

*In the opinion of Hodgson Russ LLP, Bond Counsel to the Issuer (“Bond Counsel”), based on existing statutes, regulations, rulings and court decisions and assuming compliance with certain covenants and the accuracy of certain representations, interest on the Series 2024 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 or another Person, by failing to comply with certain requirements contained in the Code, may cause interest on the Series 2024 Bonds to become subject to federal income taxation and certain other taxes from the date of issuance thereof, (b) interest on the Series 2024 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 (c) interest on the Series 2024 Bonds will be included in the “adjusted financial statement income” of certain corporations that are subject to the alternative minimum tax under Section 55 of the Code. Bond Counsel is further of the opinion that, so long as interest on the Series 2024 Bonds is excluded from gross income for federal income tax purposes, interest on the Series 2024 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). For a more complete discussion, including certain other tax considerations, see “TAX MATTERS” herein.*



\$50,105,000

**CITY OF ALBANY CAPITAL RESOURCE CORPORATION  
TAX-EXEMPT REVENUE BONDS**

**(KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS PROJECT), SERIES 2024**

Dated: Date of Delivery

Due: June 1, as shown on the inside cover

The City of Albany Capital Resource Corporation (the “Issuer”) is issuing its Tax-Exempt Revenue Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024, in the aggregate principal amount of \$50,105,000 (the “Series 2024 Bonds”) pursuant to a Trust Indenture, dated as of June 1, 2024 (the “Indenture”) between Manufacturers and Traders Trust Company, as bond trustee (the “Bond Trustee”) and the Issuer. Proceeds of the Series 2024 Bonds will be loaned by the Issuer to KIPP Capital Region Public Charter Schools (the “Institution”), pursuant to a Loan Agreement, dated as of June 1, 2024, between the Issuer and the Institution (the “Loan Agreement”) for the purposes of: (a) financing (i) the construction of an approximately 98,185 square foot high school building on an approximately 10.38 acre parcel of land located at 400 Northern Boulevard and 10 Dudley Heights in the City of Albany, New York and (ii) the acquisition and installation thereon and therein of certain related furniture, fixtures, machinery and equipment; (b) refinancing of an existing loan of the Institution, the proceeds of which were used by the Institution to purchase certain buildings located at 2 Polk Street and 3055 6th Avenue, respectively, in the City of Troy, Rensselaer County, New York; (c) funding a reserve fund to secure the Series 2024 Bonds; (d) funding capitalized interest relating to the Series 2024 Bonds; and (e) paying all or a portion of the costs incidental to the issuance of the Series 2024 Bonds.

The Series 2024 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 obligation of the Institution to make the payments under the Loan Agreement will be evidenced and secured by an obligation (the “Series 2024 Obligation”) issued pursuant to a Second Supplemental Master Trust Indenture, dated as of June 1, 2024 (the “Second Supplemental Master Indenture”), between the Institution, as initial sole Member of the Obligated Group and initial Obligated Group Representative (as such terms are defined in the hereinafter defined Master Indenture), and Manufacturers and Traders Trust Company, as Master Trustee (the “Master Trustee”). The Second Supplemental Master Indenture supplements that certain Master Trust Indenture, dated as of December 1, 2020, among the Institution, as successor in interest to KIPP: Albany Community Public Charter Schools, and any other Obligated Group Members from time to time thereunder and the Master Trustee (as amended and supplemented from time to time, the “Master Indenture”). The Obligations issued under the Master Indenture will be further secured by a mortgage lien on and security interest in certain school buildings, land and equipment owned by the Institution pursuant to a Mortgage, dated as of June 1, 2024, from the Institution to the Issuer, and subsequently assigned by the Issuer to the Master Trustee (the “Mortgage”).

The Series 2024 Bonds are limited obligations of the Issuer payable solely from the moneys received under the Loan Agreement described herein or held by the Bond Trustee under the Indenture described herein. Interest on the Series 2024 Bonds will accrue from the date of delivery and will be payable semi-annually on each June 1 and December 1, commencing December 1, 2024.

The Series 2024 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 2024 Bonds. Purchase of beneficial interests in the Series 2024 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 2024 Bonds, (i) payments of the principal, sinking fund payments, interest and redemption premium, if any, with respect to the Series 2024 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 Bond Trustee only to Cede & Co.

The Series 2024 Bonds are subject to optional redemption and are also subject to mandatory and extraordinary redemption prior to maturity as described herein.

THE SERIES 2024 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 2024 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 2024 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 2024 BONDS INVOLVES A HIGH DEGREE OF RISK, AND THE SERIES 2024 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 2024 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 2024 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, Hawkins Delafield & Wood LLP, New York, New York. It is expected that the Series 2024 Bonds will be available in book-entry form for delivery against payment therefor on or about June 12, 2024.





\$50,105,000  
City of Albany Capital Resource Corporation  
Tax-Exempt Revenue Bonds  
(KIPP Capital Region Public Charter Schools Project), Series 2024

MATURITIES, PRINCIPAL AMOUNTS, INTEREST RATES, YIELDS, PRICES, AND CUSIPS

\$1,380,000 Term Bond due June 1, 2034 at 4.000%; Yield: 4.260%; Price 97.904; CUSIP<sup>†</sup> 012432DY3

\$3,815,000 Term Bond due June 1, 2044 at 4.500%; Yield: 4.790%; Price 96.296; CUSIP<sup>†</sup> 012432DZ0

\$11,875,000 Term Bond due June 1, 2054 at 4.750%; Yield: 4.920%; Price 97.348; CUSIP<sup>†</sup> 012432EA4

\$33,035,000 Term Bond due June 1, 2064 at 5.000%; Yield: 5.020%; Price 99.654; CUSIP<sup>†</sup> 012432EB2

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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 2024 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.

THE SERIES 2024 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 – “FORMS OF PRINCIPAL FINANCING DOCUMENTS” HEREIN. THE SERIES 2024 BONDS ARE BEING ISSUED WITHOUT REGISTRATION IN RELIANCE ON SECTION 3(A)(2) OF THE SECURITIES ACT OF 1933, AS AMENDED. THE INSTITUTION 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 Institution’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 Institution that its plans and objectives will be achieved. All forward-looking statements are expressly qualified by the cautionary statements contained in this paragraph. The Institution does not undertake any duty to update any forward-looking statements. See “RISK FACTORS” herein.**



THE DESCRIPTIONS OF THE DOCUMENTS IN THIS 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 2024 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 2024 BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, NOR HAS THE INDENTURE OR THE MASTER 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 2024 BONDS IN ACCORDANCE WITH APPLICABLE PROVISIONS OF SECURITIES LAWS OF THE STATES IN WHICH THE SERIES 2024 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 2024 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" (COLLECTIVELY, THE "ISSUER INFORMATION"), ALL OF WHICH INFORMATION HAS BEEN FURNISHED BY OTHERS.

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Albany, New York

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**The Institution**

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First Tryon Advisors

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Robert W. Baird & Co. Incorporated  
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**Underwriter's Counsel**

Hawkins Delafield & Wood LLP  
New York, New York

**Bond Trustee, Paying Agent, Master Trustee, Custodian and Dissemination Agent**

Manufacturers and Traders Trust Company  
Buffalo, New York

## 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 – “FORMS OF PRINCIPAL FINANCING DOCUMENTS” attached hereto.*

**THE SERIES 2024 BONDS.** The offering consists of the Tax-Exempt Revenue Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024, in the aggregate principal amount of \$50,105,000 (the “Series 2024 Bonds”) to be issued by the City of Albany Capital Resource Corporation (the “Issuer”).

*The Trust Indenture.* The Series 2024 Bonds will be issued pursuant to a Trust Indenture (the “Indenture”), dated as of June 1, 2024, between the Issuer and Manufacturers and Traders Trust Company, as bond trustee (the “Bond Trustee”). The Series 2024 Bonds will be initially issued in Book-Entry Form. Interest will accrue on the Series 2024 Bonds at the rates set forth on the inside cover page, payable semiannually on June 1 and December 1 of each year, commencing on December 1, 2024.

*The Loan Agreement.* Proceeds of the Series 2024 Bonds will be loaned by the Issuer to the Institution, pursuant to the Loan Agreement, dated as of June 1, 2024, between the Issuer and KIPP Capital Region Public Charter Schools (the “Institution”). 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, sinking fund payments, and interest on the Series 2024 Bonds.

For more information on the Indenture and the Loan Agreement, see “THE SERIES 2024 BONDS” herein and APPENDIX D – “FORMS OF PRINCIPAL FINANCING DOCUMENTS – THE LOAN AGREEMENT” attached hereto.

**USE OF PROCEEDS.** The Series 2024 Bonds are being issued for the purposes of: (a) financing the construction of an approximately 98,185 square foot high school building (the “Initial Facility”) on an approximately 10.38 acre parcel of land located at 400 Northern Boulevard and 10 Dudley Heights in the City of Albany, New York (the “Initial Land”) and the acquisition and installation thereon and therein of certain related furniture, fixtures, machinery and equipment (the “Initial Equipment”) (the Initial Facility, the Initial Land and the Initial Equipment hereinafter collectively referred to as the “Initial Project Facility”); (b) the refinancing of an existing loan of the Institution, the proceeds of which were used by the Institution to purchase certain buildings located at 2 Polk Street and 3055 6th Avenue, respectively, in the City of Troy, Rensselaer County, New York; (c) funding a reserve fund to secure the Series 2024 Bonds; (d) funding capitalized interest relating to the Series 2024 Bonds; and (e) paying all or a portion of the costs incidental to the issuance of the Series 2024 Bonds. See “PLAN OF FINANCE” herein.

**SECURITY FOR THE SERIES 2024 BONDS.** Pursuant to the Indenture, the Series 2024 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 (except for the Issuer’s Unassigned Rights thereunder) in the Loan Agreement, and (3) Loan payments due from the Institution under the Loan Agreement. To evidence and secure the loan to be made by the Issuer to the Institution under the Loan Agreement, the Institution will issue and deliver to the Bond Trustee, as assignee of the Issuer, KIPP Albany Obligated Group Obligation No. 2

(“Obligation No. 2”). Obligation No. 2 will be issued pursuant to a Second Supplemental Master Trust Indenture, dated as of June 1, 2024 (the “Second Supplemental Master Indenture”), between the Institution, as Obligated Group Representative, and Manufacturers and Traders Trust Company, as Master Trustee (the “Master Trustee”). The Second Supplemental Master Indenture supplements that certain Master Trust Indenture, dated as of December 1, 2020, among the Institution, as successor in interest to KIPP: Albany Community Public Charter Schools, as initial sole Member of the Obligated Group and initial Obligated Group Representative, and the Master Trustee (as amended and supplemented from time to time, the “Master Indenture”). The Obligations now or hereafter issued and outstanding under the Master Indenture will be secured in part (1) by a mortgage lien on and security interest in certain school buildings, land and equipment owned by the Institution pursuant to a Mortgage, dated as of June 1, 2024, from the Institution to the Issuer, and subsequently assigned by the Issuer to the Master Trustee (the “Mortgage”), (2) by an assignment of leases and rents dated as of June 1, 2024, from the Institution to the Issuer (as amended or supplemented, the “Assignment of Leases and Rents”), which is to be assigned from the Issuer to the Master Trustee pursuant to the Assignment of Assignment of Leases and Rents, and (3) by pledges of each Member of the Obligated Group to the Master Trustee in all of its Pledged Revenues (equal to its Gross Revenues less any Excluded Collateral, as further described herein). In addition, the Series 2024 Bonds will be secured by a debt service reserve fund, created pursuant to the Indenture and funded on the Closing Date for the Series 2024 Bonds in an amount equal to the Initial Reserve Fund Requirement. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2024 BONDS” and “RISK FACTORS - Remedies may be Unenforceable” and - Inability to Liquidate or Delay in Liquidating the Mortgaged Property” in this Official Statement. See also APPENDIX D – “SUMMARIES OF THE PRINCIPAL FINANCING DOCUMENTS.”

Pursuant to the Loan Agreement and the Master Indenture, the Institution and the Obligated Group will make certain covenants for the benefit of the Bond Trustee and the holders of the Series 2024 Bonds and any Additional Bonds under the Indenture. As of the date of this Official Statement, the Institution is the only Member of the Obligated Group. Obligation No. 2 will be secured on a parity basis with Obligations previously issued and hereafter issued under the Master 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 2024 BONDS” and “RISK FACTORS” in this Official Statement.

**DAYS CASH ON HAND COVENANT.** Pursuant to the Master Indenture, the Institution has covenanted to manage its business so as to maintain not less than sixty (60) Days’ Cash on Hand for each Fiscal Year (the “Cash on Hand Requirement”). Failure to maintain the Cash on Hand Requirement for any Fiscal Year shall not constitute an Event of Default so long as the Institution timely engages an Independent Consultant within thirty (30) days. Within sixty (60) days of engaging an Independent Consultant, such Independent Consultant shall prepare a report with recommendations for meeting the Cash on Hand Requirement. Failure of the Institution to maintain the Cash on Hand Requirement for two consecutive Fiscal Years shall constitute an Event of Default. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2024 BONDS” and APPENDIX D – “FORMS OF PRINCIPAL FINANCING DOCUMENTS – THE MASTER INDENTURE – Debt Service Coverage and Cash on Hand.”

**DEBT SERVICE COVERAGE COVENANT.** Pursuant to the Master Indenture, the Institution has covenanted to manage its business such that the Debt Service Coverage Ratio calculated at the end of each Fiscal Year will not be less than 1.10 for such Fiscal Year. Failure to maintain the Debt Service Coverage Ratio as required by the Master Indenture shall not constitute an Event of Default so long as the Institution timely engages an Independent Consultant within thirty (30) days. Failure of the Institution to

maintain a Debt Service Coverage Ratio of not less than 1.0:1.0 shall constitute an Event of Default. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2024 BONDS” and APPENDIX D – “FORMS OF PRINCIPAL FINANCING DOCUMENTS – THE MASTER INDENTURE – Debt Service Coverage and Cash on Hand.”

**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, 2024, 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 Bond Trustee to authenticate and deliver the Series 2024 Bonds. The following trust funds and accounts are established under the Indenture with the Bond 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 2024 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 Bond 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 2024 Bonds is established with the Bond Trustee under the Indenture within which there will be established the following special accounts: (a) the Series 2024 Reserve Account; and (b) an additional, separate account for each Series of Additional Bonds, each such additional account to be known as the “Series \_\_\_\_ Reserve Account”, with the blank to be filled in with the same Series designation as borne by the related series of Additional Bonds. The Series 2024 Bonds Reserve Account of the Reserve Fund will be funded on the Closing Date for the Series 2024 Bonds by proceeds of the Series 2024 Bonds in the amount of \$1,999,983.43, the Initial Reserve Fund Requirement applicable to the Series 2024 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 Bond Trustee shall transfer from the Reserve Fund and deposit into the Bond Fund an amount of money sufficient to enable the Bond Trustee to make all such Debt Service Payments coming due on the Series 2024 Bonds. The Bond 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 through payments from the Institution under the Loan Agreement on 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 Bond Trustee of notice of such deficiency or withdrawal from the Reserve Fund, each such

payment to be in an amount at least equal to one-sixth of the deficiency identified by the Bond Trustee. The amounts in the Reserve Fund shall be valued semiannually by the Bond Trustee. If the amounts held in the Reserve Fund exceed the Reserve Fund Requirement, the Bond Trustee shall apply such excess to first pay the Bond 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 2024 Bonds and credited to the Institution's obligation to make Loan Payments.

Pursuant to the Indenture, 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 Initial Project Facility, emergency repairs of the Initial Project Facility, and major or extraordinary repairs, renewals or replacements of the Initial 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 on 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 Bond Trustee of notice of such deficiency or withdrawal from the Repair and Replacement Fund, each such payment to be in an amount at least equal to one-sixth of the amount identified in such notice 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 Bond Trustee. If the amounts held in the Repair and Replacement Fund exceed the Repair and Replacement Fund Requirement, the Bond Trustee shall withdraw such excess amount and apply it to pay the Bond 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 2024 Bonds and credited to the Institution's obligation to make Loan Payments. See "SECURITY FOR THE SERIES 2024 BONDS" herein and APPENDIX D – "FORMS OF PRINCIPAL FINANCING DOCUMENTS" attached hereto.

**THE INSTITUTION, CHARTERS, AUTHORIZING BODY, MERGER.** The Institution is a not-for-profit education corporation and network of public charter schools established pursuant to its charters and the New York Charter Schools Act of 1998 (the "Charter Schools Act") primarily for the purpose of carrying out the function of elementary, middle and high schools. Additional information concerning the Institution and its subsidiaries is set forth in APPENDIX B. The Charter Schools Act grants the Board of Regents of the State University of New York (the "Board of Regents") 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. The Institution has been incorporated by the Board of Regents. The State University of New York ("SUNY") is the authorizing body of the Institution and has issued charters for the Institution's schools, KIPP Tech Valley Charter School ("KIPP Tech Valley"), KIPP Albany Community (f/k/a Albany Community Charter School) and KIPP Troy Prep (f/k/a True North Troy Preparatory Charter School). SUNY oversees and monitors the Institution's Board of Trustees in their compliance with all applicable state and federal laws pertaining to charter schools.

KIPP Tech Valley, KIPP Albany Community and KIPP Troy Prep were issued separate charters, each approved by the State University of New York ("SUNY") on January 28, 2004, July 15, 2005 and October 26, 2007, respectively, and the Board of Regents on March 23, 2004, December 11, 2005 and March 11, 2008, respectively. In accordance with the Charter Schools Act, commencing in school year 2005-06, KIPP Tech Valley operated a charter school commonly known as KIPP Tech Valley Middle School. In 2006, Albany Community Charter School opened its elementary school and in 2009, Troy Preparatory Charter School opened its middle school. Until the mergers, KIPP Tech Valley, Albany Community Charter School and True North Troy Preparatory Charter School operated as independent, discreet operating entities, each governed by a separate board of trustees. The Institution is now a single

consolidated legal entity and the organization operates seven schools, all as KIPP Schools: KIPP Albany Community Charter Elementary School, KIPP Albany Community Charter Middle School, KIPP Tech Valley Primary School, KIPP Tech Valley Middle School, KIPP Troy Prep Elementary School, KIPP Troy Prep Middle School and KIPP Troy Prep High School.

Although the Institution is now a single legal entity, the Institution operates the seven schools pursuant to three separate charters authorized by SUNY and incorporated by the Board of Regents, such that if one school were to lose its charter, the Institution could continue to operate the other schools so long as it retains its respective charter. The Institution currently operates the seven schools pursuant to renewal charters granted, respectively, by SUNY in 2020, 2021 and 2024. See APPENDIX B – “CERTAIN INFORMATION CONCERNING THE INSTITUTION” and APPENDIX C - “AUDITED FINANCIAL STATEMENTS OF THE INSTITUTION FOR THE FISCAL YEARS ENDED JUNE 30, 2023 AND 2022” attached hereto. See also “RISK FACTORS – Termination or Revocation of Charters” herein.

**THE CUSTODY AGREEMENT.** Pursuant to the Amended and Restated Custody Agreement, dated as of June 1, 2024 (the “Custody Agreement”), by and among the Institution, the Master Trustee and Manufacturers and Traders Trust Company, as custodian (the “Custodian”), the Institution will cause and has directed the Albany City School District and the Troy City School District (together, the “School Districts”) to pay over and deliver to the Custodian the Education Aid due to 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 Master Trustee the amount of money described in the then applicable Custody Agreement Notice, for deposit in the MTI Revenue Fund under the Master Indenture, an amount equal to the Required Payment (as defined in the Master Indenture) for all Obligations Outstanding under the Master Indenture. The Custodian shall transfer moneys, if any, remaining credited to the Custody 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, 2025 through June 30, 2029, and consequently do not cover the entire period that the Series 2024 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 2024 Bonds involves a high degree of risk, including but not limited to the termination, revocation, nonrenewal or suspension of the Institution’s charters. See “RISK FACTORS – Termination or Revocation of Charters” herein. Prospective investors should review all of the information in this Official Statement and appendices carefully prior to purchasing any of the Series 2024 Bonds, including particularly, but without limitation, the section entitled “RISK FACTORS.”



**OFFICIAL STATEMENT**

**\$50,105,000**

**City of Albany Capital Resource Corporation  
Tax-Exempt Revenue Bonds  
(KIPP Capital Region Public Charter Schools Project), Series 2024**

**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 Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024, in the aggregate principal amount of \$50,105,000 (the “Series 2024 Bonds”). The Series 2024 Bonds are being issued pursuant to a Trust Indenture dated as of June 1, 2024 (the “Indenture”), between the Issuer and Manufacturers and Traders Trust Company, as bond trustee (the “Trustee”). The Series 2024 Bonds shall be dated their date of issuance, 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 – “FORMS OF PRINCIPAL FINANCING DOCUMENTS.”

Proceeds of the Series 2024 Bonds will be loaned by the Issuer to KIPP Capital Region Public Charter Schools, a not-for-profit education corporation duly organized under the laws of the State of New York (the “Institution”), pursuant to a Loan Agreement, dated as of June 1, 2024 (the “Loan Agreement”), between the Issuer and the Institution. The Series 2024 Bonds are being issued for the purposes of (a) financing the construction of an approximately 98,185 square foot high school building (the “Initial Facility”) on an approximately 10.38 acre parcel of land located at 400 Northern Boulevard and 10 Dudley Heights in the City of Albany, New York (the “Initial Land”) and the acquisition and installation thereon and therein of certain related furniture, fixtures, machinery and equipment (the “Initial Equipment”) (the Initial Facility, the Initial Land and the Initial Equipment hereinafter collectively referred to as the “Initial Project Facility”); (b) the refinancing of an existing loan of the Institution, the proceeds of which were used by the Institution to purchase certain buildings located at 2 Polk Street and 3055 6th Avenue, respectively, in the City of Troy, Rensselaer County, New York; (c) funding a reserve fund to secure the Series 2024 Bonds; (d) funding capitalized interest relating to the Series 2024 Bonds; and (e) paying all or a portion of the costs incidental to the issuance of the Series 2024 Bonds. See “PLAN OF FINANCE” herein and APPENDIX B – “CERTAIN INFORMATION CONCERNING THE INSTITUTION” attached hereto.

Pursuant to the Loan Agreement, the Institution will be obligated to make loan payments in amounts sufficient to pay the principal of, sinking fund payments, premium, if any, and interest on, the Series 2024 Bonds when due. See APPENDIX D – “FORMS OF PRINCIPAL FINANCING DOCUMENTS.”

Pursuant to the Indenture, the Series 2024 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 (except for the Issuer’s Unassigned Rights thereunder) in the Loan Agreement, and (3) Loan payments due from the Institution under the Loan Agreement. To evidence and secure the loan to be made by the Issuer to the Institution under the Loan Agreement, the Institution will issue and deliver to the Bond Trustee, as assignee of the Issuer, KIPP Albany Obligated Group Obligation No. 2 (“Obligation No. 2”). Obligation No. 2 will be issued pursuant to a Second Supplemental Master Trust Indenture, dated as of June 1, 2024 (the “Second Supplemental Master Indenture”), between the Institution, as Obligated Group Representative, and

Manufacturers and Traders Trust Company, as Master Trustee (the “Master Trustee”). The Second Supplemental Master Indenture supplements that certain Master Trust Indenture, dated as of December 1, 2020, among the Institution, as successor in interest to KIPP: Albany Community Public Charter Schools, as initial sole Member of the Obligated Group and initial Obligated Group Representative, and the Master Trustee (as amended and supplemented from time to time, the “Master Indenture”). The Obligations issued under the Master Indenture will be secured in part (1) by a mortgage lien on and security interest in certain school buildings, land and equipment owned by the Institution pursuant to a Mortgage, dated as of June 1, 2024, from the Institution to the Issuer, and subsequently assigned to the Master Trustee (the “Mortgage”), (2) by an assignment of leases and rents dated as of June 1, 2024, from the Institution to the Issuer (as amended or supplemented, the “Assignment of Leases and Rents”), which is to be assigned from the Issuer to the Master Trustee pursuant to the Assignment of Assignment of Leases and Rents, and (3) by pledges of each Member of the Obligated Group to the Master Trustee in all of its Pledged Revenues (equal to its Gross Revenues less any Excluded Collateral, as further described herein). In addition, the Series 2024 Bonds will be secured by a debt service reserve fund, created pursuant to the Indenture and funded on the Closing Date for the Series 2024 Bonds in an amount equal to the Initial Reserve Fund Requirement. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2024 BONDS” and “RISK FACTORS - Remedies may be Unenforceable” and - Inability to Liquidate or Delay in Liquidating the Mortgaged Property” in this Official Statement. See also APPENDIX D – “FORMS OF PRINCIPAL FINANCING DOCUMENTS.”

The Institution has entered into an Amended and Restated Custody Agreement, dated as of June 1, 2024 (the “Custody Agreement”), among the Institution, the Master Trustee and Manufacturers and Traders Trust Company, as custodian (the “Custodian”), pursuant to which the Institution will cause and has directed the Albany City School District and the Troy City School District to pay over and deliver to the Custodian the Education Aid due to 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 Bond Trustee the amount of money described in the then applicable Custody Agreement Notice, for deposit in the MTI Revenue Fund established under the Master Indenture, an amount equal to the Required Payment (as defined in the Master Indenture) for all Obligations Outstanding under the Master Indenture. The Custodian shall transfer moneys, if any, remaining credited to the Custody Account after completion of all transfers described in the then applicable Custody Agreement Notice, to the Institution.

Pursuant to a Pledge and Assignment, dated as of June 1, 2024 (the “Pledge and Assignment”), the Issuer will assign its rights (other than certain Unassigned Rights) under the Loan Agreement to the Bond Trustee. The Series 2024 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 2024 Bonds, see “SECURITY FOR THE SERIES 2024 BONDS” herein.

There follows in this Official Statement, and in the Appendices hereto, summaries of the Series 2024 Bonds, the security for the Series 2024 Bonds, certain related legal documents, including the Indenture, the Loan Agreement, the Pledge and Assignment, the Master Indenture, the Second Supplemental Master Indenture, the Mortgage, the Assignment of Rents, the Custody Agreement, a description of the Institution, the Issuer, the Initial Project Facility, 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 Bond Trustee or, during the offering period for the Series 2024 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 Initial 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 Pledge and Assignment, the Second Supplemental Master Indenture, 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 2024 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:

Elizabeth Staubach, Chairperson  
Lee Eck, Jr., Vice Chair  
Darius Shahinfar, Treasurer  
Anthony Gaddy, Secretary  
Joseph Better, Director  
Christopher Betts, Director  
John Maxwell, Director

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 2024 Bonds, the Issuer has not otherwise assisted in the public offer, sale or distribution of the Series 2024 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 2024 Bonds. The Series 2024 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 2024 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 2024 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 BOND TRUSTEE AND THE MASTER TRUSTEE UNDER THE MORTGAGE, THE INDENTURE OR THE MASTER 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 2024 BONDS OR PROCEEDS FROM THE SALE OR CONDEMNATION OF OR INSURANCE PROCEEDS WITH RESPECT TO THE MORTGAGED PROPERTY). THE SERIES 2024 BONDS ARE NOT GENERAL OR MORAL OBLIGATIONS OF THE ISSUER, THE CITY, THE COUNTY OF ALBANY (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 INTERESTS OF THE ISSUER UNDER THE LOAN AGREEMENT ASSIGNED TO THE BOND TRUSTEE BY THE PLEDGE AND ASSIGNMENT). THE ISSUER DOES NOT HAVE ANY TAXING AUTHORITY. SEE "SOURCES OF PAYMENT AND SECURITY FOR THE SERIES 2024 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 a New York state education corporation authorized by the State University of New York and incorporated by the New York State Board of Regents (the "Board of Regents") and is recognized as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (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 also "APPENDIX C – AUDITED FINANCIAL INFORMATION OF THE INSTITUTION FOR THE FISCAL YEARS ENDED JUNE 30, 2023 and 2022."

#### **THE AUTHORIZING BODY**

The Charter Schools Act grants the Board of Regents 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. The State University of New York ("SUNY") is the authorizing body of the Institution and has issued charters to the Institution's schools, KIPP Tech Valley Charter School ("KIPP Tech Valley"), KIPP Albany Community (f/k/a Albany Community Charter School) and KIPP Troy Prep (f/k/a True North Troy Preparatory Charter School). SUNY oversees and monitors the Institution's Board of Trustees in their compliance with all applicable state and federal laws pertaining to charter schools.

KIPP Tech Valley, KIPP Albany Community and KIPP Troy Prep were issued separate charters, each approved by SUNY on January 28, 2004, July 15, 2005 and October 26, 2007, respectively, and the Board of Regents on March 23, 2004, December 11, 2005 and March 11, 2008, respectively. In accordance with the Charter Schools Act, commencing in school year 2005-06, KIPP Tech Valley operated a charter school commonly known as KIPP Tech Valley Middle School. In 2006, Albany Community Charter School opened its elementary school and in 2009, Troy Preparatory Charter School opened its middle school. Until the mergers, KIPP Tech Valley, Albany Community Charter School and True North Troy Preparatory Charter School operated as independent, discreet operating entities, each governed by a separate board of trustees. The Institution is now a single legal entity and the organization operates seven

schools, all as KIPP Schools: KIPP Albany Community Charter Elementary School, KIPP Albany Community Charter Middle School, KIPP Tech Valley Primary School, KIPP Tech Valley Middle School, KIPP Troy Prep Elementary School, KIPP Troy Prep Middle School and KIPP Troy Prep High School.

Although the Institution is now a single legal entity, the Institution operates the seven schools pursuant to three separate charters authorized by SUNY and incorporated by the Board of Regents, such that if one school were to lose its charter, the Institution could continue to operate the other schools so long as it retains its respective charter. The Institution currently operates the seven schools pursuant to renewal charters granted by SUNY and incorporated by the Board of Regents in 2020, 2021 and 2023. See APPENDIX B – “CERTAIN INFORMATION CONCERNING THE INSTITUTION” and APPENDIX C - “AUDITED FINANCIAL STATEMENTS OF THE INSTITUTION FOR THE FISCAL YEARS ENDED JUNE 30, 2023 AND 2022” attached hereto. See also “RISK FACTORS –Termination or Revocation of Charters” herein.

### **PLAN OF FINANCE**

The proceeds of the sale of the Series 2024 Bonds will provide funds which, together with other available funds, will finance: (a) (i) the construction of the Initial Facility on the Initial Land and (ii) the acquisition and installation thereon and therein of the Initial Equipment, all of the foregoing to be operated by the Institution as an educational facility and any other directly or indirectly related activities; (b) the refinancing of an existing loan of the Institution, the proceeds of which were used by the Institution to purchase certain buildings located at 2 Polk Street and 3055 6th Avenue, respectively, in the City of Troy, Rensselaer County, New York; (c) the funding of a reserve fund to secure the Series 2024 Bonds; (d) the funding of capitalized interest relating to the Series 2024 Bonds; and (e) all or a portion of the costs incidental to the issuance of the Series 2024 Bonds.

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## ESTIMATED SOURCES AND USES OF FUNDS

The estimated sources and uses of the proceeds of the Series 2024 Bonds, together with other funds to be applied to the Initial Project, are as follows, rounded to the nearest whole dollar:

### SOURCES

Par Amount of Series 2024 Bonds	\$50,105,000
Original Net Issue Discount	(599,459)
Equity Contribution <sup>(1)</sup>	<u>5,000,000</u>
<b>TOTAL SOURCES</b>	<b>\$54,505,542</b>

### USES

Deposit to Project Fund	\$44,996,803
Loan Refinancing	2,988,269
Deposit to Reserve Fund <sup>(2)</sup>	1,999,983
Deposit for Capitalized Interest <sup>(3)</sup>	2,693,164
Costs of Issuance <sup>(4)</sup>	<u>1,827,323</u>
<b>TOTAL USES</b>	<b>\$54,505,542</b>

(1) \$3,160,000 of the equity contribution has been previously applied toward the Initial Project and \$1,840,000 will be deposited at closing.

(2) The amount deposited in the Reserve Fund is equal to the amount of the Initial Reserve Fund Requirement.

(3) Inclusive of interest on the Series 2024 Bonds through June 1, 2027.

(4) Includes, without limitation, underwriter's discount, legal and advisory fees, rating fees, printing costs and other costs associated with the issuance of the Series 2024 Bonds.

## THE SERIES 2024 BONDS

### General

The Series 2024 Bonds will be issued in the original aggregate principal amount of \$50,105,000. The Series 2024 Bonds are to be dated as of the date of their issuance and are to bear interest payable semiannually each June 1 and December 1, commencing December 1, 2024, at the rates per annum, according to years of maturity, set forth on the inside front cover hereof. The Series 2024 Bonds are to mature on June 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."

The Series 2024 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 2024 Bonds will be payable when due by wire of the Bond 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 2024 Bonds as described in this Official Statement.

## Redemption

*Optional Redemption.* The Series 2024 Bonds are subject to redemption prior to maturity on or after December 1, 2030, 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 thereof, at a Redemption Price of 100%, plus accrued interest to the Redemption Date.

*Extraordinary Redemption Without Premium.* The Series 2024 Bonds are subject to redemption prior to maturity (1) as a whole, without premium, to the extent consistent with the applicable provisions of the Master Indenture, in the event of (a) a taking in Condemnation of, or failure of title to, all or substantially all of the Initial Project Facility and election by the Institution to redeem the Series 2024 Bonds in accordance with the Loan Agreement, (b) damage to or destruction of part or all of the Initial Project Facility and election by the Institution to redeem the Series 2024 Bonds in accordance with the Loan Agreement, or (c) a taking in Condemnation of part of the Initial Project Facility and election by the Institution to redeem the Series 2024 Bonds in accordance with the Loan Agreement, (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, (3) in part, without premium, (a) in the event that, (i) subject to the applicable provisions of the Master Indenture, excess moneys remain in the Insurance and Condemnation Fund following damage or condemnation of a portion of the Initial Project Facility and completion of the repair, rebuilding or restoration of the Initial 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, in each case to the extent of such excess, or (4) as a whole, as a mandatory redemption, upon the occurrence of an Event of Taxability, without premium, or in part if such redemption in part (in such principal amount as is deemed necessary in the opinion of Bond Counsel) would have the result that interest payable on the Series 2024 Bonds Outstanding after such redemption would not be includable in the gross income of any Holder of a Series 2024 Bond. In any such event, the Series 2024 Bonds shall be redeemed, as a whole or in part, as the case may be, on the earliest practicable date for which the Bond 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 2024 Bonds issued as Term Bonds maturing on June 1, 2034 are subject to scheduled mandatory sinking fund redemption, by lot in such manner as the Bond Trustee shall deem fair and appropriate, prior to maturity, on June 1 of each year, commencing June 1, 2030 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:

<u>Sinking Fund Payment Date (June 1)</u>	<u>Sinking Fund Payment</u>
2030	\$255,000
2031	265,000
2032	275,000
2033	285,000
2034 <sup>†</sup>	300,000

<sup>†</sup> Stated maturity.

The Series 2024 Bonds issued as Term Bonds maturing on June 1, 2044 are subject to scheduled mandatory sinking fund redemption, by lot in such manner as the Bond Trustee shall deem fair and appropriate, prior to maturity, on June 1 of each year, commencing June 1, 2035 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 <u>(June 1)</u>	Sinking Fund <u>Payment</u>
2035	\$310,000
2036	325,000
2037	340,000
2038	355,000
2039	370,000
2040	385,000
2041	405,000
2042	425,000
2043	440,000
2044 <sup>†</sup>	460,000

<sup>†</sup> Stated maturity.

The Series 2024 Bonds issued as Term Bonds maturing on June 1, 2054 are subject to scheduled mandatory sinking fund redemption, by lot in such manner as the Bond Trustee shall deem fair and appropriate, prior to maturity, on June 1 of each year, commencing June 1, 2045 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 <u>(June 1)</u>	Sinking Fund <u>Payment</u>
2045	\$480,000
2046	505,000
2047	530,000
2048	555,000
2049	580,000
2050	610,000
2051	1,425,000
2052	2,285,000
2053	2,395,000
2054 <sup>†</sup>	2,510,000

<sup>†</sup> Stated maturity.

The Series 2024 Bonds issued as Term Bonds maturing on June 1, 2064 are subject to scheduled mandatory sinking fund redemption, by lot in such manner as the Bond Trustee shall deem fair and appropriate, prior to maturity, on June 1 of each year, commencing June 1, 2055 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:

<u>Sinking Fund Payment Date (June 1)</u>	<u>Sinking Fund Payment</u>
2055	\$2,625,000
2056	2,760,000
2057	2,895,000
2058	3,040,000
2059	3,195,000
2060	3,350,000
2061	3,520,000
2062	3,695,000
2063	3,880,000
2064 <sup>†</sup>	4,075,000

<sup>†</sup> Stated maturity.

