a redemption price of 100%.

\$345,000

**City of Albany Capital Resource Corporation
Taxable Revenue Refunding Bonds
(Brighter Choice Elementary Charter Schools Project), Series 2021B**

Due	Amount	Rate	Yield	Price	CUSIP®
04/01/2023	\$345,000	3.250%	3.250%	100.00	012432DV9

® Registered Trademark, American Bankers Association. CUSIP data herein is provided by Standard & Poor's, CUSIP Services Bureau, a division of the McGraw-Hill Companies, Inc. CUSIP numbers have been assigned by an independent company not affiliated with the Institution and are included solely for the convenience of the readers of this Official Statement and holders of the Series 2021 Bonds. Neither the Issuer nor the Underwriter is responsible for the selection or uses of these CUSIP numbers, and no representation is made as to their correctness on the Series 2021 Bonds or as indicated above. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Series 2021 Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part of the Series 2021 Bonds.

NO DEALER, BROKER, SALESPERSON OR OTHER PERSON HAS BEEN AUTHORIZED BY THE ISSUER, THE INSTITUTION OR THE UNDERWRITER TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATIONS, OTHER THAN THOSE CONTAINED IN THIS OFFICIAL STATEMENT, AND IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATIONS MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY ANY OF THE FOREGOING. ALL INFORMATION CONTAINED HEREIN HAS BEEN OBTAINED FROM THE ISSUER, THE INSTITUTION, DTC AND OTHER SOURCES WHICH ARE BELIEVED TO BE ACCURATE AND RELIABLE, BUT NO REPRESENTATION, WARRANTY, OR GUARANTEE IS MADE AS TO THE ACCURACY OR COMPLETENESS OF ANY INFORMATION IN THIS OFFICIAL STATEMENT. NOTHING CONTAINED IN THIS OFFICIAL STATEMENT CONSTITUTES AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY NOR SHALL THERE BE ANY SALE OF THE SERIES 2021 BONDS BY ANY PERSON IN ANY JURISDICTION IN WHICH IT IS UNLAWFUL FOR SUCH PERSON TO MAKE SUCH OFFER, SOLICITATION OR SALE. THE INFORMATION AND EXPRESSIONS OF OPINION HEREIN ARE SUBJECT TO COMPLETION AND AMENDMENT. ALL SUMMARIES CONTAINED IN THIS OFFICIAL STATEMENT ARE SUBJECT IN ALL RESPECTS TO THE COMPLETE CONSTITUTIONAL PROVISION, STATUTE, REGULATION, RULE, COURT DECISION, DOCUMENT OR REPORT REFERRED TO. THE INFORMATION AND EXPRESSIONS OF OPINION CONTAINED HEREIN ARE SUBJECT TO CHANGE WITHOUT NOTICE. NEITHER THE DELIVERY OF THIS OFFICIAL STATEMENT NOR ANY STATEMENT NOR ANY SALE MADE HEREUNDER WILL UNDER ANY CIRCUMSTANCES CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE AFFAIRS OF THE INSTITUTION SINCE THE DATE HEREOF.

BONDS AND THE BENEFICIAL OWNERSHIP INTERESTS THEREIN MAY ONLY BE PURCHASED BY OR TRANSFERRED IN ACCORDANCE WITH APPLICABLE SECURITIES LAWS, INCLUDING STATE SECURITIES LAWS. SEE “APPENDIX D – DEFINITIONS AND SUMMARIES OF CERTAIN PROVISIONS OF INDENTURE, LOAN AGREEMENT, PLEDGE AND ASSIGNMENT, MORTGAGE, MORTGAGE ASSIGNMENT, ASSIGNMENT OF RENTS AND ASSIGNMENT OF RENTS ASSIGNMENT” HEREIN. THE SERIES 2021 BONDS ARE BEING ISSUED WITHOUT REGISTRATION IN RELIANCE ON SECTION 3(A)(2) OF THE SECURITIES ACT OF 1933, AS AMENDED. THE ISSUER WILL BE REQUIRED UNDER THE CONTINUING DISCLOSURE AGREEMENT TO FURNISH CERTAIN FINANCIAL AND OPERATING INFORMATION.

This Official Statement contains forward-looking statements, which can be identified by the use of future tense or other forward-looking terms such as “may,” “intend,” “will,” “expect,” “anticipate,” “plan,” “management believes,” “estimate,” “continue,” “should,” “strategy,” “budget” or “position” or the negatives of those terms or other variations of them or by comparable terminology. In particular, any statements, express or implied, concerning future receipts of funds or the ability to generate cash flow to service indebtedness are forward-looking statements. Investors are cautioned that reliance on any of these forward-looking statements involves risks and uncertainties and that, although the Issuer’s management believes that the assumptions on which those forward-looking statements are based are reasonable, any of those assumptions could prove to be inaccurate. As a result, the forward-looking statements based on those assumptions also could be incorrect, and actual results may differ materially from any results indicated or suggested by those assumptions. In light of these and other uncertainties, the inclusion of a forward-looking statement in this Official Statement should not be regarded as a representation by the Issuer that its plans and objectives will be achieved. All forward-looking statements are expressly qualified by the cautionary statements contained in this paragraph. The Issuer does not undertake any duty to update any forward-looking statements. See “RISK FACTORS” herein.

THE DESCRIPTIONS OF THE DOCUMENTS IN THE OFFICIAL STATEMENT ARE SUMMARIES THEREOF AND REFERENCE IS MADE TO THE ACTUAL DOCUMENTS FOR A COMPLETE UNDERSTANDING OF THE CONTENTS OF SUCH DOCUMENTS.

THE UNDERWRITER HAS PROVIDED THE FOLLOWING SENTENCE FOR INCLUSION IN THIS OFFICIAL STATEMENT. THE UNDERWRITER HAS REVIEWED THE INFORMATION IN THIS OFFICIAL STATEMENT IN ACCORDANCE WITH, AND AS A PART OF, THE UNDERWRITER’S RESPONSIBILITIES TO INVESTORS UNDER THE FEDERAL SECURITIES LAWS AS APPLIED TO THE FACTS AND CIRCUMSTANCES OF THIS TRANSACTION, BUT THE UNDERWRITER DOES NOT GUARANTEE THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION.

THE ORDER AND PLACEMENT OF MATERIALS IN THIS OFFICIAL STATEMENT, INCLUDING THE APPENDICES, ARE NOT DEEMED TO BE A DETERMINATION OF RELEVANCE, MATERIALITY OR IMPORTANCE, AND THIS OFFICIAL STATEMENT, INCLUDING THE APPENDICES, MUST BE CONSIDERED IN ITS ENTIRETY. THE OFFERING OF THE SERIES 2021 BONDS IS MADE ONLY BY MEANS OF THIS ENTIRE OFFICIAL STATEMENT.

IN MAKING ANY INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THE SERIES 2021 BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, NOR HAS THE INDENTURE BEEN QUALIFIED UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, IN RELIANCE UPON EXEMPTIONS CONTAINED IN SUCH ACTS. THE REGISTRATION OR QUALIFICATION OF THE SERIES 2021 BONDS IN ACCORDANCE WITH APPLICABLE PROVISIONS OF SECURITIES LAWS OF THE STATES IN WHICH THE SERIES 2021 BONDS HAVE BEEN REGISTERED OR QUALIFIED AND THE EXEMPTION FROM REGISTRATION OR QUALIFICATION IN OTHER STATES CANNOT BE REGARDED AS A RECOMMENDATION THEREOF. NEITHER THESE STATES NOR ANY OF THEIR AGENCIES HAVE PASSED UPON THE MERITS OF THE SERIES 2021 BONDS OR THE ACCURACY OR COMPLETENESS OF THIS OFFICIAL STATEMENT. ANY REPRESENTATION TO THE CONTRARY MAY BE A CRIMINAL OFFENSE.

THE INFORMATION SET FORTH HEREIN HAS BEEN OBTAINED FROM THE INSTITUTION, THE ISSUER, DTC AND OTHER SOURCES THAT ARE BELIEVED TO BE RELIABLE, BUT IT IS NOT GUARANTEED AS TO ACCURACY AND COMPLETENESS, AND IS NOT TO BE CONSTRUED AS A REPRESENTATION BY THE UNDERWRITER. THE INFORMATION AND EXPRESSIONS OF OPINION HEREIN ARE SUBJECT TO CHANGE WITHOUT NOTICE AND NEITHER THE DELIVERY OF THIS OFFICIAL STATEMENT NOR ANY SALE MADE HEREUNDER SHALL, UNDER ANY CIRCUMSTANCES, CREATE THE IMPLICATION THAT THERE HAS BEEN NO CHANGE IN ANY OF THE INFORMATION SET FORTH HEREIN SINCE THE DATE HEREOF.

THE ISSUER ASSUMES NO RESPONSIBILITY AS TO THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED IN THIS OFFICIAL STATEMENT, OTHER THAN INFORMATION UNDER THE CAPTIONS "THE ISSUER" AND "NO LITIGATION – THE ISSUER," ALL OF WHICH INFORMATION HAS BEEN FURNISHED BY OTHERS.

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The Issuer

City of Albany Capital Resource Corporation
Albany, New York

Bond Counsel to the Issuer

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Albany, New York

The Institution

Brighter Choice Elementary Charter Schools
Albany, New York

The Institution's Counsel

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Manufacturers and Traders Trust Company
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SUMMARY STATEMENT

The information set forth in this summary statement is a brief overview only of certain matters contained in this Official Statement. This summary statement is subject in all respects to more complete information set forth elsewhere in this Official Statement, which should be read in its entirety including, without limitation, the appendices hereto. Capitalized terms not otherwise defined herein shall have the meanings assigned in “APPENDIX D – DEFINITIONS AND SUMMARIES OF CERTAIN PROVISIONS OF THE INDENTURE, THE LOAN AGREEMENT, THE PLEDGE AND ASSIGNMENT, THE MORTGAGE, THE MORTGAGE ASSIGNMENT, THE ASSIGNMENT OF RENTS AND THE ASSIGNMENT OF RENTS ASSIGNMENT.”

THE SERIES 2021 BONDS. The offering consists of the Tax-Exempt Revenue Refunding Bonds (Brighter Choice Elementary Charter Schools Project), Series 2021A, in the aggregate principal amount of \$11,820,000 (the “Series 2021A Bonds” or the “Tax-Exempt Bonds”) and the Taxable Revenue Refunding Bonds (Brighter Choice Elementary Charter Schools Project), Series 2021B, in the aggregate principal amount of \$345,000 (the “Series 2021B Bonds” or the “Taxable Bonds,” and together with the Series 2021A Bonds, the “Series 2021 Bonds”), to be issued by the City of Albany Capital Resource Corporation (the “Issuer”). The Series 2021 Bonds are issued pursuant to an Indenture of Trust (the “Indenture”), dated as of November 1, 2021, by and between the Issuer and Manufacturers and Traders Trust Company, as trustee (the “Trustee”). The Series 2021 Bonds will be initially issued in Book-Entry Form. Interest accrues on the Series 2021 Bonds at the rates set forth on the inside cover page, payable semiannually on April 1 and October 1 of each year, commencing on April 1, 2022. See “THE SERIES 2021 BONDS” herein.

USE OF PROCEEDS/THE REFUNDING. The Series 2021 Bonds are being issued to (i) refund outstanding indebtedness of the Institution identified and discussed in “THE REFUNDING” herein, (ii) fund the Reserve Fund, and (iii) pay certain costs of issuance of the Series 2021 Bonds.

SECURITY FOR THE SERIES 2021 BONDS. Pursuant to the Indenture, the Series 2021 Bonds will be secured by and payable from an assignment and pledge by the Issuer of (1) all money held in the Funds and Accounts established under the Indenture (but excluding funds in the Rebate Fund), (2) the right, title and interest of the Issuer in the Loan Agreement (except for the Issuer’s Unassigned Rights), and (3) Loan payments due from the Institution under the Loan Agreement. The Series 2021 Bonds will also be secured (1) by mortgage lien on and security interest in the Institution’s fee title interest in the Project Facility pursuant to a mortgage dated as of November 1, 2021, from the Institution to the Issuer (as amended or supplemented, the “Mortgage”), as assigned by the Issuer to the Trustee under the terms of an Assignment of Mortgage dated as of November 1, 2021 (the “Assignment of Mortgage”), and (2) by an assignment of leases and rents dated as of November 1, 2021, from the Institution to the Issuer (as amended or supplemented, the “Assignment of Lease and Rents”), which is to be assigned from the Issuer to the Trustee pursuant to the Assignment of Assignment of Lease and Rents. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2021 BONDS” and “RISK FACTORS - Enforcement of Remedies and - Special Purpose Building” in this Official Statement.

Pursuant to the Loan Agreement, the Institution will make certain covenants for the benefit of the Trustee and the holders of the Series 2021 Bonds and any Additional Bonds under the Indenture. Section 2853(3)(b) of the Charter Schools Act prohibits the Institution from pledging or assigning the portion of Education Aid constituting “charter school basic tuition” under the Charter Schools Act provided or to be provided to the Institution in connection with the purchase or construction, acquisition, reconstruction, rehabilitation, or improvement of a school facility. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2021 BONDS” and “RISK FACTORS” in this Official Statement.

THE LOAN AGREEMENT. Proceeds of the Series 2021 Bonds will be loaned by the Issuer to the Institution, pursuant to a Loan Agreement, dated as of November 1, 2021, by and between the Issuer and the Institution (the “Loan Agreement”). The Loan Agreement requires the Institution to make loan payments in amounts sufficient to pay, among other things, the principal of, the premium, if any, and interest on the Series 2021 Bonds. See “APPENDIX D – DEFINITIONS AND SUMMARIES OF CERTAIN PROVISIONS OF THE INDENTURE, THE LOAN AGREEMENT, THE PLEDGE AND ASSIGNMENT, THE MORTGAGE, THE MORTGAGE ASSIGNMENT, THE ASSIGNMENT OF RENTS AND THE ASSIGNMENT OF RENTS ASSIGNMENT.”

CASH ON HAND COVENANT. Pursuant to terms of the Loan Agreement, the Institution covenants and agrees to maintain unrestricted Cash on Hand of at least forty-five (45) Days’ Cash on Hand, tested as of June 30 of each year, commencing June 30, 2022 (the “Cash on Hand Requirement”). Following each testing date, the Institution will provide the Trustee with a certification of having met the Cash on Hand Requirement no later than the earlier of the ensuing December 31 or three (3) weeks after completion of the Institution’s audit for the previous Fiscal Year. The foregoing is subject to the qualification that if applicable State or federal laws or regulations, or the rules and regulations of agencies having jurisdiction, shall not permit the Institution to maintain the Cash on Hand Requirement, then the Institution shall, in conformity with the then prevailing laws, rules, or regulations, maintain its Cash on Hand equal to the maximum permissible level.

If the Cash on Hand for any testing date is less than the Cash on Hand Requirement, then, the Institution shall retain on an annual basis 50% of the Excess Net Revenues until such time as the Institution is in compliance with the Cash on Hand Requirement. In the event that the Institution fails to satisfy the Cash on Hand Requirement and does not retain on an annual basis 50% of the Excess Net Revenues, then the Trustee shall give notice thereof to the Bondholders, and upon the written direction of the Majority Bondholder(s), the Institution will promptly employ a Management Consultant to review and analyze the operations and administration of the Institution, inspect the Project Facility, and submit to the Institution and the Trustee written reports, and make such recommendations as to the operation and administration of the Institution as such Management Consultant deems appropriate, including any recommendation as to a revision of the methods of operation thereof. The Institution agrees to consider any recommendations by the Management Consultant and, to the fullest extent practicable, to adopt and carry out such recommendations. The Trustee has no duty or obligation to monitor the Institution’s compliance with any recommendations and the Trustee’s sole responsibility is to forward such recommendations to the Bondholders.

So long as the Institution is otherwise in full compliance with its obligations under the Agreement, including following, to the fullest extent practicable, the recommendations of the Management Consultant, it shall not constitute an Event of Default under the Agreement if the Institution fails to satisfy the Cash on Hand Requirement and retain on an annual basis 50% of the Excess Net Revenues.

DEBT SERVICE COVERAGE COVENANT. Pursuant to terms of the Loan Agreement, the Institution shall maintain Net Income Available for Debt Service with respect to the Fiscal Year then ended of at least 110% of the Principal and Interest Requirements (the “Debt Service Coverage Ratio”). The Institution will provide certification of compliance with the foregoing to the Trustee no later than the earlier of the ensuing December 31 or three (3) weeks after completion of the Institution’s audit for the previous Fiscal Year.

If the Institution does not comply with the Debt Service Coverage Ratio, then the Trustee shall give notice thereof to the Bondholders, and upon the written direction of the Majority Bondholder(s), the Institution will promptly employ a Management Consultant to review and analyze the operations and administration of the Institution, inspect the Project Facility, and submit to the Institution and the Trustee

written reports, and make such recommendations as to the operation and administration of the Institution as such Management Consultant deems appropriate, including any recommendation as to a revision of the methods of operation thereof. The Institution agrees to consider any recommendations by the Management Consultant and, to the fullest extent practicable, to adopt and carry out such recommendations. The Trustee has no duty or obligation to monitor the Institution's compliance with any recommendations and the Trustee's sole responsibility is to forward such recommendations to the Bondholders.

So long as the Institution is otherwise in full compliance with its obligations under the Loan Agreement, including following, to the fullest extent practicable, the recommendations of the Management Consultant, it shall not constitute an Event of Default under the Loan Agreement if the Institution fails to satisfy the Debt Service Coverage Ratio (as evidenced by the Institution's audited financial statements for such Fiscal Year).

Notwithstanding the immediately preceding paragraph, regardless of whether the Institution has retained a Management Consultant, if at the end of the Fiscal Year ending June 30, 2022, or any subsequent Fiscal Year, the Net Income Available for Debt Service as of the end of such Fiscal Year is less than 100% of the Principal and Interest Requirements of such Fiscal Year (as evidenced by the Institution's audited financial statements for such Fiscal Year), then the Trustee shall give notice thereof to the Bondholders and the Majority Bondholder may either (A) direct the Trustee to declare an Event of Default under the Indenture and the Loan Agreement or (B) direct the Trustee to exercise one or more of the remedies permitted under the Loan Agreement and the Indenture.

FINANCIAL AND OPERATIONAL REPORTS. Pursuant to the Continuing Disclosure Agreement, the Institution shall provide to Manufacturers and Traders Trust Company, as dissemination agent, for posting to EMMA, not later than one hundred eighty (180) days after the end of the Institution's fiscal year, commencing with the fiscal year ended June 30, 2022, an Annual Report consisting of audited financial statements of the Institution for the prior fiscal year together with certain operating information as more particularly described in the Continuing Disclosure Agreement, the form which is set forth herein as Appendix E. In addition, pursuant to the Continuing Disclosure Agreement the Institution also intends, but is not required, to provide certain interim reports to the Dissemination Agent for posting to the Electronic Municipal Market Access system ("EMMA") of the Municipal Securities Rulemaking Board (the "MSRB"), consisting of interim financial reports, information submitted to the New York State Education Department ("NYSED") and an annual investor call. See "APPENDIX E – FORM OF CONTINUING DISCLOSURE AGREEMENT."

THE INDENTURE: FUNDS AND ACCOUNTS. The Indenture authorizes the Trustee to authenticate and deliver the Series 2021 Bonds. The following trust funds and accounts are established under the Indenture, with the Trustee on behalf of the Issuer in accordance with the Indenture: the Project Fund; the Bond Fund; the Insurance and Condemnation Fund, the Reserve Fund, the Repair and Replacement Fund and the Rebate Fund. The Reserve Fund will be funded with certain proceeds of the Series 2021 Bonds. Pursuant to the Indenture, there shall be deposited in the Bond Fund: (a) all Loan Payments received from the Institution under the Loan Agreement (except payments made with respect to the Unassigned Rights, which shall be paid to the Issuer), (b) any amount in the Insurance and Condemnation Fund directed to be paid into the Bond Fund, (c) all prepayments by the Institution in accordance with the Loan Agreement, (d) all moneys held in the Reserve Fund which are in excess of the amount required to be held in the Reserve Fund as of such date, and (e) all other moneys received by the Trustee under and pursuant to the Indenture or the other Financing Documents which by the terms thereof are to be deposited into the Bond Fund, or are accompanied by directions from the Institution or the Issuer that such moneys are to be paid into the Bond Fund.

A Reserve Fund with respect to the Series 2021 Bonds is established with the Trustee under the Indenture within which there will be two accounts: (i) the Series 2021A Bonds Account and (ii) the Series 2021B Bonds Account. The Series 2021A Bonds Account of the Reserve Fund will be funded by proceeds of the Series 2021A Bonds in the amount of \$1,047,063.50, the initial Reserve Fund Requirement applicable to the Series 2021A Bonds. The Series 2021B Bonds Account of the Reserve Fund will be funded by proceeds of the Series 2021B Bonds in the amount of \$30,561.50, the initial Reserve Fund Requirement applicable to the Series 2021B Bonds. On the Closing Date for the Series 2021 Bonds, the Trustee shall deposit proceeds of the Series 2021 Bonds in an amount equal to the Reserve Fund Requirement applicable to the Series 2021 Bonds into the Series 2021A Reserve Account and the Series 2021B Reserve Account, respectively.

If the amount on deposit in the Bond Fund is not sufficient to pay the Debt Service Payments due on a Bond Payment Date, the Trustee shall transfer from the Reserve Fund and deposit into the Bond Fund an amount of money sufficient to enable the Trustee to make all such Debt Service Payments coming due on the Series 2021 Bonds. The Trustee shall notify the Institution of any withdrawal from the Reserve Fund, or any deficiency in the amount required to be on deposit therein following periodic valuation as required by the Indenture. The Institution has agreed to replenish the Reserve Fund via payments from the Institution under the Custody Agreement that are due each Loan Payment Date, each such payment to be in an amount at least equal to one-sixth of the deficiency identified by the Trustee. The amounts in the Reserve Fund shall be valued semiannually by the Trustee. If the amounts held in the Reserve Fund exceed the Reserve Fund Requirement, the Trustee shall apply such excess to first pay the Trustee's Ordinary and Extraordinary Services and the balance shall be transferred to the Bond Fund and used to pay Debt Service Payments due on the Series 2021 Bonds and credited to the Institution's obligation to make Loan Payments. See "SECURITY FOR THE SERIES 2021 BONDS – Debt Service Reserve Fund" herein and "APPENDIX D – DEFINITIONS AND SUMMARIES OF CERTAIN PROVISIONS OF THE INDENTURE, THE LOAN AGREEMENT, THE PLEDGE AND ASSIGNMENT, THE MORTGAGE, THE MORTGAGE ASSIGNMENT, THE ASSIGNMENT OF RENTS AND THE ASSIGNMENT OF RENTS ASSIGNMENT."

Pursuant to the Custody Agreement, the Repair and Replacement Fund will be funded in an amount equal to \$100,000 to be funded at the Closing Date with available cash of the Institution. Moneys on deposit in the Repair and Replacement Fund shall be applied at the direction of the Institution to the cost of the construction of additions, improvements or betterments to, or the reconstruction of, the Project Facility, emergency repairs of the Project Facility, and major or extraordinary repairs, renewals or replacements of the Project Facility. Following any disbursement or deficiency from the Repair and Replacement Fund, the amount required to be deposited therein shall additionally include an amount necessary to replenish the Repair and Replacement Fund by the total amount of such disbursement or deficiency deposited in equal amounts on each Loan Payment Date over the 24-month period to begin on the subsequent Loan Payment Date following such disbursement or deficiency. Semiannually, at least fifteen (15) Business Days prior to each Interest Payment Date, the amounts in the Repair and Replacement Fund shall be valued by the Trustee. If the amounts held in the Repair and Replacement Fund exceed the Repair and Replacement Fund Requirement, the Trustee shall withdraw such excess amount and apply it to pay the Trustee's Ordinary and Extraordinary Services and the balance shall be transferred to the Bond Fund and used to pay Debt Service Payments due on the Series 2021 Bonds and credited to the Institution's obligation to make Loan Payments. See "SECURITY FOR THE SERIES 2021 BONDS – Repair and Replacement Fund" herein.

THE INSTITUTION, CHARTER, AUTHORIZING BODY, MERGER. The Institution is a not-for-profit education corporation established pursuant to its Charter (defined below) and the New York Charter Schools Act of 1998 (the "Charter Schools Act") primarily for the purpose of carrying out the function of an elementary school. Additional information concerning the Institution is set forth in APPENDIX B. The Charter Schools Act grants the Board of Regents of the State University of New York

(“SUNY”) on behalf of the State Education Department authorizing power to grant charters for the purpose of organizing and operating independent and autonomous public charter schools. SUNY is the authorizing body of the Institution and has issued a Charter incorporating the Institution as an education corporation in the State. SUNY oversees and monitors the Institution’s Board of Trustees in their compliance with all applicable state and federal laws pertaining to charter schools.

Brighter Choice Charter School for Girls (the “Girls School Legal Entity”) was formed as a not-for-profit corporation in 2001 in order to build and operate a charter school for girls in the City of Albany, New York. Similarly, Brighter Choice Charter School for Boys (the “Boys School Legal Entity”) was formed as a not-for-profit corporation in 2001 in order to build and operate a charter school for boys in the City of Albany, New York. The Girls School Legal Entity and the Boys School Legal Entity were issued separate charters from the Board of Regents of the University of the State of New York (the “Board of Regents”) on January 10, 2001. In December of 2015 the Board of Trustees of the Boys School Legal Entity petitioned the Board of Regents for an “Order of Merger” pursuant to New York Education Law §223 requesting to merge the Boys School Legal Entity with and into the Girls School Legal Entity, with the Girls School Legal Entity being the surviving corporation to be renamed “Brighter Choice Elementary Charter Schools.” Such petition was subsequently granted effective July 1, 2016. As a result, the resources of both schools were pooled under one education corporation. For purposes of this Official Statement, Brighter Choice Elementary Charter Schools shall be referred to as the “Institution.” Although the Institution is now a single legal entity, the Institution operates both the BC Girls School (as defined below) and the BC Boys School (as defined below), each at their respective separate locations.

The Board of Regents initially granted both the Girls School Legal Entity and the Boys School Legal Entity separate charters to operate their respective charter schools in 2001. Those initial charters had a term of five (5) years through January 9, 2006. The Board of Regents subsequently granted two extensions to both charters in 2006 and again in 2011. On July 1, 2016, the Girls School Legal Entity and the Boys School Legal Entity were merged to create the Institution. Although the Institution is now a single legal entity, the Institution operates the two schools pursuant to two separate charters issued by the Board of Regents, such that if one school were to lose its charter, the Institution could continue to operate the other school so long as it retains its respective charter. Following the merger, the Board of Regents issued renewal terms to both the BC Boys School and the BC Girls School in July of 2015 and July of 2018, respectively. The Institution currently operates both schools pursuant to renewal charters granted by the Board of Regents on March 12, 2021 to both schools through June 30, 2026. Audited financial statements of the Institution for the fiscal year ended June 30, 2021 are attached hereto as APPENDIX C.

THE CUSTODY AGREEMENT. Pursuant to a Custody Agreement dated as of November 1, 2021 (the “Custody Agreement”), the Institution will cause and has directed any school district in which pupils enrolled in the Institution reside (the “School Districts”) to pay over and deliver to the Custodian (herein defined) the bimonthly installments of Per Pupil Aid due to the Institution for payment to Manufacturers and Traders Trust Company, as custodian (the “Custodian”) and as Trustee. The Albany City School District (the “City School District”), in the 2021-22 fiscal year of the Institution, is expected to account for approximately 70% of the Per Pupil Aid received by the Institution. See “RISK FACTORS – Legislative Risk and Local School District Risk” herein. Upon receipt and deposit of any moneys pursuant to the Custody Agreement, the Custodian shall immediately transfer to the Trustee the amount of money described in the then applicable Custody Agreement Notice, for deposit in the Bond Fund, an amount equal to a proportionate share of the next interest payment and principal payment on the Series 2021 Bonds; for deposit in the respective accounts of the Debt Service Reserve Fund, amounts necessary to equal the amount of the Reserve Fund; for deposit in the Repair and Replacement Fund, a proportionate share of the applicable annual deposit requirement under the Indenture. The Custodian shall transfer moneys, if any, remaining credited to the Aid Account after completion of all transfers described in the then Applicable Custody Agreement Notice, to the Institution.

THE FINANCIAL PROJECTIONS. The Financial Projections included in “APPENDIX B” (the “Projections”) and projected enrollments are based upon assumptions made by the Institution. There are usually differences between the projected and actual results, because events and circumstances frequently may not occur as expected, and those differences may be material. In addition, the Projections relate only to the fiscal years of the Institution ending June 30, 2022, through June 30, 2025, and consequently do not cover the entire period that the Series 2021 Bonds may be outstanding.

The Projections are based upon various assumptions and projections made by the Institution with respect to the future, including without limitation economic conditions generally and in the State, State educational policies, federal and State educational funding, the performance of the Institution and competition. Actual results may vary materially from the Projections. See “APPENDIX B” herein.

RISK FACTORS. The purchase of the Series 2021 Bonds involves a high degree of risk, including but not limited to the termination, revocation, nonrenewal or suspension of the Institution’s Charter. See “RISK FACTORS – Non-Renewal or Termination of Charter” herein. Prospective investors should review all of the information in this Official Statement and appendices carefully prior to purchasing any of the Series 2021 Bonds, including particularly, but without limitation, the section entitled “RISK FACTORS.”

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OFFICIAL STATEMENT

\$11,820,000

**City of Albany Capital Resource Corporation
Tax-Exempt Revenue Refunding Bonds
(Brighter Choice Elementary Charter Schools Project), Series 2021A**

\$345,000

**City of Albany Capital Resource Corporation
Taxable Revenue Refunding Bonds
(Brighter Choice Elementary Charter Schools Project), Series 2021B**

INTRODUCTION

This Official Statement, including the cover page and appendices, provides certain information with respect to City of Albany Capital Resource Corporation (the “Issuer”) and its Tax-Exempt Revenue Refunding Bonds (Brighter Choice Elementary Charter Schools Project), Series 2021A, in the aggregate principal amount of \$11,820,000 (the “Series 2021 Bonds” or the “Tax-Exempt Bonds”) and its Taxable Revenue Refunding Bonds (Brighter Choice Elementary Charter Schools Project), Series 2021B, in the aggregate principal amount of \$345,000 (the “Series 2021B Bonds” or the “Taxable Bonds,” and together with the Series 2021A Bonds, the “Series 2021 Bonds”). The Series 2021 Bonds are being issued pursuant to an Indenture of Trust dated as of November 1, 2021 (the “Indenture”) between the Issuer and Manufacturers and Traders Trust Company, as trustee (the “Trustee”). The Series 2021 Bonds shall be dated November 23, 2021, and shall mature on the dates and bear interest at the rates set forth on the inside front cover hereof.

Certain capitalized terms used throughout this Official Statement have the meanings assigned to them in “APPENDIX D – DEFINITIONS AND SUMMARIES OF CERTAIN PROVISIONS OF THE INDENTURE, THE LOAN AGREEMENT, THE PLEDGE AND ASSIGNMENT, THE MORTGAGE, THE MORTGAGE ASSIGNMENT, THE ASSIGNMENT OF RENTS AND THE ASSIGNMENT OF RENTS ASSIGNMENT.”

Proceeds of the Series 2021 Bonds will be loaned by the Issuer to Brighter Choice Elementary Charter Schools, a not-for-profit education corporation duly organized under the laws of the State of New York (the “Charter School”), pursuant to a Loan Agreement, dated as of November 1, 2021 (the “Loan Agreement”), by and between the Issuer and the Institution. The Series 2021 Bonds are being issued to (i) refund all or a portion of certain outstanding indebtedness of the Institution identified and discussed in “THE REFUNDING” herein, and (ii) pay certain costs of issuance of the Series 2021 Bonds. See “APPENDIX B – CERTAIN INFORMATION CONCERNING THE INSTITUTION” herein.

Pursuant to the Loan Agreement the Institution will be obligated to make loan payments in amounts sufficient to pay the principal of, and premium, if any, and interest on, the Series 2021 Bonds when due. See “APPENDIX D – DEFINITIONS AND SUMMARIES OF CERTAIN PROVISIONS OF THE INDENTURE, THE LOAN AGREEMENT, THE PLEDGE AND ASSIGNMENT, THE MORTGAGE, THE MORTGAGE ASSIGNMENT, THE ASSIGNMENT OF RENTS AND THE ASSIGNMENT OF RENTS ASSIGNMENT.”

Pursuant to the Indenture, the Series 2021 Bonds will be secured by and payable from an assignment and pledge by the Issuer of (1) all money held in the Funds and Accounts established under the Indenture (but excluding funds in the Rebate Fund), (2) the right, title and interest of the Issuer in the Loan Agreement (except for the Issuer’s Unassigned Rights), and (3) Loan payments due from the Institution under the Loan Agreement. The Series 2021 Bonds will also be secured (1) by mortgage lien on and security

interest in the Institution's fee title interest in the Project Facility pursuant to a mortgage dated as of November 1, 2021, from the Institution to the Issuer (as amended or supplemented, the "Mortgage"), as assigned by the Issuer to the Trustee under the terms of an Assignment of Mortgage dated as of November 1, 2021 (the "Assignment of Mortgage"), and (2) by an assignment of leases and rents dated as of November 1, 2021, from the Institution to the Issuer (as amended or supplemented, the "Assignment of Lease and Rents"), which is to be assigned from the Issuer to the Trustee pursuant to the Assignment of Assignment of Lease and Rents. See "SECURITY FOR THE SERIES 2021 BONDS" and "RISK FACTORS - Enforcement of Remedies and - Special Purpose Building" in this Official Statement. Pursuant to the Loan Agreement, the Institution will make certain covenants for the benefit of the Trustee and the holders of the Series 2021 Bonds and any Additional Bonds under the Indenture. Section 2853(3)(b) of the Charter Schools Act prohibits the Institution from pledging or assigning the portion of Education Aid constituting "charter school basic tuition" under the Charter Schools Act provided or to be provided to the Institution in connection with the purchase or construction, acquisition, reconstruction, rehabilitation, or improvement of a school facility. See "SECURITY FOR THE SERIES 2021 BONDS" and "RISK FACTORS" in this Official Statement.

The Institution will also enter into a Custody Agreement (the "Custody Agreement") dated as of November 1, 2021, with Manufacturers and Traders Trust Company as custodian (the "Custodian") and as Trustee, pursuant to which the Institution will cause and has directed any school district in which pupils enrolled in the Institution reside (the "School Districts") to pay over and deliver to the Custodian, to the extent permitted under the Charter School Act, the bimonthly installments of Per Pupil Aid due to the Institution for payment to the Custodian and as the Trustee. Upon receipt and deposit of any moneys pursuant to the Custody Agreement, the Custodian shall immediately transfer to the Trustee the amount of money described in the then applicable Custody Agreement Notice for deposit in the Bond Fund, an amount equal to a proportionate share of the next interest payment and principal payment on the Series 2021 Bonds; for deposit in the respective accounts of the Reserve Fund, certain amounts equal to the amount of the Reserve Fund deficiency; and deposit in the Repair and Replacement Fund, a proportionate share of the then applicable annual deposit requirement under the Indenture. The Custodian shall transfer moneys, if any, remaining credited to the Aid Account after completion of all transfers described in the then applicable Custody Agreement Notice to the Institution.

Pursuant to the Indenture, the Issuer will assign its rights (other than certain Unassigned Rights) under the Loan Agreement to the Trustee. The Series 2021 Bonds are additionally secured by certain funds and reserves created under the Indenture, including the Bond Fund and the Reserve Fund. For a more detailed description of the security for the Series 2021 Bonds, see "SECURITY FOR THE SERIES 2021 BONDS."

There follows in this Official Statement and in the Appendices hereto summaries of the Series 2021 Bonds, the security for the Series 2021 Bonds, certain related legal documents, including the Loan Agreement, the Mortgage, the Assignment of Rents, the Loan Agreement, the Custody Agreement and the Indenture, a description of the Institution, the Issuer, the Project Facility, and Risk Factors, a Summary of Estimated Sources and Uses of Funds, and other matters. These summaries and descriptions do not purport to be complete and are expressly made subject to the further provisions of this Official Statement (including the Appendices hereto) as well as to the exact provisions of the complete documents, which may be obtained from the Trustee or, during the offering period for the Series 2021 Bonds, from the Underwriter. Certain information contained in this Official Statement has been furnished by the Institution and includes all information concerning the Institution, the Project Facility, and the Estimated Sources and Uses of Funds, including all information set forth in Appendices A, B and C to this Official Statement. The Issuer has not participated in the preparation of this information or reviewed the accuracy of said information. The Issuer has consented or will consent to the use of this Official Statement, but has not made any investigation of the facts contained herein.

The Loan Agreement, the Mortgage, the Assignment of Rents, the Custody Agreement and the Indenture will be entered into and the legal opinions referred to herein will be delivered on or prior to the delivery date of the Series 2021 Bonds.

THE ISSUER

The Issuer, created April 13, 2010, is a not-for-profit local development corporation organized pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York (the “State”) at the direction of the Mayor of the City of Albany (the “City”). The Issuer is authorized by the Not-For-Profit Corporation Law of the State and the Issuer’s Certificate of Incorporation to promote community and economic development, and the creation of jobs in the non-profit and profit sectors for residents of the City by developing and providing programs for not-for-profit borrowers, manufacturing and industrial businesses and other entities to access low interest tax-exempt and non-tax-exempt financing for their eligible projects.

The sole member of the Issuer is the City of Albany, New York. The Issuer currently has seven (7) directors. The persons currently serving as directors of the Issuer are as follows:

Susan Pedo, Chairperson
Lee Eck, Jr., Vice Chair
Darius Shanifar, Treasurer
Robert Schofield

The Issuer has offered and plans to offer other obligations from time to time to finance projects for other not-for-profit borrowers and, under certain circumstances, manufacturing and industrial businesses, with respect to facilities located in the City. Such obligations have been and will be issued pursuant to and secured by instruments separate and apart from the Indenture. The Issuer has not prepared or assisted in the preparation of this Official Statement, except for statements under the sections captioned “THE ISSUER” and “NO LITIGATION—The Issuer” and, except as aforesaid, the Issuer is not responsible for any statements made in this Official Statement. Except for the execution and delivery of documents required to effect the issuance of the Series 2021 Bonds, the Issuer has not otherwise assisted in the public offer, sale or distribution of the Series 2021 Bonds. Accordingly, except as aforesaid, the Issuer disclaims responsibility for the disclosures set forth in this Official Statement or otherwise made in connection with the offer, sale and distribution of the Series 2021 Bonds. The Series 2021 Bonds are special limited obligations of the Issuer payable solely from the payments made by the Institution under the Loan Agreement from the Trust Estate as described in the Indenture. The Issuer has no taxing power. Neither the Issuer nor its members, directors, officers, agents, employees or representatives are personally liable with respect to the Series 2021 Bonds. Accordingly, no financial information with respect to the Issuer or its members, directors, officers, agents, employees or representatives has been included in this Official Statement.

THE SERIES 2021 BONDS AND THE INTEREST THEREON AND THE ISSUER’S OTHER OBLIGATIONS UNDER THE INDENTURE AND THE LOAN AGREEMENT ARE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES DERIVED BY THE ISSUER FROM THE LOAN AGREEMENT OR RECEIVED BY THE TRUSTEE UNDER THE MORTGAGE OR THE INDENTURE (EXCEPT FOR REVENUES DERIVED BY THE ISSUER WITH RESPECT TO THE UNASSIGNED RIGHTS AND EXCEPT TO THE EXTENT PAYABLE FROM PROCEEDS OF THE SERIES 2021 BONDS OR PROCEEDS FROM THE SALE OR CONDEMNATION OF OR INSURANCE PROCEEDS WITH RESPECT TO THE MORTGAGED PROPERTY). THE SERIES 2021 BONDS ARE NOT GENERAL OR MORAL OBLIGATIONS OF THE ISSUER, THE CITY OF ALBANY (THE “CITY”), THE COUNTY OF ALBANY (THE “COUNTY”),

OR THE STATE OF NEW YORK (THE “STATE”) AND WILL NEITHER CONSTITUTE NOR GIVE RISE TO A DEBT OF THE ISSUER, THE CITY, THE COUNTY OR THE STATE OR A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWER OF THE ISSUER, THE CITY, THE COUNTY, OR THE STATE, OR ANY PROPERTY OF THE STATE, THE CITY, THE COUNTY, OR THE ISSUER (OTHER THAN THE INTERESTS OF THE ISSUER UNDER THE LOAN AGREEMENT ASSIGNED TO THE TRUSTEE BY THE INDENTURE). THE ISSUER DOES NOT HAVE ANY TAXING AUTHORITY. SEE “SOURCES OF PAYMENT AND SECURITY FOR THE SERIES 2021 BONDS” AND “RISK FACTORS” HEREIN.

The Issuer has not verified, reviewed or approved, and does not make any representations with respect to, the accuracy or completeness of any of the information set forth in this Official Statement, other than information set forth under “THE ISSUER” and “NO LITIGATION – The Issuer” herein.

THE INSTITUTION

The Institution is Brighter Choice Elementary Charter Schools, the successor name of the Girls School Legal Entity after the issuance of the Order of Merger and as such, a New York education corporation operating as an independent and autonomous public school. The Institution is an organization described in Section 501(c)(3) of the Code, exempt from the payment of income taxes under Section 501(a) of the Code. For more information with respect to the Institution, see “APPENDIX B – CERTAIN INFORMATION REGARDING THE INSTITUTION.” See “APPENDIX C – AUDITED FINANCIAL INFORMATION OF THE INSTITUTION FOR THE FISCAL YEARS ENDED JUNE 30, 2021.”

THE AUTHORIZING BODY

The Charter Schools Act grants the Board of Regents of the State University of New York State University of New York (“SUNY”) on behalf of the State Education Department, authorizing power to grant charters for the purpose of organizing and operating independent and autonomous public charter schools. SUNY is the authorizing body of the Institution and has issued a Charter to the School incorporating the Institution as an education corporation in the State. SUNY oversees and monitors the Institution’s Board of Trustees in their compliance with all applicable state and federal laws pertaining to charter schools.

The Institution is a not-for-profit education corporation established pursuant to its Charter (defined below) and the New York Charter Schools Act of 1998 (the “Charter Schools Act”) primarily for the purpose of carrying out the function of an elementary school. Additional information concerning the Institution is set forth in APPENDIX B. The Charter Schools Act grants the Board of Regents of the State University of New York (“SUNY”) on behalf of the State Education Department authorizing power to grant charters for the purpose of organizing and operating independent and autonomous public charter schools. SUNY is the authorizing body of the Institution and has issued a Charter incorporating the Institution as an education corporation in the State. SUNY oversees and monitors the Institution’s Board of Trustees in their compliance with all applicable state and federal laws pertaining to charter schools.

Brighter Choice Charter School for Girls (the “Girls School Legal Entity”) was formed as a not-for-profit corporation in 2001 in order to build and operate a charter school for girls in the City of Albany, New York. Similarly, Brighter Choice Charter School for Boys (the “Boys School Legal Entity”) was formed as a not-for-profit corporation in 2001 in order to build and operate a charter school for boys in the City of Albany, New York. The Girls School Legal Entity and the Boys School Legal Entity were issued separate charters from the Board of Regents of the University of the State of New York (the “Board of Regents”) on January 10, 2001. In accordance with the New York Charter Schools Act of 1998 (“Charter Schools Act”), commencing in school year 2002-03, the Boys School Legal Entity operated a charter school commonly known as Brighter Choice Charter School for Boys (the “BC Boys School”) and the Girls School Legal Entity operated a charter school commonly known as Brighter Choice Charter School for Girls (the “BC Girls School”). Until the merger as discussed below, both institutions operated as independent, discreet operating entities, each governed by a separate board of trustees and each qualified as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”).

When formed in 2001, the Charter School Act prohibited charter school from operating more than one school. However, in May of 2010 amendments to Education Law §2853 permitted charter schools to operate multiple schools. In December of 2015 the Board of Trustees of the Boys School Legal Entity petitioned the Board of Regents for an “Order of Merger” pursuant to New York Education Law §223 requesting to merge the Boys School Legal Entity with and into the Girls School Legal Entity, with the Girls School Legal Entity being the surviving corporation to be renamed “Brighter Choice Elementary Charter Schools.” Such petition was subsequently granted effective July 1, 2016. As a result, the resources of both schools were pooled under one education corporation described in Section 501(c)(3) of the Code. For purposes of this Official Statement, Brighter Choice Elementary Charter Schools shall be referred to as the “Institution.” Although the Institution is now a single legal entity, the Institution operates both the BC Girls School and the BC Boys School, each at their respective separate locations.

The Board of Regents initially granted both the Girls School Legal Entity and the Boys School Legal Entity separate charters to operate their respective charter schools in 2001. Those initial charters had a term of five (5) years through January 9, 2006. The Board of Regents subsequently granted two extensions to both charters in 2006 and again in 2011. On July 1, 2016 the Girls School Legal Entity and the Boys School Legal Entity were merged to create the Institution. Although the Institution is now a single legal entity, the Institution operates the two schools pursuant to two separate charters issued by the Board of Regents, such that if one school were to lose its charter, the Institution could continue to operate the other school so long as it retains its respective charter. Following the merger, the Board of Regents issued renewal charters to both the BC Boys School and the BC Girls School in July of 2015 and July of 2018. The Institution currently operates both schools pursuant to renewal charters granted by the Board of Regents on March 12, 2021, to both schools through June 30, 2026. Audited financial statements of the Institution for the fiscal year ended June 30, 2021, are attached hereto as APPENDIX C.

THE REFUNDING

The proceeds of the sale of the Series 2021 Bonds will provide funds which, together with other available funds, will (i) finance the refunding of the City of Albany Industrial Development Agency (the “Prior Issuer”) Civic Facility Revenue Bonds (Brighter Choice Charter Schools Project), Series 2007A issued on March 30, 2007 in the original aggregate principal amount of \$17,895,000 (the “Prior Bonds”), (ii) fund the Reserve Fund, and (iii) pay certain costs of issuance of the Series 2021 Bonds.

The Prior Bonds were issued for the purpose of financing (1) the acquisition of an interest in parcels of land located at 116 North Lake Avenue, 253 Sherman Avenue and 398 Elk Street in the City of Albany,

Albany County, New York (the “North Lake Land”), together with (a) an approximately 36,000 square foot building located thereon (the “Existing Facility”) and (b) a single family house located thereon (the “House”), (2) the demolition of the House, the renovation and reconstruction of the Existing Facility and the construction of an approximately 6,000 square foot addition to the Existing Facility (the “Addition” and, collectively with the Existing Facility, the “North Lake Facility”), (3) the acquisition and installation thereon and therein of various machinery and equipment (the “North Lake Equipment”) (the North Lake Land, the North Lake Facility and the North Lake Equipment hereinafter collectively referred to as the “North Lake Project Facility”), (4) the acquisition of parcels of land located at 393, 395 and 397 Elk Street and 130 North Lake Avenue in the City of Albany, Albany County, New York (the “Parking Land”), together with two existing structures located thereon (collectively, the “Parking Lot Structures”), (5) the demolition of the Parking Lot Structures and the construction of parking facilities on the Parking Land (the “Parking Facility”) (the Parking Land and the Parking Facility being collectively referred to as the “Parking Project Facility”) and (6) the acquisition of an interest in an approximately one acre parcel of land located at 250 Central Avenue in the City of Albany, Albany County, New York (the “Central Avenue Land”) (the North Lake Land, the Parking Land and the Central Avenue Land being collectively referred to as the “Land”), together with an approximately 32,240 square foot building located thereon (the “Central Avenue Facility”) (the Central Avenue Facility, the Parking Facility and the North Lake Facility being collectively referred to as the “Project Facility”) and the equipment located in the Central Avenue Facility (the “Central Avenue Equipment”) (the North Lake Equipment and the Central Avenue Equipment being collectively referred to as the “Equipment”) (the Central Avenue Land, the Central Avenue Facility and the Central Avenue Equipment being collectively referred to as the “Central Avenue Project Facility”), all of the foregoing to be owned and operated by the Institution as two charter schools, with the potential for a portion of one charter school to be leased by the Institution to other not-for-profit corporations; (B) the financing of all or a portion of the costs of the foregoing by the issuance of the Prior Bonds; and (C) paying a portion of the costs incidental to the issuance of the Prior Bonds.

The Refunding Financial Plan

Simultaneously with the issuance of the Series 2021 Bonds, the Issuer, the Prior Issuer, the trustee for the Prior Bonds (the “Prior Trustee”), the Institution, the Trustee and the Escrow Agent (as defined in the Indenture) will execute and deliver a defeasance escrow agreement dated as of November 1, 2021 relating to the Prior Bonds (the “Defeasance Escrow Agreement”), pursuant to which (A) an escrow deposit will be made with the Prior Trustee in an amount sufficient to enable the Prior Trustee to (1) defease the Prior Bonds and (2) redeem the Prior Bonds on the earliest possible optional redemption date relating to the Prior Bonds following the date of the issuance of the Series 2021 Bonds, (B) the Prior Trustee will agree to send a defeasance notice relating to the Prior Bonds as directed, and (C) the Prior Trustee will agree to call the Prior Bonds for redemption on the earliest possible optional redemption date relating to the Prior Bonds following the date of the issuance of the Series 2021 Bonds as directed.

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SOURCES AND USES OF FUNDS

The estimated sources and application of funds, inclusive of the proceeds of issuance of the Series 2021 Bonds, required in connection with the Project are anticipated to be, as follows⁽²⁾

	<u>Series 2021A</u>	<u>Series 2021B</u>	<u>Total</u>
SOURCES OF FUNDS			
Par Amount of Series 2021 Bonds	\$ 11,820,000	\$ 345,000	\$ 12,165,000
Original Issue Premium (Discount)	1,295,661	-	1,295,661
Prior Bonds Debt Service Fund	525,421	-	525,421
Prior Bonds Debt Service Reserve Fund	1,258,202	-	1,258,202
Prior Bonds State Education Cash Reserve	216,679	-	216,679
TOTAL SOURCES	15,115,963	345,000	15,460,963
USES OF FUNDS			
Deposit to Refund the Prior Bonds	\$ 13,810,254	-	\$ 13,810,254
Deposit to Debt Service Reserve Fund	1,047,063	30,561	1,077,625
Costs of Issuance ⁽¹⁾	258,646	314,439	573,084
TOTAL USES	15,115,963	345,000	15,460,963

(1) Includes, without limitation, underwriter's discount, legal and advisory fees, rating fees, printing costs and other costs associated with the issuance of the Series 2021 Bonds.

(2) Mathematical accuracy is subject to rounding.

THE SERIES 2021 BONDS

General

The Series 2021A Bonds will be issued in the original aggregate principal amount of \$11,820,000 and the Series 2021B Bonds will be issued in the original aggregate principal amount of \$345,000. The Series 2021 Bonds are to be dated as of the date of their issuance, and are to bear interest payable semiannually each April 1 and October 1, commencing on April 1, 2022, at the rates per annum, according to years of maturity, set forth on the inside front cover hereof. The Series 2021 Bonds are to mature on April 1 of the years and in the principal amounts set forth on the inside front cover hereof and will be subject to redemption prior to maturity, including optional redemption, extraordinary redemption and mandatory redemption, as set forth below under "Redemption Prior to Maturity of Bonds."

The Series 2021 Bonds will be issued in the form of fully registered bonds without coupons in Authorized Denominations. The principal of, Sinking Fund Payments for, interest on, and Redemption Price of, the Series 2021 Bonds will be payable when due by wire of the Trustee to The Depository Trust Company, New York, New York ("DTC"), which will in turn remit such principal, Sinking Fund Payments, interest and Redemption Price to Participants, which Participants will in turn remit such principal, Sinking Fund Payments, interest and Redemption Price to the Beneficial Owners of the Series 2021 Bonds as described in this Official Statement.

Redemption

Optional Redemption. The Series 2021A Bonds maturing on or after April 1, 2032 are also subject to redemption prior to maturity on or after April 1, 2031, at the option of the Institution by exercise of its

right to prepay the Loan Payments payable under the Loan Agreement, as a whole or in part at any time, in denominations of \$5,000 or any integral multiple of \$5,000 in excess thereof, at a Redemption Price of 100%, plus accrued interest to the Redemption Date. The Series 2021B Bonds are not subject to optional redemption.

Extraordinary Redemption Without Premium. The Series 2021 Bonds are subject to redemption prior to maturity (1) as a whole, without premium, in the event of (a) a taking in Condemnation of, or failure of title to, all or substantially all of the Project Facility and election by the Institution to redeem the Series 2021 Bonds in accordance with the Loan Agreement, (b) damage to or destruction of part or all of the Project Facility and election by the Institution to redeem the Series 2021 Bonds in accordance the Loan Agreement, or (c) a taking in Condemnation of part of the Project Facility and election by the Institution to redeem the Series 2021 Bonds in accordance with the Loan Agreement, or (2) as a whole, without premium, in the event that the Loan Agreement shall have become void or unenforceable or impossible of performance in accordance with the intent and purposes of the parties as a result of any change in the United States Constitution or legislative or administrative action (whether state or federal), or by final decree or judgment of any court or administrative body, or (3) in part, without premium, (a) in the event that (i) excess moneys remain in the Insurance and Condemnation Fund following damage or condemnation of a portion of the Project Facility and completion of the repair, rebuilding or restoration of the Project Facility by the Institution, and (ii) such excess moneys are not paid to the Institution, (b) in the event that excess moneys remain in the related account in the Project Fund after the Completion Date, or (c) in the event that excess proceeds of recoveries from contractors in connection with the repair or restoration of the Project Facility following damage or condemnation are applied to redeem Bonds pursuant to the Loan Agreement, in each case to the extent of such excess. In any such event, the Series 2021 Bonds shall be redeemed, as a whole or in part, as the case may be, on the earliest practicable date for which the Trustee can give notice of redemption, at a Redemption Price equal to the principal amount thereof, plus accrued interest to the redemption date, without premium.

Mandatory Sinking Fund Redemption of Bonds Without Premium. The Series 2021A Bonds issued as Term Bonds maturing on April 1, 2031 are subject to scheduled mandatory sinking fund redemption, by lot in such manner as the Trustee shall deem fair and appropriate, prior to maturity, on April 1 of each year, commencing April 1, 2023 by the application of Sinking Fund Payments at a Redemption Price equal to one hundred percent (100%) of the principal amount thereof to be redeemed, plus accrued interest to the Redemption Date, without premium, in the principal amounts set forth opposite the respective dates set forth below:

Sinking Fund Payment Date (April 1)	Sinking Fund Payment
2023	\$ 295,000
2024	655,000
2025	680,000
2026	700,000
2027	725,000
2028	745,000
2029	770,000
2030	795,000
2031 [†]	820,000

[†] Stated maturity.

The Series 2021A Bonds issued as Term Bonds maturing on April 1, 2037 are subject to scheduled mandatory sinking fund redemption, by lot in such manner as the Trustee shall deem fair and appropriate, prior to maturity, on April 1 of each year, commencing April 1, 2032 by the application of Sinking Fund Payments at a Redemption Price equal to one hundred percent (100%) of the principal amount thereof to be redeemed, plus accrued interest to the Redemption Date, without premium, in the principal amounts set forth opposite the respective dates set forth below:

Sinking Fund Payment Date (April 1)	Sinking Fund Payment
2032	\$ 850,000
2033	880,000
2034	920,000
2035	955,000
2036	995,000
2037 [†]	1,035,000

[†] Stated maturity.

Notice of Redemption. When the Series 2021 Bonds are to be redeemed pursuant to the Indenture, the Trustee shall give notice of the redemption of the Series 2021 Bonds in the name of the Issuer and at the expense of the Institution stating: (i) the Series 2021 Bonds to be redeemed (including the CUSIP number); (ii) the Redemption Date; (iii) except as provided in the Indenture, that such Bonds will be redeemed at the Office of the Trustee; (iv) that on the Redemption Date there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof (except in the case of a Mandatory Sinking Fund Redemption of Bonds without Premium, in which the principal will be due and payable on the Redemption Date and the interest will be paid on such date as provided in the Indenture); and (v) that from and after the Redemption Date interest thereon shall cease to accrue.

The Trustee shall mail a copy of the notice, by first class mail or other customary means (including electronic mail delivery) not less than thirty (30) days nor more than sixty (60) days prior to the Redemption Date, to each Holder at the address of such Holder appearing on the registration books of the Issuer. Such mailing shall not be a condition precedent to such redemption, and failure to so mail any such notice to any of such Holders shall not affect the validity of the proceedings for the redemption of the Series 2021 Bonds.

Payment of Redeemed Bonds. Notice of the intended redemption of each Bond subject to redemption shall be given not less than thirty (30) days nor more than sixty (60) days prior to the Redemption Date by the Trustee one time by first class mail postage prepaid to the registered owner at the address of such owner shown on the bond register maintained by the Trustee. The failure to give any such notice, or any defect therein, shall not affect the validity of any proceeding for the redemption of any Bond with respect to which no such failure to give notice, or defect therein, has occurred. Notice of any redemption hereunder with respect to Bonds held under a Book Entry System shall be given by the Bond Registrar or the Trustee only to the Depository, or its nominee, as the holder of such Bonds. Selection of book entry interests in the Bonds called for redemption is the responsibility of the Depository and any failure of any Direct Participant, Indirect Participant or Beneficial Owner to receive such notice and its contents or effect will not affect the validity of such notice or any proceedings for the redemption of such Bonds.

Any notice of optional redemption may provide that if, on the redemption date set forth in any such notice, there is on deposit with the Trustee and available therefor insufficient funds to pay the Redemption Price of all Initial Bonds scheduled to be redeemed, such redemption may be rescinded (in which case the Trustee shall promptly so notify the Holders of such Initial Bonds in the same manner in which notice of redemption was given), and if such redemption is rescinded, the Initial Bonds scheduled to be redeemed shall remain Outstanding as if the notice of redemption had not been sent.

After notice shall have been given in the manner provided above, the Series 2021 Bonds or portions thereof called for redemption shall become due and payable on the Redemption Date so designated. Upon presentation and surrender of such Bonds at the Office of the Trustee, such Bonds shall be paid at the Redemption Price for such Bonds, plus accrued interest (if any) to the Redemption Date. If there shall be selected for redemption less than all of a Bond, the Issuer shall, upon the surrender of such Bond and with no charge to the Owner thereof, (1) pay the Redemption Price of the principal amount thereof called for redemption, and (2) cause the Trustee to authenticate and deliver for the unredeemed balance of the principal amount of such Bond so surrendered a fully registered Bond of like maturity in any of the Authorized Denominations. If, on the Redemption Date, moneys for the redemption of all Bonds or portions thereof to be redeemed, in an amount equal to the principal of such Bonds or portions thereof to be redeemed, together with any premium due thereon and interest thereon to the Redemption Date, shall be held by the Trustee so as to be available therefor on such date, the Series 2021 Bonds or portions thereof so called for redemption shall cease to bear interest, and such Bonds or portions thereof shall no longer be Outstanding under the Indenture or be secured by or be entitled to the benefits of the Indenture.

Partial Redemption of Bonds. In the event of a partial redemption of any Series 2021 Bond, payment of the Redemption Price shall be made to the registered Owner or his duly authorized legal representative only upon surrender to the Trustee of such Series 2021 Bond, and upon such surrender the Trustee shall authenticate a new Series 2021 Bond executed by the Issuer for the unredeemed portion of such Series 2021 Bond.

Selection of Bonds to be Called for Redemption. In the event of any partial redemption, the particular Series 2021 Bonds or portions thereof to be redeemed shall be selected by the Trustee not more than sixty (60) days prior to the Redemption Date from maturities designated in writing by the Institution, and within each maturity by lot or by such other method as the Trustee shall deem fair and appropriate, provided that for so long as the Series 2021 Bonds shall be Book Entry Bonds, the particular Series 2021 Bonds or portions thereof to be redeemed within a maturity may be selected by lot by the Depository in such manner as the Depository may determine. If any maturity of the Series 2021 Bonds which is subject to sinking fund redemption is to be redeemed in part, the Trustee shall apply any partial redemption payments (other than a scheduled mandatory redemption) to the schedule of mandatory Sinking Fund Payments thereon as designated by the Institution. Further, the Trustee may provide for the selection for redemption of portions (equal to \$5,000 or any integral multiple of \$5,000 in excess thereof) of Series 2021 Bonds. In no event shall the principal amount of Series 2021 Bonds subject to any partial redemption be other than a whole multiple of \$5,000 thereof.

Book-Entry Only System

The information under this heading has been furnished by The Depository Trust Company (“DTC”), New York, New York. Neither the Issuer nor the Institution makes any representations as to the completeness or the accuracy of such information or as to the absence of material adverse changes in such information subsequent to the date thereof.

The Depository Trust Company (“DTC”), New York, NY, will act as the securities depository for the Series 2021 Bonds. The Series 2021 Bonds will be issued as fully-registered securities registered in the

name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2021 Bond certificate will be issued for each maturity of the Series 2021 Bonds in the aggregate principal amount of such issue, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants," and together with Direct Participants, "Participants"). DTC has a Standard & Poor's rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com.

Purchases of the Series 2021 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2021 Bonds on DTC's records. The ownership interest of each actual purchaser of each Series 2021 Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2021 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Series 2021 Bonds, except in the event that use of the book-entry system for the Series 2021 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2021 Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Series 2021 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2021 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the Series 2021 Bonds of a particular Series are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Series 2021 Bonds unless authorized by a Direct Participant in accordance with DTC's MMI procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Series 2021 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal and interest payments on the Series 2021 Bonds will be made to Cede & Co. or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Issuer or the Trustee on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Issuer or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Series 2021 Bonds at any time by giving reasonable notice to the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, Series 2021 Bond certificates are required to be printed and delivered.

The Issuer may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Series 2021 Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Issuer believes to be reliable, but neither the Issuer nor the Institution takes any responsibility for the accuracy thereof. So long as Cede & Co. is the registered owner of the Series 2021 Bonds as nominee of DTC, references herein to the holders or registered owners of the Series 2021 Bonds shall mean Cede & Co. and shall not mean the Beneficial Owners of the Series 2021 Bonds.

THE ISSUER, THE INSTITUTION AND THE TRUSTEE WILL HAVE NO RESPONSIBILITY OR OBLIGATION TO DIRECT PARTICIPANTS, TO INDIRECT PARTICIPANTS, OR TO ANY BENEFICIAL OWNER WITH RESPECT TO (i) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC, ANY DIRECT PARTICIPANT, OR ANY INDIRECT PARTICIPANT; (ii) ANY NOTICE THAT IS PERMITTED OR REQUIRED TO BE GIVEN TO THE OWNERS OF THE SERIES 2021 BONDS UNDER THE INDENTURE; (iii) THE SELECTION BY DTC OR ANY DIRECT PARTICIPANT OF ANY PERSON TO RECEIVE PAYMENT IN THE EVENT OF A PARTIAL REDEMPTION OF THE SERIES 2021 BONDS; (iv) THE PAYMENT BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT WITH RESPECT TO THE PRINCIPAL OR INTEREST DUE WITH RESPECT TO THE SERIES 2021 BONDS; (v) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS THE OWNER OF THE SERIES 2021

BONDS; OR (vi) ANY OTHER MATTER RELATING TO DTC OR THE OPERATION OF THE BOOK-ENTRY SYSTEM.

Transfer and Exchange of Bonds

Any Series 2021 Bond, upon the surrender of such Series 2021 Bond to the Bond Registrar for registration of transfer, may be transferred, but only upon delivery to the Bond Registrar of an assignment duly executed by the registered Owner or his duly authorized legal representative in the form imprinted on the Series 2021 Bond or in such other form as shall be satisfactory to the Bond Registrar.

Upon receipt of such Series 2021 Bond and upon satisfaction of the conditions set forth in the Indenture, the Trustee shall immediately record the transfer of such Series 2021 Bond on the Bond Register and cause the transferee or transferees to be the registered Owner of such Series 2021 Bond. Upon any such registration of transfer, the Issuer shall execute and the Trustee shall authenticate and deliver in exchange for such Series 2021 Bond one or more new Series 2021 Bonds of the same Series and maturity, registered in the name of the designated transferee thereof, of any Authorized Denomination and for the same aggregate principal amount as the Series 2021 Bond or Series 2021 Bonds surrendered for transfer.

The Person in whose name any Series 2021 Bond shall be registered shall be deemed and regarded as the absolute Owner thereof for all purposes, and payment of or on account of the principal of, or the premium if any or interest on, any such Series 2021 Bond shall be made only to or upon the order of the registered Holder thereof or his duly authorized legal representative. All payments to the Person in whose name any Series 2021 Bond shall be registered shall be valid and effectual to satisfy and discharge the liability upon such Series 2021 Bond to the extent of the sum or sums so paid.

The Trustee shall not be required to make any such transfer or exchange of (1) any Series 2021 Bond during the fifteen (15) days next preceding a Bond Payment Date or (2) any Series 2021 Bond selected for redemption in whole or in part; provided, however, that in the event of a Series 2021 Bond selected for redemption in part, nothing in this subsection shall prohibit exchange of the remaining portion of such Series 2021 Bond redeemed in part for a new Series 2021 Bond with a reduced principal amount or the transfer or exchange of any such new Series 2021 Bond.

SECURITY FOR THE SERIES 2021 BONDS

Assignment of Loan Agreement and Mortgage

Pursuant to a Pledge and Assignment, dated as of November 1, 2021 (the “Pledge and Assignment”), the Issuer will assign its rights (excepts certain Unassigned Rights) in the Loan Agreement to the Trustee as security for the Series 2021 Bonds. Pursuant to an Assignment of Mortgage, dated as of November 1, 2021 from the Issuer to the Trustee (the “Assignment of Mortgage”), the Issuer will assign, transfer and set over all its interest in and to the Mortgage to the Trustee.

Assignment of Rents

As additional security for the Series 2021 Bonds, the Institution will execute and deliver to the Issuer an assignment of rents and leases dated as of November 1, 2021 (the “Assignment of Rents”), which Assignment of Rents, among other things, assigns to the Issuer (a) the rents, issues and profits of the Initial Project Facility and (b) all leases, subleases, licenses or occupancy agreements affecting the Initial Project Facility. The Issuer will execute and deliver to the Trustee an assignment of assignment of rents and leases

dated as of November 1, 2021 (the “Assignment of Rents Assignment”) from the Issuer to the Trustee, pursuant to which the Issuer will assign the Assignment of Rents to the Trustee.

Security Interest in Gross Revenues

Under the Loan Agreement, subject to any restrictions set forth in the Charter Schools Act with respect to the pledge or assignment of Per Pupil Aid, as security for the payment of all liabilities and the performance of obligations of the Institution pursuant to the Indenture, the Institution grants the Issuer a security interest in all right, title and interest of the Institution in the Project Facility and in all additions and accessions thereto subject to Permitted Encumbrances and continuously pledges and grants a security interest in, and assigns to the Issuer the Gross Revenues, together with the Institution’s right to receive and collect Gross Revenues, together with the Institution’s right to receive and collect Gross Revenues and the proceeds to the Gross Revenues.