*Notice of Redemption.* When the Series 2024 Bonds are to be redeemed pursuant to the Indenture, the Bond Trustee shall give notice of the redemption of the Series 2024 Bonds in the name of the Issuer and at the expense of the Institution stating the Redemption Price, the principal amount of the Series 2024 Bonds to be redeemed, the numbers of the Series 2024 Bonds to be redeemed if less than all of the Series 2024 Bonds are to be redeemed, the Redemption Date and the place or places where amounts due upon such redemption will be payable. Such notice shall further state that payment of the applicable Redemption Price plus accrued interest to the Redemption Date will be made upon presentation and surrender of the Series 2024 Bonds or portions thereof to be redeemed; that upon presentation and surrender to the Bond Trustee of any Series 2024 Bond being redeemed in part, a new Series 2024 Bond in the principal amount of the unredeemed portion of such Series 2024 Bond will be issued; and that the Series 2024 Bonds or portions thereof so called for redemption will be deemed redeemed and will cease to bear interest on the specified Redemption Date, provided that moneys for their redemption have been duly deposited in the Bond Fund; and, except for the purpose of payment, that such Series 2024 Bonds will no longer be protected by the Indenture.

The Bond 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 2024 Bonds.

*Payment of Redeemed Series 2024 Bonds.* Notice of the intended redemption of each Series 2024 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 Bond 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 Bond 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 Series 2024 Bond with respect to which no such failure to give notice, or defect therein, has occurred. Notice of any redemption hereunder with respect to Series 2024 Bonds held under a Book Entry System shall be given by the Bond Registrar or the Bond Trustee only to the Depository, or its nominee, as the holder of such Series 2024 Bonds. Selection of book entry interests in the Series 2024 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 Series 2024 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 Bond Trustee and available therefor insufficient funds to pay the Redemption Price of all Series 2024 Bonds scheduled to be redeemed, such redemption may be rescinded (in which case the Bond Trustee shall promptly so notify the Holders of such Series 2024 Bonds in the same manner in which notice of redemption was given), and if such redemption is rescinded, the Series 2024 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 2024 Bonds or portions thereof called for redemption shall become due and payable on the Redemption Date so designated. Upon presentation and surrender of such Series 2024 Bonds at the Office of the Bond Trustee, such Series 2024 Bonds shall be paid at the Redemption Price for such Series 2024 Bonds, plus accrued interest (if any) to the Redemption Date. If there shall be selected for redemption less than all of a Series 2024 Bond, the Issuer shall, upon the surrender of such Series 2024 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 Bond Trustee to authenticate and deliver for the unredeemed balance of the principal amount of such Series 2024 Bond so surrendered a fully registered Series 2024 Bond of like maturity in any of the Authorized Denominations. If, on the Redemption Date, moneys for the redemption of all Series 2024 Bonds or portions thereof to be redeemed, in an amount equal to the principal of such Series 2024 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 Bond Trustee so as to be available therefor on such date, the Series 2024 Bonds or portions thereof so called for redemption shall cease to bear interest, and such Series 2024 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 Series 2024 Bonds.* In the event of a partial redemption of any Series 2024 Bond, payment of the Redemption Price shall be made to the registered Owner or his duly authorized legal representative only upon surrender to the Bond Trustee of such Series 2024 Bond, and upon such surrender the Bond Trustee shall authenticate a new Series 2024 Bond executed by the Issuer for the unredeemed portion of such Series 2024 Bond.

*Selection of Series 2024 Bonds to be Called for Redemption.* In the event of any partial redemption, the particular Series 2024 Bonds or portions thereof to be redeemed shall be selected by the Bond 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 Bond Trustee shall deem fair and appropriate, provided that for so long as the Series 2024 Bonds shall be Book Entry Bonds, the particular Series 2024 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 2024 Bonds which is subject to sinking fund redemption is to be redeemed in part, the Bond 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 Bond Trustee may provide for the selection for redemption of portions (equal to \$5,000 or any integral multiple thereof) of Series 2024 Bonds. In no event shall the principal amount of Series 2024 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. None of the Issuer, the Institution or the Underwriter 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, New York, will act as the securities depository for the Series 2024 Bonds. The Series 2024 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 2024 Bond certificate will be issued for each maturity of the Series 2024 Bonds in the aggregate principal amount of such maturity, 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](http://www.dtcc.com).

Purchases of the Series 2024 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2024 Bonds on DTC’s records. The ownership interest of each actual purchaser of each Series 2024 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 2024 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 2024 Bonds, except in the event that use of the book-entry system for the Series 2024 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2024 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 2024 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 2024 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 2024 Bonds of a particular maturity 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 2024 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 2024 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal and interest payments on the Series 2024 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 Bond 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 Bond 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 Bond 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 2024 Bonds at any time by giving reasonable notice to the Bond Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, Series 2024 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 2024 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, the Institution and the Underwriter believe to be reliable, but none of the Issuer, the Institution or the Underwriter takes any responsibility for the accuracy thereof. So long as Cede & Co. is the registered owner of the Series 2024 Bonds as nominee of DTC, references herein to the holders or registered owners of the Series 2024 Bonds shall mean Cede & Co. and shall not mean the Beneficial Owners of the Series 2024 Bonds.

THE ISSUER, THE INSTITUTION AND THE BOND 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 2024 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 2024 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 2024 BONDS; (v) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS THE OWNER OF THE SERIES 2024 BONDS; OR (vi) ANY OTHER MATTER RELATING TO DTC OR THE OPERATION OF THE BOOK-ENTRY SYSTEM.

### **Transfer and Exchange of Series 2024 Bonds**

Any Series 2024 Bond, upon the surrender of such Series 2024 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 2024 Bond or in such other form as shall be satisfactory to the Bond Registrar.

Upon receipt of such Series 2024 Bond and upon satisfaction of the conditions set forth in the Indenture, the Bond Trustee shall immediately record the transfer of such Series 2024 Bond on the Bond Register and cause the transferee or transferees to be the registered Owner of such Series 2024 Bond. Upon any such registration of transfer, the Issuer shall execute and the Bond Trustee shall authenticate and deliver in exchange for such Series 2024 Bond one or more new Series 2024 Bonds of the same maturity, registered in the name of the designated transferee thereof, of any Authorized Denomination and for the same aggregate principal amount as the Series 2024 Bond or Series 2024 Bonds surrendered for transfer.

The Person in whose name any Series 2024 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 2024 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 2024 Bond shall be registered shall be valid and effectual to satisfy and discharge the liability upon such Series 2024 Bond to the extent of the sum or sums so paid.

The Bond Trustee shall not be required to make any such transfer or exchange of (1) any Series 2024 Bond during the fifteen (15) days next preceding a Bond Payment Date or (2) any Series 2024 Bond selected for redemption in whole or in part; provided, however, that in the event of a Series 2024 Bond selected for redemption in part, nothing in this subsection shall prohibit exchange of the remaining portion of such Series 2024 Bond redeemed in part for a new Series 2024 Bond with a reduced principal amount or the transfer or exchange of any such new Series 2024 Bond.

## **SECURITY FOR THE SERIES 2024 BONDS**

### **Assignment of Loan Agreement**

Pursuant to the Pledge and Assignment, the Issuer will assign its rights (except certain Unassigned Rights) in the Loan Agreement, including the Loan Payments to be made by the Institution thereunder, to the Bond Trustee as security for the Series 2024 Bonds.

### **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.

### **Reserve Fund**

Under the Indenture, a Reserve Fund with respect to the Series 2024 Bonds is established with the Bond Trustee under the Indenture. The Series 2024 Bonds Account of the Reserve Fund will be funded by proceeds of the Series 2024 Bonds in the amount of \$1,999,983.43, the Initial Reserve Fund Requirement applicable to the Series 2024 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 Bond Trustee shall transfer from the Reserve Fund and deposit into the Bond Fund an amount of money sufficient to enable the Bond Trustee to make all such Debt Service Payments coming due on the Series 2024 Bonds. The Bond 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 through payments from the Institution under the Loan Agreement that are due on 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 Bond Trustee of notice of such deficiency or withdrawal from the Repair and Replacement Fund, each such payment to be in an amount at least equal to one-sixth of the deficiency identified by the Bond Trustee.

The amounts in the Reserve Fund shall be valued semiannually by the Bond Trustee. If the amounts held in the Reserve Fund exceed the Reserve Fund Requirement, the Bond Trustee shall apply such excess to first pay the Bond 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 2024 Bonds and credited to the Institution's obligation to make Loan Payments.

### **Repair and Replacement Fund**

Pursuant to the Loan Agreement, the Repair and Replacement Fund will be funded on the Closing Date in an amount equal to \$100,000 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 Initial Project Facility, emergency repairs of the Initial Project Facility, and major or extraordinary repairs, renewals or replacements of the Initial Project Facility.

Following any disbursement or deficiency from the Repair and Replacement Fund, the amount required to be deposited therein to replenish the Repair and Replacement Fund shall be paid by the Institution under the Loan Agreement by the total amount of such disbursement or deficiency deposited in equal amounts on 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 Bond Trustee of notice of such deficiency or withdrawal from the Repair and Replacement Fund, each such payment to be in an amount at least equal to one-sixth of the amount identified in such notice 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 Bond Trustee. If the amounts held in the Repair and Replacement Fund exceed the Repair and Replacement Fund Requirement, the Bond Trustee shall withdraw such excess amount and apply it to pay the Bond 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 2024 Bonds and credited to the Institution's obligation to make Loan Payments.

## Master Indenture

*The Obligated Group.* As of the date of this Official Statement, the Institution is the only Member of the Obligated Group. Other persons may join the Obligated Group upon satisfaction of the conditions set forth in the Master Indenture. With the exception of the Institution who cannot withdraw from the Obligated Group, Members of the Obligated Group may withdraw from the Obligated Group upon the satisfaction of certain financial and other conditions contained in the Master Indenture. See APPENDIX D — “FORMS OF PRINCIPAL FINANCING DOCUMENTS — THE MASTER INDENTURE — Parties Becoming Members of the Obligated Group; Withdrawal from the Obligated Group.”

*Obligation No. 2.* The Institution’s obligation to pay loan payments under the Loan Agreement with respect to the Series 2024 Bonds will be secured by Obligation No. 2 that will be issued to the Bond Trustee pursuant to the Master Indenture and the Second Supplemental Master Indenture. Obligation No. 2 will be the joint and several obligation of the Institution and any future Members of the Obligated Group under the Master Indenture. All Obligations under the Master Indenture will be issued on a parity basis. In addition to Obligation No. 2, the Obligated Group has previously issued its Obligation No. 1, outstanding as of May 1, 2024 in the amount of \$23,212,317.82, to secure payment of a loan to the Institution from the Equitable Facilities Fund, Inc. (the “EFF Loan”). Obligation No. 2 is Additional Indebtedness issued pursuant to the Master Indenture, on a parity with Obligation No. 1.

The Master Indenture permits the Obligated Group to issue additional Obligations. Additional Obligations may be issued to secure Additional Bonds or to evidence or secure other Additional Indebtedness. The Institution and any future Members of the Obligated Group will be jointly and severally liable for payment of all Indebtedness evidenced by any Obligation issued under the Master Indenture. See APPENDIX D — “FORMS OF PRINCIPAL FINANCING DOCUMENTS — THE MASTER INDENTURE — Amount of Indebtedness.”

*Pledge of Pledged Revenues.* Pursuant to the Master Indenture, each Member, respectively (including the Institution), pledges and, to the extent permitted by law, grants a security interest to the Master Trustee in all of its Pledged Revenues (equal to its Gross Revenues less any Excluded Collateral) to secure the payment of Required Payments and the performance by the Members of their other obligations under the Master Indenture.

“Gross Revenues” means all revenues, income, receipts and money received by or on behalf of the Obligated Group for its education operations and related activities attributable to the Mortgaged Campus Facilities and the Non-Mortgaged Campus Facilities consisting of (a) all income and revenues directly or indirectly derived by the Institution’s operation of the Charter Schools, including but not limited to any State Education Operating Aid payments made by the State and local school district with respect to the Charter Schools, (b) gross revenues derived from the operation and possession, within the Mortgaged Campus Facilities and the Non-Mortgaged Campus Facilities, of a charter school pursuant to the Charters, (c) federal, State or local funds for school lunches and other food programs, special education, transportation, summer school and special programs which are not otherwise restricted as to use, (d) any rental receipts for the lease of property, (e) gifts, grants, bequests, donations and contributions, exclusive of any gifts, grants, bequests, donations and contributions to the extent specifically restricted by the donor to a particular purpose inconsistent with their use for the payment of Obligations or funds of Members of the Obligated Group derived therefrom which due to donor restrictions cannot legally be used to pay Obligations; and (f) proceeds derived from (i) accounts receivable, (ii) investment earnings and gains on the sale and liquidation securities or other investments and (iii) business interruption insurance proceeds.

“Excluded Collateral” means (a) any monies provided, or to be provided, to the Institution pursuant to Section 2856(1) of the New York Education Law, (b) all donor-designated philanthropic

contributions or grants that are restricted as to use by the donor, (c) Federal funding under the Every Student Succeeds Act and any renewals thereof or like program, (d) State funding under the New York State Child Nutrition Program and any renewals thereof or like program, and (e) any other funding from State or Federal sources or any other grant funding, contributions or donations from any other source, that in each case is restricted as to use by such source. See APPENDIX D – “FORMS OF PRINCIPAL FINANCING DOCUMENTS – THE MASTER INDENTURE – Security; Required Payments,” “*Amendments to the Master Indenture*” below and APPENDIX D – “FORMS OF PRINCIPAL FINANCING DOCUMENTS – THE SECOND SUPPLEMENTAL MASTER INDENTURE - Amendments to Master Trust Indenture”.

*Mortgage.* As further security for the Obligations, the Obligated Group has granted to the Master Trustee mortgages substantially all of the Institution’s real and tangible personal property comprising the land, school buildings and equipment of the Initial Project Facility, Tech Valley Primary School, Tech Valley Middle School, Albany Community Charter Elementary School and Albany Community Charter Middle School, all located in Albany, New York, and Troy Prep Elementary School, Troy Prep Middle School and Troy Prep High School, all located in Troy, New York (collectively, the “Mortgaged Property”) of the Institution and has granted a security interest in present and future personal property in order to secure the prompt payment of principal of, redemption premium, if any, and interest on the Obligations and the performance by the Obligated Group of its obligations under the Master Indenture. See APPENDIX D – “FORMS OF PRINCIPAL FINANCING DOCUMENTS – THE MASTER INDENTURE – Mortgages; Encumbrances.”

The Mortgages secure each of the Obligations (excluding Obligations that by their terms are not secured by the Mortgages in accordance with the Master Indenture) on a parity basis and, upon the occurrence of and continuance of an Event of Default under the Master Indenture, the Master Trustee may exercise its rights and remedies under the Mortgages, including, without limitation, foreclosure. However, in the event of foreclosure, the sale and use of the Mortgaged Property are limited by the nature of the facilities. See “RISK FACTORS – Inability to Liquidate or Delay in Liquidating the Mortgaged Property” herein.

*Assignment of Leases and Rents.* As additional security for the Obligations, the Institution will execute and deliver to the Issuer an assignment of leases and rents dated as of June 1, 2024 (the “Assignment of Rents”), which Assignment of Rents, among other things, assigns to the Issuer (a) the rents, issues and profits of the Mortgaged Property and (b) all leases, subleases, licenses or occupancy agreements affecting the Mortgaged Property. The Issuer will execute and deliver to the Master Trustee an assignment of assignment of leases and rents dated as of June 1, 2024 (the “Assignment of Rents Assignment”) from the Issuer to the Master Trustee, pursuant to which the Issuer will assign the Assignment of Rents to the Master Trustee.

#### Financial Covenants

*Debt Service Coverage Ratio.* Pursuant to the Master Indenture, the Obligated Group has covenanted to manage its business such that the Debt Service Coverage Ratio calculated at the end of each Fiscal Year, will not be less than 1.10 for such Fiscal Year. Failure to maintain the Debt Service Coverage Ratio as required by the Master Indenture shall not constitute an Event of Default so long as the Obligated Group timely engages an Independent Consultant within thirty (30) days. Within sixty (60) days of engaging an Independent Consultant, such Independent Consultant shall prepare a report with recommendations for meeting the required Debt Service Coverage Ratio. As soon as practicable, but no later than thirty (30) days after receipt of such report, the Members shall, to the extent legally permissible, implement the Independent Consultant’s recommendations. Failure of the Obligated Group to maintain a Debt Service Coverage Ratio of not less than 1.0:1.0, as calculated at the end of any Fiscal Year, shall constitute an Event of Default under the Master Indenture. See APPENDIX D – “FORMS OF PRINCIPAL



FINANCING DOCUMENTS – THE MASTER INDENTURE – Debt Service Coverage and Cash on Hand.”

Days Cash on Hand. Pursuant to the Master Indenture, the Obligated Group has covenanted to manage its business so as to maintain not less than sixty (60) Days’ Cash on Hand for each Fiscal Year (the “Cash on Hand Requirement”). Failure to maintain the Cash on Hand Requirement for any Fiscal Year shall not constitute an Event of Default so long as the Obligated Group timely engages an Independent Consultant within thirty (30) days. Within sixty (60) days of engaging an Independent Consultant, such Independent Consultant shall prepare a report with recommendations for meeting the Cash on Hand Requirement. As soon as practicable, but no later than thirty (30) days after receipt of such report, the Members shall, to the extent legally permissible, implement the Independent Consultant’s recommendations. Failure of the Obligated Group to maintain the Cash on Hand Requirement for two consecutive Fiscal Years shall constitute an Event of Default under the Master Indenture. See APPENDIX D – “FORMS OF PRINCIPAL FINANCING DOCUMENTS – THE MASTER INDENTURE – Debt Service Coverage and Cash on Hand.”

Limitations on Indebtedness. See “*Amendments to the Master Indenture*” below.

*Amendments to the Master Indenture*

In accordance with the terms of the Master Indenture, the Second Supplemental Master Indenture includes the following amendments to certain provisions of the Master Indenture which amendments will become effective upon the issuance of the Series 2024 Bonds. All language to be removed is indicated by strikethroughs and the new language to be added is indicated by underlines.

The definition of the term “*Custody Agreement*” will be amended as follows:

“*Custody Agreement*” means that certain ~~Custody Agreement dated as of December 4, 2020, by and among, the Custodian, the Master Trustee and the Borrower~~ Amended and Restated Custody Agreement dated as of June 1, 2024, by and among the Custodian, the Master Trustee and the Institution, as the same may be amended in accordance with its terms.

The definition of the term “*Excluded Collateral*” will be amended as follows:

“*Excluded Collateral*” means (a) ~~that certain modular building located at 321 Northern Boulevard, Albany, New York leased from Williams Scotsman,~~ (b) any monies provided, or to be provided, to the Institution pursuant to Section 2856(1) of the New York Education Law, (c) ~~that certain grant from the KIPP Foundation in the approximate amount of \$300,000 and any renewals thereof,~~ (d) ~~that certain charter school program grant from the KIPP Foundation in the approximate amount of \$1,200,000 and any renewals thereof,~~ (e) Payroll Protection Program loan from the U.S. Small Business Administration in the approximate amount of \$2,200,000, (f) (b) all donor-designated philanthropic contributions or grants that are restricted as to use by the donor, (c) Federal funding in the approximate amount of \$500,000 under the Every Student Succeeds Act and any renewals thereof or like program, (gd) State funding in the approximate amount of \$1,300,000 under the New York State Child Nutrition Program and any renewals thereto, ~~(h) any monies in the Custody Account not otherwise transferred to the MTI Revenue Fund; thereof or like program,~~ and (ie) any other funding from State or Federal sources or any other grant funding, contributions or donations from any other source, that in each case is restricted as to use by such source, including, without limitation, State Education Operating Aid.

The definition of the term “*Institution*” will be amended as follows:

“*Institution*” means ~~KIPP: Albany Community Public Charter Schools~~ KIPP Capital Region Public Charter Schools, a not-for-profit education corporation organized and existing under the laws of the State of New York, and its successors and assigns.

The definition of the term “*Mortgaged Campus Facilities*” will be amended as follows:

“*Mortgaged Campus Facilities*” means, ~~collectively, the Tech Valley Primary School Campus, the Tech Valley Middle School Campus, the ACCS Elementary School Campus, the ACCS Middle School Campus, and any property that is added as a Related Campus Facility pursuant to the terms and provisions hereof~~ each of the Related Campus Facilities.

Paragraph (c) of the definition of the term “*Permitted Liens*” will be amended as follows:

(c) Any Lien described in the final title policy which summarized certain liens existing on the date of execution of the Second Supplement to this Master Indenture provided that no such Lien (or the amount of Indebtedness secured thereby) may be increased, extended, renewed or modified to apply to any Property of any Member not subject to such Lien on such date, unless (1) such Lien as so extended, renewed or modified otherwise qualifies as a Permitted Lien or (2) the maturity date of the Indebtedness secured by such Lien is not extended and either the total principal and interest requirements or the maximum annual principal and interest requirements (calculated in a manner consistent with the calculation of the Debt Service Requirement) on such Indebtedness is not increased as a result of the refinancing of such Indebtedness.

The definition of the term “*Related Campus Facilities*” will be amended as follows:

“*Related Campus Facilities*” means, ~~collectively, the land and improvements at the Tech Valley Primary School Campus, the Tech Valley Middle School Campus, the ACCS Elementary School Campus, the ACCS Middle School Campus, and any~~ those campus facilities located at 2 Polk Street, Troy, New York, 523 First Street, Troy, New York, 3055 6<sup>th</sup> Avenue, Troy, New York, 765 River Street, Troy, New York, 780 River Street, Troy, New York, 321 Northern Boulevard, Albany, New York, 400 Northern Boulevard, Albany, New York, 6b, 7, 9 and 10 Dudley Heights, Albany, New York, 65 Krank Street, Albany, New York and 42 South Dove Street, Albany, New York (a/k/a KIPP: Troy Prep Elementary School, KIPP: Troy Prep Middle School, KIPP: Troy Prep High School, KIPP: Tech Valley Primary School, KIPP Tech Valley Middle School, KIPP Albany Community Charter Elementary School, KIPP: Albany Community Charter Middle School and KIPP: Capital High School), any other property that is added as a Related Campus Facility pursuant to the terms and provisions hereof.

The definition of the term “*Required Payment*” will be amended as follows:

“*Required Payment*” means any payment, whether in anticipation of any interest payment date, at maturity, by acceleration, upon proceeding for redemption or otherwise, including the purchase price of Related Bonds tendered or deemed tendered for purchase pursuant to the terms of a Related Bond Indenture, required to be made by any Member under this Master Indenture, any Related Supplement or any Obligation.

The title of Section 3.04 will be amended to read “*Insurance; Proceeds; Awards*” and the following paragraph will be added to the end of such Section 3.04 as subsection (c):

(c) Insurance proceeds or condemnation awards paid or payable to the Obligated Group, or to the Master Trustee pursuant to, or in connection with, any Related Bond Indenture or any Related Loan Agreement, shall be applied, at the direction of the Obligated Group Representative, either to (i) repair, reconstruct, restore or replace the damaged or condemned Property, or (ii) prepay all Outstanding Obligations pro-rata among all such Outstanding Obligations. Any such insurance proceeds or condemnation awards remaining after application as provided in the preceding sentence shall be paid or applied as directed by the Obligated Group Representative for any purpose as may be determined by the Obligated Group Representative. Notwithstanding the foregoing, (x) the Obligated Group agrees that it shall not permit or direct the application of any insurance proceeds or condemnation awards received with respect to any Property financed with the proceeds of Related Bonds in any manner that would adversely affect the tax-exempt status of any Related Bonds; (y) upon the written direction of the Obligated Group Representative, the Master Trustee shall deposit or cause to be deposited into an account or accounts, as may be required by any Related Bond Indenture or Related Loan Agreement, any insurance proceeds or condemnation awards (or allocable portion thereof) to be applied to the restoration, reconstruction or repair of any Property or the prepayment of Related Bonds and (z) if an Event of Default under this Master Indenture is continuing and the Master Trustee gives written notice to the Obligated Group of the acceleration of the Obligations and the exercise of remedies under the Master Indenture as a secured party, such insurance proceeds or condemnation awards shall be paid to the Master Trustee and applied in accordance with Section 404.

Section 3.05 pertaining to *Limitations on Indebtedness* will be amended as follows:

*Limitations on Indebtedness.* Each Member of the Obligated Group agrees that it will not incur any Additional Indebtedness, other than existing Indebtedness and Indebtedness consisting of one or more of the following:

(a) Long-Term Indebtedness may be incurred if prior to incurrence of such Additional Indebtedness either clause (a)(i) and (a)(ii) below are both satisfied:

(i) ~~an Officer’s Certificate is filed with the Master Trustee demonstrating that, for the Obligated Group’s most recently completed Fiscal Year, the Debt Service Coverage Ratio, taking into account all then Outstanding Long-Term Indebtedness (but not taking into account the Additional Indebtedness to be issued), is not less than 1.20; and an Officer’s Certificate is filed with the Master Trustee demonstrating that the Available Net Income, as determined by the most recent audited financial statements of the Obligated Group, is equal to or greater than 110% of the combined Annual Debt Service for Outstanding Long-Term Indebtedness, as determined by the most recent audited financial statements of the Obligated Group, and the Long-Term Indebtedness related to the borrowing proposed to be incurred; or~~

(ii) ~~an Independent Management Consultant selected by the Obligated Group Representative provides a written report setting forth projections which indicate that the Available Net Income for the first full Fiscal Year in which a Member of the Obligated Group will have scheduled payments of interest on or principal of the Additional Indebtedness to be issued for the payment of which provision has not been made as~~

~~indicated in the report of such Independent Management Consultant from proceeds of such Additional Indebtedness, investment income thereon or from other appropriate sources (other than Available Net Income), provides for a Debt Service Coverage Ratio, taking into account all Outstanding Long-Term Indebtedness and the Additional Indebtedness to be issued, of not less than 1.20. The report of the Independent Management Consultant shall take into account the audited results of operations and verified enrollment of the Mortgaged Campus Facilities and the Non-Mortgaged Campus Facilities for the most recently completed Fiscal Year and shall assume that the Long-Term Indebtedness then to be incurred shall have been outstanding for the entire year. (x) an Officer's Certificate is filed with the Master Trustee demonstrating that the Available Net Income, as determined by the most recent audited financial statements of the Obligated Group, is equal to or greater than 110% of the combined Annual Debt Service for Outstanding Long-Term Indebtedness, as determined by the most recent audited financial statements of the Obligated Group, and (y) an Independent Management Consultant selected by the Obligated Group Representative provides a written report setting forth projections which indicate that the projected Available Net Income will be equal to or greater than 120% of the combined projected Annual Debt Service for currently Outstanding Long-Term Indebtedness, as determined by the most recent audited financial statements of the Obligated Group, and the Long-Term Indebtedness related to the borrowing 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 any capitalized interest is expended.~~

(b) Long-Term Indebtedness may be incurred for the purpose of refunding any Outstanding Indebtedness, if prior to the incurrence thereof, there is delivered to the Master Trustee an Officer's Certificate demonstrating that (i) the Maximum Debt Service Requirement will not increase by more than 10% after the incurrence of such proposed refunding Long-Term Indebtedness and after giving effect to the disposition of the proceeds thereof or (ii) the total Debt Service Requirement on the Indebtedness being refinanced will not increase by more than 10% after the incurrence of such proposed refunding Long-Term Indebtedness and after giving effect to the disposition of the proceeds thereof; or (iii) the requirements of subsection (a)(i) hereof are met.

(c) Short-Term Indebtedness and Subordinate Indebtedness may be incurred by any Member of the Obligated Group unless otherwise set forth in an Obligation. So long as the Initial Obligation is outstanding, Short-Term Indebtedness and Subordinate Indebtedness may only be incurred by any Member of the Obligated Group with consent of a Majority of Holders of a Majority in Aggregate Principal Amount of the Outstanding Obligations.

(d) Non-Recourse Indebtedness may be incurred not to exceed \$750,000 in the aggregate Outstanding among all Members of the Obligated Group as tested as of the end of each Fiscal Year and reported on the audited financial statement of the Members of the Obligated Group. Notwithstanding the foregoing, the Institution may maintain its existing Line of Credit.

See APPENDIX D – “FORMS OF PRINCIPAL FINANCING DOCUMENTS – THE SECOND SUPPLEMENTAL MASTER INDENTURE – Amendments to Master Trust Indenture.”

**By purchasing the Series 2024 Bonds, the owners of the Series 2024 Bonds (and the Bond Trustee on their behalf) will be deemed to have consented to the amendments pursuant to the Second Supplemental Master Indenture.**

## **Environmental Compliance Agreement**

In connection with the issuance of the Series 2024 Bonds, the Institution will execute and deliver an environmental compliance and indemnification agreement dated as of June 1, 2024 (the “Environmental Compliance Agreement”) from the Institution to the Issuer, the Bond Trustee and the Master Trustee, pursuant to which, among other things, the Institution indemnifies the Issuer, the Bond Trustee and the Master Trustee against certain environmental liabilities related to the Initial Project Facility.

## **Limited Obligations**

The Series 2024 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 Bond Trustee by the Indenture). The Issuer does not have any taxing authority.

## **Custody Agreement**

Simultaneously with the execution of the Loan Agreement, the Institution, the Custodian and the Master Trustee are entering into the Custody Agreement. The Institution will direct the Albany City School District and the Troy City School District to pay over and deliver to the Custodian the Education Aid due to the Institution for deposit as directed by the Master 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 \$1,167,500 in aid for pupils with disabilities enrolled in special education programs for the 2023-24 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 48% percent of the Institution's total student enrollment are resident in the Albany City School District (the "Albany City School District") and for the 2023–2024 school year, the Institution received approximately \$17,298 for each student resident in the Albany City School District. Approximately 25% percent of the Institution's total student enrollment are resident in the Troy City School District (the "Troy City School District" and, together with the Albany City School District, the "City School Districts") and for the 2023–2024 school year, the Institution received approximately \$17,346 for each student resident in the Troy City School District. The next two most popular sending districts are Schenectady and Lansingburgh, which each represent 6% of students. The other 15% of students come from other surrounding districts.

#### **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 each City School District does not have the authority to levy school taxes on real property or otherwise to raise revenues. Each City School District is fiscally dependent upon the City of Albany and the City of Troy (together, the "Cities"), respectively, for support. Education is included in the municipal budget for each of the Cities. Real property taxes to support the City School Districts are levied by the Cities 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 Districts from, the general funds of the Cities. The Cities 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, the City School Districts. Such difficulties may recur, and there can be no assurance that the level of local aid received by the City School Districts from the Cities 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 2024 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 as 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 Districts, the Cities) 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 (“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 Loan 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 2024 Bonds assuming no prepayments other than from scheduled mandatory sinking fund redemptions, in addition to the amounts required to be paid with respect to the EFF Loan. Totals may not foot due to rounding.

<b>Period Ending (June 30,)</b>	<b>Series 2024 Bonds</b>		<b>Outstanding EFF Loan</b>	<b>Total</b>
	<b>Principal</b>	<b>Interest</b>		
2025	-	\$2,368,050	\$1,579,993	\$3,948,043
2026	-	2,442,688	1,579,993	4,022,680
2027	-	2,442,688	1,579,993	4,022,680
2028	-	2,442,688	1,579,993	4,022,680
2029	-	2,442,688	1,579,993	4,022,680
2030	\$255,000	2,442,688	1,579,993	4,277,680
2031	265,000	2,432,488	1,579,993	4,277,480
2032	275,000	2,421,888	1,579,993	4,276,880
2033	285,000	2,410,888	1,579,993	4,275,880
2034	300,000	2,399,488	1,579,993	4,279,480
2035	310,000	2,387,488	1,579,993	4,277,480
2036	325,000	2,373,538	1,579,993	4,278,530
2037	340,000	2,358,913	1,579,993	4,278,905
2038	355,000	2,343,613	1,579,993	4,278,605
2039	370,000	2,327,638	1,579,993	4,277,630
2040	385,000	2,310,988	1,579,993	4,275,980
2041	405,000	2,293,663	1,579,993	4,278,655
2042	425,000	2,275,438	1,579,993	4,280,430
2043	440,000	2,256,313	1,579,993	4,276,305
2044	460,000	2,236,513	1,579,993	4,276,505
2045	480,000	2,215,813	1,579,993	4,275,805
2046	505,000	2,193,013	1,579,993	4,278,005
2047	530,000	2,169,025	1,579,993	4,279,017
2048	555,000	2,143,850	1,579,993	4,278,842
2049	580,000	2,117,488	1,579,993	4,277,480
2050	610,000	2,089,938	1,579,993	4,279,930
2051	1,425,000	2,060,963	789,996	4,275,959
2052	2,285,000	1,993,275	-	4,278,275
2053	2,395,000	1,884,738	-	4,279,738
2054	2,510,000	1,770,975	-	4,280,975
2055	2,625,000	1,651,750	-	4,276,750
2056	2,760,000	1,520,500	-	4,280,500
2057	2,895,000	1,382,500	-	4,277,500
2058	3,040,000	1,237,750	-	4,277,750
2059	3,195,000	1,085,750	-	4,280,750
2060	3,350,000	926,000	-	4,276,000
2061	3,520,000	758,500	-	4,278,500
2062	3,695,000	582,500	-	4,277,500
2063	3,880,000	397,750	-	4,277,750
2064	4,075,000	203,750	-	4,278,750
<b>TOTAL</b>	<b>\$50,105,000</b>	<b>\$77,796,162</b>	<b>\$41,869,812</b>	<b>\$169,770,974</b>



## **RISK FACTORS**

This Official Statement contains summaries of pertinent portions of the Series 2024 Bonds, the Indenture and the Master 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 2024 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 2024 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 may 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 2024 Bonds and the suitability of investing in the Series 2024 Bonds in light of their particular circumstances. Prospective investors should be able to bear the risks relating to an investment in the Series 2024 Bonds and should carefully consider, among other factors, the matters described below.

### **Speculative Investment**

Purchase of the Series 2024 Bonds involves a high degree of risk, and the Series 2024 Bonds are a speculative investment. Any investor who, because of financial condition, is unable to bear the loss of an investment in the Series 2024 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 2024 Bonds, should not purchase the Series 2024 Bonds.

The Series 2024 Bonds may exhibit price fluctuations due to the changes in interest rate or bond yield levels. As a result, the value of the Series 2024 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 2024 Bonds quickly in certain markets or market conditions. There can be no assurance that there will be a secondary market for the Series 2024 Bonds.

### **Limited Obligations**

The Series 2024 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 2024 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 Bond Trustee from the Master Trustee and the exercise of remedies under the Master Indenture 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 2024 Bonds. The Institution's ability to repay the Series 2024 Bonds will depend, among other things, on the overall financial condition of the Institution, the ability of the Institution to continue to maintain its charters, 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 its schools 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 2024 Bonds and any other indebtedness of the Institution. The Institution is not expected to have any significant operations or assets other than its schools 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 2024 Bonds. See “SOURCES OF REVENUE” herein.

The revenues and expenses associated with the existing and prospective operation by the Institution of its schools 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 charters 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, charter schools, private schools, and parochial schools. There can be no assurance that additional competing charter schools will not be chartered in the future.

## **Termination or Revocation of Charters**

Pursuant to the Charter Schools Act, the Institution’s three charters each have a five-year term which expire on July 31, 2025, July 31, 2026 and July 31, 2029, respectively, and then each school will then be subject to the renewal process pursuant to the Charter Schools Act. Each school’s charter is authorized by SUNY and SUNY would be the entity responsible for the renewal process for each school. Generally, each school in its authorized charter has certain academic and financial goals (the “Accountability Plan”) that it must meet or exceed or it may be either not renewed or renewed with conditions. This decision on renewal is subject to the discretion of the SUNY Board of Trustees. If renewed, the SUNY Board of Trustees then makes the recommendation to the New York State Board of Regents who will either approve the renewal or allow the renewal to be operational pursuant to the Charter Schools Act. There can be no assurance that the Institution’s charters will be renewed. While SUNY is the authorizing entity and makes the determination on renewal of each of the school’s charters, the Charter Schools Act provides that the Institution’s charters may be terminated by SUNY for the grounds set forth in the Charter Schools Act. The charters also provide that they may be terminated and revoked by mutual agreement of the parties.

While the Institution believes that it is in good standing with SUNY, and has received a letter of good standing from SUNY and a certificate of good standing from the New York State Education Department, and believes it is in material compliance with the charters, no assurance can be given that the Institution will be able to maintain such good standing in the future. Pursuant to certain Accountability

Summaries for 2022-2023 provided by the SUNY in February 2024, KIPP Albany and KIPP Tech Valley did not meet their respective ELA or mathematics goals and, based on this record of performance, according to SUNY, each of their “prospects for earning a renewal are currently in jeopardy.” These findings were corroborated by certain School Evaluation Reports produced by SUNY in connection with on-site school visits conducted by SUNY in March 2024. The site visit reports note that the Institution has made improvements to systems and instructional quality in the elementary grades, but staffing challenges (post-COVID) have negatively impacted the middle school. In addition, the Institution recently received a written letter from the Chief Counsel of SUNY dated May 15, 2024 in response to a request by the Institution to detail the Institution’s current legal status. The letter provides, in pertinent part, that, as of the date of the letter, the Institution “is not on probation or corrective action, nor are its charters currently subject to revocation or non-renewal.” While the Institution does not anticipate any non-renewal or revocation of its charters, there can be no assurance that SUNY will not revoke or fail to renew the charters in the future.

For more information regarding the aforementioned Accountability Summaries and School Evaluation Reports, conditions under which the charters may be revoked, the revocation procedure, and other information regarding the charters and the Charter Schools Act, see APPENDIX A – “SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW” and APPENDIX B – “CERTAIN INFORMATION CONCERNING THE INSTITUTION – CHARTER RENEWAL” attached hereto.

### **Requirements for and Limitations Upon Enrollment**

Although the Institution is now a single legal entity, the Institution operates the seven schools pursuant to three separate charters authorized by SUNY and incorporated by the Board of Regents. Each school has an approved enrollment and admissions plan in their respective SUNY authorized charters. Under the approved charter agreements, in the event that enrollment of students at a school drops by more than 20% or exceeds 20% of the approved student enrollment, the entity would need to obtain a charter amendment to its enrollment plan by SUNY and the Board of Regents.

### **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 its schools. Such aid is payable on a per student basis by each of the School Districts in which students of its schools 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 Institution is entitled for each student will vary among school districts based on the actual expense per pupil of the respective School District. Approximately 48% of the students enrolled in the Institution reside in the Albany City School District. The Albany City School District is one of the so-called “Big Five” school districts and is fiscally dependent on the City of Albany. The City of Albany receives payments of state and federal aid allocable to the Albany City School District and collects school taxes. Approximately 25% of the students enrolled in the Institution reside in the Troy City School District. 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 Cities, and there can be no assurance that the Cities will make timely aid payments, or that the level of local aid received by the School Districts from the Cities will continue or that the School Districts will have sufficient revenues to satisfy their obligations under the Charter Schools Act to pay to the Institution the aid required under the Charter Schools Act for students resident in the School Districts. Any shortfall in the aid payable by the School Districts 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 2024 Bonds. See "SOURCES OF OPERATING REVENUE" and "Fiscal Problems Affecting the Cities and the School Districts" herein.

#### **No Taxing Authority of Charter School or the Albany City School District**

Neither the School Districts nor the Institution has any taxing power. The Institution is completely dependent on the School Districts for payment of aid money to make payments of principal of, and premium, if any, and interest on, the Series 2024 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 School Districts by the Cities 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 2024 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 Albany 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 School Districts does not have the authority to levy school taxes on real property or otherwise to raise revenues. The School Districts are fiscally dependent upon the Cities for support.

Property taxes and school aid from New York State ("State School Aid") are received into, and disbursed to the School Districts from, the general funds of the Cities. 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 Cities, and there can be no assurance that the level of local aid received by the School Districts from the Cities 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 School Districts 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. 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 debt 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 required under the Loan Agreement.

### **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 its charter schools 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 Loan Agreement. 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 Loan Agreement. Accordingly, the likelihood that there will be sufficient funds to pay the principal of, premium, if any, and interest on the Series 2024 Bonds is dependent upon certain factors which include, but are not limited to, (a) the ability of the Institution to obtain funds (including State School Aid) to pay obligations associated with the Indenture, (b) the demographic conditions within the

service area of the Institution, and (d) the value of the Mortgaged Property and other assets of the Institution upon foreclosure sale under the Mortgage instituted by the Master Trustee pursuant to the Master Indenture and upon exercise of the remedies available under the Master 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. In addition to KIPP, there are presently five other public charter schools serving approximately 1,960 students in Albany County<sup>1</sup>. There are presently no other public charter schools in Rensselaer County. 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 charter schools located in Albany and Troy, 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, SUNY 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, or the 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 – Termination or Revocation of Charters."

### **Future Need for Project and Existing Facilities**

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 financial projections included in "APPENDIX B" (the "Projections") 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, 2029, and consequently do not cover the entire period that the Series 2024 Bonds may be Outstanding. Prospective investors in the Series 2024 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,

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<sup>1</sup> Nurses Middle College Charter High School - Capital Region is currently operating in Rensselaer County, with plans to permanently relocate to Albany County.

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, 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 2024 Bonds. At closing, the Institution shall give a direction to the School Districts to pay over and deliver Education Aid due to the Institution from the Albany City School District and the Troy City School District to the Custodian for payment to the Master Trustee under 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 Master 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 Mortgaged Property. The enforcement of any remedies provided in the Loan Agreement, the Indenture, the Master Indenture, the Mortgage and the Assignment of Rents could prove both expensive and time consuming.

#### **Inability to Liquidate or Delay in Liquidating the Mortgaged Property**

An event of default may give the Master 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 2024 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 Master Trustee to foreclose on the Mortgage will result in delays in the payment of the Series 2024 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 Master 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 2024 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 Master 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 its schools.

### **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 2024 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 2024 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 Initial Project Facility be owned throughout the term of the Series 2024 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 2024 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 2024 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 2024 Bonds to the owners thereof, and such interest could become taxable to such owners retroactive to the date of issuance of the Series 2024 Bonds.

Under current State law, the Initial 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 Initial Project Facility will not be subjected in the future to taxation. Moreover, no assurances can be given that the effect of any tax payments imposed 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 Master Trustee or the Bondholders, the Master 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 2024 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 2024 Bonds in whole or in part. In addition, the Series 2024 Bonds are subject to mandatory and extraordinary redemption as described in “THE SERIES 2024 BONDS – Redemption.” Any such prepayment will be used to call Series 2024 Bonds ratably without preference among all Series 2024 Bonds of the specific maturity then Outstanding in \$5,000 increments at a price equal to the amount of the principal of the Series 2024 Bonds to be redeemed plus accrued interest to the date of prepayment.

## **Assumptions Regarding Enrollment and Public Education Aid**

The Institution has prepared the Projections, a copy of which is included in APPENDIX B hereto. The Projections contain information material to a decision to purchase the Series 2024 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 2024 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 its charter schools 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, 2029 and, consequently, do not cover the entire period during which the Series 2024 Bonds may be Outstanding.

## **Results of a Termination of the Loan**

In the event that the Institution should not pay to the Bond 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 Master Trustee, and the Institution may be required immediately to surrender possession of the Mortgaged Property.

A potential purchaser of the Series 2024 Bonds should not assume that it will be possible to obtain proceeds from the foreclosure of the Mortgage and the sale of the Mortgaged Property 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 2024 Bonds then Outstanding plus accrued interest thereon. If the Mortgaged Property 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 unpaid principal amount of and accrued interest on the Series 2024 Bonds, such partial payment may be the only payment to the Owners;

upon such a partial payment, no Holder of any Series 2024 Bond shall have any further claim for payment upon the Master Trustee, the Bond Trustee, the Issuer, or any other party or entity other than the Institution.

### **Mortgage Lien**

The Series 2024 Bonds are secured by a mortgage lien on and security interest in the interests of the Institution in the Mortgaged Property, subject to Permitted Encumbrances, pursuant to the Mortgage. Upon an event of default, no assurances can be given that the Master Trustee would be able to lease or sell the Mortgaged Property to third parties, or that the amount the Master 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 2024 Bonds.

The pledge of and security interest in the Gross 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 Master 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 and the Master Indenture, there can be no assurance that the Mortgaged Property 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 Mortgaged Property cannot generate revenues, will not exceed the coverage of such insurance policies.

### **Effect of Bankruptcy on Security for the Series 2024 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 2024 Bonds and their claim or claims to moneys owed them as unsecured claimants, if any. Furthermore, if the security for the Series 2024 Bonds is inadequate for payment in full of the Series 2024 Bonds, bankruptcy proceedings and equity principles may also limit any attempt by the Bond Trustee or the Master 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 and its property and as an automatic stay of any act or proceeding to enforce a lien against such property. Moreover, following such a filing the Gross Revenues and accounts receivable and other Property of the Institution 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, including the Mortgaged Property and the Gross Revenues and proceeds

thereof, be used for the benefit of the Institution, despite the lien and security interest of the Bond Trustee or the Master 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 Series 2024 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, the Master Indenture and Mortgage that make bankruptcy and related actions by the Institution an Event of Default thereunder.

### **Lack of Secondary Market**

Although the Underwriter intends to engage in secondary market trading of the Series 2024 Bonds (subject to applicable state securities laws), the Underwriter is not obligated to repurchase any of the Series 2024 Bonds at the request of the owners thereof and cannot assure that there will be a continuing secondary market in the Series 2024 Bonds. In the secondary market for securities similar to the Series 2024 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 2024 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.

### **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.

### **Enforceability of the Master Indenture and Obligations**

While the Institution is currently the sole Member of the Obligated Group at the time of issuance of the Series 2024 Bonds, additional Obligated Group Members may be added to the Obligated Group in the future. The Institution and each future Obligated Group Member has covenanted in the Master Indenture to make payments when due under the Master Indenture and on the Obligations issued under the Master Indenture. Obligations are joint and several obligations of each Obligated Group Member. The

enforceability of the joint and several obligations of each Obligated Group Member is uncertain. As a consequence, the property of the Obligated Group Members that are not the beneficiaries of the proceeds of the Series 2024 Bonds may not be available to make such payments.

If the obligation of a particular Obligated Group Member to make payment on an Obligation is not enforceable, and payment is not made on such Obligation when due in full, then an Event of Default will arise under the Master Indenture.

An Obligated Group Member may not be required to make payments on or provide amounts for the payment of an Obligation, including the Obligation relating to the Series 2024 Bonds, issued by or for the benefit of another entity if and to the extent that any such payment or transfer would render such Obligated Group Member insolvent or would conflict with or not be permitted by or would be subject to recovery for the benefit of other creditors of such Obligated Group Member under applicable fraudulent conveyance, bankruptcy, insolvency, moratorium or other similar laws affecting the enforcement of creditors' rights. There is no clear precedent in the law as to whether payments on Obligations (including the Obligation relating to the Series 2024 Bonds) by an Obligated Group Member may be voided by a trustee in bankruptcy in the event of a bankruptcy of such Obligated Group Member, or by third-party creditors in an action brought pursuant to state fraudulent conveyances statutes. Under the Bankruptcy Code (the "*Bankruptcy Code*"), a trustee in bankruptcy and, under state fraudulent conveyance statutes, a creditor of a related guarantor, may avoid any obligation incurred by a related guarantor if, among other bases therefor, (1) the guarantor has not received fair consideration or reasonably equivalent value in exchange for the guaranty, and (2) the guaranty renders the guarantor insolvent, as defined in the Bankruptcy Code or state fraudulent conveyances statutes, or the guarantor is undercapitalized. Under such principles, the obligation of an Obligated Group Member to make payments on Obligations (including the Obligation relating to the Series 2024 Bonds) that secures Related Bonds (including the Series 2024 Bonds) not issued for the direct benefit of such Obligated Group Member may be considered a guaranty.

Application by courts of the tests of "insolvency," "reasonably equivalent value" and "fair consideration" has resulted in a conflicting body of case law. If judicial action were brought to compel an Obligated Group Member to make a payment on an Obligation (including the Obligation relating to the Series 2024 Bonds), a court might not enforce such payment in the event it is determined that sufficient consideration for the Member's obligation was not received, or that the incurrence of such obligation has rendered or will render the Member insolvent, or the Member is or will thereby become undercapitalized.

In addition, state courts have common law authority and authority under state statutes to terminate the existence of a nonprofit corporation or undertake supervision of its affairs on various grounds, including a finding that such corporation has insufficient assets to carry out its stated charitable purposes or has taken some action which renders it unable to carry out such purposes. Such action may arise on the court's own motion or pursuant to a petition of the state attorney general or such other persons who have interests different from those of the general public, pursuant to the common law and statutory power to enforce charitable trusts and to see to the application of their funds to their intended charitable uses.

#### **No Credit Enhancement Facility**

There is no letter of credit, bond insurance policy, or other credit enhancement facility securing the Series 2024 Bonds, nor is there any provision for a credit enhancement facility to be provided to secure any of the Series 2024 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 Bonds required for consent to such Supplemental Indenture, without the consent of the Holders of all Outstanding Bonds.

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

The Master Indenture provides that the Holders of a Majority (defined in the Master Indenture as more than 66%) in aggregate principal amount of Obligations then Outstanding shall have the right, from time to time, to consent to and approve the modifying, altering, amending, adding to or rescinding any of the terms or provisions contained in the Master Indenture; provided, however, nothing contained in the Master Indenture shall permit a Supplement which would: (i) effect a change in the times, amounts or currency of payment of the principal of, premium, if any, and interest on any Obligation or a reduction in the principal amount or redemption price of any Obligation or the rate of interest thereon, without the consent of the Holder of such Obligation; (ii) permit the preference or priority of any Obligation over any other Obligation except as expressly provided in the Master Indenture, without the consent of the Holders of all Obligations then Outstanding; or (iii) reduce the Aggregate Principal Amount of Obligations then Outstanding the consent of the Holders of which is required to authorize such Supplement without the consent of the Holders of all Obligations then Outstanding.

### **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.

### **Cybersecurity**

The Institution relies on electronic systems and technologies to conduct various operations including its finances, research and educational activities. In the past several years, schools and other institutions have seen an increase in the number and sophistication of cyber-attacks. These cyber-attacks have various goals but often seek to gain unauthorized access to electronic systems for the purposes of misappropriating assets or personal, operational, financial or other sensitive information, or causing operational disruption. The Institution is committed to deterring attacks on its electronic systems and vigorously responding to such attacks to minimize their impact on operations.

While the Institution has implemented several risk mitigation protocols which should operate to confine the effects of any future attack, no assurances can be given that its security measures will be able to

prevent future cyber-attacks on its electronic systems, and no assurances can be given that any cyber-attacks, if successful, will not have a material adverse effect on the operations or financial condition of 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 – Institution’s Response to COVID-19.”

### **Conclusion**

**AN INVESTMENT IN THE SERIES 2024 BONDS INVOLVES A HIGH DEGREE OF RISK AND IS SPECULATIVE IN NATURE.** The relatively high interest rate borne by these Series 2024 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 2024 Bonds are an appropriate investment for such investor.

## **ENFORCEABILITY OF OBLIGATIONS**

### **General**

While the Series 2024 Bonds are secured pursuant to the Loan Agreement, the Indenture, the Master Indenture, the Mortgage and the Assignment of Rents, the practical realization of such security upon any default will depend upon the exercise of various remedies specified by the Loan Agreement, the Indenture, the Master Indenture, the Mortgage and the Assignment of Rents. 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, the

Master Indenture, the Mortgage and the Assignment of Rents 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 2024 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 2024 Bonds outstanding from time to time constitutes a realizable amount upon any foreclosure or forced sale of the Mortgaged Property.

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

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

The State's Education Law requires that, in the event that SUNY does not renew or revokes 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 charters and the Charter Schools Act provide that the Institution's Board of Trustees shall, after providing for the payment of all the debts of the Institution upon dissolution, dispose of its remaining assets to the resident school district. In such event, the charters further require the Institution to follow the procedures set forth by SUNY for winding down the school. Once these procedures are completed, the school would seek dissolution of the charter through a petition pursuant to any procedures required by the Board of Regents. If there are no assets or debts of the school, the Board of Regents will dissolve the school. In the event, there are assets or debts of the school, once the Board of Regents approves dissolution, the school must seek an order by the New York State Supreme Court, on notice to any impacted party, for dissolution. 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**

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 2024 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 2024 Bonds to become subject to federal income taxation and certain other taxes from the date of issuance thereof, (b) interest on the Series 2024 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 (c) interest on the Series 2024 Bonds will be included in the “adjusted financial statement income” of certain

corporations that are subject to the alternative minimum tax under Section 55 of the Code and (2) so long as interest on the Series 2024 Bonds is excluded from gross income for federal income tax purposes, interest on the Series 2024 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 2024 Bonds.

In rendering the foregoing opinions, Bond Counsel noted that exclusion of the interest on the Series 2024 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. Included among these continuing requirements are certain restrictions and prohibitions on the use of proceeds of Series 2024 Bonds, restrictions on the investment of proceeds of Series 2024 Bonds and other moneys or properties, and the rebate to the United States of certain earnings in respect of investments. Noncompliance with such continuing requirements may cause the interest on the Series 2024 Bonds to be included in gross income for federal income tax purposes retroactive to the date of the issuance of the Series 2024 Bonds, irrespective of the date on which such noncompliance occurs.

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 2024 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 2024 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 2024 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 2024 Bonds or the market value of the Series 2024 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 2024 Bonds from gross income for federal income tax purposes, but is not a guaranty of that conclusion. Bond Counsel expresses no opinion regarding any other federal tax consequences related to the ownership or disposition of, or receipt or accrual of interest on, the Series 2024 Bonds. 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 2024 BONDS SHOULD CONSULT WITH THEIR TAX ADVISORS IN ORDER TO UNDERSTAND THE IMPLICATIONS OF THE CODE AS TO THESE AND OTHER FEDERAL AND STATE TAX CONSEQUENCES, AS WELL AS ANY LOCAL TAX CONSEQUENCES, OF PURCHASING OR HOLDING THE SERIES 2024 BONDS.**

## **Tax Requirements**

The Tax Requirements referred to above, which must be complied with in order that interest on the Series 2024 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 2024 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 2024 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 2024 Bonds by any entity other than (A) a state or local governmental unit or (B) a Section 501(c)(3) organization. The Institution has represented in the Tax Regulatory Agreement that (a) all property financed or refinanced with proceeds of the Series 2024 Bonds will 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 2024 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 2024 Bonds be utilized to finance the costs of the issuance of the Series 2024 Bonds. The Institution has represented in the Tax Regulatory Agreement that not more than two percent (2%) of the proceeds of the Series 2024 Bonds will be utilized to finance the costs of issuance of the Series 2024 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 2024 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 2024 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 Initial 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 2024 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 2024 Bonds are subject to, among others, the following provisions contained in the Code:

(1) interest on the Series 2024 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 2024 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 2024 Bonds.

Prospective purchasers of the Series 2024 Bonds should also be aware that ownership of, accrual or receipt of interest on, or disposition of, the Series 2024 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 2024 Bonds. Bond Counsel expresses no opinion regarding any such collateral federal income tax consequences.

The foregoing is not intended as an exhaustive list of potential tax consequences. Prospective purchasers should consult their tax advisors regarding any possible collateral consequences with respect to purchasing or holding the Series 2024 Bonds. 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 2024 Bonds. Bond Counsel will express no opinion regarding these consequences.

### **Information Reporting and Backup Withholding**

Interest paid on the Series 2024 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 2024 Bonds from gross income for federal income tax purposes, such reporting requirement causes the payment of interest on the Series 2024 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 2024 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 2024 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 2024 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 2024 Bonds. There can be no assurance that legislation enacted or proposed or actions by a court after the date of issuance of the Series 2024 Bonds will not have an adverse effect on the tax status of the interest paid or payable on the Series 2024 Bonds or the market value or marketability of the Series 2024 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 2024 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 2024 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 2024 Bonds or the tax consequences of ownership of the Series 2024 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 2024 Bonds may occur.

Prospective purchasers of the Series 2024 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 2024 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 2024 Bonds ends with the issuance of the Series 2024 Bonds. Bond Counsel has not undertaken to advise in the future whether any events occurring after the date of issuance of the Series 2024 Bonds may affect the tax status of interest paid or payable on the Series 2024 Bonds.

Unless separately engaged for such purpose, Bond Counsel is not obligated to defend the Issuer or the owners of the Series 2024 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 2024 Bonds, under current IRS procedures, the IRS will treat the Issuer as the taxpayer and the beneficial owners of the Series 2024 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 2024 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 2024 Bonds, and may cause the Issuer, the Institution or the Bondholders to incur significant expense.

#### Discount Series 2024 Bonds

The excess, if any, of the amount payable at maturity of any maturity of the Series 2024 Bonds purchased as part of the initial public offering over the issue price thereof constitutes original issue discount. The amount of original issue discount that has accrued and is properly allocable to an owner of any maturity of the Series 2024 Bonds with original issue discount (the "Discount Series 2024 Bonds") will be excluded from gross income for purposes of federal income taxation to the same extent as interest on such Series

2024 Bonds. In general, the issue price of a maturity of the Series 2024 Bonds is the first price at which a substantial amount of the Series 2024 Bonds of that maturity was sold to the public (excluding sales to bond houses, brokers or similar persons or organizations acting in the capacity of underwriters, placement agents or wholesalers) and the amount of original issue discount accrues in accordance with a constant yield method based on the compounding of interest. A purchaser's adjusted basis in a Discount Series 2024 Bond is increased by the amount of such accruing discount for purposes of determining taxable gain or loss on the sale or other disposition of such Discount Series 2024 Bond for purposes of federal income taxation. In addition, original issue discount that accrues in each year to an owner of a Discount Series 2024 Bond will be included in the calculation of the distribution requirements of certain regulated investment companies and may result in some of the collateral federal income tax consequences discussed above. Consequently, owners of any Discount Series 2024 Bond should be aware that the accrual of original issue discount in each year may result in an alternative minimum tax liability, additional distribution requirements or other collateral federal income tax consequences although the owner of such Discount Series 2024 Bond has not received cash attributable to such original issue discount in such year.

The accrual of original issue discount and its effect on the redemption, sale or other disposition of a Discount Series 2024 Bond that is subject to redemption prior to maturity or that is not purchased in the initial offering at the first price at which a substantial amount of such substantially identical Series 2024 Bonds is sold to the public may be determined according to rules that differ from those described above.

Prospective purchasers of Discount Series 2024 Bonds should consult their own tax advisors with respect to the determination for purposes of federal income taxation of the amount of original issue discount or interest properly accruable with respect to such Discount Series 2024 Bonds and with respect to state and local tax consequences of owning and disposing of Discount Series 2024 Bonds.

#### New York State Taxes

In the opinion of Bond Counsel, so long as interest on the Series 2024 Bonds is excluded from gross income for federal income tax purposes, interest on the Series 2024 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).

#### Tax Risks - Loss of Federal Tax Exemption

As described above, interest on the Series 2024 Bonds may become subject to federal income taxation if certain events occur subsequent to the date of issuance of the Series 2024 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 2024 Bonds may be deemed to be taxable from the date of issuance. The Series 2024 Bonds are subject to mandatory redemption 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 2024 Bonds becoming subject to federal income taxation.

#### Form of Opinion/of Bond Counsel

The form of the approving opinion of Bond Counsel with respect to the Series 2024 Bonds is attached hereto as APPENDIX F. See "PROPOSED FORM OF OPINION OF BOND COUNSEL" in APPENDIX F.

## **LEGAL MATTERS**

The Series 2024 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 2024 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, Hawkins Delafield & Wood LLP, New York, 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 2024 Bonds or questioning or affecting the validity of the Series 2024 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 any of the Issuer documents or to secure the Series 2024 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 any of the Institution documents, or questioning or affecting the validity of any of the Institution documents, or the proceedings or authority under which any of 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 any of the Institution documents.

## **RATING**

S&P Global Ratings has assigned the Series 2024 Bonds a Rating of “BBB-” (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 2024 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 2024 Bonds.

## **UNDERWRITING**

Subject to the terms and conditions of a Bond Purchase Agreement (the “Purchase Agreement”) entered into among the Issuer, the Institution and Robert W. Baird & Co. Incorporated (the “Underwriter”), the Underwriter has agreed to purchase the Series 2024 Bonds at an aggregate purchase price of

\$49,079,649.00 (representing the original principal amount of the Series 2024 Bonds, less an original issue discount of \$599,458.50 less Underwriter's compensation of \$425,892.50). Expenses associated with the issuance of the Series 2024 Bonds are being paid from proceeds of the Series 2024 Bonds. The Purchase Agreement provides that the Underwriter will purchase all of the Series 2024 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 2024 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 2024 Bonds and there may, in fact, be no market for the Series 2024 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, on behalf of itself and as Obligated Group Representative, will execute and deliver a Continuing Disclosure Agreement (the "Continuing Disclosure Agreement") with respect to the Series 2024 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 2024 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" attached hereto.

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.

### **SECURITIES LAWS CONSIDERATIONS FOR RESIDENTS OF CERTAIN STATES**

The offering of the Series 2024 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 Bond Trustee and Master Trustee pursuant to the Indenture and Master Indenture, respectively, and is also acting as Custodian pursuant to the Custody Agreement and, in such capacity, will act as the Institution's agent to receive a substantial amount of 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.

### **FINANCIAL STATEMENTS**

The financial statements for the Institution as of and for the year ended June 30, 2023 and 2022, set forth in APPENDIX C of this Official Statement, have been audited by Mengel, Metzger, Barr & Co. LLP, independent certified public accountants, as set forth in their report thereon appearing in APPENDIX C of this Official Statement.



## MISCELLANEOUS

The Institution has furnished all information in this Official Statement and the Appendices attached to this Official Statement other than the Issuer Information (as defined below), 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" (collectively, the "Issuer Information") herein. The Institution has authorized the distribution of this Official Statement.

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KIPP CAPITAL REGION PUBLIC CHARTER  
SCHOOLS

By: /s/ Stephanie Valle

Name: Stephanie Valle

Title: Chief Executive Officer

CITY OF ALBANY CAPITAL RESOURCE  
CORPORATION

By: /s/ Lee E. Eck, Jr.

Name: Lee E. Eck, Jr.

Title: Vice Chair

## APPENDIX A

### SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW

The following summarizes certain provisions of the New York Charter Schools Act of 1998, Article 56, §§ 2850-2857 of the New York Education Law, as amended (the “Act”), other applicable provisions of the New York Education Law, and related regulations. The following provides a summary only, and is only for informational purposes. Potential investors should refer to and independently evaluate applicable provisions of the Act 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 – Changes in Law; Annual Appropriation; Inadequate Education Aid Payments” in this Official Statement.

#### **Purpose (New York Education Law § 2850(2))**

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))**

(1) 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) (Issuance of charter) of the Act, or operate or manage a charter school for a charter issued pursuant to § 2852(9-a) 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.

(2) The information provided on the application shall be consistent with the provisions of the Act and other applicable laws, rules and regulations. Such information shall include:

(a) A mission statement for the school and a description of an educational program that implements one or more of the purposes described in § 2850(2).

(b) A description of student achievement goals for the school's educational program and the chosen methods of evaluating that students have attained the skills and knowledge specified for those goals. Such educational program shall meet or exceed the student performance standards adopted by the board of regents for other public schools.

(c) The proposed governance structure of the school, including a list of members of the initial board of trustees, a description of the qualifications, terms and method of appointment or election of trustees, the organizational structure of the school, a procedure for conducting and publicizing monthly board of trustee meetings at each charter school, and the processes to be followed by the school to promote parental and staff involvement in school governance.

(d) Admission policies and procedures for the school, which shall be consistent with the requirements of subdivision two of section twenty-eight hundred fifty-four of this article.

(e) A proposed budget and fiscal plan for the school, including supporting evidence that the fiscal plan is sound and that sufficient start-up funds will be available to the charter school.

(f) Requirements and procedures for programmatic and independent fiscal audits at least once annually, with such audits being comparable in scope to those required of other public schools.

(g) The hiring and personnel policies and procedures of the school, including the qualifications to be used in the hiring of teachers, school administrators and other school employees, and a description of staff responsibilities.

(h) The rules and procedures by which students may be disciplined, including but not limited to expulsion or suspension from the school, which shall be consistent with the requirements of due process and with federal laws and regulations governing the placement of students with disabilities.

(i) The number of students to be served by the school, which number shall be at least fifty at a single site and the minimum number of teachers to be employed at the school, which shall be at least three. Provided, however, that a charter school may serve fewer than fifty students or employ fewer than three teachers in the school's first year of operation or if the applicant presents a compelling justification, such as the school would serve a geographically remote region.

(j) Information regarding the facilities to be used by the school, including the location of the school, if known, and the means by which pupils will be transported to and from the school. If the facilities to be used by the proposed school are not known at the time the application is submitted, the applicant shall notify the charter entity and, if applicable, the board of regents within ten business days of acquiring facilities for such school; provided, however, that the charter school must obtain a certificate of occupancy for such facilities prior to the date on which instruction is to commence at the school.

(k) The name of the proposed charter school, which shall include the words “charter school” and which shall not include the name or identification of a for-profit business or corporate entity.

(l) A description of the ages and grade levels to be served by the school.

(m) Identification and background information on all applicants and proposed members of the board of trustees.

(n) The school calendar and school day schedule, which shall provide at least as much instruction time during a school year as required of other public schools.

(o) Types and amounts of insurance coverage to be obtained by the school, which shall include adequate insurance for liability, property loss and the personal injury of students. The commissioner and the superintendent of financial services may jointly promulgate regulations to implement the provisions of this paragraph.

(p) The term of the proposed charter, which shall not exceed five years; provided however, in the case of charters issued pursuant to § 2852(9)(a) the term of such proposed charter shall not exceed five 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.

(q) Evidence of adequate community support for and interest in the charter school sufficient to allow the school to reach its anticipated enrollment, and an assessment of the projected programmatic and fiscal impact of the school on other public and nonpublic schools in the area.

(r) A description of the health and food services to be provided to students attending the school.

(s) Methods and strategies for serving students with disabilities in compliance with all federal laws and regulations relating thereto.

(t) Procedures to be followed in the case of the closure or dissolution of the charter school, including provisions for the transfer of students and student records to the school district in which the charter school is located and for the disposition of the school’s assets to the school district in which the charter school is located or another charter school located within the school district. Notwithstanding any other provision of law or of a charter to the contrary, such procedures shall ensure that upon dissolution of a charter school, any funds remaining in the possession of the charter school that can be attributed to public funding, after all of its debts and obligations have been paid, shall be paid over to each school district having resident children served by the charter school in the school year in which the charter was dissolved or the last year in which students were enrolled in the charter school, in the same proportion as the number of students placed by each school district and served by the charter school in the last school year in which children were served by the charter school, bears to the total number of students served by the charter school in such school year. Provided, however, that nothing in this subdivision shall be construed to require a charter school to pay to such districts any remaining funds that can be attributed to gifts, donations, grants or other authorized charitable contributions.

(u) Requirements for the grant of a diploma, if the school serves the twelfth grade.

(v) A code of ethics for the charter school, setting forth for the guidance of its trustees, officers and employees the standards of conduct expected of them including standards with respect to disclosure of conflicts of interest regarding any matter brought before the board of trustees.

(w) A description of the residential facilities, if any, provided by the charter school.

(x) Any other information relevant to the issuance of a charter required by the charter entity.

(3) 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 application for conversion shall be consistent with this section but shall not be subject to the process pursuant to § 2852(9-a) of 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 years in accordance with the provisions of the Act for the issuance of such charters pursuant to § 2852 (Issuance of charter) 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) (notice; review and assessment) 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 having 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.

If a school's application for renewal of their Charter is denied, New York case law holds that schools are not entitled to judicial review of a non-renewal decision nor do schools have a constitutional right to an administrative review of a non-renewal decision. *Matter of Fahari Academy Charter School v. Bd. Of Educ. Of City School Dist. Of City of New York* 27 N.Y.S.3d 688 (2d Dept 2016) (citing *Pinnacle Charter Sch. v. Board of Regents of the Univ. of the State of N.Y.*, 969 N.Y.S.2d 318 (4th Dept 2013)).

#### **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 years, provided however in the case of charters issued pursuant to § 2852(9-a) (Issuance of charter) of the Act, the Board of Regents shall incorporate the charter school as an education corporation for a term not to exceed five 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 years. Upon termination or nonrenewal of the charter of a charter school pursuant to § 2855 (causes for revocation or termination) 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, 2024:*

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. Where the charter school arranges to have the school district of residence provide such special education programs or services, such school district shall provide services in the same manner



as it serves students with disabilities in other public schools in the school district, including the provision of supplementary and related services on site to the same extent to which it has a policy or practice of providing such services on the site of such other public schools.

*Effective June 30, 2024:*

(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 New York 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 New York 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 (public notice) of the New York 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.

#### **Charter School Personnel (New York Education Law § 2854(3))**

(a) An employee of a charter school shall be an employee of the education corporation formed to operate the charter school and not an employee of the local school district in which the charter school is located. An employee of a charter school shall be deemed to be a public employee solely for purposes of Article 14 (public employees' fair employment act) of the New York Civil Service Law, except for § 212 of such law, and for no other purposes unless otherwise specified in the Act, the board of trustees of the charter school shall constitute a board of education solely for purposes of Article 14 of the New York Civil Service Law, except for § 212 of such law, and for no other purposes unless otherwise specified in the Act, a charter school shall be deemed to be a public employer solely for purposes of Article 14 of the New York Civil Service Law, except for § 212 of such law, and for no other purposes unless otherwise specified in the Act, and the chief executive officer of the charter school shall be the person designated as such by the board of trustees of the charter school.

(a-1) The board of trustees of a charter school shall employ and contract with necessary teachers, administrators and other school personnel. Such teachers shall be certified in accordance with the requirements applicable to other public schools; provided, however, that a charter school may employ as teachers (i) uncertified teachers with at least three years of elementary, middle or secondary classroom teaching experience; (ii) tenured or tenure track college faculty; (iii) individuals with two years of satisfactory experience through the Teach for America program; and (iv) individuals who possess exceptional business, professional, artistic, athletic, or military experience, provided, however, that such teachers described in clauses (i), (ii), (iii), and (iv) of this paragraph shall not in total comprise more than the sum of: (A) 30 per centum of the teaching staff of a charter school, or five teachers, whichever is less; plus (B) five teachers of mathematics, science, computer science, technology, or career and technical education; plus (C) five additional teachers. A teacher certified or otherwise approved by the Commissioner shall not be included in the numerical limits established by the preceding sentence.

(a-2)(i) The board of trustees of a charter school shall require, for purposes of a criminal history record check, the fingerprinting of all prospective employees pursuant to § 3035 (duties of commissioner;

submission of fingerprints) of the New York Education Law, who do not hold valid clearance pursuant to such section or pursuant to § 3004-b (special procedures for certification) of the New York Education Law, or § 509-cc (disqualification of drivers of school buses), or § 1229-d (school bus attendant) of the New York Vehicle and Traffic Law. Prior to initiating the fingerprinting process, the prospective employer shall furnish the applicant with the form described in § 305(30)(c) (general powers and duties) of the New York Education Law and shall obtain the applicant's consent to the criminal history records search. Every set of fingerprints taken pursuant to this paragraph shall be promptly submitted to the Commissioner for purposes of clearance for employment.

(ii) Upon the recommendation of the chief executive officer of the charter school, the board of trustees of a charter school may conditionally appoint a prospective employee. A request for conditional clearance shall be forwarded to the commissioner along with the prospective employee's fingerprints, as required by subparagraph (i) of this paragraph. Such appointment shall not commence until notification by the commissioner that the prospective employee has been conditionally cleared for employment and shall terminate 45 days after such notification of conditional clearance or when the prospective employer is notified of a determination by the commissioner to grant or deny clearance, whichever occurs earlier, and may not be extended or renewed unless the commissioner issues a new conditional clearance after finding that there was good cause for failing to obtain clearance within such period, provided that if clearance is granted, the appointment shall continue and the conditional status shall be removed. Prior to commencement of such conditional appointment, the prospective employer shall obtain a signed statement for conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction outside the state.

(iii) Upon the recommendation of the chief executive officer of the charter school, the board of trustees of a charter school may make an emergency conditional appointment when an unforeseen emergency vacancy has occurred. When such appointment is made, the process for conditional appointment pursuant to subparagraph (ii) of this paragraph must also be initiated. Emergency conditional appointment may commence prior to notification from the commissioner on conditional clearance but shall terminate 20 business days from the date such appointment commences or when the prospective employer is notified by the commissioner regarding conditional clearance, whichever occurs earlier, provided that if conditional clearance is granted, the appointment shall continue as a conditional appointment. Prior to the commencement of such appointment, the prospective employer must obtain a signed statement for emergency conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction. An unforeseen emergency vacancy shall be defined as: (1) a vacancy that occurred less than ten business days before the start of any school session, including summer school, or during any school session, including summer school, without sufficient notice to allow for clearance or conditional clearance; (2) when no other qualified person is available to fill the vacancy temporarily; and (3) when emergency conditional appointment is necessary to maintain services which the charter school is legally required to provide or services necessary to protect the health, education or safety of students or staff. The provisions of clause one of this subparagraph shall not apply if the board finds that the charter school has been unable to fill the vacancy despite good faith efforts to fill such vacancy in a manner which would have allowed sufficient time for clearance or conditional clearance.