“Gross Revenues” means, for any period of time for which calculated and regardless of the source, subject to the statutory provision prohibiting any pledge or assignment of Education Aid provided or to be provided to the Institution pursuant to Section 2853(3)(b) of the Charter Schools Act, all revenues, rentals, fees, third-party payments, receipts, donations, contributions or other income of the Institution, including accounts receivables or other rights to receive such revenues, determined in accordance with generally accepted accounting principles, consistently applied, including but not limited to Education Aid (subject to the statutory provision prohibiting any pledge or assignment of Education Aid provided or to be provided to the Institution pursuant to Section 2853(3)(b) of the Charter Schools Act) and other aid received by the Institution pursuant to federal or State law, requirements, grants or other programs, proceeds derived from insurance, condemnation proceeds, accounts, contract rights, including payment rights under chattel paper or an instrument, commercial tort claims, deposit accounts, investment property and other rights and assets, whether now or hereafter owned, held or possessed by the Institution; and all gifts, grants, bequests and contributions (including income and profits therefrom), all to the extent permitted by the terms thereof and by law, including but not limited to the statutory provision prohibiting any pledge or assignment of Education Aid provided or to be provided to the Institution pursuant to Section 2853(3)(b) of the Charter Schools Act. See “APPENDIX D – DEFINITIONS AND SUMMARIES OF CERTAIN PROVISIONS OF THE INDENTURE, THE LOAN AGREEMENT, THE PLEDGE AND ASSIGNMENT, THE MORTGAGE, THE MORTGAGE ASSIGNMENT, THE ASSIGNMENT OF RENTS AND THE ASSIGNMENT OF RENTS ASSIGNMENT.

Mortgage; Permitted Encumbrances

Under the Mortgage, the Institution grants as security for the Series 2021 Bonds a mortgage of and security interest in its Mortgaged Property, consisting generally of an approximately 28,320 square foot elementary school building located at 250 Central Avenue in the City of Albany, an approximately 33,592 square foot elementary school building located at 116 North Lake Avenue in the City of Albany, and parcels of land with related parking structures located at 393, 395 and 397 Elk Street and 130 North Lake Avenue in the City of Albany, New York. The Issuer will assign the Mortgage to the Trustee pursuant to the Assignment of Mortgage. The Mortgaged Property does not include any interest in public education aid to the extent restricted by the Charter Schools Act (but only to the extent applicable). See “APPENDIX D – DEFINITIONS AND SUMMARIES OF CERTAIN PROVISIONS OF THE INDENTURE, THE LOAN AGREEMENT, THE PLEDGE AND ASSIGNMENT, THE MORTGAGE, THE MORTGAGE ASSIGNMENT, THE ASSIGNMENT OF RENTS AND THE ASSIGNMENT OF RENTS ASSIGNMENT.” See also “APPENDIX B – CERTAIN INFORMATION REGARDING THE INSTITUTION.” The lien of the Mortgage is subject to Permitted Encumbrances and any parity or subordinated lien permitted under the Loan Agreement.

State Aid Intercept

In the event a School District fails to make any of the required payments to the Institution, including those for services provided to pupils with disabilities, the Institution will notify the State Education Department and the State's Education Department will calculate and certify the amount of any delinquent payment due and owing to the Institution to the State Comptroller. Upon such certification, the State Comptroller will deduct the certified amount from State funds otherwise due to such School District and pay the amount withheld directly to the Institution.

The Project Fund

Under the Indenture, a Project Fund is to be maintained by the Trustee. Within the Project Fund will be two accounts: (a) the Series 2021 Project Account; and (b) an additional, separate account for each Series of Additional Bonds. Moneys on deposit in the Series 2021 Project Account of the Project Fund with respect to the Series 2021 Bonds shall be disbursed and applied by the Trustee to (i) pay to the Prior Trustee an amount equal to the Defeasance Cash Deposit and (ii) pay the Costs of the Project relating to the Initial Project and certain Costs of Issuance. Pursuant to the provisions of the Defeasance Escrow Agreement, the Defeasance Cash Deposit shall become part of the Defeasance Escrow Deposit, and the Defeasance Escrow Deposit shall be held by the Prior Trustee pursuant to the Defeasance Escrow Agreement and applied to pay debt service coming due on the Prior Bonds to be refunded and to redeem such Prior Bonds on the earliest possible optional redemption date relating to such Prior Bonds following the date of the issuance of the Series 2021 Bonds.

Debt Service Reserve Fund

Under the Indenture, a Reserve Fund with respect to the Series 2021 Bonds is established with the Trustee under the Indenture within which there will be two accounts: (i) the Series 2021A Bonds Account and (ii) the Series 2021B Bonds Account. The Series 2021A Bonds Account of the Reserve Fund will be funded by proceeds of the Series 2021A Bonds in the amount of \$1,047,063.50, Series 2021A Reserve Fund Requirement applicable to the Series 2021A Bonds. The Series 2021B Bonds Account of the Reserve Fund will be funded by proceeds of the Series 2021B Bonds in the amount of \$30,561.50, the initial Reserve Fund Requirement applicable to the Series 2021B Bonds.

If the amount on deposit in the Bond Fund is not sufficient to pay the Debt Service Payments due on a Bond Payment Date, the Trustee shall transfer from the Reserve Fund and deposit into the Bond Fund an amount of money sufficient to enable the Trustee to make all such Debt Service Payments coming due on the Series 2021 Bonds. The Trustee shall notify the Institution of any withdrawal from the Reserve Fund, or any deficiency in the amount required to be on deposit therein following periodic valuation as required by the Indenture. The Institution has agreed to replenish the Reserve Fund via payments from the Institution under the Custody Agreement that are due each Loan Payment Date, each such payment to be in an amount at least equal to one-sixth of the deficiency identified by the Trustee.

The amounts in the Reserve Fund shall be valued semiannually by the Trustee. If the amounts held in the Reserve Fund exceed the Reserve Fund Requirement, the Trustee shall apply such excess to first pay the Trustee's Ordinary and Extraordinary Services and the balance shall be transferred to the Bond Fund and used to pay Debt Service Payments due on the Series 2021 Bonds and credited to the Institution's obligation to make Loan Payments.

The Repair and Replacement Fund

Pursuant to the Custody Agreement, the Repair and Replacement Fund will be funded in an amount equal to an amount equal to \$100,000 to be funded on the Closing Date with available cash of the Institution. Moneys on deposit in the Repair and Replacement Fund shall be applied at the direction of the Institution to the cost of the construction of additions, improvements or betterments to, or the reconstruction of, the Project Facility, emergency repairs of the Project Facility, and major or extraordinary repairs, renewals or replacements of the Project Facility.

Following any disbursement or deficiency from the Repair and Replacement Fund, the amount required to be deposited therein shall additionally include an amount necessary to replenish the Repair and Replacement Fund by the total amount of such disbursement or deficiency deposited in equal amounts on each Loan Payment Date over the 24-month period to begin on the Loan Payment Date following such disbursement or deficiency. Semiannually, at least fifteen (15) Business Days prior to each Interest Payment Date, the amounts in the Repair and Replacement Fund shall be valued by the Trustee. If the amounts held in the Repair and Replacement Fund exceed the Repair and Replacement Fund Requirement, the Trustee shall withdraw such excess amount and apply it to pay the Trustee's Ordinary and Extraordinary Services and the balance shall be transferred to the Bond Fund and used to pay Debt Service Payments due on the Series 2021 Bonds and credited to the Institution's obligation to make Loan Payments.

Days Cash on Hand Covenant

The Institution will covenant and agree in the Loan Agreement to maintain unrestricted Cash on Hand of at least forty-five (45) Days' Cash on Hand, tested as of June 30 of each year, commencing June 30, 2022 until the Series 2021 Bonds are no longer outstanding (the "Cash on Hand Requirement"). Following each testing date, the Institution will provide the Trustee with a certification of having met the Cash on Hand Requirement no later than the earlier of the ensuing December 31 or three (3) weeks after completion of the Institution's audit for the previous Fiscal Year. The foregoing is subject to the qualification that if applicable State or federal laws or regulations, or the rules and regulations of agencies having jurisdiction, shall not permit the Institution to maintain the Cash on Hand Requirement, then the Institution shall, in conformity with the then prevailing laws, rules, or regulations, maintain its Cash on Hand equal to the maximum permissible level.

If the Cash on Hand for any testing date is less than the Cash on Hand Requirement, then, the Institution shall retain on an annual basis 50% of the Excess Net Revenues until such time as the Institution is in compliance with the Cash on Hand Requirement. In the event that the Institution fails to satisfy the Cash on Hand Requirement and does not retain on an annual basis 50% of the Excess Net Revenues, then the Trustee shall give notice thereof to the Bondholders, and upon the written direction of the Majority Bondholder(s), the Institution will promptly employ a Management Consultant to review and analyze the operations and administration of the Institution, inspect the Project Facility, and submit to the Institution and the Trustee written reports, and make such recommendations as to the operation and administration of the Institution as such Management Consultant deems appropriate, including any recommendation as to a revision of the methods of operation thereof. The Institution agrees to consider any recommendations by the Management Consultant and, to the fullest extent practicable, to adopt and carry out such recommendations. The Trustee has no duty or obligation to monitor the Institution's compliance with any recommendations and the Trustee's sole responsibility is to forward such recommendations to the Bondholders.

So long as the Institution is otherwise in full compliance with its obligations under the Agreement, including following, to the fullest extent practicable, the recommendations of the Management Consultant,

it shall not constitute an Event of Default under the Agreement if the Institution fails to satisfy the Cash on Hand Requirement and retain on an annual basis 50% of the Excess Net Revenues.]

Debt Service Coverage Ratio Covenant

Pursuant to the Loan Agreement, the Institution shall have Net Income Available for Debt Service with respect to the Fiscal Year then ended of at least 110% of the Principal and Interest Requirements (the “Debt Service Coverage Ratio”). The Institution will provide certification of compliance with the foregoing to the Trustee no later than the earlier of the ensuing December 31 or three (3) weeks after completion of the Institution’s audit for the previous Fiscal Year.

If the Institution does not comply with the Debt Service Coverage Ratio, then the Trustee shall give notice thereof to the Bondholders, and upon the written direction of the Majority Bondholder(s), the Institution will promptly employ a Management Consultant to review and analyze the operations and administration of the Institution, inspect the Project Facility, and submit to the Institution and the Trustee written reports, and make such recommendations as to the operation and administration of the Institution as such Management Consultant deems appropriate, including any recommendation as to a revision of the methods of operation thereof. The Institution agrees to consider any recommendations by the Management Consultant and, to the fullest extent practicable, to adopt and carry out such recommendations. The Trustee has no duty or obligation to monitor the Institution’s compliance with any recommendations and the Trustee’s sole responsibility is to forward such recommendations to the Bondholders.

So long as the Institution is otherwise in full compliance with its obligations under the Loan Agreement, including following, to the fullest extent practicable, the recommendations of the Management Consultant, it shall not constitute an Event of Default under the Loan Agreement if the Institution fails to satisfy the Debt Service Coverage Ratio (as evidenced by the Institution’s audited financial statements for such Fiscal Year).

Notwithstanding the immediately preceding paragraph, regardless of whether the Institution has retained a Management Consultant, if at the end of the Fiscal Year ending June 30, 2022, or any subsequent Fiscal Year, the Net Income Available for Debt Service as of the end of such Fiscal Year is less than 100% of the Principal and Interest Requirements of such Fiscal Year (as evidenced by the Institution’s audited financial statements for such Fiscal Year), then the Trustee shall give notice thereof to the Bondholders and the Majority Bondholder may either (A) direct the Trustee to declare an Event of Default under the Indenture and the Loan Agreement or (B) direct the Trustee to exercise one or more of the remedies permitted under the Loan Agreement and the Indenture.

Financial and Operational Reports

Pursuant to the Continuing Disclosure Agreement, the Institution shall provide to Manufacturers and Traders Trust Company, as dissemination agent, for posting to the Electronic Municipal Market Access system (“EMMA”) of the Municipal Securities Rulemaking Board (the “MSRB”), not later than one hundred eighty (180) days after the end of the Institution’ fiscal year, commencing with the fiscal year ended June 30, 2022, an Annual Report consisting of audited financial statements of the Institution for the prior fiscal year together with certain operating information as more particularly described in the Continuing Disclosure Agreement, the form which is set forth herein as Appendix E.

In addition, pursuant to the Continuing Disclosure Agreement the Institution also intends, but is not required, to provide interim reports (the “Interim Reports”) to the Dissemination Agent for posting to EMMA, consisting of the information set forth below.

(a) *Interim Financial Reports.* Periodic reports from the Institution including (a) unaudited financial statements of the Institution for the previous calendar quarter reflecting revenues and expenses in comparative form with the Institution' operating budget as submitted by the Institution to their governing boards, within 60 days of the close of each respective calendar quarter, (b) individual and consolidated annual budgets of the Institution within 30 days of their adoption, (c) results of any federal or State of New York testing within 45 days of receipt by the Institution, (d) within 14 days of receipt, notification or any report of any potential or alleged violation of the charter by the Institution, (e) within 14 days of submission, any information that the Institution has provided to any Rating Agency then rating the Series 2021 Bonds as a part of such Rating Agency's ongoing surveillance to the extent that such information has not otherwise been filed or is being filed on EMMA as part of the Continuing Disclosure Agreement, and (f) within 14 days of receipt, any notice or allegation of a violation of governmental approvals in connection with the operation of the Project Facility, and

(b) *Information Submitted to the NYSED.* Copies of each report on enrollment, headcount, membership, attendance and similar statistics with respect to the Institution submitted by the Institution to the New York State Education Department during the previous calendar quarter, within 60 days of the close of each respective calendar quarter, and

(c) *Annual Investor Call.* Commencing with the Fiscal Year ending June 30, 2022, the Institution intends to hold an investor conference call after the filing of Annual Report on EMMA for the immediately preceding Fiscal Year for the purpose of reviewing financial results of such Fiscal Year. In addition to reviewing the financial results for the immediately preceding Fiscal Year, matters to be addressed by the Institution on the investor conference call, if material as determined in the sole discretion of the Institution, are intended to include the following:

(1) school governance and charter status matters, such as the charter renewal process (if a renewal is pending within twelve (12) months of the date the call is held); significant details relating to any form of revocation, review or supervision plan on which a school charter is under by its authorizing entity, district and/or the state; and any changes in composition of the board, third-party managers (if any), the school(s) or within the leadership of the governing body of the Institution since the last call;

(2) the use any Short-Term Indebtedness (such as cash flow financing, state aid notices or bank lines of credit) or new Long-Term Indebtedness incurred since the date of the immediately preceding investor call;

(3) capital spending plans which the governing body of the Institution has taken official action;

(4) actual enrollment or mid-year budget cuts which required revisions to the annual budget;

(5) if the Institution is subject to mid-year cuts in federal, state and/or local sources of funding, the impact on the Institution' financial position and management's responses to the cuts;

(6) litigation (including any matters of criminal misconduct) against the Institution, their governing bodies, or employees of the Institution to the extent such action is expected to materially affect operations and/or school finances; and

(7) casualty losses, to the extent daily operations of the Institution were disrupted or more than seven to ten (7-10) days, including information regarding the insurance coverage for such casualty losses.

The submission of Interim Reports are voluntary and therefore the failure to file such information shall not give rise to an obligation to file a “notice of failure to file” as is the case with the other reporting requirements set forth in the Continuing Disclosure Agreement. See “APPENDIX E – FORM OF CONTINUING DISCLOSURE AGREEMENT.”

Environmental Compliance Agreement

In connection with the issuance of the Series 2021 Bonds, the Institution will execute and deliver an environmental compliance and indemnification agreement dated as of November 1, 2021 (the “Environmental Compliance Agreement”) from the Institution to the Issuer and the Trustee, pursuant to which, among other things, the Institution indemnifies the Issuer and the Trustee against certain environmental liabilities related to the Initial Project Facility.

Limited Obligations

The Series 2021 Bonds are not general or moral obligations of the Issuer, the City, the County, or the State and will neither constitute nor give rise to a debt of the Issuer, the City, the County, or the State or a charge against the general credit or taxing power of the Issuer, the City, the County, or the State, or any property of the State, the City, the County, or the Issuer (other than the rights of the Issuer under the Loan Agreement assigned to the Trustee by the Indenture). The Issuer does not have any taxing authority.

Defeasance

Upon certain terms and conditions specified in the Indenture, including the deposit of certain funds with the Trustee, the Series 2021 Bonds will be deemed to be paid and the security provided in the Indenture for the Series 2021 Bonds to be discharged prior to the maturity or redemption thereof. See “APPENDIX D – DEFINITIONS AND SUMMARIES OF CERTAIN PROVISIONS OF THE INDENTURE, THE LOAN AGREEMENT, THE PLEDGE AND ASSIGNMENT, THE MORTGAGE, THE MORTGAGE ASSIGNMENT, THE ASSIGNMENT OF RENTS AND THE ASSIGNMENT OF RENTS ASSIGNMENT.”

The Custody Agreement

Simultaneously with the execution of the Loan Agreement, the Institution, the Custodian and the Trustee are entering into the Custody Agreement. The Institution will direct the School Districts to pay over and deliver to the Custodian the of bi-monthly installments of Per Pupil Aid due to the Institution for deposit as directed by the Trustee under the Custody Agreement.

SOURCES OF REVENUE

Under the Charter Schools Act, the Institution is entitled to receive public education aid from the school districts for each student enrolled in the Institution. Such aid is payable on a per student basis by each of the school districts in which students of the Institution are resident. The amount of aid for each student is determined on the basis of the “expense per pupil” as calculated under the State’s Education Law for the respective School District. The amount of aid to which the Institution is entitled for each student will vary among school districts based on the actual expense per pupil of the respective School District and the actual FTE (full time equivalent) of the student.

The Charter Schools Act defines “expense per pupil” as the product of the approved operating expense for the applicable period, established by the State’s Education Department for the respective School District and the sum of the total aidable pupil units in the respective School District and weighted pupils

with handicapping conditions. The aid for weighted pupils with handicapping conditions is called Public Excess Cost Aid and is included on the bi-monthly billings where applicable.

The Charter Schools Act also requires that each school district pay to the Institution any State or federal aid that is attributable to students with disabilities receiving special education services from the Institution, based upon the enrollment of such students in the Institution's program and the special education services provided. The Institution expects to receive approximately \$130,000 in aid for pupils with disabilities enrolled in special education programs for the 2021-22 school year.

The Charter Schools Act provides that any aid payable to the Institution may be reduced pursuant to an agreement between the Institution and the Board of Regents. No such agreement is currently in effect. There can be no assurance that in connection with the Institution's application for renewal of its charter or otherwise, the Institution and the Board of Regents will not enter into such agreement in the future.

Each School District is required to make payments to the Institution in six substantially equal installments on the first business day of the month of July, September, November, January, March and May in the amounts determined in accordance with the Charter Schools Act.

In the event a School District fails to make any of the required payments to the Institution, including those for services provided to pupils with disabilities, the Institution will notify the State Education Department and the State's Education Department will calculate and certify the amount of any delinquent payment due and owing to the Institution to the State Comptroller. Upon such certification, the State Comptroller will deduct the certified amount from State funds otherwise due to such School District and pay the amount withheld directly to the Institution.

Approximately 70% percent of the Institution's total student enrollment are resident in the Albany City School District (the "City School District") and for the 2021–2022 school year, the Institution received approximately \$16,719 for each student resident in the Albany City School District. The Institution expects to receive approximately \$8,130,436 in total aid for the 2021-2022 school year.

Sources of Aid to Public Education in New York State

Local Aid. The major source of local revenue for education in most New York public school districts is the tax levied by the local board of education on taxable residential and commercial real property located within the boundaries of such school district. However, the board of education for the City School District does not have the authority to levy school taxes on real property or otherwise to raise revenues. The City School District is fiscally dependent upon the City of Albany (the "City") for support. Education is included in the municipal budget for the City. Real property taxes to support the City School District are levied by the City and subject to the statutory tax limits imposed on the entire municipal budget. School taxes and State aid are received into, and disbursed to the City School District from, the general funds of the City. The City has experienced occasional difficulty in balancing its municipal budget and problems related to the level and stability of funding for, and allocation of municipal funds to, the City School District. Such difficulties may recur, and there can be no assurance that the level of local aid received by the City School District from the City will continue and any shortfall may require either a counterbalancing increase in revenues from other sources to the extent available or a curtailment of expenditures and may adversely affect the timing and amount of aid available for payment to the Institution which would have a material adverse effect on the ability of the Institution to make payments of principal of and interest and premium, if any, on the Series 2021 Bonds.

State Aid. State aid for public schools comes primarily from the State's general fund wherein the major revenue source is State income and sales taxes. The balance of State aid for public schools comes from a special revenue fund account supported by lottery receipts.

State aid is allocated among public school districts on the basis of a complex set of components and formulas. The various components and formulas provide for aid to be allocated on a per pupil basis as well on the basis of percentages of the wealth of the State's school districts as measured by real property assessments and income levels of school district residents. The distribution of most State aid is based on wealth equalizing formulas which are intended to distribute State aid in inverse proportion to the wealth of school districts and their concomitant ability to raise local revenues through real property assessment and taxation.

Additionally, the School Tax Relief ("STAR") program provides to homeowners in the State a State-funded exemption from a portion of school taxes payable with respect to their primary residences. School districts (or in the case of the City School District, the City) are reimbursed by the State for school taxes exempted pursuant to the STAR program.

The amount of State aid to school districts is dependent in part upon the financial condition of the State.

State aid to school districts within the State has declined in some recent years before increasing again in more recent years.

Significant delays in the adoption of the State budget could result in delayed payment of State aid to school districts in the State which could adversely affect the financial condition of school districts in the State, including the Institution.

Federal Aid. The State receives a substantial amount of Federal aid for education. Many of the policies that drive this Federal aid are subject to change under the current presidential administration and Congress. However, the State's current financial projections concerning Federal aid, and the assumptions on which they are based, are subject to revision as more information becomes available about the proposals for Federal tax policy and legislation, health care, including amendments to the Affordable Care Act, infrastructure, taxation, the Budget Control Act of 2011 (as amended), Federal regulatory reform, and other issues that may arise.

Reductions in Federal funding levels could have a materially adverse impact on the State budget. In addition to the potential fiscal impact of policies that may be proposed and adopted by the new administration and Congress, the State budget may be adversely affected by other actions taken by the Federal government, including audits, disallowances, and changes to Federal participation rates or other Medicaid rules.

There can be no assurance that the State's financial position will not change materially and adversely from current projections. If this were to occur, the State would be required to take additional gap-closing actions. Such actions may include, but are not limited to: reductions in State agency operations; delays or reductions in payments to local governments or other recipients of State aid including school districts in the State. Reductions in the payment of State aid could adversely affect the financial condition of school districts in the State.

Even though the State is obligated under the New York Constitution to provide for the maintenance and support of a system of free common schools, the State is not obligated either to continue to authorize the operation of charter schools or to continue its current system of State Education Operating Aid and State-funded Disability Aid. Any change in the Charter Schools Act or in the provisions of the New York Education Law relating to the appropriation of State Education Operating Aid or of Disability Aid funded by the State or failure by the New York Legislature to appropriate funds sufficient to fund the operation of

charter schools could have a material adverse effect on the ability of the Institution to make the installment purchase payments required under the Loan Agreement.

DEBT SERVICE SCHEDULE

The table below sets forth the amounts required to be paid with respect to the Series 2021 Bonds assuming no prepayments other than from scheduled mandatory sinking fund redemptions. All amounts shown in the table below are gross debt service prior to the application of any earnings on amounts deposited in the Reserve Fund or other funds and accounts established under the Indenture. Interest on the Series 2021 Bonds will be paid on April 1 and October 1 of each year, commencing April 1, 2022. Principal of the Series 2021 Bonds will be paid on April 1 of each year, commencing on April 1, 2022.

Combined Debt Service Schedule					
Series 2021A			Series 2021B		
Period Ending	Principal	Interest	Principal	Interest	Totals
4/1/2022	-	\$151,613.33	-	\$3,986.67	\$155,600.00
4/1/2023	\$295,000	426,412.50	\$345,000	11,212.50	1,077,625.00
4/1/2024	655,000	416,825.00			1,071,825.00
4/1/2025	680,000	395,537.50			1,075,537.50
4/1/2026	700,000	373,437.50			1,073,437.50
4/1/2027	725,000	350,687.50			1,075,687.50
4/1/2028	745,000	327,125.00			1,072,125.00
4/1/2029	770,000	302,912.50			1,072,912.50
4/1/2030	795,000	277,887.50			1,072,887.50
4/1/2031	820,000	252,050.00			1,072,050.00
4/1/2032	850,000	225,400.00			1,075,400.00
4/1/2033	880,000	191,400.00			1,071,400.00
4/1/2034	920,000	156,200.00			1,076,200.00
4/1/2035	955,000	119,400.00			1,074,400.00
4/1/2036	995,000	81,200.00			1,076,200.00
4/1/2037	1,035,000	41,400.00			1,076,400.00
TOTALS	\$11,820,000	\$4,089,488.33	\$345,000	\$15,199.17	\$16,269,687.50

LIMITATIONS ON ADDITIONAL INDEBTEDNESS

Under the Loan Agreement, the Institution is precluded from incurring Additional Indebtedness that is senior to the lien of the Mortgage on the Mortgaged Property and the obligations of the Institution under the Loan Agreement. The Institution may incur Additional Parity Indebtedness only upon providing to the Trustee a certificate of an Authorized Representative of the Institution, accompanied by a confirming Independent Financial Consultant's Certificate, to the effect that (i) the requirements regarding the incurrence of Additional Bonds under the Indenture have been met, but this clause (i) applies only if the other Indebtedness takes the form of Additional Bonds, and (ii) either:

- (a) (i) the Net Income Available for Debt Service is equal to or greater than 110% of the combined Annual Debt Service for outstanding Long-Term Indebtedness as determined in the most recent audited financial statements of the Institution and (ii) the Net Income Available for Debt Service is equal to or greater than 110% of combined Annual Debt Service for outstanding Long-

Term Indebtedness and the Long-Term Indebtedness related to the facility proposed to be incurred as determined in the most recent audited financial statements of the Institution; or

(b) the projected Net Income Available for Debt Service of the Institutions is not less than 125% of the combined projected Annual Debt Service for currently outstanding Long-Term Indebtedness of the Institution and the Long-Term Indebtedness related to the facility proposed to be incurred for three consecutive fiscal years after the earlier of (i) the date the new facility is placed into service or (ii) the year provision for payment of debt service with capitalized interest is expended.

In addition to the foregoing, prior to the incurrence of Additional Parity Indebtedness, the Custodian, the Trustee, the Institution and any issuer of such Additional Parity Indebtedness shall have entered into an intercreditor agreement, satisfactory to all parties, providing for, among other things, the application and disposition of amounts on deposit in the account under the Custody Agreement and any amendment or supplement thereof.

Subordinate Indebtedness

The Institution may incur additional Indebtedness secured by liens on the Project Facility or Gross Revenues that are subordinate to the lien of the Mortgage and the security interest in the Gross Revenues granted by this Agreement.

RISK FACTORS

This Official Statement contains summaries of pertinent portions of the Series 2021 Bonds and the Indenture. Such summaries and references are qualified in their entirety by reference to the full text of such documents. The following discussion of some of the risk factors associated with the Series 2021 Bonds is not, and is not intended to be, exhaustive, and such risks are not necessarily presented in the order of their magnitude.

This Official Statement does not describe all of the risks of an investment in the Series 2021 Bonds and the Underwriter disclaims any responsibility to advise prospective investors of such risks as they exist at the date of this Official Statement or as they change from time to time. Prospective investors should consult their own legal and tax advisors as to the risks entailed by an investment in the Series 2021 Bonds and the suitability of investing in the Series 2021 Bonds in light of their particular circumstances. Prospective investors should be able to bear the risks relating to an investment in the Series 2021 Bonds and should carefully consider, among other factors, the matters described below.

Speculative Investment

Purchase of the Series 2021 Bonds involves a high degree of risk, and the Series 2021 Bonds are a speculative investment. Any investor who, because of financial condition, is unable to bear the loss of an investment in the Series 2021 Bonds, or who, because of investment policies or otherwise, does not desire to assume, or have the ability to bear, the risks inherent with an investment in the Series 2021 Bonds, should not purchase the Series 2021 Bonds.

The Series 2021 Bonds may exhibit price fluctuations due to the changes in interest rate or bond yield levels. As a result, the value of the Series 2021 Bonds may fluctuate significantly in the short-term. Further, such securities have a less liquid resale market. As a result, potential investors may have difficulty

selling or disposing of the Series 2021 Bonds quickly in certain markets or market conditions. There can be no assurance that there will be a secondary market for the Series 2021 Bonds.

Limited Obligations

The Series 2021 Bonds and the interest thereon are special, limited obligations of the Issuer and will not constitute general obligations of the Issuer, the City, the County, or the State. The Series 2021 Bonds shall constitute limited obligations of the Issuer payable solely from the revenues of the Issuer derived and to be derived from the payments made by the Institution under the Loan Agreement (except for revenues derived by the Issuer with respect to the Unassigned Rights), or from any amounts received by the Trustee from enforcement of the Mortgage or from property, rights and interests held in the trust estate and pledged therefor pursuant to the Indenture. The Issuer has no taxing authority. Neither the full faith and credit of the Issuer, the City, the State, the County nor any other political subdivision of the State is pledged to the payment of principal of or interest on the Series 2021 Bonds. The Institution's ability to repay the Series 2021 Bonds will depend, among other things, on the overall financial condition of the Institution, the ability of the Institution to continue to maintain its Charter, enrollment levels in the Institution, and the timing and amount of public education aid received by the Institution from school districts. No representation or assurance can be made that the revenues derived from the operation of the Institution will be sufficient to make the required payments under the Loan Agreement. See "APPENDIX A – SUMMARY OF CERTAIN PROVISIONS OF NEW YORK CHARTER SCHOOL LAW."

Existing and Prospective Operations

The Institution is a not-for-profit education corporation organized pursuant to the Charter Schools Act and operates the School independently of public schools and public school districts and is entitled to receive from the school districts public education aid for each student resident in the respective School District who is enrolled in the Institution. See "APPENDIX B – CERTAIN INFORMATION REGARDING THE INSTITUTION."

No assurances can be given that the revenues to be generated by the Institution will be sufficient to provide for payment of all operating and other costs incurred by the Institution, including related debt service requirements on the Series 2021 Bonds and any other indebtedness of the Institution. The Institution is not expected to have any significant operations or assets other than the School and related funds, which include the receipt of public education aid from the school districts based on student enrollment and "expense per pupil" for the respective School District as determined under the Education Law of the State, and other assistance from private persons and organizations. Accordingly, if the Institution does not generate sufficient revenues based upon student enrollment, it is unlikely that the Institution will have other resources to make payments under the Loan Agreement necessary to pay in full when due all principal of, and premium, if any, and interest on, the Series 2021 Bonds. See "SOURCES OF REVENUE" herein.

The revenues and expenses associated with the existing and prospective operation by the Institution of the Institution will be affected by future events and conditions relating generally to, among other things, demand in the Institution's service area for alternative education facilities, the ability of the Institution to continue to provide the kinds of facilities and services desired or required by students, economic developments in the affected service area, competition from existing or future educational facilities, the fiscal conditions of the school districts obligated to pay public education aid to the Institution, the ability of the Institution to maintain its Charter and the ability of the Institution under existing and future market conditions to maintain high enrollment rates. The Institution is subject to competition from public schools, private schools, and parochial schools. There can be no assurance that additional competing charter schools will not be chartered in the future.

Requirements for and Limitations Upon Enrollment

Although the Institution is now a single legal entity, the Institution operates the two schools pursuant to two separate charters issued by the Board of Regents. Each of the two charters requires the Institution to obtain written approval from the State Education Department prior to (i) enrolling any student, who, if enrolled, would cause the respective school's enrollment to exceed 325, or (ii) commencing or continuing instruction where the total number of students enrolled at a respective school is less than eighty five percent (85%) of the Projected Enrollment for a given academic year as set forth in the Renewal Application or the total enrollment is less than fifty (50) students.

Legislative Risk and Local School Districts Risk

The State is not constitutionally obligated to continue to finance public education or continue to provide financial support to public schools and charter schools. Accordingly, particularly in light of the occasional difficulties encountered by the State in balancing its budget, which problems may recur, no assurance can be given that present State aid levels will be maintained in the future. Any change in the enabling legislation that created charter schools, failure by the school districts to appropriate sufficient funds to fund their respective operations or failure by the legislature of the State to appropriate funds sufficient to fund the operation of public schools could have a material adverse effect on the ability of the Institution to make payments coming due thereafter. Under the Charter Schools Act, the Institution is entitled to receive public education aid from local and federal funds for each student enrolled in the School. Such aid is payable on a per student basis by each of the school districts in which students of the School are resident. The amount of aid for each student is determined on the basis of the "expense per pupil" as calculated in the State's Education Law for the respective School District. The amount of aid to which the School is entitled for each student will vary among school districts based on the actual expense per pupil of the respective School District. Approximately 70% of the students enrolled in the Institution reside in the City School District. The City School District is one of the so-called "Big Five" school districts and is fiscally dependent on the City of Albany (the "City"). The City receives payments of state and federal aid allocable to the City School District and collects school taxes. Many cities located in Upstate New York have experienced occasional difficulty in balancing their municipal budgets and problems related to the level and stability of funding for, and allocation of municipal funds to, their respective school district. Such difficulties may occur in the City of Albany, and there can be no assurance that the City will make timely aid payments, or that the level of local aid received by the City School District from the City will continue or that the City School District will have sufficient revenues to satisfy its obligations under the Charter Schools Act to pay to the Institution the aid required under the Charter Schools Act for students resident in the City School District. Any shortfall in the aid payable by the City School District or any other School District may affect the Institution's ability to pay its operating expenses and principal of and premium, if any, and interest on the Series 2021 Bonds. See "SOURCES OF OPERATING REVENUE" and "Fiscal Problems Affecting the City and the City School District" herein.

No Taxing Authority of Charter School or the City School District

Neither the City School District nor the Institution has any taxing power. The Institution is completely dependent on the school districts, principally the City School District, for payment of aid money to make payments of principal of, and premium, if any, and interest on, the Series 2021 Bonds. Any event that would delay, reduce or eliminate education aid monies from the school districts, including, but not limited to, any decrease in the number of students enrolled at the School, State legislative action capping or reducing public education aid generally or in particular to charter schools, any reductions or delays in approving school districts' budgets, and an interruption or reduction in the funds allocated to the City School District by the City or the State would have a material adverse effect on the ability of the Institution to make payments of principal of and premium, if any, and interest on the Series 2021 Bonds. Under the

Charter Schools Act, the Institution has the ability to request, subject to certification by the Commissioner, that the State Comptroller intercept public education aid payable to the Institution from a School District in the event that such School District is more than 30 days late in making such payments.

Fiscal Dependence of the City School District

The major source of local revenue for education in most New York public school districts is the tax levied by the local board of education on taxable residential and commercial real property located within the boundaries of such school district. However, the board of education for the City School District does not have the authority to levy school taxes on real property or otherwise to raise revenues. The City School District is fiscally dependent upon the City for support.

Property taxes and school aid from New York State (“State School Aid”) are received into, and disbursed to the City School District from, the general funds of the City. Many cities in Upstate New York have experienced difficulty in balancing municipal budgets and problems related to the level and stability of funding for, and allocation of municipal funds to, their respective city school districts. Such difficulties may occur in the City, and there can be no assurance that the level of local aid received by the City School District from the City will continue.

Delay in or Termination of Public Education Aid

Any event that would cause a delay, reduction or elimination of the public education aid monies from the City School District and other school districts would have a material adverse effect on the ability of the Institution to make loan payments coming due thereafter. In the event of a failure by a School District to make payments of public education aid required to be made to the Institution pursuant to the Charter Schools Act, the State’s comptroller is required to deduct from any state funds which become due to such School District an amount equal to such unpaid amount and to pay over such amount to the Institution. The Institution has caused such a deduction to be made in the past because of tardiness of payments received from the City School District. See “SOURCES OF REVENUE” herein.

Although New York State law prescribes a detailed process applicable to the adoption by the State of its annual budget, New York State’s annual budgetary process has resulted in recent years in the adoption of annual State budgets later, and in some instances substantially later, than April 1, which is the start of the State’s fiscal year. No assurance can be given as to the date of adoption of future annual State budgets or as to the availability of State funds for public education purposes while an annual State budget remains pending. The Institution is not legally authorized to issue revenue anticipation notes secured by an assignment or pledge of State Education Operating Aid and Disability Aid to be received. Conflicts over public education aid, including Disability Aid, can create delays in funding. Because charter schools in the State are required to comply with the federal Individuals with Disabilities Education Act (“IDEA”), they are required to either arrange for students with disabilities to receive services from the local school district or provide special education services themselves, sometimes giving rise to disagreements over who is entitled to Disability Aid.

Factors Associated With Education

There are a number of factors affecting elementary and secondary school education in general, including at the Institution, which could have an adverse effect on the Institution’s financial position and its ability to make loan payments required under the Loan Agreement. These factors include, but are not limited to, increasing costs of compliance with federal or state regulatory laws or regulations, including, without limitation, laws or regulations concerning environmental quality, work safety and accommodating persons with disabilities; the ability to attract a sufficient number of students; change in existing statutes pertaining to the powers of the Institution, inability of the Institution to maintain its Charter and legislation

or regulations which may affect program funding. The Institution cannot assess or predict the ultimate effect of these factors on its operations or its ability to make the loan payments.

Non-Renewal or Termination of Charter

Pursuant to the Charter Schools Act, the Institution's two Charter each have a five-year term which expires on June 30, 2026, and will then be subject to renewal. There can be no assurance that the Institution's Charters will be renewed. The Institution's Charters may be terminated if: (i) the Institution's outcome of student assessment measures adopted by the Board of Regents falls below the level which would allow the Commissioner of Education of the State to revoke the registration of a public school and student achievement on such measures has not shown improvement over the preceding three years; (ii) there are serious violations of law; (iii) there are material and substantial violations of the Charter including fiscal mismanagement; (iv) the public employment relations board makes a determination that the Institution demonstrates a practice and pattern of egregious and intentional violations of the New York Civil Service Law involving interference with or discrimination against employee rights under the Civil Service Law; or (v) there is repeated failure to comply with the requirement to meet or exceed enrollment and retention targets of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program pursuant to targets established by the Board of Regents or the Board of Trustees of the State University of New York, as applicable.

Existing and Prospective Operations Generally

The revenues and expenses associated with the existing and prospective operations of the Institution will be affected by future events and conditions relating generally to, among other things, demand in the Institution's service area for educational services, the ability of the Institution to continue to provide the kinds of facilities and educational services desired or required by the student population, economic developments in the affected service area, competition from existing or future facilities and providers, the ability of the Institution to maintain high enrollment levels in the Project Facility and the ability to continue to receive State School Aid sufficient for the payment of all related costs of operation.

The Institution, unlike traditional public schools, does not have an existing base of constituents from which pupils are drawn. See "APPENDIX B – CERTAIN INFORMATION REGARDING THE INSTITUTION" for additional information regarding enrollment.

The Institution will need to attract and maintain a large student population to generate revenue to pay operating costs and debt service. State School Aid received by the Institution from the State is allocated on a per pupil basis. The Institution is subject to competition from other schools in its service area providing similar or comparable services and no assurance can be given that the Institution will be able to attract and maintain students adequate in number to provide sufficient revenues to pay amounts due under the Indenture. There are competing public schools, private schools and charter schools in the Institution's service area and there can be no assurance that additional competing schools will not be established or constructed in the future.

No assurances can be given that the Institution will continue to have funds for the payment of amounts due under the Indenture. Accordingly, the likelihood that there will be sufficient funds to pay the principal of, premium, if any, and interest on the Series 2021 Bonds is dependent upon certain factors which include, but are not limited to, (a) the continuing need of the Institution for the Project Facility, (b) the ability of the Institution to obtain funds (including State School Aid) to pay obligations associated with the Indenture, (c) the demographic conditions within the service area of the Institution, and (d) the value of the Project Facility and other assets of the Institution upon foreclosure sale under the Mortgage instituted by

the Trustee pursuant to the Indenture and Mortgage and upon exercise of the remedies available under the Indenture.

Competition for Students

The Institution will be competing for students with local school districts, within whose geographic boundaries it is located, and with surrounding school districts, as well as private schools within or near the school districts. The Institution's students may come from anywhere within the State. The Institution is not the only charter school located in the geographic area. There are presently 7 public charter schools serving approximately 2,911 students in Albany County.¹ The Institution competes with these other charter schools, nearby local school districts and private schools for students. See "APPENDIX B – CERTAIN INFORMATION REGARDING THE INSTITUTION" for additional information regarding competing school districts.

Charter Schools Generally

The operations of the Institution relate primarily to the ownership and operation of a charter school located in Albany, New York. Such operations are dependent on sufficient demand for such facilities, adequate revenues from enrollment at the facilities and control of expenses. The operation of a charter school is highly regulated through the charter authorizing body and the State Department of Education. A charter school may not charge tuition to a student attending the Institution. The failure of the Institution to meet the requirements of the regulations, termination, revocation or non-renewal of the Institution's Charter by the Board of Regents, or the inability to secure a Charter from another authorizing body would have a material adverse effect on the ability of the Institution to make payments under the Loan Agreement. See also "RISK FACTORS – Non-Renewal or Termination of Charter."

Future Need for Project

Changes of economic, social or other conditions could affect demographics of the Institution and reduce the Institution's ability, need or willingness to utilize the Institution's existing facilities for the operation of the Institution. The Institution is not legally prohibited from construction of additional facilities at any time. Changes in future needs may have an adverse effect upon the ability of the Institution to budget money to continue to make loan payments under the Loan Agreement.

The Nature of the Projections

The Projections included in "APPENDIX B" are based upon assumptions made by the Institution. There are usually differences between the projected and actual results, because events and circumstances frequently may or may not occur as expected, and those differences may be material. In addition, the Projections relate only to the fiscal years of the Institution through June 30, 2025, and consequently do not cover the entire period that the Series 2021 Bonds may be outstanding. Prospective investors in the Series 2021 Bonds should read "APPENDIX B" in its entirety.

NO GUARANTEE CAN BE MADE THAT THE PROJECTIONS WILL CORRESPOND WITH THE RESULTS ACTUALLY ACHIEVED IN THE FUTURE BECAUSE THERE IS NO ASSURANCE THAT ACTUAL EVENTS WILL CORRESPOND WITH THE ASSUMPTIONS MADE BY THE INSTITUTION. ACTUAL OPERATING RESULTS MAY BE AFFECTED BY MANY FACTORS, INCLUDING, BUT NOT LIMITED TO, INCREASED COSTS, LOWER THAN ANTICIPATED REVENUES (AS A RESULT OF INSUFFICIENT ENROLLMENT, REDUCED PER PUPIL AID PAYMENTS, CONCESSIONS OR OTHERWISE), EMPLOYEE RELATIONS, CHANGES IN TAXES,

¹ Source: <https://www.publicschoolreview.com/new-york/albany-county/charter>

CHANGES IN APPLICABLE GOVERNMENTAL REGULATION, CHANGES IN DEMOGRAPHIC TRENDS, CHANGES IN ELEMENTARY AND SECONDARY EDUCATION COMPETITION AND LOCAL OR GENERAL ECONOMIC CONDITIONS.

Limitation of Pledge of Revenues by Charter School

The Institution may not legally assign or pledge any interest in public education aid payable to the Institution pursuant to the Charter Schools Act to secure its obligations under the Loan Agreement and with respect to the Series 2021 Bonds. At closing, the Institution shall give (i) a direction to the School Districts to pay over and deliver Per Pupil Aid due to the Institution to the Custodian for payment to the Trustee under the Custody Agreement and (ii) an irrevocable direction to the Custodian to apply such amounts as directed by the Trustee to make deposits in the Bond Fund, the Debt Service Reserve Fund and the Repair and Replacement Fund, as further provided in the Custody Agreement. Such directions shall expressly provide that they do not constitute a pledge or assignment of any interest of the Institution in Per Pupil Aid payable to it.

Remedies may be Unenforceable

Remedies provided for in the Loan Agreement, the Indenture, the Mortgage and the Assignment of Rents may be unenforceable as a result of the application of principles of equity or of state and federal laws relating to bankruptcy, other forms of debtor relief, and creditors' rights generally. Furthermore, it is not certain whether a court would permit the exercise of the remedies of repossession and sale or leasing with respect to the Project Facility. The enforcement of any remedies provided in the Loan Agreement, the Indenture and the Mortgage could prove both expensive and time consuming.

Inability to Liquidate or Delay in Liquidating the Project

An event of default gives the Trustee the right to possession of, and the right to sell, the Mortgaged Property pursuant to a foreclosure sale under the Mortgage. The Mortgaged Property is intended to be used solely for educational purposes of the Institution. Because of such use, a potential purchaser of the Series 2021 Bonds should not anticipate that a sale of the Mortgaged Property could be accomplished rapidly, or at all. Any sale of the Mortgaged Property may require compliance with the laws of the State applicable thereto. Such compliance may be difficult, time-consuming and expensive. Any delays in the ability of the Trustee to foreclose on the Mortgage will result in delays in the payment of the Series 2021 Bonds.

The Mortgaged Property is specifically constructed for use as school facilities and may not be readily adaptable to other uses. As a result, in the event of a sale of the Mortgaged Property, the number of uses which could be made of the property, and the number of entities which would be interested in purchasing the Mortgaged Property, could be limited, and the sale price would thus be adversely affected. The location of the Mortgaged Property may also limit the number of potential purchasers. The ability of the Trustee to sell the Mortgaged Property to third parties, thereby liquidating the investment, would be limited as a result of the nature of the Mortgaged Property. For these reasons no assurance can be made that the amount realized upon any sale of the Mortgaged Property will be fully sufficient to pay and discharge the Series 2021 Bonds. In particular, there can be no representation that the cost of the property included in the Mortgaged Property constitutes a realizable amount upon any forced sale thereof. In the event the Trustee takes possession of the Mortgaged Property, the Mortgaged Property may be subject to real property taxation.

Enforceability of remedies may also be limited by the requirement of Section 2851(2)(t) of the Act, which provides for disposition of the Institution's assets to the school district in which the Institution is located or to another charter school within the school district in the event of termination or revocation of the Institution's Charter or other closure or dissolution of the School.

Tax-Exempt Status

Under present Federal and State law, regulations and rulings, the income of non-profit exempt organizations, such as the Institution, is exempt from Federal and State income tax, except for any unrelated business income. Failure of the Institution to maintain its tax-exempt status or changes in such current laws, or the regulations, rulings or interpretations thereof could adversely affect the Institution. Such failure would adversely affect the exclusion of interest on the Series 2021A Bonds from income for federal income taxation purposes, and such effects could be material.

Moreover, the ongoing tax-exempt status of interest on the Series 2021A Bonds is conditioned, under relevant provisions of the Code, on compliance by the Institution with various requirements set forth, *inter alia*, in Sections 145 and 148 of the Code, requiring, among other things, that the Project Facility be owned throughout the term of the Series 2021A Bonds by a governmental unit or an organization described in Section 501(c)(3) of the Code, that not more than five percent of the proceeds of the Series 2021A Bonds (inclusive of proceeds applied to defray issuance costs) be applied to any “private business use,” any use giving rise to “unrelated business income,” or other uses inconsistent with the charitable purposes of the Institution, as an organization described in Section 501(c)(3) of the Code, and that certain investment earnings in respect of the Series 2021A Bonds be subject to non-arbitrage requirements imposed under Section 148 of the Code, including requirements to perform certain “rebate” computations and to make certain “rebate” payments of “arbitrage” earnings all as further provided in applicable statutes, regulations, rulings and decisions. Failure to comply with such requirements could result in the loss of the tax-exempt status of interest on the Series 2021A Bonds to the owners thereof, and such interest could become taxable to such owners retroactive to the date of issuance of the Series 2021A Bonds.

Under current State law, the Project Facility is exempt from taxation, fees, assessments or special ad valorem taxes to the same extent as public schools. There can be no assurances that the Project Facility will not be subjected in the future to taxation. Moreover, no assurances can be given that the effect of any tax payments on the Institution would not be either adverse or material.

Potential Environmental Risks

There are potential risks relating to environmental liability associated with the ownership or operation of, or secured lending with respect to, any real property. If hazardous substances are found to be located on real property, owners or operators of, or secured lenders regarding, such property may be held liable for costs and other liabilities relating to such hazardous substances on a strict liability basis. In the event of repossession, purchase or participation in the management of the Mortgaged Property by the Trustee or the Bondholders, the Trustee and/or the Bondholders may be held liable for costs and other liabilities relating to hazardous substances, if any, on the site of the Mortgaged Property on a strict liability basis and such costs might exceed the value of such property. No environmental assessments have been performed on the Mortgaged Property in connection with the issuance of the Series 2021 Bonds. In the event of a foreclosure, there can be no assurance that the Mortgaged Property will be free from hazardous substances.

Prepayment Risk

Under the Indenture, the Institution has the option to prepay the Series 2021A Bonds in whole or in part. In addition, the Series 2021A Bonds are subject to mandatory and extraordinary redemption as described in “THE SERIES 2021 BONDS – Redemption.” Any such prepayment will be used to call Bonds ratably without preference among all Bonds of the specific maturity then outstanding in \$5,000 increments at a price equal to the amount of the principal of the Series 2021A Bonds to be redeemed plus accrued interest to the date of prepayment.

Assumptions Regarding Enrollment and Public Education Aid

The Institution has prepared the Financial Projections (the “Projections”), a copy of which is included in APPENDIX B hereto. The Projections contain information material to a decision to purchase the Series 2021 Bonds and should be read by potential investors in its entirety. The Projections contain (a) forecasts of gross revenues, net revenues and cash flows of the Institution, (b) projections of future demand for the services of the Institution, and (c) debt service requirements and estimated financing costs of the Series 2021 Bonds. The Projections sets forth a number of assumptions on which the Projections are based, including but not limited to, the projected enrollment of the Institution and the per student amounts to be paid by the school districts. Such assumptions are based on present circumstances and information currently available, which has been furnished by the Institution, as well as other sources. The Institution does not warrant or guarantee that its efforts to market the Institution will be successful. Such information may be incomplete and may not necessarily disclose all material facts that might affect the Institution and the analysis contained in the Projections. Accordingly, prospective investors should carefully evaluate the assumptions and other information in the Projections in the light of the circumstances then prevailing. The accuracy of the Projections is dependent on the occurrence of specified assumptions and other future events which cannot be assured, and therefore, the actual results achieved during the period will vary from those forecasts and those differences may be material and adverse. See “APPENDIX B.” Neither the Issuer nor the Underwriter has independently verified the statistical data included therein and none of such parties makes any representations or gives any assurances that such data are complete or correct. Further, neither the Issuer nor the Underwriter makes any representations or gives any assurances that the assumptions incorporated in the Projections are valid. The ability of the Institution to achieve and maintain on a continuing basis financially sustaining levels of enrollment at the Institution is subject to a number of factors, including, but not limited to, the physical condition of the Institution, the programs provided for students, accreditation of the Institution and the supply of other public, private and charter schools elsewhere. In addition, the Projections are only for the subsequent annual periods ending June 30, 2025 and, consequently, do not cover the entire period during which the Series 2021 Bonds may be outstanding.

Results of a Termination of the Loan

In the event that the Institution should not pay to the Trustee money sufficient to make loan payments under the Loan Agreement, an Event of Default will have occurred and the Loan Agreement may be terminated and the Mortgage foreclosed by the Trustee, and the Institution may be required immediately to surrender possession of the Project Facility.

A potential purchaser of the Series 2021 Bonds should not assume that it will be possible to obtain proceeds from the foreclosure of the Mortgage and the sale of the Project Facility after a termination of the Loan Agreement and a foreclosure of the Mortgage, for an amount equal to the aggregate principal amount of the Series 2021 Bonds then outstanding plus accrued interest thereon. If the Project Facility is sold pursuant to a foreclosure sale under the Mortgage (and there is no assurance that there would be any purchaser upon a foreclosure sale) for an amount less than the aggregate principal amount of and accrued interest on the Series 2021 Bonds, such partial payment may be the only payment to the Owners; upon such a partial payment, no holder of any Bond shall have any further claim for payment upon the Trustee, the Issuer, or any other party or entity other than the Institution.

Mortgage Lien

The Series 2021 Bonds are secured by a mortgage lien on and security interest in the interests of the Institution and the Issuer in the Mortgaged Property, subject to Permitted Encumbrances, pursuant to the Mortgage. Upon an event of default, no assurances can be given that the Trustee would be able to lease or sell the Mortgaged Property to third parties, or that the amount the Trustee would be able to receive upon

foreclosure would be sufficient to pay all principal of, and premium, if any, and interest on the Series 2021 Bonds.

The pledge of and security interest in the Revenues and the lien on the land and buildings of the Mortgaged Property and security interest in the equipment and personal property within the Mortgaged Property created pursuant to the Mortgage may be limited by the following: (i) statutory liens; (ii) rights arising in favor of the United States of America or any agency thereof; (iii) present or future prohibitions against assignment contained in any federal statutes or regulations; (iv) constructive trusts, equitable liens or other rights impressed or conferred by any state or federal court in the exercise of its equitable jurisdiction; (v) federal bankruptcy or state insolvency laws affecting assignments of revenues earned after any effective Charter School of bankruptcy or insolvency proceedings by or against the Institution; (vi) rights of third parties in any revenues, including revenues converted to cash, not in possession of the Trustee; and (vii) the requirement that appropriate continuation statements be filed in accordance with the New York Uniform Commercial Code.

Damage or Destruction

Although the Institution will be required to obtain certain insurance, as set forth in the Loan Agreement, there can be no assurance that the Project will not suffer losses for which insurance cannot be or has not been obtained or that the amount of any such loss, or the period during which the Project cannot generate revenues, will not exceed the coverage of such insurance policies.

Effect of Bankruptcy on Security for the Series 2021 Bonds

Bankruptcy proceedings and equity principles may delay or otherwise adversely affect the enforcement of Bondholders' rights to the property granted as security for the Series 2021 Bonds and their claim or claims to moneys owed them as unsecured claimants, if any. Furthermore, if the security for the Series 2021 Bonds is inadequate for payment in full of the Series 2021 Bonds, bankruptcy proceedings and equity principles may also limit any attempt by the Trustee to seek payment from other property of the Institution, if any. See "RISK FACTORS – Remedies May be Unenforceable" herein.

The filing would operate as an automatic stay of the commencement or continuation of any judicial or other proceeding against the Institution or Issuer, as applicable, and their respective property and as an automatic stay of any act or proceeding to enforce a lien against such property. Moreover, following such a filing the Revenues and accounts receivable and other Property of the Institution or the Issuer, as applicable, acquired after the filing (and under some conditions prior to the filing) would not be subject to the liens and security interests created under the Indenture and the Mortgage. In addition, the bankruptcy court has the power to issue any order, process or judgment that is necessary or appropriate to carry out the provisions of the Bankruptcy Code; such court order could require that the property of the Institution or the Issuer, as applicable, including the Mortgaged Property and the Revenues and proceeds thereof, be used for the benefit of the Institution or the Issuer, as applicable, despite the lien and security interest of the Trustee therein.

Federal bankruptcy law also permits adoption of a reorganization plan even though it has not been accepted by the holders of a majority in aggregate principal amount of the outstanding Bonds if the Bondholders are provided with the benefit of their original lien or the "indubitable equivalent." In addition, if a bankruptcy court concludes that the Bondholders have "adequate protection," it may (i) substitute other security subject to the lien of the Bondholders and (ii) subordinate the lien of the Bondholders (a) to claims by persons supplying goods and services to the Institution after bankruptcy and (b) to the administrative expenses of the bankruptcy proceeding. The bankruptcy court may also have the power to invalidate certain

provisions of the Indenture, the Loan Agreement and Mortgage that make bankruptcy and related actions by the Institution or the Issuer an Event of Default thereunder.

Lack of Secondary Market

Although the Underwriter intends to engage in secondary market trading of the Series 2021 Bonds (subject to applicable state securities laws), the Underwriter is not obligated to repurchase any of the Series 2021 Bonds at the request of the owners thereof and cannot assure that there will be a continuing secondary market in the Series 2021 Bonds. In the secondary market for securities similar to the Series 2021 Bonds, the difference between the bid and asked price may be greater than the bid and asked spread for more traditional types of municipal securities. It is not expected that an active trading market for the Series 2021 Bonds will ever develop.

Opposition of Teacher Unions and School Districts to Charter Schools

Some teacher unions and school districts in the United States have opposed the enactment of charter school legislation and have indicated opposition to for-profit management of public schools. Such opposition may adversely impact operations at the current schools and future potential schools or of other for-profit management companies which the Institution might consider in the future. School districts, including school districts in the State, have challenged the authorization of charter schools. On April 19, 2001, the New York Appellate Division, Third Department, issued a decision, Roosevelt v. Board of Trustees, holding that school districts may challenge SUNY Board determinations constituting the basis of approvals of charter issuance through proceedings under Article 78 of the New York Civil Practice Law and Rules.

No Appraisal

The Mortgaged Property has not been appraised in over 10 years and no appraisal has been prepared in connection with the issuance of the Series 2021 Bonds. In the event of a foreclosure, there can be no assurance that the value of the Mortgaged Property or the amount received for the Mortgaged Property will be sufficient to pay the principal of and interest due on the Series 2021 Bonds.

Key Management

The creation of, and the philosophy of teaching in a charter school such as the Institution initially may reflect the vision and commitment of a few key persons who are on the Board of Directors and/or who make up the upper management of the Institution ("Key Directors/Managers"). Loss of such Key Directors/Managers could adversely affect the Institution's operations or financial results. It is anticipated that over time that charter schools will become less dependent upon the Key Directors/Managers. However, there can be no assurance that this will occur.

No Credit Enhancement Facility

There is no letter of credit, bond insurance policy, or other credit enhancement facility securing the Series 2021 Bonds, nor is there any provision for a credit enhancement facility to be provided to secure any of the Series 2021 Bonds.

Less Than Unanimous Consent Required to Amend Certain Provisions of the Indenture

The Indenture provides that with the consent of at least a majority of the principal amount of Bonds then outstanding, the Indenture may be modified, altered, or amended, and provisions may be amended or rescinded; *provided, however*, that, nothing contained in the Indenture shall permit: (i) a change in the terms

of redemption or maturity of the principal or the time of payment of interest on any Outstanding Bond or a reduction in the principal amount of or premium, if any, on any Outstanding Bond or the rate of interest thereon, without the consent of the Holder of such Bond; or (ii) the creation of a Lien upon the Trust Estate ranking prior to or on a parity with the Lien created by the Indenture, without the consent of the Holders of all Outstanding Bonds; or (iii) the creation of a preference or priority of any Bond or Bonds over any other Bond or Bonds, without the consent of the Holders of all Outstanding Bonds; or (iv) a reduction in the aggregate principal amount of the Series 2021 Bonds required for consent to such Supplemental Indenture, without the consent of the Holders of all Outstanding Bonds.

Vouchers

Various proposals offering private school vouchers to families to assist with the cost of private schools have been considered across the country and in the State, and enacted in several locations. No such voucher program is currently in place in the State. However, if similar private school voucher programs are enacted in the future, private schools may become more desirable, due to the availability of financial assistance. If private school vouchers are provided for in the State, this may lead to the organization of more private schools and increased competition for the Institution.

Other Possible Risk Factors

The occurrence of any of the following events, or other unanticipated events, could adversely affect the operations of the Institution:

- (a) Establishment of mandatory governmental wage, rent or price controls;
- (b) Inability to control increases in operating costs, including salaries, wages and fringe benefits, supplies and other expenses, given an inability to obtain corresponding increases in operating revenues;
- (c) Unionization, employee strikes and other adverse labor actions which could result in a substantial increase in expenditures without a corresponding increase in revenues, and
- (d) Adoption of other federal, state or local legislation or regulations having an adverse effect on the future operating or financial performance of the Institution.

COVID-19

The global outbreak of the coronavirus COVID-19 (“COVID-19”) and measures taken by federal, state and local governments, as well as private organizations, intended to mitigate the spread of COVID-19 have altered the behavior of individuals and businesses and have caused and are expected to continue to cause disruptions in global, national, and local economies, as well as global financial markets. Such measures and the responses to them have had an effect on the operations of the Institution. For a description of certain of the impacts of the COVID-19 pandemic on the Institution, see “APPENDIX B – Certain Information Concerning the Institution – Impact of COVID-19 on the Institution.”

Conclusion

AN INVESTMENT IN THE SERIES 2021 BONDS INVOLVES A HIGH DEGREE OF RISK AND IS SPECULATIVE IN NATURE. The relatively high interest rate borne by these Series 2021 Bonds (as compared to prevailing interest rates on more secure bonds such as those that constitute general obligations of fiscally sound municipalities or states or creditworthy borrowers) is intended to compensate the investor for assuming this element of risk. Each prospective investor should carefully

examine this Official Statement, and the Appendices hereto, and such investor's own financial condition in order to make a judgment as to whether the Series 2021 Bonds are an appropriate investment for such investor.

ENFORCEABILITY OF OBLIGATIONS

General

While the Series 2021 Bonds are secured pursuant to the Loan Agreement, the Indenture and the Mortgage, the practical realization of such security upon any default will depend upon the exercise of various remedies specified by the Loan Agreement, the Indenture, and the Mortgage. These and other remedies are in many respects dependent upon judicial actions which are often subject to discretion and delay. Under existing constitutional, statutory and judicial law, the remedies specified by the Indenture, the Loan Agreement and the Mortgage may not be readily available or may be limited. A court may decide not to order the specific performance of covenants contained in such documents. The various legal opinions to be delivered concurrently with the delivery of the Series 2021 Bonds will be qualified as to the enforceability of the various legal instruments by limitations imposed by state and federal laws affecting remedies and by bankruptcy, reorganization or other laws affecting the enforcement of creditors' rights. No assurance can be provided that the principal amount of the Series 2021 Bonds outstanding from time to time constitutes a realizable amount upon any foreclosure or forced sale of the Project Facility.

Enforceability of remedies may also be limited by the requirement of Section 2851(2)(t) of the Act, which provides for disposition of the School's assets to the school district in which the School is located or to another charter school within the school district in the event of termination or revocation of the Institution's Charter or other closure or dissolution of the School.

Certain Provisions of New York Law Applicable to Charter Schools and Certain Provisions of the Charter

The State's Education Law requires that, in the event that the Board of Regents has revoked the charter of any education corporation or dissolved such education corporation, or in the event that a provisional charter has expired, the board of trustees of the corporation shall, within three months after such revocation, dissolution or expiration, petition the State supreme court having jurisdiction for an order directing the disposition of any and all property belonging to the corporation. The supreme court is required to direct the sale of sufficient assets of such an education corporation to pay any outstanding debts and, if the corporation's charter contains a provision indicating a proposed disposition of assets upon dissolution, to follow such provision in its order as far as practicable. The trustees of such an education corporation are empowered to continue in office after charter revocation or dissolution for the purpose of settlement of the corporation's affairs. The court may direct any surplus monies, after payment of such an education corporation's debts and liquidation expenses, be applied to any educational, religious, benevolent, charitable or other purposes that the corporation's board of trustees may indicate in the petition. The Charter Schools Act requires that the applications to establish a charter school set forth procedures to be followed upon closure or dissolution of the Institution, including provisions for the transfer of students and student records to the school district in which the Institution is located, and provide for the disposition of the Institution's assets to the school district or to another charter school located within such school district. The Charter provides that the Institution Board shall, after providing for the payment of all the debts of the Institution upon dissolution, dispose of its remaining assets to another charter school that is federally tax-exempt and located within the school district in which the Institution is located, or, if no such charter school exists, to the school district in which the Institution is located for a public purpose. In such event, the Charter further requires the Institution to follow any procedures required by the Board of Regents to ensure

an orderly dissolution process in addition to complying with the applicable provisions of the State's Education Law. See "—Application of Principles of Equity and Exercise of Judicial Discretion in Cases Bearing Upon Public Interests" below.

New York Foreclosure Procedures

In order to recover the debt due on a defaulted mortgage loan, the holder of the mortgage loan may either commence an action on the mortgage debt or commence an action to foreclose the mortgage. New York law restricts the ability of the holder of a mortgage loan to simultaneously bring an action to recover the mortgage debt and foreclose the mortgage. For purposes of these restrictions, actions to recover the mortgage debt include actions against the party primarily liable on the mortgage debt, actions against any guarantor of the mortgage debt and actions on title insurance policies insuring the mortgage premises. If an election is made to commence an action to foreclose the mortgage, no other action on the mortgage debt may be commenced to recover any part of the mortgage debt without leave of the court. If an election is made to commence an action on the mortgage debt, where final judgment has been rendered in such an action, an action may not be commenced to foreclose the mortgage unless an execution has been issued against the property of the defendant, which has been returned wholly or partially unsatisfied. In addition, there is New York case law indicating that if an action is commenced on the mortgage debt where final judgment has not been rendered and a subsequent action is commenced to foreclose the mortgage, then the action on the mortgage debt may be stayed or discontinued to prevent the mortgagee from pursuing both actions simultaneously.

Where a foreclosure action is brought, every person having an estate or interest in possession or otherwise in the property whose interest is claimed to be subject and subordinate to the mortgage must be made a party defendant to the action in order to have its interest in the property extinguished. At least 20 days before a final judgment directing a sale is rendered, the mortgagee must file, in the clerk's office for the county where the mortgaged property is located, a notice of the pendency of the action. Judicial foreclosure in New York is a lengthy process, as judicial intervention is required at all stages, including, but not limited to: (i) the appointment of a referee to compute the amount due; (ii) the appointment of a receiver to operate the property during the pendency of the action; (iii) the confirmation of the referee's oath and report; (iv) the issuance of the judgment of foreclosure and sale; (v) the confirmation of the sale; and (vi) the issuance of a deficiency judgment and/or rights to surplus monies. If during the pendency of the action the mortgagor pays into court the amount due for principal, interest, the costs of the action and the expenses of the proceedings to sell, if any, the court will: (i) dismiss the complaint without costs against the mortgagee if the payment is made before judgment directing the sale; or (ii) stay all proceedings upon judgment if the payment is made after judgment directing sale but before sale.

Where the mortgage debt remains partly unsatisfied after the sale of the property, the court, upon application, may award the mortgagee a deficiency judgment for the unsatisfied portion of the mortgage debt, or as much thereof as the court may deem just and equitable, against a mortgagor who has appeared or has been personally served in the action. Prior to entering a deficiency judgment the court determines the fair and reasonable market value of the mortgaged premises as of the date such premises were bid in at auction or as of such nearest earlier date upon which there shall have been any market value thereof. In calculating the deficiency judgment, the court will reduce the amount to which the mortgagee is entitled by the higher of the bid price of the mortgaged property or the fair market value of the mortgaged property, as determined by the court.

The mortgagee may also, at its discretion, negotiate with the delinquent mortgagor to offer a deed in lieu of foreclosure to the mortgagee, subject to existing Liens. In some situations this would allow the mortgagee to reduce the cost of, and the time involved in, acquiring the property.

Bankruptcy

If a voluntary petition for relief under Chapter 7 or Chapter 11 of the United States Bankruptcy Code were filed with respect to the Institution, the filing would operate as an automatic stay of the commencement or continuation of any civil action or other proceeding, including, without limitation, foreclosure proceedings, against such mortgagor and its property. Under Chapter 7 or Chapter 11, an involuntary proceeding may not be maintained against a not-for-profit corporation pursuant to a petition filed by its creditors. Subject to a bankruptcy court's order, the mortgagor's property, including its revenues, could be used for the benefit of the mortgagor, despite the rights granted the mortgagee or any trustee. A bankruptcy court also has the power to invalidate certain provisions of the mortgage that make the initiation of bankruptcy and related proceedings by or against the mortgagor an event of default thereunder.

In addition, if a bankruptcy court concludes that a mortgagee is "adequately protected," it might: (i) substitute other security for the property presently pledged; and (ii) subordinate the lien of the mortgagee or a trustee to (a) claims by persons supplying goods and services to the mortgagor after commencement of such bankruptcy proceedings, (b) the administrative expenses of the bankruptcy proceedings and (c) liens granted lenders providing funds to the mortgagor during the pendency of the bankruptcy case.

In bankruptcy proceedings initiated by the filing of a petition under Chapter 11, a mortgagor or another party-in-interest could elect to file a plan of reorganization which seeks to modify the rights of creditors generally, or any class of creditors, including secured creditors. In the event a mortgagor files under Chapter 11, the mortgagor may seek to modify the terms of the mortgage note and the mortgage in a plan of reorganization. In a reorganization case, a mortgagee holds a secured claim equal to the lesser of the value of the mortgaged premises or the debt. If the adjusted value of the premises exceeds the pre-petition debt, then the mortgagee has the right to post-petition interest to the extent of such excess. If the adjusted value of the collateral is less than the debt, then the mortgagee generally is not entitled to post-petition interest and the difference (or deficiency) will be treated as an unsecured claim. With respect to the mortgagee's secured claim, if the debtor intends to retain the premises, the debtor will generally propose to treat the mortgage as unimpaired by curing any defaults and reinstating the terms of the mortgage. Alternatively, the debtor may seek to alter the terms; however, the mortgagee is entitled to retain its lien under a plan and must receive deferred cash payments totaling the amount of the claim with a present value not less than the value of the mortgagee's interest in the mortgaged premises. If the premises are to be sold by the debtor, the mortgagee can bid at the bankruptcy court sale and offset its claim against the selling price at such sale.

Application of Principles of Equity and Exercise of Judicial Discretion in Cases Bearing Upon Public Interests

The timing and practical availability to creditors of contractual or statutory remedies requiring judicial action to enable such creditors to exercise rights with respect to facilities whose current operation provides public benefits may be influenced by public interest considerations.

TAX MATTERS

All quotations from and summaries and explanations of provisions of laws appearing under this caption do not purport to be complete and reference is made to such laws for full and complete statements of their provisions.

Opinion of Bond Counsel

Series 2021A Bonds: In the opinion of Hodgson Russ LLP, Albany, New York, Bond Counsel, under existing law and assuming compliance with certain covenants and the accuracy of certain representations, (1) interest on the Series 2021A Bonds is excludable from the gross income of the owners thereof for federal income tax purposes, and is not an “item of tax preference” for purposes of the individual and corporate alternative minimum taxes imposed by the Code, except that (a) the Institution or another Person, by failing to comply with certain requirements contained in the Code, may cause interest on the Series 2021A Bonds to become subject to federal income taxation and certain other taxes from the date of issuance thereof, and (b) interest on the Series 2021A Bonds is included in the tax base for purposes of computing the branch profits tax imposed on foreign corporations doing business in the United States under Section 884 of the Code; and (2) so long as interest on the Series 2021A Bonds is excluded from gross income for federal income tax purposes, interest on the Series 2021A Bonds is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York). Bond Counsel expresses no opinion as to any other tax consequences regarding the Series 2021A Bonds.

Series 2021B Bonds: In the opinion of Hodgson Russ LLP, Albany, New York, Bond Counsel, interest on the Series 2021B Bonds is not excludable from gross income for federal income tax purposes and is not exempt under existing law from personal income taxes imposed by the State of New York or any political subdivision thereof (including the City of New York).

In rendering the foregoing opinions, Bond Counsel noted that exclusion of the interest on the Series 2021A Bonds from gross income for federal income tax purposes may be dependent, among other things, on compliance with the applicable requirements of Sections 145, 147, 148 and 149 of the Code and the regulations thereunder (collectively, the “Tax Requirements”). In the opinion of Bond Counsel, the Tax Regulatory Agreement and the other Financing Documents establish requirements and procedures, compliance with which will satisfy the Tax Requirements. Bond Counsel will not independently verify the accuracy of the certifications and representations of the Issuer and the Institution or the continuing compliance with the covenants by the Issuer and the Institution.

Bond Counsel does note that compliance with certain Tax Requirements necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Series 2021A Bonds may necessitate the taking of action, or refraining to take action, by persons not within the control of the Issuer or the Institution. The Issuer and the Institution have each covenanted to take the actions required of it for the interest on the Series 2021A Bonds to be and to remain excluded from gross income for federal income tax purposes, and not to take any actions that would adversely affect that exclusion. After the date of issuance of the Series 2021A Bonds, Bond Counsel will not undertake to determine (or to so inform any person) whether any actions taken or not taken, or any events occurring or not occurring, or any other matters coming to Bond Counsel’s attention, may adversely affect the exclusion from gross income for federal income tax purposes of the interest paid or payable on the Series 2021A Bonds or the market value of the Series 2021A Bonds.

The opinion of Bond Counsel is based on current legal authority and covers certain matters not directly addressed by such authority. It represents Bond Counsel’s legal judgment as to exclusion of interest on the Series 2021A Bonds from gross income for federal income tax purposes, but is not a guaranty of that conclusion. The opinion is not binding upon the Internal Revenue Service (“IRS”) or any court. Bond Counsel expresses no opinion about (1) the effect of future changes in the Code and the applicable regulations under the Code or (2) the interpretation and enforcement of the Code or such regulations by the IRS.

ALL PROSPECTIVE PURCHASERS OF THE SERIES 2021A BONDS AND/OR THE SERIES 2021B BONDS SHOULD CONSULT WITH THEIR TAX ADVISORS IN ORDER TO UNDERSTAND THE IMPLICATIONS OF THE CODE AS TO THE TAX CONSEQUENCES OF PURCHASING OR HOLDING THE SERIES 2021A BONDS AND/OR THE SERIES 2021B BONDS.

Tax Requirements

The Tax Requirements referred to above, which must be complied with in order that interest on the Series 2021A Bonds remain excluded from gross income for federal income tax purposes, include, but are not limited to:

(1) The requirement that (a) all property financed or refinanced with proceeds of the Series 2021A Bonds be owned by a 501(c)(3) organization or by a state or local governmental unit, and (b) no more than five percent (5%) of the proceeds of the Series 2021A Bonds be used for any private business use, treating as private business use (i) use (directly or indirectly) in a trade or business carried on by any entity other than (A) a state or local governmental unit or (B) a Section 501(c)(3) organization in a trade or business related to such Section 501(c)(3) organization's exempt purposes and (ii) possession of certain interests in the property financed or refinanced with proceeds of the Series 2021A Bonds by any entity other than (A) a state or local governmental unit or (B) a Section 501(c)(3) organization. The Institution has indicated in the Tax Regulatory Agreement that (x) all property financed or refinanced with proceeds of the Series 2021A Bonds will be owned by a 501(c)(3) organization or by a state or local governmental unit, and (y) no more than five percent (5%) of the proceeds of the Series 2021A Bonds will be used for any private business use.

(2) The requirement that not more than two percent (2%) of the proceeds of the Series 2021A Bonds be utilized to finance the costs of the issuance of the Series 2021A Bonds. The Institution has indicated in the Tax Regulatory Agreement that not more than two percent (2%) of the proceeds of the Series 2021A Bonds will be utilized to finance the costs of issuance of the Series 2021A Bonds.

(3) The requirements contained in Section 148 of the Code relating to arbitrage bonds, including but not limited to the requirement that, unless the Institution satisfies one of the applicable exceptions provided by Section 148 of the Code, the excess of all amounts earned on the investment of the Gross Proceeds of the Series 2021A Bonds over that which would have been earned on such Gross Proceeds had such Gross Proceeds been invested at a Yield equal to that on the Series 2021A Bonds, and any investment income earned on such excess, be rebated to the United States. The Institution has agreed in the Tax Regulatory Agreement and in the Loan Agreement to comply with the requirements of Section 148 of the Code.

(4) The requirement that the Project Facility not be used for a purpose prohibited under Section 147(e) of the Code (relating to, among others, any airplane, skybox or other private luxury box, facility primarily used for gambling, or store, the principal business of which is the sale of alcoholic beverages for consumption off premises).

(5) The requirement contained in Section 149(b) of the Code that payment of principal or interest on the Series 2021A Bonds not be directly or indirectly guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof).

Certain Collateral Federal Tax Consequences

You should also be advised that the Series 2021A Bonds are subject to, among others, the following provisions contained in the Code:

(1) interest on the Series 2021A Bonds may also be subject to a branch profits tax imposed upon certain foreign corporations doing business in the United States and to a federal tax imposed on excess net passive income of certain S corporations;

(2) interest paid by certain financial institutions on debt allocable to the cost of acquiring and carrying the Series 2021A Bonds is not deductible from Federal income taxation; and

(3) a property and casualty insurance company's deduction for losses incurred is reduced by 15% on tax-exempt income received from the Series 2021A Bonds.

Prospective purchasers of the Series 2021A Bonds should also be aware that ownership of, accrual or receipt of interest on, or disposition of, the Series 2021A Bonds may have collateral federal income tax consequences for certain taxpayers, including financial institutions, property and casualty insurance companies, S Corporations, certain foreign corporations, individual recipients of Social Security or Railroad Retirement benefits, individuals otherwise eligible for the earned income tax credit, and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry such obligations. Prospective purchasers should consult their tax advisers as to any possible collateral consequences from their ownership of, or receipt of interest on, or disposition of, the Series 2021A Bonds. Bond Counsel expresses no opinion regarding any such collateral federal income tax consequences.

The applicability and extent of these and other tax consequences will depend upon the particular tax status or other tax items of the owner of the Series 2021A Bonds. Bond Counsel will express no opinion regarding these consequences.

Information Reporting and Backup Withholding

Interest paid on the Series 2021A Bonds will be subject to information reporting to the IRS in a manner similar to interest paid on taxable obligations. Although such reporting requirement does not, in and of itself, affect the excludability of interest on the Series 2021A Bonds from gross income for federal income tax purposes, such reporting requirement causes the payment of interest on the Series 2021A Bonds to be subject to backup withholding if such interest is paid to beneficial owners who (a) are not "exempt recipients," and (b) either fail to provide certain identifying information (such as the beneficial owner's taxpayer identification number) in the required manner or have been identified by the IRS as having failed to report all interest and dividends required to be shown on their income tax returns. Generally, individuals are not exempt recipients, whereas corporations and certain other entities generally are exempt recipients. Amounts withheld under the backup withholding rules from a payment to a beneficial owner would be allowed as a refund or credit against such beneficial owner's federal income tax liability provided the required information is furnished to the IRS.

Future Legislation or Other Post-Issuance Events

The opinion of Bond Counsel is based on current legal authority, covers certain matters not directly addressed by such authority and represents Bond Counsel's judgment as to the proper treatment of the Series 2021A Bonds for federal income tax purposes. It is not binding on the IRS or the courts. Current and future legislative proposals, if enacted into law, or administrative actions or court decisions, at either the federal or state level, may cause interest on the Series 2021A Bonds to be subject, directly or indirectly, to

federal income taxation or to be subjected to State or local income taxation, or otherwise have an adverse impact on the potential benefits of the exclusion from gross income of the interest on the Series 2021A Bonds for federal or state income tax purposes.

Legislation affecting tax-exempt obligations is regularly considered by the United States Congress and may also be considered by the New York State Legislature. Court proceedings may also be filed, the outcome of which could modify the tax treatment of the Series 2021A Bonds. There can be no assurance that legislation enacted or proposed or actions by a court after the date of issuance of the Series 2021A Bonds will not have an adverse effect on the tax status of the interest paid or payable on the Series 2021A Bonds or the market value or marketability of the Series 2021A Bonds. These adverse effects could result, for example, from changes to federal or state income tax rates, changes in the structure of federal or state income taxes (including replacement with another type of tax), or repeal (or reduction in benefit) of the exclusion of the interest on the Series 2021A Bonds from gross income for federal or state income tax purposes for all or certain taxpayers. The introduction or enactment of any such legislative proposals, administrative actions or court decisions may also affect, perhaps significantly, the value or marketability of the Series 2021A Bonds.

No representation is made as to the likelihood of such proposals being enacted in their current or similar form, or if enacted, the effective date of any such legislation and no assurances can be given that such proposals or amendments will not materially and adversely affect the market value or the marketability of the Series 2021A Bonds or the tax consequences of ownership of the Series 2021A Bonds. Similarly, it is not possible to predict whether any other legislative or administrative actions or court decisions having an adverse impact on the Federal or state income tax treatment of holders of the Series 2021A Bonds may occur.

Prospective purchasers of the Series 2021A Bonds should consult their own tax advisers regarding pending or proposed federal and state tax legislation and court proceedings, and prospective purchasers of the Series 2021A Bonds at other than their original issuance at the respective prices set indicated on the inside cover of this Official Statement should also consult their own tax advisers regarding other tax considerations, such as the consequences of market discount, as to which Bond Counsel expresses no opinion.

Bond Counsel's engagement with respect to the Series 2021A Bonds and the Series 2021B Bonds ends with the issuance of the Series 2021A Bonds and the Series 2021B Bonds. Bond Counsel has not undertaken to advise in the future whether any events occurring after the date of issuance of the Series 2021A Bonds may affect the tax status of interest paid or payable on the Series 2021A Bonds.

Unless separately engaged for such purpose, Bond Counsel is not obligated to defend the Issuer or the owners of the Series 2021A Bonds regarding the tax status of the interest thereon in the event of an audit examination by the IRS. If the IRS does audit the Series 2021A Bonds, under current IRS procedures, the IRS will treat the Issuer as the taxpayer and the beneficial owners of the Series 2021A Bonds will have only limited rights, if any, to obtain and participate in judicial review of such audit. Moreover, because achieving judicial review in connection with an audit examination of tax-exempt bonds is difficult, obtaining an independent review of IRS positions with which the Issuer legitimately disagrees may not be practicable. Any action by the IRS, including but not limited to the selection of the Series 2021A Bonds for audit, or the course or result of such audit, or an audit of other obligations presenting similar tax issues, may alter the market value for, or the marketability of, the Series 2021A Bonds, and may cause the Issuer, the Institution or the Bondholders to incur significant expense.

Premium Series 2021A Bonds

The excess, if any, of the tax adjusted basis of a maturity of any Series 2021A Bonds purchased as part of the initial public offering by a purchaser (other than a purchaser who holds such Series 2021A Bonds as inventory, stock in trade or for sale to customers in the ordinary course of business) over the amount payable at maturity is “bond premium.” Owners of a maturity of the Series 2021A Bonds with bond premium (a “Premium Series 2021A Bond”) will be subject to requirements under the Code relating to tax cost reduction associated with the amortization of bond premium and, under certain circumstances, the initial owner of a Premium Series 2021A Bond may realize taxable gain upon disposition of Premium Series 2021A Bonds even though sold or redeemed for an amount less than or equal to such owner’s original cost of acquiring such Premium Series 2021A Bonds. In general, bond premium is amortized over the term of a Premium Series 2021A Bond for Federal income tax purposes in accordance with constant yield principles based on the owner’s yield over the remaining term of such Premium Series 2021A Bond (or, in the case of a bond with bond premium callable prior to its stated maturity, the amortization period and yield may be required to be determined on the basis of an earlier call date that results in the lowest yield on such bond). The Owner of a Premium Series 2021A Bond is required to decrease such Owner’s adjusted basis in such Premium Series 2021A Bond by the amount of amortizable bond premium attributable to each taxable year such Premium Series 2021A Bond is held. The amortizable bond premium on such Premium Series 2021A Bond attributable to a taxable year is not deductible for federal income tax purposes; however, bond premium is treated as an offset to qualified stated interest received on such Premium Series 2021A Bond.

Prospective purchasers of any Premium Series 2021A Bond should consult their tax advisors with respect to the determination for purposes of federal income taxation of the treatment of bond premium upon the sale or other disposition of such Premium Series 2021A Bond and with respect to the state and local tax consequences of acquiring, owning and disposing of such Premium Series 2021A Bond.

New York State Taxes

Series 2021A Bonds: In the opinion of Bond Counsel, so long as interest on the Series 2021A Bonds is excluded from gross income for federal income tax purposes, interest on the Series 2021A Bonds is exempt, under existing law, from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York).

Series 2021B Bonds: In the opinion of Bond Counsel, interest on the Series 2021B Bonds is not exempt under existing law from personal income taxes imposed by the State of New York or any political subdivision thereof (including the City of New York).

Tax Risks - Loss of Federal Tax Exemption

As described above, interest on the Series 2021A Bonds may become subject to federal income taxation if certain events occur subsequent to the date of issuance of the Series 2021A Bonds that violate the requirements and limitations prescribed by the Code. Although the Institution has agreed not to violate the requirements and limitations of the Code, there can be no assurance that these events will not occur. If certain requirements are violated, the interest on the Series 2021A Bonds may be deemed to be taxable from the date of issuance. The Series 2021A Bonds are not subject to mandatory redemption or to mandatory acceleration in the event of such an occurrence. No premium or additional interest will be paid to the Bondholders or former Bondholders to compensate the Bondholders for any losses they may incur as a result of the interest on the Series 2021A Bonds becoming subject to federal income taxation.

Forms of Opinions of Bond Counsel

The form of the approving opinion of Bond Counsel with respect to the Series 2021A Bonds is attached hereto as Appendix F. See “FORM OF OPINION OF BOND COUNSEL – SERIES 2021A BONDS” in APPENDIX F.

The form of the approving opinion of Bond Counsel with respect to the Series 2021B Bonds is attached hereto as Appendix G. See “FORM OF OPINION OF BOND COUNSEL – SERIES 2021B BONDS” in APPENDIX G.

LEGAL MATTERS

The Series 2021 Bonds are offered, subject to prior sale, when, as and if issued and accepted by Robert W. Baird & Co. Incorporated (the “Underwriter”), subject to the unqualified approving opinion of Hodgson Russ LLP, Albany, New York, Bond Counsel, and certain other conditions. In connection with the issuance of the Series 2021 Bonds, certain legal matters for the Institution will be passed on by its counsel, Whiteman Osterman & Hanna LLP, Albany, New York, certain legal matters for the Issuer will be passed on by its counsel, Marisa Franchini, Esq., Corporation Counsel, Albany, New York, and certain legal matters for the Underwriter will be passed on by its counsel, Trespasz & Marquardt, LLP, Syracuse, New York.

NO LITIGATION

The Issuer

There is not now pending or, to the knowledge of the Issuer, threatened any litigation restraining or enjoining the issuance or delivery of the Series 2021 Bonds or questioning or affecting the validity of the Series 2021 Bonds or the proceedings or authority under which they are to be issued. Neither the creation, organization or existence of the Issuer nor the title of any of the present members or other officials of the Issuer to their respective offices is being contested. There is no litigation pending or, to the Issuer’s knowledge, threatened which in any manner questions the right of the Issuer to enter into the Issuer Documents or to secure the Series 2021 Bonds in the manner provided in the Indenture or the Act.

The Institution

There is not now pending or, to the knowledge of the Institution, threatened any litigation restraining or enjoining the execution or delivery of the Institution documents, or questioning or affecting the validity of the Institution documents, or the proceedings or authority under which the Institution documents are to be executed and delivered. Neither the creation, organization or existence of the Institution nor the title of any of the present members of the Board of Trustees of the Institution to their respective offices is being contested. There is no litigation pending or, to the Institution’s knowledge, threatened which in any manner questions the right of the Institution to enter into the Institution documents.

RATING

S&P Global Ratings has assigned the Series 2021 Bonds a Rating of “BB+” (Stable Outlook). An explanation of the significance of any rating may be obtained only from the rating agency furnishing the same. Generally, a rating agency bases its rating and outlook (if any) on the information and materials furnished to it and on investigations, studies and assumptions of its own. Such rating reflects only the views of such rating agencies and are not recommendations to buy, sell or hold the Series 2021 Bonds. There is

no assurance that such rating will be in effect for any given period of time or that they will not be revised upward or downward or withdrawn entirely by such rating agencies if, in the judgment of such agencies, circumstances so warrant. Any such downward revision or withdrawal of any rating may have an adverse effect on the market price of the Series 2021 Bonds.

UNDERWRITING

Subject to the terms and conditions of a Bond Purchase Agreement (the “Purchase Agreement”) entered into by and between the Institution and Robert W. Baird & Co. Incorporated (the “Underwriter”), the Underwriter has agreed to purchase the Series 2021 Bonds at an aggregate purchase price of \$13,258,750.99 (representing the original principal amount of the Series 2021 Bonds, plus a premium of \$1,295,660.90 less Underwriter’s compensation of \$201,909.91). Expenses associated with the issuance of the Series 2021 Bonds are being paid from proceeds of the Series 2021 Bonds. The Purchase Agreement provides that the Underwriter will purchase all of the Series 2021 Bonds if any are purchased. The obligation of the Underwriter to make such purchase is subject to certain terms and conditions set forth in the Purchase Agreement. The Underwriter may offer and sell the Series 2021 Bonds at prices different from the prices stated on the inside cover page of this Official Statement. The offering prices may be changed from time to time by the Underwriter. The Underwriter is not obligated to create a secondary market for the purchase or sale of the Series 2021 Bonds and there may, in fact, be no market for the Series 2021 Bonds depending upon prevailing market conditions, the financial condition or market position of firms who make up the secondary market and the financial position and results of operations of the Institution.

CONTINUING DISCLOSURE

The Institution will execute and deliver a Continuing Disclosure Agreement (the “Continuing Disclosure Agreement”), with respect to the Series 2021 Bonds. The Continuing Disclosure Agreement is made for the benefit of the registered and Beneficial Owners (as defined in the Continuing Disclosure Agreement) of the Series 2021 Bonds and in order to assist the Underwriter in complying with its obligations pursuant to Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the “Continuing Disclosure Rule”). See “APPENDIX E – FORM OF CONTINUING DISCLOSURE AGREEMENT” herein.

Pursuant to the Continuing Disclosure Agreement, the Institution has engaged Manufacturers and Traders Trust Company, as dissemination agent (the “Dissemination Agent”). Going forward, the Dissemination Agent will assist the Institution in meeting its continuing disclosure obligations as set forth in the Continuing Disclosure Agreement.

Historical Compliance

Except as discussed below, the Institution has complied with its continuing disclosure obligations for each of the prior five years. The prior entities that were subsequently merged to create the Institution each executed continuing disclosure agreements in connection with the issuance of the Prior Bonds that both included a commitment to file audited financial statements for the year ended June 30th on or before December 31st. The audited financial statements for fiscal years ended June 31, 2016 and 2017 were filed 64 days late and 110 days late, respectively. The audited financial statements for fiscal years ended June 30, 2018, 2019 and 2020 were timely filed, and the Institution has retained Manufacturers and Traders Trust Company, as dissemination agent with respect to the Series 2021 Bonds.

SECURITIES LAWS CONSIDERATIONS FOR RESIDENTS OF CERTAIN STATES

The offering of the Series 2021 Bonds is to be undertaken only in those jurisdictions in which such offering may be lawfully made in accordance with the relevant provisions of all applicable state and federal securities laws.

RELATIONSHIPS AMONG THE PARTIES

Manufacturers and Traders Trust Company is acting as Trustee pursuant to the Indenture and is also acting as Custodian pursuant to the Custody Agreement and, in such capacity, will act as the Institution's agent to receive substantially all Per Pupil Aid and make payments as required pursuant thereto. Manufacturers and Traders Trust Company has also been retained by the Institution to serve as dissemination agent for continuing disclosure purposes.

Robert McLaughlin, Esq. serves on the Institution's Board of Trustees and is also Of Counsel at Whiteman Osterman & Hanna LLP, Albany, New York. Certain legal matters for the Institution will be passed on by Whiteman Osterman & Hanna LLP, Albany, New York in connection with the issuance of the Series 2021 Bonds.

Paul Augello is President and CEO of BoostED Finance which provides certain financial services to the Institution. Mr. Augello has also been retained by the Institution to serve as Contracted Chief Financial Officer where he handles day-to-day business matters including payroll, purchasing and billing.

FINANCIAL STATEMENTS

The financial statements for the Institution as of and for the year ended June 30, 2021, set forth in Appendix C of this Official Statement, have been audited by Cusack & Company CPAs, LLC, independent certified public accountants, as set forth in their report thereon appearing in Appendix C of this Official Statement.

VERIFICATION OF MATHEMATICAL COMPUTATIONS

Causey Demgen & Moore P.C. ("Causey"), a firm of independent certified public accountants will deliver to the Issuer its reports indicating that it has examined, in accordance with standards established by the American Institute of Certified Public Accountants, the information and assertions provided by the Issuer, the Underwriter and their respective representatives. Included in the scope of its examination will be a verification of the mathematical accuracy of the mathematical computations of the sufficiency of the cash deposited with the respective trustee for the Prior Bonds to pay the principal, interest and redemption price coming due on the Prior Bonds on and prior to their respective redemption dates. Causey will express no opinion on the reasonableness of the assumptions provided to them, the likelihood that the principal of and interest on the Series 2021 Bonds will be paid as described in the schedules provided to them, or the exclusion of the interest on the Series 2021 Bonds from gross income for federal income tax purposes.

The verification performed by Causey will be solely based upon data, information and documents provided to Causey by the Issuer and its representatives. Causey's verification will state Causey has no obligations to update the report because of events occurring, or data or information coming to their attention, subsequent to the date of the report.

MISCELLANEOUS

The Institution has furnished all information in this Official Statement and the Appendices attached to this Official Statement relating to the Institution, the Project Facility, and the Estimated Sources and Application of Funds, including all information set forth in Appendices A, B and C hereto.

All statements in this Official Statement involving matters of opinion or belief, whether or not expressly so stated, are intended as such and not as representations of fact.

The Issuer has consented to the use of this Official Statement, but has not participated in the preparation of this Official Statement and has made no independent investigation with respect to the information contained in this Official Statement, and, accordingly, the Issuer assumes no responsibility for the sufficiency, accuracy or completeness of such information, other than information set forth under “THE ISSUER” and “NO LITIGATION – The Issuer” herein. The Institution has authorized the distribution of this Official Statement.

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BRIGHTER CHOICE ELEMENTARY
CHARTER SCHOOLS

By: /s/ Martha Snyder
Name: Martha Snyder
Title: Board Chair

CITY OF ALBANY CAPITAL RESOURCE
CORPORATION

By: /s/ Susan Pedo
Name: Susan Pedo
Title: Chairperson

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APPENDIX A**SUMMARY OF CERTAIN PROVISIONS OF NEW YORK CHARTER SCHOOL LAW**

This appendix summarizes certain provisions of New York charter school law. This Appendix provides a summary only, and only for informational purposes. Potential investors should refer to and independently evaluate applicable provisions of the Institution law in their entirety, with assistance from counsel as necessary, for a complete understanding of their terms. Further, potential investors should note that the provisions summarized below are subject to change, and this summary only pertains to certain aspects of currently existing law. See “RISK FACTORS – Legislative Risk and Local School Districts Risk.”

Purpose (New York Education Law § 2850)

The purpose of the Act is to authorize a system of charter schools to provide opportunities for teachers, parents, and community members to establish and maintain schools that operate independently of existing schools and school districts in order to accomplish the following objectives:

- (a) Improve student learning and achievement;
- (b) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are at-risk of academic failure;
- (c) Encourage the use of different and innovative teaching methods;
- (d) Create new professional opportunities for teachers, school administrators and other school personnel;
- (e) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system; and
- (f) Provide schools with a method to change from rule-based to performance-based accountability systems by holding the schools established under the Act accountable for meeting measurable student achievement results.

Eligible Applicants; Applications; Submission (New York Education Law §§ 2851(1), 2851(2) and 2851(3))

An application to establish a charter school may be submitted by teachers, parents, school administrators, community residents or any combination thereof. Such application may be filed in conjunction with a college, university, museum, educational institution, not-for-profit corporation exempt from taxation under § 501(c)(3) of the Internal Revenue Code or for-profit business or corporate entity authorized to do business in New York state. Provided however, for-profit business or corporate entities shall not be eligible to submit an application to establish a charter school pursuant to § 2852(9-a) (a request for proposals process) of the Act, or operate or manage a charter school for a charter issued pursuant to § 2852(9-a) (a request for proposals process) of the Act. For charter schools established in conjunction with a for-profit business or corporate entity, the charter shall specify the extent of the entity’s participation in the management and operation of the school.

The information provided on the application shall be consistent with the provisions of the Act and other applicable laws, rules and regulations.

An applicant shall submit the application to a charter entity for approval. For purposes of the Act, a charter entity shall be:

- (a) The board of education of a school district eligible for an apportionment of aid under § 3602(4) (apportionment of public moneys to school districts employing eight or more teachers) of the New York Education Law; provided that a board of education shall not approve an application for a school to be operated outside the school district's geographic boundaries and further provided that in a city having a population of 1,000,000 or more, the chancellor of any such city school district shall be the charter entity established by this paragraph;
- (b) The Board of Trustees of the State University of New York; or
- (c) The Board of Regents. The Board of Regents shall be the only entity authorized to issue a charter pursuant to the Act.

Notwithstanding any provision of this section to the contrary, an application for the conversion of an existing public school to a charter school shall be submitted to, and may only be approved by, the charter entity set forth in paragraph (a) of this section. Notwithstanding any law, rule or regulation to the contrary, any such § 2852(9-a) application for conversion shall be consistent with this section but shall not be subject to the process pursuant to the Act, and the charter entity shall require that the parents or guardians of a majority of the students then enrolled in the existing public school vote in favor of converting the school to a charter school.

Charter Renewal (New York Education Law § 2851(4))

Charters may be renewed, upon application, for a term of up to five (5) years in accordance with the provisions of the Act for the issuance of such charters pursuant to § 2852 of the Act; provided however, that a renewal application shall include:

- (a) A report of the progress of the charter school in achieving the educational objectives set forth in the charter.
- (b) A detailed financial statement that discloses the cost of administration, instruction and other spending categories for the charter school that will allow a comparison of such costs to other schools, both public and private. Such statement shall be in a form prescribed by the Board of Regents.
- (c) Copies of each of the annual reports of the charter school required by § 2857(2) of the Act, including the charter school report cards and the certified financial statements.
- (d) Indications of parent and student satisfaction.
- (e) The means by which the charter school will meet or exceed enrollment and retention targets as prescribed by the Board of Regents or the Board of Trustees of the State University of New York, as applicable, of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program which shall be considered by the charter entity prior to approving such charter school's application for renewal. When developing such targets, the Board of Regents and the Board of Trustees of the State University of New York shall ensure (1) that such enrollment targets are comparable to the enrollment figures of such categories of students attending the public schools within the school district, or in a city school district in a city having a population of 1,000,000 or more inhabitants, the community school district, in which the charter school is located; and (2) that such retention targets are comparable to the rate of retention of such categories of students attending the public schools

within the school district, or in a city school district in a city have a population of 1,000,000 or more inhabitants, the community school district, in which the proposed charter school would be located.

Such renewal application shall be submitted to the charter entity no later than six months prior to the expiration of the charter; provided, however, that the charter entity may waive such deadline for good cause shown.

Charter School Organization (New York Education Law § 2853(1))

(a) Upon the approval of a charter by the Board of Regents, the Board of Regents shall incorporate the charter school as an education corporation for a term not to exceed five (5) years, provided however in the case of charters issued pursuant to § 2852(9-a) of the Act the Board of Regents shall incorporate the charter school as an education corporation for a term not to exceed five (5) years in which instruction is provided to pupils plus the period commencing with the effective date of the charter and ending with the opening of the school for instruction. Such certificate of incorporation shall not modify or limit any terms of the charter approved by the Board of Regents. Upon approval of an application to renew a charter, the Board of Regents shall extend the certificate of incorporation for a term not to exceed five (5) years. Upon termination or nonrenewal of the charter of a charter school pursuant to § 2855 of the Act, the certificate of incorporation of the charter school shall be revoked by the Board of Regents pursuant to § 219 (change of charter) of the New York Education law, provided that compliance with the notice and hearing requirements of the Act shall be deemed to satisfy the notice and hearing requirements of § 219 of the New York Education law. It shall be the duty of the trustees of the charter school to obtain federal tax-exempt status no later than one year following approval of a charter school by the Board of Regents. For purposes of the Act, “certificate of incorporation” shall mean the provisional charter issued by the Board of Regents to form the charter school as an educational corporation pursuant to §§ 216 (charters) and 217 (provisional charters) of the New York Education Law.

(b) An education corporation organized to operate a charter school shall have all corporate powers necessary and desirable for carrying out a charter school program in accordance with the provisions of the Act, other applicable laws and regulations and the terms of the charter, including all of the powers of an education corporation formed to operate an elementary or secondary school and those powers granted under the provisions of the not-for-profit corporation law that are made applicable to charter schools by § 216-a (applicability of not-for-profit corporation law) of the New York Education Law. The powers of the trustees of the charter school shall include those powers specified in § 226 (powers of trustees of institutions) of the New York Education Law.

(b-1) An education corporation operating a charter school shall be authorized to operate more than one school or house any grade at more than one site, provided that a charter must be issued for each such additional school or site in accordance with the requirements for the issuance of a charter pursuant to the Act and that each such additional school or site shall count as a charter issued pursuant to § 2852(9) of the Act; and provided further that:

- (i) a charter school may operate in more than one building at a single site; and
- (ii) a charter school which provides instruction to its students at different locations for a portion of their school day shall be deemed to be operating at a single site.

(c) A charter school shall be deemed an independent and autonomous public school, except as otherwise provided in the Act and a political subdivision having boundaries coterminous with the school district or community school district in which the charter school is located. The charter entity and the Board of Regents shall be deemed to be the public agents authorized to supervise and oversee the charter school.

(d) The powers granted to a charter school under the Act constitute the performance of essential public purposes and governmental purposes of the state. A charter school shall be exempt to the same extent as other public schools from all taxation, fees, assessments or special ad valorem levies on its earnings and its property, including property leased by the charter school. Instruments of conveyance to or from a charter school and any bonds or notes issued by a charter school, together with the income therefrom, shall at all times be exempt from taxation.

(e) A charter school shall not have the power to levy taxes or to acquire property by eminent domain.

(f) The Board of Trustees of the charter school shall have final authority for policy and operational decisions of the school. Nothing herein shall prohibit the Board of Trustees of a charter school from delegating decision-making authority to officers and employees of the school in accordance with the provisions of the charter.

(g) Notwithstanding any provision of law to the contrary, no civil liability shall attach to any charter entity, the Board of Regents, or to any of their members or employees, individually or collectively, for any acts or omissions of the charter school. Neither the local school district, the charter entity nor the state shall be liable for the debts or financial obligations of a charter school or any person or corporate entity who operates a charter school.

Public and Private Assistance to Charter Schools (New York Education Law § 2853(4))

Effective until June 30, 2021:

For purposes of §§ 701 (power to designate text-books; purchase and loan of text-books; purchase of supplies), 711 (aid for purchase of school library materials), 751 (aid for computer software purchases) and 912 (health and welfare services to all children) of the New York Education Law, a charter school shall be deemed a nonpublic school in the school district within which the charter school is located. Special education programs and services shall be provided to students with a disability attending a charter school in accordance with the individualized education program recommended by the committee or subcommittee on special education of the student's school district of residence. The charter school may arrange to have such services provided by such school district of residence or by the charter school directly or by contract with another provider.

Effective June 30, 2021:

(a) For purposes of §§ 701 (power to designate text-books; purchase and loan of text-books; purchase of supplies), 711 (aid for purchase of school library materials), 751 (aid for computer software purchases) and 912 (health and welfare services to all children) of the New York Education Law, a charter school shall be deemed a nonpublic school in the school district within which the charter school is located. Special education programs and services shall be provided to students with a disability attending a charter school in accordance with the individualized education program recommended by the committee or subcommittee on special education of the student's school district of residence. The charter school may arrange to have such services provided by such school district of residence or by the charter school directly or by contract with another provider.

(b) For purposes of § 3635 (transportation) of the New York Education Law, a charter school shall be deemed a nonpublic school. The charter and application therefor shall set forth the manner in which students ineligible for transportation pursuant to § 3635 of the New York Education Law shall be transported to and from school. Any supplemental transportation provided by a charter school shall comply with all transportation safety laws and regulations applicable to other public schools. A school district may enter into a contract for the provision of supplemental transportation services to a charter school, and any such services shall be provided by the school district at cost.

(c) A charter school may contract with the governing body of a public college or university for the use of a school building and grounds, the operation and maintenance thereof. Any such contract shall provide such services or facilities at cost. A school district shall permit any charter school granted approval to co-locate, to use such services and facilities without cost.

(d) Private persons and organizations are encouraged to provide funding and other assistance to the establishment or operation of charter schools.

(e) The school district of residence of children attending a charter school may, but is not required to, allow such children to participate in athletic and extra-curricular activities of the district's schools.

Applicability of Other Laws (New York Education Law § 2854(1))

(a) Notwithstanding any provision of law to the contrary, to the extent that any provision of the Act is inconsistent with any other state or local law, rule or regulation, the provisions of the Act shall govern and be controlling.

(b) A charter school shall meet the same health and safety, civil rights, and student assessment requirements applicable to other public schools, except as otherwise specifically provided in the Act. A charter school shall be exempt from all other state and local laws, rules, regulations or policies governing public or private schools, boards of education, school districts and political subdivisions, including those relating to school personnel and students, except as specifically provided in the school's charter or in the Act. Nothing in this section shall affect the requirements of compulsory education of minors established by Part 1 of Article 65 (compulsory education) of the New York Education Law.

(c) A charter school shall be subject to the financial audits, the audit procedures, and the audit requirements set forth in the charter and shall be subject to audits of the comptroller of the city school district of The City of New York for charter schools located in City, and to audits of the New York State Comptroller for charter schools located in the rest of the state, at his or her discretion, with respect to the school's financial operations. Such procedures and standards shall be consistent with generally accepted accounting and audit standards. Independent fiscal audits shall be required at least once annually.

(d) A charter school shall design its educational programs to meet or exceed the student performance standards adopted by the Board of Regents and the student performance standards contained in the charter. Students attending charter school shall be required to take Regents examinations to the same extent such examinations are required of other public school students. A charter school offering instruction in the high school grades may grant Regents diplomas and local diplomas to the same extent as other public schools, and such other certificates and honors as are specifically authorized by their charter, and in testimony thereof give suitable certificates, honors and diplomas under its seal; and every certificate and diploma

so granted shall entitle the conferee to all privileges and immunities which by usage or statute are allowed for similar diplomas of corresponding grade granted by any other public school.

(e) A charter school shall be subject to the provisions of the New York Freedom of Information Law and New York Open Meetings Law.

(f) A charter school shall be subject to the provisions of §§ 800 (definitions), 801 (conflicts of interest prohibited), 802 (exceptions), 803 (disclosure of interest), 804 (contracts void), 804-a (certain interests prohibited), 805 (violations), 805-a (certain action prohibited), 805-b (solemnization of marriages) and 806 (code of ethics) of the General Municipal Law to the same extent such sections apply to school districts.

Admission; Enrollment; Students (New York Education Law § 2854(2))

(a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations and shall not charge tuition or fees; provided that a charter school may require the payment of fees on the same basis and to the same extent as other public schools. A charter school shall not discriminate against any student, employee or any other person on the basis of ethnicity, national origin, gender, or disability or any other ground that would be unlawful if done by a school. Admission of students shall not be limited on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry; provided, however, that nothing in the Act shall be construed to prevent the establishment of a single-sex charter school or a charter school designed to provide expanded learning opportunities for students at-risk of academic failure or students with disabilities and English language learners; and provided, further, that the charter school shall demonstrate good faith efforts to attract and retain a comparable or greater enrollment of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program when compared to the enrollment figures for such students in the school district in which the charter school is located. A charter shall not be issued to any school that would be wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine would be taught.

(b) Any child who is qualified under the laws of this state for admission to a public school is qualified for admission to a charter school. Applications for admission to a charter school shall be submitted on a uniform application form created by the department and shall be made available by a charter school in languages predominately spoken in the community in which such charter school is located. The school shall enroll each eligible student who submits a timely application by the first day of April each year, unless the number of applications exceeds the capacity of the grade level or building. In such cases, students shall be accepted from among applicants by a random selection process, provided, however, that an enrollment preference shall be provided to pupils returning to the charter school in the second or any subsequent year of operation and pupils residing in the school district in which the charter school is located, and siblings of pupils already enrolled in the charter school. Preference may also be provided to children of employees of the charter school or charter management organization, provided that such children of employees may constitute no more than 15% of the charter school's total enrollment. The Commissioner shall establish regulations to require that the random selection process conducted pursuant to this paragraph be performed in a transparent and equitable manner and to require that the time and place of the random selection process be publicized in a manner consistent with the requirements of §104 of the Public Officers Law and be open to the public. For purposes of this paragraph and paragraph (a) above, the school district in which the charter school is located shall mean, for the city school district of The City of New York, the community district in which the charter school is located.

(c) A charter school shall serve one or more of the grades one through twelve, and shall limit admission to pupils within the grade levels served. Nothing in the Act shall prohibit a charter school from establishing a kindergarten program.

(d) A student may withdraw from a charter school at any time and enroll in a public school. A charter school may refuse admission to any student who has been expelled or suspended from a public school until the period of suspension or expulsion from the public school has expired, consistent with the requirements of due process.

Causes for Revocation or Non-Renewal (New York Education Law § 2855)

The charter entity, or the Board of Regents, may terminate a charter upon any of the following grounds:

(a) When a charter school's outcome on student assessment measures adopted by the Board of Regents falls below the level that would allow the Commissioner to revoke the registration of another public school, and student achievement on such measures has not shown improvement over the preceding three school years;

(b) Serious violations of law;

(c) Material and substantial violation of the charter, including fiscal mismanagement;

(d) When the public employment relations board makes a determination that the charter school demonstrates a practice and pattern of egregious and intentional violations of § 209-a(i) (improper employer practices) of the Civil Service Law involving interference with or discrimination against employee rights under Article 14 (Public Employees' Fair Employment Act) of the Civil Service Law; or

(e) Repeated failure to comply with the requirement to meet or exceed enrollment and retention targets of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program pursuant to targets established by the Board of Regents or the Board of Trustees of the State University of New York, as applicable. Provided, however, if no grounds for terminating a charter are established pursuant to § 2855 of the Act other than pursuant to this paragraph (e), and the charter school demonstrates that it has made extensive efforts to recruit and retain such students, including outreach to parents and families in the surrounding communities, widely publicizing the lottery for such school, and efforts to academically support such students in such charter school, then the charter entity or Board of Regents may retain such charter.

Notice of intent to revoke a charter shall be provided to the Board of Trustees of a charter school at least 30 days prior to the effective date of the proposed revocation. Such notice shall include a statement of reasons for the proposed revocation. The charter school shall be allowed at least 30 days to correct the problems associated with the proposed revocation. Prior to revocation of the charter, a charter school shall be provided an opportunity to be heard, consistent with the requirements of due process. Upon the termination of a charter, the charter school shall proceed with dissolution pursuant to the procedures of the charter and direction of the charter entity and the Board of Regents.

In addition to the provisions of the paragraph above, the charter entity or the Board of Regents may place a charter school falling within the provisions of paragraphs (a) through (e) above on probationary status to allow the implementation of a remedial action plan. The failure of a charter school to comply with the terms and conditions of a remedial action plan may result in summary revocation of the school's charter.

Any individual or group may bring a complaint to the Board of Trustees of a charter school alleging a violation of the provisions of the Act, the charter, or any other provision of law relating to the management or operation of the charter school. If, after presentation of the complaint to the Board of Trustees of a charter school, the individual or group determines that such board has not adequately addressed the complaint, they may present that complaint to the charter entity, which shall investigate and respond. If, after presentation of the complaint to the charter entity, the individual or group determines that the charter entity has not adequately addressed the complaint, they may present that complaint to the Board of Regents, which shall investigate and respond. The charter entity and the Board of Regents shall have the power and the duty to issue appropriate remedial orders to charter schools under their jurisdiction to effectuate the provisions of this section.

The regulatory power of the Board of Regents and the Commissioner shall not extend to charter schools except as otherwise specifically provided in the Act.

Review and Assessment (New York Education Law §§ 2857(2), 2857(3) and 2857(5))

Each charter school shall submit to the charter entity and to the Board of Regents an annual report. Such report shall be issued no later than the first day of August of each year for the preceding school year and shall be made publicly available by such date and shall be posted on the charter school's website. The annual report shall be in such form as shall be prescribed by the Commissioner and shall include at least the following components:

- (a) a charter school report card, which shall include measures of the comparative academic and fiscal performance of the school, as prescribed by the Commissioner in regulations adopted for such purpose. Such measures shall include, but not be limited to, graduation rates, dropout rates, performance of students on standardized tests, college entry rates, total spending per pupil and administrative spending per pupil. Such measures shall be presented in a format that is easily comparable to similar public schools. In addition, the charter school shall ensure that such information is easily accessible to the community including making it publicly available by transmitting it to local newspapers of general circulation and making it available for distribution at board of trustee meetings;
- (b) discussion of the progress made towards achievement of the goals set forth in the charter;
- (c) a certified financial statement setting forth, by appropriate categories, the revenues and expenditures for the preceding school year, including a copy of the most recent independent fiscal audit of the school and any audit conducted by the New York State Comptroller; and
- (d) efforts taken by the charter school in the existing school year, and a plan for efforts to be taken in the succeeding school year, to meet or exceed enrollment and retention targets set by the Board of Regents or the Board of Trustees of the State University of New York, as applicable, of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program established pursuant to § 2851(4)(e) of the Act.

The Board of Regents shall report annually to the governor, the temporary president of the senate, and the speaker of the assembly the following information:

(a) The number, distribution, and a brief description of new charter schools established during the preceding year;

(a-1) A list including the number of charter schools closed during the preceding year, and a brief description of the reasons therefor including, but not limited to, non-renewal of the charter or revocation of the charter;

(b) The department's assessment of the current and projected programmatic and fiscal impact of charter schools on the delivery of services by school districts;

(c) The academic progress of students attending charter schools, as measured against comparable public and nonpublic schools with similar student population characteristics wherever practicable;

(d) A list of all actions taken by a charter entity on charter application and the rationale for the renewal or revocation of any charters; and

(e) Any other information regarding charter schools that the Board of Regents deems necessary. The format for this annual report shall be developed in consultation with representatives of school districts and charter school officials.

The Board of Regents shall on an annual basis review and make available to school districts best educational practices employed by charter schools.

Facilities (New York Education Law § 2853-3)

(a) A charter school may be located in part of an existing public school building, in space provided on a private work site, in a public building or in any other suitable location. Provided, however, before a charter school may be located in part of an existing public school building, the charter entity shall provide notice to the parents or guardians of the students then enrolled in the existing school building and shall hold a public hearing for purposes of discussing the location of the charter school. A charter school may own, lease or rent its space.

(a-1) (i) For charters issued pursuant to § 2852(9-a) of the Act located outside a city school district in a city having a population of 1,000,000 or more inhabitants, the department shall approve plans and specifications and issue certificates of occupancy for such charter schools. Such charter schools shall comply with all department health, sanitary, and safety requirements applicable to facilities and shall be treated the same as other public schools for purposes of local zoning, land use regulation and building code compliance. Provided however, that the department shall be authorized to grant specific exemptions from the requirements of this paragraph to charter schools upon a showing that compliance with such requirements creates an undue economic hardship or that some other good cause exists that makes compliance with this paragraph extremely impractical. A demonstrated effort to overcome the stated obstacles must be provided.

(a-1) (ii) In a city school district in a city with a population of 1,000,000 or more, all charters authorized to be issued by the chapter of the laws of 2010 which amended this subdivision shall be obligated to comply with the department's health, safety and sanitary requirements applicable to facilities to the same extent as non-charter public schools in such a city school district.

(a-2) A charter school shall be deemed a nonpublic school for purposes of local zoning, land use regulation and building code compliance if it has been granted an exemption by the department pursuant to paragraph (a-1) above or if its charter was not issued pursuant to § 2852(9-a) of the Act.

(a-3) Before a charter school may be located or co-located in an existing public school building in a city school district in a city having a population of 1,000,000 or more inhabitants, the chancellor shall identify which public school buildings may be subject to location or co-location, provide the rationale as to why such public school building is identified for location or co-location and shall make all such information publicly available, including via the city board's official internet website. In addition, the chancellor shall provide widespread notice of such information including to the community superintendent, community district education council and the school-based management team. After a public school building has been selected for a proposed location or co-location, the chancellor shall develop a building usage plan in accordance with the Act.

(a-4) In a city school district in a city having a population of 1,000,000 or more inhabitants, a shared space committee shall be established in each public school building in which one or more charter schools are located or co-located within a public school building with non-charter public schools. The shared space committee shall be comprised of the principal, a teacher, and a parent of each co-located school. Such committee shall conduct regular meetings, at least four times per school year, to review implementation of the building usage plan developed pursuant to the Act.

(a-5) Notwithstanding any provision to the contrary, in a city school district in a city having a population of 1,000,000 or more inhabitants, the determination to locate or co-locate a charter school within a public school building and the implementation of and compliance with the building usage plan developed pursuant to the Act that has been approved by the board of education of such city school district pursuant to the New York Education law and after satisfying the requirements of the New York Education law may be appealed to the commissioner pursuant to applicable provisions of the New York Education law. Provided further, the revision of a building usage plan approved by the board of education consistent with the requirements pursuant to the New York Education law may also be appealed to the commissioner on the grounds that such revision fails to meet the standards set forth in the Act. Following a petition for such appeal pursuant to this paragraph, such city school district shall have 10 days to respond. The petition must be dismissed, adjudicated or disposed of by the commissioner within 10 days of the receipt of the city school district's response.

(b) A charter school may pledge, assign or encumber its assets to be used as collateral for loans or extensions of credit; provided, however, that a charter school shall not pledge or assign monies provided, or to be provided, pursuant to § 2856(1) of the Act in connection with the purchase or construction, acquisition, reconstruction, rehabilitation or improvement of a school facility.

(c) The office of general services shall annually publish a list of vacant and unused buildings and vacant and unused portions of buildings that are owned by the state and that may be suitable for the operation of a charter school. Such list shall be provided to applicants for charter schools and to existing charter schools. At the request of a charter school or a prospective applicant, a school district shall make available a list of vacant and unused school buildings and vacant and unused portions of school buildings, including private school buildings, within the school district that may be suitable for the operation of a charter school.

(d) Notwithstanding any other provision to the contrary, in a city school district in a city having a population of 1,000,000 or more inhabitants, the chancellor must first authorize in writing any proposed capital improvements or facility upgrades in excess of \$5,000, regardless of the source of funding, made to accommodate the co-location of a charter school within a public school building. For any such improvements or upgrades that have been approved by the chancellor, capital improvements or facility upgrades shall be made in an amount equal to the expenditure of the charter school for each non-charter public school within the public school building. For any capital improvements or facility upgrades in excess of \$5,000 that have been approved by the chancellor, regardless of the source of funding, made in a charter school that is already co-located within a public school building, matching capital improvements or facility upgrades shall be made in an amount equal to the expenditure of the charter school for each non-charter public school within the public school building within three months of such improvements or upgrades.

(e) In a city school district in a city having a population of 1,000,000 or more inhabitants, charter schools that first commence instruction or that require additional space due to an expansion of grade level, pursuant to the Act, approved by their charter entity for the 2014–2015 school year or thereafter and request co-location in a public school building shall be provided access to facilities pursuant to § 2853-3(e) of the Act for such charter schools that first commence instruction or that require additional space due to an expansion of grade level, pursuant to the Act, approved by their charter entity for those grades newly provided.

(i) Notwithstanding any other provision of law to the contrary, within the later of (a) five months after a charter school’s written request for co-location and (b) 30 days after the charter school’s charter is approved by its charter entity, the city school district shall either: (1) offer at no cost to the charter school a co-location site in a public school building approved by the Board of Education as provided by law, or (2B) offer the charter school space in a privately owned or other publicly owned facility at the expense of the city school district and at no cost to the charter school. The space must be reasonable, appropriate and comparable and in the community school district to be served by the charter school and otherwise in reasonable proximity.

(ii) No later than 30 days after approval by the Board of Education or expiration of the offer period prescribed in paragraph (i) above, the charter school shall either accept the city school district’s offer or appeal in accordance with paragraph (iii) below. If no appeal is taken, the city’s offer or refusal to make an offer is final and non-reviewable. The charter school may appeal as early as issuance of an educational impact statement for the proposed co-location.

(iii) The charter school shall have the option of appealing the city school district’s offer or failure to offer a co-location site through binding arbitration in accordance with the Act, an expedited appeal to the Commissioner pursuant to applicable provisions of the New York Education Law, or a special proceeding pursuant to Article 78 of the civil practice law and rules. In any such appeal, the standard of review is the standard prescribed in § 7803 of the civil practice law and rules.

(iv) If the appeal results in a determination in favor of the city school district, the city’s offer is final and the charter school may either accept such offer and move into the space offered by the city school district at the city school district’s expense, or locate in another site at the charter school’s expense.

(v) For a new charter school whose charter is granted or for an existing charter school whose expansion of grade level, pursuant to the Charter Schools Act, is approved by their charter entity, if the appeal results in a determination in favor of the charter school, the city school district will pay the charter school an amount attributable to the grade level expansion or the formation of the new charter school that is equal to the lesser of:

(1) the actual rental cost of an alternative privately owned site selected by the charter school or

(2) 30% of the product of the Charter School Basic Tuition for the current school year and (a) for a new charter school that first commences instruction on or after July 1, 2014, the charter school's current year enrollment; or (b) for a charter school which expands its grade level, pursuant to the Act, the positive difference of the charter school's enrollment in the current school year minus the charter school's enrollment in the school year prior to the first year of the expansion.

(vi) (vi) An arbitration in an appeal pursuant to this paragraph shall be conducted by a single arbitrator selected in accordance with the Act.

Financing of Charter Schools (New York Education Law § 2856)

Effective until June 30, 2021:

(a) The enrollment of students attending charter schools shall be included in the enrollment, attendance and, if applicable, count of students with disabilities of the school district in which the pupil resides. The charter school shall report all such data to the school districts of residence in a timely manner. Each school district shall report such enrollment, attendance and count of students with disabilities to the department. The school district of residence shall pay directly to the charter school for each student enrolled in the charter school who resides in the school district the Charter School Basic Tuition which shall be:

(i) for school years prior to the 2009–2010 school year, an amount equal to 100% of the amount calculated pursuant §3602(1)(f) of the New York Education Law for the school district for the year prior to the Base Year increased by the percentage change in the State Total Approved Operating Expense calculated pursuant to §3602(1)(t) of the New York Education Law from two years prior to the Base Year to the Base Year;

(ii) for the 2009–2010 school year, the Charter School Basic Tuition shall be the amount payable by such district as Charter School Basic Tuition for the 2008–2009 school year;

(iii) for the 2010–2011 through 2013–2014 school years, the Charter School Basic Tuition shall be the basic tuition computed for the 2010–2011 school year pursuant to the provisions of subparagraph (i) above;

(iv) for the 2014–2015 through 2016–2017 school years, the Charter School Basic Tuition shall be the sum of the lesser of the Charter School Basic Tuition computed for the 2010–2011 school year pursuant to the provisions of subparagraph (i) above or the Charter School Basic Tuition computed for the current year pursuant to the provisions of subparagraph (i) above plus the supplemental basic tuition;

(v) for the 2017–2018 school year, the Charter School Basic Tuition shall be the sum of (A) the Charter School Basic Tuition for the 2016–2017 school year plus (B) \$500;

(vi) for the 2018–2019 school year, the Charter School Basic Tuition shall be the lesser of (A) the product of (i) the Charter School Basic Tuition calculated for the Base Year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year five years prior to the Base Year and finishing with the year prior to the Base Year of the Total Approved Operating Expense for such school district calculated pursuant to § 3602(1)(t) of the New York Education Law for each such year divided by the Total Approved Operating Expense for such district for the immediately preceding year, provided that the highest and lowest annual quotients shall be excluded from the calculation of such average or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with § 305(21)(b) of the New York Education Law published annually on May 15th for the year prior to the Base Year divided by the total estimated public enrollment for the school district pursuant to § 3602(1)(n) of the New York Education Law for the year prior to the Base Year;

(vii) for the 2019–2020 school year the Charter School Basic Tuition shall be the lesser of (A) the product of (i) the Charter School Basic Tuition calculated for the Base Year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the Base Year and finishing with the year prior to the Base Year of the Total Approved Operating Expense for such school district calculated pursuant to § 3602(1)(t) of the New York Education Law for each such year divided by the Total Approved Operating Expense for such district for the immediately preceding year provided that the highest annual quotient calculated pursuant to this subparagraph shall be replaced by the average quotient calculated pursuant to subparagraph (vi) of this paragraph or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with § 305(21)(b) of the New York Education Law published annually on May 15th for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to § 3602(1)(n) of the New York Education Law for the year prior to the Base Year;

(viii) for the 2020–2021 and 2021–2022 school years, the Charter School Basic Tuition shall be the lesser of (a) the product of (i) the Charter School Basic Tuition calculated for the Base Year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the Base Year and finishing with the year prior to the Base Year of the Total Approved Operating Expense for such school district calculated pursuant to § 3602(1)(t) of the New York Education Law for each such year divided by the Total Approved Operating Expense for such district for the immediately preceding year multiplied by, for the 2020–2021 school year only, (iii) nine hundred forty-five one-thousandths (0.945) or (b) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with § 305(21)(b) of the New York Education Law published annually on May 15th for the year prior to the Base Year divided by the total estimated public enrollment for the school district pursuant to § 3602(1)(n) of the New York Education Law for the year prior to the Base Year.

(ix) for the 2022–2023, 2023–2024, 2024–2025 school years, the Charter School Basic Tuition shall be the lesser of (a) the product of (i) the Charter School Basic Tuition calculated for the Base Year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year four years prior to the Base Year and finishing with the year prior to the Base Year, excluding the 2020–2021 school year, of the Total Approved Operating Expense for such school district calculated pursuant to § 3602(1)(t) of the New York Education Law for each such year divided by the Total Approved Operating Expense for such district for the immediately preceding year or (b) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the

purpose of compliance with § 305(21)(b) of the New York Education Law published annually on May 15th for the year prior to the Base Year divided by the total estimated public enrollment for the school district pursuant to § 3602(1)(n) of the New York Education Law for the year prior to the Base Year.

(x) for the 2025–2026 school year and thereafter, the Charter School Basic Tuition shall be the lesser of (a) the product of (i) the Charter School Basic Tuition calculated for the Base Year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the Base Year and finishing with the year prior to the Base Year of the Total Approved Operating Expense for such school district calculated pursuant to § 3602(1)(t) of the New York Education Law for each such year divided by the Total Approved Operating Expense for such district for the immediately preceding year or (b) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with § 305(21)(b) of the New York Education Law published annually on May 15th for the year prior to the Base Year divided by the total estimated public enrollment for the school district pursuant to § 3602(1)(n) of the New York Education Law for the year prior to the Base Year.

For the purposes of this subdivision, the “supplemental basic tuition” shall be (a) for a school district for which the Charter School Basic Tuition for the current year is greater than or equal to the Charter School Basic Tuition for the 2010–2011 school year pursuant to the provisions of subparagraph (i) of this paragraph, (A) for the 2014–2015 school year \$250, (B) for the 2015–2016 school year \$350, (C) for the 2016–2017 school year \$500, and (D) for the 2017–2018 school year and thereafter, the sum of (1) the supplemental basic tuition calculated for the 2016–2017 school year plus (2) \$500, and (b) for school years prior to the 2017–2018 school year, for a school district for which the Charter School Basic Tuition for the 2010–2011 school year is greater than the Charter School Basic Tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph, the positive difference of the Charter School Basic Tuition for the 2010–2011 school year minus the Charter School Basic Tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph and (c) for school years following the 2016–2017 school years, for a school district for which the Charter School Basic Tuition for the 2010–2011 school year is greater than the Charter School Basic Tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph, the sum of (i) the supplemental basic tuition calculated for the 2016–2017 school year plus (ii) \$500.

The school district shall also pay directly to the charter school any federal or state aid attributable to a student with a disability attending charter school in proportion to the level of services for such student with a disability that the charter school provides directly or indirectly. Notwithstanding anything in this section to the contrary, amounts payable pursuant to this section from State or local funds may be reduced pursuant to an agreement between the school and the charter entity set forth in the charter. Payments made pursuant to this section shall be made by the school district in six substantially equal installments each year beginning on the first business day of July and every two months thereafter. Amounts payable under this section shall be determined by the Commissioner. Amounts payable to a charter school in its first year of operation shall be based on the projections of initial-year enrollment set forth in the charter. Such projections shall be reconciled with the actual enrollment at the end of the school’s first year of operation, and any necessary adjustments shall be made to payments during the school’s second year of operation.

School districts shall be eligible for an annual apportionment equal to the amount of the supplemental basic tuition for the charter school in the Base Year for the expenses incurred in the 2014–2015, 2015–2016, and 2016–2017 school years and thereafter.

In the event of the failure of the school district to make payments required by this section, the state comptroller shall deduct from any state funds which become due to such school district an amount

equal to the unpaid obligation. The comptroller shall pay over such sum to the charter school upon certification of the commissioner. The commissioner shall promulgate regulations to implement the provisions of this subdivision.

Nothing in the Act shall be construed to prohibit any person or organization from providing funding or other assistance to the establishment or operation of a charter school. The board of trustees of a charter school is authorized to accept gifts, donations, or grants of any kind made to the charter school and to expend or use such gifts, donations, or grants in accordance with the conditions prescribed by the donor; provided, however, that no gift, donation or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the charter.

Effective June 30, 2021:

In the event of the failure of the school district to make payments required by this section, the state comptroller shall deduct from any state funds which become due to such school district an amount equal to the unpaid obligation. The comptroller shall pay over such sum to the charter school upon certification of the commissioner. The commissioner shall promulgate regulations to implement the provisions of this subdivision.

Nothing in the Act shall be construed to prohibit any person or organization from providing funding or other assistance to the establishment or operation of a charter school. The board of trustees of a charter school is authorized to accept gifts, donations, or grants of any kind made to the charter school and to expend or use such gifts, donations, or grants in accordance with the conditions prescribed by the donor; provided, however, that no gift, donation or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the charter.

Charter School Basic Tuition (New York Education Law § 3602)

As referenced in § 2856 of the Act, the amount calculated pursuant to § 3602(1)(f) of the New York Education Law is “Expense per Pupil” which is defined as Approved Operating Expense for the year prior to the Base Year divided by the sum, computed using year prior to the Base Year pupil counts, of the Total Aidable Pupil Units plus Weighted Pupils with Disabilities. Expense per Pupil for each borough in the city school district of The City of New York shall be the Expense per Pupil of the entire city school district.

“Base Year” shall mean the school year immediately preceding the current year.“

Weighted Pupils With Disabilities” shall be computed as follows:

“Pupils with disabilities” shall mean pupils of school age who are identified as students with disabilities pursuant to Article 89 (Children with Handicapping Conditions) of the New York Education Law and the regulations of the Commissioner and who receive special education services or attend special education programs which meet criteria established by the Commissioner, operated by a school district eligible for total foundation aid pursuant to this section or by a board of cooperative educational services, whether or not the school district is a component of such board.

“Weighted Pupils with Disabilities” shall mean the attendance, as defined in the regulations of the Commissioner, of pupils with disabilities who have been determined by a school district committee on special education to require any of the following types and levels of programs or services specified in this paragraph, and who receive such programs and services from the school district of attendance during the Base Year, multiplied by a special services weighting determined as follows:

(a) for placement for 60% or more of the school day in a special class, or home or hospital instruction for a period of more than 60 days, or special services or programs for more than 60% of the school day, the special services weighting shall be 170%;

(b) for placement for 30% or more of the school week in a resource room or special services or programs including related services required for 30% or more of the school week, or in the case of pupils in grades 7–12 or a multi-level middle school program as defined by the Commissioner or in the case of pupils in grades 4–6 in an elementary school operating on a period basis, the equivalent of five periods per week, but not less than the equivalent of 180 minutes in a resource room or in other special services or programs including related services, or for at least two hours per week of direct or indirect consultant teacher services, in accordance with regulations of the Commissioner adopted for such purpose, the special services weighting shall be 90%.

Computation of Total Aidable Pupil Units. A district's Total Aidable Pupil Units shall be the sum of the district's Adjusted Average Daily Attendance computed pursuant to this section for the year prior to the Base Year multiplied by the Enrollment Index computed pursuant to this section for the Base Year plus the Additional Aidable Pupil Units computed for the year prior to the Base Year under paragraph (b) below.

(b) For purposes of this section Adjusted Average Daily Attendance of a school district for any school year shall be computed as follows:

(i) Adjusted Average Daily Attendance shall be determined by using the average daily attendance of public school pupils in a full-day kindergarten and grades 1–12 as the basic unit, with the attendance of such pupils in one-half day kindergartens measured at one-half of such basic unit. The sum of all such units of attendance shall be the Adjusted Average Daily Attendance.

(ii) In computing such attendance, the school district shall (a) determine the number of religious holidays which fall on a school day within a school year according to regulations established by the Commissioner, such religious holidays to be duly recognized as such for purposes of this section by duly adopted resolution of the board of education; (b) deduct the aggregate attendance on such religious holidays from the total aggregate attendance, by grade level; (c) deduct such religious holidays from the total number of days of session, by grade level; (d) compute the Adjusted Average Daily Attendance for the school year.

(iii) In any instance where a pupil is a resident of another state or an Indian pupil is a resident of any portion of a reservation located wholly or partly within the borders of the state pursuant to § 4101(4) (duties of Commissioner regarding Indian children) of the New York Education Law or a pupil is living on federally owned land or property, such pupil's attendance shall be counted as part of the Adjusted Average Daily Attendance of the school district in which such pupil is enrolled.

Computation of Additional Aidable Pupil Units. The Additional Aidable Pupil Units used to compute Total Aidable Pupil Units pursuant to this section shall be the sum of the attendance of summer session pupils multiplied by 12% and the Weighted Pupils with Special Educational Needs. Nothing contained in this paragraph shall be construed to result in the inclusion of the attendance of summer session pupils in the computation of weighted or Adjusted Average Daily Attendance pursuant to this section.