(iv) Shall develop a policy for the safety of the children who have contact with an employee holding conditional appointment or emergency conditional appointment.

(a-3) The board of trustees of a charter school shall upon commencement and termination of employment of an employee by the charter school district, provide the Commissioner with the name of and position held by such employee.

(b) The school employees of a charter school that has been converted from an existing public school who are eligible for representation under Article 14 (public employees' fair employment act) of the New York Civil Service Law shall be deemed to be included within the negotiating unit containing like titles or positions, if any, for the school district in which such charter school is located and shall be subject to the collective bargaining agreement covering that school district negotiating unit; provided, however, that a majority of the members of a negotiating unit within a charter school may modify, in writing, a collective bargaining agreement for the purposes of employment in the charter school with the approval of the board of trustees of the charter school.

(b-1) The employees of a charter school that is not a conversion from an existing public school shall not be deemed members of any existing collective bargaining unit representing employees of the school district in which the charter school is located, and the charter school and its employees shall not be subject to any existing collective bargaining agreement between the school district and its employees. Provided, however, that (i) if the student enrollment of the charter school on the first day on which the charter school commences student instruction exceeds 250 or if the average daily student enrollment of such school exceeds 250 students at any point during the first two years after the charter school commences student instruction, all employees of the school who are eligible for representation under Article 14 of the New York Civil Service Law shall be deemed to be represented in a separate negotiating unit at the charter school by the same employee organization, if any, that represents like employees in the school district in which such charter school is located; (ii) the provisions of subparagraph (i) of this paragraph may be waived in up to ten charters issued on the recommendation of the charter entity set forth in of § 2851(3)(b) (eligible applicants; applications; submission) of the Act; (iii) the provisions of subparagraph (i) of this paragraph shall not be applicable to the renewal or extension of a charter; and (iv) nothing in this sentence shall be construed to subject a charter school subject to the provisions of this paragraph or its employees to any collective bargaining agreement between any public school district and its employees or to make the employees of such charter school part of any negotiating unit at such school district. The charter school may, in its sole discretion, choose whether or not to offer the terms of any existing collective bargaining to school employees.

(c) The employees of the charter school may be deemed employees of the local school district for the purpose of providing retirement benefits, including membership in the teachers' retirement system and other retirement systems open to employees of public schools. The financial contributions for such benefits shall be the responsibility of the charter school and the school's employees. The Commissioner, in consultation with the comptroller, shall develop regulations to implement the provisions of this paragraph in a manner that allows charter schools to provide retirement benefits to its employees in the same manner as other public school employees.

(c-1) Reasonable access.

(i) If employees of the charter school are not represented, any charter school chartered pursuant to the Act must afford reasonable access to any employee organization during the reasonable proximate period before any representation question is raised; or

(ii) If the employee organization is a challenging organization, reasonable access must be provided to any organization seeking to represent employees beginning with a date reasonably proximate to a challenge period. Reasonableness is defined, at a minimum, as access equal to that provided to the incumbent organization.

(c-2) Employer neutrality. It shall be an improper practice for a charter school board of directors, chief administrative officer and their agents to commit any of the acts set forth in § 209-a(1) (improper employer practices; improper employee organization practices; application) of the New York Civil Service Law and could in accordance with § 2855 (causes for revocation or termination) of the Act, result in the revocation of the charter.

(d) A teacher employed by a school district may make a written request to the board of education for an extended leave of absence to teach at a charter school. Approval for such a leave of absence for a period of three years or less shall not be unreasonably withheld. If such approval is granted to a teacher by the school district, the teacher may return to teach in the school district during such period of leave without the loss of any right of certification, retirement, seniority, salary status or any other benefit provided by law or by collective bargaining agreement. If an appropriate position is unavailable, the teacher's name shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position similar to the one such teacher filled in such school district immediately prior to the leave of service.

(d-1) In a school district of a city having a population of 1,000,000 or more, a principal employed by such school district may make a written request to the board of education for an extended leave of absence to serve as a principal of a charter school. Approval for such a leave of absence for a period of three years or less shall not be unreasonably withheld. If such approval is granted to a principal by the school district, the principal may return to serve as a principal in the school district during such period of leave without the loss of any right of certification, retirement, seniority, salary status or any other benefit provided by law or by collective bargaining agreement. If an appropriate position is unavailable, the principal's name shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position similar to the one such principal filled in such school district immediately prior to the leave of service.

#### **Causes for Revocation or Termination (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(1) (improper employer practices) of the New York Civil Service Law involving interference with or discrimination against employee rights under Article 14 (Public Employees' Fair Employment Act) of the New York 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 this section 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.

**Notice, Review and Assessment (New York Education Law §§ 2857(1), 2857(2), 2857(3), 2857(4) and 2857(5))**

(1) The Board of Regents shall distribute information announcing the availability of the charter school process described in the Act to each local school district and public postsecondary educational institution. At each significant stage of the chartering process, the charter entity and the Board of Regents shall provide appropriate notification to the school district in which the charter school is located and to public and nonpublic schools in the same geographic area as the proposed charter school. Such notification shall be provided by each charter entity within thirty days of its receipt of an application for formation of a new charter school or for renewal of an existing charter school, and at least forty-five days prior to initial approval of the charter application by the charter entity. Prior to the issuance, revision, or renewal of a charter, the school district in which the charter school is located shall hold a public hearing to solicit comments from the community in connection with the foregoing. Such hearing shall be held within the community potentially impacted by the proposed charter school. When a revision involves the relocation of a charter school to a different school district, the proposed new school district shall also hold such hearing. In addition, such school districts shall be given an opportunity to comment on the proposed charter to the charter entity and such charter entity shall consider any comments raised and submit any such comments to the board of regents with the application for issuance, revision, or renewal of a charter.

(1-a) In the event the school district fails to conduct a public hearing, the Board of Regents shall conduct a public hearing to solicit comments from the community in connection with the issuance, revision, or renewal of a charter.

(2) 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.

(3) 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.

(4) The Board of Regents shall review the educational effectiveness of the charter school approach authorized by the Act and the effect of charter schools on the public and nonpublic school systems. Not later than December thirty-first, two thousand three, the Board of Regents shall report to the governor, the temporary president of the senate, the speaker of the assembly and the Board of Regents with recommendations to modify, expand, or terminate that approach. Such report shall include, for each charter school, a copy of the school's mission statement, attendance statistics and dropout rates, student performance on standardized assessment tests, projections of financial stability, and, wherever practicable, comparisons to other public schools.

(5) 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.

(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) (Issuance of charter) of the Act.

(a-3) (1) 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.

(2) The building usage plan shall be developed by the chancellor for each school that has been definitively identified for a location or co-location. The building usage plan shall include, but need not be limited to, the following information:

(A) the actual allocation and sharing of classroom and administrative space between the charter and non-charter schools;

(B) a proposal for the collaborative usage of shared resources and spaces between the charter school and the non-charter schools, including but not limited to, cafeterias, libraries, gymnasiums and recreational spaces, including playgrounds which assures equitable access to such facilities in a similar manner and at reasonable times to non-charter school students as provided to charter school students;

(C) justification of the feasibility of the proposed allocations and schedules set forth in clauses (A) and (B) of this subparagraph and how such proposed allocations and shared usage would result in an equitable and comparable use of such public school building;

(D) building safety and security;

(E) communication strategies to be used by the co-located schools; and

(F) collaborative decision-making strategies to be used by the co-located schools including the establishment of a shared space committee pursuant to § 2853(3)(a-4).

(3) A building usage plan developed by the chancellor in accordance with this paragraph shall be included within the educational impact statement required by § 2590-h(2-a)(b) of the Act and be subject to the requirements of § 2590-h(2-a) prior to approval by the board of education pursuant to § 2590-g(1)(h) of the Act.

(4) A building usage plan developed by the chancellor in accordance with this paragraph may be revised and such revision shall require board of education approval consistent with the requirements pursuant to § 2590-g(7) of the Act.

(5) The building usage plan shall be made publicly available by the chancellor, including via the city board's official internet website, and a copy shall also be filed with the city board, the impacted community district education council, community boards, community superintendent, and school based management team.

(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 ten days to respond. The petition must be dismissed, adjudicated or disposed of by the Commissioner within ten 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 moneys 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 this paragraph 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.

(1) Notwithstanding any other provision of law to the contrary, within the later of (i) five months after a charter school's written request for co-location and (ii) 30 days after the charter

school's charter is approved by its charter entity, the city school district shall either: (A) 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 (B) 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.

(2) No later than 30 days after approval by the board of education or expiration of the offer period prescribed in paragraph (1) above, the charter school shall either accept the city school district's offer or appeal in accordance with paragraph (3) 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.

(3) 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 (proceeding against body or officer) of the New York Civil Practice Law and Rules. In any such appeal, the standard of review is the standard prescribed in § 7803 (questions raised) of the New York Civil Practice Law and Rules.

(4) 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.

(5) For a new charter school whose charter is granted or for an existing charter school whose expansion of grade level, pursuant to the 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:

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

(B) 30% of the product of the Charter School Basic Tuition for the current school year and (i) for a new charter school that first commences instruction on or after July 1, 2014, the charter school's current year enrollment; or (ii) 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.

(6) An arbitration in an appeal pursuant to this paragraph shall be conducted by a single arbitrator selected in accordance with the Act from a list of arbitrators from the American arbitration association's panel of labor arbitrators, with relevant biographical information, submitted by such association to the commissioner pursuant to § 3020-a(3)(a) of the Act. Upon request by the charter school, the commissioner shall forthwith send a copy of such list and biographical information simultaneously to the charter school and city school district. The parties shall, by mutual agreement, select an arbitrator from the list within fifteen days from receipt of the list, and if the parties fail to agree on an arbitrator within such fifteen day period or fail within such fifteen day period to notify the commissioner that an arbitrator has been selected, the commissioner shall appoint an arbitrator from the list to serve as the arbitrator. The arbitration shall be conducted

in accordance with the American arbitration association's rules for labor arbitration, except that the arbitrator shall conduct a pre-hearing conference within ten to fifteen days of agreeing to serve and the arbitration shall be completed and a decision rendered within the time frames prescribed for hearings pursuant to § 3020-a of the Act. The arbitrator's fee shall not exceed the rate established by the commissioner for hearings conducted pursuant to § 3020-a of the Act, and the cost of such fee, the arbitrator's necessary travel and other reasonable expenses, and all other hearing expenses shall be borne equally by the parties to the arbitration.

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

*Effective until June 30, 2024:*

(a) The enrollment of students attending charter schools shall be included in the enrollment, attendance, membership 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 Law 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 through 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 computed 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, (1) for the 2014-2015 school year \$250, (2) for the 2015-2016 school year \$350, (3) for the 2016-2017 school year \$500, and (4) for the 2017-2018 school year and thereafter, the sum of (i) the supplemental basic tuition calculated for the 2016-2017 school year plus (ii) \$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 schools 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.

(b) 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 until actual enrollment data is reported to the school district by the charter school. Such projections shall be reconciled with the actual enrollment as actual enrollment data is so reported and at the end of the school's first year of operation and each subsequent year based on a final report of actual enrollment by the charter school, and any necessary adjustments resulting from such final report shall be made to payments during the school's following year of operation.

(c) Notwithstanding any other provision of the New York Education Law to the contrary, payment of the federal aid attributable to a student with a disability attending a charter school shall be made in accordance with the requirements of § 8065-a of Title 20 of the United States Code and §§ 76.785-76.799 and 300.209 of Title 34 of the Code of Federal Regulations.

(d) 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. Provided that for expenses incurred in 2020-2021 school year, for a city school district in a city having a population of 1,000,000 or more, the annual apportionment shall be reduced by \$35,000,000 upon certification by the director of the budget of the

availability of a grant in the same amount from the elementary and secondary school emergency relief funds provided through the American Rescue Plan Act of 2021.

*Effective June 30, 2024:*

(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 to § 3602(l)(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 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) above 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 through 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 computed 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, (1) for the 2014-2015 school year \$250, (2) for the 2015-2016 school year \$350, (3) for the 2016-2017 school year \$500, and (4) for the 2017-2018 school year and thereafter, the sum of (i) the supplemental basic tuition calculated for the 2016-2017 school year plus (ii) \$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.

(b) 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 subdivision may be reduced pursuant to an agreement between the school and the charter entity set forth in the charter. Payments made pursuant to this subdivision 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 subdivision 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.

(c) 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. Provided that for expenses incurred in the 2020-2021 school year, for a city school district in a city having a population of 1,000,000 or more, the annual apportionment shall be reduced by \$35,000,000 upon certification by the director of the budget of the availability of a grant in the same amount from the elementary and secondary school emergency relief funds provided through the American Rescue Plan Act of 2021.

In the event of the failure of the school district to make payments required by this section, the New York State Comptroller shall deduct from any state funds which become due to such school district an amount equal to the unpaid obligation. The New York State 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)**

*Effective until and from April 17, 2025*

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.

“Current year” shall mean the school year during which the apportionment is to be paid pursuant to this section.

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

“Weighted Pupils with Disabilities” shall be computed as follows:

(a) “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.

(b) “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:

(i) 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%;

(ii) for placement for 20% or more of the school week in a resource room or special services or programs including related services required for 20% 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.

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

(1) 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.

(2) In computing such attendance, the school district shall (i) 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; (ii) deduct the aggregate attendance on such religious holidays from the total aggregate attendance, by grade level; (iii) deduct such religious holidays from the total number of days of session, by grade level; (iv) compute the Adjusted Average Daily Attendance for the school year.

(3) 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.

(b) *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 12, 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: (1) the number of children on a regular enrollment register of a public school district on such date; (2) the number of children eligible to receive home instruction in the school district on such date; (3) the number of children for whom Equivalent Attendance must be computed pursuant to this section on such date; (4) 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 § 4401(2)(c) (children with handicapping conditions definitions) of the New York Education Law; (5) 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 (6) 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. Average daily attendance shall include the equivalent attendance of the school district. For the purposes of secondary school weighting, such equivalent attendance shall be considered as average daily attendance in grades seven through twelve.

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 125,000 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:

- (1) any balances and transfers;
- (2) any payments for transportation of pupils to and from school during the regular school year inclusive of capital outlays and debt service therefor;
- (2-a) 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;
- (3) 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;
- (4) any payments for cafeteria or school lunch programs;
- (5) 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;
- (6) 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;
- (7) 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;
- (8) 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;

(9) 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;

(10) any funds received from the federal government except the federal share of Medicaid subject to the provisions of § 3609-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 §§ 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;

(11) any payments made for which an apportionment is disallowed pursuant to regulations of the Commissioner;

(12) 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;

(13) any rental payments received pursuant to the provisions of § 403-a (leasing of school property) of the New York Education Law;

(14) 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;

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

(16) any tuition payments made pursuant to a contract under the provisions of § 4401(1) and (2)(e) through (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;

(17) 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 prior school 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

(18) 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 of an 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 school year 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 pupil is 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 (4) 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 § 200.1 of the New York Education Law, 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 § 200.1 of the New York Education Law, 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.

(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.

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**

**CERTAIN INFORMATION CONCERNING THE INSTITUTION**

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## INTRODUCTION

### General

KIPP Capital Regional Public Charter Schools (“KIPP Capital” or the “Institution”) is a New York state education corporation authorized by the State University of New York (“SUNY”) Charter School Institute and recognized as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”). KIPP Capital’s first school was chartered in 2005 (KIPP Tech Valley Middle School, and subsequently KIPP Tech Valley Primary School in 2016) and the current education corporation holds a total of three charters as a result of two sequential mergers and acquisitions of KIPP Albany Community Public Charter Schools (“KIPP ACCS” or “KIPP Albany Community”) in July 2020, and KIPP Troy Prep Public Charter Schools (“KIPP Troy Prep”) in July 2022. As a result of the two mergers, KIPP Capital now comprises seven schools located in the City of Albany and the City of Troy, in the State of New York (the “State”) across the three charters: three elementary schools, three middle schools, and one high school. Prior to the merger, KIPP ACCS was an independent, K-8 charter (one elementary and one middle), and KIPP Troy Prep was part of Uncommon Schools (one elementary, one middle, and one high school). The following table provides a brief summary of KIPP Capital’s seven schools. For more information, see “THE SCHOOLS” herein.

<u>Facility Address</u>	<u>Charter School</u>	<u>School Year Opened</u>	<u>Grades Offered</u>	<u>Enrollment</u> <sup>1</sup>	<u>Low Income</u> <sup>2</sup>
1 Dudley Heights, Albany	KIPP: Tech Valley Primary School	2016-17	K - 4	496	77%
321 Northern Boulevard, Albany	KIPP Tech Valley Middle School	2005-06	5 - 8	372	78%
65 Krank Street, Albany	KIPP Albany Community Charter Elementary School	2006-07	K - 5	456	83%
42 S. Dove Street, Albany	KIPP: Albany Community Charter Middle School	2012-13	6 - 8	246	78%
3055 Sixth Avenue, Troy	KIPP: Troy Prep Elementary School	2009-10	K - 4	316	86%
2 Polk Street, Troy	KIPP: Troy Prep Middle School	2011-12	5 - 8	248	89%
	KIPP: Troy Prep High School	2017-18	9 - 12	<u>185</u>	<u>78%</u>
<b>TOTAL/AVERAGE (KIPP Capital Region)</b>				<b>2,319</b>	<b>81%</b>

(Source: the Institution)

<sup>1</sup> Enrollment data is based on the Institution’s enrollment budget for fiscal year ending 2024.

<sup>2</sup> The approximate percentage of students who are eligible for free meals as of October 4, 2023. Students qualify as directly certified for free meals if they participate in other means-tested programs such as the Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF). Students can also be directly certified if they are classified as foster, migrant, homeless, or runaway. The direct certification percentage is multiplied by 1.6 to compensate for the stringent requirements of this metric and bring the eligibility percentage more in line with traditional free and reduced lunch eligibility.

KIPP Capital is affiliated with the KIPP (“Knowledge is Power Program”) Foundation, a national network of public charter schools with an almost 30-year track record of preparing students for success in college, career and in life. Across the country, there are 280 KIPP schools and approximately 120,000 KIPP students.

### History

KIPP Tech Valley Charter School (“KIPP Tech Valley”), KIPP Albany Community (f/k/a Albany Community Charter School) and KIPP Troy Prep (f/k/a True North Troy Preparatory Charter School) were issued separate charters, each approved by the SUNY Board of Trustees (the “SUNY Trustees”) on January 28, 2004, July 15, 2005 and October 26, 2007, respectively, and the Board of Regents of the University of the State of New York (the “Board of Regents”) on March 23, 2004, December 11, 2005 and March 11, 2008, respectively. In accordance with the New York Charter Schools Act of 1998 (the “Charter Schools

Act”), commencing in school year 2005-06, KIPP Tech Valley operated a charter school commonly known as KIPP Tech Valley Middle School. In 2006, Albany Community Charter School opened its elementary school, and in 2009, Troy Preparatory Charter School opened its middle school. Until the mergers, KIPP Tech Valley, Albany Community Charter School and True North Troy Preparatory Charter School 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 Code.

KIPP Capital is now a single legal entity and the organization operates seven schools, all as KIPP Schools: KIPP Albany Community Charter Elementary School, KIPP Albany Community Charter Middle School, KIPP Tech Valley Primary School, KIPP Tech Valley Middle School, KIPP Troy Prep Elementary School, KIPP Troy Prep Middle School and KIPP Troy Prep High School. The organization is exempt from federal income taxation under Section 501(a) of the Code and continues to qualify as an organization described in Section 501(c)(3) of the Code.

### **MISSION AND VISION**

The mission and vision of the Institution, as shared by all 280 KIPP schools across the country, are as follows:

Mission: “Together with families and communities, we create joyful, academically excellent schools that prepare students with the skills and confidence to pursue the paths they choose - college, career, and beyond - so they can lead fulfilling lives and build a more just world.”

Vision: “Every child grows up free to create the future they want for themselves and their communities.”

### **THE SCHOOLS**

KIPP Capital is governed by a local Board of Directors, as further described in “GOVERNANCE AND MANAGEMENT” below, focused on providing students with the tools they need to achieve their limitless potential in college, career, and beyond. KIPP Capital believes that every student walks through its doors bearing gifts. The Institution supports every student in recognizing their own gifts and greatness, helping them build the skills and confidence needed to thrive in life.

#### **KIPP Albany Community Charter Schools**

KIPP Albany Community Charter Elementary School. Founded in 2006, KIPP Albany Community Charter Elementary School (“KACCSE”) is a kindergarten through grade five elementary charter school located in the south end of the City of Albany. In 2023-24, the school serves 450 students in grades K-5. KACCSE is an urban school and offers an extended school day and provides students with school uniforms as well as a variety of afterschool programs, many of which are culturally affirming. The school places a high value on collaboration, community and culture. KACCSE is committed to developing an environment that affirms and celebrates the racial and cultural identities of its students and recognizes the critical importance of having teachers and leaders that reflect the communities served by the school. In 2012, KACCSE was recognized by the U.S. Department of Education as a National Blue Ribbon School of Excellence, one of the first charter schools in the State and the first in the City of Albany to receive that distinction.

KIPP Albany Community Charter Middle School. KIPP Albany Community Charter Middle School (“KACCSM”) was founded in 2012 as the sister school to KACCSE. In the same year, the school was named a National Blue Ribbon School by the U.S. Department of Education. KACCSM students are

taught in an environment that emphasizes education in respect and character in addition to reading, writing and mathematics. Like KACCSE, the middle school offers a longer school day and culturally affirming extracurriculars on campus to allow for whole child development and an exploration of creativity and personal growth among its students.

### **KIPP Tech Valley Charter Schools**

*KIPP Tech Valley Primary School.* KIPP Tech Valley Primary School (“KTVP”) opened its doors in August 2016 to its founding class of 100 kindergarten students. The school serves 500 students ranging from kindergarten to fourth grade. In addition to building a strong foundation of literacy and math skills, KTVP has developed a robust student support team that allows for all students to be met where they are, differentiates instruction, and provides students with the tools and support necessary for their overall success. This team includes behavior specialists, a counselor, a psychologist, special education teachers, a social worker and interventionists. KTVP develops student’s character habits through the values of effort, engagement, empathy, empowerment, and excellence. These values are celebrated through weekly assemblies, quarterly ceremonies, and other positive incentives. The intent to create a strong culture, curriculum and abundant social and emotional supports is based in the “whole child” approach to learning.

*KIPP Tech Valley Middle School.* In August of 2005, KIPP Tech Valley Middle School (“KTVM”) opened its doors with the promise that hard work would lead to academic success and pave a road to college and beyond for children residing in historically underserved neighborhoods in the City of Albany. Almost 20 years later, results show that KTVM students have made impressive academic gains, allowing its students and alumni to grow up free to create the future they want for themselves and their communities. For the 2018-2019 school year, KTVM was named a Recognition School by the New York State Department of Education.

### **KIPP Troy Prep Charter Schools**

*KIPP Troy Prep Elementary School.* Founded as Troy Prep Elementary School in 2011, KIPP Troy Prep Elementary (“KTPE”) public schools serve families living in the City of Troy with an instructional model that supports students’ academic and personal growth. KTPE joined the KIPP public schools network in July of 2022. Today, the school serves 320 students in grades kindergarten to fourth grade. At KTPE, students learn in a joyful, academically rigorous environment where they are provided extended learning time for literacy and mathematics, including opportunities for small group instruction and individualized learning plans to ensure every child is able to be successful. In addition to English language arts (“ELA”) and math, KTPE’s hands-on science curriculum, social studies and enrichment offerings offer a robust academic experience for every child.

*KIPP Troy Prep Middle School.* Founded as Troy Prep Middle School in 2009, KIPP Troy Prep Middle School (“KTPM”) joined the KIPP public schools network in July of 2022. Today, the school serves 250 students in fifth through grade eight, and is focused on academic excellence and personal connections with students. Students at the school leave 8th grade with two Regents exams completed (Living Environment and Algebra I).

*KIPP Troy Prep High School.* Since its founding in 2017, KIPP Troy Prep High School (“KTPH”) has served Troy families with an instructional model that supports students’ academic and personal growth. KTPH’s first graduating class in 2021 had a 99% graduation rate and students were accepted to over 98 colleges and universities. KTPH joined the KIPP public schools network in July of 2022. Today, the school serves 185 students in grades 9 through 12. KTPH’s robust academic offerings are complemented by support from the KIPP Forward team, which works to ensure every student is supported

in planning for post-secondary success. Weekly community meetings spotlight students of the week, provide an opportunity for team building and celebrate the academic and merit awards.

**EXISTING FACILITIES**

The Institution owns and operates its seven schools across six campuses. KACCSE, KACCSM, KTVF, and KTVM are located at 65 Krank Street, 42 S. Dove Street, 1 Dudley Heights, and 321 Northern Boulevard, respectively, all in the City of Albany, New York. KTPE is located at 3055 Sixth Avenue in the City of Troy, New York and KTPM and KTPH are both located at 2 Polk Street in the City of Troy, New York.

**CHARTER RENEWAL**

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.”

The initial charters of KIPP Tech Valley, KIPP Albany Community and KIPP Troy Prep each had a term of five (5) years through 2010, 2011 and 2014, respectively. Although the Institution is now a single legal entity, the Institution operates its seven schools pursuant to three separate charters issued by the SUNY Trustees. The following table summarizes the charters and renewals issued to the Institution since 2004.

**Charters Issued by the Board of Regents to the Institution**

	<u>KIPP Tech Valley</u>	<u>KIPP Albany Community</u>	<u>KIPP Troy Prep</u>
Initial Term	2004-10	2005-11	2008-14
First Renewal	2010-15	2011-16	2014-19
Second Renewal	2015-20	2016-21	2019-24
Third Renewal	2020-25	2021-26	2024-29

While the Institution believes that it is in good standing with the SUNY and is in material compliance with the Charters, no assurance can be given by the Issuer or the Underwriter that the Institution will be able to maintain such good standing in the future. Each of KIPP Albany, KIPP Tech Valley and KIPP Troy Prep has entered into a required performance agreement with SUNY, known as an Accountability Plan. Under SUNY’s accountability system, each is required to report yearly progress in meeting the goals contained in their Accountability Plans. Pursuant to Accountability Summaries for 2022-2023 provided by the SUNY Charter Schools Institute (the “Institute”) in February 2024, KIPP Albany and KIPP Tech Valley did not meet their respective ELA or mathematics goals and, based on this record of



performance, according to the Institute, each of their “prospects for earning a renewal are currently in jeopardy.” The results of these Accountability Summaries for the schools are summarized as follows:

KIPP Albany Community

In 2022-23, KIPP Albany Community did not meet its key academic Accountability Plan goals in ELA or mathematics. The school did not meet the target for any of the five measures included under either goal. The Accountability Summary provides that, based on this record of achievement, KIPP Albany Community must meaningfully improve its performance to make the best case for renewal.

*ELA.* KIPP Albany Community did not meet its ELA goal. With only 26% of its students enrolled in at least their second year scoring at or above proficiency on the State’s 3<sup>rd</sup> – 8<sup>th</sup> grade ELA exam, KIPP Albany Community performed 49 percentage points below the absolute target of 75% and two percentage points below the Albany City School District. KIPP Albany Community posted an effect size of -0.73 according to the Institute’s comparative performance analysis. This level of performance is lower than the target of 0.30 and indicates the school performed lower than expected compared to schools across the State enrolling similar percentages of economically disadvantaged students. KIPP Albany Community also did not meet the target for its growth measure in 2022-23 posting a mean growth percentile of 42. The level of growth indicates the school is not growing the learning of all students to catch up to grade level expectations.

*Mathematics.* KIPP Albany Community did not meet its mathematics goal. That year, only 21% of students enrolled in at least their second year scored at or above proficiency on the State’s mathematics exam falling 54 percentage points below the absolute target of 75% and five percentage points below the Albany City School District. KIPP Albany Community posted a mathematics effect size of -0.69 indicating that the school performed lower than expected in comparison to demographically similar schools across the State. The school posted a mean growth percentile of 47 which was under the target of 50. Notably, KIPP Albany Community continues to post large variation in proficiency rates across grade levels. For example, only seven percent of 6<sup>th</sup> grade students enrolled in at least their second year scored at or above proficiency while 33% of 8<sup>th</sup> grade students enrolled in at least their second year did so. The school must grow the learning of all students to make the best case for renewal.

KIPP Tech Valley

In 2022-23, KIPP Tech Valley did not meet its key academic Accountability Plan goals in ELA or mathematics. This is the second consecutive year the school failed to meet its goals. Based on this record of achievement, KIPP Tech Valley must meaningfully improve its performance to make the best case for renewal.

*ELA.* KIPP Tech Valley did not meet its ELA goal. The school met the target for only one of five measures under its goal. With only 30% of its students enrolled in at least their second year scoring at or above proficiency on the State’s 3<sup>rd</sup> – 8<sup>th</sup> grade ELA exam, the school performed 45 percentage points below the absolute target of 75% and narrowly outperformed the Albany City School District by three percentage points. KIPP Tech Valley posted an effect size of -0.46 according to the Institute’s comparative performance analysis. This level of performance is lower than the target of 0.30 and indicates the school performed lower than expected compared to schools across the State enrolling similar percentages of economically disadvantaged students. The school also did not meet the target for its growth measure in 2022-23 posting a mean growth percentile of 48.

*Mathematics.* KIPP Tech Valley did not meet its mathematics goal. The school failed to meet the target for all measures included under its goal. That year, only 26% of students enrolled in at least their second year scored at or above proficiency on the State’s mathematics exam falling 49 percentage points

below the absolute target of 75%. Notably, 48% of the school's tested students scored at Performance Level 1 indicating performance far below grade level expectations. KIPP Tech Valley's students enrolled for at least two years posted a proficiency rate approximately the same as the Albany City School District. The school posted a mathematics effect size of -0.66 indicating that the school performed lower than expected in comparison to demographically similar schools across the State. The school's mean growth percentile of 43 was under the target of 50.

### KIPP Troy Prep

*High School Graduation and College Preparation.* KIPP Troy Prep met the target for two of the four measures under its high school graduation and college preparation goal. While 79% of students in the total graduation cohort graduated after the completion of their fourth year, greater than the absolute target of 75%, only 76% of students will graduate after completion of their fifth year, 19% shy of the absolute target of 95%. Only 27% of graduating students demonstrated college readiness, 48% short of the absolute target of 75%; however, 81% of graduating students matriculated in a college or university in the year after graduation, 6% higher than the absolute target of 75%.

*ELA.* KIPP Troy Prep met the target for three of five measures under its ELA goal. With 48% of its students enrolled in at least their second year scoring at or above proficiency on the state's 3<sup>rd</sup> – 8<sup>th</sup> grade ELA exam, the school performed 27 percentage points below the absolute target of 75%, though it outperformed the Troy City School District by eleven percentage points. KIPP Troy Prep posted an effect size of 0.49 according to the Institute's comparative performance analysis. This level of performance is higher than the target of 0.30 and indicates the school performed higher than expected compared to schools across the State enrolling similar percentages of economically disadvantaged students. The school did not meet the target for its growth measure in 2022-23 posting a mean growth percentile of 46.

*Mathematics.* KIPP Troy Prep met the target for three of five measures included under its goal. That year, 52% of students enrolled in at least their second year scored at or above proficiency on the State's mathematics exam falling 23 percentage points below the absolute target of 75%. KIPP Troy Prep's students enrolled for at least two years posted a proficiency rate 17% higher than the Troy City School District. The school posted a mathematics effect size of 0.46 indicating that the school performed higher than expected in comparison to demographically similar schools across the State. The school's mean growth percentile of 47 was under the target of 50.

The above-referenced findings were corroborated by certain School Evaluation Reports produced by the Institute in May 2024. Pursuant to these reports, the Institute notes certain school-level improvement since its last visit, but also suggests that organizational capacity, specifically the recruitment and retention of effective teachers, has negatively impacted the overall quality of the educational experience offered by the schools, most notably in the middle schools.

The Institution has received a certificate of good standing from the New York State Education Department. In addition, the Institution recently received a written letter, dated May 15, 2024, from the Chief Counsel of the Institute in response to a request by the Institution to detail the Institution's current legal status. The letter provides, in pertinent part, that, as of the date of the letter, the Institution "is not on probation or corrective action, nor are its charters currently subject to revocation or non-renewal." The Institution is of the opinion that it enjoys a strong working relationship with SUNY and maintains close contact with its staff. Further, the Institution recognizes the need to make continued improvement in certain academic accountability metrics and represents that it is in continuous communication with SUNY on strategies and academic progress toward that effort. While the Institute's reports state that KIPP Albany Community and KIPP Tech Valley must meaningfully improve their performance to make the best case for charter renewal, the Institution is of the opinion that revocation or non-renewal of the charters

is not currently anticipated. However, there can be no assurance that SUNY will not revoke or fail to renew any or all of the charters in the future.

Copies of the above-referenced Accountability Summaries, School Evaluation Reports and letter of good standing are available upon request from the Institution.

**GOVERNANCE AND MANAGEMENT**

**Board of Trustees**

KIPP Capital is governed by a local Board of Trustees (the “Board”) which currently consists of 12 voting members (each a “Trustee”), all of which are members of the Capital District community. Each Trustee is elected to a three-year term and is eligible for re-election indefinitely. The Board meets at least six times per year, with committee meetings held in coordination with full Board meetings and as necessary. The Board has five active committees: Academic, Governance, Finance, Development & External Affairs, and Executive. The Board sets policy for the region and monitors and oversees the performance of the central staff of KIPP Capital.

**Institution’s Board of Trustees**

<u>Name</u>	<u>Board Position</u>	<u>Occupation</u>	<u>Committees</u>	<u>Term Expiration</u>
John P. Reilly	Chair	Software Development	Executive (Chair)	2025
Dr. Kimberly Young-Wilkins	Vice Chair	K-12 Education/School Administrator	Executive (Vice Chair), Academic (Chair)	2025
Sharif Kabir	Secretary	Attorney	Executive (Secretary)	2026
Guy Alonge III	Treasurer	Finance/Insurance	Executive (Treasurer), Finance (Chair)	2024
Dr. Don-Lee Applrys	Trustee	Education/Non-Profit	Academic	2024
Robert Bellafiore	Trustee	Government/Communications	Finance, Development (Chair)	2025
Jeff Buell	Trustee	Real Estate Development	Finance, Development	2024
Dr. Shai Butler	Trustee	Higher Education	Governance (Chair)	2025
Amari Duncan	Trustee	Non-Profit/KIPP Alumna	Development	2026
Kelly Kimbrough	Trustee	Government	Development	2024
Ron Mexico	Trustee	Healthcare/Finance	Finance, Governance	2024
Carl Young	Trustee	Nonprofit/Education	Governance, Academic	2026

**Conflicts Policy**

All Trustees, officers, and employees of KIPP Capital have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest. KIPP Capital follows an approved policy to ensure that the Institution’s activities are conducted in an objective manner and are not motivated by desire for personal or financial gain. This policy is promulgated pursuant to the Institution’s bylaws.

**Administration**

The principal administrative officers of the Institution are listed below:

Stephanie Valle, Chief Executive Officer. Stephanie joined KIPP Tech Valley as its first Executive Director in January 2018, became Executive Director of KIPP Albany Community in 2020, and became

CEO of KIPP Capital in 2022. Prior to joining KIPP Capital, Stephanie worked in the United States Congress for a decade, with extensive education policy, communications, politics and operations experience. This included serving as a Chief of Staff to a member of Congress from Upstate New York and leading his Washington, D.C. and regional offices as well as his legislative and political agenda. A Capital Region native, joining KIPP Capital allowed her to return to Upstate New York full-time and no longer divide her time between Washington D.C. and New York. Stephanie holds a BA from Hamilton College and is a former member of the Board of Directors of the Millennial Action Project.

Gerald Boyd, Chief Operating Officer. A Houston native and first-generation college graduate, Gerald holds a BA from The University of Texas at Austin and a Master's Degree in Educational Leadership and Policy from UT-Arlington. Gerald embarked on his educational journey through Teach for America, evolving from a classroom teacher to roles such as Principal, Executive Principal, Vice President of Schools, and Chief Schools Officer within high-performing networks. Notably, as a founding principal in a network serving students from low-income backgrounds, his leadership consistently garnered "A" school ratings from the Texas Education Agency, which is a testament to the belief that every student can excel given the right opportunities. With a comprehensive background in schools' development phases, including turnaround, start-up, and continuous improvement, Gerald became COO of KIPP Capital in 2024.