“Enrollment Index” shall be computed by dividing the public school enrollment for the current year by public school enrollment for the Base Year, both as defined in the New York Education Law, with the result carried to three places without rounding.

“Enrollment” shall mean the unduplicated count of all children registered to receive educational services in grades kindergarten through twelve, including children in ungraded programs, as registered on the date prior to November first that is specified by the Commissioner as the enrollment reporting date for the school district or nonpublic school, as reported to the Commissioner.

“Public school district enrollment” shall mean the sum of: (a) the number of children on a regular enrollment register of a public school district on such date; (b) the number of children eligible to receive home instruction in the school district on such date; (c) the number of children for whom Equivalent Attendance must be computed pursuant to this Section on such date; (d) the number of children with disabilities who are residents of such district who are registered on such date to attend programs under the provisions of paragraph (c) of § 4401(2) (children with handicapping conditions definitions) of the New York Education Law; (e) the number of children eligible to receive educational services on such date but not claimed for aid pursuant to § 3202(7) (public schools free to resident pupils; tuition from nonresident pupils) of the New York Education Law; and (f) the number of children registered on such date to attend programs (i) pursuant to § 355(2) (powers and duties of trustees – administrative and fiscal functions) of the New York Education Law or (ii) pursuant to an agreement between the New York City School District and Hunter College pursuant to § 6216 of the New York Education Law.

“Equivalent Attendance” shall mean the quotient of the total number of student hours of instruction in programs in a public school of a school district or a board of cooperative educational services leading to a high school diploma or a high school equivalency diploma as defined in regulations of the Commissioner for pupils under the age of 21 not on a regular day school register of the district, divided by 1,000.

The “Approved Operating Expense” for the apportionments to any school district under the New York Education Law shall mean the amount computed as follows: The apportionment to any school district for operating expense shall be based upon the total expenditures from its general fund and from its capital fund and from its risk retention fund for purposes of employee benefit claims related to salaries paid from the general fund, and for any city school districts with a population of more than one hundred twenty-five thousand inhabitants its expenditures from the special aid fund of grant moneys for improving pupil performance and categorical aid for special reading programs as provided in the aid to localities budget during the applicable year as approved by the Commissioner, and in accordance with the classification of expenditures in use by the Commissioner for the reporting by school districts of receipts, expenditures and other financial data. For the purpose of this paragraph “Operating Expense” shall be defined as total cash expenditures during the applicable year, but shall exclude:

- (a) any balances and transfers;
- (b) any payments for transportation of pupils to and from school during the regular school year inclusive of capital outlays and debt service therefor;
 - (b-2) a portion of any payments for transportation of pupils to and from district operated summer school programs pursuant to § 3622-a(6) (aidable regular transportation) of the New York Education Law, inclusive of capital outlays and debt service therefor, equal to the product of such expenditures multiplied by the quotient of the total apportionment after the proration, if any, required by such subdivision 6 of the New York Education Law divided by the total apportionment prior to such proration;

- (c) any payments for capital outlay and debt service for school building purposes, provided, however, that in the case of a school district which has entered into a contract with state university pursuant to § 355(2)(o) (conduct of research and experiments) of the New York Education Law, under which the school district makes payment to state university on account of capital outlay relating to certain children residing in such school district, such payments shall not be so excluded;
- (d) any payments for cafeteria or school lunch programs;
- (e) any proceeds of short term borrowings in the general fund and any payments from the proceeds of the sale of obligations in the capital fund;
- (f) any cash receipts which reduce the cost of an item when applied against the expenditure therefor, except gifts, donations, and earned interest and any refunds made;
- (g) any payments made to boards of cooperative educational services for purposes or programs for which an apportionment is paid pursuant to other sections of the New York Education Law, except that payments attributable to eligible pupils with disabilities and ineligible pupils residing in noncomponent districts shall be included in operating expense;
- (h) any tuition payments made to other school districts inclusive of payments made to a central high school district by one of its component school districts;
- (i) any apportionment or payment received from the state for experimental or special programs paid under provisions other than those found in this section and other than any apportionments or payments received from the state by the city school district of the city of Yonkers for the purpose of funding an educational improvement program pursuant to a court order and other than any other state grants in aid identified by the Commissioner for general use as specified by the board of education pursuant to § 1718(2) (limitation upon expenditures) of the New York Education Law;
- (j) any funds received from the federal government except the federal share of Medicaid subject to the provisions of § 3600 (9-a) (moneys apportioned, when and how payable commencing July 1, 2007) of the New York Education Law and except Impact Aid funds received pursuant to Public Law 81- 874 or §§ 2 and 6 or any law superseding such law in any such district which received aid pursuant to both such sections; provided further, however, that there shall be excluded from such federal funds or other apportionments any payments from such funds already deducted pursuant to this paragraph;
- (k) any payments made for which an apportionment is disallowed pursuant to regulations of the Commissioner;
- (l) any expenditures made for accounting, tabulation, or computer equipment, in excess of \$10,000 unless such expenditures shall have been specifically approved by the Commissioner;
- (m) any rental payments received pursuant to the provisions of § 403-a (leasing of school property) of the New York Education Law;
- (n) any rentals or other annual payments received pursuant to the provisions of § 403-b (Leasing of school buildings and facilities) of the New York Education Law;

(o) any expenditures made for persons 21 years of age or over attending employmentpreparation education programs pursuant to subdivision 11 of this section;

(p) any tuition payments made pursuant to a contract under the provisions of § 4401(2)(e) through (i) and (I) (“special services or programs” definition) of the New York Education Law or any tuition payments on behalf of pupils attending a state school under paragraph d of such subdivision;

(q) in any year in which expenditures are made to the New York state teachers’ retirement system or the New York state and local employees’ retirement system for both the priorschool year and the current school year, any expenditures made to such retirement systems and recorded in the school year prior to the school year in which such obligations are paid; and

(r) any payments to the Commissioner of taxation and finance pursuant to Article 23(Metropolitan Commuter Transportation Mobility Tax) of the tax law.

Public School District Payments to Charter Schools (N.Y. Comp. Codes & Regs. Title 8, § 119.1(a), (b))

The following summarizes certain provisions of the New York Codes, Rules and Regulations concerning charter schools.

In the event of the failure of a school district to make payments to a charter school as required by § 2856 of the New York Education Law, the Commissioner shall certify the amount of the unpaid obligation to the Comptroller to be deducted from any State aid payments which become due to such school district. The amount of each school district’s obligation shall be calculated in accordance with this section.

For the purposes of this section:

(a) Legally absent means to be absent for: personal illness, illness or death in the family, impassable roads or weather, religious observance, quarantine, required court appearances, attendance at health clinics, approved college visits, military obligations, disciplinary detention ofan incarcerated youth, or for such other reasons as may be approved by the Commissioner.

(b) Period of enrollment means that period commencing on the first day of the schoolyear that a pupil is enrolled in and is physically present at, or legally absent from, an educational program or service of a charter school and ending on the last day of the school year that such pupilis so enrolled and physically present at, or legally absent from, such program or service.

(c) Enrollment for each charter school student shall mean the quotient, calculated to three decimals without rounding, obtained when the total number of weeks of the period of enrollment of such student is divided by the total number of weeks in the full school year of the educational program or service of the charter school. For the purposes of this section, three consecutive days of enrollment within the same week and within the same month shall be the equivalent of one week of enrollment, provided that no more than four weeks of enrollment may be counted in any calendar month.

(d) Levels of service shall mean the categories of programs for students with disabilities specified in § 3602(19)(b)(1)-(4) of the New York Education Law.

(e) Approved operating expense shall mean the amount calculated pursuant to § 3602(11) of the New York Education Law.

(f) Expense per pupil shall mean the amount calculated pursuant to § 3602(1)(f) of the New York Education Law for the school district using year prior to the Base Year expenditures and pupils, as established by the Commissioner based on the electronic data file prepared by the Commissioner on May 15th of the Base Year pursuant to § 305(21)(b) of the New York Education Law. Where the expense per pupil is not available for a school district, the expense per pupil shall be deemed to be the average expense per pupil for the county in which the school district is located.

(g) Adjusted expense per pupil shall be the district's expense per pupil increased by the percent change in the State total approved operating expense calculated pursuant to § 3602(11) of the New York Education Law from two years prior to the Base Year to the Base Year, as established by the Commissioner based on the electronic data file prepared by the Commissioner on May 15th of the Base Year pursuant to § 305(21)(b) of the New York Education Law.

(h) State aid attributable to a student with a disability attending a charter school shall mean the sum of excess cost aid payable to a public school district pursuant to § 3602(19)(4) of the New York Education Law based on the resident weighted enrollment in the charter school of pupils with disabilities receiving special services or programs provided directly or indirectly by the charter school in the current school year and any apportionment payable to such public school district pursuant to § 3602(19)(5) of the New York Education Law that is based on the cost of special services or programs provided directly or indirectly by the charter school to such pupil in the current school year. Excess cost aid for the purposes of this section shall equal the product of excess cost aid per pupil calculated pursuant to § 3602(19)(3) of the New York Education Law, the proportion of the weighting attributable to the student's level of service provided directly or indirectly by the charter school pursuant to § 3602(19)(b)(1)-(4) of the New York Education Law, and the student's enrollment in such charter school in the current school year.

(i) Federal aid attributable to a student with a disability attending a charter school, and receiving special education services or programs provided directly or indirectly by the charter school, shall mean:

(i) for the first year of operation of the charter school, the allocation that would be attributable to the charter school pursuant to 20 U.S.C. 1411 and 1419 (United States Code, 1994 edition, Supplement III, Volume 2; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 1998 – available at the Office of Vocational and Educational Services for Individuals with Disabilities, Room 1624, One Commerce Plaza, Albany, New York 12234) for a pupil who is identified as a student with a disability, as such term is defined in the New York Education Law § 200.1, who is included in a report to the Commissioner of pupils so identified as of December 1st of the current school year, or for such other pupil count as specified by the Federal government for the current school year, provided that the enrollment of such students in the charter school during the current school year shall be used for this purpose until such report, or a report of such other pupil count, has been received by the Commissioner; and

(ii) for the second year of operation of the charter school and thereafter, the allocation that would be attributable to the charter school pursuant to 20 U.S.C. 1411 and 1419 (United States Code, 1994 edition, Supplement III, Volume 2; Superintendent

of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 1998 – available at the Office of Vocational and Educational Services for Individuals with Disabilities, Room 1624, One Commerce Plaza, Albany, New York 12234) for a pupil who is identified as a student with a disability, as such term is defined in the New York Education Law § 200.1, who is included in a report to the Commissioner of pupils so identified as of December 1st of the Base Year, or for such other pupil count as specified by the Federal government.

Financial Obligations of Charter Schools, Public School Districts and Education Department (N.Y. Comp. Codes & Regs. Title 8, § 119.1(c)–(e))

Charter school obligations:

(a) No later than 30 days prior to the first business day of July, September, November, January, March and May, each charter school shall report to each public school district with resident pupils attending the charter school and to the department an updated estimate of the enrollment of students attending the charter school in the current school year who are residents of such public school district and any reduced amounts per pupil that shall be payable to the charter school for such students pursuant to subdivision one of § 2856 of the New York Education Law that has been established pursuant to an agreement between the charter school and the charter school entity as set forth in the charter. For each student with a disability attending such charter school, such report shall also indicate the level of special programs or services to be provided directly or indirectly to such student by the charter school and an estimated annual cost to be incurred by the charter school in providing such special programs or services. The Commissioner may excuse any delay in reporting under this paragraph for the length of time of a school closure ordered pursuant to an Executive Order of the Governor pursuant to a State of emergency for the COVID-19 crisis, however, such delay shall not exceed 30 days from such reporting deadline.

(b) On or before the last day of July, each charter school shall provide a final report of actual enrollment to the department and to each school district with resident pupils attending the charter school in the prior school year. For each student with a disability attending such charter school, such report shall also indicate the level of special programs or services actually provided directly or indirectly to such student by the charter school and the annual cost incurred by the charter school in providing such special programs or services.

(c) In the event of the failure of a school district to fulfill the financial obligation required by § 2856 of the New York Education Law equal to the amounts calculated pursuant to this section, the charter school shall notify the Commissioner no later than May 31st of the school year in which the payments were due.

Public school district of residence obligations:

(a) No later than the first business day of July, September, November, January, March and May of the current school year, each public school district with resident pupils attending a charter school shall pay directly to such charter school the appropriate payment amounts as specified in subdivision one of § 2856 of the New York Education Law that are attributable to the enrollment of such pupils as reported to the public school district by the charter school no later than 30 days prior to each such payment date.

(b) The total amount of payments due and payable to a charter school for the current school year by a public school district shall be paid as follows:

(i) on or before the first business day of July, one sixth of the total amount due, as adjusted for any supplemental payments due or overpayments to be recovered for the prior school year;

(ii) on or before the first business day of September, two sixths of the total amount due, as adjusted for any supplemental payments due or overpayments to be recovered for the prior school year, minus any payments made before such date pursuant to subparagraph (i) of this subsection;

(iii) on or before the first business day of November, three sixths of the total amount due, as adjusted for any supplemental payments due on overpayments to be recovered for the prior school year, minus any payments made before such date pursuant to subparagraphs (i) and (ii) of this subsection;

(iv) on or before the first business day of January, four sixths of the total amount due, as adjusted for any supplemental payments due or overpayments to be recovered for the prior school year, minus any payments made before such date pursuant to subparagraphs (i), (ii) and (iii) of this subsection;

(v) on or before the first business day of March, five sixths of the total amount due, as adjusted for any supplemental payments due or overpayments to be recovered for the prior school year, minus any payments made before such date pursuant to subparagraphs (i), (ii), (iii) and (iv) of this subsection and

(vi) on or before the first business day of May, the total amount due, as adjusted for any supplemental payments due or overpayments to be recovered for the prior school year, minus any payments made before such date pursuant to subparagraphs (i), (ii), (iii), (iv) and (v) of this subsection.

(c) The school district financial obligation per resident student enrolled in a charter school shall equal the sum of:

(i) the product of the school district's adjusted expense per pupil and the current year enrollment of the pupil in the charter school as defined in paragraph (b)(3) of this subsection; and

(ii) the amounts of State and Federal aid, if any, that may be attributable to such pupil as defined in paragraphs (b)(8) and (9) of this subsection, or the amount established pursuant to an agreement between the charter school and the charter entity as set forth in the charter.

(d) The total annual obligation due to a charter school by a public school district shall be the sum of the annual financial obligations for all resident students enrolled at any time during the current school year in the charter school.

(e) School districts shall include the enrollment of resident students attending charter schools in the enrollment, attendance and, if applicable, count of students with disabilities reported to the department for the purposes of claiming State aid.

(f) If there is a delay in reporting pursuant to paragraph (a) under the heading “Charter school obligations,” the Commissioner shall excuse any delay in payments required under this subdivision for the length of time of a school closure ordered pursuant to an Executive Order of the Governor pursuant to a State of emergency for the COVID-19 crisis, however, such delay shall not exceed 30 days from such payment deadline.

Department obligations:

(a) On or before the first day of June of each year, or as soon as practicable upon the receipt of Federal notice of the estimated State appropriation for the next school year, the Commissioner shall notify all school districts and all charter schools of the adjusted expense per pupil of each public school district and the estimated per pupil allocation under part B of the Federal Individuals with Disabilities Education Act to be used in the calculation of payments due to charter schools in next school year. Notice of final Federal per pupil allocation will be issued as soon as practicable upon the State’s receipt of the notice of final allocation from the Federal government.

(b) In the event of the failure of a school district to fulfill the financial obligation required by § 2956 of the New York Education Law equal to the amounts calculated pursuant to this section, upon notification by the charter school, the Commissioner shall certify the amounts of the unpaid obligations to the comptroller to be deducted from State aid due the school district and paid to the applicable charter schools.

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APPENDIX B

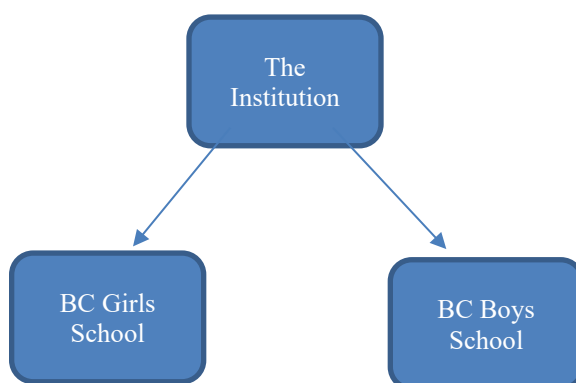
THE INSTITUTION

General

Brighter Choice Charter School for Girls (the “Girls School Legal Entity”) was formed as a not-for-profit corporation in 2001 in order to build and operate a charter school for girls in the City of Albany, New York. Similarly, Brighter Choice Charter School for Boys (the “Boys School Legal Entity”) was formed as a not-for-profit corporation in 2001 in order to build and operate a charter school for boys in the City of Albany, New York. The Girls School Legal Entity and the Boys School Legal Entity were issued separate charters from the Board of Regents of the University of the State of New York (the “Board of Regents”) on January 10, 2001. In accordance with the New York Charter Schools Act of 1998 (“Charter Schools Act”), commencing in school year 2002-03, the Boys School Legal Entity operated a charter school commonly known as Brighter Choice Charter School for Boys (the “BC Boys School”) and the Girls School Legal Entity operated a charter school commonly known as Brighter Choice Charter School for Girls (the “BC Girls School”). Until the merger as discussed below, both institutions operated as independent, discreet operating entities, each governed by a separate board of trustees and each qualified as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”).

Merger

When formed in 2001, the Charter School Act prohibited charter schools from operating more than one school. However, in May of 2010 amendments to Education Law §2853 permitted charter schools to operate multiple schools. In December of 2015 the Board of Trustees of the Boys School Legal Entity petitioned the Board of Regents for an “Order of Merger” pursuant to New York Education Law §223 requesting to merge the Boys School Legal Entity with and into the Girls School Legal Entity, with the Girls School Legal Entity being the surviving corporation to be renamed “Brighter Choice Elementary Charter Schools.” Such petition was subsequently granted effective July 1, 2016. As a result, the resources of both schools were pooled under one education corporation described in Section 501(c)(3) of the Code. For purposes of this Official Statement, Brighter Choice Elementary Charter Schools shall be referred to as the “Institution.” Although the Institution is now a single legal entity, the Institution operates both the BC Girls School and the BC Boys School.



Single-gender Education

Historically, single-gender education in the greater Albany area was limited largely to those who could afford to attend top-performing private academies. The Institution provides the same opportunities to those who may not be able to afford a private education by offering single-gender education at the public level. The leadership of the Institution believes that the following rationales explain the positive effects of single-gender schools:

- A greater degree of order and control
- The provision of more successful role models
- A reduction of gender differences in curriculum and opportunities
- A reduction of gender bias in teacher-student interaction
- The provision of a greater number of leadership opportunities
- A pro-academic parent/student choice, which is required by single gender schools.

Mission and Vision Statement

The mission of the Institution is to empower scholars to become responsible learners competent in reading, writing and mathematics and to develop social-emotional skills. The Institution is committed to providing a well-rounded academic program to all scholars that will enable them to realize their highest potential.

School Model

The Institution provides a broad and rigorous liberal arts education, including instruction on phonics-based reading, traditional mathematics, science, visual and performing arts, American and world history, and physical education. This includes the following key design elements:

- An engaging, standards-based academic program, including integrated studies
- Character development aligned to the Institution's core values
- High impact professional development for educators
- A focus on data to drive instruction
- Parent and community partnerships
- Increased learning time through an extended day and year
- Single-gender program

School Culture – BC Girls School

Commencing in the 2017-18 academic year, the BC Girls School implemented “RULER,” an evidence-based approach to social emotional learning that helps school communities integrate the teaching of emotional intelligence into daily life.

RULER teaches five key emotional intelligence skills:

- Recognizing emotions in one's self and others
- Understanding the causes and consequences of emotions
- Labeling emotions accurately
- Expressing emotions appropriately
- Regulating emotions effectively

The BC Girls School integrates these skills into the girl's academic curriculum through a morning meeting framework. All scholars are required to be in class by at least 8:00 am to participate in a morning meeting which runs until 8:20 am each morning. The BC Girls School's leadership believes that "emotions matter" and that how children feel has profound implications for learning, success, and well-being.

All scholars at the BC Girls School wear signature blue and grey uniforms of the Institution in an effort to prevent clothing and material belongings from interfere with learning.

The BC Girls School also incorporates an evidence-based curriculum known as the "Second Step Program" to teach critical social and emotional skills. There are four main target areas that are taught through the Second Step Program; Skills for Learning, Empathy, Emotion Management and Problem Solving. In the Skills for Learning unit, scholars gain skills to help themselves learn, including how to focus their attention, listen carefully and be assertive when asking for help with schoolwork. In the Empathy unit, scholars learn to identify and understand their own and others feelings. Scholars also learn how to take another's perspective and how to show compassion. During the Emotion Management unit, scholars learn specific skills for calming down when experiencing strong feelings, such as anxiety or anger. Lastly, in the Problem-Solving unit scholars learn a process for solving problems with others in a positive way. Each scholar receives a character education class once a week for 30-40 minutes.

In an effort to more effectively integrate the teaching of the BC Girls School's scholar values and character education into school culture, the BC Girls School has created monthly school wide assemblies for the school year when positive messages are delivered about individuals in the school, the community, and the world who exemplify highlighted scholar/moral values. Each month, lessons are planned and taught according to the monthly scholar value or character word per grade level.

School Culture – BC Boys School

At the BC Boys School, the administration prides itself on creating a safe, structured and academically rigorous learning community and seeks to hold its teachers, families and scholars accountable for meeting the demands of our program. Elements of the BC Boys School culture are described below:

SCHOLAR Values: Self-Confidence, Citizenship, Hard Work, Opportunity, Leadership, Achievement and Respect. These SCHOLAR values are posted in every BC Boys School classroom and are taught, rehearsed and reinforced in the same way the Institution approaches teaching an academic skill, strategy or concept.

Teach the Behaviors for Success. At the BC Boys School, the administration spends a significant amount of time teaching scholars the behaviors expected in the BC Boys School program. In an effort to eliminate disrespectful and disruptive behaviors, for the first 3 weeks of school, teachers rehearse and reinforce the routines and procedures that scholars are expected to follow.

College Focus. The message at the BC Boys School is that all scholars are preparing themselves for the demands of college with a goal for all student to view college as the natural course of their educational journey. To this end, all of the Boy's classrooms are named after colleges and universities. In addition, scholars take field trips to college campuses, hear speakers talk about college, conduct projects about colleges and, most critically, engage in and master the habits necessary for success in college.

Small School = Personal Experience. The BC Boys School strives to provide its scholars and families a personal experience. With a population of over 270 male scholars for the 2021-22 school year, the Institution endeavors to establish meaningful and lasting relationships with scholars and their families. As a small school, all administrators and teachers are expected to know the names of all scholars in an effort to hold staff accountable for all scholars.

Frequent Assessment of Scholar Progress. Teachers are constantly assessing scholars' progress. The staff of the BC Boys School provides opportunities to its scholars based on their performance on assessments; therefore, formal and standardized assessments are part of its academic culture. The staff strives to prepare scholars to achieve results that will provide them a real opportunity to enter in and graduate from college.

Focus on Attendance. Great emphasis is placed on attendance. Based on the philosophy that increased time on task contributes to positive scholar performance, the administration at the BC Boys School sets goals for attendance and makes it a priority to contact families whenever a scholar is absent from school.

Uniforms: All scholars wear signature blue and grey uniforms of the Institution in an effort to prevent clothing and material belongings from interfere with learning.

Celebrate Achievement. The BC Boys School promotes a rigorous learning environment that acknowledges and celebrates scholars and teachers for their accomplishments. Using school assemblies, honor roll display and scholar celebrations to promote a culture of academic achievement, the Institution aims to keep our male scholars motivated by their effort and accomplishments.

As with the BG Girls School, monthly school wide assemblies are conducted at the BC Boys School year when positive messages are delivered about individuals in the school, the community, and the world who exemplify highlighted scholar/moral values. Each month, lessons are planned and taught according to the monthly scholar value or character word per grade level.

Recent Accomplishments

- The Institution is the longest standing charter school in the greater Albany area, commonly known as the “Capital Region.”
- Both the BC Boys School and the BC Girls School outperformed the City School District of the City of Albany (the “Albany City School District”) on the 2018-2019 NYS ELA Assessment, the most recent results due to the COVID-19 Pandemic. In addition, both schools outperformed Albany by at least 20% on the 3rd and 4th grade ELA assessment. Grade 5 ELA at BCCS-Girls outperformed Albany by 14% while grade 5 at BCCS-Boys outperformed Albany by 25%.
- Both the BC Boys School and the BC Girls School outperformed the Albany City School District on the 2018-2019 NYS Mathematics Assessment, the most recent results due to COVID-19 Pandemic. Both the BC Boys School and the BC Girls School outperformed Albany City School District by at least 10% on the 4th and 5th grade Math assessment. Grade 3 Math at the BC Girls School outperformed Albany City School District by 4% while grade 3 at the BC Boys School outperformed Albany City School District by 14%.
- In 2020 the Institution received a grant in the amount of \$10,000 (\$5,000 per school) from the Touhey Family Foundation. The Institution utilized the grant money toward a schoolwide Freckle Math Account.
- In January of 2020, in an effort to meet the nutritional needs of its scholars and their families who are at risk of hunger, the “BCCS School Pantry Program” was created through collaboration with The Regional Food Bank of NENY. This program provides fresh food and produce on a weekly basis to its families who might otherwise struggle to provide adequate, nutritious meals, or who rely on school meals as a means of nourishment. The Institution’s administration believes that meeting their scholars’ basic need of hunger will empower them to be successful leaders of tomorrow. With this program this Institution provides service for approximately 25-30 families.

- In 2019 Albany Business Review ranked the top districts in the region. The BC Girls School ranked 81, moving up 75 spots from the previous year's rankings and the BC Boys School was specifically mentioned in the headline. The BC Boys School ranked 93, moving up 39 spots from the previous year's rankings.
- In 2019 the BC Boys School was recognized by CBS6 Albany, the Capital District's local CBS affiliate, for their Diversity Day Parade. The purpose of the parade was "to celebrate the uniqueness of who we are and letting all scholars know, in spite of your background, you will be celebrated and appreciated."
- In January of 2021 WTEN 10, the Capital District's local ABC affiliate, visited the BC Girls School to get scholars' reactions to Kamala Harris making history as being the first female Vice President in the history of the United States.
- In September of 2019, Malachi Houze, a 1st grade student from BC Boys School, received the Albany County Executive's Citizen of the Month Award. He was recognized for his work helping his aunt, Dr. Lucinda Grant Griffin, make sandwiches that they would deliver to the Homeless Action Committee to be handed out to the homeless through HAC's Outreach Van.

Existing Facilities

The Institution owns and operates from two locations, each with the capacity to accommodate up to 330 scholars. As shown in the aerial photo below, the BC Girls School is located at 250 Central Avenue in the City of Albany, and the BC Boys School located one block away at 116 North Lake Avenue.



250 Central Avenue

The BC Girls School is located at 250 Central Avenue in the City of Albany, which formerly housed both charter schools that opened in September 2002, and was the result of the \$6.7 million renovation and expansion of former Public School 10, dating to 1890. Shortly after completion in 2002, the facility at 250 Central Avenue received historic preservation award from the Historic

Albany Foundation and the Preservation League of New York State. This facility comprises approximately 28,320 square feet of total gross building area. The building contains 15 total classrooms, including an administrative suite which contains 6 office spaces as well as a conference room (Principal, Assistant Principal, Operations Manager, Finance Manager, Special Education Coordinator, Director of Recruitment and Parent Coordinator). The first floor consists of the administrative suite which includes the main office and a teacher copy room, as well as a cafeteria with kitchen, the office for the Dean of Students, the gym, and the nurse's office. The library and music room are on the second floor. The School Counselor's office is located in the basement of the building.

The BC Girls School Building - 250 Central Avenue



116 North Lake Avenue

In 2007 the BC Boys School moved one block from the 250 Central Avenue building into its own facility at 116 North Lake Avenue. This facility comprises approximately 33,592 square feet of total gross building area with 15 total classrooms. The first floor of the building consists of the main office, which also contains the school's conference room as well as the offices for the Parent Coordinator and Director of Recruitment. Other spaces that do not include classrooms on the first floor are the Arthur O Eve, "The Eve" auditorium, the office for the Character Education teacher as well as the Theater Arts classroom. The second floor consists of the Teacher Copy room and the office for the Instructional Coach. In addition, the cafeteria, kitchen, gym, and Assistant Principal's office is located on the second floor. The third floor consists of all classrooms. The fourth floor includes the Principal's office and the intervention suite.

The BC Boys School Building - 116 North Lake Avenue



General

The New York State Education Law provides for the creation of charter schools to provide opportunities for teachers, parents, and community members, and to establish and maintain schools that operate independently of existing schools and school districts in order to: (i) improve student learning and achievement; (ii) increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are at-risk of academic failure; (iii) encourage the use of different and innovative teaching methods; (iv) create new professional opportunities for teachers, school administrators and other school personnel; (v) provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system; and (vi) provide schools with a method to change from rule-based to performance-based accountability systems by holding charter schools accountable for meeting measurable student achievement results. A charter governs such matters as the recipient's authority to operate, student performance, financial management, and governance and operations. Pursuant to New York State Education Law § 2851-1-3, the term of a proposed charter cannot exceed five years. See generally “APPENDIX A – SUMMARY OF CERTAIN PROVISIONS OF NEW YORK CHARTER SCHOOL LAW.”

As noted above, the Girls School Legal Entity and the Boys School Legal Entity were originally established as separate corporations but were subsequently merged to form the Institution on July 1, 2016. However, the operations of the BC Girls School and the BC Boys School remain physically separate and operate under separate charters granted to the Institution by the Board of Regents.

Charter Renewal

On January 10, 2001, the Board of Regents granted both the Girls School Legal Entity and the Boys School Legal Entity separate charters to operate their respective charter schools. Those initial charters had a term of five (5) years through January 9, 2006. The Board of Regents granted subsequent extensions to both charters in 2006, 2011 and 2015.

On July 1, 2016, the Girls School Legal Entity and the Boys School Legal Entity were merged to create the Institution. Although the Institution is now a single legal entity, the Institution operates the two schools pursuant to two separate charters issued by the Board of Regents, such that if one school were to lose its charter, the Institution could continue to operate the other school so long as it retains its respective charter. Following the merger, the Board of Regents issued renewal terms to both the BC Boys School and

the BC Girls School in 2018. The Institution currently operates both schools pursuant to renewal charters granted by the Board of Regents on March 12, 2021 to both schools through June 30, 2026. The following table summarizes the Charters and renewals issued to the Institution over the past 20 years.

**TABLE B-1:
CHARTERS ISSUED BY THE BOARD OF
REGENTS TO THE INSTITUTION**

Initial Term	2001-2006
First Renewal Term	2006-2011
Second Renewal Term	2011-2015
Third Renewal Term [†]	2015-2018
Fourth Renewal Term [†]	2018-2021
Fifth Renewal Term [†]	2021-2026

[†] - two separate renewal charters issued, one for BC Girls School and the other for BC Boys School
Source: The Institution

Governance and Management

Board of Trustees

The Institution is an “education corporation” authorized by the Board of Regents and qualifies as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. The Institution is governed by a self-perpetuating board of trustees. No trustees are elected by the public or appointed by elected officials. Each Board member is initially appointed for a 3-year term subject to re-appointment at the end of 3 years. Set forth below is a summary of the Board membership, officer positions, background and committee assignments.

**TABLE B-2:
INSTITUTION’S BOARD OF TRUSTEES**

Name	Board Position	Background	Committee Assignments
Martha Snyder	Board Chair	Education Policy	Finance & Governance
Trudy Hanmer	Vice Chair	Education	Academics & Governance
Zoe Nelson	Secretary	Education	Academics
Nilsa Velilla	Trustee	Human Resources	Academics
Nicole Katz	Finance Chair	Finance	Finance
Robert McLaughlin	Trustee	Law	Governance
Patrick Romain	Trustee	Higher Education	Academics & Finance

Set forth below is biographical information pertaining to each Trustee.

Martha Snyder (Board Chair): Martha Snyder is an education policy specialist with high-level experience supporting federal and state policymakers. At HCM Strategists, a public policy and advocacy consulting firm, Mrs. Snyder provides policy expertise and strategic counsel on a wide range of areas from finance to accountability to college readiness and affordability. Mrs. Snyder also serves as the key strategist on state postsecondary policy work for the Bill & Melinda Gates Foundation. Before her tenure at HCM, Mrs. Snyder worked as a senior policy advisor at the United States Department of Education, focusing on K-12 accountability, high school reform and special education. She also served as an associate director for The White House Domestic Policy Council, developing budget priorities and providing analysis and counsel on all federal education issues. Mrs. Synder has been a Board Member at the Institution since 2012.

Trudy Hanmer (Vice Chair): Trudy Hanmer grew up in Massena, New York, where she attended local public schools. Ms. Hanmer earned a BA from Wellesley College, majoring in US Studies, and an MA in history from the University of Virginia. Ms. Hanmer was a history teacher and administrator in independent schools for forty-two years, the last thirty-five of which were spent at Emma Willard School. At Emma Willard, she served twice as Acting Head of School and worked with Dr. Carol Gilligan on Gilligan's groundbreaking work on gender differences in moral psychology. Ms. Hanmer is the author of twenty non-fiction books for middle school readers as well as a history of Emma Willard, published in conjunction with the school's bicentennial in 2014. Ms. Hanmer has been a Board Member at the Institution since 2015.

Zoë Nelson (Secretary): Zoë is the Associate Director of State Relations for Cornell University. Mrs. Nelson represents the University's legislative and budget agendas before the legislative and executive branches of state government. As a major research university and New York's Land Grant institution, Cornell is involved in a range of issues and programs with New York State in addition to those that affect higher education. Mrs. Nelson graduated from the College of Agriculture and Life Sciences at Cornell and holds a master's degree in childhood education from Brooklyn College. Prior to working for Cornell, Mrs. Nelson was a New York City Teaching Fellow and taught fourth grade in Brooklyn, New York. Mrs. Nelson currently serves on the board of the Brighter Choice Charter Elementary Schools in Albany, New York. Along with her husband, Mrs. Nelson owns an artisanal bakery in downtown Troy, New York. Mrs. Nelson has been a Board Member at the Institution since 2010.

Nicole Katz (Finance Chair): Nicole Katz has been a board member of the Institution for 3 years and the Finance Committee Chair for 2 year. Ms. Katz currently works as a Financial Planning & Analysis Manager for Price Chopper/Market 32 Supermarkets (Golub Corporation) in Schenectady, New York and has been with the company for 3 years. Prior to this role she was employed as a Financial Planning Manager at Curia (formerly AMRI) for 5 years and a Senior Audit Associate at BST CPA's Inc for 4 years. Ms. Katz has both her Master's and Bachelor's Degrees in Accounting from Siena College in Loudonville.

Robert McLaughlin, Esq.: Mr. McLaughlin focuses his law practice on financial transactions, charter schools and government compliance. As bond counsel, Mr. McLaughlin has represented the Dormitory Authority of the State of New York, the New York State Environmental Facilities Corporation (where he was the former General Counsel) and the New York State Energy Resource and Development Authority/New York Green Bank. Mr. McLaughlin has been a Board Member at the Institution since 2018. Robert McLaughlin, Esq. is Of Counsel at Whiteman Osterman & Hanna LLP, Albany, New York. Certain legal matters for the Institution will be passed on by Whiteman Osterman & Hanna LLP, Albany, New York in connection with the issuance of the Series 2021 Bonds.

Patrick Romain: Mr. Romain is the Senior Academic Advisor and Educational Opportunities Program (EOP) Counselor in the Office of Academic Support Services at the University of Albany. Mr. Romain has served the EOP since 1989. He earned his Bachelor of Arts in Psychology and Master of Science in Counseling Psychology from the University at Albany. Mr. Romain is also an EOP Alumnus from the University at Albany. Mr. Romain joined the Institution's Board in 2021.

Conflicts Policy

Pursuant to the terms of the Institution's Bylaws, Trustees, officers and employees of the Institution shall seek to avoid potential conflicts of interest in personal and in professional relationships, and shall timely disclose potential conflicts of interest to appropriate supervisory personnel and/or other applicable officials of the Institution. The Board of Trustee's "Conflict of Interest Policy" further provides that no Trustee, Officer, employee or committee member shall have an interest, direct or indirect, in any contract when such Trustee, Officer, employee or committee member, individually or as a member of the Board or committee, has the power or duty to (a) negotiate, prepare, authorize or approve the contract, or

authorize or approve payment under the contract; (b) audit bills or claims under the contract; or (c) appoint an officer or employee who has any of the powers or duties set forth above (subject to certain exceptions allowed under New York State Law). The Conflict of Interest Policy also provides that no Trustee, officer, employee or committee member shall solicit, accept or receive any gift having a value of fifty dollars (\$50) or more under circumstances in which it could reasonably be inferred that the gift was intended to influence him or her in the performance of his or her official duties. The policy also prohibits Trustees from engaging in any “self-dealing transactions” except as approved by the Board.

Administrators

Kristina Ford - BC Girls School Principal- Ms. Ford grew up in New York City and attended a catholic all-girl high school in the East Village of Manhattan. Ms. Ford received a Posse full tuition scholarship to attend Middlebury College in Vermont. At Middlebury she studied Psychology, Sociology, and Religion. After graduating Middlebury, Ms. Ford joined Teach for America and taught 6th grade in the South Bronx for three years. Ms. Ford moved to Albany, New York in 2008 and began teaching fourth grade ELA at the BC Girls School.

Karen Mclean - BC Boys School Principal- Ms. Mclean grew up in Trinidad W.I. and at the age of 17 she migrated with her family to the United States and resided in Brooklyn, New York. While growing up she became especially interested in teaching. Both her parents encouraged this interest and gave their support when she decided to pursue her studies in Special Education and Literacy at the University of Albany, State University of New York where she acquired her Bachelor’s Degree in English Literature and Dual Master Degree in Special Education and Literacy. Ms. Mclean began her career as a 3rd grade teacher at BC Girls School where her class ranked amongst the top 10% high performing 3rd graders in New York State. While at the Institution Ms. Mclean grew and developed under the leadership of Darryl Williams. Ms. Mclean led numerous professional development sessions, coached and supported teachers, was selected as a teacher mentor for a teaching fellowship program, and served as a leader over various school wide committees. It was through her dedication, commitment, and hard work that she earned the position as the BC Girls School’s principal; a role she has filled since June of 2013.

Luke Licygiewicz - Operations Manager- Mr. Licygiewicz grew up in Southern New Hampshire. Both his parents were born in Poland and immigrated to the United States. Luke speaks Polish fluently. He attended Ticonderoga High School in Ticonderoga, New York. Following High School he attended SUNY Oneonta in Oneonta, New York where he received his Bachelor’s Degree in Elementary Education. Mr. Licygiewicz moved to Albany, New York to pursue his Master’s Degree in reading at SUNY Albany. Upon graduation he began teaching 1st grade at the BC Boys School. While at BC Boys School Mr. Licygiewicz has taught 1st, 2nd, 3rd, and 4th grades. Mr. Licygiewicz predominately taught 3rd grade where twice his scholars were #1 in the City of Albany on the NYS 3rd Grade ELA Assessment. In 2018 Mr. Licygiewicz transitioned into his current Operations Manager role. Mr. Licygiewicz has been with the Institution for 15 years.

Paul Augello - Contracted Chief Financial Officer - Mr. Augello handles day-to-day business dealings at the Institution, including comprehensive financial management services, financial budgeting and planning, financial reporting, financial statement presentation and audit coordination. Mr Augello supports the Institution’s leadership to ensure compliance with the Institution’s financial policies and procedures, oversees financial controls, policies and procedures, performs bi-monthly school district invoicing and year-end reconciliation, and standard bookkeeping and accounting services. Mr. Augello also prepares all other financial reports and financial statements as may be required by the Institution, including reporting to the Institution’s Board, SUNY and the New York State Education Department. Mr. Augello is also the CEO of boostED Finance. Prior to founding boostED Finance, Mr. Augello served as chief financial officer of Victory Education Partners, where he worked with charter school partners on budgeting, financial projections and budget analysis. Earlier in his career, Mr. Augello was a Controller for Initiative Media, Audit Manager for the Interpublic Group of Companies, Audit Supervisor with the New York Times Company and a Senior Auditor with the accounting

firm Deloitte, where he earned his C.P.A. Mr. Augello graduated with a B.S. in Accounting from Villanova University.

Employees and Labor Relations

The following table summarizes the Institution's employee profile as of October 1, 2021.

TABLE B-3: EMPLOYEE PROFILE			
	BC Girls School	BC Boys School	Total
Full Time Faculty Members	26	26	52
Full Time Administration	6	6	12
Full Time Support	3	3	6
Source: The Institution			

Maintaining strong leadership and instructional staff is a priority for the Board of Trustees. All of the Institution's teachers, support staff and additional employees are employees of and are compensated by the Institution. The Institution believes that the faculty, administration and the Board of Trustees have a strong and collaborative working relationship. The Institution monitors its teachers and makes determinations about their ongoing status. Teacher retention rate is approximately 75%.

The Institution leadership considers its relationship with the teachers to be excellent. The Institution's leadership believes in open communication and provides ongoing support to the faculty in the form of individualized coaching, workshops and professional development. The Institution leadership believes strongly in the open-door policy with structures in place to allow staff to express ideas and concerns. Full-time staff members are eligible for a Benefits Program consisting of Health Insurance, Dental Insurance, Vision Insurance, Life Insurance, Group Short Term Disability, Group Long Term Disability and a 403B retirement savings program.

Student to Teacher Ratios

The table below sets forth the Institution's current student-faculty ratios (*i.e.*, the number of students compared to the number of in-classroom teachers) on a grade-by-grade basis for the 2021-2022 school year. This ratio was approximately the same for the 2020-21 school year.

TABLE B-4: STUDENT / TEACHER RATIOS	
Grade	2021-2022
K	20.25/1
1	18.75/1
2	19.2/1
3	18.3/1
4	18.3/1
5	20/1

Student Demographic Information

The following tables show key demographic statistics tracked by the Institution.

**TABLE B-5:
STUDENT DEMOGRAPHICS DATA
as of October 1, 2021**

	BC Girls School	BC Boys School
Total Enrollment	304	263
% Eligible for Free/Reduced Lunch	57%	64%
Limited English Proficiency	35	14
American Indian of Alaska Native	3	0
Asian or Native Hawaiian/Other Pacific	30	12
Hispanic or Latino	21	26
Black or African American	186	168
White	11	13
Multi-racial	45	44
Unclassified	8	0

Source: <https://data.nysed.gov>

Enrollment

The Institution provides enrollment preference for students who reside within the City School District boundaries. Because of adequate interest within these boundaries, Brighter Choice has not needed to admit any students who, at the time of enrollment, reside outside of the City School District. However, the Institution's scholars who subsequently move outside of the City School District are able to remain enrolled in the Institution. Presently, out of 573 enrolled students, 172 reside outside of the City School District, from the following neighboring school districts: Schenectady, Troy, Shenendehowa, Green Island, Cohoes, East Greenbush, Lansingburgh, Menands, Niskayuna, North Colonie, South Colonie, Schalmont, Scotia, Watervliet.

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The following tables set forth historical and projected enrollment at both schools. Historical data is actual as of the last count of school year on June 30th of each year. For 2021-22 and thereafter, data is projected by the Institution, and is subject to the general qualifications and limitations described under “INTRODUCTION – Forward-Looking Statements,” above. The BC Boys School Charter currently limits enrollment to 315, and the BC Girls School Charter currently limits enrollment to 315, both subject to adjustments described under “Charter – General” above.

**TABLE B-6:
HISTORICAL AND FUTURE PROJECTED ENROLLMENT BY GRADE LEVEL
as of June 30th**

BC BOYS SCHOOL								
Grade	<u>Historical</u>				<u>Projected</u>			
	2017-18	2018-19	2019-20	2020-21	2021-22*	2022-23*	2023-24*	2024-25*
K	47	46	44	24	38	38	38	38
1	63	60	52	42	38	38	38	38
2	60	62	52	55	40	40	40	40
3	61	58	61	46	48	48	48	48
4	50	53	52	57	48	48	48	48
5	35	41	44	42	48	48	48	48
Totals	316	320	35	266	270	270	270	270
BC GIRLS SCHOOL								
Grade	<u>Historical</u>				<u>Projected</u>			
	2017-18	2018-19	2019-20	2020-21	2021-22*	2022-23*	2023-24*	2024-25*
K	66	57	61	34	55	55	55	55
1	52	63	62	50	55	55	55	55
2	62	51	60	55	55	55	55	55
3	56	57	52	52	55	55	55	55
4	58	51	48	46	40	40	40	40
5	35	40	41	42	35	35	35	35
Totals	329	319	324	279	295	295	295	295

Source: BC Boys School Administration

* Projected enrollment is subject to “INTRODUCTION – Forward-Looking Statements” above.

The COVID pandemic prompted lifestyle changes for many families and resulted in some student departures from the Institution. In order to expand marketing and enrollment, the Institution created the position of “Director of Recruitment and Community Engagement” at each school. Both positions were filled by prior employees that stepped into new roles. Each Director of Recruitment and Community Engagement is responsible for supporting the overall recruitment, advertising, and retention of scholars for their respective school and ensuring the school is meeting its enrollment goals as set forth within the Institution’s budget. For the 2021-22 school year the Institution also took advantage of its historical waitlist to admit new scholars to help offset COVID related student departures. As of October 1, 2021 the total enrollment at the BC Boys School is 263 (as compared to 305 as of June 30, 2020) and the total enrollment at the BC Girls School is 304 (as compared to 328 as of June 30, 2020).

Institution’s Response to COVID

In March of 2020, New York State public schools, including the Institution and other public charter schools, shifted to on-line instruction out of concern for the developing COVID-19 pandemic. The initial temporary closure and online instruction were eventually extended through the end of the 2019-20 school year. The Institution’s prior efforts to embrace technology were well served, as most students, teachers,

and administrators were prepared to make a quick transition to online instruction. The Institution was able to identify the few students who were not ready for on-line instruction and quickly provided the necessary additional support (e.g., internet hotspots).

The Institution's teachers adapted to an instruction format coordinated by the respective school's Principal. After review of the initial instruction format, adaptations were implemented to reflect lessons learned during implementation. A specific schedule was developed for teachers in order to provide additional support for students. Teachers continued to make themselves available Monday through Friday during specified hours for students to reach out for support whether through electronic means. If a student was in need of support outside of the teacher's availability time frame, they were encouraged to email the teacher and the teacher would respond accordingly.

During this period, there was a decline in the Institution's overall attendance rate. The usual attendance rate for the school year averages 90%. The yearly attendance rate for the 2019-20 school year was 75%. The decline occurred from March through June 2020. The Institution made a concerted effort to contact every family not participating to follow up and address individual situations.

In preparation for the 2020-21 school year, the Institution surveyed parents to determine the needs of the students' families and their preference for in-person, hybrid or 100% virtual learning. Based on parental response, the Institution determined to implement a hybrid learning format commencing in September of 2020. Under the hybrid learning model, students in grades K-2 were on site for in-person learning on Mondays and Tuesdays, with remote learning the rest of the week. Similarly, students in grades 3-5 were on site for in-person learning on Wednesdays and Thursdays, with remote learning the rest of the week. On Fridays, all grades were remote.

Based upon guidance from health officials and feedback from parents, the Institution implemented on site, in-person learning for all grades effective January 3, 2021. The Institution's leadership continues to monitor and adjust plans according to changes in safety, recommendations from the Department of Health, parents and faculty feedback, and other factors. The Institution holds the safety of its students, staff, and families as its highest priority along with quality of instruction and equitable access.

As discussed above, the COVID pandemic prompted lifestyle changes for many families and resulted in some student departures from the Institution. As a result, the Institution's administration implemented corrective action to improve enrollment. Specifically, the Institution created a new position at each school in the role of "Director of Recruitment and Community Engagement." Both positions were filled by prior employees that stepped into new roles. The Director of Recruitment and Community Engagement is responsible for supporting the overall recruitment, advertising, and retention of scholars for their respective school and ensuring the school is meeting its enrollment goals as set forth within the Institution's budget. For the 2021-2022 school year the Institution also took advantage of its historical waitlist to admit new scholars to help offset COVID related student departures.

Admissions Preferences

To the extent a vacant space is available at the Institution, first preference is given to students who attended the Institution the previous year and are returning to the Institution. Second preference is given to siblings of students returning for a subsequent year at the Institution who have submitted applications. Third preference is given to children of employees of the Institution, provided that such children of employees may constitute no more than fifteen percent of the charter school's total enrollment. Other students who live in the City School District next will be admitted, first those who qualify for special education or English Language Learner (ELL) services and qualify for free and reduced-price meal program (FRL) and their siblings (these subgroups will be weighted according to a method that will be established by the board annually); then those who qualify for the FRL and their siblings; then those who qualify for special

education or ELL services and their siblings; and then those who do not qualify for FRL and their siblings. Finally, students who do not live in the City School District, first those who qualify for special education or ELL services and qualify for free and reduced-price meal program (FRL) and their siblings; then those who qualify for the FRL and their siblings; then those who qualify for special education or ELL services and their siblings; and then those who do not qualify for FRL and their siblings.

Lottery and Waiting List

The Institution conducts an open application process that begins in January every year for incoming students. If at any time the number of applications exceeds the seats available for any given grade level at the Institution, an open lottery is held. Applications must be received by the date specified in the application materials for consideration in the lottery, which is generally held in early April, as necessary. Students who are selected are enrolled; the remaining are placed on a waiting list. (Applications received after the lottery application deadline are placed at the bottom of the waiting list in the order received.) Students on the waiting list may be offered seats during certain times of the school year. The waiting list is purged each year and does not carry over to the following school year.

Under its admissions policy, the Institution will enroll every student who submits a timely application, subject to the admission preferences discussed above and space permitting. A lottery is held for a grade level in the event that there are more applications than seats available for any given grade level at the end of the enrollment period. The Institution's application period begins on January 1st, and the deadline for applications to be received is prior to the lottery, which is held in early April each year, but applications can still be received after the lottery drawing. The application process begins when a parent or guardian completes an application form. All information provided on the application is verified with the applicant's family, especially the student's age, address, and sibling status. After an application is deemed complete and accurate, a confirmation card is mailed indicating receipt of the application. Applications received after the deadline are entered into the database on a first-come, first-serve basis. If a lottery is not held, these applicants are admitted to the Institution by grade in the order in which the applications are received. If a lottery has been held, these applicants are placed on a waiting list beginning after the last person in each grade who was selected by lottery.

The following tables shows waiting list data for each of the years shown.

TABLE B-7: WAITING LIST DATA BC BOYS SCHOOL			
	2019-2020	2020-2021	2021-2022
Grade	Wait List	Wait List	Wait List
K	0	0	9
1	0	0	2
2	0	0	6
3	0	0	0
4	13	7	0
5	21	3	2
Total	34	10	19

Source: BC Boys School Administration. Data is presented as of the conclusion of registration following the lottery. Most recent lottery was held April 1, 2018. No lotteries have been conducted since due to adequate capacity relative to applicant demand.

TABLE B-8: WAITING LIST DATA BC GIRLS SCHOOL			
	2019-2020	2020-2021	2021-2022
Grade	Wait List	Wait List	Wait List
K	2	16	2
1	9	6	5
2	0	6	0
3	0	4	0
4	26	4	0
5	14	8	2
Total	51	44	9

Source: BC Girls School Administration. Data is presented as of the conclusion of registration following the lottery. Most recent lottery was held April 1, 2018. No lotteries have been conducted since due to adequate capacity relative to applicant demand.

As depicted above, for the 2021-2022 school year the Institution also took advantage of its historical waitlist to admit new scholars to offset COVID related student departures.

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Student Retention

The following tables shows the number students at the end of 2019-20 who returned at the beginning of the 2020-21 school year.

**TABLE B-9:
STUDENT RETENTION DATA**

Enrollment at End of 2020-21		Re-Enrolled at Beginning of 2021-22		Retention Rate
BC Girls School	278	BC Girls School	225	81%
BC Boys School	271	BC Boys School	207	76%

Source: The Institution

Although the COVID pandemic prompted lifestyle changes for many families and resulted in some student departures from the Institution, the Institution's administration is pursuing corrective action.

Service Area and Competing Schools

The Institution's schools have met enrollment targets, despite competition from numerous district schools, private schools, and other Institutions. The following table provides a summary of the competitive schools that are within a five-mile radius of the Institution. (Not included are those private and independent schools that serve a different demographic population, primarily because of higher tuition levels.)

**TABLE B-10:
COMPETING INSTITUTIONS WITHIN FIVE MILE RADIUS**

School Name	Date Opened	Charter Expiration	Grades Enrolled (2019-20)	Total Enrollment (2019-20)	Distance from Borrower
Kipp Albany Community	2006	7/2026	K-8	645	1 mile
Henry Johnson	2007	7/2025	K-4	363	1 mile

Source: www.newyorkcharters.org

The Institution faces constant competition for students and there can be no assurance that it will continue to attract and retain the number of students that are needed to generate sufficient revenues for the Institution to make payments on the Series 2021 Bonds in an amount necessary to pay debt service on the Series 2021 Bonds. See "RISK FACTORS – Competition for Students." Information set forth in the following sections is meant to provide prospective investors with general information concerning certain economic and demographic conditions existing in the Institution's service area. Such information has been obtained from the referenced sources and is believed to represent the most current information available from such sources, but certain of the information is released only after a significant amount of time has passed and hence such information may not be indicative of economic and demographic conditions as they currently exist or conditions which may be experienced in the near future. Further, the reported data has not been adjusted to reflect economic trends, notably inflation.

Population

According to U.S. Census data, the City had a 2010 population of 97,856. The following table presents population trends of the City of Albany, the Albany Metropolitan Statistical Area (the “MSA” consists of the six counties of Albany, Greene, Montgomery, Rensselaer, Saratoga and Schenectady), the State and the United States since 1950:

**TABLE B-11:
COMPARATIVE POPULATION**

	City of Albany	Albany MSA	New York State	United States
1950	134,995	677,707	14,830,200	151,326,000
1960	129,726	746,115	16,782,300	179,323,000
1970	115,781	811,080	18,241,400	203,235,000
1980	101,727	835,800	17,558,000	226,504,825
1990	100,031	861,623	17,990,455	248,709,873
2000	94,301	892,604	18,976,457	281,421,906
2010	97,856	870,716	19,378,102	308,745,538
2018	97,279	883,169	19,542,209	327,167,434
2019	96,460	880,736	19,453,561	328,239,523

Source: Data compiled by the U.S. Department of Commerce, Bureau of the Census and Center for Economic Growth.

Selected Wealth and Income Indicators

Per capita income statistics are available for the City of Albany and State of New York. Listed below are select figures from the 2000 Census Reports, 2006-2010 and 2015-2019 American Community Survey 5 Year Estimates.

**TABLE B-12
SELECTED WEALTH AND INCOME INDICATORS**

	<u>Per Capita Income</u>			<u>Median Family Income</u>		
	<u>2000</u>	<u>2006-2010</u>	<u>2015-2019</u>	<u>2000</u>	<u>2006-2010</u>	<u>2015-2019</u>
City of Albany	\$18,281	\$23,341	\$29,174	\$30,041	\$52,215	\$65,250
State of New York	\$23,389	\$30,948	\$39,326	\$51,691	\$67,405	\$84,385

Note: 2016-2020 American Community Survey estimates are not available as of the date of this Official Statement.

Source: U.S. Census Bureau, 2000 census, 2006-2010 and 2015-2019 American Community Survey data.

Basic Tuition

The Institution may not charge tuition and has no taxing authority. The principal source of Institution funding in New York is “Institution Basic Tuition” that are paid by the school district of the residence of the students attending the Institution, and the amount of aid received by an individual school is based on a variety of factors. See “STATE INSTITUTION FUNDING” and “RISK FACTORS – Dependence on State Payments that are Subject to Annual Appropriation and Political Factors” above. The following table provides information regarding the per pupil basic tuition amounts for the City School District for the school years indicated.

**TABLE B-13:
BASIC TUITION**

Fiscal Year	Albany City School District*	Schenectady City School District	Troy City School District	Other**
2017-18	15,072	12,515	16,486	11,678
2018-19	15,541	12,628	17,048	11,929
2019-20	15,861	12,802	16,883	12,118
2020-21	15,718	12,675	16,407	11,879
2021-22*	16,179	13,135	16,817	12,283

* For the 2021-22 School Year, approximately 70% of the Institutions Students reside within the Albany City School District, 16% in the Schenectady City School District, and 6% in the Troy City School District. The balance of students resides in Cohoes, Lansingburgh, North Colonie, South Colonie, Waterlivet school districts, among others.

** Represents unweighted average Basic Tuition rates of Cohoes, Lansingburgh, North Colonie, South Colonie, Watervliet central school districts, among others.

Source: The Institution, from information made available by the New York State Education Department

Approximately 70% percent of the Institution's total student enrollment are resident in the City School District and for the 2021–22 school year, the Institution received approximately \$16,719 for each student resident in the Albany City School District. The Institution expects to receive approximately \$8,130,436 in total aid for the 2021-22 school year.

Student Performance

The Office for Standards, Assessment and Reporting of the New York State Education Department is responsible for the coordination, development, and implementation of the grade 3-8 tests, Regents examinations, Regents competency tests, second language proficiency examinations, alternate assessments and English language proficiency assessments that comprise the New York State Testing Program ("NYSTP"). These examinations are administered to students in grades kindergarten through 12 enrolled in public, nonpublic, and charter schools throughout the State of New York.

Students in grades 3-12 are expected to take a series of state examinations. These exams include the New York State Assessments in:

- Grades 3-8 English Language Arts
- Grades 3-8 Mathematics
- Grade 4 Science
- Grade 8 Algebra 1 Regents (Instead of the 8th Grade Regular Mathematics Assessment)
- Grade 8 Living Environment Regents (Instead of the 8th Grade Regular Science Assessment)
- Grades 9-12 Regents Exams

Student performance on the assessments is categorized into achievement levels: Level 1 - Not Meeting Learning Standards; Level 2 - Partially Meeting Learning Standards; Level 3 - Meeting Learning Standards; and Level 4 - Meeting Learning Standards with Distinction. The tables immediately following provide data regarding the Charter School's performance (scoring at or above Level 3) on the assessments, as compared to the average test scores of the District, for the 2017-18 and 2018-19 school years.

The following tables provides data regarding the Institution's schools performance on the assessments, as compared to the average test scores of local competing schools as identified by the Institution's administration.

TABLE B-14:
STATE OF NEW YORK TESTING PROGRAM ASSESSMENT RESULTS
FOR 2018-2019
% OF STUDENTS MEETING LEARNINGS STANDARDS AND WITH DISTINCTION

	BC Girls School	BC Boys School	Albany City School District	KIPP Albany Community Charter School	Henry Johnson Charter School	New York State
<u>2018-19 English Language Arts</u>						
Grade 3	51%	58%	31%	50%	43%	52%
Grade 4	73%	77%	25%	36%	68%	48%
Grade 5	30%	41%	16%	30%	N/A	38%
<u>2018-19 Mathematics</u>						
Grade 3	35%	45%	31%	60%	41%	55%
Grade 4	36%	42%	24%	39%	50%	50%
Grade 5	53%	39%	21%	47%	N/A	46%
<u>2018-19 Science</u>						
Grade 4	88%	94%	71%	N/A	94%	86%

Source: The Institution, from data made available by the New York State Education Department.

TABLE B-15:
STATE OF NEW YORK TESTING PROGRAM ASSESSMENT RESULTS
FOR 2017-2018
% OF STUDENTS MEETING LEARNINGS STANDARDS AND WITH DISTINCTION

	BC Girls School	BC Boys School	Albany City School District	KIPP Albany Community Charter School	Henry Johnson Charter School	New York State
<u>2017-18 English Language Arts</u>						
Grade 3	60%	68%	26%	47%	54%	51%
Grade 4	64%	56%	25%	27%	78%	47%
Grade 5	38%	39%	18%	19%	N/A	37%
<u>2017-18 Mathematics</u>						
Grade 3	40%	35%	25%	68%	53%	54%
Grade 4	40%	29%	20%	41%	42%	48%
Grade 5	29%	45%	16%	29%	N/A	44%
<u>2017-18 Science</u>						
Grade 4	82%	86%	70%	N/A%	100%	88%

Source: The Institution, from data made available by the New York State Education Department.

AYP Status

In New York, under the accountability provisions of Title I of the Elementary and Secondary Education Act, as reauthorized by the No Child Left Behind Act of 2001 (“NCLB”), all public school campuses, school districts and the State are evaluated for Adequate Yearly Progress (“AYP”). Districts, campuses, and the state are required to meet AYP criteria on three measures: English Language Arts (“ELA”), Mathematics, and either Science (for elementary and middle/junior high schools) or Graduation Rate (for high schools and districts).

Materials published by the New York State Education Department, School Accountability Status, indicate the BC Girls School and the BC Boys School are both “in good standing” in each of the years in which it was subject to evaluation. In New York, a school that receives Title I funds is considered to be in good standing if it has not been identified as a School in Need of Improvement, in Corrective Action, Planning for Restructuring or Restructuring. Schools in improvement status under Title I must provide school choice for their students. Those in need of improvement in year two and beyond must also provide Supplemental Education Services to eligible students.

Failure by the Institution to meet the requirements of NCLB or the State’s accountability system in the future could have a material adverse effect on the Institution and its ability to generate revenues necessary to make payments on the Series 2021 Bonds.

ACCORDING TO THE STATE EDUCATION DEPARTMENT, BASED ON 2018-19 SCHOOL PERFORMANCE RESULTS, THE INSTITUTION IS “A INSTITUTION IN GOOD STANDING”.

Property and Liability Insurance Coverage

The Institution’s facility located at 250 Central Avenue in the City of Albany is covered by (i) a Building and Contents insurance policy having blanket coverage limit of \$9,572,000 Building, \$413,000 contents, (ii) a General Liability insurance policy with a limit of \$1,000,000 per occurrence and \$3,000,000 aggregate, (iii) an Automobile Liability policy with a limit of \$1,000,000, and (iv) an Umbrella Liability insurance policy with a limit of \$5,000,000 going over the General and Automobile Liability limit set forth above.

The Institution’s facility located at 116 North Lake Avenue in the City of Albany is covered by (i) a Building and Contents insurance policy having blanket coverage limit of \$10,078,000 Building, \$275,000 Contents, (ii) a General Liability insurance policy with a limit of \$1,000,000 per occurrence and \$3,000,000 aggregate, (iii) an Automobile Liability policy with a limit of \$1,000,000, and (iv) an Umbrella Liability insurance policy with a limit of \$5,000,000 going over the General and Automobile Liability limit set forth above.

Future Capital Expenditure Needs

Moneys on deposit in the Repair and Replacement Fund may be applied by the Institution to the cost of the construction of additions, improvements or betterments to, or the reconstruction of, the Project Facility, emergency repairs of the Project Facility, and major or extraordinary repairs, renewals or replacements of the Project Facility. As part of its ongoing planning and property management functions, the Institution reviews the use, compatibility and financial viability of many of its operations, and from time to time, may pursue changes in the use, or disposition, of its facilities. Aside from foreseeable maintenance and repairs, the Institution has no significant capital improvement plans in the near future. Any future capital project would be subject to the provisions set forth in Series 2021 Bond financing documents that apply to additional indebtedness.

The Prior Bonds

A portion of the proceeds of the Series 2021 Bonds will finance the refunding of the Prior Bonds. The Prior Bonds were issued for the benefit of the Boys School Legal Entity and the Girls School Legal Entity who were subsequently merged to create the Institution in 2016. Although certain technical financial and operating covenants set forth in the financing documents relating to the Prior Bonds were breached in 2013-2015, the Boys School Legal Entity and the Girls School Legal Entity consistently fulfilled all payment obligations under the Prior Bonds financing documents. As set forth in Table B-

17 below, the Institution currently maintains a Debt Service Coverage Ratio in excess of 1.9 and a Days Cash on Hand of 234.

The Brighter Choice Foundation

The mission of the Brighter Choice Foundation is to provide grants and academic support to charter schools in the City of Albany with the goal of creating the best educational opportunities for students while strengthening and improving the charter community, including the predecessor Girls School Legal Entity and Boys School Legal Entity in 2001. In 2010, the Brighter Choice Foundation commenced operation of the Brighter Choice Charter Middle School for Girls (the “Brighter Choice Girls Middle School”) and the Brighter Choice Charter Middle School for Boys (the “Brighter Choice Boys Middle School” and with the Brighter Choice Girls Middle School collectively the “Brighter Choice Middle School”) pursuant to separate charters issued by SUNY. In March 2015, SUNY declined to renew the charters for each of the Brighter Choice Middle School resulting in the closure of both schools. Such closure did not affect the operations, finances or charters held by the Institution and the Institution continues to operate, and is governed by, a Board of Trustees which is separate and distinct from the governing body of the former Brighter Choice Middle School. The Institution has had no affiliation with the Brighter Choice Foundation since 2015.

Debt Summary

Below is a list of the outstanding debt of the Institution as of July 1, 2021

TABLE B-16: DEBT SUMMARY

<u>Type of Debt</u>	<u>Original Amount</u>	<u>Outstanding Amount</u>
City of Albany Industrial Development Agency’s Civic Facility Revenue Bonds (Brighter Choice Charter Schools Project), Series 2007A	\$17,895,000	\$13,595,000

* To be refinanced by the Series 2021 Bonds.

Source: The Institution

Internal Controls

The Institution outsources its accounting department to BoostED Finance, including preparation of monthly financial statements, maintaining its general ledger and underlying subsidiary ledgers, reconciling bank accounts, administering payroll, processing accounts payable and managing grants. Monthly financial statements are prepared by BoostED Finance and include budget vs. actual comparisons and a financial narrative highlighting the Institution’s financial performance. The Board of Trustees and CEO provide fiscal oversight. BoostED Finance also has assisted in developing the Institution's chart of accounts and implementing an accounting software system. The Institution evaluates and monitors its internal controls periodically to ensure the controls are adhered to and sufficient to ensure proper segregation of duties and protecting the Institution’s assets. The Institution has an overall fiscal policies and procedures manual as well as additional policies and procedures including credit card policy, cash handling policy and procurement policy.

The Institution prepares its financial statements on the accrual basis of accounting and follows standards promulgated by the Financial Accounting Standards Board (FASB). The Institution has contracted with Cusack & Company, an independent certified public accountant, to provide annual independent audits. The Institution adheres to the NYSED Fiscal Oversight Guidebook and has an annual audit conducted by an independent Certified Public Accountant in accordance with generally accepted

auditing standards, *Government Auditing Standards*, and the NYSED Institution Audit Guide. The Institution's external auditors are licensed independent Certified Public Accountants who have demonstrated experience working with public schools and non-profits.