Maisie Wright, Chief Academic Officer. Maisie joined Troy Prep first as a Principal of Troy Prep High School in January 2018. Prior to this, Maisie was a Teach for America Corps member in the Mississippi Delta (the "Delta") teaching 7th grade Math and Science. After three years of teaching, Maisie moved to a new community in the Delta to open KIPP Blytheville College Preparatory Middle School ("KIPP BCPS"). When the founding class of KIPP BCPS became freshmen in high school, Maisie expanded the school by opening KIPP Blytheville Collegiate High School. After 11 years in Arkansas, Maisie moved closer to her hometown and joined the Troy Prep community. She was a member of Leverage Leadership Institute in 2020-2021. Maisie holds a BA from Cornell University and a Master's Degree in Education Administration from National Louis University.

Maya Tucci, Chief of Staff. Maya Tucci has been working for KIPP public schools in Albany and New York City since 2008. Prior to joining the regional team in 2021, Maya founded the first KIPP elementary school in Albany after completing the network's Fisher Fellowship. KIPP Tech Valley Primary School opened its doors to 100 kindergarteners in 2016, and her first class of students has since moved on to middle school. Maya has previous experience in instructional leadership, as well as early childhood and foreign language education, and special education. Maya holds a BA from The College of Saint Rose and a Master's Degree in Special Education Inclusion from The University at Albany.

Jon Thatcher, Interim Senior Advisor. Jon Thatcher was the founding Chief Operating Officer at KIPP Capital until December 2023 and has stayed on as a Senior Advisor. Prior to joining KIPP Capital in May 2020, Jon was the Director of Schools and Community Engagement at the New York Charter Schools Association and spent eight years at Uncommon Schools where he was a Director of Operations and a 6th grade ELA teacher. He began his career in education as a Teach For America Corps member teaching 5th grade in the Las Vegas Valley. Jon is a native of Ticonderoga, New York and holds a BA from Union College and a Master's degree in Curriculum and Instruction from The University of Nevada, Las Vegas.

## THE SERIES 2024 PROJECT

Proceeds of the Series 2024 Bonds, together with other available funds, will be applied in large part toward KIPP Capital's state-of-the-art high school facility, targeted to open in August 2025, in time for the 2025-2026 school year. Spanning approximately 96,000 square feet across three stories, the new high school will endeavor to provide high quality education to approximately 800 students. In connection with the construction of the Series 2024 Project, the Institution has entered into a certain AIA Document A133-

2019 Standard Form of Agreement Between Owner and Construction Manager as Constructor] (the “Construction Contract”), between the Institution and BBL Construction Services, LLC. Approximately \$38,604,000 of the total Series 2024 Project costs are expected to be covered under the Construction Contract.

The first floor will feature a dedicated freshmen corridor that includes general classrooms and a science lab dedicated to 9th graders. Also located on the first floor will be a multi-use cafeteria that will double as a stage area for school or community events. To enhance the student and school community, a learning stair will connect the first and second floors, serving as a hub for socialization and gatherings.

KIPP Capital’s comprehensive support services, including counseling, will be located on the second floor. In addition, the second floor will have elective spaces such as an innovation lab, computer and media room, and an art room to provide students with diverse learning opportunities. The third floor will feature advanced science laboratories and a 1.5-story large group instruction room that can be adapted for events and gatherings, fostering a vibrant and engaging learning environment.

This cutting-edge facility will boast 4 science labs, 22 general classrooms, and a high-end security system ensuring the safety and well-being of both students and staff. The school will also include a full-sized gymnasium, fitness center, and modern locker rooms to support KIPP Capital’s athletic programs. Situated adjacent to KIPP Tech Valley’s middle school and elementary school, the high school will complete a K-12 campus, offering families a convenient and seamless access to education within one location.

The following table sets forth the budget for the Series 2024 Project, as provided by management, including which budget components are expected to be paid from Series 2024 Bond proceeds and which are expected to be paid from equity of the Institution.

<b><u>Series 2024 Project Budget</u></b>			
<u>Budget Component</u>	<u>Budgeted Amount (\$)</u>	<u>Costs Within Construction Contract (\$)</u>	<u>Costs Not Within Construction Contract (\$)</u>
Hard Costs (included in Construction Contract)	\$34,368,966	\$34,368,966	\$0
Plan Review, Design, and Pre-Construction (included in Construction Contract)	\$100,000	\$100,000	\$0
Fees and Insurance (included in Construction Contract)	\$1,844,740	\$1,844,740	\$0
Contingencies (included in Construction Contract)	\$2,290,294	\$2,290,294	\$0
Contingencies ( <b>not</b> included in Construction Contract)	\$1,036,132	\$0	\$1,036,132
Engineering and Design Services ( <b>not</b> included in Construction Contract)	\$3,319,278	\$0	\$3,319,278
FF&E ( <b>not</b> included in Construction Contract)	\$2,322,950	\$0	\$2,322,950
<b>Total</b>	<b>\$45,282,360</b>	<b>\$38,604,000</b>	<b>\$6,678,360</b>

The following table sets forth the timeline for the Series 2024 Project and other important dates, as provided by management.

**Series 2024 Project Timeline**

<u>Stage</u>	<u>Date</u>
Final GMP	Week of April 22 <sup>nd</sup>
Issuance of building permit	April 9, 2024
Commence construction of the Series 2024 Project	January 19, 2024
Complete construction of the Series 2024 Project	July 2025

**Architect**

A premier education design firm since 1991, CSArch provides integrated architecture, engineering, planning, interior design, and construction management services to public schools across New York State.

Driven to create exceptional, student-centric spaces, CSArch is recognized for designing lasting facilities that maximize financial resources, stand the test of time, and inspire learners. Over thirty years later, the firm continues to work with its very first public school client, a testament to the long-term value the firm provides. With extensive, firm-wide resources made possible by 65 professionals across two offices, CSArch is experienced in working on all types of education projects ranging in complexity and scale, with individual projects under \$1 million and as large as \$179.9 million.

Accounting for nearly 80% of CSArch’s average annual workload, the firm's K-12 design work has reached \$780 million in construction value over the past five years. This focus in education has contributed to several regional, state, and national award recognitions, including Albany Business Review’s List of Top Architecture Firms in the Capital Region, Engineering News Record’s Top New York Design Firms, #15 on Building Design & Construction’s Top K-12 School Architecture Firms, and numerous K-12 design awards through the American Institute of Architects.

**Contractor**

BBL Construction Services, LLC (“BBL”) is a fully diversified professional construction manager, general contractor and full- service design/build firm headquartered locally in the Capital District with annual construction sales approaching \$500 million. BBL has been serving the Capital District community and surrounding areas for over 50 years with important projects similar to the Series 2024 Project, on time and within budget.

In the past several years, BBL has constructed (or is currently working on) over \$1 billion worth of New York State school projects, many of which include charter schools. From managing the local Henry Johnson Charter School with Rhinebeck Architecture & Planning, to the \$137.5 million project for the Kingston City School District, the BBL team has demonstrated the experience necessary to deliver projects similar to the one being planned on time and within budget. The following is a partial listing of relevant projects that highlight BBL’s diversified experience, many of which involved project adjacent to an occupied facility: Capital Region BOCES Career & Tech Education Center; Capital Region BOCES – Maywood Special Education Center; KIPP Tech Valley Renovation and Addition; Darrow School Renovations; CNSE Tech Valley High; Saugerties CSD Renovations and Additions; and Onteora CSD Renovations & Additions.

BBL construction management teams have won the Build New York award five times, including for its efforts on the Albany County Judicial Center, a County project that was completed without the need

for a single change order. In addition to its construction related awards, BBL has received the NYS AGC Safety of Excellence Award for 18 consecutive years.

The role of BBL safety personnel is to act as facilitators to support BBL’s policies and procedures. BBL’s safety department works with all levels of management to ensure employees receive proper training relative to their scope of employment. Enforcement rests with the safety directors and also with BBL’s project personnel as per BBL’s disciplinary policy. Upon completion of a project, BBL’s project closeout procedure outlines the performance of safety to ensure accountability and disclose lessons learned.

**Project Manager**

Level Field Charter Partners, LLC (“Level Field”) is acting as KIPP Capital’s project consultant for the pre-development and construction of the new high school. The scope of these development consultant services includes project team assemblage, predevelopment management, and overall project planning.

The Level Field team has decades of combined years of experience helping high-performing charter schools address some of their most pressing challenges in order to educate more children, enrich learning environments, and strengthen their economic standing. Level Field has deep internal sector knowledge from having served as charter school financial managers, operations leaders, in-house real estate developers, and general counsels. In the nearly seven years since its launch, Level Field has worked with over 125 different charter schools and related organizations on a wide variety of real estate development, financing, and financial strategy projects. A significant part of Level Field's project experience is in New York State.

**EMPLOYEES AND LABOR RELATIONS**

The following table summarizes the Institution’s employee profile as of April 1, 2024.

	<b><u>Institution Employees (by school)</u></b>							
	<b><u>KACCSE</u></b>	<b><u>KACCSM</u></b>	<b><u>KTVP</u></b>	<b><u>KTVM</u></b>	<b><u>KTPE</u></b>	<b><u>KTPM</u></b>	<b><u>KTPH</u></b>	<b><u>Total</u></b>
Full Time Faculty	45	19	54	30	20	24	23	215
Full Time Administration	4	18	7	10	2	12	4	57
Full Time Support	15	5	13	8	7	5	4	57

Source: Institution Records

KIPP Capital has worked to make itself an employer of choice in the Capital Region. The largest charter network in Upstate New York, KIPP Capital attracts mission-focused employees looking to make a lifelong impact in the lives of students and disrupt educational inequity in an environment that strives to acknowledge and affirm all identities and offers continuous and differentiated professional development to all staff members.

Through partnering with industry leaders in compensation and conducting a comprehensive compensation study, KIPP Capital’s compensation policy is rooted in equity and employee feedback and offers a higher starting salary and larger annual increases than surrounding districts. The organization also focuses on total compensation, offering industry-leading employee benefits like a 403(b) retirement plan with an employer match of 6%, comprehensive, affordable health coverage, tuition reimbursement for career advancement, and on-site and discounted childcare.

Schools and the organization continuously seek and implement feedback from staff members in an effort to enhance personnel policies. Teacher retention rates from the 2022-23 school year to the 2023-2024 year were approximately 75% and, as of the date of this Official Statement, over 90% of staff members have indicated that they plan to return for the 2024-2025 school year in the most recently administered “intent to return” survey.

**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 2023-2024 school year.

<u>Student to Faculty Ratios</u>			
<u>Grade</u>	<u>Ratio</u>	<u>Grade</u>	<u>Ratio</u>
K	10.87	7	15.72
1	11.06	8	15.72
2	11.43	9	10.83
3	10.78	10	10
4	10.78	11	10
5	13.24	12	7.5
6	15.72		

Source: Institution Records

**STUDENT INFORMATION**

**Student Demographics**

The following table shows key demographic statistics tracked by the Institution for the 2022-23 school year.



### Demographic Statistics

	<u>KIPP Tech Valley</u>	<u>KIPP Albany Community</u>	<u>KIPP Troy Prep</u>
Total Enrollment	908	670	740
Male	48%	47%	46%
Female	52%	53%	54%
Non-binary	0%	0%	0%
Low Income	84%	84%	87%
Limited English Proficiency	4%	3%	1%
Students with Disabilities	5%	4%	13%
American Indian or Alaska Native	1%	1%	1%
Asian or Native Hawaiian/Other Pacific	1%	1%	1%
Hispanic or Latino	12%	9%	23%
Black or African American	81%	85%	59%
White	1%	1%	11%
Multi-racial	4%	3%	5%

Source: data.nysed.gov

### **Enrollment**

The following tables set forth KIPP Capital Region's historical and projected enrollment at KIPP Tech Valley, KIPP Albany Community and KIPP Troy Prep.

[Tables appear on the following page]

<b>Historical, Budgeted and Projected Enrollment<sup>1</sup></b>															
	<b>Historical</b>							<b>Budgeted</b>	<b>Projected</b>						
	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>	<b>2030</b>	
<b>KIPP Tech Valley</b>															
Kindergarten	91	91	102	100	92	95	99	100	96	96	96	96	96	96	
1st	0	99	98	104	108	100	100	100	96	96	96	96	96	96	
2nd	0	0	97	102	100	95	104	100	96	96	96	96	96	96	
3rd	0	0	0	100	98	97	93	98	96	96	96	96	96	96	
4th	0	0	0	0	96	100	92	98	96	96	96	96	96	96	
5th	99	99	89	93	72	111	109	93	93	93	93	93	93	93	
6th	102	98	97	97	124	109	101	93	93	93	93	93	93	93	
7th	64	64	73	83	93	113	102	93	93	93	93	93	93	93	
8th	58	40	48	60	74	92	108	93	93	93	93	93	93	93	
<b>Sub-Total</b>	<b>415</b>	<b>491</b>	<b>604</b>	<b>740</b>	<b>857</b>	<b>912</b>	<b>908</b>	<b>868</b>	<b>852</b>	<b>852</b>	<b>852</b>	<b>852</b>	<b>852</b>	<b>852</b>	
<b>KIPP Albany Community</b>															
Kindergarten	77	77	73	73	64	71	77	76	76	76	76	76	76	76	
1st	78	80	74	75	76	70	75	76	76	76	76	76	76	76	
2nd	78	76	78	76	65	76	71	76	76	76	76	76	76	76	
3rd	76	74	75	75	76	74	72	76	76	76	76	76	76	76	
4th	71	79	71	73	78	75	71	76	76	76	76	76	76	76	
5th	78	78	79	71	75	68	72	76	76	76	76	76	76	76	
6th	82	78	69	69	79	88	80	82	82	82	82	82	82	82	
7th	63	78	63	77	83	85	74	82	82	82	82	82	82	82	
8th	79	61	65	56	73	93	77	82	82	82	82	82	82	82	
<b>Sub-Total</b>	<b>682</b>	<b>681</b>	<b>647</b>	<b>645</b>	<b>669</b>	<b>700</b>	<b>670</b>	<b>702</b>	<b>702</b>	<b>702</b>	<b>702</b>	<b>702</b>	<b>702</b>	<b>702</b>	
<b>KIPP Troy Prep</b>															
Kindergarten	62	64	60	66	63	65	63	64	64	64	64	64	64	64	
1st	59	61	63	66	65	62	63	64	64	64	64	64	64	64	
2nd	61	62	61	64	66	66	64	64	64	64	64	64	64	64	
3rd	62	62	63	62	62	64	63	62	62	62	62	62	62	62	
4th	61	64	64	64	66	63	59	62	62	62	62	62	62	62	
5th	61	59	65	63	67	64	62	62	62	62	62	62	62	62	
6th	60	64	64	61	68	62	64	62	62	62	62	62	62	62	
7th	51	56	57	64	69	65	61	62	62	62	62	62	62	62	
8th	50	48	54	61	65	61	59	62	62	62	62	62	62	62	
9th	0	44	44	51	72	64	64	65	65	0	0	0	0	0	
10th	0	0	38	34	42	56	49	60	50	0	0	0	0	0	
11th	0	0	0	26	26	39	41	40	40	0	0	0	0	0	
12th	0	0	0	0	26	23	28	30	30	0	0	0	0	0	
<b>Sub-Total</b>	<b>529</b>	<b>584</b>	<b>634</b>	<b>682</b>	<b>757</b>	<b>754</b>	<b>740</b>	<b>749</b>	<b>749</b>	<b>564</b>	<b>564</b>	<b>564</b>	<b>564</b>	<b>564</b>	
<b>New High School Facility</b>															
9th	0	0	0	0	0	0	0	0	0	220	220	220	220	220	
10th	0	0	0	0	0	0	0	0	0	54	200	200	200	200	
11th	0	0	0	0	0	0	0	0	0	46	49	200	200	200	
12th	0	0	0	0	0	0	0	0	0	55	43	46	180	180	
<b>Sub-Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>375</b>	<b>512</b>	<b>666</b>	<b>800</b>	<b>800</b>	
<b>TOTAL</b>	<b>1,626</b>	<b>1,756</b>	<b>1,885</b>	<b>2,067</b>	<b>2,283</b>	<b>2,366</b>	<b>2,318</b>	<b>2,319</b>	<b>2,303</b>	<b>2,493</b>	<b>2,630</b>	<b>2,784</b>	<b>2,918</b>	<b>2,918</b>	

<sup>1</sup>All years are fiscal years.

**Institution’s Response to COVID-19**

As a result of experiences learned during remote and hybrid instruction during the COVID-19 pandemic and related learning loss and a decreased number of students on grade level, KIPP Capital made several adjustments to the education program: updated, common research-based curricula in core subject areas, a strengthened use of data-driven instruction to meet students’ needs, and increased intervention time to ensure students are making progress. KIPP Capital also selected and administered several externally normed assessments to measure student achievement and progress throughout the pandemic, during the absence of state tests, and continues to do so even as state assessments have resumed. Additionally, KIPP Capital increased resources to the social-emotional well-being of its students, including additional counselors and social workers at each campus.

In response to the COVID-19 pandemic, the Federal Government passed several COVID-19 relief acts which include funding for elementary and secondary education. The Elementary and Secondary School Emergency Relief Fund (“ESSER Fund”) was established to award grants to state and local educational agencies. The Institution was awarded \$8,460,383 in grants for the ESSER Fund, and has recognized \$2,557,759 of revenue relative to such ESSER Fund grants during the fiscal year ended June 30, 2022, and \$2,650,168 during the year ending June 30, 2023. The following table provides information regarding ESSER Fund grants.

<b><u>ESSER FUND GRANTS</u></b>				
<b>Funding</b>	<b>Amount</b>	<b>Purpose</b>	<b>Revenue Awarded Fiscal Year(s)</b>	<b>Revenue Expended Fiscal Year(s)</b>
CARES Funding ESSER I	\$642,782	ESSER 1 funding was used for a number of expenses related to sustaining student learning through the pandemic. These expenses included PPE, technology used to ensure student connectivity, and curriculum and learning management systems needed for remote learning. All of these expenses were necessary to provide as little interruption to student learning as possible	FY21: \$663,232	FY21: \$663,232
CARES Funding ESSER II	\$2,406,924	ESSER 2 funding was used primarily for significant facility improvements to prepare for the full and safe return of students to in person learning. These included significant HVAC upgrades, security controls to adhere to COVID protocol, and sound system improvements to promote social distancing in spaces such as a gymnasium. These were all expenses needed to ensure students and staff could operate within the guidelines of returning to in person instruction through the pandemic.	FY22: \$1,440,455 FY23: \$671,323	FY22: \$1,440,455 FY23: \$671,323
CARES Funding ESSER III	\$5,410,677	ESSER 3 funding was primarily used to address student learning loss resulting from the pandemic. These funds were used to staff positions for after school programming, summer school, and intervention positions for the school day. These programs and staffing positions were needed to provide additional support to students that experienced learning losses through the pandemic.	FY22: \$1,117,304 FY23: \$1,978,845	FY22: \$1,117,304 FY23: \$1,978,845
Source: the Institution.				

## **Admission Eligibility, Lottery and Waitlist**

### Admission Eligibility

KIPP Capital schools are open enrollment, tuition free public schools who welcome all local students. For the 2024-2025 school year, KIPP Capital schools will be enrolling students in grades Kindergarten-12th grade.

A student will be eligible for admission if they are a resident of the State by the application deadline and set to finish the grade prior in the spring of 2024. For Kindergarten admissions, the student must turn five years old by December 1, 2024.

For the 2024-25 school year, the application deadline was April 8, 2024 at 11:59 pm. All students who have submitted a completed application by that date became eligible for admission.

KIPP Capital's enrollment priority is as follows:

1. Any student returning to a KIPP Capital school for another year of school
2. Any student who is a sibling of a current KIPP Capital schools student
3. Any student who is an English language learner
4. Any student who is the child of a KIPP Capital schools employee
5. Any student who qualifies for free or reduced price lunch
6. Any student who is a resident of Troy City School District (KIPP Troy Prep applications) or Albany City School District (KTV/KACC applications)
7. Random selection

If a student wants to have a preference in a lottery or on the waiting list (each discussed below), the question about one's enrollment priority must be answered appropriately. However, applications that do not include this information are still eligible for admission and lottery selection via the random selection process.

### Lottery and Waitlist

In the event the Institution receives a greater number of applications than available seats in any grade eligible for admission, the Institution holds a public lottery. Following the lottery, students selected are extended offers of admission and the remaining applicants are placed on a waiting list. Applications received after the lottery are also added to the waiting list. Admission from the waiting list uses the same admission preferences and students may be offered seats throughout the school year. The waiting list is purged each year and does not carry over to the following school year.

The following tables show the number of offers extended, by grade, as a result of the lottery held on April 11, 2024, as well as the number of applicants placed on the waitlist following as a result of the lottery.

<b>LOTTERY OFFERS EXTENDED ON APRIL 11, 2024</b>								
<b>GRADE</b>	<b>KACCSE</b>	<b>KACCSM</b>	<b>KTVP</b>	<b>KTVM</b>	<b>KTPE</b>	<b>KTPM</b>	<b>KPTH</b>	<b>TOTAL</b>
K	63	-	66	-	62	-	-	191
1	4	-	3	-	-	-	-	7
2	8	-	5	-	2	-	-	15
3	5	-	4	-	-	-	-	9
4	-	-	3	-	-	-	-	3
5	3	-	-	7	-	4	-	14
6	-	14	-	18	-	4	-	36
7	-	12	-	10	-	-	-	22
8	-	4	-	7	-	-	-	11
9	-	-	-	-	-	-	8	8
10	-	-	-	-	-	-	3	3
11	-	-	-	-	-	-	-	-
12	-	-	-	-	-	-	-	-
<b>TOTAL</b>	<b>83</b>	<b>30</b>	<b>81</b>	<b>42</b>	<b>64</b>	<b>8</b>	<b>11</b>	<b>319</b>

<b>APPLICANTS ADDED TO WAITLIST FOLLOWING THE APRIL 11, 2024 LOTTERY</b>								
<b>GRADE</b>	<b>KACCSE</b>	<b>KACCSM</b>	<b>KTVP</b>	<b>KTVM</b>	<b>KTPE</b>	<b>KTPM</b>	<b>KPTH</b>	<b>TOTAL</b>
K	-	-	-	-	2	-	-	2
1	-	-	-	-	7	-	-	7
2	-	-	4	-	3	-	-	7
3	-	-	7	-	8	-	-	15
4	10	-	4	-	11	-	-	25
5	-	-	-	-	-	5	-	5
6	-	-	-	-	-	10	-	10
7	-	-	-	-	-	14	-	14
8	-	-	-	-	-	25	-	25
9	-	-	-	-	-	-	7	7
10	-	-	-	-	-	-	8	8
11	-	-	-	-	-	-	9	9
12	-	-	-	-	-	-	4	4
<b>TOTAL</b>	<b>10</b>	<b>0</b>	<b>15</b>	<b>0</b>	<b>31</b>	<b>54</b>	<b>28</b>	<b>138</b>

The following tables show waiting list data for each of the previous years shown. Historically, schools in the Capital Region do not carry large waiting lists.

**KIPP Capital Region Waiting List Data**

<b><u>Grade</u></b>	<b><u>2021-22 Wait List</u></b>	<b><u>2022-23 Wait List</u></b>	<b><u>2023-24 Wait List</u></b>
K	10	13	29
1	28	72	54
2	63	52	54
3	67	113	63
4	73	72	61
5	58	36	62
6	42	121	104
7	44	47	61
8	15	38	23
9	9	11	21
10	0	12	10
11	2	6	5
12	<u>0</u>	<u>1</u>	<u>0</u>
Total	411	594	547

Source: Institution's records.

**Student Retention**

The following tables shows the number of students at the end of 2022-23 who returned at the beginning of the 2023-24 school year.

**Student Retention Data for the 2023-24 School Year**

	<b><u>Retention Rate</u></b>
KIPP Tech Valley	90.9%
KIPP Albany Community	88.2%
KIPP Troy Prep	91.0%

Source: Institution Records.

**SERVICE AREA, COMPETING SCHOOLS AND POPULATION DATA**

For the past 2 school years since the organization was constituted as KIPP Capital, the Institution has, on average, either hit enrollment targets or started the year within approximately 2% of meeting organization 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:

**Competing Institutions Within Five Mile Radius**

<u>School Name</u>	<u>Date Opened</u>	<u>Charter Expiration</u>	<u>Grades Enrolled (2023-24)</u>	<u>Total Enrollment (2023-24)</u>	<u>Distance from KIPP Tech Valley</u>	<u>Distance from KIPP Albany Community</u>	<u>Distance from KIPP Troy Prep</u>
Henry Johnson Charter School	2007	2025	K-4	360	2.1 miles	3.1 miles	7.5 miles
Brighter Choice School for Boys	2002	2026	K-5	325	1.2 miles	2 miles	6.1 miles
Brighter Choice School for Girls	2002	2026	K-5	325	1.3 miles	1.9 miles	6.3 miles
Albany Leadership Charter School for Girls	2010	2028	6-12	450	2.5 miles	.9 miles	8.7 miles
Green Tech Charter School for Boys	2008	2026	6-12	500	2.4 miles	.3 miles	8.4 miles
Nurses Middle College Charter High School	2023		9	130	3.2 miles	4.8 miles	4.9 miles
Destine Preparatory Charter School	2022	2027	K-2	174	17.7 miles	18.5 miles	21. miles

Source: SUNY Charter School Institute, NYSED

Note: there are currently no co-ed charter high schools in Albany, NY.

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 in an amount necessary to pay debt service on the Series 2024 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 of Albany had a 2024 population of 102,988. The following table presents population trends of the City of Albany, City of Troy, the Albany Metropolitan Statistical Area (the “MSA”, which consists of the six counties of Albany, Greene, Montgomery, Rensselaer, Saratoga and Schenectady), the State and the United States since 1950:

**Comparative Population Data**

	<u>City of Albany</u>	<u>City of Troy</u>	<u>Albany MSA</u>	<u>New York State</u>	<u>United States</u>
1950	134,996	72,311	416,000	14,865,000	151,325,798
1960	129,726	67,492	456,000	16,838,000	179,323,175
1970	115,781	62,918	487,000	18,241,391	203,211,926
1980	101,727	56,638	490,000	17,577,754	226,545,805
1990	100,070	54,801	510,000	18,002,855	248,709,873
2000	94,952	49,166	560,000	19,001,780	281,421,906
2010	97,856	50,129	596,000	19,399,956	308,745,538
2020	99,133	50,684	635,000	20,104,710	331,449,281
2024	102,988	50,453	642,000	19,369,232	341,814,420

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, City of Troy and the State of New York. Listed below are select figures from the 2000, 2010 and 2020 Census Reports.

	<b>Selected Wealth and Income Indicators</b>					
	<b>Per Capita Income</b>			<b>Median Family Income</b>		
	<u>2000</u>	<u>2010</u>	<u>2020</u>	<u>2000</u>	<u>2010</u>	<u>2020</u>
City of Albany	\$35,966	\$46,011	\$68,825	\$43,763	\$54,902	\$72,864
City of Troy	\$32,510	\$44,146	\$62,798	\$42,281	\$53,783	\$70,629
State of New York	\$35,955	\$48,579	\$69,886	\$41,763	\$54,047	\$73,354

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 actually received by the Institution from each City School District for the school years indicated.



**Basic Tuition\***

<u>Fiscal Year</u>	<u>Albany City School District</u>	<u>Troy City School District</u>	<u>Schenectady City School District</u>
2019-20	\$15,861	\$16,883	\$12,802
2020-21	15,718	16,407	12,675
2021-22	16,179	17,237	13,135
2022-23	16,653	16,817	13,614
2023-24	17,298	17,346	14,302

\* Basic tuition represents the amount the sending district pays KIPP Capital for each student, not the amount the district of residence spends per student. In addition to basic tuition, there is a supplemental \$1,000 tuition payment for each student.

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

For the 2023-24 academic year, approximately 48% percent of the Institution’s total student enrollment are resident in the City of Albany School District and approximately 25% percent of the Institution’s total student enrollment are resident in the City of Troy School District. The next two most popular sending districts are Schenectady and Lansingburgh, which each represent 6% of students. The other 15% of students come from other surrounding districts. For the 2023–24 school year, the Institution received approximately \$17,298 for each student resident in the Albany City School District and approximately \$17,346 for each student resident in the Troy City School District. The Institution expects to receive approximately \$38,136,749 in total aid for the 2023-24 school year.

**STUDENT ACADEMIC PERFORMANCE STANDARDS**

The Office of State Assessment (OSA) is responsible for the coordination, development, and implementation of the New York State Testing Program (NYSTP). These examinations are administered to students in Kindergarten through Grade 12 enrolled in public, nonpublic, and charter schools throughout the State.

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 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, for the 2022-2023 school year.

**State of New York Testing Program Assessment Results for 2022-2023 English Language Arts  
(% of students meeting learnings standards and with distinction)**

<u>Grade</u>	<u>KIPP Troy Prep</u>	<u>KIPP Tech Valley</u>	<u>KIPP Albany Community</u>	<u>Albany City School District</u>	<u>Troy City School District</u>	<u>BC Girls School</u>	<u>BC Boys School</u>	<u>Henry Johnson Charter School</u>	<u>New York State</u>
3	34	29	12	28	33	63	27	43	45
4	41	33	19	28	37	51	59	48	49
5	42	22	21	26	41	39	31	-	45
6	50	29	34	25	36	-	-	-	46
7	51	37	29	27	32	-	-	-	48
8	60	34	37	32	42	-	-	-	55

Source: Institution's Records, from data made available by the New York State Education Department

**State of New York Testing Program Assessment Results for 2022-2023 Mathematics  
(% of students meeting learnings standards and with distinction)**

<u>Grade</u>	<u>KIPP Troy Prep</u>	<u>KIPP Tech Valley</u>	<u>KIPP Albany Community</u>	<u>Albany City School District</u>	<u>Troy City School District</u>	<u>BC Girls School</u>	<u>BC Boys School</u>	<u>Henry Johnson Charter School</u>	<u>New York State</u>
3	47	27	26	35	36	70	48	45	54
4	44	36	17	33	35	40	75	63	54
5	49	21	15	30	36	26	42	-	50
6	53	15	10	24	34	-	-	-	48
7	57	23	31	23	30	-	-	-	52
8	-	24	28	4	39	-	-	-	41

Source: Institution's Records, from data made available by the New York State Education Department

**State of New York Testing Program Assessment Results for 2022-2023 Science  
(% of students meeting learnings standards and with distinction)**

<u>Grade</u>	<u>KIPP Troy Prep</u>	<u>KIPP Tech Valley</u>	<u>KIPP Albany Community</u>	<u>Albany City School District</u>	<u>Troy City School District</u>	<u>BC Girls School</u>	<u>BC Boys School</u>	<u>Henry Johnson Charter School</u>	<u>New York State</u>
8	-	14	18	8	42	-	-	-	47

Source: Institution's Records, from data made available by the New York State Education Department

**State of New York Testing Program Assessment Results for 2022-2023 Algebra 1 Regents  
(% of students meeting learnings standards and with distinction)**

Grade	KIPP Troy Prep	KIPP Tech Valley	KIPP Albany Community	Albany City School District	Troy City School District	New York State
8	74	-	-	83	-	83
9	52	-	-	42	62	65

**State of New York Testing Program Assessment Results for 2022-2023 Living Environment Regents  
(% of students meeting learnings standards and with distinction)**

Grade	KIPP Troy Prep	KIPP Tech Valley*	KIPP Albany Community	Albany City School District	Troy City School District	New York State
8	60	29	-	91	-	78
9	42	-	-	47	46	66

\* First year administering the exam.

**AYP Status**

In New York, under the accountability provisions of Title I of the Elementary and Secondary Education Act, as reauthorized by the Every Student Succeeds Act of 2015 (“ESSA”), 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).

Due to COVID-19 and changes to New York State accountability and federal reporting requirements, 2023-24 accountability statuses and support models were determined using a modified methodology based on an approved addendum to New York State’s ESSA plan. Materials published by the New York State Education Department, School Accountability Status, indicate KIPP Tech Valley, KIPP Albany Community and KIPP Troy Prep are all designated as “local support and improvement” schools, meaning they have the foundational systems, processes, and practices to facilitate effective continuous improvement. Based upon 2022-2023 data, all charters were also designated as “made progress.”

**PROPERTY AND LIABILITY INSURANCE COVERAGE**

The Institution’s facilities are covered by (i) a Building and Contents insurance policy having blanket coverage limit of \$60,350,000 Building, \$5,039,000 contents, (ii) a General Liability insurance policy with a limit of \$1 million per occurrence and \$3 million aggregate, (iii) an Automobile Liability policy with a limit of \$1 million, and (iv) an Umbrella Liability insurance policy with a limit of \$25 million 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 Initial Project Facility, emergency repairs of the Initial Project Facility, and major or extraordinary repairs, renewals or replacements of the Initial 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 the Series 2024 Bond financing documents that apply to additional indebtedness.

## **KIPP FOUNDATION**

KIPP Capital Region has a license agreement with the KIPP Foundation to use the KIPP name in exchange for an annual fee (up to \$30,000 per school). The agreement has an annual term, but is renewed automatically unless a party affirmatively exercises its termination rights. While the KIPP Foundation does not have directorial control over KIPP Capital Region, it does provide significant support, resources, and guidance to the region, including professional development, curriculum, data infrastructure, preferred vendors, and direct financial support.

## **FINANCIAL INFORMATION**

### **Projected Revenues and Expenses**

This Official Statement contains certain “forward-looking” statements of the type described in Section 27A of the Securities Act of 1933, as amended and Section 21E of the Securities Exchange Act of 1934, as amended. See cautionary paragraph regarding forward-looking statements included in the Forepart of this Official Statement. 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 schools 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 its schools' 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 the Institution's schools at present or increased levels; competitive conditions within the Institution's service areas; lower-than-projected enrollment; unanticipated expenses; changes in government regulation including changes in the law governing charter schools 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. The Institution's projections have not been independently verified by any third party. 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 the operations of the Institution pertinent to the purchase of the Series 2024 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 FOR CHARTER SCHOOLS, 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 appears on the following page]

**PROJECTED REVENUES AND EXPENSES**

(Years Ending June 30)	Audited		Current		Projected			
	2022	2023	2024	2025	2026	2027	2028	2029
Enrollment	2,366	2,317	2,319	2,303	2,493	2,630	2,784	2,918
Core Per Pupil Aid*	\$15,725	\$16,235	\$16,753	\$17,171	\$17,601	\$18,041	\$18,492	\$18,954
<b>Income</b>								
Core per pupil aid	\$37,269,003	\$37,855,468	\$38,849,097	\$39,545,583	\$43,878,340	\$47,446,865	\$51,480,751	\$55,307,598
Federal	2,823,881	3,668,476	2,873,311	2,346,282	1,861,466	1,864,058	1,880,029	1,590,047
School lunch	2,359,991	2,581,527	2,766,203	2,766,203	3,124,304	3,378,397	3,665,625	3,938,111
Other	423,058	388,858	1,659,837	593,164	668,216	671,219	736,623	817,856
ESSER, ESSER II, ESSER III	2,557,759	2,680,963	1,993,372	-	-	-	-	-
<b>Total Income</b>	<b>\$45,433,692</b>	<b>\$47,175,292</b>	<b>\$48,141,820</b>	<b>\$45,251,232</b>	<b>\$49,532,326</b>	<b>\$53,360,539</b>	<b>\$57,763,027</b>	<b>\$61,653,611</b>
<b>Expenses</b>								
Salaries	\$20,819,395	\$24,764,436	\$26,113,911	\$25,433,239	\$26,453,277	\$28,033,529	\$29,570,718	\$31,117,488
Benefits	5,471,434	6,447,007	7,560,570	7,251,097	7,547,711	8,012,250	8,475,102	8,935,389
Facility, operations, and maintenance	3,089,120	2,597,425	2,040,209	2,045,089	2,262,379	2,458,030	2,668,839	2,868,770
Programmatic	6,700,233	7,988,470	6,692,001	5,952,535	6,619,119	7,218,015	7,863,873	8,475,559
Administrative	5,021,887	1,667,776	1,803,838	1,810,496	2,002,670	2,139,512	2,305,021	2,458,980
<b>Total Operating Expenses</b>	<b>\$41,102,069</b>	<b>\$43,465,114</b>	<b>\$44,210,530</b>	<b>\$42,492,457</b>	<b>\$44,885,156</b>	<b>\$47,861,336</b>	<b>\$50,883,553</b>	<b>\$53,856,186</b>
<b>Net Income Available for Debt Service</b>	<b>\$4,331,623</b>	<b>\$3,710,178</b>	<b>\$3,931,290</b>	<b>\$2,758,775</b>	<b>\$4,647,170</b>	<b>\$5,499,203</b>	<b>\$6,879,474</b>	<b>\$7,797,425</b>
<b>Debt Service Coverage Ratio</b>								
USI Building Loan (P&I)	-	\$56,040	\$385,128	-	-	-	-	-
2020 EFF Loan								
Principal	\$371,004	389,985	409,937	\$430,911	\$452,957	\$476,131	\$500,491	\$526,097
Interest	1,208,989	1,190,008	1,170,056	1,149,082	1,127,036	1,103,862	1,079,502	1,053,896
<b>2020 EFF Loan (P&amp;I)</b>	<b>\$1,579,993</b>	<b>\$1,579,993</b>	<b>\$1,579,993</b>	<b>\$1,579,993</b>	<b>\$1,579,993</b>	<b>\$1,579,993</b>	<b>\$1,579,993</b>	<b>\$1,579,993</b>
Series 2024 Bonds								
Principal	-	-	-	-	-	-	-	-
Interest	-	-	-	\$2,368,050	\$2,442,688	\$2,442,688	\$2,442,688	\$2,442,688
Capitalized Interest	-	-	-	(1,255,189)	(1,073,182)	(364,793)	-	-
Interest Earnings (DSRF, Project Fund, Capl Fund)	-	-	-	(1,112,860)	(179,842)	(108,926)	(93,299)	(91,699)
Series 2024 Bonds (P&I, net)	-	-	-	-	<b>\$1,189,664</b>	<b>\$1,968,968</b>	<b>\$2,349,388</b>	<b>\$2,350,988</b>
<b>Total Annual Debt Service</b>	<b>\$1,579,993</b>	<b>\$1,636,033</b>	<b>\$1,965,121</b>	<b>\$1,579,993</b>	<b>\$2,769,657</b>	<b>\$3,548,961</b>	<b>\$3,929,381</b>	<b>\$3,930,981</b>
<b>Debt Service Coverage Ratio</b>	<b>2.74</b>	<b>2.27</b>	<b>2.00</b>	<b>1.75</b>	<b>1.68</b>	<b>1.55</b>	<b>1.75</b>	<b>1.98</b>
<b>Days Cash on Hand</b>								
Starting cash	\$17,566,027	\$19,156,355	\$16,945,950	\$15,150,619	\$19,265,640	\$21,143,153	\$23,093,395	\$26,043,489
Change in cash	1,590,328	(2,210,405)	1,966,169	1,178,782	1,877,513	1,950,242	2,950,093	3,866,444
One time AR events	-	-	1,238,500	2,936,239	-	-	-	-
Equity contribution to HS project	-	-	(5,000,000)	-	-	-	-	-
<b>Ending Unrestricted Cash/Investments</b>	<b>\$19,156,355</b>	<b>\$16,945,950</b>	<b>\$15,150,619</b>	<b>\$19,265,640</b>	<b>\$21,143,153</b>	<b>\$23,093,395</b>	<b>\$26,043,489</b>	<b>\$29,909,933</b>
Net Cash Operating Expenses (incl. interest)	42,311,058	44,711,162	45,765,713	43,641,540	47,201,856	50,934,166	54,312,443	57,261,070
<b>Days Cash on Hand (incl. interest)</b>	<b>165</b>	<b>138</b>	<b>121</b>	<b>161</b>	<b>163</b>	<b>165</b>	<b>175</b>	<b>191</b>

\* Projections assume Core Per Pupil aid increases at 2.5% per year; also assume salary, benefits, and other expenses increase at 2.5%.

## Outstanding Indebtedness

Below is a list of the outstanding debt of the Institution as of May 1, 2024.

### Outstanding Indebtedness

<u>Description of Debt</u>	<u>Original Principal Amount</u>	<u>Outstanding Principal Amount*</u>
EFF Albany Building Loan	\$24,537,151.60	\$23,212,317.82
Uncommon Troy Prep Buildings	\$3,323,738.41	\$3,034,361.97**

\* As of May 1, 2024.

\*\* To be refinanced with proceeds of the Series 2024 Bonds.

The Institution maintains a line of credit with M&T Bank in the amount of \$1,500,000. The Institution has never drawn on this line of credit and the balance is currently \$0.

### 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 KIPP Tech Valley in 2019, KIPP Albany Community in 2019 (pre-merger) and KIPP Troy Prep in 2023. The purpose of these audits was to determine if student tuition was appropriately billed to the district of residence. The surviving education corporation, originally KIPP Tech Valley, was issued no recommendations as a result of this audit. The KIPP Troy Prep audit has not yet been released but the school does not expect significant findings.

### INFORMATION TECHNOLOGY AND CYBERSECURITY

The Institution, like many other public and private entities, relies on a technology environment to conduct its operations. As a recipient and provider of personal, private, or sensitive information, the Institution is subject to multiple cyber threats including, but not limited to, hacking, viruses, malware and other attacks on computer and other sensitive digital networks and systems. Entities or individuals may attempt to gain unauthorized access to the Institution's digital systems for the purposes of misappropriating assets or information or causing operational disruption and damage. No assurances can be given that the Institution's efforts to manage cyber threats and attacks will be successful or that any such attack will not materially impact the operations or finances of the Institution.

### LITIGATION

The Institution occasionally is threatened to be named, and in some cases named, as a defendant in certain legal actions and proceedings. All such matters are vigorously defended by counsel assigned by the Institution's insurance carriers. Of the currently pending or threatened matters, none exceed the limits of the policies of insurance covering such incidents except one, which is being defended by counsel assigned by the insurance carrier. The Institution does not believe the amount in controversy of this pending matter will have a material adverse effect on the Institution. 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 any 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 any of 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.



**KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS**

**ALBANY, NEW YORK**

**AUDITED FINANCIAL STATEMENTS**

**OTHER FINANCIAL INFORMATION**

**AND**

**INDEPENDENT AUDITOR'S REPORTS**

**JUNE 30, 2023**  
**(With Comparative Totals for 2022)**



BUSINESS  
ADVISORS  
AND CPAS

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BUSINESS  
ADVISORS  
AND CPAS

## INDEPENDENT AUDITOR'S REPORT

Board of Trustees  
KIPP Capital Region Public Charter Schools

### **Report on the Financial Statements**

#### ***Opinion***

We have audited the financial statements of KIPP Capital Region Public Charter Schools (the "Charter School") which comprise the statement of financial position as of June 30, 2023 and the related statements of activities and changes in net assets, functional expenses, and cash flows 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 KIPP Capital Region Public Charter Schools as of June 30, 2023, 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 (GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. 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 KIPP Capital Region Public 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.

#### ***Emphasis of Matter- Merger and Name Change***

As outlined on Note A, effective July 1, 2022, KIPP Albany Community Public Charter Schools merged with True North Troy Preparatory Charter School, renamed KIPP Troy Prep Charter School, with KIPP Albany Community Public Charter Schools being the surviving education corporation, under the amended name KIPP Capital Region Public Charter Schools. The financial statements for the year ended June 30, 2023 include all three schools; KIPP Tech Valley Charter School, Albany Community Charter School and KIPP Troy Prep Charter School. The financial statements for the year ended June 30, 2022 include only two schools; KIPP Tech Valley Charter School and Albany Community Charter School. Our opinion is not modified with respect to this matter.

### ***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 KIPP Capital Region Public Charter Schools' ability to continue as a going concern for 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 GAAS 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 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 GAAS, 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 KIPP Capital Region Public 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 KIPP Capital Region Public 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.

### ***Report on Summarized Comparative Information***

We have previously audited the Charter Schools' June 30, 2022 financial statements, and we expressed an unmodified opinion on those audited financial statements in our report dated December 14, 2022. In our opinion, the summarized comparative information presented herein as of and for the year ended June 30, 2022 is consistent, in all material respects, with the audited financial statements from which it has been derived.

**Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated December 21, 2023 on our consideration of KIPP Capital Region Public 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 that report 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 internal control over financial reporting or compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering KIPP Capital Region Public Charter Schools' internal control over financial reporting and compliance.

*Mengel, Metzger, Barw & Co. LLP*

Rochester, New York  
December 21, 2023

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

STATEMENT OF FINANCIAL POSITION

JUNE 30, 2023

(With Comparative Totals for 2022)

<u>ASSETS</u>	<u>June 30,</u>	
	<u>2023</u>	<u>2022</u>
<u>CURRENT ASSETS</u>		
Cash and cash equivalents	\$ 16,414,231	\$ 12,242,566
Grants and contracts receivable	5,996,488	2,783,398
Accounts receivable, net of allowance for uncollectible accounts of \$1,180,000 and \$800,000 respectively	716,727	1,245,602
Prepaid expenses	235,128	92,481
Inventory	75,838	87,902
<b>TOTAL CURRENT ASSETS</b>	<b>23,438,412</b>	<b>16,451,949</b>
<u>PROPERTY AND EQUIPMENT, net</u>	33,670,767	28,782,919
<u>OTHER ASSETS</u>		
Restricted cash - debt services reserve fund	131,665	131,665
Cash designated by Board for operating reserve	356,384	351,393
Cash in escrow	175,335	150,335
Security deposits	-	3,280
	663,384	636,673
<b>TOTAL ASSETS</b>	<b>\$ 57,772,563</b>	<b>\$ 45,871,541</b>
<u>LIABILITIES AND NET ASSETS</u>		
<u>CURRENT LIABILITIES</u>		
Current portion of loan payable	\$ 701,489	\$ 389,985
Accounts payable and accrued expenses	1,851,572	998,096
Accrued payroll and benefits	1,141,736	711,912
Deferred revenue	-	5,000
<b>TOTAL CURRENT LIABILITIES</b>	<b>3,694,797</b>	<b>2,104,993</b>
<u>OTHER LIABILITIES</u>		
Long-term debt including loan premium of \$4,166,198 and \$4,318,156, net of loan issuance costs of \$284,908 and \$295,299, respectively	30,019,313	27,610,164
<b>TOTAL LIABILITIES</b>	<b>33,714,110</b>	<b>29,715,157</b>
<u>NET ASSETS</u>		
Without donor restrictions	24,037,397	16,123,132
With donor restrictions	21,056	33,252
<b>TOTAL NET ASSETS</b>	<b>24,058,453</b>	<b>16,156,384</b>
<b>TOTAL LIABILITIES AND NET ASSETS</b>	<b>\$ 57,772,563</b>	<b>\$ 45,871,541</b>

The accompanying notes are an integral part of the financial statements.

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

STATEMENT OF ACTIVITIES AND CHANGES IN NET ASSETS

YEAR ENDED JUNE 30, 2023  
(With Comparative Totals for 2022)

	Without donor restrictions	With donor restrictions	Year ended June 30,	
			<u>2023</u>	<u>2022</u>
			Total	Total
Operating revenue and support:				
Public School District:				
Resident student enrollment	\$ 36,791,969	\$ -	\$ 36,791,969	\$ 25,040,203
Students with disabilities	1,063,499	-	1,063,499	363,711
Grants and contracts:				
Federal - Title and IDEA	1,030,394	-	1,030,394	665,870
Federal - Other	5,319,045	-	5,319,045	3,541,328
Food service / Child Nutrition Program	2,581,527	-	2,581,527	1,529,210
<b>TOTAL OPERATING REVENUE AND SUPPORT</b>	<u>46,786,434</u>	<u>-</u>	<u>46,786,434</u>	<u>31,140,322</u>
Expenses:				
Program services:				
Regular education	34,956,190	-	34,956,190	21,939,085
Special education	2,949,884	-	2,949,884	1,957,631
Management and general	8,720,459	-	8,720,459	5,860,542
<b>TOTAL EXPENSES</b>	<u>46,626,533</u>	<u>-</u>	<u>46,626,533</u>	<u>29,757,258</u>
<b>SURPLUS FROM SCHOOL OPERATIONS</b>	159,901	-	159,901	1,383,064
Other income (expense):				
Fundraising	-	-	-	21,127
Contributions	38,133	20,000	58,133	241,734
Interest income	178,435	-	178,435	141
Other income	152,290	-	152,290	160,056
Net assets released from restriction	32,196	(32,196)	-	-
	<u>401,054</u>	<u>(12,196)</u>	<u>388,858</u>	<u>423,058</u>
<b>CHANGE IN NET ASSETS</b>	560,955	(12,196)	548,759	1,806,122
Net assets at beginning of year	16,123,132	33,252	16,156,384	14,350,262
Transfer in of True North Troy Preparatory				
Charter School net assets at beginning of year	7,353,310	-	7,353,310	-
	<u>23,476,442</u>	<u>33,252</u>	<u>23,509,694</u>	<u>14,350,262</u>
<b>NET ASSETS AT END OF YEAR</b>	<u>\$ 24,037,397</u>	<u>\$ 21,056</u>	<u>\$ 24,058,453</u>	<u>\$ 16,156,384</u>

The accompanying notes are an integral part of the financial statements.

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

STATEMENT OF FUNCTIONAL EXPENSES

YEAR ENDED JUNE 30, 2023  
(With Comparative Totals for 2022)

	Year ended June 30,						
	2023			2022			
	No. of Positions	Program Services		Sub-total	Supporting Services Management and General		Total
	Regular Education	Special Education					
Personnel services costs:							
Administrative staff personnel	109	\$ 8,482,082	\$ 543,854	\$ 9,025,936	\$ 2,508,247	\$ 11,534,183	\$ 7,110,259
Instructional personnel	202	10,955,178	1,398,211	12,353,389	-	12,353,389	7,926,331
Non-instructional personnel	32	-	-	-	876,864	876,864	625,633
Total salaries and staff	343	19,437,260	1,942,065	21,379,325	3,385,111	24,764,436	15,662,223
Fringe benefits and payroll taxes							
Retirement		2,647,593	164,487	2,812,080	2,825,228	5,637,308	3,517,338
Staff development		381,219	22,856	404,075	405,624	809,699	582,233
Supplies / Materials		1,075,462	66,555	1,142,017	43,306	1,185,323	519,130
Food services		859,711	53,834	913,545	-	913,545	385,404
Legal services		1,064,958	-	1,064,958	-	1,064,958	683,520
Accounting services		-	-	-	107,021	107,021	116,911
Other Purchased / Professional / Consulting Services		-	-	-	105,662	105,662	53,090
Office expense		1,029,968	68,375	1,098,343	25,431	1,123,774	1,060,560
Depreciation		166,859	11,469	178,328	275,672	454,000	418,673
Utilities		1,669,334	118,880	1,788,214	198,690	1,986,904	1,264,643
Equipment / Furnishings		550,194	37,940	588,134	63,662	651,796	425,248
Repairs and maintenance		275,650	17,109	292,759	63,141	355,900	146,042
Insurance		1,332,179	98,576	1,430,755	158,974	1,589,729	850,755
Interest		236,563	14,761	251,324	252,145	503,469	291,966
Marketing / Recruitment		1,001,837	55,225	1,057,062	117,453	1,174,515	1,067,423
Student services		167,287	10,375	177,662	-	177,662	266,689
Bad debt expense		2,295,547	219,188	2,514,735	83,399	2,598,134	1,291,935
Dues and subscriptions		710,179	44,734	754,913	199,170	954,083	371,000
Other		54,390	3,455	57,845	170,161	227,996	756,886
		\$ 34,956,190	\$ 2,949,884	\$ 37,906,074	\$ 8,720,459	\$ 46,626,533	\$ 29,757,258

The accompanying notes are an integral part of the financial statements.



KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

STATEMENT OF CASH FLOWS

YEAR ENDED JUNE 30, 2023  
 (With Comparative Totals for 2022)

	<u>Year ended June 30,</u>	
	<u>2023</u>	<u>2022</u>
<u>CASH FLOWS - OPERATING ACTIVITIES</u>		
Change in net assets	\$ 548,759	\$ 1,806,122
Adjustments to reconcile change in net assets to net cash provided from operating activities:		
Bad debt expense	199,170	371,000
Depreciation and amortization	1,986,904	1,264,643
Loan premium accretion reducing interest expense	(151,958)	(151,959)
Amortization of loan issuance costs included in interest expense	10,391	10,392
Changes in certain assets and liabilities affecting operations:		
Grants and contracts receivable	(2,832,459)	(1,553,211)
Accounts receivable	498,285	(701,905)
Prepaid expenses	(139,920)	7,578
Inventory	12,064	48,191
Security deposits	3,280	-
Accounts payable and accrued expenses	598,292	146,266
Accrued payroll and benefits	429,824	167,429
Deferred revenue	(181,273)	5,000
NET CASH PROVIDED FROM OPERATING ACTIVITIES	981,359	1,419,546
<u>CASH FLOWS - INVESTING ACTIVITIES</u>		
Purchases of property and equipment	(5,922,319)	(1,372,240)
Transfer of cash from True North Troy Preparatory Charter School	6,203,800	-
Transfer of dissolution escrow from True North Troy Preparatory Charter School	76,596	-
NET CASH PROVIDED FROM (USED FOR) INVESTING ACTIVITIES	358,077	(1,372,240)
<u>CASH FLOWS - FINANCING ACTIVITIES</u>		
Borrowings on long term debt	3,323,738	-
Repayment of long term debt	(461,518)	(371,005)
NET CASH PROVIDED FROM (USED FOR) FINANCING ACTIVITIES	2,862,220	(371,005)
NET INCREASE (DECREASE) IN CASH, CASH EQUIVALENTS AND RESTRICTED CASH	4,201,656	(323,699)
Cash, cash equivalents, and restricted cash at beginning of year	12,875,959	13,199,658
CASH, CASH EQUIVALENTS, AND RESTRICTED CASH AT END OF YEAR	<u>\$ 17,077,615</u>	<u>\$ 12,875,959</u>

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

STATEMENT OF CASH FLOWS, Cont'd

YEAR ENDED JUNE 30, 2023  
(With Comparative Totals for 2022)

	<u>Year ended June 30,</u>	
	<u>2023</u>	<u>2022</u>
<u>SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION</u>		
Reconciliation of cash, cash equivalents and restricted cash reported within the statement of financial position that sum to the total amounts shown in the statement of cash flows:		
Cash and cash equivalents	\$ 16,414,231	\$ 12,242,566
Restricted cash - debt service reserve fund	131,665	131,665
Cash designated by Board for operating reserve	356,384	351,393
Cash in escrow	<u>175,335</u>	<u>150,335</u>
Total cash, cash equivalents, and restricted cash shown in the statement of cash flows	<u>\$ 17,077,615</u>	<u>\$ 12,875,959</u>
Cash paid during the year for interest	<u>\$ 1,292,442</u>	<u>\$ 1,208,990</u>
<u>NON-CASH OPERATING AND INVESTING ACTIVITIES</u>		
Purchase of property and equipment through accounts payable	<u>\$ 365,359</u>	<u>\$ 70,660</u>
Non-cash transactions:		
Transfer of assets and liabilities from True North Troy Preparatory Charter School to KIPP Capital Region Public Charter Schools:		
Grants and contracts receivable	\$ 380,631	\$ -
Accounts receivable	168,580	-
Prepaid expenses	2,727	-
Property and equipment, net	1,317,792	-
Accounts payable and accrued expenses	(620,543)	-
Deferred revenue	(176,273)	-
Net assets, without donor restrictions	<u>(7,353,310)</u>	<u>-</u>
Cash received	<u>\$ (6,280,396)</u>	<u>\$ -</u>

The accompanying notes are an integral part of the financial statements.

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2023

(With Comparative Totals for 2022)

NOTE A: THE CHARTER SCHOOL AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The Charter School

KIPP Capital Region Public Charter Schools (the “Charter School”) is an education corporation operating charter schools in Albany, New York.

The Charter School is comprised of Albany Community Charter School (“KIPP ACCS”), KIPP Tech Valley Charter School (“KIPP Tech Valley”), and KIPP Troy Prep Charter School (“KIPP Troy Prep”). Effective July 1, 2020, ACCS merged with KIPP Tech Valley, with KIPP Tech Valley being the surviving education corporation under the amended name KIPP Albany Community Public Charter Schools. Effective July 1, 2022, KIPP Albany Community Public Charter Schools merged with True North Troy Preparatory Charter School, renamed KIPP Troy Prep Charter School, with KIPP Albany Community Public Charter Schools being the surviving education corporation, under the amended name KIPP Capital Region Public Charter Schools. The financial statements for the year ended June 30, 2023 include all three schools; KIPP Tech Valley Charter School, Albany Community Charter School and KIPP Troy Prep. Charter School. The financial statements for the year ended June 30, 2022 include only two schools; KIPP Tech Valley Charter School and Albany Community Charter School.

ACCS was organized in 2006 to operate a charter school for grades K-5, pursuant to Article 56 of the New York State Education Law and in accordance with related charter agreements with the Board of Regents of the University of the State of New York. In January 2012, ACCS received approval to modify its charter renewal and add a middle school program to its existing elementary school program, adding grades 6 through 8 in subsequent years through June 30, 2017. A charter renewal was granted in 2016 and again in 2021, extending the school’s operations for an additional five years, expiring in July 2026.

KIPP Tech Valley was organized in 2004 to operate a charter school for grades 5 through 8, pursuant to Article 56 of the New York State Education Law and in accordance with related charter agreements with the Board of Regents of the University of the State of New York. In 2015, KIPP Tech Valley received approval to modify its charter to include kindergarten through grade 4. A charter renewal was granted in 2010, 2015, and 2020 extending the school’s operations for an additional five years, expiring June 30, 2025.

KIPP Troy Prep was organized in 2008 to operate a charter school for grades K-12, pursuant to Article 56 of the New York State Education Law and in accordance with related charter agreements with the Board of Regents of the University of the State of New York. During the year ended June 30, 2019, the charter was approved for a full term renewal for a period of five years to commence August 1, 2019. Effective July 1, 2022, True North Troy Preparatory Charter School was renamed KIPP Troy Prep Charter School. In October 2023, the charter was approved for a full term renewal for a period of five years, expiring July 31, 2029.

The Charter School is governed by a Board of Trustees in accordance with the Charter School’s by-laws. The Charter School is a member of Knowledge is Power Program (KIPP) a network of nationally recognized private sector schools through a trademark license agreement with the KIPP Foundation. KIPP provides support and member services to the Charter School to assist the Charter School in fulfilling its mission of preparing all students for future opportunities.

Basis of accounting

The accompanying financial statements are prepared on the accrual basis of accounting, in accordance with accounting principles generally accepted in the United States of America (“GAAP”).

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

NOTES TO FINANCIAL STATEMENTS, Cont'd

JUNE 30, 2023

(With Comparative Totals for 2022)

NOTE A: THE CHARTER SCHOOL AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, Cont'd

Classification of net assets

To ensure observance of limitations and restrictions placed on the use of resources available to the Charter School, the accounts of the Charter School are maintained in accordance with the principles of accounting for not-for-profit organizations. This is the procedure by which resources are classified for reporting purposes into net asset groups, established according to their nature and purpose. Accordingly, all financial transactions have been recorded and reported by net asset group.

The assets, liabilities, activities, and net assets are classified based on the existence or absence of donor or grantor-imposed restrictions. Accordingly, net assets and changes therein are classified and reported as follows:

Net Assets Without Donor Restrictions

Net assets available for use in general operations and not subject to donor (or certain grantor) restrictions. The Board of Trustees has discretionary control to use these in carrying on operations in accordance with the guidelines established by the Charter School.

Net Assets With Donor Restrictions

Net assets subject to donor (or certain grantor) imposed restrictions. Some donor-imposed restrictions are temporary in nature, such as those that will be met by the passage of time or other events specified by the donor. Other donor-imposed restrictions are perpetual in nature, where the donor stipulates that resources be maintained in perpetuity. Donor-imposed restrictions are released when a restriction expires, that is, when the stipulated time has elapsed, when the stipulated purpose for which the resource was restricted has been fulfilled, or both. Net assets with donor restrictions were \$21,056 and \$33,252 at June 30, 2023 and 2022 respectively.

Revenue recognition

Revenue from Exchange Transactions: The Charter School recognizes revenue in accordance with Financial Accounting Standards Board (FASB) Accounting Standards Update (ASU) 2014-09, Revenue from Contracts with Customers, as amended. ASU 2014-09 applies to exchange transactions with customers that are bound by contracts or similar arrangements and establishes a performance obligation approach to revenue recognition.

The Charter School records substantially all revenues over time as follows:

State and local per pupil revenue

The Charter School recognizes revenue as educational programming is provided to students throughout the year. The Charter School earns state and local per pupil revenue based on the approved per pupil tuition rate of the public school district in which the pupil resides. The amount received each year from the resident district is the product of the approved per pupil tuition rate and the full-time equivalent student enrollment of the Charter School. Each NYS school district has a fixed per pupil tuition rate which is calculated annually by NYSED in accordance with NYS Education Law. Amounts are billed in advance every other month and payments are typically received in six installments during the year. At the end of each school year, a reconciliation of actual enrollment to billed enrollment is performed and any additional amounts due or excess funds received are agreed upon between the Charter School and the district(s) and are paid or recouped. Additional funding is available for students requiring special education services. The amount of additional funding is dependent upon the length of time and types of services provided by the Charter School to each student, subject to a maximum amount based upon a set rate for each district as calculated by NYSED.

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

NOTES TO FINANCIAL STATEMENTS, Cont'd

JUNE 30, 2023

(With Comparative Totals for 2022)

NOTE A: THE CHARTER SCHOOL AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, Cont'd

Contract balances consisted of \$716,727, net of allowances, \$1,245,602, net of allowances, and \$914,697, net of allowances, of accounts receivable at June 30, 2023, 2022, and 2021, respectively.

Contributions

Contributions received are recorded as without donor restrictions or with donor restrictions support depending on the existence and/or nature of any donor-imposed restrictions. The Charter School reports grants of cash and other assets as restricted support if they are received with stipulations that limit their use. When a restriction expires, that is, when a stipulated time or purpose restriction is accomplished, donor restricted net assets are reclassified to without donor restriction net assets and reported in the Statement of activities as net assets released from restrictions. The Charter School reports restricted grants as unrestricted support whenever the restrictions are met in the same year the grants are received.

Grant revenue

Some of the Charter School's revenue is derived from cost-reimbursable federal and state contracts and grants, which are conditioned upon certain performance requirements and/or the incurrence of allowable qualifying expenses. Amounts received are recognized as revenue when the Charter School has incurred expenditures in compliance with specific contract or grant provisions. Certain grants are subject to audit and retroactive adjustments by its funders. Any changes resulting from these audits are recognized in the year they become known. Qualifying expenditures that have been incurred but are yet to be reimbursed are reported as grants receivable in the accompanying statement of financial position.

Cash and cash equivalents

Cash and cash equivalents balances are maintained at financial institutions located in New York and are insured by the Federal Deposit Insurance Corporation up to \$250,000 at each institution. Cash equivalents include all high liquid instruments with maturities of three months or less when acquired. In the normal course of business, the cash account balances at any given time may exceed insured limits. However, the Charter School has not experienced any losses in such accounts and does not believe it is exposed to significant risk in cash and cash equivalents.

Cash in escrow

The Charter School maintains cash in an escrow account in accordance with the terms of its charter agreements. The amount in escrow was \$175,335 and \$150,335 at June 30, 2023 and 2022, respectively. The agreement requires a balance be maintained to fund any audit and legal expenses incurred should the Charter School cease operations and dissolve.

Grants, contracts and accounts receivables

Grants, contracts and accounts receivables are stated at the amount management expects to collect from outstanding balances. Management provides for probable uncollectible amounts based on its assessment of the current status of individual receivables from grants, agencies and others. Balances that are still outstanding after management has used reasonable collection efforts are written off against the allowance for doubtful accounts. Management has recorded an allowance of \$1,180,000 and \$800,000 as of June 30, 2023 and 2022, respectively.

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

NOTES TO FINANCIAL STATEMENTS, Cont'd

JUNE 30, 2023

(With Comparative Totals for 2022)

NOTE A: THE CHARTER SCHOOL AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, Cont'd

Inventory

Inventory consists of student uniforms and clothing available for use in the Charter School's everyday operation. The inventory is stated at the lower of cost (on a first-in, first-out basis) or net realizable value and is based on a physical inventory taken by management at June 30, 2023 and 2022.

Property and equipment

Property and equipment are recorded at cost. Depreciation and amortization are computed using the straight-line method on a basis considered adequate to depreciate the assets over their estimated useful lives, which range from three to forty years.

Major renewals and betterments are capitalized, while repairs and maintenance are charged to operations as incurred. Upon sale or retirement, the related cost and allowances for depreciation are removed from the accounts and the related gain or loss is reflected in operations.

Contributed services

The Charter School receives contributed services from volunteers to develop its academic program and to serve on the Board of Trustees. These services are not valued in the financial statements because they do not require "specialized skills" and would typically not be purchased if they were not contributed. The Charter School received donated services from unpaid volunteers who assisted in fundraising, office administration and program activities. The Charter School was unable to determine a value for these services. In addition, the Charter School received donated transportation and other services from the local school district as part of their responsibilities to the students residing in their district.

Tax exempt status

The Charter School is a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code and applicable state regulation and, accordingly, is exempt from federal and state taxes on income.

The Charter School files Form 990 tax returns in the U.S. federal jurisdiction. The tax returns for the years ended June 30, 2020 through June 30, 2023 are still subject to potential audit by the IRS. Management of the Charter School believes it has no material uncertain tax positions and, accordingly it will not recognize any liability for unrecognized tax benefits.

Marketing costs

The Charter School expenses marketing costs as they are incurred. Total marketing costs approximated \$177,600 and \$266,700 for the years ended June 30, 2023 and 2022 respectively.

In-kind contributions

Gifts and donations other than cash are recorded at fair market value at the date of contribution. There were no in-kind contributions received for the years ended June 30, 2023 and 2022.

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

NOTES TO FINANCIAL STATEMENTS, Cont'd

JUNE 30, 2023

(With Comparative Totals for 2022)

NOTE A: THE CHARTER SCHOOL AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, Cont'd

Use of estimates in the preparation of financial statements

The preparation of financial statements in accordance with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures 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.

New accounting pronouncement – credit losses

In June 2016 the FASB issued ASU 2016-13, "Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments" (ASU 2016-13), which requires entities to use a new impairment model referred to as the current expected credit losses (CECL) model rather than incurred losses. The new standard affects accounting for loans, accounts (trade) receivable, held-to-maturity debt securities, and other financial assets included in the scope. For non-public entities, the new standard is effective for fiscal years beginning after December 15, 2022, including interim periods within those fiscal years. The Charter School is currently evaluating the provisions of this standard to determine the impact the new standard will have on the Charter School's financial position or results of operations.

Adoption of new accounting standard – leases

In February 2016, the FASB issued a new standard related to leases to increase transparency and comparability among entities by requiring the recognition of right-of-use ("ROU") assets and lease liabilities on the statement of financial position. Most prominent among the changes in the standard is the recognition of ROU assets and lease liabilities by lessees for those leases classified as operating leases under current U.S. GAAP. For nonpublic entities, the FASB voted on May 20, 2020, to extend the guidance in this new standard to be effective for fiscal years beginning after December 15, 2021, and interim periods within fiscal years beginning after December 15, 2022. The Charter School implemented this standard with no impact to the financial statements.

Comparatives for year ended June 30, 2022

The financial statements include certain prior year summarized comparative information in total but not by net asset class or functional classification. Such information does not include sufficient detail to constitute a presentation in conformity with accounting principles generally accepted in the United States of America. Accordingly, such information should be read in conjunction with the Charter School's financial statements for the year ended June 30, 2022, from which the summarized information was derived.

Reclassifications

Certain prior year amounts have been reclassified to conform with the current year presentation.

Subsequent events

The Charter School has conducted an evaluation of potential subsequent events occurring after the statement of financial position date through December 21, 2023, which is the date the financial statements are available to be issued. No subsequent events requiring disclosure were noted, except as disclosed in Note A.

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

NOTES TO FINANCIAL STATEMENTS, Cont'd

JUNE 30, 2023

(With Comparative Totals for 2022)

NOTE B: LIQUIDITY AND AVAILABILITY

The Charter School regularly monitors liquidity required to meet its operating needs and other contractual commitments. The Charter School's main source of liquidity is its cash accounts.

For purposes of analyzing resources available to meet general expenditures over a 12-month period, the Charter School considers all expenditures related to its ongoing activities of teaching, and public service as well as the conduct of services undertaken to support those activities to be general expenditures.

In addition to financial assets available to meet general expenditures over the next 12 months, the Charter School operates with a surplus budget and anticipates collecting sufficient revenue to cover general expenditures not covered by donor-restricted resources. Refer to the statement of cash flows which identifies the sources and uses of the Charter School's cash and shows positive cash generated by operations for fiscal year 2023 and 2022.

Financial assets available for general expenditure, that is, without donor or other restrictions limiting their use, within one year of the statement of financial position date, comprise the following at June 30, 2023 and 2022:

	June 30,	
	<u>2023</u>	<u>2022</u>
Cash and cash equivalents	\$ 16,414,231	\$ 12,242,566
Grants and contracts receivable	5,996,488	2,783,398
Accounts receivable, net	<u>716,727</u>	<u>1,245,602</u>
Total financial assets available to management within one year	23,127,446	16,271,566
Less:		
Amounts unavailable for general expenditures within one year, due to:		
Donor restrictions	<u>(21,056)</u>	<u>(33,252)</u>
Total financial assets available to management for general expenditures within one year	<u>\$ 23,106,390</u>	<u>\$ 16,238,314</u>



KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

NOTES TO FINANCIAL STATEMENTS, Cont'd

JUNE 30, 2023

(With Comparative Totals for 2022)

NOTE C: NET ASSETS

At June 30, 2023 and 2022, net assets without donor restrictions consisted of the following

	<u>June 30,</u>	
	<u>2023</u>	<u>2022</u>
Undesignated	\$ 16,564,850	\$ 10,670,813
Cash designated by Board for operating reserve	356,384	351,393
Invested in property and equipment, net of related debt excluding premium	<u>7,116,163</u>	<u>5,100,926</u>
	<u>\$ 24,037,397</u>	<u>\$ 16,123,132</u>

At June 30, 2023 and 2022, net assets with donor restrictions are as follows:

	<u>June 30,</u>	
	<u>2023</u>	<u>2022</u>
KIPP Foundation - Rebranding	\$ 6,166	\$ 14,477
Relay GSE Leadership Program	-	18,775
3M Life Science Grant	<u>14,890</u>	<u>-</u>
	<u>\$ 21,056</u>	<u>\$ 33,252</u>

NOTE D: PROPERTY AND EQUIPMENT

Property and equipment at June 30, 2023 and 2022 consisted of the following:

	<u>June 30,</u>	
	<u>2023</u>	<u>2022</u>
Land	\$ 3,567,025	\$ 3,430,892
Buildings and improvements	34,835,538	28,551,596
Other depreciable property	-	72,044
Furniture and equipment	<u>6,722,059</u>	<u>3,373,668</u>
	45,124,622	35,428,200
Less accumulated depreciation and amortization	<u>11,453,855</u>	<u>6,645,281</u>
	<u>\$ 33,670,767</u>	<u>\$ 28,782,919</u>

Depreciation and amortization expense for the years ended June 30, 2023 and 2022 was \$1,986,904 and \$1,264,643 respectively.

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

NOTES TO FINANCIAL STATEMENTS, Cont'd

JUNE 30, 2023

(With Comparative Totals for 2022)

NOTE E: CONTINGENCY

Certain grants and contracts may be subject to audit by funding sources. Such audits might result in disallowance of costs submitted for reimbursement by the Charter School. Management is of the opinion that such disallowances, if any, will not have a material effect on the accompanying financial statements. Accordingly, no amounts have been provided in the accompanying financial statements for such potential claims.

NOTE F: CONCENTRATIONS

At June 30, 2023 and 2022, approximately 100% of grants and contracts receivable were due from federal agencies relating to certain grants. In addition, 69% and 63% of gross accounts receivable is due from three school districts at June 30, 2023 and 2022, respectively.

For the years ended June 30, 2023 and 2022, approximately 81% and 82% of total operating revenue and support came from per-pupil funding provided by New York State. The per-pupil rate is set annually by the State based on the school district in which the Charter School's students are located.