The Institution has a Conflict of Interest policy. All Board of Trustees and school management sign annual conflict of interest statements. The School also has a Whistleblower policy and Document Retention policy.

New York State Comptroller Reports of Examination

The New York State Comptroller's office periodically audits the financial operations of Institutions to promote compliance with relevant statutes and observance of good business practices. This oversight identifies opportunities for improving school financial operations and board governance. These audits can be found by visiting the Audits of Local Governments section of the Office of the State Comptroller website.

The State Comptroller's office released its most recent audit report of the BC Boys School in October of 2018. The purpose of the 2018 audit was to determine whether internal controls were in place to ensure that employee compensation was accurate, supported and properly authorized. The audit determined that the Institution's administration effectively designed and implemented procedures to ensure that compensation payments were accurate, and properly authorized. There were no recommendations as a result of this audit.

Conflicts of Interest Policy

As discussed above, the Institution's By-laws contains a Conflicts of Interest Policy that prohibits conflicts of interests for school trustees, officers and employees in compliance with the State's General Municipal Law.

Pursuant to the terms of the Charter, the Board must require that each trustee, who has served on the Board during a school year, file a Disclosure of Financial Interest by an Institution Trustee Report (the "Disclosure Report") with the Board of Regents. The Disclosure Report must set forth and attest to transactions between the Institution and a trustee and any entity with which such trustee is affiliated, as such transactions may be defined by the Board of Regents.

The Code and related Treasury Regulations contain provisions governing "excess benefit" transactions (as set forth in Section 4958 of the Code). Those provisions provide for penalty taxes and, in extreme cases, revocation of 501(c)(3) status, for, among other things, above fair market value transactions with "disqualified persons." Loss of tax-exempt status by the Institution could result in loss of tax exemption for federal income tax purposes of interest on the Series 2021 Bonds. See "RISK FACTORS – Loss of Tax-Exempt Status."

Litigation

There is not now pending nor, to the knowledge of the Institution, threatened any litigation restraining or enjoining the execution or delivery of the financing documents to which the Institution is a party or questioning or affecting the validity of such documents or the proceedings or authority under which such documents were authorized or delivered. Neither the creation, organization or existence of the Institution nor the title of any of the present members or other officers of the Institution to their respective offices is being contested. There is no litigation pending or, to its knowledge, threatened which in any manner questions the right of the Institution to enter into the financing documents to which the Institution is a party or which would have a material adverse effect on the ability of the Institution to meet its obligations under the Loan Agreement.

Projected Revenues and Expenditures

This Official Statement contains certain “forward-looking” statements of the type described in Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. See “INTRODUCTION – Caution Regarding Forward-Looking Statements” above. Although the Institution believes that the assumptions upon which the forward-looking statements contained in this Official Statement are based are reasonable, any of the assumptions could prove to be inaccurate and, as a result, the forward-looking statements based on those assumptions could also be incorrect. All phases of the operations of the school by the Institution involve risks and uncertainties, many of which are outside of the Institution's control and any one of which, or a combination of which, could materially affect the Institution's results with respect to the school's operations. Factors that could cause actual results to differ from those expected include, but are not limited to, general economic conditions; the willingness of the State to fund public schools including Institutions at present or increased levels; competitive conditions within the Institution's service area; lower-than-projected enrollment; unanticipated expenses; changes in government regulation including changes in the law governing Institutions in New York; future claims for accidents against the Institution and the extent of insurance coverage for such claims; and other risks discussed in this Official Statement. See “RISK FACTORS” above.

The Institution is providing the following Historical and Projected Revenues and Expenses table for illustrative purposes only. These projections have been prepared by the Institution in a format recommended by BoostEd Finance, based on the Institution's operating history and its assumptions about future State funding levels and future operations, including student enrollment and expenses. The Institution's projections have not been independently verified by any party other than the Institution. The Institution's projections have not been prepared in accordance with generally accepted accounting principles (“GAAP”). No feasibility studies have been conducted with respect to operations of the Institution pertinent to the Series 2021 Bonds. The Underwriter has not independently verified the Institution's projections, and makes no representations nor gives any assurances that such projections, or the assumptions underlying them, are complete or correct.

NO GUARANTEE CAN BE MADE THAT THE PROJECTED INFORMATION CONTAINED HEREIN WILL CORRESPOND WITH THE RESULTS ACTUALLY ACHIEVED IN THE FUTURE BECAUSE THERE CAN BE NO ASSURANCE THAT ACTUAL EVENTS WILL CORRESPOND WITH THE ASSUMPTIONS UNDERLYING SUCH PROJECTIONS. ACTUAL OPERATING RESULTS MAY BE AFFECTED BY MANY FACTORS, INCLUDING, BUT NOT LIMITED TO, CHANGES IN THE STATE'S FUNDING SYSTEM,

UNANTICIPATED INCREASES IN COSTS, LOWER THAN ANTICIPATED REVENUES (AS A RESULT OF INSUFFICIENT ENROLLMENT, DIFFICULTIES WITH THE INSTITUTION'S GROWTH PLANS, REDUCED AID PAYMENTS, OR OTHERWISE), EMPLOYEE RELATIONS, CHANGES IN TAXES, CHANGES IN APPLICABLE GOVERNMENTAL REGULATION, CHANGES IN DEMOGRAPHIC TRENDS, CHANGES IN EDUCATION COMPETITION AND LOCAL OR GENERAL ECONOMIC CONDITIONS.

TABLE B-17: HISTORICAL AND PROJECTED REVENUES AND EXPENSES

BRIGHTER CHOICE ELEMENTARY CHARTER SCHOOLS
Historical and Projected Financial Results and Covenant Calculations

<i>(Years Ending June 30)</i>	Actual 2019A	Actual 2020A	Actual 2021E	Budget 2022E	Budget 2023E	Budget 2024E	Budget 2025E	Budget 2026E
REVENUES								
State Revenue	9,605,631	9,621,941	8,180,911	8,716,220	9,141,112	9,415,346	9,697,806	9,988,740
Federal Revenue	1,016,339	815,145	1,711,281	1,766,807	1,809,042	1,827,002	1,011,169	1,039,704
Local & Other Revenue	102,013	99,244	25,304	16,000	16,000	16,000	16,000	16,000
TOTAL REVENUES	10,723,983	10,536,330	9,917,496	10,499,027	10,966,154	11,258,348	10,724,975	11,044,444
EXPENSES								
Personnel								
Administrative Staff Personnel Costs	1,159,609	1,130,087	1,139,415	1,163,371	1,198,273	1,234,221	1,271,247	1,309,385
Instructional Staff Personnel Costs	3,304,743	3,400,804	3,226,529	3,207,910	3,304,147	3,403,272	3,505,370	3,610,531
Non-Instructional Staff Personnel Costs	69,727	53,358	51,896	54,881	56,528	58,223	59,970	61,769
Payroll Taxes & Benefits	1,114,654	1,089,072	1,066,077	1,310,605	1,349,743	1,390,056	1,431,577	1,474,345
Subtotal Personnel	5,648,733	5,673,321	5,483,917	5,736,768	5,908,691	6,085,772	6,268,165	6,456,030
Non-Personnel								
Contracted Services	386,165	385,705	362,448	481,000	490,620	500,432	510,441	520,650
School Operations	1,629,966	1,211,876	986,503	1,647,048	1,697,370	1,737,474	1,778,564	1,820,666
Facility Operations & Maintenance	1,412,760	1,374,561	1,365,981	1,339,812	1,258,830	1,254,436	1,249,804	1,244,737
Depreciation & Amortization	493,985	511,505	563,568	564,912	564,912	564,912	564,912	564,912
Subtotal Non Personnel	3,922,876	3,483,647	3,278,500	4,032,772	4,011,732	4,057,254	4,103,721	4,150,965
TOTAL EXPENSES	9,571,609	9,156,968	8,762,417	9,769,540	9,920,423	10,143,026	10,371,885	10,606,995
NET SURPLUS/DEFICIT	1,152,374	1,379,362	1,155,079	729,487	1,045,732	1,115,322	353,090	437,450
Add Back:								
Interest Expense	737,395	717,482	679,408	529,612	432,426	411,504	390,013	367,751
Depreciation	469,073	486,593	538,656	540,000	540,000	540,000	540,000	540,000
Amortization	24,912	24,912	24,912	24,912	24,912	24,912	24,912	24,912
Net Revenues Available for Debt Service	2,383,754	2,608,349	2,398,055	1,824,011	2,043,070	2,091,738	1,308,015	1,370,112
ESTIMATED DEBT SERVICE COVERAGE RATIO								
Debt Service Payments								
Interest Expense	762,307	742,394	700,188	529,612	432,426	411,504	390,013	367,751
Principal	500,000	520,000	545,000	790,000	640,000	655,000	680,000	700,000
Net Debt Service	1,262,307	1,262,394	1,245,188	1,319,612	1,072,426	1,066,504	1,070,013	1,067,751
Debt Service Coverage	1.89	2.07	1.93	1.38	1.91	1.96	1.22	1.28
LIQUIDITY COVENANT (DAYS CASH ON HAND)								
Cash on Hand - Unrestricted	3,377,606	5,019,496	5,253,718	6,960,259	7,826,136	8,746,605	8,884,841	9,087,437
Total Expenses	9,571,609	9,156,968	8,762,417	9,769,540	9,920,423	10,143,026	10,371,885	10,606,995
Less: Depreciation	(469,073)	(486,593)	(538,656)	(540,000)	(540,000)	(540,000)	(540,000)	(540,000)
Less: Amortization	(10,555)	(10,201)	(24,912)	(24,912)	(24,912)	(24,912)	(24,912)	(24,912)
Net Expenses	9,091,981	8,660,174	8,198,849	9,204,628	9,355,511	9,578,114	9,806,973	10,042,083
Days Cash on Hand Ratio	136	212	234	276	305	333	331	330

Notes:

1. Basic per pupil revenue assumed to increase 3% per year.
2. Salary expenses assumed increase 3% per year and all other expenses assumed to increase 2% - 3% per year.
3. Cash for FY2022 includes reimbursement of approximately \$1.34 million being released from the existing Repair and Replacement Fund.
4. FY2022 debt service represents partial payments for the Refunded Bonds and Series 2021 Bonds.

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APPENDIX C

**AUDITED FINANCIAL INFORMATION OF THE INSTITUTION FOR
THE FISCAL YEAR ENDED JUNE 30, 2021**

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BRIGHTER CHOICE ELEMENTARY CHARTER SCHOOLS

FINANCIAL STATEMENTS

JUNE 30, 2021

BRIGHTER CHOICE ELEMENTARY CHARTER SCHOOLS

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JUNE 30, 2021

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NEW YORK STATE SOCIETY OF
CERTIFIED PUBLIC ACCOUNTANTS

INDEPENDENT AUDITOR'S REPORT

To the Board of Trustees
Brighter Choice Elementary Charter Schools
Albany, New York

Opinion

We have audited the accompanying financial statements of Brighter Choice Elementary Charter Schools (a nonprofit organization), which comprise the statement of financial position as of June 30, 2021, and the related statements of activities, cash flows and functional expenses for the year then ended, and the related notes to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Brighter Choice Elementary Charter Schools as of June 30, 2021, and the changes in its net assets and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of Brighter Choice Elementary Charter Schools and to meet our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about Brighter Choice Elementary Charter Schools' ability to continue as a going concern within one year after the date that the financial statements are available to be issued.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with generally accepted auditing standards will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements, including omissions, are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with generally accepted auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Brighter Choice Elementary Charter Schools' internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about Brighter Choice Elementary Charter Schools' ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control related matters that we identified during the audit.

Other Information

Our audits were conducted for the purpose of forming opinions on the financial statements that collectively comprise Brighter Choice Elementary Charter Schools's basic financial statements. The schedule of expenditures of federal awards is presented for purposes of additional analysis as required by Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, and is not a required part of the basic financial statements.

The schedule of expenditures of federal awards is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, based on our audit and the procedures described above, the schedule of expenditures of federal awards is fairly stated, in all material respects, in relation to the basic financial statements as a whole.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our reports dated October 26, 2021 on our consideration of Brighter Choice Elementary Charter Schools' internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of those reports is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of Brighter Choice Elementary Charter Schools' internal control over financial reporting or on compliance. Those reports are an integral part of an audit performed in accordance with *Government Auditing Standards* and the Uniform Guidance in considering Brighter Choice Elementary Charter Schools' internal control over financial reporting and compliance.

A handwritten signature in black ink that reads "Cusack & Company, CPA's LLC". The signature is written in a cursive, flowing style.

CUSACK & COMPANY, CPA'S LLC

Latham, New York
October 26, 2021

BRIGHTER CHOICE ELEMENTARY CHARTER SCHOOLS*STATEMENT OF FINANCIAL POSITION**JUNE 30, 2021*

	<u>ASSETS</u>			
	<u>Girls School</u>	<u>Boys School</u>	<u>Eliminations</u>	<u>Total</u>
Current Assets				
Cash	\$ 2,467,771	\$ 2,743,731	\$ -	\$ 5,211,502
Contracts and Grants Receivable, Net	192,062	283,009	-	475,071
Due from Related School	<u>960,256</u>	<u>-</u>	<u>(960,256)</u>	<u>-</u>
Total Current Assets	<u>3,620,089</u>	<u>3,026,740</u>	<u>(960,256)</u>	<u>5,686,573</u>
Property and Equipment, Net	<u>5,077,132</u>	<u>5,203,420</u>	<u>-</u>	<u>10,280,552</u>
Other Assets				
Cash, Restricted	100,000	100,000	-	200,000
Bond Trust Accounts, Restricted	<u>1,499,261</u>	<u>1,620,376</u>	<u>-</u>	<u>3,119,637</u>
Total Other Assets	<u>1,599,261</u>	<u>1,720,376</u>	<u>-</u>	<u>3,319,637</u>
Total Assets	<u>\$ 10,296,482</u>	<u>\$ 9,950,536</u>	<u>\$ (960,256)</u>	<u>\$ 19,286,762</u>
<u>LIABILITIES AND NET ASSETS</u>				
Current Liabilities				
Current Portion of Bonded Mortgage Payable	\$ 287,500	\$ 287,500	\$ -	\$ 575,000
Accounts Payable and Accrued Expenses	352,828	200,233	-	553,061
Accrued Payroll and Benefits	369,703	397,033	-	766,736
Unearned Revenue	43,154	11,406	-	54,560
Due to Related School	<u>-</u>	<u>960,256</u>	<u>(960,256)</u>	<u>-</u>
Total Current Liabilities	<u>1,053,185</u>	<u>1,856,428</u>	<u>(960,256)</u>	<u>1,949,357</u>
Long-Term Liabilities				
Bonded Mortgage Payable	6,376,332	6,376,332	-	12,752,664
Net Assets Without Donor Restrictions	<u>2,866,965</u>	<u>1,717,776</u>	<u>-</u>	<u>4,584,741</u>
Total Liabilities and Net Assets	<u>\$ 10,296,482</u>	<u>\$ 9,950,536</u>	<u>\$ (960,256)</u>	<u>\$ 19,286,762</u>

BRIGHTER CHOICE ELEMENTARY CHARTER SCHOOLS

STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED JUNE 30, 2021

	<u>Girls School</u>	<u>Boys School</u>	<u>Total</u>
Revenue, Grants and Support			
Public School District			
Resident Student Enrollment	\$ 4,101,390	\$ 3,870,523	\$ 7,971,913
Special Education Services	67,049	136,781	203,830
Grants and Contracts			
Federal - Child Nutrition Program	108,792	117,335	226,127
Federal - Title I, II, IV and IDEA	257,440	267,241	524,681
Other	<u>34,056</u>	<u>51,032</u>	<u>85,088</u>
Total Revenue, Grants and Support	<u>4,568,727</u>	<u>4,442,912</u>	<u>9,011,639</u>
Expenses			
Program Services			
Regular Education	2,693,640	2,782,756	5,476,396
Special Education	257,466	269,491	526,957
Other Programs	<u>614,529</u>	<u>358,929</u>	<u>973,458</u>
Total Program Services	3,565,635	3,411,176	6,976,811
Management and General	<u>726,064</u>	<u>1,059,545</u>	<u>1,785,609</u>
Total Expenses	<u>4,291,699</u>	<u>4,470,721</u>	<u>8,762,420</u>
Surplus (Deficit) from School Operations	<u>277,028</u>	<u>(27,809)</u>	<u>249,219</u>
Other Revenue			
Fundraising and Contributions	11,155	5,261	16,416
Interest Income	4,096	4,042	8,138
PPP Loan Forgiveness	<u>429,300</u>	<u>452,000</u>	<u>881,300</u>
Total Other Revenue	<u>444,551</u>	<u>461,303</u>	<u>905,854</u>
Increase in Net Assets	721,579	433,494	1,155,073
Net Assets Without Donor Restrictions, Beginning of Year	<u>2,145,386</u>	<u>1,284,282</u>	<u>3,429,668</u>
Net Assets Without Donor Restrictions, End of Year	<u><u>\$ 2,866,965</u></u>	<u><u>\$ 1,717,776</u></u>	<u><u>\$ 4,584,741</u></u>

BRIGHTER CHOICE ELEMENTARY CHARTER SCHOOLS*STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED JUNE 30, 2021*

	<u>Girls School</u>	<u>Boys School</u>	<u>Total</u>
Cash Flows Provided by Operating Activities:			
Change in Net Assets	\$ 721,579	\$ 433,494	\$ 1,155,073
Adjustments to Reconcile Change in Net Assets to Net Cash Provided by Operating Activities:			
Depreciation	275,064	263,591	538,655
Amortization of Deferred Financing Costs	12,456	12,456	24,912
Amortization of Bonded Mortgage Premium	(7,382)	(7,384)	(14,766)
PPP Loan Forgiveness	(429,300)	(452,000)	(881,300)
Changes in Operating Assets and Liabilities			
Decrease in Assets			
Contracts and Grants Receivable	141,855	209,426	351,281
Increase (Decrease) in Liabilities			
Accounts Payable and Accrued Expenses	(11,941)	(13,186)	(25,127)
Accrued Payroll and Benefits	29,942	23,971	53,913
Unearned Revenue	<u>25,045</u>	<u>(5,704)</u>	<u>19,341</u>
Net Cash Provided by Operating Activities	<u>757,318</u>	<u>464,664</u>	<u>1,221,982</u>
Cash Flows Used in Investing Activities			
Due from Related Schools	(658,017)	-	(658,017)
Purchase of Property and Equipment	<u>(106,570)</u>	<u>(203,731)</u>	<u>(310,301)</u>
Net Cash Used in Investing Activities	<u>(764,587)</u>	<u>(203,731)</u>	<u>(968,318)</u>
Cash Flows Provided by (Used in) Financing Activities			
Payments on Bonded Mortgage Payable	(272,500)	(272,500)	(545,000)
Net Deposits to Bonded Trust Accounts	(87,336)	(87,336)	(174,672)
Due to Related Schools	<u>-</u>	<u>658,017</u>	<u>658,017</u>
Net Cash Provided by (Used in) Financing Activities	<u>(359,836)</u>	<u>298,181</u>	<u>(61,655)</u>
Increase (Decrease) in Cash	(367,105)	559,114	192,009
Cash, Beginning of Year	<u>2,934,876</u>	<u>2,284,617</u>	<u>5,219,493</u>
Cash, End of Year	<u>\$ 2,567,771</u>	<u>\$ 2,843,731</u>	<u>\$ 5,411,502</u>
Cash, End of Year Consist of:			
Cash	\$ 2,467,771	\$ 2,184,617	\$ 5,219,493
Cash, Restricted	100,000	100,000	200,000
	<u>\$ 2,567,771</u>	<u>\$ 2,284,617</u>	<u>\$ 5,411,502</u>
Supplementary Cash Flow Information			
Cash Paid During the Year for Interest	<u>\$ 353,500</u>	<u>\$ 353,500</u>	<u>\$ 707,000</u>

BRIGHTER CHOICE ELEMENTARY CHARTER SCHOOLS
STATEMENT OF FUNCTIONAL EXPENSES - GIRLS SCHOOL
FOR THE YEAR ENDED JUNE 30, 2021 (WITH COMPARATIVE TOTALS FOR 2020)

	Program Services			Supporting Services		
	<u>Regular Education</u>	<u>Special Education</u>	<u>Other Programs</u>	<u>Management and General</u>	<u>Total 2021</u>	<u>Total 2020</u>
Administrative Staff Personnel	\$ 129,919	\$ -	\$ -	\$ 376,292	\$ 506,211	\$ 508,962
Instructional Personnel	1,210,261	137,638	-	-	1,347,899	1,416,677
Non-Instructional Personnel	-	-	271,977	-	271,977	306,376
Total Salaries and Staff	<u>1,340,180</u>	<u>137,638</u>	<u>271,977</u>	<u>376,292</u>	<u>2,126,087</u>	<u>2,232,015</u>
 Fringe Benefits and Payroll Taxes	296,852	30,487	60,243	83,350	470,932	479,601
Retirement	56,022	5,754	11,369	15,730	88,875	82,095
Legal Services	-	-	-	531	531	1,702
Accounting and Audit Services	39,397	4,046	7,995	11,062	62,500	83,375
Other Purchased, Professional and Consulting Services	39,595	4,066	8,036	11,118	62,815	66,266
Facility Interest Expense	221,984	22,798	45,050	62,328	352,160	370,999
Repairs and Maintenance	121,225	12,450	24,601	34,037	192,313	185,926
Insurance	29,804	3,061	6,048	8,368	47,281	41,595
Utilities	52,415	5,383	10,637	14,717	83,152	76,207
Supplies and Materials	25,834	2,653	5,243	7,254	40,984	19,367
Staff Development	7,400	760	1,502	2,078	11,740	21,621
Marketing and Recruitment	-	-	-	21,637	21,637	43,572
Technology	53,707	5,516	10,899	15,080	85,202	60,221
Food Service	-	-	105,768	-	105,768	216,265
Student Services	186,692	-	-	-	186,692	199,440
Office Expenses	44,740	4,595	9,080	12,562	70,977	74,720
Depreciation	173,387	17,807	35,187	48,683	275,064	251,581
Other	<u>4,406</u>	<u>452</u>	<u>894</u>	<u>1,237</u>	<u>6,989</u>	<u>5,639</u>
 Total Expenses	<u>\$ 2,693,640</u>	<u>\$ 257,466</u>	<u>\$ 614,529</u>	<u>\$ 726,064</u>	<u>\$ 4,291,699</u>	<u>\$ 4,512,207</u>

BRIGHTER CHOICE ELEMENTARY CHARTER SCHOOLS
STATEMENT OF FUNCTIONAL EXPENSES - BOYS SCHOOL
FOR THE YEAR ENDED JUNE 30, 2021 (WITH COMPARATIVE TOTALS FOR 2020)

	Program Services			Supporting Services		
	<u>Regular Education</u>	<u>Special Education</u>	<u>Other Programs</u>	<u>Management and General</u>	<u>Total 2021</u>	<u>Total 2020</u>
Administrative Staff Personnel	\$ 64,428	\$ -	\$ -	\$ 568,773	\$ 633,201	\$ 621,126
Instructional Personnel	1,375,110	149,195	-	-	1,524,305	1,567,056
Non-Instructional Personnel	-	-	134,246	-	134,246	164,187
Total Salaries and Staff	<u>1,439,538</u>	<u>149,195</u>	<u>134,246</u>	<u>568,773</u>	<u>2,291,752</u>	<u>2,352,369</u>
 Fringe Benefits and Payroll Taxes	275,644	28,568	25,706	108,909	438,827	471,276
Retirement	55,465	5,748	5,172	21,915	88,300	87,446
Legal Services	-	-	-	461	461	1,702
Accounting and Audit Services	44,913	4,655	4,188	17,746	71,502	92,979
Other Purchased, Professional and Consulting Services	73,678	7,636	6,871	29,111	117,296	103,700
Facility Interest Expense	221,205	22,926	20,629	87,400	352,160	371,395
Repairs and Maintenance	133,077	13,792	12,410	52,581	211,860	197,977
Insurance	29,700	3,078	2,770	11,734	47,282	42,463
Utilities	52,656	5,457	4,910	20,805	83,828	81,565
Supplies and Materials	48,896	5,068	4,560	19,319	77,843	55,060
Staff Development	5,683	589	530	2,245	9,047	20,663
Marketing and Recruitment	-	-	-	31,703	31,703	45,497
Technology	18,085	1,874	1,687	7,146	28,792	27,948
Food Service	-	-	116,438	-	116,438	211,302
Student Services	182,504	-	-	-	182,504	183,539
Office Expenses	35,394	3,668	3,301	13,985	56,348	57,422
Depreciation	165,572	17,160	15,441	65,418	263,591	235,012
Other	<u>746</u>	<u>77</u>	<u>70</u>	<u>294</u>	<u>1,187</u>	<u>5,446</u>
 Total Expenses	<u>\$ 2,782,756</u>	<u>\$ 269,491</u>	<u>\$ 358,929</u>	<u>\$ 1,059,545</u>	<u>\$ 4,470,721</u>	<u>\$ 4,644,761</u>

BRIGHTER CHOICE ELEMENTARY CHARTER SCHOOLS

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2021

1. ORGANIZATION AND PURPOSE

Organization

Brighter Choice Charter School for Girls (the “Girls School”) and Boys (the “Boys School”) are not-for-profit corporations formed in 2001 in order to build and operate charter schools in the City of Albany, New York (the “City”). The Brighter Choice Charter Schools for Girls and Boys (the “Schools”) were established to provide a quality educational alternative for at-risk elementary students in the City. Effective July 1, 2016, Brighter Choice Charter School for Boys was merged with and into Brighter Choice Charter School for Girls, with Brighter Choice Charter School for Girls being renamed Brighter Choice Elementary Charter Schools.

Each charter school, authorized by Article 56 of the New York State Charter Schools Act of 1998, is an independent public school and, in accordance with their charter and bylaws, each school has a Board of Trustees and is an independent, discreet operating entity.

The Schools provide a broad and rigorous liberal arts education, including instruction on phonics-based reading, traditional mathematics, science, visual and performing arts, American and world history, and physical education. Students benefit from a longer school day and school year, which will provide them with an equivalent of two years of academic instruction over each of their elementary years.

The New York State Education Department has issued the Schools a five year charter valid until June 30, 2026. During the year ended June 30, 2021, the Girls School had enrollment of approximately 276 students (321 students, June 30, 2020) and the Boys School had enrollment of approximately 257 students (305 students, June 30, 2020) serving kindergarten through 5th grade.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Accounting Policies and Financial Statement Presentation

The following summarizes the significant accounting policies consistently applied in the preparation of the Schools’ financial statements, with reference to the Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) where applicable.

Basis of Accounting

The financial statements have been prepared using the accrual basis of accounting, whereby revenue is recognized when earned and expenses are recognized when incurred. This basis of accounting is in accordance with accounting principles generally accepted in the United States of America.

BRIGHTER CHOICE CHARTER ELEMENTARY SCHOOLS

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

JUNE 30, 2021

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Allowance of Doubtful Accounts

Contacts and grants receivable are carried at original invoice amount less an estimate made for doubtful receivables based on a review of all outstanding amounts on a monthly basis. Management determines the allowance for doubtful accounts by identifying troubled accounts and by using historical experience applied to an aging of accounts. Contracts and grants receivable are written off when deemed uncollectible. Recoveries of accounts previously written off are recorded when received. A receivable is considered past due if any portion of the receivable balance is outstanding for more than 90 days. Interest is not charged on outstanding accounts receivable. The allowance for doubtful accounts was \$91,925 for the Girls School and \$126,154 for the Boys School at June 30, 2021.

Property and Equipment

Property and equipment are stated at cost, net of accumulated depreciation. Donations of property and equipment are recorded as support at their estimated fair values on the date of donation. Expenditures for acquisitions, renewals, and betterments are capitalized, whereas maintenance and repair costs are expensed as incurred. When equipment is retired or otherwise disposed of, the appropriate accounts are relieved of costs and accumulated depreciation, and any resultant gain or loss is credited or charged to the change in net assets.

Long-lived assets to be held and used are tested for recoverability whenever events or changes in circumstances indicate that the related carrying amount may not be recoverable.

Depreciation is computed using the straight-line method over the following estimated useful lives of 40 years for buildings and improvements and 3-10 years for furniture and equipment.

Net Assets

The financial statements report net assets and changes in net assets in two classes that are based upon the existence or absence of restrictions on use that are placed by its donors, as follows:

Net Assets Without Donor Restrictions

Net assets without donor restrictions are resources available to support operations. The only limits on the use of net assets without donor restrictions are the broad limits resulting from the nature of the Schools.

Net Assets With Donor Restrictions

Purpose restricted net assets are resources that are restricted by a donor for use for a particular purpose or in a particular future period.

BRIGHTER CHOICE CHARTER ELEMENTARY SCHOOLS

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

JUNE 30, 2021

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Net Assets (Continued)

Net Assets With Donor Restrictions (Continued)

When a donor's restriction is satisfied, either by using the resources in the manner specified by the donor or by the passage of time, the expiration of the restriction is reported in the financial statements by reclassifying the net assets from net assets with donor restrictions to net assets without donor restrictions. The Schools have no purpose restricted net assets at June 30, 2021.

Perpetually restricted net assets are resources whose use by the School are limited by donor imposed restrictions that neither expire by being used in accordance with a donor's restriction nor by the passage of time. The Schools have no perpetually restricted net assets at June 30, 2021.

Recognition of Income

Revenue from contracts with customers is recognized in accordance with a five-step model as follows:

- Identify the contract with the customer
- Identify the performance obligations in the contract
- Determine the transaction price
- Allocate the transaction price to the performance obligation(s) in the contract
- Recognize revenue when or as performance obligations are satisfied

Contract Assets

Amounts related to services provided to customers which have not been billed and that do not meet the conditions of an unconditional right to payment at the end of the reporting period are contract assets. Contract asset balances consist primarily of services provided to customers who are still receiving services at the end of the year. There were no contract assets at June 30, 2021 and 2020.

Contract Liabilities

Contract liabilities represent revenue that has been deferred for the funds advanced by third party payors for the Schools' contracts received related to services that have not yet been provided to customers. Contract liabilities consist of payments made by funding and other sources for the Schools' contracts for services not yet performed that are expected to be performed within the next fiscal year. There were no contract liabilities were \$54,560 for the years ended June 30, 2021.

BRIGHTER CHOICE CHARTER ELEMENTARY SCHOOLS

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

JUNE 30, 2021

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Public School District Fees

A substantial portion of the Schools' revenue and related receivables are derived from its arrangement with the local School Districts, which reimburse the Schools based on per capital enrollment. These revenues are recognized ratably over the related school year during which they are earned.

Grants and Contracts

Revenue from other governmental sources generally represents various entitlements and is recognized as earned when allowable expenditures are incurred.

Contributions

Contributions received are recorded as with or without donor restrictions depending on the existence and/or nature of any donor imposed restrictions.

Allocation of Expenses

Directly identifiable expenses are charged to program and supporting services. Expenses related to more than one function are charged to program and supporting services using specific allocation methods. Management and general expenses include those expenses that are not directly identifiable with any other specific function but provide for the overall support and direction of the Schools.

Use of Estimates

The preparation of financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Accounting for Uncertainty in Income Taxes

The Accounting Standards Codification requires entities to disclose in their financial statements the nature of any uncertainty in their tax position. The Schools have not recognized any benefits or liabilities from uncertain tax positions in 2021 and believes they have no uncertain tax positions for which it is reasonably possible that will significantly increase or decrease net assets. Generally, federal and state authorities may examine the Schools' tax returns for three years from the date of filing; consequently, income returns for years prior to 2018 are no longer subject to examination by tax authorities.

BRIGHTER CHOICE CHARTER ELEMENTARY SCHOOLS

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

JUNE 30, 2021

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Income Taxes

The Schools are exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, and the Schools are exempt from state income tax. The Schools have been classified as a publicly-supported organization that is not a private foundation under Section 509(a) of the Code.

Fair Value

The Accounting Standards Codification requires expanded disclosures about fair value measurements and establishes a three-level hierarchy for fair value measurements based on the observable inputs to the valuation of an asset or liability at the measurement date. Fair value is defined as the price that the Schools would receive upon selling an asset or pay to transfer a liability in an orderly transaction between market participants. It prioritizes the inputs to the valuation techniques used to measure fair value by giving the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to measurements involving significant unobservable inputs (Level 3 measurements).

The following methods and assumptions were used to estimate the fair value of each class of financial instrument for which it is practicable to estimate that value:

Cash, contracts and grants receivable, accounts payable and accrued expenses and unearned revenue - The carrying amounts approximate fair value because of the short maturity of these instruments.

Property and equipment - No attempt has been made to determine the fair value of property and equipment.

Mortgage payable - The fair value of the mortgage payable is estimated based on current rates offered to the Schools for debt of the same remaining maturity. At June 30, 2021, the fair value of the mortgage payable approximates the amount recorded in the financial statements.

Subsequent Events

The Schools have evaluated subsequent events or transactions as to any potential material impact on operations or financial position that existed at the date of the financial statements through October 26, 2021, the date the financial statements were available to be issued. The Schools intend to defease their existing bonds payable with new bonds in 2022.

BRIGHTER CHOICE ELEMENTARY CHARTER SCHOOLS

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

JUNE 30, 2021

3. CASH, RESTRICTED

As part of the charter agreement, charter schools agree to establish an escrow account of no less than a set dollar amount as determined by the New York State Education Department (“NYSED”). This amount is established to pay for legal and audit expenses that would be associated with a dissolution should it occur. Each school has established an escrow account for \$100,000 as required by the NYSED.

4. BOND TRUST ACCOUNTS - RESTRICTED

The Schools have entered into a custody agreement with Wilmington Trust Company as Custodian and as Trustee. Debt service reserve represents funds held by Wilmington Trust Company in the name of the Schools. The Schools will direct educational aid payments to be deposited with the Custodian. The Custodian will pay the Trustee, for deposit in the Debt Service Fund, an amount equal to a proportionate share of the next interest and principal payment on the Bonds for which funds have not already been provided. Additionally, the Custodian will pay the Trustee, for deposit in the Repair and Replacement Fund, amounts necessary to equal the Repair and Replacement Fund requirement (\$174,672 for the year ended June 30, 2021) with required increases of 3% annually. Any funds remaining with the Custodian following such transfers will be transferred to the Schools.

In connection with the bonded mortgage with the City of Albany Industrial Development Agency (IDA), the Schools are required to maintain bond trust accounts which are administered by Wilmington Trust Company. The underlying investments in the bond trust accounts at June 30, 2021 consist of money market funds.

Bond trust accounts consist of the following:

	<u>Girls School</u>	<u>Boys School</u>	<u>Total</u>
Debt Service Fund	\$ 629,075	\$ 629,075	\$ 1,258,150
Bond Fund	124,345	113,564	237,909
Educational Aid Fund	108,335	108,335	216,670
Repair and Replacement Fund	637,506	769,402	1,406,908
	<u>\$ 1,499,261</u>	<u>\$ 1,620,376</u>	<u>\$ 3,119,637</u>

The Schools have entered into a collateral agreement for bond trust accounts not covered under federal deposit insurance. Cash is fully insured and collateralized under the bond trust accounts as of June 30, 2021.

BRIGHTER CHOICE ELEMENTARY CHARTER SCHOOLS

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

JUNE 30, 2021

5. CONTRACTS AND GRANTS RECEIVABLE, NET

Contracts and grants receivable, net consists of the following:

	<u>Girls School</u>	<u>Boys School</u>	<u>Total</u>
Accrued Revenue	\$ 2,000	\$ -	\$ 2,000
Due from Other Districts	220,610	276,378	496,988
Grant Receivable	61,377	132,785	194,162
Allowance for Doubtful Accounts	<u>(91,925)</u>	<u>(126,154)</u>	<u>(218,079)</u>
Contracts and Grants Receivable, Net	<u>\$ 192,062</u>	<u>\$ 283,009</u>	<u>\$ 475,071</u>

6. PROPERTY AND EQUIPMENT, NET

Property and equipment consists of the following:

	<u>Girls School</u>	<u>Boys School</u>	<u>Total</u>
Land	\$ 110,000	\$ 110,000	\$ 220,000
Building and Improvements	7,807,435	7,924,216	15,731,651
Furniture and Equipment	<u>869,782</u>	<u>933,607</u>	<u>1,803,389</u>
Total at Cost	8,787,217	8,967,823	17,755,040
Less Accumulated Depreciation	<u>(3,710,085)</u>	<u>(3,764,403)</u>	<u>(7,474,488)</u>
Property and Equipment, Net	<u>\$ 5,077,132</u>	<u>\$ 5,203,420</u>	<u>\$ 10,280,552</u>

Depreciation expense was \$275,064 and \$263,591 for the Girls and Boys School, respectively, for the year ended June 30, 2021.

7. BONDED MORTGAGE PAYABLE

The Schools' facilities are jointly owned by the two Schools. The facilities were acquired through financing provided by the IDA in March 2008. The IDA issued taxable and tax-exempt Civic Facility Revenue Bonds totaling \$18,490,000 to acquire and renovate the facilities of the two Schools. The Schools acquired the facilities from the IDA through an installment sale agreement which provides for the Schools to make installment purchase payments in amounts sufficient to pay the principal and interest on the bonds when due. Under the installment sale agreement, each School is jointly and severally obligated to make the installment purchase payments. The installment sale agreement is collateralized by a first mortgage lien and security interest in the land, buildings and equipment of the Schools' facilities.

BRIGHTER CHOICE ELEMENTARY CHARTER SCHOOLS*NOTES TO FINANCIAL STATEMENTS (CONTINUED)**JUNE 30, 2021***7. BONDED MORTGAGE PAYABLE (CONTINUED)**

Each of the Schools initially recorded 50% of the total cost of the facilities' acquisition and renovation as well as 50% of the installment purchase agreement liability.

Maturities, remaining principal amounts, and interest rates of the bonds (and underlying installment purchase agreement), as allocated to each School, are as follows:

	<u>Girls Total</u>	<u>Boys Total</u>	<u>Total</u>
5.00% Term Bond, Series 2007A due April 1, 2027	\$ 1,957,500	\$ 1,957,500	\$ 3,915,000
5.00% Term Bond, Series 2007A due April 1, 2032	2,127,500	2,127,500	4,255,000
5.00% Term Bond, Series 2007B due April 1, 2037	<u>2,712,500</u>	<u>2,712,500</u>	<u>5,425,000</u>
Total Bonded Mortgage Payable	6,797,500	6,797,500	13,595,000
Current Portion of Bonded Mortgage Payable	(287,500)	(287,500)	(575,000)
Bonded Mortgage Premium - Net	62,536	62,536	125,072
Deferred Financing Costs - Net	<u>(196,204)</u>	<u>(196,204)</u>	<u>(392,408)</u>
Bonded Mortgage Payable - Long Term	<u>\$ 6,376,332</u>	<u>\$ 6,376,332</u>	<u>\$12,752,664</u>

The following is a summary of maturing debt service requirements for the fiscal year ending June 30, 2021:

	<u>Girls School</u>	<u>Boys School</u>	<u>Total</u>
2022	\$ 287,500	\$ 287,500	\$ 575,000
2023	302,500	302,500	605,000
2024	317,500	317,500	635,000
2025	332,500	332,500	665,000
2026	350,000	350,000	700,000
Thereafter	<u>5,207,500</u>	<u>5,207,500</u>	<u>10,415,000</u>
	<u>\$ 6,797,500</u>	<u>\$ 6,797,500</u>	<u>\$ 13,595,000</u>

Total interest was \$352,160 and \$352,160 for the Girls and Boys School, respectively, for the year ended June 30, 2021.

BRIGHTER CHOICE ELEMENTARY CHARTER SCHOOLS

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

JUNE 30, 2021

7. BONDED MORTGAGE PAYABLE (CONTINUED)

Net deferred financing costs consist of bond closing costs incurred in connection with tax-exempt and taxable Civic Facility Revenue Bonds issued by the IDA. Bond closing costs are being amortized using the straight-line method over the term of the obligation. Net deferred financing costs consist of the following:

	<u>Girls School</u>	<u>Boys School</u>	<u>Total</u>
Bond Closing Costs	\$ 373,702	\$ 373,702	\$ 747,404
Less: Accumulated Amortization	<u>(177,498)</u>	<u>(177,498)</u>	<u>(354,996)</u>
Net Deferred Financing Costs	<u>\$ 196,204</u>	<u>\$ 196,204</u>	<u>\$ 392,408</u>
Amortization Expense	<u>\$ 12,456</u>	<u>\$ 12,456</u>	<u>\$ 24,912</u>

Bond premiums received in connection with tax-exempt and taxable Civic Facility Revenue Bonds issued by the IDA are amortized using the effective interest method over the term of the obligation.

Premium amortization charged to operations as a reduction of interest expense was \$14,766 for the year ended June 30, 2021.

The Schools are subject to debt covenants which are calculated using information aggregated from both Schools. The covenants are as follows:

	<u>Minimum Requirement</u>	<u>Actual</u>
Debt Service Coverage Ratio	1.10	
Days Cash on Hand	20	

The debt service coverage ratio is calculated as follows:

Increase in Net Assets	\$ 1,155,073	
Add Back: Interest Expense	704,320	
Depreciation	<u>538,655</u>	
Net Revenues Available for Debt Service	<u>\$ 2,398,048</u>	
Debt Service Payments		
Interest Expense	\$ 704,320	
Principal	<u>545,000</u>	
Total Current Debt Service	<u>\$ 1,249,320</u>	
Net Revenues Available for Debt Service	<u>\$ 2,398,048</u>	= <u>1.92</u>
Total Current Debt Service	<u>\$ 1,249,320</u>	

BRIGHTER CHOICE ELEMENTARY CHARTER SCHOOLS

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

JUNE 30, 2021

7. BONDED MORTGAGE PAYABLE (CONTINUED)

The days cash on hand is calculated as follows:

Total Expenses	\$ 8,762,420	
Less: Depreciation	(538,655)	
Net Amortization	<u>(10,146)</u>	
Net Expenses	8,213,619	
Days	<u>365</u>	
Cash Used Per Day	<u>\$ 22,503</u>	
Cash at Year End	\$ 5,211,502	= <u>232</u>
Cash Used Per Day	\$ 22,503	

8. PPP LOAN FORGIVENESS

The Paycheck Protection Program (PPP) provides 100% federally guaranteed loans to small businesses, designed to help small businesses keep workers employed amid the pandemic and economic shutdown. The loan may be forgiven if the borrower maintains their payroll during the crisis or restores their payroll afterwards and uses the funds to cover payroll, certain payroll related costs, rent, and utilities during a twenty-four week period after receiving the loan, as outlined in the PPP. The Schools applied for PPP loans and received \$429,300 for the Girls School and \$452,000 for the Boys School. The loans were fully forgiven and consequently they are reported as other income for the year ended June 30, 2021.

9. EMPLOYEE RETIREMENT PLAN

The Schools have a 403(b) tax-deferred annuity retirement plans, which are funded by contributions from both the Schools and its employees. The Schools' contribution ranges from 2% to 6% of eligible employees' salaries based on years of service. Retirement plan expense was \$88,875 and \$88,300 for the Girls and Boys School, respectively, for the year ended June 30, 2021.

10. COMMITMENTS AND CONTINGENCIES

The Schools maintain cash balances in a financial institution located in the northeast. Accounts at this institution are insured, up to certain limits, by the Federal Deposit Insurance Corporation (FDIC). At June 30, 2021, the Schools have bank deposits of approximately \$4.7 million in excess of amounts insured by the FDIC.

In the normal course of business, the Schools are, from time to time, subject to allegations that may or do result in litigation. The Schools have general liability insurance to cover potential claims. Based upon the advice of counsel, it is the opinion of management that any liability that may arise from such actions would not result in losses that would materially affect the financial position of the Schools or their change in net assets.

BRIGHTER CHOICE ELEMENTARY CHARTER SCHOOLS

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

JUNE 30, 2021

10. COMMITMENTS AND CONTINGENCIES (CONTINUED)

The Schools are subject to audits and reviews of reimbursable costs by various governmental agencies. The outcome of the audits and reviews may have the effect of retroactively increasing or decreasing revenue from various sources. These changes, if any, will be recognized in accordance with the rules and guidelines established by the various funding sources.

11. CONCENTRATION OF RISK

The Schools receive a substantial portion of their funding from school districts where the Schools' students reside as well as federal funding sources. One school district constituted approximately 65% of total revenue and support for the year ended June 30, 2021 (71% at June 30, 2020).

12. LIQUIDITY

The Schools' liquidity management policy is to structure its financial assets to be available as its general expenditures, liabilities and other obligations come due.

The Schools have financial assets available within one year of the statement of financial position date to meet cash needs for general expenditures, liabilities and other obligations of:

Cash	\$ 5,211,502
Contracts and Grants Receivable	<u>475,071</u>
Financial Assets Available to Meet Cash Needs within One Year	<u>\$ 5,686,573</u>

None of the financial assets are subject to donor or other contractual restrictions that make them unavailable for general expenditure within one year of the statement of financial position date.

13. UNCERTAINTY

The United States is presently in the midst of a national health emergency related to a virus commonly known as Novel Coronavirus (COVID-19). The overall consequences of COVID-19 on a national, regional, and local level are unknown, but it has the potential to result in a significant economic impact. The impact of this situation on the School and its future financial position and results of operations is not presently determinable.

**ADDITIONAL REPORTS REQUIRED BY
GOVERNMENT AUDITING STANDARDS
AND THE UNIFORM GUIDANCE**

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NEW YORK STATE SOCIETY OF
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**INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER
FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS
BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED
IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS***

To the Board of Trustees of
Brighter Choice Elementary Charter Schools
Albany, New York

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of Brighter Choice Elementary Charter Schools (a nonprofit organization), which comprise the statement of financial position as of June 30, 2021, and the related statements of activities, cash flows and functional expenses for the year then ended, and the related notes to the financial statements, and have issued our report thereon dated October 26, 2021.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered Brighter Choice Elementary Charter Schools' internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Schools' internal control. Accordingly, we do not express an opinion on the effectiveness of the Schools' internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. *A significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether Brighter Choice Elementary Charter Schools' financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Schools' internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Schools' internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

A handwritten signature in black ink that reads "Cusack & Company, CPA's LLC". The signature is written in a cursive, flowing style.

CUSACK & COMPANY, CPA'S LLC

Latham, New York
October 26, 2021

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**INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE FOR EACH MAJOR
FEDERAL PROGRAM AND ON INTERNAL CONTROL OVER
COMPLIANCE REQUIRED BY THE UNIFORM GUIDANCE**

To the Board of Trustees
Brighter Choice Elementary Charter Schools
Albany, New York

Report on Compliance for Each Major Federal Program

We have audited Brighter Choice Elementary Charter Schools' compliance with the types of compliance requirements described in the *OMB Compliance Supplement* that could have a direct and material effect on Brighter Choice Elementary Charter Schools' major federal programs for the year ended June 30, 2021. Brighter Choice Elementary Charter Schools' major federal programs are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs.

Management's Responsibility

Management is responsible for compliance with the federal statutes, regulations, and the terms and conditions of its federal awards applicable to its federal programs.

Auditor's Responsibility

Our responsibility is to express an opinion on compliance for each of Brighter Choice Elementary Charter Schools' major federal programs based on our audit of the types of compliance requirements referred to above. We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the audit requirements of Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Those standards and the Uniform Guidance require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about Brighter Choice Elementary Charter Schools' compliance with those requirements and performing such other procedures as we considered necessary in the circumstances.

We believe that our audit provides a reasonable basis for our opinion on compliance for each major federal program. However, our audit does not provide a legal determination of Brighter Choice Elementary Charter Schools' compliance.

Opinion on Each Major Federal Program

In our opinion, Brighter Choice Elementary Charter Schools complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on its major federal programs for the year ended June 30, 2021.

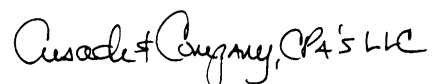
Report on Internal Control Over Compliance

Management of Brighter Choice Elementary Charter Schools is responsible for establishing and maintaining effective internal control over compliance with the types of compliance requirements referred to above. In planning and performing our audit of compliance, we considered Brighter Choice Elementary Charter Schools' internal control over compliance with the types of requirements that could have a direct and material effect on each major federal program to determine the auditing procedures that are appropriate in the circumstances for the purpose of expressing an opinion on compliance for each major federal program and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of Brighter Choice Elementary Charter Schools' internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a compliance requirement of a federal program on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.



CUSACK & COMPANY, CPA'S LLC

Latham, New York
October 26, 2021

BRIGHTER CHOICE ELEMENTARY CHARTER SCHOOLS

SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS

JUNE 30, 2021

<u>Federal CFDA Number</u>	<u>Pass Through Identifying Number Girls School</u>	<u>Pass Through Identifying Number Boys School</u>	<u>Passed Through to Subrecipients</u>	<u>Girls School</u>	<u>Boys School</u>	<u>Total Federal Expenditures</u>	
<u>Federal Grantor/Pass-Through Grantor/Program or Cluster Title</u>							
<u>US Department of Agriculture</u>							
Passed Through NYS Education Department							
Child Nutrition Cluster							
School Breakfast Program	10.553	N/A	N/A	\$ -	\$ 30,137	\$ 35,824	\$ 65,961
National School Lunch Program	10.555	N/A	N/A	<u>-</u>	<u>78,655</u>	<u>81,511</u>	<u>160,166</u>
Total US Department of Agriculture				<u>-</u>	<u>108,792</u>	<u>117,335</u>	<u>226,127</u>
<u>US Department of Education</u>							
Passed Through NYS Education Department							
ESEA Title I, Basic Grant	84.010A	0021-21-4015	0021-21-4010	-	119,073	122,830	241,903
Title II A, Improving Teacher Quality	84.367A	0147-21-4015	0147-21-4010	-	19,244	19,762	39,006
Title IV, Student Support and Enrichment	84.424A	0204-21-4015	0204-21-4010	-	10,000	10,000	20,000
Education Stabilization Fund Under the Coronavirus Aid, Relief and Economic Security Act - Elementary and Secondary School Emergency Relief Fund (ESSER) (COVID-19)	84.425D	5890-21-4015	5890-21-4010	<u>-</u>	<u>109,123</u>	<u>114,649</u>	<u>223,772</u>
Total US Department of Education				<u>-</u>	<u>257,440</u>	<u>267,241</u>	<u>524,681</u>
Total Federal Assistance				<u>\$ -</u>	<u>\$ 366,232</u>	<u>\$ 384,576</u>	<u>\$ 750,808</u>

BRIGHTER CHOICE ELEMENTARY CHARTER SCHOOLS
NOTES TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE YEAR ENDED JUNE 30, 2021

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

General

The accompanying Schedule of Expenditures of Federal Awards presents all activity of all federal award programs of Brighter Choice Elementary Charter Schools. All federal awards received directly from federal agencies, as well as federal awards passed through from other governmental agencies, are included in the schedule. The information is presented in accordance with the requirements of the Uniform Guidance.

Basis of Accounting

The accompanying Schedule of Expenditures of Federal Awards is presented using the accrual basis of accounting, which is described in the notes to Brighter Choice Elementary Charter Schools' financial statements.

2. SCOPE OF THE AUDIT PURSUANT TO THE UNIFORM GUIDANCE

Brighter Choice Elementary Charter Schools is a tax-exempt organization. All federal grant operations of Brighter Choice Elementary Charter Schools are included in the scope of the Single Audit.

3. INDIRECT COST RATE

Brighter Choice Elementary Charter Schools did not elect to use the 10% de minimis indirect cost rate.

4. SUBRECIPIENTS

Brighter Choice Elementary Charter Schools did not have any subrecipients.

5. LOANS AND LOAN GUARANTEES

Brighter Choice Elementary Charter Schools did not receive any federal assistance in the form of loans or loan guarantees.

BRIGHTER CHOICE ELEMENTARY CHARTER SCHOOLS

**SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED DECEMBER 31, 2020**

SECTION I — SUMMARY OF AUDITOR'S RESULTS

Financial Statements

Type of auditor's report issued: Unmodified

Internal control over financial reporting:

- Material weakness(es) identified? Yes X No
- Significant deficiency(ies) identified? Yes X None reported
- Noncompliance material to financial statements noted? Yes X No

Federal Awards

Internal control over major programs:

- Material weakness(es) identified? Yes X No
- Significant deficiency(ies) identified? Yes X None reported

Type of auditor's report issued on compliance for major programs: Unmodified

Any audit findings disclosed that are required to be reported in accordance with section 2 CFR §200.516(a)? Yes X No

Identification of major programs:

CFDA Number(s)

84.010A

84.425D

Name of Federal Program or Clusters

ESEA Title I, Basic Grant

Elementary and Secondary School Emergency Relief Fund
(ESSER) (COVID-19)

Dollar threshold used to distinguish between type A and type B programs: \$ 750,000

Auditee qualified as low-risk auditee? Yes X No

Section II - Financial Statement Findings

There were no current year recommendations.

Section III - Federal Award Findings and Questioned Costs

No findings or matters were reported.

Section IV - Resolution of Prior Year Audit Findings

N/A

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APPENDIX D

DEFINITIONS AND SUMMARIES OF CERTAIN PROVISIONS OF INDENTURE, LOAN AGREEMENT, PLEDGE AND ASSIGNMENT, MORTGAGE, MORTGAGE ASSIGNMENT, ASSIGNMENT OF RENTS AND ASSIGNMENT OF RENTS ASSIGNMENT

DEFINITIONS

The following terms have the meanings stated herein when used in this Appendix and the documents summarized below:

“Account” means, with respect to any Series of Bonds, an account created within any Fund designated and created pursuant to Section 401 of the Indenture.

“Accountant” means an independent certified public accountant or a firm of independent certified public accountants licensed to practice in the State (which may be the firm of accountants who regularly audit the books and accounts of the Institution) from time to time selected by the Institution.

“Act” means the Enabling Act.

“Additional Bonds” means any bonds issued by the Issuer pursuant to Section 214 of the Indenture.

“Additional Equipment” means, in connection with any Additional Project, any additional materials, machinery, equipment, fixtures or furnishings intended to be acquired with the proceeds of a related Series of Additional Bonds, or intended to be acquired with any payment which the Institution incurred in anticipation of the issuance of such Series of Additional Bonds and for which the Institution will be reimbursed from the proceeds of such Series of Additional Bonds, and such substitutions and replacements therefor and additions thereto as may be made from time to time pursuant to the Loan Agreement.

“Additional Facility” means, in connection with any Additional Project, any buildings, improvements, structures, and other related facilities (A) located on the Land or the Additional Land, (B) financed or refinanced with the proceeds of the sale of a Series of Additional Bonds or any payment made by the Institution pursuant to Section 3.5 of the Loan Agreement or any payment which the Institution incurred in anticipation of the issuance of such Series of Additional Bonds and for which the Institution will be reimbursed from the proceeds of such Series of Additional Bonds, and (C) not constituting a part of the Additional Equipment, all as they may exist from time to time.

“Additional Indebtedness” means, with respect to an Institution, (a) all indebtedness, whether or not represented by bonds, debentures, notes or other securities, for the repayment of money borrowed, (b) all deferred indebtedness for the payment of the purchase price of property or assets purchased, including, without limitation, capitalized leases, (c) all guaranties, endorsements, assumptions and other contingent obligations in respect of, or to purchase or otherwise acquire, indebtedness of others, and (d) all indebtedness secured by any mortgage, pledge or Lien existing on property owned, subject to such mortgage, pledge or Lien, whether or not indebtedness secured thereby shall have been assumed. In computing the amount of Additional Indebtedness at any time there shall be excluded (a) any operating leases, (b) all indebtedness subordinate to the Bonds and (c) any particular item of indebtedness if before the maturity thereof there shall have been deposited with the lender, creditor, trustee or other proper

depository the necessary funds (or evidences of such Additional Indebtedness) for the payment, redemption or satisfaction of such item of Additional Indebtedness (and such funds or evidences of such Additional Indebtedness shall thereafter be excluded from any computation of the assets of an Institution).

“Additional Land” means, with respect to any Series of Additional Bonds, any real estate which will be the site of an Additional Project Facility intended to be financed with the proceeds of such Series of Additional Bonds.

“Additional Parity Indebtedness” means mean any Additional Indebtedness intended to be secured on a parity basis as to payment with the Bonds and sharing in a parity lien of the Mortgage on the Mortgaged Property and the terms of which, including, without limitation, principal and interest payment dates, shall be satisfactory to the Trustee.

“Additional Project” means the purposes for which any Series of Additional Bonds may be issued.

“Additional Project Facility” means any Additional Land, Additional Facility or Additional Equipment acquired by the Issuer in connection with the issuance of any Series of Additional Bonds.

“Annual Debt Service” means, for any Fiscal Year, and subject to the provisions of the Indenture and the Loan Agreement, the amount required to pay the interest and principal for Long-Term Indebtedness (including lease rentals under capitalized leases) in such Fiscal Year, excluding “funded interest” from the proceeds of the Bonds and excluding interest earnings on the Debt Service Reserve Fund at the then current interest rate per annum, to be determined on the assumption that the Bonds will be retired at the stated maturities thereon except those Bonds which are required by the Indenture to be redeemed prior to their stated maturities from sinking fund payments by the Facility Owner is required, by the Loan Agreement and the Indenture, to make for such purpose, which Bonds will be assumed to be retired on their respective scheduled mandatory redemption dates.

“Applicable Laws” means all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all Governmental Authorities, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to or affect the Project Facility or any part thereof or the conduct of work on the Project Facility or any part thereof or to the operation, use, manner of use or condition of the Project Facility or any part thereof (the applicability of such statutes, codes, laws, acts, ordinances, orders, rules, regulations, directions and requirements to be determined both as if the Issuer were the owner of the Project Facility and as if the Institution and not the Issuer were the owner of the Project Facility), including but not limited to (1) applicable building, zoning, environmental, planning and subdivision laws, ordinances, rules and regulations of Governmental Authorities having jurisdiction over the Project Facility, (2) restrictions, conditions or other requirements applicable to any permits, licenses or other governmental authorizations issued with respect to the foregoing, and (3) judgments, decrees or injunctions issued by any court or other judicial or quasi-judicial Governmental Authority.

“Arbitrage Certificate” means (A) with respect to the Series 2021A Bonds, the Initial Arbitrage Certificate and (B) with respect to any Series of Additional Bonds intended to be issued as Tax-Exempt Bonds, any similar document executed by the Issuer in connection with the issuance and sale of such Series of Additional Bonds.

“Assignment of Rents” means the assignment of rents and leases dated as of November 1, 2021 from the Institution to the Issuer, which, among other things, assigns to the Issuer (a) the rents, issues and profits of the Project Facility and (b) all leases, subleases, licenses or occupancy agreements affecting the Project Facility, as said assignment of rents and leases may be amended or supplemented from time to time.

“Assignment of Rents Assignment” means the assignment of assignment of rents and leases dated as of November 1, 2021 from the Issuer to the Trustee, which, among other things, assigns to the Trustee (a) the rents, issues and profits of the Project Facility and (b) all leases, subleases, licenses or occupancy agreements affecting the Project Facility, as said assignment of rents and leases may be amended or supplemented from time to time.

“Authorized Denominations” means: (A) with respect to the Initial Bonds, \$5,000 and any integral multiple of \$5,000 in excess thereof, except that, if as a result of a redemption, partially redeemed Initial Bonds cannot be issued in such denominations, such partially redeemed Initial Bonds shall be reissued in such other denominations to the extent required to effect such redemption; and (B) with respect to any Series of Additional Bonds, the authorized denominations for such Series of Additional Bonds as set forth in the supplemental indenture relating thereto.

“Authorized Investments” means any of the following: (A) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury, and CATS and TIGRS) or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America; (B) bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself): (1) U.S. Export-Import Bank (“Eximbank”), (2) Farmers Home Administration (“FmHA”), (3) Federal Financing Bank, (4) Federal Housing Administration Debentures (“FHA”), (5) General Services Administration, (6) Government National Mortgage Association (“GNMA” or “Ginnie Mae”), (7) U.S. Maritime Administration, and (8) U.S. Department of Housing and Urban Development (“HUD”); (C) bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities are only permitted if they have been stripped by the agency itself): (1) Federal Home Loan Bank System, (2) Federal Home Loan Mortgage Corporation (“FHLMC” or “Freddie Mac”), (3) Federal National Mortgage Association (“FNMA” or “Fannie Mae”), (4) Student Loan Marketing Association (“SLMA” or “Sallie Mae”), (5) Resolution Funding Corp. (“REFCORP”) obligations, and (6) Farm Credit System; (D) money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by Standard & Poor’s of “AAAm-G”, “AAA-m”; or “AA-m” and if rated by Moody’s rated “Aaa”, “Aa1” or “Aa2”; (E) certificates of deposit secured at all times by collateral described in (A) and/or (B) above. Such certificates must be issued by commercial banks, savings and loan associations or mutual savings banks. The collateral must be held by a third party and the bondholders must have a perfected first security interest in the collateral; (F) certificates of deposit, savings accounts, deposit accounts or money market deposits which are fully insured by FDIC, including BIF and SAIF; (G) investment agreements, including GIC’s, Forward Purchase Agreements and Reserve Fund Put Agreements acceptable to the Trustee; (H) commercial paper rated, at the time of purchase, “Prime - 1” by Moody’s and “A-1” or better by Standard & Poor’s; (I) bonds or notes issued by any state or municipality which are rated by Moody’s and Standard & Poor’s in one of the two highest rating categories assigned by such agencies; (J) federal funds or bankers acceptances with a maximum term of one year of any bank which has an unsecured, uninsured and unguaranteed obligation rating of “Prime - 1” or “A3” or better by Moody’s and “A-1” or “A” or better by Standard & Poor’s; and (K) repurchase agreements for 30 days or less must follow the following criteria. The criteria is described as follows: (1) Repos must be between the municipal entity and a dealer bank or securities firm (a) primary dealers on the Federal Reserve reporting dealer list which are rated A or better by Standard & Poor’s Corporation and Moody’s Investor Services, or (b) banks rated “A” or above by Standard & Poor’s Corporation and Moody’s Investor Services; (2) the written repo contract must include the following: (a) securities which are acceptable for transfer are: (i) direct U.S. governments, or (ii) Federal agencies backed by the full faith and credit of the U.S. government (and FNMA & FHLMC), (b) the term of the repo may be up to 30 days, (c) the collateral must be delivered to the municipal entity, trustee (if trustee is not

supplying the collateral) or third party acting as agent for the trustee (if the trustee is supplying the collateral) before/simultaneous with payment (perfection by possession of certificated securities), (d) valuation of collateral - the securities must be valued weekly, marked-to-market at current market price plus accrued interest. The value of collateral must be equal to 104% of the amount of cash transferred by the municipal entity to the dealer bank or security firm under the repo plus accrued interest. If the value of securities held as collateral slips below 104% of the value of the cash transferred by municipality, then additional cash and/or acceptable securities must be transferred. If, however, the securities used as collateral are FNMA or FHLMC, then the value of collateral must equal 105%, and (3) legal opinion which must be delivered to the municipal entity: (a) repo meets guidelines under state law for legal investment of public funds.

“Authorized Representative” means the Person or Persons at the time designated to act on behalf of the Issuer or the Institution, as the case may be, by written certificate furnished to the Trustee containing the specimen signature of each such Person and signed on behalf of (A) the Issuer by its Chairperson or Vice-Chairperson, or such other person as may be authorized by resolution of the Issuer to act on behalf of the Issuer, (B) the Institution by its Chief Executive Officer or Chief Financial Officer, or such other person as may be authorized by the board of trustees of the Institution to act on behalf of the Institution and (C) the Trustee by any Vice President, Assistant Vice President or Trust Officer, or such other person as may be authorized by the board of directors of the Trustee to act on behalf of the Trustee.

“Available Cash Balance” means the sum of an Institution’s cash, investments and unused and available line(s) of credit available for short term operating purposes.

“Available Moneys” means any moneys on deposit with the Trustee for the benefit of the Bondholders which are (A) proceeds of the Bonds, or of any bonds issued for the purpose of refunding the Bonds, (B) amounts on deposit for a period of 124 consecutive days during which no petition in bankruptcy under the Bankruptcy Code has been filed against the entity which paid such money, and no similar proceedings have been instituted under state insolvency or other laws affecting creditors' rights generally, or (C) any moneys with respect to which an unqualified opinion from nationally recognized counsel has been received stating that such payments to Bondholders would not constitute voidable preferences under Section 547 of the Bankruptcy Code, or similar state or federal laws with voidable preferences in the event of the filing of a petition for relief under the Bankruptcy Code, or similar state or federal laws with voidable preference provisions by or against the entity from which the money is received.

“Bankruptcy Code” means the United States Bankruptcy Code, constituting Title 11 of the United States Code, as amended from time to time, and any successor statute.

“Beneficial Owner” means, with respect to a Bond, a Person owning a Beneficial Ownership Interest therein, as evidenced to the satisfaction of the Trustee.

“Beneficial Ownership Interest” means the beneficial right to receive payments and notices with respect to the Bonds which are held by the Depository under a Book Entry System.

“Bond” or “Bonds” means, collectively, (A) the Initial Bonds and (B) any Additional Bonds.

“Bond Counsel” means the law firm of Hodgson Russ LLP, Albany, New York or such other attorney or firm of attorneys located in the State whose experience in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and who are acceptable to the Issuer.

“Bond Fund” means the fund so designated established pursuant to Section 401(A)(3) of the Indenture.

“Bondholder” or “Holder” or “Owner of the Bonds” means the registered owner of any Bond, as indicated on the Bond Register maintained by the Bond Registrar, except that wherever appropriate the term “Owners” shall mean the owners of the Bonds for federal income tax purposes.

“Bond Payment Date” means each Interest Payment Date and each date on which principal or interest or premium, if any, or a Sinking Fund Payment, shall be payable on the Bonds according to their terms and the terms of the Indenture, including without limitation scheduled mandatory Redemption Dates, unscheduled mandatory Redemption Dates, dates of acceleration of the Bonds pursuant to Section 602 of the Indenture, optional Redemption Dates and Stated Maturity, so long as any Bonds shall be Outstanding.

“Bond Proceeds” means (A) with respect to the Initial Bonds, the proceeds of the sale of the Initial Bonds, including any accrued interest, paid to the Trustee on behalf of the Issuer by the Underwriter as the purchase price of the Initial Bonds, and (B) with respect to any Series of Additional Bonds, the proceeds of the sale of such Series of Additional Bonds, including any accrued interest, paid to the Trustee on behalf of the Issuer by the purchasers of such Series of Additional Bonds as the purchase price of such Series of Additional Bonds.

“Bond Purchase Agreement” means (A) with respect to the Initial Bonds, the Initial Bond Purchase Agreement, and (B) with respect to any Series of Additional Bonds, any similar document executed by the Issuer and/or the Institution in connection with the issuance and sale of such Series of Additional Bonds.