NOTE G: LOANS PAYABLE

On December 1, 2020, the Charter School obtained financing of \$24,537,152 from Equitable Facilities Fund, Inc. ("Fund"). In order to facilitate this refinance, the Fund issued a bond, Obligation #1. The proceeds from the bond issuance were loaned to the Charter School. The loan requires monthly payments including interest at a coupon rate of 5% and are secured by mortgages on the buildings. Loan payable consists of the following at June 30, 2023 and 2022:

	<u>June 30,</u>	
	<u>2023</u>	<u>2022</u>
Obligation #1, coupon rate of 5%, due through December 2050	\$ 23,587,307	\$ 23,977,292
Add: unaccreted loan premium	4,166,198	4,318,156
Less: debt issuance costs, net of accumulated amortization	<u>(284,908)</u>	<u>(295,299)</u>
	27,468,597	28,000,149
Less: current portion of loan payable	<u>(409,937)</u>	<u>(389,985)</u>
	<u>\$ 27,058,660</u>	<u>\$ 27,610,164</u>

Unaccreted loan premium related to the issuance of Obligation #1 was \$4,166,198 and \$4,318,156 at June 30, 2023 and 2022, respectively. The unaccreted premium costs are accreted over the term of the indebtedness of the total amount issued and are included in loan payable in the statement of financial position. Debt issuance costs, net of accumulated amortization total \$284,908 and \$295,299 as of June 30, 2023 and 2022, respectively, and are recorded as a reduction in loan payable on the accompanying statement of financial position.

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

NOTES TO FINANCIAL STATEMENTS, Cont'd

JUNE 30, 2023

(With Comparative Totals for 2022)

NOTE G: LOANS PAYABLE, Cont'd

Debt issuance costs consist of the following at June 30, 2023 and 2022:

	<u>June 30,</u>	
	<u>2023</u>	<u>2022</u>
Debt issuance costs	\$ 311,753	\$ 311,753
Less: accumulated amortization	<u>26,845</u>	<u>16,454</u>
	<u>\$ 284,908</u>	<u>\$ 295,299</u>

In addition, on March 29, 2023, the Charter School obtained financing of \$3,323,738 from Troy Prep Foundation, Inc. to finance the purchase of a building. The loan requires monthly payments of \$32,094, which is based on a ten year amortization schedule, including interest of 3% and is secured by the building. The original maturity date is July 1, 2025. The Charter School can exercise its right to extend the original maturity date to July 1, 2026 with interest at the greater of prime or 4% from July 1, 2025 through October 31, 2025 and interest at the greater of prime plus 2% or 4.5% from November 1, 2025 through July 1, 2026.

The aggregate amount of principal payments subsequent to June 30, 2023 are approximately as follows assuming the loan due to Troy Prep Foundation, Inc. is not extended:

<u>Year ending June 30,</u>	<u>Amount</u>
2024	\$ 701,489
2025	731,330
2026	3,113,190
2027	476,131
2028	500,491
Thereafter	<u>21,316,881</u>
	<u>\$ 26,839,512</u>

In connection with the loan payable, the Charter School is required to maintain certain financial covenants. At June 30, 2023, the Charter School is in compliance with these covenants.

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

NOTES TO FINANCIAL STATEMENTS, Cont'd

JUNE 30, 2023

(With Comparative Totals for 2022)

NOTE H: RETIREMENT PLAN

Albany Community Charter School

KIPP ACCS had adopted a profit-sharing plan under IRC §401(k) covering all eligible employees. The School contributed a matching contribution to each eligible employee's profit-sharing plan at the rate of 4% of the employee's gross compensation for the calendar year. Effective July 1, 2021, the participants of this plan were given the option to roll their balances into the KIPP Tech Valley Charter School 403(b) Plan or receive a distribution. The 401(k) plan was liquidated and closed as of September 30, 2021. No contributions were made to this plan for the year ended June 30, 2022.

KIPP Capital Region Public Charter Schools 403(b) Plan (formerly, The KIPP Tech Valley Charter School 403(b) Plan)

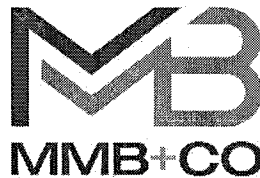
The Charter School has a 403(b) tax-deferred annuity retirement plan, which is funded by contributions from both the Charter School and its employees. Effective July 1, 2022, the plan's name was changed to KIPP Capital Region Public Charter Schools 403(b) plan. The KIPP Troy Prep employees became eligible to contribute into the 403(b) plan on July 1, 2022. During the years ended June 30, 2023 and 2022, employee contributions totaled \$809,699 and \$582,233, respectively.

NOTE I: ACCOUNTING IMPACT OF COVID-19 OUTBREAK

In response to the COVID-19 outbreak, the Federal Government passed several COVID relief acts which include funding for elementary and secondary education. The Elementary and Secondary School Emergency Relief fund (ESSER Fund) was established to award grants to state and local educational agencies. The Charter School has recognized \$2,650,168 and \$1,773,959 of revenue relative to ESSER grants during the years ended June 30, 2023 and 2022, respectively. As of June 30, 2023, the Charter School has approximately \$2,589,000 of ESSER grants available for expenditure through September 30, 2024.

**KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS**

**OTHER FINANCIAL INFORMATION**



BUSINESS  
ADVISORS  
AND CPAS

INDEPENDENT AUDITOR'S REPORT ON OTHER FINANCIAL INFORMATION

Board of Trustees  
KIPP Capital Region Public Charter Schools

We have audited the financial statements of KIPP Capital Region Public Charter Schools as of and for the year ended June 30, 2023, and we have issued our report thereon dated December 21, 2023, which contained an unmodified opinion on those financial statements. Our audit was conducted for the purpose of forming an opinion on the financial statements as a whole. The 2023 other financial information hereinafter is presented for purposes of additional analysis and is not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the financial statements for the year ended June 30, 2023, as a whole.

*Mengel, Metzger, Barz & Co. LLP*

Rochester, New York  
December 21, 2023

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

STATEMENT OF ACTIVITIES BY CHARTER

YEAR ENDED JUNE 30, 2023

	<u>KIPP Tech Valley Charter School</u>	<u>Albany Community Charter School</u>	<u>KIPP Troy Prep Charter School</u>	<u>Total</u>
Operating revenue and support:				
Public School District:				
Resident student enrollment	\$ 14,435,687	\$ 10,882,614	\$ 11,473,668	\$ 36,791,969
Students with disabilities	401,089	132,399	530,011	1,063,499
Grants and contracts				
Federal - Title and IDEA	396,500	319,454	314,440	1,030,394
Federal - Other	1,202,647	1,733,166	2,383,232	5,319,045
Food service / Child Nutrition Program	<u>1,006,796</u>	<u>748,643</u>	<u>826,089</u>	<u>2,581,527</u>
TOTAL OPERATING REVENUE AND SUPPORT	17,442,719	13,816,276	15,527,439	46,786,434
Expenses:				
Program services:				
Regular education	12,832,892	10,987,462	11,135,836	34,956,190
Special education	1,251,688	510,022	1,188,174	2,949,884
Management and general	<u>3,382,823</u>	<u>2,644,736</u>	<u>2,692,900</u>	<u>8,720,459</u>
TOTAL EXPENSES	<u>17,467,403</u>	<u>14,142,220</u>	<u>15,016,910</u>	<u>46,626,533</u>
SURPLUS (DEFICIT) FROM SCHOOL OPERATIONS	<u>(24,684)</u>	<u>(325,944)</u>	<u>510,529</u>	<u>159,901</u>
Other income:				
Contributions	16,859	22,672	18,603	58,133
Interest income	51,746	69,590	57,099	178,435
Other income	<u>44,164</u>	<u>59,393</u>	<u>48,733</u>	<u>152,290</u>
TOTAL OTHER INCOME	<u>112,769</u>	<u>151,655</u>	<u>124,435</u>	<u>388,858</u>
CHANGE IN NET ASSETS	<u>\$ 88,085</u>	<u>\$ (174,289)</u>	<u>\$ 634,964</u>	<u>\$ 548,759</u>

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

STATEMENT OF FUNCTIONAL EXPENSES BY CHARTER – KIPP TECH VALLEY CHARTER SCHOOL

YEAR ENDED JUNE 30, 2023

	No. of Positions	Program Services			Sub-total	Supporting Services Management and General	Total
		Regular Education	Special Education				
Personnel services costs:							
Administrative staff personnel	38	\$ 2,954,895	\$ 158,672	\$ 3,113,567	\$ 947,289	\$ 4,060,856	
Instructional personnel	76	3,949,295	718,212	4,667,507	-	4,667,507	
Non-instructional personnel	13	-	-	-	420,408	420,408	
Total salaries and staff	127	6,904,190	876,884	7,781,074	1,367,697	9,148,771	
Fringe benefits and payroll taxes							
Retirement		1,036,750	55,672	1,092,422	1,048,832	2,141,254	
Staff development		159,092	8,543	167,635	160,946	328,581	
Supplies / Materials		389,184	20,898	410,082	8,218	418,300	
Food services		196,559	10,555	207,114	-	207,114	
Legal services		427,924	-	427,924	-	427,924	
Accounting services		-	-	-	41,677	41,677	
Other Purchased / Professional / Consulting Services		-	-	-	41,252	41,252	
Office expense		354,849	18,734	373,583	12,954	386,537	
Depreciation		45,598	2,575	48,173	101,398	149,571	
Utilities		663,325	39,019	702,344	78,038	780,382	
Equipment / Furnishings		171,924	9,765	181,689	19,530	201,219	
Repairs and maintenance		129,629	6,966	136,595	33,129	169,724	
Insurance		359,850	21,168	381,018	42,335	423,353	
Interest		96,331	5,173	101,504	97,454	198,958	
Marketing / Recruitment		522,465	30,733	553,198	61,467	614,665	
Student services		68,322	3,669	71,991	-	71,991	
Bad debt expense		996,184	123,871	1,120,055	32,478	1,152,533	
Dues and subscriptions		-	-	-	77,563	77,563	
Other		286,816	16,179	302,995	66,433	369,428	
		23,900	1,284	25,184	91,422	116,606	
		\$ 12,832,892	\$ 1,251,688	\$ 14,084,580	\$ 3,382,823	\$ 17,467,403	



KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

STATEMENT OF FUNCTIONAL EXPENSES BY CHARTER – KIPP ALBANY COMMUNITY CHARTER SCHOOL

YEAR ENDED JUNE 30, 2023

	No. of Positions	Program Services			Sub-total	Supporting Services and Management and General		Total
		Regular Education	Special Education			Management and General	General	
Personnel services costs:								
Administrative staff personnel	31	\$ 2,621,422	\$ 71,944	\$ 2,693,366	\$ 792,133	\$ 3,485,499		
Instructional personnel	61	3,222,545	279,848	3,502,393	-	3,502,393		
Non-instructional personnel	10	-	-	-	219,169	219,169		
Total salaries and staff	102	5,843,967	351,792	6,195,759	1,011,302	7,207,061		
Fringe benefits and payroll taxes								
Retirement		806,830	22,143	828,973	876,849	1,705,822		
Staff development		119,870	3,290	123,160	130,272	253,432		
Supplies / Materials		352,467	9,673	362,140	19,471	381,611		
Food services		351,042	9,634	360,676	-	360,676		
Legal services		305,938	-	305,938	-	305,938		
Accounting services		-	-	-	31,382	31,382		
Other Purchased / Professional / Consulting Services		-	-	-	30,933	30,933		
Office expense		279,852	7,559	287,411	5,992	293,403		
Depreciation		63,358	2,023	65,381	65,381	130,762		
Utilities		506,977	17,482	524,459	58,273	582,732		
Equipment / Furnishings		202,724	6,839	209,563	22,796	232,359		
Repairs and maintenance		73,582	2,116	75,698	14,476	90,174		
Insurance		487,567	16,813	504,380	56,044	560,424		
Interest		68,800	1,888	70,688	74,770	145,458		
Marketing / Recruitment		391,425	13,498	404,923	44,992	449,915		
Student services		49,308	1,353	50,661	-	50,661		
Bad debt expense		822,945	35,932	858,877	24,455	883,332		
Dues and subscriptions		-	-	-	58,402	58,402		
Other		246,934	7,607	254,541	50,127	304,668		
		13,876	380	14,256	68,819	83,075		
		\$ 10,987,462	\$ 510,022	\$ 11,497,484	\$ 2,644,736	\$ 14,142,220		

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

STATEMENT OF FUNCTIONAL EXPENSES BY CHARTER – KIPP TROY PREP CHARTER SCHOOL

YEAR ENDED JUNE 30, 2023

	No. of Positions	Program Services			Sub-total	Supporting Services		Total
		Regular Education	Special Education			Management and General		
Personnel services costs:								
Administrative staff personnel	40	\$ 2,905,765	\$ 313,238	\$ 3,219,003	\$ 768,825	\$ 3,987,828		
Instructional personnel	65	3,783,338	400,151	4,183,489	-	4,183,489		
Non-instructional personnel	9	-	-	-	237,287	237,287		
Total salaries and staff	114	6,689,103	713,389	7,402,492	1,006,112	8,408,604		
Fringe benefits and payroll taxes								
Retirement		804,013	86,672	890,685	899,547	1,790,232		
Staff development		102,257	11,023	113,280	114,406	227,686		
Supplies / Materials		333,811	35,984	369,795	15,617	385,412		
Food services		312,110	33,645	345,755	-	345,755		
Legal services		331,096	-	331,096	-	331,096		
Accounting services		-	-	-	33,962	33,962		
Other Purchased / Professional / Consulting Services		-	-	-	33,477	33,477		
Office expense		395,267	42,082	437,349	6,485	443,834		
Depreciation		57,903	6,871	64,774	108,893	173,667		
Utilities		499,032	62,379	561,411	62,379	623,790		
Equipment / Furnishings		175,546	21,336	196,882	21,336	218,218		
Repairs and maintenance		72,439	8,027	80,466	15,536	96,002		
Insurance		484,762	60,595	545,357	60,595	605,952		
Interest		71,432	7,700	79,132	79,921	159,053		
Marketing / Recruitment		87,947	10,994	98,941	10,994	109,935		
Student services		49,657	5,353	55,010	-	55,010		
Bad debt expense		476,418	59,385	535,803	26,466	562,269		
Dues and subscriptions		-	-	-	63,205	63,205		
Other		176,429	20,948	197,377	53,601	250,978		
		16,614	1,791	18,405	80,368	98,773		
		\$ 11,135,836	\$ 1,188,174	\$ 12,324,010	\$ 2,692,900	\$ 15,016,910		

**KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS**

**ALBANY, NEW YORK**

**SCHEDULES REQUIRED BY**  
**GOVERNMENT AUDITING STANDARDS AND**  
**THE UNIFORM GUIDANCE**

**AND**

**INDEPENDENT AUDITOR'S REPORTS**

**JUNE 30, 2023**



BUSINESS  
ADVISORS  
AND CPAS

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BUSINESS  
ADVISORS  
AND CPAS

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

Board of Trustees  
KIPP Capital Region Public Charter Schools

We have audited, in accordance with 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 KIPP Capital Region Public Charter Schools, which comprise the statement of financial position as of June 30, 2023 and the related statements of activities and changes in net assets, functional expenses, and cash flows for the year then ended and the related notes to the financial statements and have issued our report thereon dated December 21, 2023.

**Internal Control Over Financial Reporting**

In planning and performing our audit of the financial statements, we considered KIPP Capital Region Public Charter Schools' internal control over financial reporting (internal control) as a basis for designing 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 KIPP Capital Region Public Charter Schools' internal control. Accordingly, we do not express an opinion on the effectiveness of KIPP Capital Region Public Charter 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 severe 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 and therefore, material weaknesses or significant deficiencies may exist that were not identified. We identified certain deficiencies in internal control, described in the accompanying schedule of findings and questioned costs, as item 2023-001 that we consider to be a material weakness.

## Compliance and Other Matters

As part of obtaining reasonable assurance about whether KIPP Capital Region Public 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*.

## KIPP Capital Region Public Charter Schools' Response to Findings

KIPP Capital Region Public Charter Schools' response to the findings identified in our audit is described in the accompanying schedule of findings and questioned costs. KIPP Capital Region Public Charter Schools' response was not subject to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

## 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 entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

*Mengel, Metzger, Barw & Co. LLP*

Rochester, New York  
December 21, 2023



BUSINESS  
ADVISORS  
AND CPAS

INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE FOR EACH MAJOR FEDERAL PROGRAM;  
REPORT ON INTERNAL CONTROL OVER COMPLIANCE; AND REPORT ON THE SCHEDULE OF  
EXPENDITURES OF FEDERAL AWARDS IN ACCORDANCE WITH THE UNIFORM GUIDANCE

Board of Trustees  
KIPP Capital Region Public Charter Schools

**Report on Compliance for Each Major Federal Program**

***Opinion on Each Major Federal Program***

We have audited KIPP Capital Region Public Charter Schools' compliance with the types of compliance requirements identified as subject to audit in the OMB *Compliance Supplement* that could have a direct and material effect on each of KIPP Capital Region Public Charter Schools' major federal programs for the year ended June 30, 2023. KIPP Capital Region Public Charter Schools' major federal programs are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs.

In our opinion, KIPP Capital Region Public Charter Schools' complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended June 30, 2023.

***Basis for Opinion on Each Major Federal Program***

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America (GAAS); the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States (*Government Auditing Standards*); 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). Our responsibilities under those standards and the Uniform Guidance are further described in the Auditor's Responsibilities for the Audit of Compliance section of our report.

We are required to be independent of KIPP Capital Region Public Charter Schools and to meet our other ethical responsibilities, in accordance with 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 opinion on compliance for each major federal program. Our audit does not provide a legal determination of KIPP Capital Region Public Charter Schools' compliance with the compliance requirements referred to above.

### ***Responsibilities of Management for Compliance***

Management is responsible for compliance with the requirements referred to above and for the design, implementation, and maintenance of effective internal control over compliance with the requirements of laws, statutes, regulations, rules and provisions of contracts or grant agreements applicable to KIPP Capital Region Public Charter Schools' federal programs.

### ***Auditor's Responsibilities for the Audit of Compliance***

Our objectives are to obtain reasonable assurance about whether material noncompliance with the compliance requirements referred to above occurred, whether due to fraud or error, and express an opinion on KIPP Capital Region Public Charter Schools' compliance based on our audit. 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 GAAS, *Government Auditing Standards*, and the Uniform Guidance will always detect material noncompliance when it exists. The risk of not detecting material noncompliance resulting from fraud is higher than for that resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Noncompliance with the compliance requirements referred to above is considered material, if there is a substantial likelihood that, individually or in the aggregate, it would influence the judgment made by a reasonable user of the report on compliance about KIPP Capital Region Public Charter Schools' compliance with the requirements of each major federal program as a whole.

In performing an audit in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material noncompliance, 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 KIPP Capital Region Public Charter Schools' compliance with the compliance requirements referred to above and performing such other procedures as we considered necessary in the circumstances.
- Obtain an understanding of KIPP Capital Region Public Charter Schools' internal control over compliance relevant to the audit in order to design audit procedures that are appropriate in the circumstances 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 KIPP Capital Region Public Charter Schools' internal control over compliance. Accordingly, no such opinion is expressed.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and any significant deficiencies and material weaknesses in internal control over compliance that we identified during the audit.



### ***Report on 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 type of compliance requirement of a federal program on a timely basis. A *material weakness in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of 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 type of 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 Auditor's Responsibilities for the Audit of Compliance section above and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies in internal control over compliance. Given these limitations, during our audit we did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above. However, material weaknesses or significant deficiencies in internal control over compliance may exist that were not identified.

Our audit was not designed for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, no such opinion is expressed.

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.

### ***Report on Schedule of Expenditures of Federal Awards Required by the Uniform Guidance***

We have audited the financial statements of KIPP Capital Region Public Charter Schools as of and for the year ended June 30, 2023, and have issued our report thereon dated December 21, 2023, which contained an unmodified opinion on those financial statements. Our audit was performed for the purpose of forming an opinion on the financial statements as a whole. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by the Uniform Guidance and is not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the schedule of expenditures of federal awards is fairly stated in all material respects in relation to the financial statements as a whole.

*Mengel, Metzger, Baw & Co. LLP*

Rochester, New York  
December 21, 2023

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS  
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS  
YEAR ENDED JUNE 30, 2023

	<u>Federal AL Number</u>	<u>Pass-through Grantor's Number</u>	<u>Total Federal Expenditures</u>
U.S. Department of Education:			
<u>Passed through New York State Education Department:</u>			
Title I - Grants to Local Educational Agencies	84.010	0021	\$ 859,909
Title IIA - Supporting Effective Instruction State Grant	84.367	0147	108,347
Title IV - Student Support and Academic Enrichment Program	84.424	0204	62,138
<u>Education Stabilization Funds -</u>			
ESSER II - Elementary and Secondary School Emergency Relief Fund	84.425D	5891	671,323
American Rescue Plan - Elementary and Secondary School Emergency Relief	84.425U	5880	<u>1,978,845</u>
<i>Total Education Stabilization Funds</i>			<u>2,650,168</u>
<u>Passed through KIPP Foundation:</u>			
Charter School Program - Replication and Expansion of High-Quality Charter Schools	84.282M	U282M190024	<u>2,331,334</u>
<b>TOTAL U.S. DEPARTMENT OF EDUCATION</b>			<b>6,011,896</b>
Federal Communications Commission:			
Emergency Connectivity Fund Program - COVID	32.009	16067880	<u>337,543</u>
<b>TOTAL FEDERAL COMMUNICATIONS COMMISSION</b>			<b>337,543</b>
U.S. Department of Agriculture:			
<u>Passed through New York State Education Department:</u>			
<i>Child Nutrition Cluster</i>			
School Breakfast Program	10.553	010100860867	709,270
National School Lunch Program	10.555	010100860867	1,770,090
Emergency Operational Cost - COVID	10.555	010100860867	<u>55,001</u>
<i>Total Child Nutrition Cluster</i>			<u>2,534,361</u>
<b>TOTAL U.S. DEPARTMENT OF AGRICULTURE</b>			<b>2,534,361</b>
<b>TOTAL ALL PROGRAMS</b>			<b><u>\$ 8,883,800</u></b>

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS  
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS, Cont'd  
YEAR ENDED JUNE 30, 2023

NOTE A: BASIS OF PRESENTATION

The above schedule of expenditures of federal awards includes the federal grant activity of KIPP Capital Region Public Charter Schools and is presented on the accrual basis of accounting. The information in this schedule is presented in accordance with the requirements of Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Therefore, some amounts presented in this schedule may differ from amounts presented in, or used in the preparation of, the basic financial statements.

NOTE B: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Expenditures reported on the Schedule are reported on the accrual basis of accounting. Such expenditures are recognized following, as applicable, the cost principles contained in Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, wherein certain types of expenditures are not allowable or are limited as to reimbursement.

KIPP Capital Region Public Charter Schools has elected not to use the 10 percent de minimis indirect cost rate allowed under the Uniform Guidance.

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

SCHEDULE OF FINDINGS AND QUESTIONED COSTS

YEAR ENDED JUNE 30, 2023

SUMMARY OF AUDITOR'S RESULTS

Financial Statements

Type of auditor's report issued:	Unmodified		
Internal control over financial reporting:			
• Material weakness (es) identified?	<u>  x  </u>	yes	<u>      </u> no
• Significant deficiency(ies) identified that are not considered to be material weaknesses?	<u>      </u>	yes	<u>  x  </u> none reported
Noncompliance material to financial statements noted?	<u>      </u>	yes	<u>  x  </u> no

Federal Awards

Internal control over major programs:			
• Material weakness (es) identified?	<u>      </u>	yes	<u>  x  </u> no
• Significant deficiency(ies) identified that are not considered to be material weaknesses?	<u>      </u>	yes	<u>  x  </u> 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 2 CFR 200.516(a)?	<u>      </u>	yes	<u>  x  </u> no

Identification of major program:

*AL Number:*

84.425D

84.425U

*Name of Federal Program or Cluster:*

ESSER II - Elementary and Secondary School  
Emergency Relief Fund  
American Rescue Plan - Elementary and  
Secondary Emergency Relief Fund

Dollar threshold used to distinguish between type A and type B programs:	<u>  \$750,000  </u>
--	----------------------

Auditee qualified as low-risk auditee?	<u>  x  </u>	yes	<u>      </u>	no
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KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS  
SCHEDULE OF FINDINGS AND QUESTIONED COSTS, Cont'd  
YEAR ENDED JUNE 30, 2023

FINDING 2023-01 –ACCOUNTING RECORDS

*Criteria:* During our 2023 audit, we identified the need for certain significant adjustments to properly state financial statement balances in accordance with accounting principles generally accepted in the United States of America (GAAP). We consider this to be a material weakness in internal control over financial reporting.

*Condition:* The adjustments were pervasive to many accounts within the Charter School and required all accounts to be re-reconciled prior to the completion of the audit.

*Cause:* During the 2023 fiscal year, the internal finance team did not record certain transactions or reconcile certain accounts on a routine basis throughout the year, resulting in significant adjustments at year-end to properly state financial statement balances in accordance with GAAP.

*Effect or Potential Effect:* Certain financial statement balances were misstated, and audit adjustments were required. Management may not have accurate financial information when making decisions if transactions are not properly recorded.

*Repeat finding:* No.

*Context:* During our 2023 audit, we noted that although the Charter School continues to grow in size and number of schools, there has not been a proportional increase in the accounting department's staffing. This has led to the lack of timely reconciliations of account balances, improper recording of the merger of KIPP Troy Prep Charter School and subsequent activity, and preparedness for auditors. This was compounded by turnover within the accounting department, the implementation of new accounting software, new third party payroll provider software, and the additional volume of transactions and activity related to the merger of KIPP Troy Prep Charter School. This resulted in the Charter School requesting an extension of the required deadline from their authorizer. This also resulted in a pause on the audit process and the auditors restarting the audit once the reconciliation process had been completed for the fiscal year end.

*Recommendation:* In order to provide accurate accounting information, we recommend the Charter School establishes a more effective review and reconciliation process as a customary part of the accounting process. This would involve preparing monthly reconciliations of all significant accounts and performing more frequent reviews of the general ledger throughout the year, including making any necessary adjustments. We also recommend management reviews the year-end closing entries to ensure all appropriate accruals and payables have been recorded. Finally, the Charter School should ensure their internal accounting records are in agreement with the audited financial statements. In order to accomplish these improvements, we recommend the Charter School increase the financial staffing either internally or with external assistance.

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS  
SCHEDULE OF FINDINGS AND QUESTIONED COSTS, Cont'd  
YEAR ENDED JUNE 30, 2023

*Views of responsible officials:*

The Charter School management team agrees with this finding. During the 2022-23 fiscal year, the Charter School experienced significant organizational growth through the merger of three schools into the education corporation. As a result, the Charter School needed to quickly scale systems and personnel to ensure strong accounting procedures and policies as well as prepare for this first audit. Due to staffing challenges and the work required to implement new systems, the Charter School experienced an uncharacteristic lag in readiness for the annual audit.

Specifically, at the beginning of the fiscal year, the Charter School transitioned to new accounting software to better ensure the long-term fiscal health of the education corporation. This software provides a more sophisticated accounting system and has been a major upgrade for the Charter School. However, the migration of data and transition to the new system has required continued training and professional development to ensure the system was implemented in an effective way that strengthened the Charter School's accounting processes. The Charter School's accounting team has engaged consultants familiar with the software that have provided ongoing system functionality training and best practices to implement while using the software.

Second, the departure of the Director of Accounting in the midst of audit preparation further delayed the closeout of the prior fiscal year and preparation for the audit. Additionally, efforts to grow the team took a longer recruitment process than initially hoped for in order to find qualified candidates; however, the Charter School did hire a new Accounting Coordinator at the end of July to support the various accounting and finance functions of the Charter School's team. These vacancies and transitions resulted in the decreased capacity of the team to ensure accounts were reconciled timely while also managing the increased transactions in the organization. The Charter School has taken necessary steps in recent months to increase the capacity of the accounting team which is summarized in the Corrective Action Section below.

The Charter School is confident in its strengthened Financial Management Team and that the organization is now positioned well to effectively implement strong policies and procedures.

**Corrective Action:**

Since fiscal year end, the Charter School has enacted processes that ensure account reconciliations are completed timely and that adjusting entries each month are minimal. Additionally, the Charter School has grown the capacity of the accounting team with additional support from its external contracted accounting consultant to support the accounting processes of the organization. These corrective actions are summarized in more detail below:

1. Beginning in September 2023, the Charter School has increased the scope of work provided by its external accounting consultant firm. The increased scope includes additional senior accounting personnel to support month end processes, account reconciliation, system implementation and training, and identifying best practices for all fiscal policies and procedures. This additional support played an important role in reconciling accounts for the audit and the additional team members will continue to provide expertise and rigorous review of our accounting processes throughout the fiscal year.

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

SCHEDULE OF FINDINGS AND QUESTIONED COSTS, Cont'd

YEAR ENDED JUNE 30, 2023

2. Working with this external accounting team, the Charter School is implementing a strong month end and quarter end accounting process. Specifically, the Charter School will undergo an internal audit of all financial statements each quarter to ensure account balances are accurate and current. This internal audit is meant to imitate the external audit that the organization has at the end of the fiscal year. This process will result in year end closing processes operating efficiently to ensure that there are no delays in future audits, and the Charter School can meet the November 1st deadline moving forward.
3. The Charter School is also taking necessary steps to increase the capacity of the internal accounting team. In addition to focused development for the current team members, the Charter Schools has posted a vacancy for an additional position on the Financial Management team that will manage the payroll process. This addition will increase the capacity of all members of the accounting team including those charged with financial oversight and reporting responsibilities.

The Charter School thanks our auditors for these recommendations and we believe our corrective action plan will ensure that we have strong internal controls of our financial procedures going forward.

FINDINGS AND QUESTIONED COSTS – MAJOR FEDERAL AWARD PROGRAMS AUDIT

- NONE

SCHEDULE OF PRIOR YEAR FINDINGS AND QUESTIONED COSTS

- NONE

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CITY OF ALBANY CAPITAL  
RESOURCE CORPORATION

AND

MANUFACTURERS AND TRADERS TRUST COMPANY,  
AS TRUSTEE

TRUST INDENTURE

DATED AS OF JUNE 1, 2024

RELATING TO THE TAX-EXEMPT REVENUE BONDS (KIPP  
CAPITAL REGION PUBLIC CHARTER SCHOOLS PROJECT),  
SERIES 2024 IN THE AGGREGATE PRINCIPAL AMOUNT OF  
\$50,105,000 ISSUED BY CITY OF ALBANY CAPITAL RESOURCE  
CORPORATION.

THIS INSTRUMENT IS INTENDED TO CONSTITUTE A SECURITY  
AGREEMENT UNDER THE UNIFORM COMMERCIAL CODE OF  
THE STATE OF NEW YORK.

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a portion of the costs of the foregoing by the issuance of the Initial Bonds; (D) the paying of all or a portion of the costs incidental to the issuance of the Initial Bonds, including issuance costs of the Initial Bonds, capitalized interest and any reserve funds as may be necessary to secure the Initial Bonds; and (E) the making of a loan (the "Loan") of the proceeds of the Initial Bonds to the Institution by the Issuer; and

WHEREAS, pursuant to the authorization contained in a resolution adopted by the members of the board of directors of the Issuer on April 18, 2024 (the "Inducement Resolution"), the Chief Executive Officer of the Issuer (A) caused notice of the public hearing of the Issuer (the "Public Hearing") pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") and, as provided in the Certificate of Incorporation, pursuant to the applicable provisions of Section 859-a and Section 859-b of the General Municipal Law of the State of New York (the "GML"), to hear all persons interested in the Initial Project and the financial assistance being contemplated by the Issuer with respect to the Initial Project, published on April 27, 2024 in the Daily Gazette and on April 29, 2024 in the Albany Times Union, respectively, each a newspaper of general circulation available to the residents of the City of Albany, New York, (B) caused notice of the Public Hearing to be posted on April 29, 2024 on a public bulletin board located at City Hall, 24 Eagle Street, in the City of Albany, New York, (C) caused notice of the Public Hearing to be posted on April 29, 2024 on the Issuer's website, (D) caused notice of the Public Hearing to be mailed on April 26, 2024 to the chief executive officers of the county and of each city, town, village and school district in which the Initial Project Facility is (or will be) located, (E) conducted the Public Hearing on May 8, 2024 at 12:00 o'clock p.m. local time at 21 Lodge Street in the City of Albany, Albany County, New York, and (F) prepared a report of the Public Hearing (the "Public Hearing Report") which fairly summarized the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the board of directors of the Issuer and to the Mayor of the City (the "Mayor"); and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6NYCRR Part 617, as amended (the "Regulations") and collectively with the SEQR Act, "SEORA"), by resolution adopted by the members of the board of directors of the Issuer on May 16, 2024 (the "SEQR Resolution"), the Issuer (A) concurred in the determination that the City of Albany Planning Board (the "Planning Board") is the "lead agency" with respect to SEORA and (B) acknowledged receipt of a negative declaration from the Planning Board dated September 13, 2023 (the "Negative Declaration"), in which the Planning Board determined that the Initial Project is a "Type I action" and that the Initial Project will result in no significant adverse impacts on the environment, and therefore, an environmental impact statement need not be prepared; and

WHEREAS, by resolution adopted by the members of the board of directors of the Issuer on May 16, 2024 (the "Initial Bond Resolution"), the board of directors of the Issuer (A) authorized the issuance of the Initial Bonds for the purpose of financing a portion of the costs of the Initial Project, (B) authorized the circulation of a preliminary official statement (the "Initial Preliminary Official Statement") in connection with the marketing of the Initial Bonds and (C) delegated to the Chairperson, Vice Chairperson or Chief Executive Officer of the Issuer authority to determine the final details of the Initial Bonds (the "Bond Details") once the marketing of the Initial Bonds is completed and the Institution has agreed to the Bond Details; and

WHEREAS, by certificate executed by the Mayor on May 29, 2024 (the "Public Approval"), the Mayor approved the issuance of the Initial Bonds for purposes of Section 147(f) of the Code; and

TRUST INDENTURE

THIS TRUST INDENTURE dated as of June 1, 2024 (the "Indenture") by and between CITY OF ALBANY CAPITAL RESOURCE CORPORATION, a not-for-profit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 21 Lodge Street, Albany, New York (the "Issuer") and MANUFACTURERS AND TRADERS TRUST COMPANY, a banking corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 285 Delaware Avenue - 3rd Floor, Buffalo, New York, as trustee (the "Trustee") for the holders of (A) the Issuer's Tax-Exempt Revenue Bonds (KIPP Capital Region Public Charter School Project), Series 2024 in the aggregate principal amount of \$50,105,000 (the "Initial Bonds") and (B) any additional bonds issued by the Issuer hereunder (the "Additional Bonds", and collectively with the Initial Bonds, the "Bonds");

WITNESSETH:

WHEREAS, Section 1411 of the Not-For-Profit Corporation Law of the State of New York, as amended (the "Enabling Act") (A) authorizes any city to cause a not-for-profit local development corporation to be incorporated by public officers for, among other things, the public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, and lessening the burdens of government and acting in the public interest, (B) declares that in carrying out the aforesaid purposes and in exercising the powers conferred in the Enabling Act, such corporations will be performing essential governmental functions, and (C) authorizes each such corporation to acquire real and personal property, to borrow money and issue negotiable bonds, notes and other obligations therefore, and to lease, sell, mortgage or otherwise dispose of or encumber any of its real or personal property upon such terms as it may determine and otherwise carry out its corporate purposes in the territory in which the operations of such corporation are principally to be conducted; and

WHEREAS, pursuant to the provisions of the Enabling Act and Revenue Ruling 57-187 and Private Letter Ruling 200936012, the Common Council of the City of Albany, New York (the "City") adopted a resolution on March 15, 2010 (the "Sponsor Resolution") (A) authorizing the incorporation of Issuer under the Enabling Act and (B) appointing the initial members of the board of directors of the Issuer, who serve at the pleasure of the Common Council of the City; and

WHEREAS, on April 13, 2010, a certificate of incorporation was filed with the New York Secretary of State's Office (the "Certificate of Incorporation") creating the Issuer pursuant to the Enabling Act as a public instrumentality of the City; and

WHEREAS, in March, 2024, KIPP Capital Region Public Charter Schools (the "Institution"), a New York not-for-profit education corporation and a public charter school, presented an application (the "Application") to the Issuer, which Application requested that the Issuer consider undertaking a project (the "Initial Project") for the benefit of the Institution, said Initial Project to consist of the following: (A) the construction of an approximately 98,185 square foot high school building (the "Initial Facility") on an approximately 10.38 acre parcel of land located at 400 Northern Boulevard and 10 Dudley Heights in the City of Albany, New York (the "Initial Land") and (2) the acquisition and installation thereon and therein of certain related furniture, fixtures, machinery and equipment (the "Initial Equipment") (the Initial Facility, the Initial Land and the Initial Equipment hereinafter collectively referred to as the "Initial Project Facility"), all of the foregoing to be operated by the Institution as an educational facility and any other directly or indirectly related activities; (B) the refinancing of an existing loan of the Institution, the proceeds of which were used by the Institution to purchase certain buildings located at 2 Polk Street and 3055 6th Avenue, respectively, in the City of Troy, Albany County, New York; (C) the financing of all or