“Bond Register” means the register maintained by the Bond Registrar in which, subject to such reasonable regulations as the Issuer, the Trustee or the Bond Registrar may prescribe, shall provide for the registration of the Bonds and for the registration of transfers of the Bonds.

“Bond Registrar” means the Trustee, acting in its capacity as bond registrar under the Indenture, and its successors and assigns as bond registrar under the Indenture.

“Bond Resolution” means (A) with respect to the Initial Bonds, the Initial Bond Resolution and (B) with respect to any Series of Additional Bonds, any resolution adopted by the members of the board of directors of the Issuer authorizing the issuance of such Series of Additional Bonds.

“Bond Year” (A) with respect to the Initial Bonds, means each one (1) year period ending on the anniversary of the Closing Date relating to the Initial Bonds, or such other bond year as the Institution and the Issuer may select from time to time in a manner complying with the Code, and (B) with respect to any Series of Additional Bonds issued as Tax-Exempt Bonds, shall have the meaning set forth in the supplemental indenture related to such Series of Additional Bonds.

“Book Entry Bonds” means Bonds held in Book Entry Form with respect to which the provisions of Section 213 of the Indenture shall apply.

“Book Entry Form” or “Book Entry System” means, with respect to the Bonds, a form or system, as applicable, under which (A) the Beneficial Ownership Interests may be transferred only through a book entry and (B) physical Bond certificates in fully registered form are registered only in the name of a Depository or its nominee as Bondholder, with the physical Bond certificates “immobilized” in the custody of the Depository or a custodian on behalf of the Depository. The Book Entry System which is maintained by and the responsibility of the Depository (and which is not maintained by or the responsibility of the

Issuer or the Trustee) is the record that identifies, and records the transfer of the interests of, the Owners of book entry interests in the Bonds.

“Business Day” means any day of the year other than (A) a Saturday or Sunday, (B) a day on which the New York Stock Exchange is closed or (C) a day on which commercial banks in New York, New York, or the city or cities in which the Office of the Trustee is located, are authorized or required by law, regulation or executive order to close.

“Certificate of Authentication” means the certificate of authentication in substantially the form attached to the form of the Initial Bonds attached as Schedule I to the Indenture.

“Charter Schools Act” means Article 56 of the Education Law of the State, as amended, and any regulations now or at any time promulgated thereunder.

“Closing Date” means (A) with respect to the Initial Bonds, the date on which authenticated Initial Bonds are delivered to or upon the order of the Underwriter and payment is received therefor by the Trustee on behalf of the Issuer, and (B) with respect to any Series of Additional Bonds, the date on which such Additional Bonds of such Series are authenticated and delivered to the purchaser thereof and payment therefor is received by the Trustee on behalf of the Issuer.

“Code” means the Internal Revenue Code of 1986, as amended, including, when appropriate, the statutory predecessor of said Code, and the applicable regulations (whether proposed, temporary or final) of the United States Treasury Department promulgated under said Code and the statutory predecessor of said Code, and any official rulings and judicial determinations under the foregoing applicable to the Bonds.

“Completion Date” means, with respect to any Additional Project, the date of substantial completion of the undertaking of such Additional Project, as evidenced in the manner provided in Section 3.4 of the Loan Agreement.

“Condemnation” means the taking of title to, or the use of, Property under the exercise of the power of eminent domain by any Governmental Authority.

“Construction Period” means, with respect to any Additional Project, the period (A) beginning on the earlier of the Inducement Date or the Official Action Date relating thereto and (B) ending on the Completion Date relating thereto.

“Continuing Disclosure Agreement” means (A) with respect to the Initial Bonds, the Initial Continuing Disclosure Agreement and (B) with respect to any Series of Additional Bonds, any similar document executed by the Institution in connection with the issuance of such Series of Additional Bonds.

“Cost of the Project” means (A) with respect to the Initial Project, all those costs and items of expense relating thereto enumerated in Section 3.3(A) of the Loan Agreement incurred subsequent to the Inducement Date, including costs which the Institution incurred prior to the Inducement Date with respect to the Initial Project in anticipation of the issuance of the Initial Bonds and for which the Institution may be reimbursed from proceeds of the Initial Bonds pursuant to the provisions of the Initial Tax Regulatory Agreement, and (B) with respect to any Additional Project, all those costs and items of expense relating thereto enumerated in Section 3.3 of the Loan Agreement, including costs which the Institution incurred with respect to such Additional Project in anticipation of the issuance of the related Series of Additional Bonds and for which the Institution will be reimbursed from proceeds of the related Series of Additional Bonds.

“Custodian” means Manufacturers and Traders Trust Company, a banking corporation organized and existing under the laws of the State, together with its successors and any corporation resulting from or surviving any consolidation or merger to which it may be a party and any successor custodian at the time serving as successor custodian under the Custody Agreement.

“Custody Agreement” means the custody agreement dated as of November 1, 2021 by and among the Institution, the Custodian and the Trustee, as said custody agreement may be amended or supplemented from time to time.

“Custody Agreement Notice” means the notice prepared by the Trustee in accordance with the provisions of Section 410 of the Indenture.

“Days Cash on Hand” means, for any Fiscal Year of an Institution, the number of days determined by dividing the product of Available Cash Balance and three hundred sixty-five (365) by Operating Expenses for such Fiscal Year.

“Days Cash on Hand Requirement” has the meaning assigned to such term in Section 8.20 of the Loan Agreement.

“Debt Service Coverage Ratio” has the meaning assigned to such term in Section 8.19 of the Loan Agreement.

“Debt Service Payment” means, with respect to any Bond Payment Date, (A) the interest payable on the Bonds on such Bond Payment Date, plus (B) the principal, if any, payable on the Bonds on such Bond Payment Date, plus (C) the premium, if any, payable on the Bonds on such Bond Payment Date, plus (D) the Sinking Fund Payments, if any, payable on the Bonds on such Bond Payment Date.

“Default Interest Rate” means the rate of interest equal to nine percent (9%) per annum, or the maximum permitted by law, whichever is less.

“Defaulted Payment” shall have the meaning ascribed to such term in Section 207(C) of the Indenture.

“Defeasance Cash Deposit” means an amount certified by the Verification Agent in the Verification Report as the cash deposit needed to be made by the Institution with the Prior Trustee so that the Defeasance Cash Deposit shall equal the Defeasance Escrow Deposit.

“Defeasance Escrow Agreement” means the defeasance escrow agreement dated as of November 1, 2021 by and among the Issuer, the Prior Issuer, the Institution, the Prior Trustee and the Escrow Agent, pursuant to which, among other things, an escrow deposit will be made with the Prior Trustee, in an amount sufficient to enable the Prior Trustee to defease the Prior Bonds to be refunded.

“Defeasance Escrow Deposit” means an amount of Defeasance Obligations acquired and the Defeasance Cash Deposit in an amount equal to the amount certified by the Verification Agent in the Verification Report pursuant to the provisions of Section 1001 of the Prior Indenture as the amount of Defeasance Obligations needed to be on deposit with the Prior Trustee sufficient to enable the Prior Trustee to redeem the Prior Bonds to be refunded (i.e., an amount sufficient, without the need for future investment or reinvestment, but including any scheduled interest on or increment to such obligations, to pay when due the principal, premium, if any, and interest due and to become due on such Prior Bonds on and prior to date that such Prior Bonds shall be redeemed).

“Defeasance Obligations” means (A) cash, or (B) direct obligations of the United States of America or of any agency or instrumentality thereof when such obligations are backed by the full faith and credit of the United States, including, but not limited to, United States Treasury obligations.

“Depository” means, initially, The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State, or its nominee, or any other securities depository designated in any supplemental resolution of the Issuer to serve as securities depository for the Bonds that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a Book Entry System to record ownership of book entry interests in Bonds, and to effect transfers of book entry interests in Book Entry Bonds.

“Depository Letter” means (A) with respect to the Initial Bonds, the Initial Depository Letter, and (B) with respect to any Series of Additional Bonds issued as Book Entry Bonds, any letter of representations by and among the Issuer, the Trustee and the Depository relating to such Series of Additional Bonds, and any amendments or supplements thereto entered into with respect thereto.

“Direct Participant” means a Participant as defined in the Depository Letter.

“Dissemination Agent” means Manufacturers and Traders Trust Company, a banking corporation organized and existing under the laws of the State of New York, or any successor dissemination agent or co-dissemination agent acting in such role under the Initial Continuing Disclosure Agreement.

“Education Aid” means, collectively, all New York State Education Department operating aid payments, state and federal disability aid payments and all other state and federal aid payments payable to the Institution pursuant to the New York State Education Law or federal law for the payment of operations of the Institution.

“Equipment” means, collectively, the Initial Equipment and any Additional Equipment.

“Enabling Act” means Section 1411 of the Not-For-Profit Corporation Law of the State of New York, as amended.

“Event of Default” means (A) with respect to the Indenture, any of those events defined as an Event of Default by the terms of Article VI of the Indenture, (B) with respect to the Loan Agreement, any of those events defined as an Event of Default by the terms of Article X of the Loan Agreement, and (C) with respect to any other Financing Document, any of those events defined as an Event of Default by the terms thereof.

“Event of Taxability” means, with respect to any Series of Tax-Exempt Bonds, (A) the enactment of a statute or promulgation of a regulation eliminating, in whole or in part, the applicable exemption, as such exists on the Closing Date, from gross income for federal income tax purposes for interest payable under such Series of Tax-Exempt Bonds, (B) a “final determination by decision or ruling by a duly constituted administrative authority” to the effect that such exemption for interest payable under such Series of Tax-Exempt Bonds is not available, is no longer available or is contrary to law, (C) the expiration of the right to further administrative review of any determination, decision or ruling to the effect that such exemption for interest payable under such Series of Tax-Exempt Bonds is not available, is no longer available or is contrary to law, or (D) receipt by the Trustee of a written opinion of Bond Counsel that there is no longer a basis for the Holders of such Series of Tax-Exempt Bonds (or any former Holder, other than a Holder who is or was a Substantial User of the Project Facility or a Related Person thereto) to claim that any interest paid and payable on such Series of Tax-Exempt Bonds is not excluded from gross income for federal income tax purposes. For the purposes of clause (B) above, a “final determination by decision or ruling by a duly constituted administrative authority” shall mean (1) the issuance of a ruling (including, but

not limited to, a revenue ruling or a letter ruling) by the IRS or any successor thereto, or (2) the issuance of a preliminary notice of proposed deficiency (“30-Day Letter”), a statutory notice of deficiency (“90-Day Letter”), or other written order or directive of similar force and effect by the IRS, or any other United States Governmental Authority having jurisdiction therein. Notwithstanding the foregoing, nothing in this definition of “Event of Taxability” shall be construed (x) to mean or include consideration of the interest payable on a Series of the Tax-Exempt Bonds for purposes of calculating the interest expense which may be deducted by a bank or other Financial Institution, or (y) to mean that the any Holder of such Series of the Tax-Exempt Bonds shall have any obligation to contest or appeal any assertion or decision that any interest payable under such Series of the Tax-Exempt Bonds is subject to taxation, or (z) to mean or include the imposition of an alternative minimum tax or preference tax or environmental tax or branch profits tax on any Holder of a Series of the Tax-Exempt Bonds, in the calculation of which is included the interest paid or payable under the Tax-Exempt Bonds.

“Excess Net Revenues” means Gross Revenues, less Operating Expenses, Annual Debt Service on Long-Term Indebtedness, payments on any capital leases, and any Debt Service Reserve Fund deficiency payments.

“Extraordinary Services” and “Extraordinary Expenses” means all reasonable services rendered and all reasonable expenses incurred by the Trustee or any paying agent under the Indenture, other than Ordinary Services and Ordinary Expenses, including, but not limited to, reasonable attorneys’ fees and any services rendered and any expenses incurred with respect to an Event of Default or with respect to the occurrence of an event which upon the giving of notice or the passage of time would ripen into an Event of Default under any of the Financing Documents.

“Facility” means the Initial Facility and any Additional Facilities.

“Final Maturity” means, with respect to any particular Bond, the final Stated Maturity of the principal due on such Bond, unless such Bond is called for redemption in whole prior to such date, in which case any such term shall mean the Redemption Date relating to such Bond.

“Financing Documents” means (A) with respect to the Initial Bonds, the Initial Financing Documents and (B) with respect to any Series of Additional Bonds, any similar documents executed by the Institution and/or the Issuer in connection with the issuance of such Series of Additional Bonds.

“Financing Statements” means any and all financing statements (including continuation statements) or other instruments filed or recorded from time to time to perfect the security interests created in the Financing Documents.

“Fund” means any Fund designated and created pursuant to Section 401 of the Indenture.

“GAAP” means generally accepted accounting principles in effect as of the Closing Date.

“Government Obligations” means (A) cash, (B) direct obligations of the United States of America, (C) obligations unconditionally guaranteed by the United States of America and (D) securities or receipts evidencing ownership interests in obligations or specified portions (such as principal or interest) of obligations described in (B) or (C).

“Governmental Authority” means the United States of America, the State, any political subdivision thereof, any other state and any agency, department, commission, board, bureau or instrumentality of any of them.

“Gross Bond Proceeds” means “gross proceeds” as defined in Section 148(f)(6)(B) of the Code, presently including, without limitation, the original proceeds of any Tax-Exempt Bonds, investment proceeds, amounts held in a sinking fund, amounts invested in a reasonably required reserve or replacement fund, certain investment-type property pledged as security for such Tax-Exempt Bonds by the Institution or by the Issuer, amounts received with respect to the Loan Agreement, any amounts used to pay Debt Service Payments on the Bonds, and any amounts received as a result of investing any of the foregoing.

“Gross Proceeds” means one hundred percent (100%) of the proceeds of the transaction with respect to which such term is used, including, but not limited to, the settlement of any insurance claim or Condemnation award.

“Gross Revenues” means, for any period of time for which calculated and regardless of the source, subject to the statutory provision prohibiting any pledge or assignment of Education Aid provided or to be provided to the Institution pursuant to Section 2853(3)(b) of the Charter Schools Act, all revenues, rentals, fees, third-party payments, receipts, donations, contributions or other income of the Institution, including accounts receivables or other rights to receive such revenues, determined in accordance with generally accepted accounting principles, consistently applied, including but not limited to Education Aid (subject to the statutory provision prohibiting any pledge or assignment of Education Aid provided or to be provided to the Institution pursuant to Section 2853(3)(b) of the Charter Schools Act) and other aid received by the Institution pursuant to federal or State law, requirements, grants or other programs, proceeds derived from insurance, condemnation proceeds, accounts, contract rights, including payment rights under chattel paper or an instrument, commercial tort claims, deposit accounts, investment property and other rights and assets, whether now or hereafter owned, held or possessed by the Institution; and all gifts, grants, bequests and contributions (including income and profits therefrom), all to the extent permitted by the terms thereof and by law, including but not limited to the statutory provision prohibiting any pledge or assignment of Education Aid provided or to be provided to the Institution pursuant to Section 2853(3)(b) of the Charter Schools Act.

“Holder” or “holder”, when used with respect to a Bond, means Bondholder.

“Immediate Notice” means notice transmitted through a time-sharing terminal, if operative as between any two parties, or if not operative, same-day notice by telephone, telecopy or telex, followed by prompt written confirmation sent by overnight delivery.

“Indebtedness” means (A) the payment of the Debt Service Payments on the Bonds according to their tenor and effect, (B) all other payments due from the Institution or the Issuer to the Trustee pursuant to any Financing Document, (C) the performance and observance by the Issuer and the Institution of all of the covenants, agreements, representations and warranties made for the benefit of the Trustee pursuant to any Financing Document, (D) the monetary obligations of the Institution to the Issuer and its members, directors, officers, agents, servants and employees under the Loan Agreement and the other Financing Documents, and (E) all interest, penalties and late charges accruing on any of the foregoing.

“Indemnified Parties” shall mean the Trustee, the Issuer, the Underwriter and the payee and holder of any Initial Bond.

“Indenture” means the trust indenture dated as of November 1, 2021 by and between the Issuer and the Trustee, as said trust indenture may be amended or supplemented from time to time.

“Independent” means, when used with respect to any Person, such a Person who (i) is independent in fact, (ii) does not have a direct financial interest or any material indirect financial interest in either

Institution, and (iii) is not connected with either Institution as an officer, employee, promoter or member of the governing body of either thereof.

“Independent Counsel” means an attorney or firm of attorneys duly admitted to practice law before the highest court of any state and not a full-time employee of the Institution or the Issuer.

“Independent Financial Consultant” means a firm (and not an individual) which (a) is not, and no member, stockholder, director, officer or employee of which is, an officer or employee of the Institution, (b) is a firm having the skill and experience necessary to render the particular report required by the provision of the Loan Agreement in which such requirement appears, and (c) is Independent.

“Indirect Participant” means a Person utilizing the Book Entry System of the Depository by, directly or indirectly, clearing through or maintaining a custodial relationship with a Direct Participant.

“Inducement Date” means (A) with respect to the Initial Project, the date which is sixty (60) days prior to the earlier of (1) September 23, 2021 or (2) the date on which the Institution declared its official intent to reimburse expenditures made with respect to the Initial Project with proceeds of borrowed money, and (B) with respect to any Additional Project, the date which is sixty (60) days prior to the earlier of (1) the date on which the Issuer adopts an inducement resolution with respect to such Additional Project or (2) the date on which the Institution declares its official intent to reimburse expenditures made with respect to such Additional Project with proceeds of borrowed money.

“Initial Arbitrage Certificate” means the certificate dated the Closing Date for the Series 2021A Bonds executed by the Issuer and relating to certain requirements set forth in Section 148 of the Code applicable to the Series 2021A Bonds and the Initial Project.

“Initial Bond Purchase Agreement” means the bond purchase agreement dated November 10, 2021 by and among the Underwriter, the Issuer and the Institution relating to the purchase of the Initial Bonds by the Underwriter, as said bond purchase agreement may be amended or supplemented from time to time.

“Initial Bond Resolution” means the resolution of the members of the board of directors of the Issuer duly adopted on October 21, 2021 authorizing the Issuer to undertake the Initial Project, to issue and sell the Initial Bonds and to execute and deliver the Initial Financing Documents to which the Issuer is a party.

“Initial Bonds” means, collectively, the Series 2021A Bonds and the Series 2021B Bonds.

“Initial Continuing Disclosure Agreement” means the continuing disclosure agreement dated as of November 1, 2021 by and among the Institution, the Trustee and the Dissemination Agent relating to the Initial Bonds, as said continuing disclosure agreement may be amended or supplemented from time to time.

“Initial Depository Letter” means any letter of representations by and among the Issuer and the Depository relating to the Initial Bonds, and any amendments or supplements thereto entered into with respect thereto.

“Initial Equipment” means all materials, machinery, equipment, fixtures or furnishings intended to be acquired with the proceeds of the Initial Bonds, or acquired with any payment which the Institution incurred in anticipation of the issuance of the Initial Bonds and for which the Institution will be reimbursed from the proceeds of the Initial Bonds, and such substitutions and replacements therefor and additions thereto as may be made from time to time pursuant to the Loan Agreement, including, without limitation, all of the Property described in Exhibit B attached to the Loan Agreement.

“Initial Facility” means all buildings (or portions thereof), improvements, structures and other related facilities, and improvements thereto, (A) located on the Initial Land, (B) financed or refinanced with the proceeds of the sale of the Initial Bonds or any payment which the Institution incurred in anticipation of the issuance of the Initial Bonds and for which the Institution will be reimbursed from the proceeds of the Initial Bonds or any payment made by the Institution pursuant to Section 3.5 of the Loan Agreement, and (C) not constituting a part of the Initial Equipment, all as they may exist from time to time.

“Initial Financing Documents” means the Initial Bonds, the Indenture, the Loan Agreement, the Pledge and Assignment, the Mortgage, the Assignment of Rents, the Custody Agreement, the Initial Tax Documents, the Initial Underwriter Documents and any other document now or hereafter executed by the Issuer or the Institution in favor of the Holders of the Initial Bonds or the Trustee which affects the rights of the Holders of the Initial Bonds or the Trustee in or to the Initial Project Facility, in whole or in part, or which secures or guarantees any sum due under the Initial Bonds or any other Initial Financing Document, each as amended from time to time, and all documents related thereto and executed in connection therewith.

“Initial Land” means the real estate described on Exhibit A attached to the Loan Agreement, which is the site of the Initial Project.

“Initial Official Statement” means the official statement delivered in connection with the sale of the Initial Bonds by the Underwriter.

“Initial Preliminary Official Statement” means the preliminary official statement delivered in connection with the sale of the Initial Bonds by the Underwriter.

“Initial Project” shall have the meaning assigned to such term in the fourth recital clause to the Indenture and the Loan Agreement.

“Initial Project Facility” means, collectively, the Initial Land, the Initial Facility and the Initial Equipment.

“Initial Tax Documents” means, collectively, the Initial Arbitrage Certificate and the Initial Tax Regulatory Agreement.

“Initial Tax Regulatory Agreement” means the tax regulatory agreement dated the Closing Date for the Series 2021A Bonds executed by the Institution in favor of the Issuer and the Trustee regarding, among other things, the restrictions prescribed by the Code in order for interest on the Series 2021A Bonds to be and remain excludable from the gross income of the Holders thereof for federal income tax purposes.

“Initial Underwriter Documents” means the Initial Bond Purchase Agreement, the Initial Continuing Disclosure Agreement, the Initial Preliminary Official Statement, the Initial Official Statement and any other document now or hereafter executed by the Issuer or the Institution in connection with the sale of the Initial Bonds by the Underwriter.

“Institution” means Brighter Choice Elementary Charter Schools, an education corporation organized and existing under the laws of the State of New York, and its successors and assigns, to the extent permitted by Section 8.4 of the Loan Agreement.

“Insurance and Condemnation Fund” means the fund so designated established pursuant to Section 401(A)(3) of the Indenture.

“Insurance Consultant” means a Person or entity (A) selected by the Institution, (B) approved by the Underwriter, (C) having a general reputation for the skill and expertise necessary to evaluate the insurance needs of the Project Facility, and (D) not a member of the governing body of the Institution or its affiliates or an officer or employee of the Institution or its affiliates or an entity having a partner, director, officer, member or substantial stockholder who is a member of the governing body of the Institution or its affiliates or an officer or employee of the Institution or its affiliates.

“Interest Payment Date” means (A) with respect to the Initial Bonds, April 1 and October 1 of each year, commencing April 1, 2022, and (B) with respect to any Additional Bonds, the Stated Maturity of each installment of interest on such Additional Bonds, as set forth in the supplemental Indenture authorizing the issuance of such Series of Additional Bonds. In any case, the final Interest Payment Date of any Series of the Bonds shall be the Maturity Date relating thereto.

“Insurance Consultant” means a Person or entity (A) selected by the Institution, (B) approved by the Underwriter, (C) having a general reputation for the skill and expertise necessary to evaluate the insurance needs of the Project Facility, and (D) not a member of the governing body of the Institution or its affiliates or an officer or employee of the Institution or its affiliates or an entity having a partner, director, officer, member or substantial stockholder who is a member of the governing body of the Institution or its affiliates or an officer or employee of the Institution or its affiliates.

“Issuer” means (A) City of Albany Capital Resource Corporation and its successors and assigns, and (B) any public instrumentality or political subdivision resulting from or surviving any consolidation or merger to which City of Albany Capital Resource Corporation or its successors or assigns may be a party.

“Land” means the Initial Land and any Additional Land.

“Lien” means any interest in Property securing an obligation owed to a Person, whether such interest is based on the common law, statute or contract, and including but not limited to a security interest arising from a mortgage, security agreement, encumbrance, pledge, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term “Lien” includes reservations, exceptions, encroachments, projections, easements, rights of way, covenants, conditions, restrictions, leases and other similar title exceptions and encumbrances, including but not limited to mechanics’, materialmen’s, warehousemen’s and carriers’ liens and other similar encumbrances affecting real property. For purposes hereof, a Person shall be deemed to be the owner of any Property which it has acquired or holds subject to a conditional sale agreement or other arrangement pursuant to which title to the Property has been retained by or vested in some other Person for security purposes.

“Loan” means the loan by the Issuer of the proceeds received from the sale of the Bonds to the Institution pursuant to the provisions of the Loan Agreement.

“Loan Agreement” means the loan agreement dated as of November 1, 2021 by and between the Issuer and the Institution, as said loan agreement may be amended or supplemented from time to time.

“Loan Payment Date” shall have the meaning ascribed to such term in Section 5.1 of the Loan Agreement.

“Loan Payments” means the amounts required to be paid by the Institution pursuant to the provisions of Section 5.1 of the Loan Agreement.

“Long-Term Indebtedness” means any Additional Indebtedness of an Institution other than Short-Term Indebtedness and indebtedness subordinate to the Bonds.

“Management Consultant” means an Independent professional firm or corporation hired by an Institution, and acceptable to the majority of Bondholders, pursuant to the Loan Agreement.

“Maturity Date” means, with respect to any Bond, the final Stated Maturity of the principal of such Bond.

“Maximum Annual Debt Service” means on any date, when used with respect to any Series of the Bonds, the greatest amount required in the then current or any future Bond Year to pay the sum of: (1) interest on such Series of the Bonds payable in such Bond Year, excluding accrued interest received upon the issuance of such Series of the Bonds and capitalized interest financed by the issuance of such Series of the Bonds; and (2) the principal and the Sinking Fund Payments due on such Series of the Bonds in such Bond Year.

“Moody’s” means Moody’s Investors Service, Inc., a Delaware corporation, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Trustee, with the consent of the Institution.

“Mortgage” means the mortgage dated as of November 1, 2021 from the Institution to the Issuer, which, among other things, (a) grants to the Issuer a first mortgage lien on, and a security interest in, among other things, the Project Facility and (b) assigns to the Issuer the rents, issues and profits of the Project Facility, as said mortgage and security agreement may be amended or supplemented from time to time.

“Mortgage Assignment” means the assignment of mortgage dated as of November 1, 2021 from the Issuer to the Trustee, pursuant to which the Issuer will assign the Mortgage to the Trustee, as said assignment of mortgage may be amended or supplemented from time to time.

“Mortgaged Property” means all Property which may from time to time be subject to the Lien of the Mortgage.

“Net Income Available for Debt Service” means, for any period of determination thereof, Gross Revenues of an Institution for such period, plus all interest earnings on moneys held in the Series 2021A Reserve Account established under the Indenture, minus an Institution’s total Operating Expenses for such period but excluding (i) any profits or losses which would be regarded as extraordinary items under GAAP, (ii) cancellation of indebtedness income, (iii) proceeds of Bonds or any other Indebtedness permitted by the Loan Agreement, (iv) proceeds of insurance policies, other than the policies for business interruption insurance, maintained by or for the benefit of an Institution, the proceeds of any sale, transfer or other disposition of the Facility or any other of an Institution’s assets by an Institution, and any condemnation or any other damage award received by or owing to an Institution and (v) interest expense.

“Net Proceeds” means so much of the Gross Proceeds with respect to which that term is used as remain after payment of all fees for services, expenses, costs and taxes (including attorneys’ fees) incurred in obtaining such Gross Proceeds.

“Nonexempt Entity” means any Person other than (A) a state or local governmental entity or (B) a Person described in Section 501(c)(3) of the Code which has been recognized in writing by the Internal Revenue Service as being exempt from taxation under Sections 501(a) and Section 501(c)(3) of the Code.

“Office of the Trustee” means the corporate trust office of the Trustee specified in Section 1103 of the Indenture, or such other address as the Trustee shall designate pursuant to Section 1103 of the Indenture.

“Official Statement” means (A) with respect to the Initial Bonds, the Initial Official Statement, and (B) with respect to any Series of Additional Bonds, any similar document approved by the Issuer and the Institution in connection with the sale by the Underwriter of the related Series of Additional Bonds.

“Omnibus Amendment” means the omnibus amendment to trust indenture, installment sale agreement, memorandum of installment sale agreement, lease to issuer, memorandum of lease, license agreement, mortgage and assignment of rents including spreader and release dated as of September 1, 2011 by and among the Prior Issuer, the Prior Trustee, Brighter Choice Charter School for Girls and Brighter Choice Charter School for Boys with respect to the Prior Bonds.

“Operating Expenses” means fees and expenses of an Institution, including maintenance, repair expenses, utility expenses, real estate taxes, insurance premiums, administrative and legal expenses, miscellaneous operating expenses, advertising and promotion costs, payroll expenses (including taxes), the cost of material and supplies used for current operations of an Institution, the cost of vehicles, equipment leases and service contracts, taxes upon the operations of an Institution not otherwise mentioned herein, charges for the accumulation of appropriate reserves for current expenses not annually recurrent, but which may be reasonably be expected to be incurred in accordance with GAAP, all in such amounts as reasonably determined by an Institution; provided however, “Operating Expenses” shall not include (i) those expenses which are actually paid from any revenues of an Institution which are not Gross Revenues, (ii) spending for items accounted for as capital expenditures under GAAP, (iii) expenses or other amounts paid into and from the Repair and Replacement Fund, or (iv) replenishments of the Series 2021A Reserve Account.

“Optional Redemption Premium” means the premium payable upon an optional redemption of the Bonds, as determined pursuant to Section 301(B) of the Indenture.

“Ordinary Services” and “Ordinary Expenses” means those reasonable services normally rendered with those reasonable expenses, including reasonable attorneys’ fees, normally incurred by a trustee or a paying agent, as the case may be, under instruments similar to the Indenture.

“Other Education Aid” means any education aid payments payable to the Institution and not included in the definition of Education Aid.

“Outstanding” means, when used with reference to the Bonds as of any date, all Bonds which have been duly authenticated and delivered by the Trustee under the Indenture, except:

(A) Bonds theretofore cancelled or deemed cancelled by the Trustee or theretofore delivered to the Trustee for cancellation;

(B) Bonds for the payment or redemption of which moneys or Defeasance Obligations shall have been theretofore deposited with the Trustee (whether upon or prior to the maturity or Redemption Date of any such Bonds) in accordance with the Indenture (whether upon or prior to the maturity or Redemption Date of any such Bonds); provided that, if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given or arrangements satisfactory to the Trustee shall have been made therefor, or waiver of such notice satisfactory in form and substance to the Trustee shall have been filed with the Trustee; and

(C) Bonds in lieu of or in substitution for which other Bonds have been authenticated and delivered under the Indenture.

In determining whether the Owners of a requisite aggregate principal amount of Bonds Outstanding have concurred in any request, demand, authorization, direction, notice, consent or waiver under the provisions

hereof, Bonds which are held by or on behalf of the Institution (unless all of the outstanding Bonds are then owned by the Institution) shall be disregarded for the purpose of any such determination. If the Indenture shall be discharged pursuant to Article X of the Indenture, no Bonds shall be deemed to be Outstanding within the meaning of this definition.

“Owner” or “owner”, when used with respect to a Bond, means the Registered Owner of such Bond, except that wherever appropriate the term “Owner” shall mean the owner of such Bond for federal income tax purposes.

“Participant” shall have the meaning assigned to such term in Section 213(B) of the Indenture.

“Paying Agent” means the Trustee, acting as such, and any additional paying agent for the Bonds appointed pursuant to Article VII of the Indenture, their respective successors and any other corporation that may at any time be substituted in their respective places pursuant to the Indenture.

“Permitted Encumbrances” means (A) utility, access and other easements, rights of way, restrictions, encroachments and exceptions that benefit or do not materially impair the utility or the value of the Property affected thereby for the purposes for which it is intended, (B) mechanics’, materialmen’s, warehousemen’s, carriers’ and other similar Liens, (C) Liens for taxes, assessments and utility charges (1) to the extent permitted by Section 6.2(B) of the Loan Agreement, or (2) at the time not delinquent, (D) any Lien on the Project Facility obtained through any Financing Document, (E) any Lien on the Project Facility in favor of the Trustee and (F) the Conveyance Documents.

“Person” means an individual, partnership, corporation, limited liability company, trust, unincorporated organization or Governmental Authority.

“Plans and Specifications” means, with respect to any Additional Project, (1) as to the Issuer, the description of such Additional Project appearing in the Issuer’s preliminary inducement resolution relating thereto, and (2) as to the Trustee, the plans and specifications for such Additional Project prepared by the Institution, and all amendments and modifications thereof made by approved change orders; and, if an item for the construction of the Additional Facility is not specifically detailed in the aforementioned plans and specifications, but rather is described by way of manufacturer’s or supplier’s or contractor’s shop drawings, catalog references or similar descriptions, the term also includes such shop drawings, catalog references and descriptions.

“Pledge and Assignment” means the pledge and assignment dated as of November 1, 2021 from the Issuer to the Trustee, and acknowledged by the Institution, pursuant to which the Issuer has assigned to the Trustee its rights under the Loan Agreement (except the Unassigned Rights), as said pledge and assignment may be amended or supplemented from time to time.

“Predecessor Bonds” of any particular Bond means every previous Bond evidencing all or a portion of the same debt as that evidenced by such particular Bond; and, for purposes of this definition, any Bond authenticated and delivered under Section 205 of the Indenture in lieu of a lost, destroyed or stolen Bond shall be deemed to evidence the same debt as the lost, destroyed or stolen Bond.

“Preliminary Official Statement” means (A) with respect to the Initial Bonds, the Initial Preliminary Official Statement, and (B) with respect to any Series of Additional Bonds, any similar document approved by the Issuer and the Institution for use in connection with the issuance of the related Series of Additional Bonds.

“Principal and Interest Requirements” has the meaning assigned to such term in Section 8.19 of the Loan Agreement.

“Principal Payment Date” means (A) with respect to the Initial Bonds, each Interest Payment Date on which a Sinking Fund Payment is due on the Bonds, and the Maturity Date of each of the Initial Bonds, and (B) with respect to any Additional Bonds, the Stated Maturity of each installment of principal due on such Additional Bonds.

“Prior Bonds” means the Prior Issuer’s Civic Facility Revenue Bonds (Brighter Choice Charter Schools Project), Series 2007A issued on March 30, 2007 in the aggregate principal amount of \$17,895,000.

“Prior Indenture” means the trust indenture dated as of March 1, 2007 by and between the Issuer and the Prior Issuer and the Prior Trustee, as amended by the Omnibus Amendment, with respect to the Prior Bonds.

“Prior Issuer” means City of Albany Industrial Development Agency.

“Project” means (A) with respect to the Initial Bonds, the Initial Project, and (B) with respect to any Series of Additional Bonds, the Additional Project with respect to which such Series of Additional Bonds were issued.

“Project Costs” means Costs of the Project.

“Project Facility” means, collectively, the Initial Project Facility and all Additional Project Facilities.

“Project Fund” means the fund so designated established pursuant to Section 401(A)(1) of the Indenture.

“Property” means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

“Rating Agency” means Moody’s, if the Bonds are rated by Moody’s at the time, and Standard & Poor’s, if the Bonds are rated by Standard & Poor’s at the time, and their successors and assigns.

“Rebate Amount” shall have the meaning assigned to such term in the Tax Documents.

“Rebate Fund” means the fund so designated established pursuant to Section 401(A)(6) of the Indenture.

“Rebate Fund Earnings Account” means the special account so designated within the Rebate Fund established pursuant to Section 401(A)(6)(b) of the Indenture.

“Rebate Fund Principal Account” means the account so designated within the Rebate Fund established pursuant to Section 401(A)(6)(a) of the Indenture.

“Record Date” means either a Regular Record Date or a Special Record Date.

“Redemption Date” means, when used with respect to a Bond, the date upon which a Bond is scheduled to be redeemed pursuant to the Indenture.

“Redemption Price” means, when used with respect to a Bond, the principal amount thereof plus the applicable premium, if any, payable upon the prior redemption thereof pursuant to the provisions of the Indenture and such Bond.

“Regular Record Date” means, with respect to the interest and any Sinking Fund Payment or principal payment due on the Bonds on or prior to maturity payable on any Bond on any Interest Payment Date, the fifteenth (15th) day (whether or not a Business Day) of the calendar month preceding the calendar month in which such Interest Payment Date occurs.

“Repair and Replacement Fund” means the fund so designated established pursuant to Section 401(A)(5) of the Indenture.

“Repair and Replacement Fund Requirement” means an amount equal to \$100,000 to be funded on the Closing Date from available funds of the Institution.

“Request for Disbursement” means a request from the Institution, as agent of the Issuer, signed by an Authorized Representative of the Institution, stating the amount of the disbursement sought and containing the statements, representations and other items required by Article IV of the Indenture and by Section 3.3 of the Loan Agreement, which Request for Disbursement shall be in substantially the form of Exhibit A attached to the Indenture.

“Requirement” or “Local Requirement” means any law, ordinance, order, rule or regulation of a Governmental Authority.

“Reserve Fund” means the fund so designated established pursuant to Section 401(A)(4) of the Indenture.

“Reserve Fund Requirement” means (a) with respect to the Series 2021A Bonds, the Series 2021A Reserve Fund Requirement, (b) with respect to the Series 2021B Bonds, the Series 2021B Reserve Fund Requirement and (c) with respect to a Series of Additional Bonds for which a separate reserve fund is established, the reserve fund requirement established for that Series of Additional bonds in the related Supplemental Indenture.

“School Districts” means, collectively, at any time, the City of Albany School District, the Troy City School District, the Schenectady City School District and any other public school district which has students residing in such school district then attending the Project Facility.

“Securities Laws” means the Securities Act of 1933, as amended, and all other securities laws of the United States of America or the State to the extent that such laws may now or hereafter be applicable to or affect the issuance, sale and delivery of the Bonds and any transfer or resale thereof.

“Security Documents” shall have the meaning assigned to such term in Section 4.1 of the Loan Agreement.

“Series” or “Series of Bonds” means all of the Bonds of a single series authenticated and delivered pursuant to the Indenture.

“SEQRA” means Article 8 of the Environmental Conservation Law of the State and the statewide and local regulations thereunder.

“Series 2021A Bonds” means the Issuer’s Tax-Exempt Revenue Refunding Bonds (Brighter Choice Elementary Charter Schools Project), Series 2021A in the aggregate principal amount of \$11,820,000 issued pursuant to the Bond Resolution and Article II of the Indenture and sold by the Underwriter pursuant to the Bond Purchase Agreement, in substantially the form attached to the Indenture as Schedule I, and any Tax-Exempt Bonds issued in exchange or substitution therefor.

“Series 2021A Project Account” means the account so designated within the Project Fund established pursuant to Section 401(A)(1)(a) of the Indenture.

“Series 2021A Reserve Account” means the account so designated within the Reserve Fund established pursuant to Section 401(A)(4)(a) of the Indenture.

“Series 2021A Reserve Fund Requirement” means (a) the initial amount of \$1,047,063.50 or (b) if less than the applicable amount in (a), the maximum annual debt service of the Series 2021A Bonds, calculated from time to time as of any date on which a portion of the Series 2021A Bonds is refunded or defeased and deemed no longer Outstanding, as applicable, either of which amount shall not exceed the least of (i) 10% of the original principal amount of the Series 2021A Bonds, or if any Series 2021A Bonds are issued with original issue discount, 10% of the proceeds of such Series 2021A Bonds, (ii) the maximum annual debt service on the Series 2021A Bonds, or (iii) 125% of the average annual debt service on the Series 2021A Bonds.

“Series 2021B Bonds” means the Issuer’s Taxable Revenue Refunding Bonds (Brighter Choice Elementary Charter Schools Project), Series 2021B in the aggregate principal amount of \$345,000 issued pursuant to the Bond Resolution and Article II of the Indenture and sold by the Underwriter pursuant to the Bond Purchase Agreement, in substantially the form attached to the Indenture as Schedule II, and any Tax-Exempt Bonds issued in exchange or substitution therefor.

“Series 2021B Project Account” means the account so designated within the Project Fund established pursuant to Section 401(A)(1)(b) of the Indenture.

“Series 2021B Reserve Account” means the account so designated within the Reserve Fund established pursuant to Section 401(A)(4)(b) of the Indenture.

“Series 2021B Reserve Fund Requirement” means (a) the initial amount of \$30,561.50 or (b) if less than the applicable amount in (a), the maximum annual debt service of the Series 2021B Bonds, calculated from time to time as of any date on which a portion of the Series 2021B Bonds is refunded or defeased and deemed no longer Outstanding, as applicable, either of which amount shall not exceed the least of (i) 10% of the original principal amount of the Series 2021B Bonds, or if any Series 2021B Bonds are issued with original issue discount, 10% of the proceeds of such Series 2021B Bonds, (ii) the maximum annual debt service on the Series 2021B Bonds, or (iii) 125% of the average annual debt service on the Series 2021B Bonds.

“Short-Term Indebtedness” means any Additional Indebtedness incurred, assumed or guaranteed by an Institution maturing not more than 365 days after it is incurred.

“Sinking Fund Payments” means (A) with respect to the Series 2021A Bonds, the sinking fund redemption payments due on the Series 2021A Bonds pursuant to Section 301(B) of the Indenture and (B) with respect to any Additional Bonds, the sinking fund redemption payments (if any) required pursuant to the supplemental Indenture authorizing issuance of such Additional Bonds.

“Special Record Date” means a date for the payment of any Defaulted Payment on the Bonds fixed by the Trustee pursuant to Section 207(C) of the Indenture.

“Standard & Poor’s” means S&P Global Ratings, a division of Standard & Poor’s Financial Services LLC, and its successors and assigns, and, if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Standard & Poor’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Trustee, with the consent of the Institution.

“State” means the State of New York.

“State Education Operating Aid Payment Dates” means each July 1, September 1, November 1, January 1, March 1 and May 1, or such other dates as may in the future be established as the payment dates for Education Aid.

“Stated Maturity” means, when used with respect to any Bond or any installment of interest thereon, the date specified in such Bond as the fixed date on which the principal of such Bond or such installment of interest on such Bond is due and payable.

“Substantial User” means any Person constituting a “substantial user” within the meaning ascribed to such term in Section 147(a) of the Code.

“Supplemental Indenture” means any indenture supplemental to or amendatory of the Indenture executed by the Issuer in accordance with Article VIII of the Indenture.

“Taxable Bonds” means, collectively, the Series 2021B Bonds and any Additional Bonds not constituting Tax-Exempt Bonds.

“Tax Documents” means, collectively, (A) with respect to the Series 2021A Bonds, the Initial Tax Documents and (B) with respect to any Series of Additional Bonds intended to be issued as Tax-Exempt Bonds, any similar documents executed by the Issuer and/or the Institution in connection with the issuance of such Series of Additional Bonds.

“Tax-Exempt Bond” means any Bond issued as an obligation of the Issuer, the interest on which is intended to be excluded from the gross income of the Holder thereof for federal income tax purposes pursuant to Section 103 and Section 145 of the Code, including but not limited to the Initial Bonds.

“Tax Regulatory Agreement” means (A) with respect to the Series 2021A Bonds, the Initial Tax Regulatory Agreement and (B) with respect to any Series of Additional Bonds intended to be issued as Tax-Exempt Bonds, any similar document executed by the Institution in connection with the issuance and sale of such Series of Additional Bonds.

“Term Bonds” means Bonds having a single stated maturity for which Sinking Fund Installments are specified in Section 301(B) of the Indenture (or, if such Bonds are Additional Bonds, in the supplemental indenture authorizing the issuance of such Bonds).

“Termination of Loan Agreement” means a termination of Loan Agreement by and between the Institution, as borrower, and the Issuer, as lender, intended to evidence the termination of the Loan Agreement, substantially in the form attached as Exhibit B to the Loan Agreement.

“Trust Estate” means all Property which may from time to time be subject to a Lien in favor of the Trustee created by the Indenture or any other Financing Document.

“Trust Revenues” means (A) all payments of loan payments made or to be made by or on behalf of the Institution under the Loan Agreement (except payments made with respect to the Unassigned Rights), (B) all other amounts pledged to the Trustee by the Issuer or the Institution to secure the Bonds or performance of their respective obligations under the Loan Agreement and the Indenture, (C) the Net Proceeds (except proceeds with respect to the Unassigned Rights) of insurance settlements and Condemnation awards with respect to the Project Facility, (D) all payments received or otherwise realized by the Trustee under the Custody Agreement, the Mortgage and the Assignment of Rents; (E) moneys and investments held from time to time in each fund and account established under the Indenture and all investment income thereon, except (1) moneys and investments held in the Rebate Fund, (2) moneys deposited with or paid to the Trustee for the redemption of Bonds, notice of the redemption of which has been duly given, (3) unclaimed funds held under Section 411 of the Indenture, and (4) as specifically otherwise provided, and (F) all other moneys received or held by the Trustee for the benefit of the Bondholders pursuant to the Indenture. Notwithstanding anything to the contrary, amounts held in the Rebate Fund shall not be considered Trust Revenues and shall not be subject to the Lien of the Indenture, and amounts held therein shall not secure any amount payable on the Bonds.

“Trustee” means Manufacturers and Traders Trust Company, a banking corporation organized and existing under the laws of the State of New York, or any successor trustee or co-trustee acting as trustee under the Indenture.

“Unassigned Rights” means (A) the rights of the Issuer granted pursuant to Sections 2.2, 3.1, 3.2, 3.3, 3.8, 4.4, 5.1(B)(2), 5.1(C), 6.1, 6.2, 6.3, 6.4, 6.5, 7.1, 7.2, 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, 8.9, 8.11, 8.14, 8.16, 8.17, 8.18, 9.1, 9.2, 11.1, 11.4, 11.8 and 11.10 of the Loan Agreement, (B) the moneys due and to become due to the Issuer for its own account or the members, directors, officers, agents (other than the Institution), servants and employees of the Issuer for their own account pursuant to Sections 2.2, 5.1(B)(2), 5.1(C), 6.4(B), 8.2, 10.2 and 10.4 of the Loan Agreement, and (C) the right to enforce the foregoing pursuant to Article X of the Loan Agreement. Notwithstanding the preceding sentence, to the extent the obligations of the Institution under the Sections of the Loan Agreement listed in (A), (B) and (C) above do not relate to the payment of moneys to the Issuer for its own account or to the members, officers, directors, agents (other than the Institution), servants and employees of the Issuer for their own account, such obligations, upon assignment of the Loan Agreement by the Issuer to the Trustee pursuant to the Pledge and Assignment, shall be deemed to and shall constitute obligations of the Institution to the Issuer and the Trustee, jointly and severally, and either the Issuer or the Trustee may commence an action to enforce the Institution’s obligations under the Loan Agreement.

“Underwriter” means (A) with respect to the Initial Bonds, Robert W. Baird & Co. Incorporated, as original purchaser of the Initial Bonds on the Closing Date relating thereto, and (B) with respect to any Series of Additional Bonds, the original purchaser of such Series of Additional Bonds on the Closing Date relating thereto.

“Underwriter Documents” means, collectively, (A) with respect to the Initial Bonds, the Initial Underwriter Documents and (B) with respect to any Additional Bonds, any similar documents executed by the Issuer and/or the Institution in connection with the issuance of such Additional Bonds.

“Verification Agent” means Causey Demgen & Moore P.C.

“Verification Report” means a verification report prepared by the Verification Agent respecting the redemption of the Prior Bonds to be refunded.

“Yield”, when used with respect to the Initial Bonds, shall have the meaning assigned to such term in the Initial Tax Regulatory Agreement.

SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE

The following summarizes certain provisions of the Indenture to which reference is made for the detailed provisions thereof. Certain provisions of the Indenture are also described in the Official Statement under the captions “INTRODUCTION”, “SECURITY FOR THE SERIES 2021 BONDS” and “THE SERIES 2021 BONDS”.

The Bonds will be issued under and secured by the Indenture. Reference is made to the Indenture for complete details of the terms thereof. The following is a brief summary of certain provisions of the Indenture and should not be considered a full statement thereof.

Restriction on Issuance of Bonds (Section 201)

Except for substitute Bonds and Additional Bonds issued pursuant to the Indenture, the total aggregate principal amount of Bonds that may be issued under the Indenture is expressly limited to \$12,165,000.00.

Limited Obligations (Section 202)

The Bonds, together with the premium, if any, and interest thereon, will be limited obligations of the Issuer payable, with respect to the Issuer, solely from the Trust Revenues, which Trust Revenues are pledged and assigned for the equal and ratable payment of all sums due under the Bonds, and will be used for no other purpose than to pay the principal of, premium, if any, on and interest on the Bonds, except as may be otherwise expressly provided in the Indenture.

THE BONDS ARE NOT AND SHALL NOT BE A DEBT OF THE STATE OF NEW YORK OR OF THE CITY OF ALBANY, NEW YORK AND NEITHER THE STATE OF NEW YORK NOR THE CITY OF ALBANY, NEW YORK SHALL BE LIABLE THEREON. THE BONDS DO NOT GIVE RISE TO A PECUNIARY LIABILITY OR CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS OF THE STATE OF NEW YORK OR THE CITY OF ALBANY, NEW YORK.

No recourse shall be had for the payment of the principal of, or the premium, if any, or interest on, any Bond or for any claim based thereon or on the Indenture against any past, present or future member, officer, employee or agent (other than the Institution), as such, of the Issuer or of any predecessor or successor corporation, either directly or through the Issuer or otherwise, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise.

Delivery of Initial Bonds (Section 210)

Upon the execution and delivery of the Indenture, the Issuer will execute and deliver the Initial Bonds (including a reasonable number of additional Initial Bonds to be retained by the Trustee for authentication and delivery upon transfer or exchange of any Initial Bond) to the Trustee, and the Trustee will authenticate and deliver the Initial Bonds to the purchasers thereof against payment of the purchase price therefor, plus accrued interest to the day preceding the date of delivery, upon receipt by the Trustee of the following:

- (A) a certified copy of the Initial Bond Resolution;
- (B) executed counterparts of the Indenture, the Loan Agreement and the other Initial Financing Documents;
- (C) a request and authorization to the Trustee on behalf of the Issuer signed by an Authorized Representative of the Issuer to deliver the Initial Bonds to or upon the order of the Underwriter upon payment to the Trustee for the account of the Issuer of the purchase price therefor specified in such request and authorization;
- (D) signed copies of the opinions of counsel to the Issuer, the Institution, the and the Trustee, and of Bond Counsel, as required by the Initial Bond Purchase Agreement;
- (E) the certificates and policies, if available, of the insurance required by the Loan Agreement;
- (F) evidence that a completed Internal Revenue Service Form 8038 with respect to the Initial Bonds has been signed by the Issuer; and
- (G) such other documents as the Trustee or Bond Counsel may reasonably require.

Additional Bonds (Section 214)

So long as the Loan Agreement is in full force and effect and no Event of Default exists thereunder or under the Indenture (and no event exists which, upon notice or lapse of time or both, would become an Event of Default thereunder or under the Indenture), the Issuer may, upon a request from the Institution complying with the provisions of the Indenture, issue one or more series of Additional Bonds to provide funds to pay any one or more of the following: (1) costs of completion of the Project Facility in excess of the amount in the Project Fund; (2) costs of any Additional Project; (3) costs of refunding or advance refunding any or all of the Bonds previously issued; (4) costs of making any modifications, additions or improvements to the Project Facility that the Institution may deem necessary or desirable; and/or (5) costs of the issuance and sale of the Additional Bonds, capitalized interest, funding debt service reserves, and other costs reasonably related to any of the foregoing. Additional Bonds may mature at different times, bear interest at different rates and otherwise vary from the Initial Bonds authorized under the Indenture, all as may be provided in the supplemental Indenture authorizing the issuance of such Additional Bonds.

Prior to the execution of a supplemental Indenture authorizing the issuance of Additional Bonds, the Issuer must deliver certain documents set forth in the Indenture to the Trustee, including:

- (1) an amendment to the Loan Agreement and the other Financing Documents, providing for timely payment by the Institution of Loan Payments in an amount at least equal to the sum of the total Debt Service Payments due on the Initial Bonds and all Additional Bonds and all other costs in connection with the Project Facility and all Additional Projects covered thereby;
- (2) evidence that the Financing Documents, as amended or supplemented in connection with the issuance of the Additional Bonds, provide that (a) the Bonds referred to therein shall mean and include the Additional Bonds being issued as well as the Initial Bonds originally issued under the Indenture and any Additional Bonds theretofore issued, and (b) the Project Facility referred to in the Financing Documents includes any Additional Facilities being financed;

(3) a copy of the resolution of the board of trustees of the Institution, duly certified by the secretary or assistant secretary of the Institution, which approves the issuance of the Additional Bonds and authorizes the execution and delivery by the Institution of the amendments to the Financing Documents described in paragraphs (1) and (2) above;

(4) a written opinion of counsel to the Institution which shall state that (i) the amendments and supplements to the Financing Documents described in paragraphs (1) and (2) above have been duly authorized, executed and delivered by the Institution, (ii) the Financing Documents, as amended and supplemented to the Closing Date for such Additional Bonds, constitute legal, valid and binding obligations of the Institution enforceable against the Institution in accordance with their respective terms, subject to the standard exceptions with respect to bankruptcy laws, equitable remedies and specific performance, and (iii) all conditions precedent provided for in the Indenture to the issuance, execution and delivery of the Additional Bonds have been complied with;

(5) a copy of the resolution of the members of the board of directors of the Issuer, duly certified by the secretary or assistant secretary of the Issuer, authorizing the issuance of the Additional Bonds and the execution and delivery by the Issuer of the amendments to the Financing Documents described in paragraph (1) and paragraph (2) above to be executed by the Issuer in connection therewith;

(6) an opinion of counsel to the Issuer stating that the amendments and supplements to the Financing Documents described above have been duly authorized and lawfully executed and delivered on behalf of the Issuer; and that such amendments and supplements to the Financing Documents are in full force and effect and are valid and binding upon the Issuer, subject to the standard exceptions with respect to bankruptcy laws, equitable remedies and specific performance;

(7) an opinion of Bond Counsel stating that, in the opinion of such Bond Counsel, the Issuer is duly authorized and entitled to issue such Additional Bonds and that, upon the execution, authentication and delivery thereof, such Additional Bonds will be duly and validly issued and will constitute valid and binding special obligations of the Issuer, enforceable in accordance with their terms, subject to the standard exceptions with respect to bankruptcy laws, equitable remedies and specific performance; that the issuance of the Additional Bonds will not, in and of itself, adversely affect the validity of the Initial Bonds originally issued under the Indenture or any Additional Bonds theretofore issued or the exclusion of the interest payable on the Initial Bonds and any Additional Bonds theretofore issued as Tax-Exempt Bonds from the gross income of the Holders thereof for federal income tax purposes; and that all conditions precedent provided for in the Indenture to the issuance, execution and delivery of the Additional Bonds have been complied with;

(8) a written order to the Trustee executed by an Authorized Representative of the Issuer requesting that the Trustee authenticate and deliver the Additional Bonds to the purchasers therein identified; and

(9) a parity mortgage and security agreement or supplement to the Mortgage providing for a supplemental mortgage and any specific increase in other payments to the funds under the Indenture; and an intercreditor agreement or other similar agreement among the Institution, the Issuer, the Trustee and other appropriate parties providing that the Additional Bonds are equal, ratable and *pari passu* with the Bonds;

(10) the acquisition of real property or an interest therein is included in the purpose of such issue of Additional Bonds, a mortgagee title insurance policy issued by a reputable title

insurance company insuring that the Institution has insurable title to such real property or interest therein subject only to Permitted Encumbrances and insuring that the mortgage securing the Bonds is a valid Lien on such real property or interest therein;

(11) a Certificate of an Authorized Representative of the Institution of compliance with requirements of the Loan Agreement relating to the incurrence of Long-Term Indebtedness (as defined in the Loan Agreement);

(12) the deposit to the Reserve Fund of an amount equal to the Reserve Fund Requirement relating to the Additional Bonds; and

(13) such other documents as the Trustee may reasonably request.

Each series of Additional Bonds shall be equally and ratably secured under the Indenture with the Initial Bonds issued on the Closing Date and with all other series of Additional Bonds, if any, previously issued under the Indenture, without preference, priority or distinction of any Bond over any other Bond.

The consent of the Holders of the Bonds shall not be required prior to the issuance of Additional Bonds, or to the execution and delivery of any amendments to the Financing Documents required in connection therewith. The Trustee shall, however, mail notice in writing (in the form provided to the Trustee by the Issuer) to the Holders of the Bonds and each rating agency, if any, by which the Bonds are then rated of the proposed issuance of the Additional Bonds, detailing, at least, the aggregate principal amount of such Additional Bonds, and summarizing the nature of the amendments to the Financing Documents proposed to be executed in connection therewith.

Establishment of Funds (Section 401)

The Indenture creates four trust funds (and various accounts therein) to be held by the Trustee: (1) the Project Fund and, within the Project Fund, the following special accounts: (a) the Series 2021A Project Account, (b) the Series 2021B Project Account and (c) an additional, separate account for each series of Additional Bonds, each such additional account to be known as the "Series ____ Project Account", with the blank to be filled in with the same series designation as borne by the related series of Additional Bonds; (2) the Bond Fund; (3) the Insurance and Condemnation Fund; (4) the Reserve Fund; (5) the Repair and Replacement Fund; and (6) the Rebate Fund, and, within the Rebate Fund, the following special accounts: (a) the Rebate Fund Principal Account and (b) the Rebate Fund Earnings Account.

All moneys required to be deposited with or paid to the Trustee under any provision of the Indenture (1) shall be held by the Trustee in trust, and (2) (except for moneys held by the Trustee (a) for the redemption of Bonds, notice of redemption of which has been duly given, (b) as unclaimed monies under Section 411 of the Indenture or (c) in the Rebate Fund) shall, while held by the Trustee, constitute part of the Trust Revenues and be subject to the Lien of the Indenture. Moneys which have been deposited with, paid to or received by the Trustee for the redemption of a portion of the Bonds or for the payment of Bonds or interest thereon due and payable otherwise than upon acceleration by declaration, shall be held in trust for and be subject to a Lien in favor of only the Holders of such Bonds so redeemed or so due and payable.

Moneys held in the Rebate Fund shall not be subject to a security interest, pledge, assignment, Lien or charge in favor of the Trustee or any other Person.

Application of Proceeds of Initial Bonds (Section 402)

The Issuer shall deposit with the Trustee all of the proceeds from the sale of the Initial Bonds, including accrued interest payable on the Initial Bonds. The Trustee shall deposit the proceeds from the sale of the Initial Bonds as follows: (1) the Trustee shall deposit the portion of the proceeds of the sale of the Initial Bonds representing accrued interest on the Initial Bonds, if any, into the Bond Fund; (2) the Trustee shall deposit the portion of the proceeds of the sale of the Initial Bonds representing the Reserve Fund Requirement with respect to the Initial Bonds into the Reserve Fund; and (3) the Trustee shall deposit the remainder of the proceeds of the sale of the Series 2021 Bonds into Series 2021A Project Account and the Series 2021B Project Account, respectively, within the Project Fund.

The Institution shall deposit with the Trustee the Repair and Replacement Fund Requirement, representing funds previously on deposit in the Repair and Replacement Fund established under the Prior Indenture relating to the Prior Bonds and released to the Institution in accordance therewith, which the Trustee shall deposit into the Repair and Replacement Fund.

The proceeds of any Additional Bonds shall be deposited as provided in the supplement to the Indenture authorizing the issuance of such Additional Bonds.

Transfers of Trust Revenues to Funds (Section 403)

Commencing on the first date on which payments are received by the Trustee from the Custodian pursuant to the Custody Agreement, or from the Institution pursuant to the Custody Agreement or the Loan Agreement, and on each date upon which any such payment is received thereafter, the Trustee shall deposit such payments, immediately upon its receipt thereof, in the following funds and accounts, in the following order, in each case in the respective amounts, if any, necessary, along with any amounts then credited thereto, to cause the respective balances then deposited to the credit of the respective fund or account to equal the requirement, if any described in the then applicable Custody Agreement Notice with respect to such fund or account:

- (1) First, to the Bond Fund;
- (2) Second, to the Reserve Fund; and
- (3) Third, to the Repair and Replacement Fund.

The Net Proceeds of any insurance settlement or Condemnation award received by the Trustee shall, upon receipt thereof, be deposited into the Insurance and Condemnation Fund.

Project Fund (Section 404)

In addition to moneys deposited in the Project Fund from the proceeds of the sale of the Initial Bonds, there shall be deposited into the Series 2021A Project Account and the Series 2021B Project Account, respectively, within the Project Fund all other moneys received by the Trustee under or pursuant to the Indenture or the other Financing Documents which, by the terms thereof, are to be deposited in the Project Fund. Moneys on deposit in the Project Fund with respect to the Series 2021 Bonds shall be disbursed and applied by the Trustee to pay the Costs of the Project and Costs of Issuance relating to the Initial Project, all pursuant to the provisions of the Loan Agreement, the Indenture and, with respect to the Series 2021A Bonds, the Initial Tax Regulatory Agreement.

The Trustee is authorized and directed to disburse the balance of the moneys from the Project Fund relating to the Initial Bonds upon receipt by the Trustee of a Request for Disbursement, certified to by an Authorized Representative of the Institution in accordance with the applicable provisions of the Indenture and the Loan Agreement and, with respect to the Series 2021A Bonds, the Initial Tax Regulatory Agreement.

Moneys on deposit in the Project Fund may be invested in Authorized Investments in accordance with the provisions of the Indenture. All interest and other income accrued and earned on amounts held in the Project Fund shall be deposited by the Trustee into the appropriate account of the Project Fund related to such monies and may be used to pay the Costs of the Project related to such account.

Except for any amount retained for the payment of incurred and unpaid items of the Cost of the Project, after the Completion Date related to a particular Project, all moneys in the related account in the Project Fund (in excess of any amount required to be transferred to the Rebate Fund pursuant to the Indenture, with respect to the Series 2021A Bonds, the Tax Documents) shall be transferred from the Project Fund to the Bond Fund.

In the event the unpaid principal amount of the Bonds is accelerated upon the occurrence of an Event of Default, the balance in the Project Fund (in excess of any amount required to be transferred to the Rebate Fund pursuant to the Indenture and the Tax Documents) will be transferred from the Project Fund to the Bond Fund as soon as possible and will be used to pay the principal of, premium, if any, on and interest on the Bonds.

The Trustee shall maintain adequate records pertaining to the Project Fund and all disbursements therefrom and, upon request of the Issuer or the Institution, shall file an accounting thereof with the Issuer and the Institution.

Bond Fund (Section 405)

In addition to the moneys deposited into the Bond Fund (1) from the proceeds of the sale of the Bonds pursuant to Section 402 of the Indenture and (2) pursuant to Sections 403, 404 and 412 of the Indenture, there shall be deposited into the Bond Fund (a) all Loan Payments received from the Institution under the Loan Agreement (except payments made with respect to the Unassigned Rights, which shall be paid to the Issuer), (b) any amount in the Insurance and Condemnation Fund directed to be paid into the Bond Fund under Section 406 of the Indenture, (c) all prepayments by the Institution in accordance with Section 5.3 of the Loan Agreement in connection with which notice has been given to the Trustee pursuant to Section 302 of the Indenture, (d) all moneys held in the Reserve Fund which are in excess of the amount required to be held in the Reserve Fund as of such date, and (e) all other moneys received by the Trustee under and pursuant to the Indenture or the other Financing Documents which by the terms thereof are to be deposited into the Bond Fund, or are accompanied by directions from the Institution or the Issuer that such moneys are to be paid into the Bond Fund.

Moneys on deposit in the Bond Fund may be invested in Authorized Investments in accordance with the provisions of the Indenture. All interest and other income accrued and earned on moneys on deposit in the Bond Fund will be deposited by the Trustee in the Bond Fund.

On the Business Day immediately following a Bond Payment Date, if any amounts remain in the Bond Fund, such amounts in the Bond Fund shall be transferred, to the extent necessary, to the Reserve Fund, until the amount held in the Reserve Fund is at least equal to the Reserve Fund Requirement. Once all transfers provided in this paragraph have been made, the Trustee shall inform the Institution of the amount remaining in the Bond Fund, and such moneys shall be applied by the Trustee to the Debt Service Payments due on the following Bond Payment Date.

Insurance and Condemnation Fund (Section 406)

The Net Proceeds of any insurance settlement or Condemnation award received by the Trustee in connection with damage to or destruction of or the taking of part or all of the Project Facility shall be deposited into the Insurance and Condemnation Fund. If, following damage to or Condemnation of all or a portion of the Project Facility, (1) the Institution exercises its option not to repair, rebuild or restore the Project Facility and to provide for the defeasance of the Bonds, or (2) if a taking in Condemnation as described in Section 7.2(C) of the Loan Agreement occurs, the Trustee shall (after any transfer to the Rebate Fund required pursuant to the Indenture and the Tax Documents is made) transfer all moneys held in the Insurance and Condemnation Fund to an escrow fund to be created by the Trustee at the written direction of the Institution, to be applied to the defeasance of the Bonds then Outstanding pursuant to the provisions of the Tax Documents (provided that all Tax-Exempt Bonds shall be redeemed prior to the redemption of any Taxable Bonds), except as provided in Section 413 of the Indenture.

If, following damage to or Condemnation of all or a portion of the Project Facility, the Institution elects to repair, rebuild or restore the Project Facility, and provided no Event of Default under the Indenture or under any other Financing Document has occurred and is continuing, moneys held in the Insurance and Condemnation Fund and attributable to the damage to or the destruction or taking of the Project Facility shall (after any transfer to the Rebate Fund required by the Indenture and the Tax Documents is made) be applied to pay the costs of such repairs, rebuilding or restoration in accordance with the Indenture.

If the cost of the repairs, rebuilding or restoration of the Project Facility effected by the Institution shall be less than the amount in the Insurance and Condemnation Fund, then on the completion of such repairs, rebuilding or restoration, the Trustee shall transfer such difference to the Bond Fund and use such amounts so transferred to provide for the defeasance of the Bonds in accordance with the Tax Documents; provided that such amounts may be transferred to the Institution for its purposes if (1) the Institution so requests and (2) the Institution furnishes to the Trustee an opinion of Bond Counsel to the effect that payment of such moneys to the Institution will not, in and of itself, adversely affect the exclusion of the interest paid or payable on the Tax-Exempt Bonds from gross income for federal income tax purposes.

Rebate Fund (Section 407)

The Trustee shall make information regarding the Bonds and investments under the Indenture available to the Institution. If a deposit to the Rebate Fund is required as a result of the computations made or caused to be made by the Institution, the Trustee shall upon receipt of written direction from the Institution accept such payment for the benefit of the Institution. If amounts in excess of that required to be rebated to the United States of America accumulate in the Rebate Fund, the Trustee shall upon written direction from the Authorized Representative of the Institution transfer such amount to the Institution. Records of the determinations required by Section 407 of the Indenture and the instructions must be retained by the Trustee until six years after the Bonds are no longer outstanding. Any provision of the Indenture to the contrary notwithstanding, amounts credited to the Rebate Fund shall be free and clear of any lien under the Indenture.

The Trustee, upon the receipt of a certification of the Rebate Amount from an Authorized Representative of the Institution, shall deposit in the Rebate Fund Principal Account, within thirty (30) days after the end of each Bond Year commencing with the first Bond Year, an amount such that the amount held in the Rebate Fund Principal Account after such deposit is equal to the Rebate Amount calculated as of the last day of the prior Bond Year and so certified to the Trustee. If there has been delivered to the Trustee a certification of the Rebate Amount in conjunction with the completion or restoration of the Project Facility pursuant to the Loan Agreement or the Indenture at any time during a Bond Year, the Trustee will

deposit in the Rebate Fund Principal Account upon receipt of such certification an amount such that the amount held in the Rebate Fund Principal Account after such deposit is equal to the Rebate Amount calculated on the Completion Date or at the time of restoration of the Project Facility, as the case may be. The amount to be deposited in the Rebate Fund shall be withdrawn from the fund or funds established under the Indenture designated by the Institution or from other moneys made available by the Institution.

In the event that on the first day of any Bond Year, after the calculation of the Rebate Amount, the amount on deposit in the Rebate Fund Principal Account exceeds the Rebate Amount, the Trustee, upon the receipt of written instructions from an Authorized Representative of the Issuer or the Institution, shall withdraw such excess amount and (1), prior to the Completion Date, shall transfer such excess to the Project Fund to be applied to the payment of Costs of the Project or (2), after the Completion Date, shall transfer such excess to the Bond Fund to be applied to the payment of the principal and interest and Sinking Fund Payments coming due on the Tax-Exempt Bonds on the next following Bond Payment Date.

The Trustee, upon the receipt of written instructions satisfactory to the Trustee from an Authorized Representative of the Institution, shall pay to the United States, from amounts on deposit in the Rebate Fund or from other moneys supplied by the Institution, (1) not less frequently than once every five (5) years after the date of original issuance of a Series of Tax-Exempt Bonds (or such other date as the Institution may choose, provided the Institution and the Trustee receive an opinion of Bond Counsel that such change will not cause interest on the Tax-Exempt Bonds to be included in gross income for federal income tax purposes) and every five years thereafter until final retirement of the Bonds, an amount such that, together with prior amounts paid to the United States, the total amount paid to the United States is equal to ninety percent (90%) of the Rebate Amount with respect to the Bonds as of the date of such payment plus all amounts then held in the Rebate Fund Earnings Account, and (2) not later than thirty (30) days after the date on which all Bonds of any particular Series of Tax-Exempt Bonds have been paid in full, one hundred percent (100%) of the Rebate Amount with respect to such Bonds as of the date of such payment plus all amounts relating thereto then held in the Rebate Fund Earnings Account.

The foregoing described provisions of the Indenture may be amended, without notice to or consent of the Bondholders, at the request of the Issuer or the Institution, to comply with the applicable regulations of the Treasury Department, upon the delivery by the Issuer or the Institution to the Trustee of an opinion of Bond Counsel that such amendment will not, in and of itself, adversely affect the exclusion from gross income for federal income tax purposes of the interest payable on the Tax-Exempt Bonds which exists on the Closing Date.

Reserve Fund (Section 408)

On the Closing Date for the Initial Bonds, the Trustee shall deposit proceeds of the Initial Bonds in an amount equal to the Reserve Fund Requirement applicable to the Initial Bonds into the Series 2021A Reserve Account and the Series 2021B Reserve Account, respectively. Upon the issuance of any Additional Bonds, the Trustee shall deposit an amount equal to the Reserve Fund Requirement relating to such Additional Bonds into the Reserve Fund.

If, on the Business Day preceding any Bond Payment Date, the amount on deposit in the Bond Fund is not sufficient to pay the Debt Service Payments due on such Bond Payment Date with respect to the Bonds then Outstanding, the Trustee shall transfer from the Reserve Fund and deposit into the Bond Fund an amount of money sufficient, when added to the amounts then on deposit in the Bond Fund and available to make the Debt Service Payments coming due on the Bonds on such Bond Payment Date, to enable the Trustee to make all such Debt Service Payments coming due on the Bonds on such Bond Payment Date.

All earnings on amounts held in the Reserve Fund which, pursuant to Section 412(D) of the Indenture, are deposited by the Trustee into the Bond Fund, may be used to pay Debt Service Payments due on the Bonds. On the Business Day prior to each Bond Payment Date during the term of the Bonds, the Trustee shall ensure that any such investment earnings on moneys on deposit in the Reserve Fund have been transferred to the Bond Fund, as provided in the Indenture.

The Trustee shall notify the Institution in writing of any withdrawal from the Reserve Fund, or any deficiency in the amounts required to be on deposit to the credit of the Reserve Fund determined upon the periodic valuation thereof pursuant to the Indenture.

If the principal of all the Bonds shall become due and payable, whether by maturity, by redemption or otherwise, the Trustee shall deposit to the credit of the Bond Fund any balance remaining in the Reserve Fund.

Semiannually, at least fifteen (15) Business Days prior to each Interest Payment Date, the amounts in the Reserve Fund shall be valued by the Trustee as provided in the Indenture. If the amounts held in the Reserve Fund together with any interest and other income received by the investment of moneys therein shall exceed the Reserve Fund Requirement, the Trustee shall withdraw from the Reserve Fund the amount of any excess therein over the applicable Reserve Fund Requirement as of such date of withdrawal and such excess shall be first used by the Trustee to pay its fees and expenses for Ordinary and Extraordinary Services and any other amounts owed to the Trustee hereunder and under the other Financing Documents and the balance shall be transferred by the Trustee to the Bond Fund and used to pay Debt Service Payments due on the Bonds on the next succeeding Bond Payment Date and credited to the Institution's obligation to make Loan Payments relating to such Bond Payment Date.

In the event the amount held in the Reserve Fund on the fifteenth Business Day prior to any Bond Payment Date exceeds the principal amount of Bonds which will be Outstanding after such Bond Payment Date, the Trustee shall, after being reasonably satisfied that its fees and expenses for the performance of its services under the Indenture and any other amounts owed to the Trustee under the Indenture and under the other Financing Documents will be paid, transfer such excess amounts from the Reserve Fund to the Bond Fund to be applied to the Debt Service Payments on the Bonds on such Bond Payment Date.

In computing the amount in the Reserve Fund, obligations purchased as an investment of moneys therein shall be valued at the cost of such obligations or the market value thereof, whichever is lower. The accrued interest paid in connection with the purchase of any obligation shall be included in the value thereof until interest on such obligation is paid. Such computation shall be made not less often than semiannually. The Trustee shall notify the Institution in writing of any deficiency in the amounts required to be on deposit in the Reserve Fund.

On the date on which Series 2021B Bonds are no longer Outstanding, the Trustee shall transfer any amounts held in the Series 2021B Reserve Account to the Series 2021A Reserve Account.

Repair and Replacement Fund (Section 409)

Pursuant to Section 402 of the Indenture the Repair and Replacement Fund will be funded in an amount equal to the Repair and Replacement Fund Requirement by the Institution. Thereafter, there shall be deposited into the Repair and Replacement Fund (1) all loan payments received from the Institution under the Loan Agreement for deposit into the Repair and Replacement Fund, and (2) all other moneys received by the Trustee and not required to be otherwise applied pursuant to the Indenture or the other Financing Documents which are accompanied by directions from the Institution or the Issuer that such moneys are to be paid into the Repair and Replacement Fund.

Moneys on deposit in the Repair and Replacement Fund shall be applied at the direction of the Institution to the cost of the construction of additions, improvements or betterments to, or the reconstruction of, the Project Facility, emergency repairs of the Project Facility, and major or extraordinary repairs, renewals or replacements of the Project Facility, in each case as stated in a certificate of the Institution filed with the Trustee to be necessary (1) to restore or prevent physical damage to the Project Facility or any part thereof, or (2) for the safe and efficient operation of the Project Facility.

If on the Business Day preceding any Bond Payment Date the amount on deposit in the Bond Fund and the Reserve Fund shall be insufficient to pay the Debt Service Payment becoming due on the Bonds, the Trustee shall transfer from the Repair and Replacement Fund for deposit in the Bond Fund the amount necessary (or all the moneys in the Repair and Replacement Fund if less than the amount necessary) to satisfy such deficiency.

All earnings on amounts held in the Repair and Replacement Fund which, pursuant to Section 412(D) of the Indenture, are deposited by the Trustee into the Bond Fund, may be used to pay Debt Service Payments due on the Bonds. On the Business Day prior to each Bond Payment Date during the term of the Bonds, the Trustee shall ensure that any such investment earnings on moneys on deposit in the Repair and Replacement Fund have been transferred to the Bond Fund, as provided in the Indenture.

The Trustee shall notify the Institution in writing of any withdrawal from the Repair and Replacement Fund, or any deficiency in the amounts required to be on deposit to the credit of the Repair and Replacement Fund determined upon the periodic valuation thereof pursuant to the Indenture.

If the principal of all the Bonds shall become due and payable, whether by maturity, by redemption or otherwise, the Trustee shall deposit to the credit of the Bond Fund any balance remaining in the Repair and Replacement Fund.

Semiannually, at least fifteen (15) Business Days prior to each Interest Payment Date, the amounts in the Repair and Replacement Fund shall be valued by the Trustee as provided in the Indenture. If the amounts held in the Repair and Replacement Fund together with any interest and other income received by the investment of moneys therein shall exceed the Repair and Replacement Fund Requirement, the Trustee shall withdraw from the Repair and Replacement Fund the amount of any excess therein over the Repair and Replacement Fund Requirement as of such date of withdrawal and such excess shall be first used by the Trustee to pay its fees and expenses for Ordinary and Extraordinary Services and any other amounts owed to the Trustee hereunder and under the other Financing Documents, and the balance shall be transferred by the Trustee to the Bond Fund and used to pay Debt Service Payments due on the Bonds on the next succeeding Bond Payment Date and credited to the Institution's obligation to make Loan Payments relating to such Bond Payment Date.

In the event the amount held in the Repair and Replacement Fund on the fifteenth Business Day prior to any Bond Payment Date exceeds the principal amount of Bonds which will be Outstanding after such Bond Payment Date, the Trustee shall, after being reasonably satisfied that its fees and expenses for the performance of its services hereunder and any other amounts owed to the Trustee hereunder and under the other Financing Documents will be paid, transfer such excess amounts from the Repair and Replacement Fund to the Bond Fund to be applied to the Debt Service Payments on the Bonds on such Bond Payment Date.

In computing the amount in the Repair and Replacement Fund, obligations purchased as an investment of moneys therein shall be valued at the cost of such obligations or the market value thereof, whichever is lower. The accrued interest paid in connection with the purchase of any obligation shall be included in the value thereof until interest on such obligation is paid. Such computation shall be made not

less often than semiannually. The Trustee shall notify the Institution in writing of any deficiency in the amounts required to be on deposit in the Repair and Replacement Fund.

Custody Agreement (Section 410)

The Trustee shall deliver the Custody Agreement Notice to the Custodian and the Institution no later than five (5) Business Days before each State Education Operating Aid Payment Date. The Custody Agreement Notice shall be certified by the Trustee.

Each Custody Agreement Notice shall describe the amount of Education Aid necessary to be paid to the Trustee to satisfy the payment obligations of the Institution under Section 5.1 of the Loan Agreement. Accordingly, each Custody Agreement Notice shall contain the following information: (1) a statement of the total amount of Education Aid to be paid over to the Trustee on the applicable State Education Operating Aid Payment Date, and (2) statements describing the portions of such total amount to be deposited into the various funds and accounts held by the Trustee under the Indenture pursuant to Section 403 of the Indenture. The Trustee shall prepare each Custody Agreement Notice in consultation with the Institution.

The Institution shall provide to the Trustee in a timely fashion the information reasonably needed by the Trustee in order to permit the Trustee to prepare each Custody Agreement Notice.

Investment of Funds (Section 412)

Any moneys held as part of any fund created under the Indenture shall be continuously invested and reinvested, from time to time, by the Trustee in Authorized Investments at the written direction of an Authorized Representative of the Institution, or, in the absence of such direction, moneys will be held uninvested.

The Institution shall direct, and be solely responsible for assuring, that any moneys held in any fund shall be invested so that (1) all investments shall mature or be subject to mandatory redemption by the holder of such investments (at not less than the principal amount thereof, or the cost of acquisition, whichever is lower), and all deposits in time accounts shall be subject to withdrawal, without penalty, not later than the date when the amounts will foreseeably be needed for purposes of the Indenture, (2) investments of moneys on deposit in the Bond Fund shall mature or be subject to mandatory redemption by the holder (at not less than the principal amount thereof) not more than ninety (90) days from the date of acquisition, and further shall mature or be redeemable at the option of the Trustee at the times and in the amounts necessary to provide moneys to pay Debt Service Payments as they become due on the Bonds, whether at Stated Maturity or by redemption, (3) investments of moneys on deposit in the Reserve Fund and the Repair and Replacement Fund shall be limited to instruments described in clauses (A) through (D) of the definition of Authorized Investments which mature not more than five years from the date of acquisition, (4) no portion of the proceeds derived from the sale of the Tax-Exempt Bonds or any other moneys held in any fund established under Article IV of the Indenture shall be invested, directly or indirectly, in such manner as to cause any Tax-Exempt Bond to be an “arbitrage bond” within the meaning of that quoted term in Section 148 of the Code, (5) in no event shall any moneys transferred from the Project Fund to the Bond Fund pursuant to Section 404(D) of the Indenture be invested at a “yield” (as defined in Section 148 of the Code) greater than the “yield” on the Tax-Exempt Bonds, and (6) investments of moneys on deposit in the Rebate Fund shall mature or be redeemable at such time as may be necessary to make payments from the Rebate Fund required pursuant to Section 148 of the Code or Section 513 of the Indenture. At no time shall any funds constituting gross proceeds of any Tax-Exempt Bonds be used in any manner to cause or result in a prohibited payment under applicable regulations pertaining to, or in any other fashion as would constitute failure of compliance with, Section 148 of the Code, or otherwise violate

Section 513 of the Indenture. The investments so purchased shall be held by the Trustee and shall be deemed at all times to be a part of the fund in which such moneys were held.

The Trustee is directed to sell and reduce to cash a sufficient amount of such investments (in its sole discretion and without any liability therefor) whenever the cash balance in said fund shall be insufficient to cover a proper disbursement from said fund, and the Trustee shall have no liability with respect to any choice made by it of investments to sell pursuant to this paragraph.

Net income or gain received and collected from such investments shall be credited and losses charged to (1) the Rebate Fund Earnings Account, with respect to the investment of amounts held in the Rebate Fund, and (2) the Project Fund, the Bond Fund, the Reserve Fund, the Insurance and Condemnation Fund and the Repair and Replacement Fund, as the case may be, with respect to the investment of amounts held in such funds, provided that, (a) subject to Section 408(F) of the Indenture, earnings on the Reserve Fund which, if deposited or held in the Reserve Fund, would cause the amount on deposit in the Reserve Fund to exceed the Reserve Fund Requirement shall instead be deposited or transferred into the Bond Fund and (b) subject to Section 409(G) of the Indenture, earnings on the Repair and Replacement Fund which, if deposited or held in the Repair and Replacement Fund, would cause the amount on deposit in the Repair and Replacement Fund to exceed the Repair and Replacement Fund Requirement shall instead be deposited or transferred into the Bond Fund.

The Trustee may make any investment permitted by Section 412 of the Indenture through its own investment department. Subject to any directions from an Authorized Representative of the Institution with respect thereto, from time to time, the Trustee may sell any investments authorized hereunder and reinvest the proceeds therefrom in Authorized Investments maturing or redeemable as aforesaid. Any such investments may be purchased from or sold to the Trustee, the Bond Registrar, an Authenticating Agent or a Paying Agent, or any bank, trust company or savings and loan association affiliated with any of the foregoing. The Trustee shall sell or redeem investments credited to the Bond Fund to produce sufficient moneys applicable hereunder to and at the times required for the purposes of paying Debt Service Payments on the Bonds when due as aforesaid, and shall do so without necessity for any order on behalf of the Issuer and without restriction by reason of any order. For purposes of the Indenture, those investments shall be valued at face amount or market value plus accrued interest, whichever is less. The Trustee shall not be liable (except for gross negligence or willful misconduct) for any depreciation in the value of any investment made pursuant to Section 412 of the Indenture or for any loss arising from such investment.

Final Disposition of Moneys (Section 413)

In the event there are no Bonds Outstanding, and subject to any applicable law to the contrary, after payment of all fees, charges and expenses, including, but not limited to reasonable attorney's fees, of the Issuer and the Trustee and all other amounts required to be paid under the Indenture and under the other Financing Documents and after payment of any amounts required to be rebated to the United States under the Indenture and under the Tax Documents or any provision of the Code, all amounts remaining in any fund established under the Indenture shall be transferred to the Institution (except amounts held with respect to the Unassigned Rights, which amounts shall be paid to the Issuer, and except for moneys held for the payment or redemption of Bonds which have matured or been defeased or notice of the redemption of which has been duly given and any other monies held under Section 411, which shall be held for the benefit of the Owners of such Bonds).

No Modification of Security; Limitation on Liens (Section 508)

The Issuer covenants that it will not alter, modify or cancel, or agree to alter, modify or cancel, the Loan Agreement or any other Financing Document to which the Issuer is a party, or which has been

assigned to the Issuer, and which relates to or affects the security for the Bonds, except as contemplated by the Indenture or pursuant to the terms of such document. The Issuer further covenants that, except for the Financing Documents and other Permitted Encumbrances, the Issuer will not incur, or suffer to be incurred, any mortgage, Lien, charge or encumbrance on or pledge of any of the Trust Estate prior to or on a parity with the Lien of the Indenture.

Covenant Against Arbitrage Bonds (Section 513)

So long as any Tax-Exempt Bonds shall be Outstanding, the Issuer covenants that it will not use or direct or permit the use of the proceeds of the Tax-Exempt Bonds or any other moneys in its control (including, without limitation, the proceeds of any insurance settlement or Condemnation award with respect to the Project Facility) in such manner as would cause any of the Tax-Exempt Bonds to be an “arbitrage bond” within the meaning of such quoted term in Section 148 of the Code. The Issuer shall not be responsible for the calculation or payment of any rebate amount required by Section 148 of the Code. The Trustee shall not be responsible for the calculation, or the payment from its own funds, of any amount required to be rebated to the United States under Section 148 of the Code. The Trustee shall, however, make such transfers to the Rebate Fund and pay such amounts from the funds and accounts created hereunder and from the Institution’s funds to the United States as the Institution, in accordance with the Indenture and the Tax Documents, shall direct.

Events of Default (Section 601)

The Indenture provides that each of the following events will constitute an Event of Default under the Indenture:

- (1) failure by the Issuer to make due and punctual payment of the interest or premium on any Bond or failure by the Issuer to make due and punctual payment of the principal of any Bond, whether at the Stated Maturity thereof, or upon proceedings for the redemption thereof, or upon the maturity thereof by declaration;
- (2) subject to any right to waive the same as set forth in the Financing Documents, receipt by the Trustee of notice, or actual notice on the part of the Trustee, of the occurrence of an Event of Default under any of the other Financing Documents; or
- (3) subject to the provisions of the Indenture, default in the performance or observance of any other covenant, agreement or condition on the part of the Issuer in the Indenture or in any Bond to be performed or observed and the continuance thereof for a period of thirty (30) days after written notice thereof is given to the Issuer and the Institution by the Trustee or by the Holders of at least fifty-one percent (51%) in aggregate principal amount of the Bonds then Outstanding.

Before taking any action under the Indenture (except declaring an Event of Default, a mandatory redemption or an acceleration of the Bonds pursuant to the Indenture), the Trustee may require that a security and indemnity reasonably satisfactory to it be deposited with it for the reimbursement of all fees, costs and expenses including, but not limited to, reasonable attorney’s fees to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its gross negligence or willful misconduct by reason of any action so taken.

Acceleration (Section 602)

Upon (A) the occurrence of an Event of Default under paragraph (1) of the first paragraph under the caption “Events of Default” in the Indenture, the Trustee shall, and (B) the occurrence and continuance

of an Event of Default under paragraphs (2) or (3) of the first paragraph under the caption “SUMMARY OF INDENTURE – “Events of Default” above and so long as such Event of Default is continuing, the Trustee may, and upon the written request of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of Bonds then Outstanding, the Trustee shall, by notice in writing delivered to the Institution, with a copy of such notice being sent to the Issuer, declare the entire principal amount of all Bonds then Outstanding and the interest accrued thereon to be immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable. Upon any such declaration, the Trustee shall immediately declare an amount equal to all amounts then due and payable on the Bonds to be immediately due and payable under the Loan Agreement.

Enforcement Of Remedies (Section 603)

Upon the occurrence and during the continuance of any Event of Default, the Trustee shall exercise such of the rights and powers vested in the Trustee by the Indenture and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of his own affairs. In considering what actions are or are not prudent in the circumstances, the Trustee shall consider whether or not to take such action as may be permitted to be taken by the Trustee under any of the Financing Documents.

Upon the occurrence and during the continuance of any Event of Default, the Trustee may proceed forthwith to protect and enforce its rights under the Enabling Act, the Loan Agreement and the other Financing Documents by such suits, actions or proceedings as the Trustee, being advised by counsel, shall deem expedient.

Upon the occurrence and during the continuance of any Event of Default, the Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce payment of and receive any amounts due or becoming due from the Issuer or the Institution under any of the provisions of the Indenture, the Loan Agreement and the other Financing Documents, without prejudice to any other right or remedy of the Trustee or the Bondholders. The Trustee may sue for, enforce payment of and receive any amounts due or becoming due from the Institution for principal, premium, interest or otherwise under any of the provisions of the Indenture or the other Financing Documents, without prejudice to any other right or remedy of the Trustee.

Regardless of the happening of an Event of Default, the Trustee may institute and maintain such suits and proceedings as it may be advised shall be necessary or expedient to prevent any impairment of the security under the Indenture and the other Financing Documents by any acts which may be unlawful or in violation of the Indenture or of any other Financing Document or of any resolution authorizing the Bonds, or to preserve or protect the interest of the Trustee and/or the Bondholders.

Rights of Bondholders to Direct Proceedings (Section 607)

The Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds then Outstanding shall have the right at any time, by an instrument in writing executed and delivered to the Trustee and upon offering the Trustee the security and indemnity provided for in the Indenture, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of the Indenture, the Loan Agreement or the other Financing Documents, or for the appointment of a receiver or any other proceedings hereunder, provided that such direction, in the opinion of Independent Counsel, is in accordance with the provisions of law and is not unduly prejudicial to the interests of the Bondholders not joining such direction.

Application of Moneys (Section 609)

All moneys received by the Trustee pursuant to any right given or action taken under the default and remedy provisions of the Indenture shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses, liabilities and advances (including reasonable attorneys' fees) incurred or made by the Trustee, be deposited into the Bond Fund; and all moneys in the Bond Fund shall be applied, together with the other moneys held by the Trustee under the Indenture (other than amounts on deposit in the Rebate Fund), as follows:

- (1) Unless the principal of all the Bonds shall have become due or shall have been declared due and payable, all such moneys shall be applied:

FIRST - to the payment to the Persons entitled thereto of all installments of interest then due on the Bonds, in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or privilege;

SECOND - to the payment to the Persons entitled thereto of the unpaid principal of and any premium on the Bonds (other than Bonds called for redemption for the payment of which moneys shall be held pursuant to the provisions of the Indenture) which shall have become due, in order of their maturities, with interest from the date upon which they became due and, if the amount available shall not be sufficient to pay in full the principal of and premium, if any, and interest on the Bonds due on any particular date, then to the payment ratably, according to amounts due respectively for principal, interest and premium, if any, to the Persons entitled thereto, without any discrimination or privilege; and

THIRD - to the payment to the Persons entitled thereto of the principal of, premium, if any, on, or interest on the Bonds which may thereafter become due and payable, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with interest and premium, if any, then due and owing thereon, payment shall be made ratably according to the amount of interest, principal and premium, if any, due on such date to the Persons entitled thereto, without any discrimination or privilege.

- (2) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal, premium, if any, and interest then due and unpaid upon the Bonds, without preference or priority of principal and premium over interest or of interest over principal and premium, or of any installment of interest over any other installment of interest, or of any Bonds over any other Bonds, ratably, according to the amounts due respectively for principal, premium, if any, and interest, to the Persons entitled thereto without any discrimination or privilege.

Whenever moneys are to be applied pursuant to the provisions of item (1) of the preceding paragraph, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for such application and the likelihood of additional moneys becoming available in the future. Whenever moneys are to be applied pursuant to the provisions of item (2) of the preceding paragraph,, such moneys shall be applied as soon as practicable upon receipt thereof. In either case, the Trustee shall give such notice as the Trustee may deem appropriate of the deposit with the Trustee of any such moneys and of the fixing of any such date, and shall not be

required to make payment to the Holder of any Bond until such Bond shall be presented to the Trustee and a new Bond is issued or the Bond is canceled if fully paid.

Notice of Defaults; Opportunity to Cure (Section 614)

Anything in the Indenture to the contrary notwithstanding, no Event of Default described in paragraph (2) or paragraph (3) under the caption “SUMMARY OF THE INDENTURE - Events of Default” will constitute an Event of Default until the Trustee shall have received written notice thereof or shall have actual notice thereof and until actual notice of such default by registered or certified mail is given by the Trustee, or by the Holders of not less than fifty-one percent (51%) of the aggregate principal amount of Bonds then Outstanding, to the Issuer and the Institution (with a copy to the Trustee if given by the Holders), and the Issuer and the Institution have had thirty (30) days after receipt of such notice to correct such default or cause said default to be corrected, and have not done so within the applicable period; provided, however, if said default be such that it cannot be corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted by the Issuer or the Institution within the applicable period and diligently pursued until the default is corrected.

Acceptance of the Trusts (Section 701)

The Trustee accepts the trusts imposed upon it by the Indenture and agrees to perform said trusts upon certain terms and conditions, including but not limited to the following:

The Trustee may execute any of the trusts or powers of the Indenture and perform any of its duties under the Indenture by or through attorneys, agents, receivers or employees, but shall not be answerable for the conduct of the same if appointed without gross negligence, and shall be entitled to advice of counsel concerning all matters of the trusts of the Indenture and the duties under the Indenture, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may be reasonably employed in connection with the trusts of the Indenture. The Trustee may act, without gross negligence, upon the opinion or advice of any attorney appointed, who may be the attorney or attorneys for the Issuer, and shall not be responsible for any loss or damage resulting from any action or nonaction in reliance upon any such opinion or advice.

The Trustee may become the Owner of Bonds secured by the Indenture with the same rights which it would have if not the Trustee.

Before taking any action under the Indenture (except declaring an Event of Default, a mandatory redemption or an acceleration of the Bonds pursuant to the Indenture), the Trustee may require that a security and indemnity reasonably satisfactory to it be deposited with it for the reimbursement of all fees, costs and expenses including, but not limited to, reasonable attorney’s fees and expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

The Trustee shall not be required to take notice or be deemed to have notice of the occurrence of any Event of Default or an Event of Taxability other than an Event of Default under the caption “SUMMARY OF THE INDENTURE - Events of Default” above, unless the Trustee shall have actual knowledge of such Event of Default or Event of Taxability or unless the Trustee shall be specifically notified in writing of such Event of Default or Event of Taxability by the Issuer or the Institution or the Owners of at least fifty-one percent (51%) in aggregate principal amount of Bonds Outstanding under the Indenture, and all notices or other instruments required by the Indenture to be delivered to the Trustee must, in order to be effective, be delivered at the Office of the Trustee, and, in the absence of such notice so

delivered, the Trustee may conclusively assume there is no Event of Default or Event of Taxability, except as aforesaid.

Appointment of Successor Trustee by the Bondholders; Temporary Trustee (Section 708)

In case the Trustee under the Indenture shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting under the Indenture, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the Owners of not less than fifty-one percent (51%) in aggregate principal amount of Bonds then Outstanding, by an instrument or concurrent instruments in writing signed by such Owners, or by their duly authorized attorneys; provided, nevertheless, that in case of vacancy, the Issuer (at the written direction of the Institution) by an instrument executed and signed by the Chairperson or Vice Chairperson and attested by the Secretary or Assistant Secretary of the Issuer under its seal, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed by such Bondholders in the manner above provided; and any such temporary Trustee so appointed by the Issuer (at the written direction of the Institution) shall immediately and without further act be superseded by the Trustee so appointed by such Bondholders.

Every such successor or temporary Trustee appointed pursuant to the provisions of Section 708 of the Indenture shall (1) be a trust company or bank organized under the laws of the United States of America or any state thereof and which is in good standing, (2) be located within or outside the State, (3) be duly authorized to exercise trust powers in the State, (4) be subject to examination by a federal or state authority, and (5) maintain a reported capital and surplus of not less than \$20,000,000 (or a combined capital and surplus in excess of \$5,000,000 and the obligations of which, whether now in existence or hereafter incurred, are fully guaranteed by a corporation organized and doing business under the laws of the United States, and State or Territory thereof or of the District of Columbia, that has a combined capital and surplus of at least \$50,000,000), if there be one able and willing to accept the trust on reasonable and customary terms.

Supplemental Indentures not Requiring Consent of Bondholders (Section 801)

The Issuer and the Trustee, without the consent of or notice to any of the Bondholders, may enter into an indenture or indentures supplemental to the Indenture and not inconsistent with the terms and provisions of the Indenture or, in the sole judgment of the Trustee, materially adverse to the interests of the Trustee or the Holders of the Bonds, for any one or more of the following purposes:

- (1) to cure any ambiguity, inconsistency or formal defect or omission in the Indenture;
- (2) to grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Bondholders or the Trustee or any of them;
- (3) to subject additional rights and revenues to the Lien of the Indenture, or to identify more precisely the Trust Estate;
- (4) to obtain or maintain a rating on the Bonds from Moody's or Standard & Poor's;
- (5) to comply with the provisions of the Code necessary to maintain the exclusion of interest on the Tax-Exempt Bonds from gross income for federal income tax purposes;

(6) to modify, amend or supplement the Indenture or any indenture supplemental to the Indenture in such manner as to permit the qualification thereof under the Trust Indenture Act of 1939 or any similar Federal statute hereafter in effect or under any state Blue Sky Law;

(7) to enable the issuance of Additional Bonds;

(8) to modify or supplement from time to time the procedures then required by the Indenture and the Custody Agreement to assure the timely receipt by the Trustee of Education Aid payable with respect to the Project Facility in adequate amounts to fund the requirements under the Indenture;

(9) to permit the Bonds to be converted to certificated securities to be held by the registered owners thereof; or

(10) for any other purpose not materially adverse to the interests of the Holders of the Bonds.

Supplemental Indentures Requiring Consent of Bondholders (Section 802)

Other supplemental indentures modifying the Indenture may be approved by the Holders of not less than two-thirds (2/3) in aggregate principal amount of the Bonds Outstanding; provided that no supplemental indenture is permitted which would permit (1) without the consent of the Holder of such Bond, (a) a reduction in the rate, or extension of the time of payment, of interest on any Bond, (b) a reduction of any premium payable on the redemption of any Bond, or an extension of time for such payment, or (c) a reduction in the principal amount payable on any Bond, or an extension of time in which the principal amount of any Bond is payable, whether at the stated or declared maturity or redemption thereof, (2) the creation of any Lien prior to or on a parity with the Lien of the Indenture (other than that parity Lien created to secure the Additional Bonds), (3) a reduction in the aforesaid aggregate principal amount of Bonds, the Holders of which are required to consent to any such supplemental indenture, without the consent of the Holders of all the Bonds at the time Outstanding which would be affected by the action to be taken, (4) the modification of the rights, duties or immunities of the Trustee, without the written consent of the Trustee, or (5) a privilege or priority of any Bond or Bonds over any other Bond or Bonds.

Supplemental Indentures; Consent of the Institution (Section 803)

Supplemental indentures which affect the rights or liabilities of the Institution under the Indenture require the consent of the Institution.

Condition Precedent to Supplemental Indentures (Section 805)

Prior to executing any supplemental indenture in accordance with the provisions of Article VIII of the Indenture, Bond Counsel shall deliver its opinion that the execution of such supplemental indenture will not adversely affect the exclusion under the Code of interest on the Tax-Exempt Bonds from the gross income of the holders thereof for federal income tax purposes.

Amendment to the Loan Agreement or other Financing Documents not Requiring Consent of Bondholders (Section 901)

The Issuer, the Institution and the Trustee may, without the consent of or notice to the Bondholders, consent to any amendment, change or modification of the Loan Agreement or any other Financing Document (other than the Indenture) as may be required (1) by the provisions of any Financing Document,

(2) for the purpose of curing any ambiguity, inconsistency or formal defect therein or omission therefrom, (3) so as to identify more precisely the Trust Estate or the Project Facility, (4) in connection with any supplemental indenture Section 801 of the Indenture, or to effect any purpose for which there could be a supplemental indenture entered into pursuant to Section 801 of the Indenture, (5) to obtain or maintain a rating on the Bonds from Moody's or Standard & Poor's, (6) to permit the issuance of Additional Bonds, (7) to comply with the provisions of the Code necessary to maintain the exclusion of interest on the Tax-Exempt Bonds from gross income for federal income tax purposes, or (8) to modify or supplement from time to time the procedures then required by the Indenture and the Custody Agreement to assure the timely receipt by the Trustee of Education Aid payable with respect to the Project Facility in adequate amounts to fund the requirements under the Indenture, or (9) in connection with any other supplemental indenture, but only if any such amendment, change or modification, in the sole judgment of the Trustee, is not materially adverse to the interests of the Trustee or the Bondholders.

Amendments to Loan Agreement or other Financing Documents Requiring Consent of Bondholders
(Section 902)

Except for the amendments, changes or modifications as provided under the caption "SUMMARY OF THE INDENTURE – Amendment to the Loan Agreement or other Financing Documents not Requiring Consent of Bondholders" above, neither the Issuer, the Institution nor the Trustee shall consent to any other amendment, change or modification of the Loan Agreement or any other Financing Document (other than the Indenture) without mailing notice thereof to, and obtaining the written approval or consent thereto of, the Holders of not less than two-thirds in aggregate principal amount of the Bonds at the time Outstanding given as provided in the Indenture.

Condition Precedent to Amendment to Loan Agreement or Other Financing Documents (Section 903)

Prior to any amendment to the Loan Agreement or other Financing Documents taking effect, Bond Counsel must deliver its opinion that the amendment of such Loan Agreement or other Financing Document will not adversely affect the exclusion under the Code of interest on the Tax-Exempt Bonds from the gross income of the holders thereof for federal income tax purposes.

Discharge of Lien (Section 1001)

If the Issuer (1) shall pay or cause to be paid, to the Holders and Owners of the Bonds, the principal of the Bonds and premium, if any, due on the Bonds, at the times and in the manner stipulated therein and in the Indenture, (2) shall pay or cause to be paid from any source, to the Holders and Owners of the Bonds, the interest to become due on the Bonds, at the times and in the manner stipulated therein and in the Indenture, (3) shall have paid all fees, costs and expenses including, but not limited to, reasonable attorney's fees of the Trustee and each paying agent, (4) shall pay or cause to be paid the entire Rebate Amount to the United States in accordance with the Tax Documents and the Indenture, and (5) shall cause to be delivered an opinion of Independent Counsel stating that all conditions precedent with respect to the satisfaction and discharge of the Indenture have been met, then the Indenture and the trust and rights thereby granted will cease, terminate and be void, and thereupon the Trustee will (a) cancel and discharge the Lien of the Indenture upon the Trust Estate and the Trustee's rights under the other Financing Documents and execute and deliver to the Issuer such instruments in writing as shall be requisite to satisfy same, (b) reconvey to the Issuer the Loan Agreement and the trust conveyed by the Indenture, and (c) assign and deliver to the Institution any interest in Property at the time subject to the Lien of the Indenture and the other Financing Documents which may then be in its possession, except amounts held by the Trustee for the payment of principal of, and the interest and premium, if any, on, the Bonds.

All Outstanding Bonds will, prior to the maturity or Redemption Date thereof, be deemed to have been paid if, under circumstances which, in the opinion of Bond Counsel, do not adversely affect the exclusion of interest on the Tax-Exempt Bonds from gross income for federal income tax purposes, the following conditions have been fulfilled: (1) in case any of the Bonds are to be redeemed prior to their maturity, the Institution shall have given to the Trustee in form satisfactory to it irrevocable instructions to give notice of redemption of such Bonds on said date as provided in the Indenture; and (2) there is on deposit with the Trustee moneys, which shall be either cash or Defeasance Obligations, in an amount sufficient, without the need for further investment or reinvestment, but including any scheduled interest on or increment to such obligations, to pay when due the principal, premium, if any, and interest due and to become due on the Bonds on and prior to the redemption date or maturity date thereof, as the case may be, and to pay the Trustee for its Ordinary Services and Ordinary Expenses and for its Extraordinary Services and Extraordinary Expenses.

The Trustee may rely upon an opinion of an Accountant as to the sufficiency of the cash or such Defeasance Obligations on deposit.

No Recourse; Special Obligations (Section 1109)

The obligations and agreements of the Issuer contained in the Indenture or in any other document executed by the Issuer in connection therewith shall (A) be deemed obligations and agreements of the Issuer, and not of any member, officer, agent or employee of the Issuer in his or her individual capacity, (B) not be an obligation of the State of New York or of the City of Albany, New York, and (C) be limited obligations of the Issuer, payable solely from the revenues of the Issuer derived from the sale or other disposition of the Project Facility.

No Recourse Relating to the Institution (Section 1112)

All covenants, stipulations, promises, agreements and obligations of the Institution contained in the Indenture shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Institution and not of any officer, director, employee, agent or servant of the Institution in his individual capacity, and no recourse under or upon any obligation, covenant or agreement in the Indenture contained therein or otherwise based upon or in respect of the Indenture, or for any claim based therein or otherwise in respect thereof, shall be had against any past, present or future officer, director, employee, agent or servant, as such, of the Institution or of any successor entity on behalf of the Institution, it being expressly understood that no such personal liability whatever shall attach to, or is or shall be incurred by, any such officer, director, employee, agent or servant of the Institution or of any successor entity on behalf of the Institution because of the creation of the obligations hereby authorized, or under or by reason of the obligations, covenants or agreements contained in the Indenture; and that any and all such personal liability of, and any and all such rights and claims against, every such officer, director, employee, agent or servant because of the creation of the obligations authorized by the Indenture, or under or by reason of the obligations, covenants or agreements contained in the Indenture or implied therefrom, are, to the extent permitted by law, expressly waived and released as a condition of, and as a consideration for, the execution by the Institution of its consent to the Indenture.

**SUMMARY OF CERTAIN PROVISIONS OF THE
LOAN AGREEMENT**

Pursuant to the Loan Agreement, the Issuer will make the Loan to the Institution of the proceeds of the Initial Bonds for the purpose of assisting in financing the Initial Project. Reference is made to the

Loan Agreement for complete details of the terms thereof. The following is a brief summary of certain provisions of the Loan Agreement and should not be considered a full statement thereof.

Representations, Warranties and Covenants of the Issuer (Section 2.1)

The Issuer will make the following representations, warranties and covenants, among others:

(1) The Issuer is duly established under the provisions of the Enabling Act and has the power to enter into the Loan Agreement and to carry out the obligations thereunder. By proper official action, the Issuer has been duly authorized to execute, deliver and perform the Loan Agreement and the other Financing Documents to which the Issuer is a party.

(2) Subject to the limitations contained in the Loan Agreement, so long as the Bonds shall be Outstanding, the Issuer will not take any action (or omit to take any action required by the Financing Documents or which the Trustee or the Institution, together with Bond Counsel, advise the Issuer in writing should be taken), or allow any action to be taken, which action (or omission) would in any way (a) cause the proceeds from the sale of the Bonds to be applied in a manner contrary to that provided in the Financing Documents, or (b) adversely affect the exclusion of the interest paid or payable on any Tax-Exempt Bond from gross income for federal income tax purposes. Notwithstanding the foregoing, there shall be no such obligation upon the Issuer with respect to the use or investment of its administrative fee, provided, however, that if the Institution is required to rebate any amount with respect to such administrative fee, the Issuer shall provide, upon the reasonable request of the Institution, such information concerning the investment of such administrative fee as shall be requested by the Institution and as shall be reasonably available to the Issuer.

Representations and Covenants of the Institution (Section 2.2)

The Institution makes the following representations and covenants, among others:

(1) The Institution is an education corporation duly organized and validly existing under the laws of the State of New York, is duly authorized to do business in the State, has the power to enter into the Loan Agreement and the other Financing Documents to which the Institution is a party and to carry out its obligations thereunder, has been duly authorized to execute the Loan Agreement and the other Financing Documents to which the Institution is a party, and is qualified to do business in all jurisdictions in which its operations or ownership of Properties so require. The Loan Agreement and the other Financing Documents to which the Institution is a party, and the transactions contemplated thereby, have been duly authorized by all necessary action on the part of the board of trustees of the Institution.

(2) The Institution will not take any action (or omit to take any action required by the Financing Documents or which the Trustee or the Issuer, together with Bond Counsel, advise the Institution in writing should be taken), or allow any action to be taken, which action (or omission) would in any way (a) adversely affect the exclusion of the interest paid or payable on the Tax-Exempt Bonds from gross income for federal income tax purposes, or (b) cause the proceeds of the Bonds to be applied in a manner contrary to that provided in the Financing Documents.

(3) The Project Facility and the operation thereof will comply in all material respects with all Applicable Laws, and the Institution will defend and save the Issuer and its members, directors, officers, agents, servants and employees harmless from all fines and penalties due to failure to comply therewith. The Institution shall cause all notices required by all Applicable Laws to be given, and shall comply or cause compliance with all Applicable Laws, and the Institution

will defend and save the Issuer and its officers, members, agents, directors and employees harmless from all fines and penalties due to failure to comply therewith.

(4) All of the proceeds of the Initial Bonds shall be used to pay the costs of the Initial Project, and the total cost of the Initial Project is expected to at least equal \$13,460,660.90.

(5) The Institution will comply with all of the terms, conditions and provisions of the Initial Tax Regulatory Agreement. All of the representations, certifications, statements of reasonable expectation and covenants made by the Institution in the Initial Tax Regulatory Agreement are hereby declared to be for the benefit of, among others, the Issuer and are incorporated in the Loan Agreement as though set forth in full therein.

(6) The Institution represents that (a) it is an organization described in Section 501(c)(3) of the Code, or corresponding provisions of prior law; (b) it has received a letter or other notification from the Internal Revenue Service to that effect; (c) such letter or other notification has not been modified, limited or revoked; (d) it is in compliance with all terms, conditions and limitations, if any, contained in such letter or other notification; (e) the facts and circumstances which form the basis of such letter or other notification as represented to the Internal Revenue Service continue to exist; and (f) it is exempt from federal income taxes under Section 501(a) of the Code. The Institution agrees that it shall not perform any act or enter into any agreement which shall adversely affect such federal income tax status and shall conduct its operations in a manner which will conform to the standards necessary to qualify the Institution as a charitable organization within the meaning of Section 501(c)(3) of the Code or any successor provision of federal income tax law.

Covenant with Trustee, Bondholders (Section 2.3)

The Issuer and the Institution agree that the Loan Agreement is executed in part to induce the purchase of the Initial Bonds by the Holders and Beneficial Owners from time to time of the Initial Bonds. Accordingly, all representations, covenants and agreements on the part of the Issuer and the Institution set forth in the Loan Agreement (other than the Unassigned Rights) are declared to be for the benefit of the Issuer, the Trustee and the Holders and Beneficial Owners from time to time of the Initial Bonds.

Acquisition, Construction, Reconstruction and Installation of the Project Facility (Section 3.1)

The Institution has previously undertaken and completed the acquisition, construction, reconstruction and installation of the Initial Project Facility.

Issuance of the Initial Bonds; Loan of the Proceeds Thereof (Section 3.2)

In order to make the Loan for the purposes of financing a portion of the Cost of the Project relating to the Initial Project, together with other costs and incidental expenses in connection therewith, the Issuer agrees that it will use its best efforts to (a) issue and deliver the Initial Bonds in the aggregate principal amount of \$ 12,165,000.00 and (b) cause the Initial Bonds to be delivered to the Underwriter as original purchaser of the Initial Bonds, all as provided in the Initial Bond Resolution, the Certificate of Determination, the Initial Bond Purchase Agreement and the Indenture.

As provided in the Indenture, the proceeds from the sale of the Initial Bonds shall be loaned by the Issuer to the Institution and paid as follows: (1) a sum equal to any accrued interest, if any, paid by the Underwriter as original purchaser shall be deposited by the Issuer with the Trustee and deposited by the Trustee into the Bond Fund, (2) a sum equal to the Reserve Fund Requirement with respect to the Initial Bonds shall be deposited by the Trustee into the Reserve Fund and (3) the balance of the proceeds

from the sale of the Bonds shall be deposited by the Issuer with the Trustee and deposited by the Trustee into the Project Fund. As provided in the Initial Bond Purchase Agreement, the Underwriter will advance the proceeds of the sale of the Initial Bonds to the Trustee in a single advance for deposit in accordance with the provisions of the Indenture. Pending disbursement pursuant to the provisions of the Loan Agreement and the Indenture, the proceeds of the Initial Bonds deposited in accordance with the provisions of the Indenture, together with any investment earnings thereon, shall constitute a part of the Trust Estate assigned by the Issuer to the payment of Debt Service Payments as provided in the Indenture.

Application of Proceeds of the Initial Bonds (Section 3.3)

The portion of the proceeds of the sale of the Initial Bonds on deposit in the Project Fund will be deposited by the Issuer with the Trustee as provided in the Indenture.

Pursuant to Section 404(B) of the Indenture, on the Closing Date, following execution and delivery of the Defeasance Escrow Agreement, the Trustee shall pay to the Prior Trustee, from the moneys on deposit in the Project Fund, an amount equal to the Defeasance Cash Deposit. Pursuant to the provisions of the Defeasance Escrow Agreement, the Defeasance Cash Deposit shall become part of the Defeasance Escrow Deposit, and the Defeasance Escrow Deposit shall be held by the Prior Trustee pursuant to the Defeasance Escrow Agreement and applied to pay debt service coming due on the Prior Bonds to be refunded and to redeem such Prior Bonds on the earliest possible optional redemption date relating to such Prior Bonds following the date of the issuance of the Initial Bonds.

Pursuant to Section 404(B) of the Indenture, upon submission to the Trustee of a Request for Disbursement certified by an Authorized Representative of the Institution and complying with the requirements of Section 404 of the Indenture, the balance of the moneys on deposit in the Project Fund relating to the Initial Bonds shall be applied at closing or within thirty (30) days of the issuance of the Initial Bonds to pay the following items of cost and expenses:

- (1) all fees, taxes, charges and other expenses for recording or filing, as the case may be, the Financing Documents, any other agreement contemplated hereby, any financing statements and any title curative documents in order to perfect or protect the Issuer's, the Trustee's or the Institution's respective interests in the Initial Project Facility, and any security interests contemplated by the Financing Documents;
- (2) all legal, accounting, financial advisory, investment banking, underwriting, rating agency, blue sky, legal investment and any other fees, discounts, costs and expenses incurred by the Issuer, the Institution or the Trustee in connection with the preparation, reproduction, authorization, issuance, execution, delivery and sale of the Initial Bonds and the other Financing Documents and all other documents in connection therewith, with the acquisition, construction, reconstruction and/or installation of the Initial Project Facility, and with any other transaction contemplated by the Initial Bonds, the Indenture and the Loan Agreement;
- (3) the administration, acceptance and/or commitment fees, costs and expenses (including, but not limited to, reasonable attorneys' fees) of the Issuer and the Trustee; and
- (4) reimbursement to the Institution for any of the above enumerated costs and expenses paid and incurred by the Institution.

Any disbursements from the Project Fund for the payment of the Project Costs relating to the Initial Project shall be made by the Trustee only upon the written order of the Authorized Representative of the Institution.

Completion of the Initial Project (Section 3.4)

The Institution will proceed with due diligence to commence and complete the Initial Project.

Completion by the Institution (Section 3.5)

In the event that the Bond Proceeds are not sufficient to pay in full all costs of acquiring, constructing, reconstructing and installing the Project Facility, the Institution agrees to complete such acquisition, construction, reconstruction and installation and to pay all such sums as may be in excess of moneys available therefor in the Project Fund.

Investment of Fund Moneys (Section 3.6)

At the oral (promptly confirmed in writing) or written request of the Authorized Representative of the Institution, any moneys held as part of any Fund created under the Indenture shall be invested or reinvested by the Trustee in Authorized Investments. The Institution covenants that the Institution will restrict that investment and reinvestment and the use of the proceeds of the Tax-Exempt Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time of delivery of and payment for the Tax-Exempt Bonds, so that the Tax-Exempt Bonds will not constitute arbitrage bonds under Section 148 of the Code.

Rebate Fund (Section 3.7)

The Institution agrees to make such payments to the Trustee as are required of it under Section 407 of the Indenture and to pay the costs and expenses of the independent certified public accounting firm or firm of attorneys engaged in accordance with said Section 407 of the Indenture. The obligation of the Institution to make such payments shall remain in effect and be binding upon the Institution notwithstanding the release and discharge of the Indenture.

Loan Payments and other Amounts Payable (Section 5.1)

Upon the terms and conditions of the Loan Agreement, the Issuer will make the Loan to the Institution. In consideration of and in repayment of the Loan, the Institution shall make, as Loan Payments, payments sufficient in amount to pay when due the Debt Service Payments due and payable on the Bonds. The Institution shall pay Loan Payments as follows:

- (1) on each September 15, November 15 and January 15, the Institution shall cause to be delivered to the Trustee for deposit into the Bond Fund immediately available funds in an amount equal to one-third (1/3) of the interest payable on the Initial Bonds on the next April 1 and one-sixth (1/6) of the principal payable on the Initial Bonds on the next April 1;
- (2) on each March 15, May 15 and July 15 (with each January 15, March 15, May 15, July 15, September 15 and November 15 being referred to hereinafter as a "Loan Payment Date"), the Institution shall cause to be delivered to the Trustee for deposit into the Bond Fund immediately available funds in an amount equal to one-third (1/3) of the interest payable on the Initial Bonds on the next October 1 and one-sixth (1/6) of the principal payable on the Initial Bonds on the next April 1;
- (3) upon receipt of notice from the Trustee pursuant to the Indenture that a withdrawal has been made from the Reserve Fund which results in a deficiency in the amount required to be on deposit to the credit of the Reserve Fund, the Institution will make available to the Trustee for deposit in the Reserve Fund moneys to replenish such withdrawal from the Reserve Fund in

payments payable each January 15, March 15, May 15, July 15, September 15 and November 15, commencing immediately succeeding the date of receipt by the Institution from the Trustee of such notice, each such payment to be in an amount at least equal to one-sixth of the amount identified in such notice; provided that no further payments shall be required as a result of such notice if and when the amount on deposit in the Reserve Fund is at least equal to the Reserve Fund Requirement; and

(4) subsequent to the Repair and Replacement Fund being funded in an amount sufficient to equal the Repair and Replacement Fund Requirement pursuant to Section 4.1(A) of the Custody Agreement, upon receipt of a withdrawal from the Repair and Replacement Fund which results in a deficiency in the amount required to be on deposit to the credit of the Repair and Replacement Fund, the Institution will make available to the Trustee for deposit in the Repair and Replacement Fund moneys to replenish such withdrawal from the Repair and Replacement Fund in payments payable each January 15, March 15, May 15, July 15, September 15 and November 15, commencing immediately succeeding the date of receipt by the Institution of such withdrawal, each such payment to be in an amount at least equal to one-twelfth of the amount identified in such notice; provided that no further payments shall be required as a result of such withdrawal if and when the amount on deposit in the Repair and Replacement Fund is at least equal to the Repair and Replacement Fund Requirement.

Notwithstanding the provisions of subsections (A)(1) and (A)(2) of Section 5.1 of the Loan Agreement, the aggregate amount so paid by the Institution with respect to principal and interest on the Initial Bonds on or before any Loan Payment Date immediately preceding a principal and interest payment date of the Initial Bonds shall in no event be in an amount insufficient to pay the principal and interest payable on the Initial Bonds on such next succeeding principal and interest payment date.

Notwithstanding anything herein to the contrary, the obligation of the Institution to make any payment hereunder shall be deemed satisfied and discharged to the extent that the Institution has made, or caused to be made, a payment for deposit to the Bond Fund, the Reserve Fund or the Repair and Replacement Fund in the amounts specified in the Custody Agreement Notice in accordance with the terms of the Custody Agreement.

The Institution shall pay as additional Loan Payments under the Loan Agreement any premium when due on the Bonds and the following:

(1) Within thirty (30) days after receipt of a demand therefor from the Trustee, the Institution shall pay to the Trustee the following amounts: (a) the reasonable fees, costs and expenses of the Trustee for performing its obligations under the Indenture, including any Ordinary Fees and Ordinary Expenses and Extraordinary Fees and Extraordinary Expenses; (b) the sum of the expenses of the Trustee reasonably incurred in performing the obligations of (i) the Institution under the Loan Agreement or the Custody Agreement, or (ii) the Issuer under the Bonds, the Indenture or the Loan Agreement; and (c) the Trustee's reasonable attorneys' fees incurred in connection with the foregoing and other moneys due the Trustee pursuant to the provisions of any of the Financing Documents.

(2) (a) On the Closing Date, the Institution shall pay to the Issuer, (i) a lump sum payment in an amount equal to the Issuer's administrative fee for the issuance of the Initial Bonds; plus (ii) an additional lump sum additional loan payment in an amount equal to the fees and expenses of general counsel and Bond Counsel to the Issuer relating to the Project.

(b) Within thirty (30) days after receipt of a demand therefor from the Issuer, the Institution shall pay to the Issuer the sum of the reasonable expenses of the Issuer and the officers, members, agents and employees thereof incurred by reason of the Issuer's ownership, financing or sale of the Project Facility or in connection with the carrying out of the Issuer's duties and obligations under the Loan Agreement or any of the other Financing Documents, and any other fee or expense of the Issuer with respect to the Project Facility, the sale of the Project Facility to the Institution, the Bonds or any of the other Financing Documents, the payment of which is not otherwise provided for under the Loan Agreement.

(3) Within thirty (30) days after receipt of a demand therefor from the Custodian, the Institution will pay to the Custodian the following amounts: (a) the reasonable fees, costs and expenses of the Custodian for performing its obligations under the Custody Agreement; (b) the sum of the expenses of the Custodian reasonably incurred in performing the obligations of the Institution under the Custody Agreement; and (c) the Custodian's reasonable attorneys' fees incurred in connection with the foregoing and other moneys due the Custodian pursuant to the provisions of the Custody Agreement.

(4) In accordance with the terms of the Custody Agreement, the Institution shall pay, or cause to be paid, the amounts specified in the Custody Agreement Notice for deposit by the Trustee in the Repair and Replacement Fund.

In the event the Institution fails to make any of the above payments for a period of more than ten (10) days from the date such payment is due, the Institution shall pay the same, together with interest thereon, at the Default Interest Rate, from the date on which such payment was due until the date on which such payment is made.

In the event of an application of moneys in the Project Fund toward prepayment of the principal of the Bonds pursuant to Section 404(D) of the Indenture, there shall be no abatement or reduction in the amounts payable by the Institution under the Loan Agreement.

Nature of Obligations of Institution under the Loan Agreement (Section 5.2)

The obligations of the Institution under the Loan Agreement will be general obligations of the Institution and will be absolute and unconditional irrespective of any defense or any rights of set-off, recoupment, counterclaim or abatement that the Institution may otherwise have against the Issuer or the Trustee. The Institution agrees that it will not suspend, discontinue or abate any payment required by, or fail to observe any of its other covenants contained in, the Loan Agreement, or terminate the Loan Agreement for any cause whatsoever.

Prepayment of Loan Payments (Section 5.3)

At any time that the Bonds are subject to redemption under the optional redemption provisions of the Indenture, the Institution may, at its option, prepay, in whole or in part, the Loan Payments payable under the Loan Agreement by causing there to be moneys in an amount equal to the Redemption Price of the Bonds being redeemed on deposit with the Trustee on or before the Redemption Date and applied to the redemption of such Bonds under the Indenture.

Maintenance and Modification of the Project Facility (Section 6.1)

So long as any of the Bonds are Outstanding, and during the term of the Loan Agreement, the Institution will keep the Project Facility in good condition and make all necessary repairs.

Taxes, Assessments And Utility Charges (Section 6.2)

The Institution will pay or cause to be paid all taxes, assessments, and utility charges associated with the Project Facility.

Insurance Required (Section 6.3)

The Institution is required to maintain insurance to protect the interests of the Institution, the Issuer and the Trustee.

Damage, Destruction and Condemnation (Section 7.1 and Section 7.2)

In the case of damage to or the destruction or Condemnation of the Project Facility, the Institution, but not the Issuer, will have an obligation to replace, repair, rebuild or restore the Project Facility, using insurance or Condemnation proceeds for this purpose to the extent available, unless the Institution elects not to replace, repair, rebuild or restore the Project Facility and to cause a defeasance of the Bonds in accordance with the Indenture and the Tax Documents. If the Institution opts to provide for the defeasance of the Bonds and if the Net Proceeds collected under any and all policies of insurance or of any Condemnation award are less than the amount necessary to defease the Bonds in full and pay any and all amounts payable under the Financing Documents to the Issuer and the Trustee, the Institution will be required to pay to the Trustee the difference between such amounts and the Net Proceeds of all insurance settlements and Condemnation awards so that all of the Bonds then Outstanding will be defeased and any and all amounts payable under the Financing Documents to the Issuer and the Trustee will be paid in full.

Termination (Section 8.17)

Upon (1) payment in full of the Loan evidenced by the Initial Bonds, (2) termination of the Pledge and Assignment, (3) payment in full of all other Indebtedness evidenced by the Loan Agreement and (4) performance by the Institution of all other obligations of the Institution to the Issuer pursuant to the provisions of the Loan Agreement (collectively, the “Termination Preconditions”), the Loan Agreement shall terminate, except as provided in Section 11.8 thereof (Survival of Obligations). Upon satisfaction of the Termination Preconditions, the Issuer agrees to execute and deliver to the Institution the Termination of Loan Agreement.

Use of the Initial Project Facility (Section 8.18)

Subsequent to the Closing Date, (A) the Institution shall not use the Initial Project Facility, or permit the Initial Project Facility to be used, by any Nonexempt Person or in any “unrelated trade or business”, within the meaning of Section 513(a) of the Code, in such manner or to such extent as would cause the interest paid or payable on the Tax-Exempt Bonds to be includable in the gross income of the recipients thereof for federal income tax purposes or loss of the Institution’s status as an exempt organization under Section 501(c)(3) of the Code, and (B) the Institution shall be entitled to use the Initial Project Facility as educational facility, but not (1) as facilities used or to be used primarily for sectarian instruction or as a place of religious worship or (2) primarily as in connection with any part of a program of a school or department of divinity for any religious denomination.

Debt Service Coverage Ratio (Section 8.19)

The Institution shall have Net Income Available for Debt Service with respect to the Fiscal Year then ended of at least 110% of the Principal and Interest Requirements (the “Debt Service Coverage Ratio”). The Institution will provide certification of compliance with the foregoing to the Trustee no later than the

earlier of the ensuing December 31 or three (3) weeks after completion of the Institution's audit for the previous Fiscal Year.

If the Institution does not comply with the Debt Service Coverage Ratio, the Trustee shall give notice thereof to the Bondholders, and upon the written direction of a majority of the Bondholders, the Institution will promptly employ a Management Consultant to review and analyze the operations and administration of the Institution, inspect the Initial Project Facility, and submit to the Institution and the Trustee written reports, and make such recommendations as to the operation and administration of the Institution as such Management Consultant deems appropriate, including any recommendation as to a revision of the methods of operation thereof. The Institution agrees to consider any recommendations by the Management Consultant and, to the fullest extent practicable, to adopt and carry out such recommendations. The Trustee has no duty or obligation to monitor the Institution's compliance with any recommendations and the Trustee's sole responsibility is to forward such recommendations to the Bondholders.

So long as the Institution is otherwise in full compliance with its obligations under the Loan Agreement, including following, to the fullest extent practicable, the recommendations of the Management Consultant, it shall not constitute an Event of Default under the Loan Agreement if the Institution fails to satisfy the Debt Service Coverage Ratio (as evidenced by the Institution's audited financial statements for such Fiscal Year).

Notwithstanding Section 8.19(C) of the Loan Agreement, the immediately preceding paragraph, regardless of whether the Institution has retained a Management Consultant, if at the end of the Fiscal Year ending June 30, 2022, or any subsequent Fiscal Year, the Net Income Available for Debt Service as of the end of such Fiscal Year is less than 100% of the Principal and Interest Requirements of such Fiscal Year (as evidenced by the Institution's audited financial statements for such Fiscal Year), then the Trustee shall give notice thereof to the Bondholders and a majority of the Bondholders may either (A) direct the Trustee to declare an Event of Default under the Indenture and the Loan Agreement or (B) direct the Trustee to exercise one or more of the remedies permitted under the Loan Agreement and the Indenture.

Liquidity Covenant (Section 8.20)

The Institution covenants and agrees to maintain unrestricted Days Cash on Hand of at least forty-five (45) Days' Cash on Hand, tested as of June 30 of each year, commencing June 30, 2022, until the Series 2021 Bonds are no longer outstanding (the "Days Cash on Hand Requirement"). Following each testing date, the Institution will provide the Trustee with a certification of having met the Days Cash on Hand Requirement no later than the earlier of the ensuing December 31 or three (3) weeks after completion of the Institution's audit for the previous Fiscal Year. The foregoing is subject to the qualification that if applicable State or federal laws or regulations, or the rules and regulations of agencies having jurisdiction, shall not permit the Institution to maintain the Days Cash on Hand Requirement, then the Institution shall, in conformity with the then prevailing laws, rules, or regulations, maintain its Days Cash on Hand equal to the maximum permissible level.

If the Days Cash on Hand for any testing date is less than the Days Cash on Hand Requirement, then, the Institution shall retain on an annual basis 50% of the Excess Net Revenues until such time as the Institution is in compliance with the Days Cash on Hand Requirement. In the event that the Institution fails to satisfy the Days Cash on Hand Requirement and does not retain on an annual basis 50% of the Excess Net Revenues, then the Trustee shall give notice thereof to the Bondholders, and upon the written direction of a majority of the Bondholders, the Institution will promptly employ a Management Consultant to review and analyze the operations and administration of the Institution, inspect the Initial Project Facility, and submit to the Institution and the Trustee written reports, and make such recommendations as to the operation

and administration of the Institution as such Management Consultant deems appropriate, including any recommendation as to a revision of the methods of operation thereof. The Institution agrees to consider any recommendations by the Management Consultant and, to the fullest extent practicable, to adopt and carry out such recommendations. The Trustee has no duty or obligation to monitor the Institution's compliance with any recommendations and the Trustee's sole responsibility is to forward such recommendations to the Bondholders.

So long as the Institution is otherwise in full compliance with its obligations under the Agreement, including following, to the fullest extent practicable, the recommendations of the Management Consultant, it shall not constitute an Event of Default under the Loan Agreement if the Institution fails to satisfy the Days Cash on Hand Requirement and retain on an annual basis 50% of the Excess Net Revenues.

Limitations on Incurrence of Additional Indebtedness (Section 8.21)

The Institution is precluded from incurring Additional Indebtedness that is senior to the lien of the Mortgage on the Mortgaged Property and the obligations of the Institution under the Loan Agreement.

The Institution may incur Additional Parity Indebtedness as follows:

(a) With respect to Additional Parity Indebtedness consisting of Additional Bonds, upon providing to the Trustee a certificate of an Authorized Representative of the Institution, accompanied by a confirming Independent Financial Consultant's Certificate, to the effect that (i) the requirements regarding the incurrence of Additional Bonds under the Indenture have been met and (ii) either:

(A) (1) the Net Income Available for Debt Service is equal to or greater than 110% of the combined Annual Debt Service for outstanding Long-Term Indebtedness as determined in the most recent audited financial statements of the Institution and (2) the Net Income Available for Debt Service is equal to or greater than 110% of combined Annual Debt Service for outstanding Long-Term Indebtedness and the Additional Indebtedness proposed to be incurred as determined in the most recent audited financial statements of the Institution; or

(B) the projected Net Income Available for Debt Service of the Institution is not less than 125% of the combined projected Annual Debt Service for currently outstanding Long-Term Indebtedness of the Institution and the Additional Indebtedness proposed to be incurred for three consecutive fiscal years after the earlier of (1) the date the new facility to be financed with such Additional Indebtedness is placed into service or (2) the year provision for payment of debt service with capitalized interest is expended;

(b) With respect to Additional Parity Indebtedness not consisting of Additional Bonds, upon providing to the Trustee a certificate of an Authorized Representative of the Institution, accompanied by a confirming Independent Financial Consultant's Certificate, to the effect that either:

(A) (1) the Net Income Available for Debt Service is equal to or greater than 110% of the combined Annual Debt Service for outstanding Long-Term Indebtedness as determined in the most recent audited financial statements of the Institution and (2) the Net Income Available for Debt Service is equal to or greater than 110% of combined Annual Debt Service for outstanding Long-Term Indebtedness and the Additional Indebtedness proposed to be incurred as determined in the most recent audited financial statements of the Institution; or

(B) the projected Net Income Available for Debt Service of the Institution is not less than 125% of the combined projected Annual Debt Service for currently outstanding Long-Term Indebtedness of the Institution and the Additional Indebtedness proposed to be incurred for three consecutive fiscal years after the earlier of (1) the date the new facility to be financed with such Additional Indebtedness is placed into service or (2) the year provision for payment of debt service with capitalized interest is expended.

In addition to the foregoing, prior to the incurrence of Additional Parity Indebtedness, the Custodian, the Trustee, the Institution and any issuer of such Additional Parity Indebtedness shall have entered into an intercreditor agreement, satisfactory to all parties, providing for, among other things, the application and disposition of amounts on deposit under the Custody Agreement and any amendment or supplement thereof.

Additional Indebtedness subordinate to the obligations of an Institution under the Loan Agreement and lien on the Mortgaged Property are permitted by the Loan Agreement.

Assignment of the Loan Agreement (Section 9.1)

The Loan Agreement may not be assigned by the Institution, in whole or in part, without the prior written consent of the Issuer and the Trustee, which consent will not be unreasonably withheld or delayed.

Merger of the Issuer (Section 9.2)

Nothing contained in the Loan Agreement shall prevent the consolidation of the Issuer with, or merger of the Issuer into, or assignment by the Issuer of its rights and interests hereunder to, any other public instrumentality or a political subdivision of the State or the City of Albany, New York which has the legal authority to perform the obligations of the Issuer under the Loan Agreement, provided that (1) the exclusion of the interest payable on the Tax-Exempt Bonds from gross income for Federal income tax purposes shall not be adversely affect thereby; and (2) upon any such consolidation, merger or assignment, the due and punctual performance and observance of all of the agreements and conditions of the Loan Agreement, the Bonds and the Indenture to be kept and performed by the Issuer shall be expressly assumed in writing by the public instrumentality or political subdivision resulting from such consolidation or surviving such merger or to which the Issuer's rights and interests hereunder or under the Loan Agreement shall be assigned.

Events of Default Defined (Section 10.1)

Under the Loan Agreement, one or more of the following events will constitute an "Event of Default":

- (1) A default by the Institution in the due and punctual payment of the basic Loan Payments due pursuant to the Loan Agreement.
- (2) The Institution shall fail to deliver to the Trustee, or cause to be delivered on their behalf, the moneys needed to redeem any outstanding Bonds in the manner and upon the date requested in writing by the Trustee as provided in Article III of the Indenture.
- (3) A default in the performance or observance of any other of the covenants, conditions or agreements on the part of the Institution in the Loan Agreement and the continuance thereof for a period of thirty (30) days after written notice is given by the Issuer or the Trustee to the Institution (with a copy to the Trustee, if given by the Issuer), or, if such covenant, condition or

agreement is capable of cure but cannot be cured within such thirty (30) day period, the failure of the Institution to commence to cure within such thirty (30) day period and to thereafter prosecute the same with due diligence and, in any event, to cure such default within sixty (60) days after such written notice is given.

(4) The occurrence of an “Event of Default” under any of the other Financing Documents.

(5) Any representation or warranty made by the Institution in the Loan Agreement or in any other Financing Document proves to have been false at the time it was made.

(6) The Institution shall generally not pay its debts as such debts become due or admits its inability to pay its debts as they become due.

(7) Any sale, conveyance, lease agreement or any other change of ownership of the Project Facility, whether occurring voluntarily or involuntarily, or by operation of law or otherwise, by the Issuer or the Institution (except pursuant to the Loan Agreement or a Permitted Encumbrance) of their respective interests in the Project Facility or any part thereof, or the granting of any easements or restrictions or the permitting of any encroachments on the Project Facility, except as permitted in the Loan Agreement or a Permitted Encumbrance.

(8) (a) The filing by the Institution (as debtor) of a voluntary petition under the Bankruptcy Code or any other federal or state bankruptcy statute; (b) the failure by the Institution within sixty (60) days to lift any execution, garnishment or attachment of such consequence as will impair the Institution’s ability to carry out its obligations under the Loan Agreement; (c) the commencement of a case under the Bankruptcy Code against the Institution as the debtor or commencement under any other federal or state bankruptcy statute of a case, action or proceeding against the Institution and continuation of such case, action or proceeding without dismissal for a period of sixty (60) days; (d) the entry of an order for relief by a court of competent jurisdiction under the Bankruptcy Code or any other federal or state bankruptcy statute with respect to the debts of the Institution; or (e) in connection with any insolvency or bankruptcy case, action or proceeding, appointment by final order, judgment or decree of a court of competent jurisdiction of a receiver or trustee of the whole or a substantial portion of the Property of the Institution, unless such order, judgment or decree is vacated, dismissed or dissolved within sixty (60) days of such appointment.

(9) The removal of the Equipment or any portion thereof outside City of Albany, New York, without the prior written consent of the Issuer, other than in connection with a removal under Section 9.4(C) of the Loan Agreement (permitting removal of obsolete or unnecessary portions of the Equipment).

(10) Any provision of the Loan Agreement or any of the other Financing Documents shall at any time for any reason cease to be valid and binding on the related obligor thereunder or shall be declared to be null and void by any court or governmental authority or agency having jurisdiction over the Institution, or the validity or the enforceability thereof shall be contested by the Institution, the Issuer or the Trustee, in a judicial or administrative proceeding.

(11) Any Financing Document shall cease to be in full force and effect, or any Lien created or purported to be created in any collateral pursuant to any Financing Document shall fail to be valid, enforceable and perfected Lien in favor of the secured party or parties named in such Financing Document, having the priority purported to be given such Lien under such Financing Documents, or the Institution, the Trustee or any Governmental Authority shall assert any of the

foregoing, unless such failure of validity, enforceability or perfection is caused by the negligence or intentional act of the lender.

- (12) The termination, non-renewal or any other loss of the charter of the Institution.

Notwithstanding the foregoing, if by reason of force majeure (as hereinafter defined) either party to the Loan Agreement shall be unable, in whole or in part, to carry out its obligations under the Loan Agreement and if such party shall give notice and full particulars of such force majeure in writing to the other party and to the Trustee within a reasonable time after the occurrence of the event or cause relied upon, the obligations under the Loan Agreement of the party giving such notice, so far as they are affected by such force majeure, shall be suspended during the continuance of the inability, which shall include a reasonable time for the removal of the effect thereof. The suspension of such obligations for such period pursuant to this provision shall not be deemed an Event of Default under the Loan Agreement. Notwithstanding this provision, an event of force majeure shall not excuse, delay or in any way diminish certain obligations of the Institution to make certain payments, to obtain and continue in full force and effect certain insurance, to provide certain indemnity required by the Loan Agreement and to comply with certain other provisions of the Loan Agreement. The term “force majeure” as used in the Loan Agreement shall include acts outside of the control of the Issuer and the Institution, including but not limited to acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, orders of any kind of any Governmental Authority or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accident to machinery, transmission pipes or canals, and partial or entire failure of utilities. It is agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the party having difficulty, and the party having difficulty shall not be required to settle any strike, lockout or other industrial disturbances by acceding to the demands of the opposing party or parties.

Remedies on Default (Section 10.2)

Whenever any Event of Default shall have occurred, the Issuer and/or the Trustee may, to the extent permitted by law, take any one or more of the following remedial steps:

- (1) declare, by written notice to the Institution, to be immediately due and payable (a) all unpaid installment purchase payments payable pursuant to the Loan Agreement and (b) all other payments due under the Loan Agreement or any of the other Financing Documents;
- (2) take any other action at law or in equity which may appear necessary or desirable to collect any amounts then due or thereafter to become due under the Loan Agreement and to enforce the obligations, agreements or covenants of the Institution under the Loan Agreement;
- (3) terminate disbursement of the Bond Proceeds; or
- (4) exercise any remedies available pursuant to any of the other Financing Documents.

No Recourse; Special Obligation (Section 11.10)

The obligations and agreements of the Issuer contained in the Loan Agreement and in the other Financing Documents and any other instrument or document executed in connection therewith, and any other instrument or document supplemental thereto, will be deemed the obligations and agreements of the Issuer, and not of any member, officer, director, agent, servant or employee of the Issuer in his individual capacity, and the members, officers, directors, agents, servants and employees of the Issuer will not be

liable personally on the Loan Agreement or such other documents or be subject to any personal liability or accountability based upon or in respect of the Loan Agreement or such other documents or of any transaction contemplated by the Loan Agreement or such other documents.

The obligations and agreements of the Issuer contained in the Loan Agreement or such other documents will not constitute or give rise to an obligation of the State of New York or of the City of Albany, New York, and neither the State of New York nor the City of Albany, New York will be liable hereon or thereon, and, further, such obligations and agreements will not constitute or give rise to a general obligation of the Issuer, but rather will constitute limited obligations of the Issuer payable solely from the revenues of the Issuer derived and to be derived from the sale or other disposition of the Project Facility (except for revenues derived by the Issuer with respect to the Unassigned Rights).

No order or decree of specific performance with respect to any of the obligations of the Issuer under the Loan Agreement will be sought or enforced against the Issuer unless (A) the party seeking such order or decree will first have requested the Issuer in writing to take the action sought in such order or decree of specific performance, and ten (10) days will have elapsed from the date of receipt of such request, and the Issuer will have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten days, will have failed to institute and diligently pursue action to cause compliance with such request within such ten day period) or failed to respond within such notice period, (B) if the Issuer refuses to comply with such request and the Issuer's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree will have placed in an account with the Issuer an amount or undertaking sufficient to cover such reasonable fees and expenses, and (C) if the Issuer refuses to comply with such request and the Issuer's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents, servants or employees will be subject to potential liability, the party seeking such order or decree (1) agrees to indemnify and hold harmless the Issuer and its members, officers, agents and employees against any liability incurred as a result of its compliance with such demand, and (2) if requested by the Issuer, furnishes to the Issuer satisfactory security to protect the Issuer and its members, officers, agents and employees against all liability expected to be incurred as a result of compliance with such request. Any failure to provide the indemnity and/or security required in this paragraph shall not affect the full force and effect of an Event of Default under the Loan Agreement.

No Recourse Relating to the Institution (Section 11.11)

All covenants, stipulations, promises, agreements and obligations of the Institution contained in the Loan Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Institution and not of any officer, director, employee, agent or servant of the Institution in his individual capacity, and no recourse under or upon any obligation, covenant or agreement in the Loan Agreement contained therein or otherwise based upon or in respect of the Loan Agreement, or for any claim based therein or otherwise in respect thereof, shall be had against any past, present or future officer, director, employee, agent or servant as such, of the Institution or of any successor entity on behalf of the Institution, it being expressly understood that no such personal liability whatever shall attach to, or is or shall be incurred by, any such officer, director, employee, agent or servant of the Institution or of any successor entity on behalf of the Institution because of the creation of the obligations hereby authorized, or under or by reason of the obligations, covenants or agreements contained in the Loan Agreement; and that any and all such personal liability of, and any and all such rights and claims against, every such officer, director, employee, agent or servant because of the creation of the obligations authorized by the Loan Agreement, or under or by reason of the obligations, covenants or agreements contained in the Loan Agreement or implied therefrom, are, to the extent permitted by law, expressly waived and released as a condition of, and as a consideration for, the execution by the Institution of the Loan Agreement.

SUMMARY OF CERTAIN PROVISIONS OF THE PLEDGE AND ASSIGNMENT

Pursuant to the Pledge and Assignment, to further secure the payment of the Bonds, the Issuer will pledge, assign, transfer and set over to the Trustee, and grant the Trustee a lien on and security interest in, all of the Issuer's right, title and interest in the Loan Agreement and any and all moneys due or to become due and any and all other rights and remedies of the Issuer under or arising out of the Loan Agreement, except for the Unassigned Rights.

The foregoing is a brief summary of the Pledge and Assignment and should not be considered a complete statement thereof. Reference is made to the Pledge and Assignment for complete details of the terms thereof.

SUMMARY OF CERTAIN PROVISIONS OF THE MORTGAGE

Pursuant to the Mortgage, the Institution will grant to the Issuer a lien on and security interest in the Initial Project Facility as additional security for the Bonds. Reference is made to the Mortgage for complete details of the terms thereof. The following is a brief summary of certain provisions of the Mortgage and should not be considered a full statement thereof.

Granting Clauses (Section 2.01)

Pursuant to the Mortgage, to secure the payment of principal of, premium, if any, and interest on the Bonds, all amounts required to be paid under the Loan Agreement and the performance of the obligations of the Issuer and the Institution under the other Financing Documents, the Institution grants to the Issuer a mortgage on and a security interest in all right, title and interest of the Issuer and the Institution in the following (collectively, the "Mortgaged Property"): (A) the Initial Project Facility, (B) all moneys and securities held from time to time by the Issuer under the Mortgage or the Trustee under the Indenture (other than moneys, securities and other investment property held in the Rebate Fund), (C) all rights and interests of the Issuer under the Loan Agreement (except the Unassigned Rights), (D) all leases, subleases, licenses, contract rights, general intangibles and other agreements affecting the use, operation or occupancy of all or any portion of the Initial Project Facility (except the Unassigned Rights), (E) the proceeds of and any unearned premiums on any insurance policies covering the Initial Project Facility, (F) any other proceeds of the conversion of the Initial Project Facility, and (G) all extensions, additions, substitutions and accessions with respect to any of the foregoing; excepting therefrom, the Unassigned Rights.

Covenants (Section 2.01)

The Mortgage sets forth various covenants of the Institution regarding, among other things, (A) maintenance and modification of the Initial Project Facility, (B) maintenance of insurance on the Initial Project Facility, (C) payment of taxes, assessments and utility charges, (D) access to the Initial Project Facility, and (E) access to books, records and other information relating to the Initial Project Facility.

Events of Default (Section 6.01)

The following events constitute Events of Default under the Mortgage:

- (1) default by the Institution in the due and punctual payment of any sum due under Section 5.1(A) of the Loan Agreement;

(2) default by the Institution in the due and punctual payment of any sum due under the Loan Agreement relating to the principal of, premium, if any, and interest on the Bonds;

(3) default in the performance or observance of any other of the covenants, agreements or conditions on the part of the Institution in the Mortgage or any other Financing Document to be performed or observed and the continuance thereof for a period of thirty (30) days after written notice is given by the Issuer to the Institution, or, if such covenant, condition or agreement is capable of cure but cannot be cured within such thirty (30) day period, the failure of the Institution to commence to cure within such thirty (30) day period and to thereafter prosecute the same with due diligence and, in any event, to cure such default within ninety (90) days after such written notice is given;

(4) the occurrence of an “Event of Default” under any of the Financing Documents;

(5) any representation or warranty made by the Institution in the Mortgage or in any other Financing Document shall have been materially false at the time that it was made;

(6) the Institution shall generally not pay its debts as such debts become due or admits its inability to pay its debts as they become due;

(7) the Institution shall conceal, remove or permit to be concealed or removed any part of its Property, with intent to hinder, delay or defraud its creditors, or any one of them, or shall make or suffer a transfer of any of its Property which is fraudulent under any bankruptcy, fraudulent conveyance or similar law; or make 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 shall suffer or permit, while insolvent, any creditor to obtain a Lien upon any of its Property through legal proceedings or distraint which is not vacated within thirty (30) days from the date thereof;

(8) the Mortgaged Property, or any part thereof, is in any manner, whether voluntarily or involuntarily, encumbered, assigned, leased, subleased, sold, transferred or conveyed, except as is expressly provided in the Loan Agreement, or the Institution threatens to encumber, assign, lease, sublease, sell, transfer or convey, the Mortgaged Property, or any part thereof, to any person without the prior written consent of the Issuer, except as is expressly provided in the Loan Agreement;

(9) (a) the filing by the Institution (as debtor) of a voluntary petition under the Bankruptcy Code or any other federal or state bankruptcy statute; (b) the failure by the Institution within sixty (60) days to lift any execution, garnishment or attachment of such consequence as will impair the Institution’s ability to carry out its obligations hereunder; (c) the commencement of a case under the Bankruptcy Code against the Institution as the debtor or commencement under any other federal or state bankruptcy statute of a case, action or proceeding against the Institution and continuation of such case, action or proceeding without dismissal for a period of sixty (60) days; (d) the entry of an order for relief by a court of competent jurisdiction under the Bankruptcy Code or any other federal or state bankruptcy statute with respect to the debts of the Institution; or (e) in connection with any insolvency or bankruptcy case, action or proceeding, appointment by final order, judgment or decree of a court of competent jurisdiction of a receiver or trustee of the whole or a substantial portion of the Property of the Institution unless such order, judgment or decree is vacated, dismissed or dissolved within sixty (60) days of such appointment;

(10) final judgment for the payment of money in excess of \$500,000 shall be rendered against the Institution and the Institution shall not discharge the same or cause it to be bonded or

discharged within sixty (60) days from the entry thereof, or shall not appeal therefrom or from the order, decree or process upon which or pursuant to which said judgment was granted, based or entered and secure a stay of execution pending such appeal; and

(11) the imposition of a Lien on the Mortgaged Property other than a Lien being contested as provided in Section 8.8(B) of the Loan Agreement or a Permitted Encumbrance.

Remedies on Default (Section 6.03)

Upon the happening of any Event of Default, the Issuer may, acting at the direction of the Controlling Bondholders, (A) accelerate the Indebtedness, and/or (B) commence an action to foreclose the Lien of the Mortgage on the Mortgaged Property, and/or (C) exercise various other remedies.

Upon the filing of a suit or commencement of other judicial proceedings to enforce the rights of the Trustee under the Mortgage, the Issuer is entitled to the appointment of a receiver of the Mortgaged Property.

The Net Proceeds received by the Issuer pursuant to any right given or action taken pursuant to the enforcement provisions of the Mortgage shall be applied in the following order of priority (A) first, to the payment of the fees, costs and expenses of the Issuer, including reasonable attorney's fees; (B) second, in accordance with the provisions contained in the Indenture respecting the application of moneys received under the enforcement provisions of the Indenture; (C) third, to the payment of any sum or charge (other than principal, premium, if any, or interest) evidenced or secured by the Mortgage and all interest payable thereon; (D) fourth, to the payment of interest on principal amounts then due and payable under the Loan Agreement or any other Financing Document; and (E) fifth, the balance thereof to be applied in reduction of any other amounts then due and payable under the Loan Agreement or any other Financing Document.

The Issuer may, acting at the direction of the Controlling Bondholders, agree to waive any Event of Default and its consequences and annul any acceleration.

**SUMMARY OF CERTAIN PROVISIONS OF THE
ASSIGNMENT OF MORTGAGE**

Pursuant to the Assignment of Mortgage, the Issuer will assign its rights, title and interest in and to the Mortgage to the Trustee. Reference is made to the Assignment of Mortgage for complete details of the terms thereof and the foregoing should not be considered a full statement thereof.

**SUMMARY OF CERTAIN PROVISIONS OF THE
ASSIGNMENT OF RENTS**

Pursuant to the Assignment of Rents, the Institution will grant to the Issuer a lien on and security interest in all leases, subleases, licenses or occupancy agreements affecting the Initial Project Facility as additional security for the Initial Bonds. Reference is made to the Assignment of Rents for complete details of the terms thereof. The following is a brief summary of certain provisions of the Assignment of Rents and should not be considered a full statement thereof.

Granting Clauses (Section 2)

Pursuant to the Assignment of Rents, to secure the payment of principal of, premium, if any, and interest on the Initial Bonds, all amounts required to be paid under the Loan Agreement and the performance of the obligations of the Issuer and the Institution under the other Financing Documents, the Institution grants to the Issuer a security interest in, and transfer, set over and assign all of the right, title and interest of the Institution in and to any leases affecting the Initial Project Facility, as said leases may exist or may be from time to time created, modified, extended or revised, together with all rent, income and profit due and becoming due therefrom. Notwithstanding the foregoing, the Institution shall not create any leases after the date of the Assignment of Rents without the prior written consent of the Issuer (other than leases and other occupancy arrangements with tenants and occupants in the ordinary course of the Institution's business and as permitted by the Initial Tax Regulatory Agreement).

Covenants (Section 8)

Pursuant to the Assignment of Rents, the Institution covenants to (A) fulfill or perform every condition and covenant of any leases affecting the Initial Project Facility; (B) give, or cause to be given, to the Issuer prompt notice of the receipt of any notice of a tenant's material default under any leases affecting the Initial Project Facility received by the Institution, together with a copy of such notice of default; (C) enforce the performance or observance of every covenant and condition of any leases affecting the Initial Project Facility by any of the tenants to be performed or observed thereunder; (D) not accept any prepayment of rent in excess of one (1) month; (E) not terminate, cancel, modify or amend any leases affecting the Initial Project Facility without the prior written consent of the Issuer, which consent will not be unreasonably withheld or delayed; (F) neither waive nor release any of the tenants from any obligations or conditions under any leases affecting the Initial Project Facility; and (G) deliver to the Issuer, upon written demand, (1) a statement specifying the rent and other profits to be derived or to be received from any leases affecting the Initial Project Facility for the periods specified in such demand, and (2) a true and correct copy of any leases affecting the Initial Project Facility as it then exists. Section 291-f of the Real Property Law of the State shall apply.

**SUMMARY OF CERTAIN PROVISIONS OF THE
ASSIGNMENT OF RENTS ASSIGNMENT**

Pursuant to the Assignment of Rents Assignment, the Issuer will assign its rights, title and interest in and to the Assignment of Rents to the Trustee. Reference is made to the Assignment of Rents Assignment for complete details of the terms thereof and the foregoing should not be considered a full statement thereof.

FORM OF CONTINUING DISCLOSURE AGREEMENT

THIS CONTINUING DISCLOSURE AGREEMENT (the “Agreement”), dated as of November 1, 2021, by and between BRIGHTER CHOICE ELEMENTARY CHARTER SCHOOLS (the “Institution”) and MANUFACTURERS AND TRADERS TRUST COMPANY in its capacity of disseminating agent hereunder (the “Dissemination Agent”) is executed and delivered in connection with the issuance by the City of Albany Capital Resource Corporation (the “Issuer”) of its Tax-Exempt Revenue Refunding Bonds (Brighter Choice Elementary Charter Schools Project), Series 2021A (the “Series 2021A Bonds”) and Taxable Revenue Refunding Bonds (Brighter Choice Elementary Charter Schools Project), Series 2021B (the “Series 2021B Bonds” and together with the Series 2021A Bonds, the “Bonds”) issued pursuant to that certain Indenture of Trust, dated as of November 1, 2021 (the “Indenture”), by and between the Issuer and Manufacturers and Traders Trust Company, as trustee (the “Trustee”). Capitalized terms used in this Agreement which are not otherwise defined herein or in the Indenture shall have the respective meanings specified in Article IV hereof and, if not defined in Article IV hereof, then as set forth in the Official Statement of the Issuer, dated November 10, 2021, relating to the Bonds (the “Official Statement”).

In consideration of the purchase of the Bonds by Robert W. Baird & Co. Incorporated (the “Underwriter”) and the subsequent registered owners and beneficial owners of the Bonds and the undertakings set forth in this Agreement, the parties hereto agree as follows:

1. Purpose of Disclosure Agreement. This Disclosure Agreement is being executed and delivered by the Institution for the benefit of the Registered Owners of the Bonds (for such purpose beneficial owners of the Bonds shall also be considered Registered Owners of the Bonds) and to assist Underwriters, in complying with the Rule.

2. Defined Terms.

“Annual Report” means the financial information and operating data required to be transferred by the Institution to the Dissemination Agent pursuant to Section 3(a) of this Disclosure Agreement.

“Beneficial Owner” means any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

“Dissemination Agent” means the Manufacturers and Trade Trust Company as dissemination agent under this Disclosure Agreement, its successors and assigns.

“EMMA” means the Electronic Municipal Market Access system operated by the MSRB and the primary portal for complying with the continuing disclosure requirements of the Rule.

“Financial Obligation” means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term Financial Obligation shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

“Indenture” means the Indenture of Trust, dated as of November 1, 2021, by and between the Issuer and the Trustee, as the same may be amended or supplemented.

“Institution” means Brighter Choice Elementary Charter Schools.

“Issuer” means the City of Albany Capital Resource Corporation, its successors and assigns.

“Official Statement” means the Official Statement, dated November 10, 2021, relating to the Bonds.

“Listed Events” means the events for which notices are required to be given by the Institution pursuant to Section 5 of this Disclosure Agreement.

“MSRB” shall mean the Municipal Securities Rulemaking Board, the address of which is 1300 I Street, NW, Suite 1000, Washington DC 20005-3314; Telephone (202) 838-1500; Fax (202) 898-1500, and the website address of which is www.msrb.org and www.emma.msrb.org (for municipal disclosures and market data).

“Periodic Reports” shall mean any report to be provided or action to be undertaken by the Institution, pursuant to Section 3(b) of this Disclosure Agreement.

“Repository” means EMMA.

“Rule” means Rule 15c2-12(b)(5) promulgated by the SEC under the Securities Exchange Act of 1934, as amended or supplemented by the SEC from time to time.

“SEC” means the Securities and Exchange Commission, its successors and assigns.

“State” shall mean the State of New York.

“Trustee” means Manufacturers and Trade Trust Company, New York, New York, its successors and assigns.

“Underwriter” means Robert W. Baird & Co. Incorporated, as original purchaser of the Bonds, its successors and assigns.

3. Provision of Annual Reports.

(a) *Annual Reports.* Not later than one hundred eighty (180) days after the end of the Institution' fiscal year, commencing with the fiscal year ended June 30, 2022, the Institution shall provide to the Repository, or shall cause the Dissemination Agent to provide to the Repository, an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement. In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Agreement; provided that the audited financial statements of the Institution may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if the audited financial statements are not available by that date, but the unaudited financial information available on such date is submitted. The Annual Report shall be provided at least annually notwithstanding a fiscal year longer than twelve (12) calendar months. The Institution may change their current fiscal year, but must notify the Issuer, the Trustee and the Repository or any other filing system approved by the SEC, of each such change within thirty (30) days after the later of the adoption of a new fiscal year and the end of the fiscal year that occurs before the former fiscal year would have ended.

(b) As soon as is practicable after the completion of the Annual Report required by paragraph (a) (collectively referred to as the “Disclosure Reports”), the Institution shall provide each Disclosure Report to the Dissemination Agent. The Dissemination Agent shall, at the Institution' cost, transmit the information contained in the Disclosure Reports in accordance with the requirements of Section 7 hereof.

(c) If the Institution does not provide to the Dissemination Agent a copy of an Annual Report by the applicable dates required in Section 3(a) above, the Dissemination Agent shall send a notice to the Institution, the Repository, and the Underwriter, in substantially the form attached as EXHIBIT B. In the event that the Institution files the Disclosure Report directly with the Repository on or before the dates required in Section 3(a) above, the Institution shall promptly provide the Dissemination Agent with a certification, or other documentation reasonably required by the Dissemination Agent, that the filing of the Disclosure Report was made in a timely manner on or before the date required herein and such filing contained the information required by this Disclosure Agreement.

(d) The Dissemination Agent shall:

(i) determine each year prior to the date for providing the Annual Report the name and address (physical or electronic, as applicable) of each Repository; and

(ii) provided the Annual Report has been provided to the Dissemination Agent by the Institution, file a report with the Institution, and (if the Dissemination Agent is not the Trustee) the Dissemination Agent certifying that the Annual Report has been provided pursuant to this Disclosure Agreement, stating the date it was provided, and listing all the Repositories to which it was provided.

(e) *Content of Annual Reports.* The Annual Report shall contain or include by reference the audited financial statements of the Institution for the prior fiscal year, prepared in accordance with generally accepted accounting principles as promulgated from time to time. If the Institution' audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain financial statements that have not been reviewed in a format similar to the Institution' audited financial statements, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

(f) To the extent not included in the audited final statements of the Institution, the Annual Report shall also include (i) updates to Table B-3 ("Employee Profile"), Table B-4 ("Student/Teacher Ratio"), Table B-6 ("Historical and Projected Enrollment," but only as to the historical data) and Table B-7 ("Waiting List Data – BC Boys") and Table B-8 ("Waiting List Data – BC Girls"), Table B-9 ("Student Retention Data"), Table B-13 ("Basic Tuition", but only for the most recent fiscal year available) and Table B-14 and Table B-15 ("State of New York Testing Program Assessment Results") for the most recent assessment data available and only for the Institution or other similar reports if assessment methodology is modified or revised in the future) presented in "APPENDIX B— CERTAIN INFORMATION CONCERNING THE INSTITUTION" attached to the Official Statement; and (ii) a certificate substantially in the form attached hereto as EXHIBIT A that provides certain Institution data and demonstrates the Institution's compliance with certain operating covenants contained in the Loan Agreement.

(g) Any or all of the Disclosure Report may be incorporated by reference from other documents, including Official Statement, which have been submitted to the Repository. If the Disclosure Report information is changed or this Disclosure Agreement is amended in accordance with its terms, then the Institution is to include in the next Disclosure Report to be delivered thereunder, to the extent necessary, an explanation of the reasons for the amendment and the effect of any change in the type of financial information or operating data provided.

4. Interim Reports. In addition to the Annual Reports, the Institution intends, but is not required, to provide Interim Reports, consisting of the information set forth below.

(a) *Interim Financial Reports.* Periodic reports from the Institution including (a) unaudited financial statements of the Institution for the previous calendar quarter reflecting revenues and expenses in comparative form with the Institution' operating budget as submitted by the Institution to their governing boards, within 60 days of the close of each respective calendar quarter, (b) individual and consolidated annual budgets of the Institution within 30 days of their adoption, (c) results of any federal or State of New York testing within 45 days of receipt by the Institution, (d) within 14 days of receipt, notification or any report of any potential or alleged violation of the charter by the Institution, (e) within 14 days of submission, any information that the Institution has provided to any Rating Agency then rating the Series 2021 Bonds as a part of such Rating Agency's ongoing surveillance to the extent that such information has not otherwise been filed or is being filed on EMMA as part of the Continuing Disclosure Agreement, and (f) within 14 days of receipt, any notice or allegation of a violation of governmental approvals in connection with the operation of the Project Facility, and

(b) *Information Submitted to the NYSED.* Copies of each report on enrollment, headcount, membership, attendance and similar statistics with respect to the Institution submitted by the Institution to the New York State Education Department during the previous calendar quarter, within 60 days of the close of each respective calendar quarter, and

(c) *Annual Investor Call.* Commencing with the Fiscal Year ending June 30, 2022, the Institution shall hold an investor conference call after the filing of Annual Report on EMMA for the immediately preceding Fiscal Year for the purpose of reviewing financial results of such Fiscal Year. Such investor call will be held within ten (10) months of the close of the Fiscal Year and notice of such call shall be filed on EMMA's website not less than seven days prior to the date of the investor call. In addition to reviewing the financial results for the immediately preceding Fiscal Year, matters to be addressed by the Institution on the investor conference call, if material as determined in the sole discretion of the Institution, shall include, but not limited to, the following:

(1) school governance and charter status matters, such as the charter renewal process (if a renewal is pending within twelve (12) months of the date the call is held); significant details relating to any form of revocation, review or supervision plan on which a school charter is under by its authorizing entity, district and/or the state; and any changes in composition of the board, third-party managers (if any), the school(s) or within the leadership of the governing body of the Institution since the last call;

(2) the use any Short-Term Indebtedness (such as cash flow financing, state aid notices or bank lines of credit) or new Long-Term Indebtedness incurred since the date of the immediately preceding investor call;

(3) capital spending plans which the governing body of the Institution has taken official action;

(4) actual enrollment or mid-year budget cuts which required revisions to the annual budget;

(5) if the Institution is subject to mid-year cuts in federal, state and/or local sources of funding, the impact on the Institution' financial position and management's responses to the cuts;

(6) litigation (including any matters of criminal misconduct) against the Institution, their governing bodies, or employees of the Institution to the extent such action is expected to materially affect operations and/or school finances; and

(7) casualty losses, to the extent daily operations of the Institution were disrupted for more than seven to ten (7-10) days, including information regarding the insurance coverage for such casualty losses.

The reporting requirements set forth in this Section 4 are voluntary and therefore the failure to file such information shall not give rise to an obligation to file a “notice of failure to file” as is the case with the reporting requirements set forth in herein.

5. Material Events.

(a) Pursuant to the provisions of this Section 5, the Institution shall give, or cause to be given, notice of the occurrence of any of the following Listed Events with respect to the Bonds in a timely manner but in no event more than ten (10) Business Days after the occurrence of the Listed Event:

- (i) principal and interest payment delinquencies with respect to the Bonds;
- (ii) non-payment related defaults with respect to the Bonds, if material;
- (iii) unscheduled draws on any debt service reserve reflecting financial difficulties;
- (iv) unscheduled draws on any credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701–TEB) or other material notices or determinations with respect to the tax status of the Series 2021A Bonds, or other material events affecting the tax status of the Series 2021A Bonds;
- (vii) modifications to rights of holders of the Bonds, if material;
- (viii) (1) bond calls, if material, and (2) tender offers;
- (ix) defeasances;
- (x) release, substitution, or sale of property securing repayment of the securities, if material;
- (xi) rating changes;
- (xii) bankruptcy, insolvency, receivership or similar event of the Institution;
- (xiii) the consummation of a merger, consolidation, or acquisition involving the Institution or the sale of all or substantially all of the assets of the Institution, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) appointment of a successor or additional trustee or the change of name of a trustee, if material;

(xv) incurrence of a Financial Obligation of the Institution, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Institution, any of which affect holders of the Bonds, if material;

(xvi) default, events of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Institution, any of which reflect financial difficulties; and

(xvii) any notice or report with respect to charter compliance that would allow the New York State Commissioner of Education to begin any process or proceedings toward charter termination.

(b) Whenever the Institution obtains knowledge of the occurrence of a Listed Event, the Institution shall as soon as possible determine if such event would be material under applicable federal securities laws; provided, however, that any listed event under subsections (a)(i), (iii), (iv), (v), (vi), (viii)(2), (ix), (xi) and (xii) will always be deemed to be material.

(c) If the Institution determines that knowledge of the occurrence of a Listed Event would be material under applicable federal securities laws, the Dissemination Agent shall, in a timely manner but in no event more than ten (10) Business Days after the occurrence of the Listed Event, file a notice of such occurrence with the MSRB. Notwithstanding the foregoing, the Institution may cause the Trustee/Dissemination Agent to give the notice of Listed Events described in subsections (a)(viii) and (ix), and such notice need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to holders of affected bonds pursuant to the Indenture.

6. EMMA. The SEC has designated the EMMA system operated by the MSRB as the nationally recognized municipal securities information repository and the exclusive portal for complying with continuing disclosure requirements of the Rule. Until the EMMA system is amended or altered by the MSRB or the SEC, the Dissemination Agent shall make all filings required under this Disclosure Agreement solely with EMMA.

7. Dissemination Agent. The Institution has engaged the Trustee as the Dissemination Agent to assist the Institution in disseminating information hereunder. The Institution shall send all Disclosure Reports required by Section 3 hereof, and all notices of the occurrence of Listed Events required by Section 5 hereof, to the Dissemination Agent. The Dissemination Agent shall, within seven (7) days of receipt of such Disclosure Report and within ten (10) days of the occurrence of a Listed Event requiring a notice, forward such information to (i) the Repository and/or the MSRB or any other filing system approved by the SEC, as appropriate; (ii) the Issuer; (iii) the Underwriter; and (iv) any Registered Owner or Beneficial Owner of the Bonds identified in writing by the Underwriter. The Institution agree to pay any reasonable costs incurred by the Dissemination Agent as a result of disseminating information to any requesting Registered Owners or Beneficial Owners of the Bonds. The Institution may discharge the Dissemination Agent or any successor Dissemination Agent with or without appointing a successor Dissemination Agent. The Dissemination Agent does not have any duty to review the materials described in this paragraph prior to disseminating such materials.

8. Termination of Obligations. Pursuant to paragraph (b)(5)(iii) of the Rule, the Institution's obligation to provide the Disclosure Reports and any Listed Events notice, as set forth in this Disclosure Agreement, shall terminate if and when the Institution no longer remains an Obligated Person with respect to the Bonds, which shall occur upon either payment of the Bonds in full or the legal defeasance of the Bonds in accordance with the Indenture.

9. Enforceability and Remedies. This Disclosure Agreement is intended to be for the sole benefit of the Registered Owners of the Bonds (for such purpose beneficial owners of the Bonds shall also be considered Registered Owners of the Bonds), the Issuer, and the Underwriter and shall create no rights in any other person or entity.

This Disclosure Agreement shall be enforceable by or on behalf of any such Registered Owner of the Bonds, provided that the right of any Registered Owner to challenge the timely filing, failure to file or the adequacy of the information furnished pursuant to this Disclosure Agreement shall be limited to an action by or on behalf of Registered Owners representing at least 25% of the aggregate outstanding principal amount of the Bonds. This Disclosure Agreement is also enforceable on behalf of the Registered Owners of the Bonds by the Trustee, and the Trustee may, and upon the written direction of (i) the Registered Owners of not less than 25% of the aggregate outstanding principal amount of the Bonds, or (ii) the Underwriter, shall proceed to protect and enforce the rights of the Registered Owners of the Bonds pursuant to this Disclosure Agreement; provided that in all cases the Trustee shall be entitled to the indemnification and other provisions of the Indenture with regard to any actions. Prior to proceeding at the request or direction of the Underwriter the Trustee may require the same types of indemnification and related protections from the Underwriter to which the Trustee would otherwise be entitled under the Indenture if so requested or directed by the Registered Owners under the terms of the Indenture. Any failure by the Institution to comply with the provisions of this Disclosure Agreement shall not be an Event of Default under the Loan Agreement or the Indenture.

The Registered Owners' and the Trustee's rights to enforce the provisions of this Disclosure Agreement shall be limited solely to a right, by action in mandamus or for specific performance, to compel the Institution to perform their obligations under this Disclosure Agreement, and the Institution, their directors, officers and employees shall incur no liability under this Disclosure Agreement by reason of any act or failure to act hereunder. Without limiting the generality of the foregoing, neither the commencement nor the successful completion of an action to compel performance under this Section 9 entitles the Trustee or any other person to attorneys' fees, financial damages of any sort or any other relief other than an order or injunction compelling performance; provided that the Trustee shall nevertheless be entitled to attorneys' fees and such other rights and amounts as provided in the Indenture.

10. Amendment. Notwithstanding any other provision of this Disclosure Agreement, the Institution and the Trustee may amend this Disclosure Agreement, and any provision of this Disclosure Agreement may be waived, without the consent of the Registered Owners but with the consent of the Trustee, under the following conditions:

(a) The amendment or waiver may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law or change in the identity, nature or status of the Institution, or type of business conducted;

(b) This Disclosure Agreement, as amended or with the provision so waived, would have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver does not materially impair the interest of Registered Owners of the Bonds, as determined either by parties unaffiliated with the Institution (which shall include the Trustee or Nationally Recognized Bond Counsel, or any other party determined by any of them to be unaffiliated), or by approving vote of Registered Owners of the Bonds pursuant to the terms of the Indenture at the time of the amendment or waiver.

The Institution shall provide notice of each amendment or waiver to the Repository or any other filing system approved by the SEC. The initial annual financial or operating information provided by the Institution after the amendment or waiver shall explain, in narrative form, the reasons for the amendment or waiver and the effect of the change in the type of operating data or financial information being provided.

11. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one instrument.

12. Choice of Law. This Disclosure Agreement shall be governed by and construed in accordance with the laws of the State of New York, provided that to the extent this Disclosure Agreement addresses matters of federal securities laws, including the Rule, this Disclosure Agreement shall be construed in accordance with such federal securities laws and official interpretations thereof.

13. Severability. If any portion of this Disclosure Agreement shall be held invalid or inoperative, then, so far as is reasonable and possible (i) the remainder of this Disclosure Agreement shall be considered valid and operative, and (ii) effect shall be given to the intent manifested by the portion held invalid or inoperative.

14. Other Instruments. The Institution and the Dissemination Agent covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out this Disclosure Agreement.

15. Captions, Titles, and Headings. The captions, titles, and headings used in this Disclosure Agreement are for convenience only and shall not be construed in interpreting this Disclosure Agreement.

16. Entire Agreement. This Disclosure Agreement contains the entire understanding among the parties and supersedes any prior understandings or written or oral agreements between them respecting the subject matter of this Disclosure Agreement.

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IN WITNESS WHEREOF, we have set our hands as of the date set forth above.

**BRIGHTER CHOICE ELEMENTARY CHARTER
SCHOOLS**

By: _____

Name: _____

Title: _____

MANUFACTURERS AND TRADE TRUST COMPANY,
as Trustee and Dissemination Agent

By: _____

Name: _____

Title: _____

EXHIBIT A**FORM OF CERTIFICATE FOR ANNUAL FILING OF CERTAIN OPERATING COVENANTS**

Name of Issuer: City of Albany Capital Resource Corporation

Name of Bond Issue: Tax-Exempt Revenue Refunding Bonds (Brighter Choice Elementary Charter Schools Project), Series 2021A, and Taxable Revenue Refunding Bonds (Brighter Choice Elementary Charter Schools Project), Series 2021B

Dissemination Agent: Manufacturers and Traders Trust Company

Name of Charter School: Brighter Choice Elementary Charter Schools

Date of Issuance: November 23, 2021

NOTICE IS HEREBY GIVEN that the Institution is providing to the Dissemination Agent the following operational information as required under Section 4(a) of the Continuing Disclosure Agreement, dated as of November 23, 2021 (the "Disclosure Agreement"), by and between the Dissemination Agent and the Institution. The Disclosure Agreement requires that the Institution provide this information to the Dissemination Agent within one hundred eighty (180) days of the end of each fiscal year. Defined terms used in this certificate and not defined herein shall have the meanings granted to such terms in the Indenture of Trust, dated as of June 1, 2021, as supplemented (as supplemented, the "Indenture"), between the Issuer and the Dissemination Agent, as trustee or the Loan Agreement, dated as of June 1, 2021, as supplemented (as supplemented, the "Loan Agreement"), among the Issuer and the Institution, as applicable. The information contained below is unaudited.

Certain Financial Covenant as outlined under the Loan Agreement:

As of June 30, 20__:

- (a) The Institution's Days Cash on Hand was equal to \$_____.
- (b) The Institution's Days Cash on Hand was ____ days (the product of 365 times a fraction, (i) the numerator of which is the amount of Institution's Available Cash Balance of \$_____; and (ii) the denominator of which is total Operating Expenses for such Fiscal Year of \$_____).
- (c) The amount of Days Cash on Hand required to comply with the covenant contained in the Loan Agreement for current Fiscal Year is \$_____ and the Institution [is/is not] in compliance with such covenant.
- (d) The Institution's Debt Service Coverage Ratio for Fiscal Year 20__ was ____x, calculated as follows: determined by dividing the Net Income Available for Debt Service of \$_____ by the debt service of the Institution due in that Fiscal Year of \$_____.

Budget

A copy of the Institution's annual budget then in effect for the current Fiscal Year is attached hereto.

Insurance Compliance

The Institution is in compliance with the insurance requirements set forth in the Loan Agreement and the Mortgage. Evidence of such compliance has been delivered to the Trustee on or about the date of the delivery of this Certificate and we hereby authorize the Trustee to make such evidence available to the holders of the Bonds upon their request.

Certification

The undersigned, on behalf of the Institution, hereby certifies that [she or he] is authorized to make the representations contained in this Certificate and that (a) [she or he] has reviewed the applicable financing document covenants and definitions relating to the representations made herein; (b) [she or he] has reviewed the Annual Reports and, to the extent necessary, unaudited financial information for the purpose of making the representations made herein and (c) the applicable financing document conditions and covenants for which this certification has been made has been complied with.

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This certificate is being provided by the Institution to the Dissemination Agent on a date which is within of one hundred eighty (180) days from the end of the Institution's prior fiscal year.

Dated: November 23, 2021

**BRIGHTER CHOICE ELEMENTARY CHARTER
SCHOOLS**

By: _____

Name: _____

Title: _____

EXHIBIT B

NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: City of Albany Capital Resource Corporation

Name of Bond Issue: Tax-Exempt Revenue Refunding Bonds (Brighter Choice Elementary Charter Schools Project), Series 2021A, and Taxable Revenue Refunding Bonds (Brighter Choice Elementary Charter Schools Project), Series 2021B

Dissemination Agent: MANUFACTURERS AND TRADERS TRUST COMPANY

Name of Charter School: Brighter Choice Elementary Charter Schools

Date of Issuance: November 23, 2021

NOTICE IS HEREBY GIVEN that the Institution has not provided an Annual Report with respect to the above-named Bonds as required by the Continuing Disclosure Agreement, dated as of November 23, 2021, between the undersigned Dissemination Agent and the Institution. The Institution anticipates that the Annual Report will be filed by _____.

Dated: November 23, 2021

Manufacturers and Trade Trust Company
as Dissemination Agent

By _____
Authorized Signatory

cc: Brighter Choice Elementary Charter Schools
Robert W. Baird & Co. Incorporated

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PROPOSED FORM OF OPINION OF BOND COUNSEL

SERIES 2021A BONDS

Upon the delivery of the Series 2021A Bonds, Hodgson Russ LLP Bond Counsel to the Issuer, proposes to deliver its legal opinion in substantially the following form:

November 23, 2021

City of Albany Capital Resource Corporation
21 Lodge Street
Albany, New York 12207

Re: City of Albany Capital Resource Corporation
Tax-Exempt Revenue Refunding Bonds
(Brighter Choice Elementary Charter Schools Project), Series 2021A
in the aggregate principal amount of \$11,820,000

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance on the date hereof of the Tax-Exempt Revenue Refunding Bonds (Brighter Choice Elementary Charter Schools Project), Series 2021A in the aggregate principal amount of \$11,820,000 (the “Initial Bonds”) by City of Albany Capital Resource Corporation (the “Issuer”) (a public instrumentality of the City of Albany, New York), a New York not-for-profit corporation, created pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York, as amended (the “Enabling Act”).

The Initial Bonds are being issued under and pursuant to a bond resolution adopted by the members of the board of directors of the Issuer on October 21, 2021, a certificate of determination dated November 23, 2021 (the “Certificate of Determination”) executed by the Chairperson, Vice Chairperson or Chief Executive Officer of the Issuer and a trust indenture dated as of November 1, 2021 (the “Indenture”) by and between the Issuer and Manufacturers and Traders Trust Company, as trustee (the “Trustee”), in connection with a project (the “Initial Project”) to be undertaken by the Issuer for the benefit of Brighter Choice Elementary Charter Schools (the “Institution”), said Initial Project consisting of the following: (A) the refunding of all or a portion of the Civic Facility Revenue Bonds (Brighter Choice Charter Schools Project), Series 2007A (the “Prior Bonds”) issued on March 30, 2007 by the City of Albany Industrial Development Agency (the “Prior Issuer”) in the aggregate principal amount of \$17,895,000, which Prior Bonds were issued for the purpose of financing (1) the acquisition of an interest in parcels of land located at 116 North Lake Avenue, 253 Sherman Avenue and 398 Elk Street in the City of Albany, Albany County, New York (the “North Lake Land”), together with (a) an approximately 36,000 square foot building located thereon (the “Existing Facility”) and (b) a single family house located thereon (the “House”), (2) the demolition of the House, the renovation and reconstruction of the Existing Facility and the construction of an approximately 6,000 square foot addition to the Existing Facility (the “Addition” and, collectively with the Existing Facility, the “North Lake Facility”), (3) the acquisition and installation thereon and therein of various machinery and equipment (the “North Lake Equipment”) (the North Lake Land, the North Lake Facility and the North Lake Equipment hereinafter collectively referred to as the “North Lake Project Facility”), (4) the acquisition of parcels of land located at 393, 395 and 397 Elk Street and 130 North Lake Avenue in the City of Albany, Albany County, New York (the “Parking Land”), together with two existing structures located thereon (collectively, the “Parking Lot Structures”), (5) the demolition of the Parking Lot Structures and the construction of parking facilities on the Parking Land (the “Parking Facility”) (the

Parking Land and the Parking Facility being collectively referred to as the “Parking Project Facility”) and (6) the acquisition of an interest in an approximately one acre parcel of land located at 250 Central Avenue in the City of Albany, Albany County, New York (the “Central Avenue Land”) (the North Lake Land, the Parking Land and the Central Avenue Land being collectively referred to as the “Land”), together with an approximately 32,240 square foot building located thereon (the “Central Avenue Facility”) (the Central Avenue Facility, the Parking Facility and the North Lake Facility being collectively referred to as the “Facility”) and the equipment located in the Central Avenue Facility (the “Central Avenue Equipment”) (the North Lake Equipment and the Central Avenue Equipment being collectively referred to as the “Equipment”) (the Central Avenue Land, the Central Avenue Facility and the Central Avenue Equipment being collectively referred to as the “Central Avenue Project Facility”), all of the foregoing to be owned and operated by the Institution as two charter schools, with the potential for a portion of one charter school to be leased by the Institution to other not-for-profit corporations (the North Lake Project Facility, the Parking Project Facility and the Central Avenue Project Facility being collectively referred to as the “Initial Project Facility”); (B) the financing of all or a portion of the costs of the foregoing by the issuance of the Initial Bonds; and (C) the paying a portion of the costs incidental to the issuance of the Initial Bonds, including issuance costs of the Initial Bonds and any reserve funds as may be necessary to secure the Initial Bonds. The Issuer will make a loan to the Institution of the proceeds of the Initial Bonds (the “Loan”) for the purpose of assisting in financing the Initial Project, and document the Loan by entering into a loan agreement dated as of November 1, 2021 (the “Loan Agreement”) between the Issuer, as lender, and the Institution, as borrower.

The Initial Bonds are dated the date hereof, are issued as fully registered bonds without coupons and mature and bear interest at the rates set forth therein. The Initial Bonds are subject to (A) optional, special and mandatory redemption prior to maturity and (B) acceleration prior to maturity, all as set forth in the Indenture and in the Initial Bonds.

The principal of, redemption premium, if any, and interest on the Initial Bonds are payable from loan payments to be made by the Institution under the Loan Agreement. As security for the Initial Bonds, the Issuer has executed and delivered to the Trustee a pledge and assignment dated as of November 1, 2021 (the “Pledge and Assignment”) which assigns to the Trustee certain of the Issuer’s rights under the Loan Agreement.

As additional security for the Initial Bonds, (A) the Institution will execute and deliver to the Issuer (1) a mortgage dated as of November 1, 2021 (the “Mortgage”), which Mortgage among other things, (a) grants to the Issuer a mortgage lien on, and a security interest in, among other things, the Initial Project Facility and all rights of the Institution in this Loan Agreement and (b) assigns to the Issuer the rents, issues and profits of the Initial Project Facility and (2) an assignment of rents and leases dated as of November 1, 2021 (the “Assignment of Rents”), which Assignment of Rents, among other things, assigns to the Issuer (a) the rents, issues and profits of the Initial Project Facility and (b) all leases, subleases, licenses or occupancy agreements affecting the Initial Project Facility, and (B) the Issuer will execute and deliver to the Trustee (1) an assignment of mortgage dated as of November 1, 2021 (the “Mortgage Assignment”) from the Issuer to the Trustee, pursuant to which the Issuer will assign the Mortgage to the Trustee, and (2) an assignment of assignment of rents and leases dated as of November 1, 2021 (the “Assignment of Rents Assignment”) from the Issuer to the Trustee, pursuant to which the Issuer will assign the Assignment of Rents to the Trustee.

We have examined specimen Initial Bonds and executed counterparts of the Indenture, the Loan Agreement, the Pledge and Assignment, the Mortgage Assignment and the Assignment of Rents Assignment (collectively, the “Issuer Documents”) and a certain tax regulatory agreement dated the date hereof from the Institution to the Trustee and the Issuer (the “Tax Regulatory Agreement”) relating to the

Initial Bonds and such certified proceedings and such other documents as we deemed necessary to render this opinion.

With respect to the due authorization, execution and delivery by the Institution of the agreements to which it is a party, we have relied on the opinion of Whiteman Osterman & Hanna LLP, counsel to the Institution. With respect to the due authorization, execution and delivery by Manufacturers and Traders Trust Company (both in its corporate capacity as signatory of the Indenture and in its capacity as Trustee) of the agreements to which it is a party, we have relied on the opinion of Bond, Schoeneck & King, PLLC, counsel to the Trustee.

In our examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals and the conformity with the original documents of all documents submitted to us as copies. Furthermore, in rendering the following opinions, we have assumed that all documents executed by a person or persons other than the Issuer were duly executed and delivered by said other person or persons and that said documents constitute legal, valid and binding obligations of said person or persons enforceable against said person or persons in accordance with their terms.

In rendering the opinions expressed in paragraphs (D) and (E) below, we note that the exclusion of the interest on the Initial Bonds from gross income for federal income tax purposes may be dependent, among other things, on compliance with the applicable requirements of Sections 145, 147, 148 and 149 of the Internal Revenue Code of 1986, as amended (the “Code”), and the regulations thereunder (collectively, the “Tax Requirements”). In our opinion, the Tax Regulatory Agreement and the other Financing Documents (as defined in the Indenture) establish requirements and procedures, compliance with which will satisfy the Tax Requirements. It should be noted, however, that compliance with certain Tax Requirements necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Initial Bonds may necessitate the taking of action, or refraining to take action, by persons not within the control of the Issuer or the Institution.

Based upon our examination of the foregoing and in reliance upon the matters and subject to the limitations contained herein, we are of the opinion, as of the date hereof and under existing law, as follows:

(A) The Issuer was duly created and is validly existing as a not-for-profit corporation under the laws of the State of New York with the corporate power to enter into and perform its obligations under the Issuer Documents and to issue the Initial Bonds.

(B) The Issuer Documents have been duly authorized, executed and delivered by the Issuer and are valid and binding special obligations of the Issuer enforceable against the Issuer in accordance with their respective terms, except as specified below.

(C) The Initial Bonds have been duly authorized, executed and delivered by the Issuer and, assuming due authentication thereof by the Trustee, are valid and binding special obligations of the Issuer payable with respect to the Issuer solely from the revenues derived by the Issuer from the revenues derived from the Loan Agreement.

(D) The interest on the Initial Bonds is excludable from gross income for federal income tax purposes and is not an “item of tax preference” for purposes of the individual alternative minimum tax imposed by the Code; provided, however, that (a) the Institution or another Person, by failing to comply with the Tax Requirements, may cause interest on the Initial Bonds to become subject to federal income taxation from the date of issuance thereof, and (b) interest on the Initial Bonds is included in determining (i) the branch profits tax imposed on foreign corporations doing business in the United States under Section

884 of the Code and (ii) passive investment income for purposes of computing the tax on net passive income imposed on certain subchapter S corporations under Section 1375 of the Code.

(E) The Initial Bonds do not constitute “arbitrage bonds”, within the meaning of Section 148 of the Code, except as specified below.

(F) So long as interest on the Initial Bonds is excluded from gross income for federal income tax purposes, the interest on the Initial Bonds is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York).

(G) The Initial Bonds do not constitute a debt of the State of New York or the City of Albany, New York, and neither the State of New York nor the City of Albany, New York is liable thereon.

We call your attention to the fact that the Institution or another person, by failing to comply with the Tax Requirements as set forth in the Code and the Tax Regulatory Agreement, may cause interest on the Initial Bonds to become subject to federal income taxation from the date hereof. We express no opinion regarding other federal tax consequences arising with respect to the Initial Bonds.

Any opinion concerning the validity, binding effect or enforceability of any document (A) means that (1) such document constitutes an effective contract under applicable law, (2) such document is not invalid in its entirety under applicable law because of a specific statutory prohibition or public policy, and is not subject in its entirety to a contractual defense under applicable law and (3) subject to the following sentence, some remedy is available under applicable law if the person concerning whom such opinion is given is in material default under such document, but (B) does not mean that (1) any particular remedy is available under applicable law upon such material default or (2) every provision of such document will be upheld or enforced in any or each circumstance by a court applying applicable law. Furthermore, the validity, binding effect or enforceability of any document may be limited to or otherwise affected by (A) any applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar statute, rule, regulation or other law affecting the enforcement of creditors’ rights and remedies generally or (B) the unavailability of, or any limitation on the availability of, any particular right or remedy (whether in a proceeding in equity or law) because of the discretion of a court or because of any equitable principle or requirement as to commercial reasonableness, conscionability or good faith.

We express no opinion with respect to (A) title to all or any portion of the Initial Project Facility, (B) the priority of any liens, charges, security interests or encumbrances affecting the Initial Project Facility or any part thereof (or the effectiveness of any remedy which is dependent upon the existence of title to the Initial Project Facility or the priority of any such lien, charge, security interest or encumbrance), (C) any laws, regulations, judgments, permits or orders with respect to zoning, subdivision matters or requirements for the physical commencement and continuance of the construction, reconstruction, installation, occupancy or operation of the Initial Project Facility or with respect to the requirements of filing or recording of any of the Financing Documents, or (D) the laws of any jurisdiction other than the State of New York and other than the securities and the tax laws of the United States of America.

Certain agreements, requirements and procedures contained or referred to in the Indenture, the Loan Agreement, the Tax Regulatory Agreement and the other Financing Documents may be changed and certain actions may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents. No opinion with respect to the exclusion of interest on the Initial Bonds from gross income for federal income tax purposes is expressed herein as to the Initial Bonds if any such change occurs or action is taken or omitted upon the advice or approval of counsel other than Hodgson Russ LLP.

The scope of our engagement has extended solely to the examination of the facts and law incident to rendering the opinions expressed herein. Attention is called to the fact that we have not been requested to examine and have not examined any documents or information relating to the Institution or the Initial Project Facility other than specifically hereinabove referred to, and no opinion is expressed as to any financial or other information, or the adequacy thereof, which has been or may be supplied to any purchaser of the Initial Bonds.

Our opinions set forth herein are based upon the facts in existence and the laws in effect on the date hereof and we expressly disclaim any obligation to update our opinions herein, regardless of whether changes in such facts or laws come to our attention after the delivery hereof.

We have rendered this opinion solely for your benefit and this opinion may not be relied upon by, nor copies hereof delivered to, any other person without our prior written approval.

Very truly yours,

HODGSON RUSS LLP

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PROPOSED FORM OF OPINION OF BOND COUNSEL

SERIES 2021B BONDS

Upon the delivery of the Series 2021B Bonds, Hodgson Russ LLP Bond Counsel to the Issuer, proposes to deliver its legal opinion in substantially the following form:

November 23, 2021

City of Albany Capital Resource Corporation
21 Lodge Street
Albany, New York 12207

Re: City of Albany Capital Resource Corporation
Taxable Revenue Refunding Bonds
(Brighter Choice Elementary Charter Schools Project), Series 2021B
in the aggregate principal amount of \$345,000

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance on the date hereof of the Taxable Revenue Refunding Bonds (Brighter Choice Elementary Charter Schools Project), Series 2021B in the aggregate principal amount of \$345,000 (the “Initial Bonds”) by City of Albany Capital Resource Corporation (the “Issuer”) (a public instrumentality of the City of Albany, New York), a New York not-for-profit corporation, created pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York, as amended (the “Enabling Act”).

The Initial Bonds are being issued under and pursuant to a bond resolution adopted by the members of the board of directors of the Issuer on October 21, 2021, a certificate of determination dated November 23, 2021 (the “Certificate of Determination”) executed by the Chairperson, Vice Chairperson or Chief Executive Officer of the Issuer and a trust indenture dated as of November 1, 2021 (the “Indenture”) by and between the Issuer and Manufacturers and Traders Trust Company, as trustee (the “Trustee”), in connection with a project (the “Initial Project”) to be undertaken by the Issuer for the benefit of Brighter Choice Elementary Charter Schools (the “Institution”), said Initial Project consisting of the following: (A) the refunding of all or a portion of the Civic Facility Revenue Bonds (Brighter Choice Charter Schools Project), Series 2007A (the “Prior Bonds”) issued on March 30, 2007 by the City of Albany Industrial Development Agency (the “Prior Issuer”) in the aggregate principal amount of \$17,895,000, which Prior Bonds were issued for the purpose of financing (1) the acquisition of an interest in parcels of land located at 116 North Lake Avenue, 253 Sherman Avenue and 398 Elk Street in the City of Albany, Albany County, New York (the “North Lake Land”), together with (a) an approximately 36,000 square foot building located thereon (the “Existing Facility”) and (b) a single family house located thereon (the “House”), (2) the demolition of the House, the renovation and reconstruction of the Existing Facility and the construction of an approximately 6,000 square foot addition to the Existing Facility (the “Addition” and, collectively with the Existing Facility, the “North Lake Facility”), (3) the acquisition and installation thereon and therein of various machinery and equipment (the “North Lake Equipment”) (the North Lake Land, the North Lake Facility and the North Lake Equipment hereinafter collectively referred to as the “North Lake Project Facility”), (4) the acquisition of parcels of land located at 393, 395 and 397 Elk Street and 130 North Lake Avenue in the City of Albany, Albany County, New York (the “Parking Land”), together with two existing structures located thereon (collectively, the “Parking Lot Structures”), (5) the demolition of the Parking Lot Structures and the construction of parking facilities on the Parking Land (the “Parking Facility”) (the

Parking Land and the Parking Facility being collectively referred to as the “Parking Project Facility”) and (6) the acquisition of an interest in an approximately one acre parcel of land located at 250 Central Avenue in the City of Albany, Albany County, New York (the “Central Avenue Land”) (the North Lake Land, the Parking Land and the Central Avenue Land being collectively referred to as the “Land”), together with an approximately 32,240 square foot building located thereon (the “Central Avenue Facility”) (the Central Avenue Facility, the Parking Facility and the North Lake Facility being collectively referred to as the “Facility”) and the equipment located in the Central Avenue Facility (the “Central Avenue Equipment”) (the North Lake Equipment and the Central Avenue Equipment being collectively referred to as the “Equipment”) (the Central Avenue Land, the Central Avenue Facility and the Central Avenue Equipment being collectively referred to as the “Central Avenue Project Facility”), all of the foregoing to be owned and operated by the Institution as two charter schools, with the potential for a portion of one charter school to be leased by the Institution to other not-for-profit corporations (the North Lake Project Facility, the Parking Project Facility and the Central Avenue Project Facility being collectively referred to as the “Initial Project Facility”); (B) the financing of all or a portion of the costs of the foregoing by the issuance of the Initial Bonds; and (C) the paying a portion of the costs incidental to the issuance of the Initial Bonds, including issuance costs of the Initial Bonds and any reserve funds as may be necessary to secure the Initial Bonds. The Issuer will make a loan to the Institution of the proceeds of the Initial Bonds (the “Loan”) for the purpose of assisting in financing the Initial Project, and document the Loan by entering into a loan agreement dated as of November 1, 2021 (the “Loan Agreement”) between the Issuer, as lender, and the Institution, as borrower.

The Initial Bonds are dated the date hereof, are issued as fully registered bonds without coupons and mature and bear interest at the rates set forth therein. The Initial Bonds are subject to (A) special redemption prior to maturity and (B) acceleration prior to maturity, all as set forth in the Indenture and in the Initial Bonds.

The principal of, redemption premium, if any, and interest on the Initial Bonds are payable from loan payments to be made by the Institution under the Loan Agreement. As security for the Initial Bonds, the Issuer has executed and delivered to the Trustee a pledge and assignment dated as of November 1, 2021 (the “Pledge and Assignment”) which assigns to the Trustee certain of the Issuer’s rights under the Loan Agreement.

As additional security for the Initial Bonds, (A) the Institution will execute and deliver to the Issuer (1) a mortgage dated as of November 1, 2021 (the “Mortgage”), which Mortgage among other things, (a) grants to the Issuer a mortgage lien on, and a security interest in, among other things, the Initial Project Facility and all rights of the Institution in this Loan Agreement and (b) assigns to the Issuer the rents, issues and profits of the Initial Project Facility and (2) an assignment of rents and leases dated as of November 1, 2021 (the “Assignment of Rents”), which Assignment of Rents, among other things, assigns to the Issuer (a) the rents, issues and profits of the Initial Project Facility and (b) all leases, subleases, licenses or occupancy agreements affecting the Initial Project Facility, and (B) the Issuer will execute and deliver to the Trustee (1) an assignment of mortgage dated as of November 1, 2021 (the “Mortgage Assignment”) from the Issuer to the Trustee, pursuant to which the Issuer will assign the Mortgage to the Trustee, and (2) an assignment of assignment of rents and leases dated as of November 1, 2021 (the “Assignment of Rents Assignment”) from the Issuer to the Trustee, pursuant to which the Issuer will assign the Assignment of Rents to the Trustee.

We have examined specimen Initial Bonds and executed counterparts of the Indenture, the Loan Agreement, the Pledge and Assignment, the Mortgage Assignment and the Assignment of Rents Assignment (collectively, the “Issuer Documents”) relating to the Initial Bonds and such certified proceedings and such other documents as we deemed necessary to render this opinion.

With respect to the due authorization, execution and delivery by the Institution of the agreements to which it is a party, we have relied on the opinion of Whiteman Osterman & Hanna LLP, counsel to the Institution. With respect to the due authorization, execution and delivery by Manufacturers and Traders Trust Company (both in its corporate capacity as signatory of the Indenture and in its capacity as Trustee) of the agreements to which it is a party, we have relied on the opinion of Bond, Schoeneck & King, PLLC, counsel to the Trustee.

In our examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals and the conformity with the original documents of all documents submitted to us as copies. Furthermore, in rendering the following opinions, we have assumed that all documents executed by a person or persons other than the Issuer were duly executed and delivered by said other person or persons and that said documents constitute legal, valid and binding obligations of said person or persons enforceable against said person or persons in accordance with their terms.

Based upon our examination of the foregoing and in reliance upon the matters and subject to the limitations contained herein, we are of the opinion, as of the date hereof and under existing law, as follows:

(A) The Issuer was duly created and is validly existing as a not-for-profit corporation under the laws of the State of New York with the corporate power to enter into and perform its obligations under the Issuer Documents and to issue the Initial Bonds.

(B) The Issuer Documents have been duly authorized, executed and delivered by the Issuer and are valid and binding special obligations of the Issuer enforceable against the Issuer in accordance with their respective terms, except as specified below.

(C) The Initial Bonds have been duly authorized, executed and delivered by the Issuer and, assuming due authentication thereof by the Trustee, are valid and binding special obligations of the Issuer payable with respect to the Issuer solely from the revenues derived by the Issuer from the revenues derived from the Loan Agreement.

(D) The interest on the Initial Bonds is not excludable from gross income for federal income tax purposes and interest on the Initial Bonds is not exempt from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York).

(E) The Initial Bonds do not constitute a debt of the State of New York or the City of Albany, New York, and neither the State of New York nor the City of Albany, New York is liable thereon.

Any opinion concerning the validity, binding effect or enforceability of any document (A) means that (1) such document constitutes an effective contract under applicable law, (2) such document is not invalid in its entirety under applicable law because of a specific statutory prohibition or public policy, and is not subject in its entirety to a contractual defense under applicable law and (3) subject to the following sentence, some remedy is available under applicable law if the person concerning whom such opinion is given is in material default under such document, but (B) does not mean that (1) any particular remedy is available under applicable law upon such material default or (2) every provision of such document will be upheld or enforced in any or each circumstance by a court applying applicable law. Furthermore, the validity, binding effect or enforceability of any document may be limited to or otherwise affected by (A) any applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar statute, rule, regulation or other law affecting the enforcement of creditors' rights and remedies generally or (B) the unavailability of, or any limitation on the availability of, any particular right or remedy (whether in a proceeding in equity or law) because of the discretion of a court or because of any equitable principle or requirement as to commercial reasonableness, conscionability or good faith.

We express no opinion with respect to (A) title to all or any portion of the Initial Project Facility, (B) the priority of any liens, charges, security interests or encumbrances affecting the Initial Project Facility or any part thereof (or the effectiveness of any remedy which is dependent upon the existence of title to the Initial Project Facility or the priority of any such lien, charge, security interest or encumbrance), (C) any laws, regulations, judgments, permits or orders with respect to zoning, subdivision matters or requirements for the physical commencement and continuance of the construction, reconstruction, installation, occupancy or operation of the Initial Project Facility or with respect to the requirements of filing or recording of any of the Financing Documents, or (D) the laws of any jurisdiction other than the State of New York and other than the securities and the tax laws of the United States of America.

The scope of our engagement has extended solely to the examination of the facts and law incident to rendering the opinions expressed herein. Attention is called to the fact that we have not been requested to examine and have not examined any documents or information relating to the Institution or the Initial Project Facility other than specifically hereinabove referred to, and no opinion is expressed as to any financial or other information, or the adequacy thereof, which has been or may be supplied to any purchaser of the Initial Bonds.

Our opinions set forth herein are based upon the facts in existence and the laws in effect on the date hereof and we expressly disclaim any obligation to update our opinions herein, regardless of whether changes in such facts or laws come to our attention after the delivery hereof.

We have rendered this opinion solely for your benefit and this opinion may not be relied upon by, nor copies hereof delivered to, any other person without our prior written approval.

Very truly yours,

HODGSON RUSS LLP