WHEREAS, the Issuer will now issue the Initial Bonds under the Initial Bond Resolution, a certificate of determination dated June 12, 2024 (the "Certificate of Determination") executed by the Chairperson or Vice Chairperson of the Issuer and this Indenture; and

WHEREAS, prior to or simultaneously with the issuance of the Initial Bonds, the Issuer and the Institution will execute and deliver a loan agreement dated as of June 1, 2024 (the "Loan Agreement") by and between the Issuer, as lender, and the Institution, as borrower, pursuant to the terms of which Loan Agreement (A) the Issuer will agree (1) to issue the Initial Bonds, and (2) to 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 (B) in consideration of the Loan, the Institution will agree (1) to cause the Initial Project to be undertaken and completed, (2) to use the proceeds of the Loan disbursed under this Indenture to pay (or reimburse the Institution for the payment of) the costs of the Initial Project, and (3) to make payments in amounts sufficient to pay when due all amounts due with respect to the Initial Bonds (the "Loan Payments") or to upon the order of the Issuer in repayment of the Loan, which Loan Payments shall include amounts equal to the Debt Service Payments due on the Initial Bonds; and

WHEREAS, as security for the Initial Bonds, the Issuer will execute and deliver to the Trustee a pledge and assignment dated as of June 1, 2024 (the "Pledge and Assignment") from the Issuer to the Trustee, and acknowledged by the Institution, which Pledge and Assignment will assign to the Trustee certain of the Issuer's rights under the Loan Agreement; and

WHEREAS, the Institution, as the initial Member of the Obligated Group and the Obligated Group Representative (as such terms are defined in the hereinafter defined Master Trust Indenture), and Manufacturers and Traders Trust Company, as master trustee (the "Master Trustee"), previously entered into a master trust indenture dated as of December 1, 2020 (the "Master Trust Indenture") by and between the Institution, as initial Member of the Obligated Group and the Obligated Group Representative, and the Master Trustee and, in connection with the issuance of the Initial Bonds, an Obligation (as defined in the Master Trust Indenture) will be issued by the Institution in favor of the Issuer pursuant to the Master Trust Indenture and a second supplemental master trust indenture dated as of June 1, 2024 (the "Second Supplemental Master Trust Indenture") by and between the Institution, as Obligated Group Representative, and the Master Trustee in the principal amount of the Initial Bonds ("Master Obligation No. 2") for purposes of securing the obligation of the Institution to make the Loan Payments required under the Loan Agreement; and

WHEREAS, the Issuer has executed has executed an assignment of obligation dated as of June 1, 2024 ("Assignment of Master Obligation No. 2") transferring all of the Issuer's right, title and interest in Master Obligation No. 2 to the Trustee; and

WHEREAS, as additional security for Master Obligation No. 2 (and all Master Obligations now or hereafter issued under the Master Trust Indenture), (A) the Institution will execute and deliver to the Issuer (1) a mortgage dated as of June 1, 2024 (the "Mortgage"), which Mortgage, among other things, grants to the Issuer a mortgage lien on, and a security interest in, among other things, the Initial Project Facility and the remaining Mortgaged Property (as defined in the Mortgage) and (2) an assignment of leases and rents dated as of June 1, 2024 (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 the remaining Assigned Properties (as defined in the Assignment of Rents) and (b) all leases, subleases, licenses or occupancy agreements affecting the Initial Project Facility and the remaining Assigned Properties and (B) the Issuer will execute and deliver to the Master Trustee (1) an assignment of mortgage dated as of June 1, 2024 (the "Mortgage Assignment") from the Issuer to the Master Trustee pursuant to which the Issuer will assign the Mortgage to the Master Trustee and (2) an assignment of assignment of leases and rents dated as of June 1, 2024 (the "Assignment of Assignment of Rents") from the Issuer to

the Master Trustee, pursuant to which the Issuer will assign the Assignment of Rents to the Master Trustee; and

WHEREAS, pursuant to the terms of this Indenture: (A) the net proceeds of the sale of the Initial Bonds (the "Initial Bond Proceeds") and certain equity funds of the Institution will be deposited into various trust funds held by the Trustee under the Indenture and will be disbursed by the Trustee from time to time to pay the costs of the Initial Project, but only upon satisfaction of the requirements for making such disbursements set forth in this Indenture and in the Loan Agreement; (B) a portion of the proceeds of the Initial Bonds will be disbursed from the Project Fund created under this Indenture by the Trustee to the Institution pursuant to the terms of this Indenture, the Loan Agreement and a building loan agreement dated as of June 1, 2024 (the "Building Loan Agreement") by and among the Issuer, the Institution, the Trustee and the Master Trustee, which is intended to be filed in the office of the County Clerk of Albany County, New York; and (C) the balance of the Initial Bond Proceeds will be disbursed from the Project Fund (and the other funds created under this Indenture) by the Trustee to the Institution pursuant to the terms of this Indenture and the Loan Agreement; and

WHEREAS, concurrently with the execution of the Master Trust Indenture, the Institution, the Master Trustee and Manufacturers and Traders Trust Company, as custodian (the "Custodian"), executed and delivered a Custody Agreement dated as of December 4, 2020 (the "Original Custody Agreement"), pursuant to which the Institution agreed to cause certain of the payments of Education Aid (as defined therein) due to the Institution to be delivered to the Custodian for deposit in a custody account created under the Original Custody Agreement (the "Custody Account"), and the Custodian agreed in turn, upon receipt of a Custody Agreement Notice from the Master Trustee, to make transfers of certain moneys to the Master Trustee for deposit and application under the Master Trust Indenture in order to make the required payments thereunder, and thereafter periodically remit any excess moneys remaining from such Education Aid so deposited in the Custody Account to the Institution, all as set forth in the Original Custody Agreement; and

WHEREAS, to facilitate payments of principal of, interest on and redemption premium, if any, on the Initial Bonds, the Institution, the Master Trustee and the Custodian will enter into an amended and restated custody agreement dated as of June 1, 2024 (the "Amended and Restated Custody Agreement"), amending and restating the Original Custody Agreement; and

WHEREAS, in connection with the issuance of the Initial Bonds, the Institution will execute and deliver an environmental compliance and indemnification agreement dated as of June 1, 2024 (the "Environmental Compliance Agreement") from the Institution to the Issuer, the Trustee and the Master Trustee, pursuant to which, among other things, the Institution shall indemnify the Issuer, the Trustee and the Master Trustee against certain environmental liabilities related to the Mortgaged Property; and

WHEREAS, (A) the Initial Bonds will be initially purchased by Robert W. Baird & Co. Incorporated, acting as underwriter for the Initial Bonds (the "Underwriter") pursuant to a bond purchase agreement dated as of May 29, 2024 (the "Initial Bond Purchase Agreement") by and among the Underwriter, the Issuer and the Institution, (B) the Underwriter will utilize the Initial Preliminary Official Statement and a final official statement (the "Initial Official Statement") in connection with the initial offering and sale of the Initial Bonds, and (C) the Underwriter also intends to obtain a rating of the Initial Bonds from one or more securities rating agencies (each such rating agency that provides a rating of the Initial Bonds, a "Rating Agency"); and

WHEREAS, to assure compliance with the continuing disclosure requirements imposed by the United States Securities and Exchange Commission, the Institution will execute and deliver to the Underwriter and the Trustee a continuing disclosure agreement dated as of June 1, 2024 (the "Initial

Continuing Disclosure Agreement") from the Institution to Manufacturers and Traders Trust Company, as dissemination agent, relating to the Initial Bonds; and

WHEREAS, the Initial Bonds will be issued as "book-entry-only" obligations to be held by The Depository Trust Company, as depository (the "Depository") for the Initial Bonds; and

WHEREAS, to demonstrate compliance with the provisions of the Code relating to the issuance of tax-exempt obligations, (A) the Issuer will (1) execute an arbitrage certificate dated the date of delivery of the Initial Bonds (the "Initial Arbitrage Certificate") with respect to the Initial Bonds relating to certain requirements set forth in Section 148 of the Code, (2) execute a completed Internal Revenue Service Form 8038 (Information Return for Private Activity Bonds) relating to the Initial Bonds (the "Information Return") pursuant to Section 149(e) of the Code, and (3) file the Information Return with the Internal Revenue Service, (B) the Institution will execute a tax regulatory agreement dated the date of delivery of the Initial Bonds (the "Initial Tax Regulatory Agreement") with respect to the Initial Bonds relating to the requirements in Sections 145 through 150 of the Code and (C) the Underwriter will execute a letter (the "Issue Price Letter") confirming the issue price of the Initial Bonds for purposes of Section 148 of the Code; and

WHEREAS, the Trustee has the power to enter into this Indenture and to execute the trusts hereby created and in evidence thereof has joined in the execution hereof; and

WHEREAS, the execution and delivery of this Indenture and the issuance of the Initial Bonds under the Enabling Act as herein provided have been in all respects approved and duly and validly authorized by the Initial Bond Resolution; and

WHEREAS, the providing of the Initial Project Facility is for a proper purpose, to wit, relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, and lessening the burdens of government and acting in the public interest pursuant to the provisions of the Enabling Act; and

WHEREAS, the Bonds shall be payable solely from the Trust Revenues (as hereinafter defined), which Trust Revenues include, without limitation, basic Loan Payments made by the Institution under the Loan Agreement; and

WHEREAS, the Issuer, by the terms of this Indenture and as security for the Bonds, intends to grant to the Trustee a first priority security interest in the Trust Revenues; and

WHEREAS, the Initial Bonds and the Trustee's certificate of authentication to be endorsed on the Initial Bonds are to be substantially the forms thereof attached hereto as Schedule I and made a part hereof, with necessary and appropriate variations, omissions and insertions as permitted or required by this Indenture; and

WHEREAS, all things necessary to make the Initial Bonds, when authenticated by the Trustee and issued as in this Indenture provided, the valid, binding and legal special limited obligations of the Issuer according to the import thereof, and to constitute this Indenture a valid pledge of and Lien (as hereinafter defined) on the Trust Revenues herein pledged to the payment of the Bonds, have been done and performed, and the creation, execution and delivery of this Indenture, and the execution and issuance of the Initial Bonds, subject to the terms hereof, have in all respects been duly authorized;

#### GRANTING CLAUSES

NOW, THEREFORE, the Issuer, in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds by the Holders and Owners thereof, and for other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of, premium, if any, Sinking Fund Payments, and interest on the Bonds according to their tenor and effect and the performance and observance by the Issuer of all the covenants expressed or implied herein and in the Bonds, and to declare the terms and conditions upon and subject to which the Bonds are and are intended to be issued, held, secured and enforced, does hereby unto the Trustee and its successors and assigns, for the benefit of the Holders and all future Holders of the Bonds, GRANT A SECURITY INTEREST IN, PLEDGE AND ASSIGN the following (hereinafter referred to as the "Trust Estate"):

#### I

All right, title and interest of the Issuer in and to the Trust Revenues;

#### II

Any and all moneys, securities and other investment property from time to time held by the Trustee under the terms of this Indenture, except (A) moneys deposited with or paid to the Trustee for the redemption of Bonds, notice of which has been duly given, (B) moneys on deposit in the Rebate Fund (as hereinafter defined) and (C) unclaimed funds held under Section 411 hereof;

#### III

Any and all other Property (as hereinafter defined) of every name and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred, as and for additional security hereunder, by the Issuer or by anyone in its behalf or with its written consent in favor of the Trustee;

This Indenture is also intended to constitute a security agreement under the Uniform Commercial Code of the State so that the Trustee shall have and may enforce a security interest, to secure payment of all sums due or to become due under the Bonds and this Indenture, in so much of the Property (as hereinafter defined) described in Granting Clauses I through III above as may be made subject to such a security interest, including the moneys held by the Trustee hereunder, such security interest to attach at the earliest moment permitted by law and also to include and attach to all additions and accessions thereto, all substitutions and replacements therefor and all proceeds and products thereof and proceeds of proceeds, and all other contract rights and general intangibles of the Issuer (except the Unassigned Rights, as hereinafter defined) obtained in connection with or relating to the Project Facility, as well as any and all items of property in the foregoing classifications which are hereafter acquired;

SUBJECT, HOWEVER, to Permitted Encumbrances (as hereinafter defined);

EXCEPTING THEREFROM, the Unassigned Rights;

TO HAVE AND TO HOLD all the same with all privileges and appurtenances hereby conveyed, pledged and assigned, or agreed or intended so to be, unto the Trustee and its successors in said trust and to them and their assigns forever;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all Holders and Owners of the Bonds issued under and secured by this Indenture, without privilege, priority or distinction as to the Lien or otherwise of any of the Bonds over any other Bonds;

PROVIDED, HOWEVER, that if the Issuer or its successors or assigns (A) shall well and truly pay, or cause to be paid, to the Holders and Owners of the Bonds the principal of, premium, if any, Sinking Fund Payments, and interest due or to become due on the Bonds at the times and in the manner provided herein and in the Bonds, or shall provide for the payment thereof by depositing with the Trustee the entire amount due or to become due thereon as permitted by and in the manner provided in Article X hereof, and shall well and truly cause to be kept, performed and observed all of its covenants contained in this Indenture, and (B) shall pay or cause to be paid to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions of this Indenture, and (C) shall pay or cause to be paid to the United States of America, the Rebate Amount due on the Bonds in accordance with the Tax Regulatory Agreement and Section 407 hereof, then upon such final payment, these presents and the Lien upon the Property described in Granting Clauses I through III above and the pledge of the Trust Revenues and rights hereby granted shall cease, terminate and be void, and thereupon the Trustee shall execute and deliver to the Person (as hereinafter defined) or Persons designated in Article X such instruments in writing as shall be required by the Issuer or the Institution to satisfy the Lien hereof upon the Property described in Granting Clauses I through III above, and convey to the Person or Persons designated in Article X the moneys and other Property, if any, then held by the Trustee, except moneys held by the Trustee for the payment of interest on, premium, if any, Sinking Fund Payments and principal of the Bonds and except as expressly provided in this Indenture; otherwise this Indenture shall be and remain in full force and effect, upon the trusts and subject to the covenants and conditions hereinafter set forth.

THIS INDENTURE FURTHER WITNESSETH, and it is expressly declared, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and the Lien on all of the Property described in Granting Clauses I through III above and all Trust Revenues, including without limitation the revenues, receipts and other moneys hereby assigned and pledged, are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Issuer hereby agrees and covenants with the Trustee and with the respective Holders and Owners, from time to time, of the Bonds, and the Trustee hereby accepts and agrees to accept and discharge such trusts from time to time, as follows:

ARTICLE I  
DEFINITIONS

SECTION 101. DEFINITIONS. Unless the context or use indicates another or different meaning or intent, capitalized terms used in this Indenture and the preambles hereto not otherwise defined herein shall have the meanings assigned thereto in the Schedule of Definitions attached hereto as Appendix A and made a part hereof.

SECTION 102. INTERPRETATION. (A) In this Indenture, unless the context otherwise requires:

- (1) the terms "hereby", "hereof", "hereto", "herein", "hereunder", and any similar terms, as used in this Indenture, refer to this Indenture, and the term "heretofore" shall mean before, and the term "hereafter" shall mean after, the Closing Date;
  - (2) words of the masculine gender shall mean and include correlative words of the feminine and neuter genders;
  - (3) words importing the singular number shall mean and include the plural number, and vice versa;
  - (4) any headings preceding the texts of the several Articles and Sections of this Indenture, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall neither constitute a part of this Indenture nor affect its meaning, construction or effect;
  - (5) words importing the redemption or redeeming of a Bond or the calling of a Bond for redemption do not include or connote the payment of such Bond at its Stated Maturity or the purchase of said Bond;
  - (6) all references to time in this document refer to New York City time;
  - (7) any certificates, letters or opinions required to be given pursuant to this Indenture shall mean a signed document attesting to or acknowledging the circumstances, representations, opinions of law or other matters therein stated or set forth or setting forth matters to be determined pursuant to this Indenture;
  - (8) any definition of, or reference to, any agreement, instrument or other document contained herein shall be construed to refer to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth therein or herein); and
  - (9) in any case where the date of maturity of interest on or principal of the Bonds, or the date fixed for redemption of any Bonds, shall not be a Business Day, then payment of interest or principal need not be made on such date but may be made on the next Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption or purchase, and no interest shall accrue for the period after such date.
- (B) Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Issuer, the Trustee, the Master Trustee and the

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ARTICLE II  
THE BONDS

SECTION 201. RESTRICTION ON ISSUANCE OF BONDS. No Bonds may be authenticated and issued under the provisions of this Indenture except in accordance with this Article II. Except as provided in Section 205 and Section 214 hereof, the total aggregate principal amount of Bonds that may be issued and authenticated under this Indenture is expressly limited to \$50,105,000.

SECTION 202. LIMITED OBLIGATIONS. (A) The Bonds, together with the premium, if any, Sinking Fund Payments, and the interest thereon, shall be special limited obligations of the Issuer payable, with respect to the Issuer, solely from the Trust Revenues, which Trust Revenues are hereby pledged and assigned to the Trustee for the equal and ratable payment of all sums due under the Bonds, and shall be used for no other purpose than to pay the principal of, premium, if any, Sinking Fund Payments, and interest on the Bonds, except as may be otherwise expressly provided herein.

(B) THE BONDS DO NOT CONSTITUTE AND SHALL NOT BE A DEBT OF THE STATE OR OF THE CITY OF ALBANY, NEW YORK AND NEITHER THE STATE 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 OR OF THE CITY OF ALBANY, NEW YORK. THE ISSUER HAS NO TAXING POWER.

(C) No recourse shall be had for the payment of the principal of, or the premium, if any, Sinking Fund Payments or the interest on, any Bond or for any claim based thereon or on this Indenture against any past, present or future member, director, officer, agent (other than the Institution), servant or employee, 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.

SECTION 203. EXECUTION. (A) The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of its Chairperson or its Vice Chairperson, and the Issuer's corporate seal, or a reproduction thereof, shall be impressed, imprinted or otherwise reproduced thereon and attested by the manual or facsimile signature of its Secretary or its Assistant Secretary. All such facsimile signatures shall have the same force and effect as if said officers had manually signed the Bonds. The reproduction of the Issuer's corporate seal on the Bonds shall have the same force and effect as if the Issuer's corporate seal had been impressed on the Bonds.

(B) In case any officer of the Issuer whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond or the issuance of a new Bond following a transfer or exchange, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

SECTION 204. AUTHENTICATION. Only such Bonds as shall have endorsed thereon a Certificate of Authentication substantially in the form set forth in the form of the Initial Bonds attached hereto as Schedule I, duly executed by the manual signature of an authorized signatory of the Trustee shall be entitled to any right or benefit under this Indenture. No Bonds shall be valid or obligatory for any purpose unless and until such Certificate of Authentication shall have been duly executed by the manual signature of an authorized signatory of the Trustee; and such executed Certificate of Authentication upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this

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Holders of the Bonds, any right, remedy or claim under or by any reason of this Indenture or any covenant, condition or stipulation thereof. All the covenants, stipulations, promises and agreements herein contained by and on behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer, the Trustee, the Master Trustee and the Holders of the Bonds.

(C) If any one or more of the covenants or agreements provided herein on the part of the Issuer or the Trustee to be performed shall, for any reason, be held or shall, in fact, be inoperative, unenforceable or contrary to law, in any particular case, such circumstance shall not render the provision in question inoperative or unenforceable in any other case or circumstance. Further, if any one or more of the phrases, sentences, clauses, paragraphs or sections herein should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed separable from the remaining covenants and agreements hereof and shall in no way affect the validity of the other provisions of this Indenture or of the Bonds.

SECTION 103. CONDITIONS PRECEDENT SATISFIED. All acts, conditions and things required by law to exist, happen and be performed precedent to and in connection with the execution and entering into of this Indenture have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly empowered to execute and enter into this Indenture.

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Indenture. The Trustee's Certificate of Authentication on any Bond shall be deemed to have been executed by the Trustee if signed by an authorized officer of the Trustee, but it shall not be necessary that the same person sign the Certificate of Authentication on all of the Bonds. In case any officer of the Trustee whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond or the issuance of a new Bond following a transfer or exchange, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

SECTION 205. MUTILATED, LOST, STOLEN OR DESTROYED BONDS. (A) In the event any Bond is mutilated, lost, stolen or destroyed, the Issuer may execute and the Trustee may authenticate a new Bond, executed by the Issuer as provided in Section 203 hereof, of like Series, maturity, interest rate and denomination as the Bond so mutilated, lost, stolen or destroyed. Any mutilated Bond shall first be surrendered to the Trustee; and in the case of any lost, stolen or destroyed Bond, there shall first be furnished to the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee, together with indemnity satisfactory to the Trustee. The Issuer or the Trustee may charge the Holder or Owner of such Bond a sum sufficient to cover any tax or other governmental charge in connection with such exchange or substitution of such new Bond, together with any other reasonable fees and expenses incurred by the Issuer or the Trustee in connection therewith. In case any Bond that has matured or is about to mature or has been selected or called for redemption shall become mutilated or be destroyed, lost or stolen, the Issuer may, instead of issuing a Bond in exchange or substitution therefor, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated Bond) if the applicant for such payment shall furnish to the Issuer and to the Trustee such security or indemnity as they may require to hold them harmless and evidence to the satisfaction of the Issuer and the Trustee of the mutilation, destruction, loss or theft of such Bond and of the ownership thereof.

(B) Every Bond issued pursuant to the provisions of this Section 205 shall be equally and proportionately entitled to the benefits of this Indenture with all other Bonds secured by this Indenture. However, the Trustee shall not be required to treat both the original Bond and any Bond issued in lieu thereof as being Outstanding for purposes of determining the principal amount of Bonds Outstanding under this Indenture or for the purpose of determining any percentage of Bonds Outstanding hereunder, but both the original Bond and the Bond issued in lieu thereof shall be treated as one and the same.

(C) Notwithstanding any other provision of this Section 205, in lieu of delivering a new Bond for a Bond which has been mutilated, lost, stolen or destroyed and which has matured, upon receipt of evidence of such mutilation, loss, theft or destruction and indemnity satisfactory to the Trustee, the Trustee may deem such Bond to be cancelled and make payment for such Bond.

(D) All Bonds shall be held and owned upon the express condition that the foregoing provisions of this Section are exclusive with respect to the replacement or payment of mutilated, destroyed, lost or stolen Bonds, and shall preclude (to the extent lawful) any and all other rights and remedies with respect to the replacement or payment of mutilated, lost, stolen or destroyed Bonds.

SECTION 206. BOND REGISTRAR; TRANSFER AND EXCHANGE OF BONDS; PERSONS TREATED AS OWNERS. (A) All Bonds shall be issued in fully registered form. The Bonds shall be registered upon original issuance and upon subsequent transfer or exchange as provided in this Indenture. The Trustee is designated and agrees to act as Bond Registrar and shall cause the Bond Register (as defined herein) to be kept on behalf of the Issuer at the Office of the Trustee for the registration and transfer of Bonds. Except as provided in Section 213 hereof, any Bond, upon the surrender of such 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

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representative in the form imprinted on the Bond or in such other form as shall be satisfactory to the Bond Registrar.

(B) Except as otherwise provided in Section 206(F) or Section 213 hereof, upon receipt of such Bond and upon satisfaction of the conditions set forth in Section 206(A) and Section 206(C) hereof, the Trustee shall immediately record the transfer of such Bond on the Bond Register and cause the transferee or transferees to be the registered Owner of such Bond. Upon any such registration of transfer, the Issuer shall execute and the Trustee shall authenticate and deliver in exchange for such Bond one or more new Bonds of the same Series, maturity and interest rate, executed by the Issuer as provided in Section 203 hereof, registered in the name of the designated transferee thereof, of any Authorized Denomination and for the same aggregate Outstanding principal amount as the Bond or Bonds surrendered for transfer.

(C) No service charge shall be made for any transfer or exchange of Bonds, but in all cases in which Bonds shall be transferred or exchanged hereunder, the Issuer or the Trustee may make a charge for every transfer or exchange of Bonds sufficient to reimburse them for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange, and such charge shall be paid before any such new Bond shall be delivered.

(D) The Person in whose name any 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, Sinking Fund Payment, or interest on, any such Bond shall be made only to or upon the order of the registered Holder thereof or his duly authorized legal representative, subject to the terms of Section 207(B) and Section 207(C) hereof. Such registration may be changed only as provided in this Section 206, and no other notice to the Issuer or the Trustee shall affect the rights or obligations with respect to the transferee of any Bond or be effective to transfer any Bond. Subject to the terms of Section 207(B) and Section 207(C) hereof, all payments to the Person in whose name any Bond shall be registered shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

(E) At the option of the Holder, Bonds may be exchanged for other Bonds of the same Series, maturity and interest rate, of any Authorized Denomination and of a like aggregate Outstanding principal amount, upon surrender of the Bonds to be exchanged at the office of the Bond Registrar. Whenever any Bonds are so surrendered for exchange, the Issuer shall execute, and the Trustee shall authenticate and deliver, the Bonds which the Holder making the exchange is entitled to receive.

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

SECTION 207. PAYMENT PROVISIONS. (A) Payment of the principal of, premium, if any, on, Sinking Fund Payment, and interest on the Bonds shall be made in lawful money of the United States of America.

(B) Except as otherwise provided in Section 213 hereof, interest and any Sinking Fund Payment or principal payment due prior to maturity on any Bond which is payable, and which is punctually paid or duly provided for, on any Bond Payment Date shall be paid to the Person appearing on the Bond Register as the Holder of that Bond (or one or more Predecessor Bonds) at the close of business

and (2) all notices with respect to and surrender or delivery of such Bond shall be given to or by the Depository as provided in the Depository Letter.

SECTION 208. TEMPORARY BONDS. (A) Until definitive Bonds are ready for delivery, there may be executed, and upon the request of the Issuer the Trustee shall authenticate and deliver in lieu of definitive Bonds, temporary printed, lithographed or typewritten Bonds, in any Authorized Denomination, in substantially the form set forth in Schedule I attached hereto and with such appropriate omissions, insertions and variations as may be required.

(B) If the Bonds are no longer Book Entry Bonds and if temporary Bonds shall have been issued, the Issuer shall, at the sole cost and expense of the Institution, cause definitive Bonds to be prepared and to be executed and delivered to the Trustee, and the Trustee, upon presentation of any temporary Bond to the Trustee at the Office of the Trustee, shall cancel the same and authenticate and deliver in exchange therefor, without charge to the Holder thereof, a definitive Bond or Bonds of an equal aggregate principal amount of the same Series and maturity and bearing interest at the same rate as the temporary Bond surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefit and security of this Indenture as the definitive Bonds to be issued and authenticated hereunder.

SECTION 209. SPECIFIC DETAILS OF THE INITIAL BONDS. (A) The Initial Bonds shall be issued in the aggregate principal amount of \$50,105,000, and shall be designated "City of Albany Capital Resource Corporation Tax-Exempt Revenue Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024". The Initial Bonds shall be prefixed "Series 2024-R" and numbered from one upward. The Initial Bonds shall be issued as fully registered bonds without coupons in Authorized Denominations. Each Initial Bond shall be of a single maturity.

(B) The Initial Bonds shall be dated the Closing Date and shall bear interest from their dated date, or from the most recent Interest Payment Date to which interest has been paid or duly provided for. Interest on the Initial Bonds shall be payable on June 1 and December 1 of each year, commencing on December 1, 2024. The Initial Bonds shall mature on June 1 of the years and shall bear interest (on the basis of a 360-day year composed of twelve 30-day months) at the rates per annum as set forth in the table below:

Maturity Date (June 1)	Aggregate Principal Amount Maturing	Interest Rate on Maturing Bonds
2034	\$1,380,000	4.00%
2044	\$3,815,000	4.50%
2054	\$11,875,000	4.75%
2064	\$33,035,000	5.00%

(C) The Initial Bonds maturing on June 1, 2034, June 1, 2044, June 1, 2054 and June 1, 2064 are subject to scheduled mandatory sinking fund redemption prior to maturity as provided in Article III hereof.

(D) The Initial Bonds shall initially be issued in book entry form as Book Entry Bonds.

(E) The Initial Bonds are subject to optional and mandatory redemption prior to maturity as provided in Article III hereof.

on the Regular Record Date, by check or draft of the Trustee mailed by the Trustee on such Bond Payment Date to such Holder at his address as it appears on the Bond Register; provided that, at the written request of any Holder of Bonds in an aggregate principal amount of \$100,000 or greater, the Trustee shall cause such amounts to be transmitted on such Bond Payment Date by wire transfer at such Holder's written request to the bank account number on file with the Trustee, provided such Holder has delivered adequate instructions regarding same to the Trustee at least ten (10) Business Days prior to such Bond Payment Date.

(C) Any interest and any Sinking Fund Payment or principal payment due prior to maturity on any Bond which is payable, but is not punctually paid or duly provided for, on any Bond Payment Date (herein called "Defaulted Payments") shall forthwith cease to be payable to the Person appearing on the Bond Register as the registered Owner of such Bond on the relevant Regular Record Date solely by virtue of such Person having been such registered Owner; and the Trustee shall make payment of any Defaulted Payments on the Bonds to the Persons in whose names such Bonds (or their respective Predecessor Bonds) are registered at the close of business on a Special Record Date for the payment of such Defaulted Payments, which shall be fixed in the following manner. The Trustee shall determine the amount of Defaulted Payments to be paid on each Bond and establish the date of the proposed payment (which date shall be such as will enable the Trustee to comply with the next sentence hereof), and money in the aggregate amount of the proposed Defaulted Payments shall be segregated by the Trustee to be held in trust for the benefit of the Persons entitled to such Defaulted Payments as in this subsection provided and not to be deemed part of the Trust Revenues. Thereupon, the Trustee shall fix a Special Record Date for the payment of such Defaulted Payments, which shall be not more than fifteen (15) nor less than ten (10) days prior to the date of the proposed payment. The Trustee shall promptly notify the Issuer and the Institution of such Special Record Date and shall cause notice of the proposed payment of such Defaulted Payments and the Special Record Date therefor to be mailed one time, first-class postage prepaid, to each registered Owner of a Bond at his address as it appears in the Bond Register not less than ten (10) days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Payments and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Payments shall be paid to the Persons in whose names the Bonds (or their respective Predecessor Bonds) are registered on such Special Record Date.

(D) Subject to the foregoing provisions of this Section, each Bond delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Bond shall carry all the rights to interest and any Sinking Fund Payments or principal payments due prior to maturity accrued and unpaid, and to accrue, which were carried by such other Bond, and each such Bond shall bear interest from such date so that neither gain nor loss in interest shall result from such transfer, exchange or substitution.

(E) The principal of and premium, if any, on any Bonds and Sinking Fund Payment due at maturity or mandatory redemption shall be payable at the Office of the Trustee, upon presentation and surrender of such Bond by the registered Owner thereof or his duly authorized legal representative at the maturity of such Bond or such other date as such payments become due, by redemption or otherwise. Except as provided in subsection (B) hereof, in the event of a partial redemption of any 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 Bond, and upon such surrender the Trustee shall authenticate a new Bond executed by the Issuer as provided in Section 203 for the unredeemed portion of such Bond.

(F) Notwithstanding any other provision of this Indenture to the contrary, when any Bond is registered in the name of a Depository or its nominee, (1) all payments with respect to the principal and redemption price of, Sinking Fund Payments, and interest on, such Bond shall be payable in next day or federal funds delivered or transmitted to the Depository or its nominee as provided in the Depository

SECTION 210. DELIVERY OF THE INITIAL BONDS. Upon the execution and delivery of this Indenture, the Issuer shall 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 shall 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 this Indenture, the Loan Agreement and the other Initial Financing Documents;

(C) Master Obligation No. 2 executed by the Institution in favor of the Issuer and authenticated by the Master Trustee, and assigned by the Issuer to the Trustee pursuant to Master Obligation No. 2, and executed (or certified as executed) counterparts of the other Master Trust Documents;

(D) a Certificate of an Authorized Representative of the Institution (i) evidencing compliance with the applicable requirements of the Master Trust Indenture and the loan agreement dated as of December 4, 2020 by and between the Institution and Equitable Facilities Fund, Inc. (the "EFF Loan Agreement") relating to the incurrence of indebtedness with respect to the issuance of Master Obligation No. 2, and (ii) to the effect that no default exists under the EFF Loan Agreement or any of the Master Trust Documents, nor any event which with notice or lapse of time or both, would constitute a default under any of the Master Trust Documents;

(E) 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;

(F) signed copies of the opinions of counsel, as required by the Initial Bond Purchase Agreement;

(G) the certificates and policies, if available, of the insurance required by the Loan Agreement and the Master Trust Documents;

(H) evidence that a completed Internal Revenue Service Form 8038 with respect to the Initial Bonds has been signed by the Issuer; and

(I) such other documents as the Trustee or Bond Counsel may reasonably require.

SECTION 211. CANCELLATION OF BONDS. All Bonds surrendered to the Trustee for payment, redemption, transfer or exchange, and Bonds surrendered to the Trustee by the Issuer, or by the Institution on behalf of the Issuer, for cancellation, shall be promptly cancelled by the Trustee. No Bond shall be authenticated in lieu of or in exchange for any Bond cancelled as provided in this Section 211, except as expressly provided by this Indenture. All Bonds cancelled by the Trustee shall be disposed of by the Trustee in accordance with its customary procedures and shall not be reissued. At the request of the Institution, certificates of disposition evidencing such disposition shall be furnished by the Trustee to the Issuer and the Institution.

SECTION 212. PAYMENTS DUE ON SATURDAYS, SUNDAYS AND HOLIDAYS. In any case where the date of maturity of interest or a Sinking Fund Payment on or the principal of any Bond, or the date fixed for redemption of any Bond, shall not be a Business Day, then payment of the interest or Sinking Fund Payment on or the principal or Redemption Price of such Bond shall be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

SECTION 213. BOOK ENTRY BONDS. (A) Notwithstanding any other provision of this Indenture, the Bonds are hereby authorized (but not required) to be issued in book entry form as Book Entry Bonds. If a Series of the Bonds are issued as Book Entry Bonds, the provisions of the Depository Letter and this Section 213 shall apply to such Series of the Bonds. The Book Entry Bonds shall remain in the Book Entry System, subject to the provisions below concerning termination of the Book Entry System. Until the Institution revokes such specification in its discretion by written notice to the Issuer and the Trustee, the Institution hereby specifies that the Book Entry System shall be in effect while the Bonds are Outstanding.

(B) The Bonds in or to be in the Book Entry System shall be issued in the form of a separate single authenticated fully registered Bond for each stated maturity in substantially the form provided for in Schedule I hereto. Any legend required to be on the Bonds by the Depository may be added by the Issuer. On the date of original delivery thereof, the Bonds shall be registered in the registry books of the Trustee in the name of Cede & Co., as nominee of the Depository, as agent for the Issuer in maintaining the Book Entry System. With respect to Bonds registered in the registry books kept by the Trustee in the name of Cede & Co., as nominee of the Depository, the Issuer, the Institution and the Trustee shall have no responsibility or obligation to any Participant (which means securities brokers and dealers, banks, trust companies, clearing corporations and various other entities, some of whom or their representatives own the Depository) or to any Beneficial Owner (which means, when used with reference to the Book Entry System, the person who is considered the Beneficial Owner of the Bonds pursuant to the arrangements for book entry determination of ownership applicable to the Depository) with respect to the following: (1) the accuracy of the records of the Depository, Cede & Co. or any Participant with respect to any ownership interest in the Bonds, (2) the delivery to or from any Participant, any Beneficial Owner or any other person, other than the Depository, of any notice with respect to the Bonds, including any notice of redemption or tender (whether mandatory or optional), or (3) the payment to any Participant, any Beneficial Owner or any other person, other than the Depository, of any amount with respect to the principal or premium, if any, Sinking Fund Payments, or interest on the Bonds or (4) any consent given or any other action taken by the Depository as Holder of the Book Entry Bonds. The Trustee shall pay all principal of and premium, if any, Sinking Fund Payments, and interest on the Bonds only to or upon the order of the Depository, and all such payments shall be valid and effective fully to satisfy and discharge the Issuer's obligations with respect to the principal of and premium, if any, Sinking Fund Payments and interest on Bonds to the extent of the sum or sums so paid. No person other than the Depository shall be entitled to receive an authenticated Bond evidencing the obligation of the Issuer to make payments of principal and premium, if any, Sinking Fund Payments and interest pursuant to this Indenture. Upon delivery by the Depository to the Paying Agent of written notice to the effect that the Depository has determined to substitute a new nominee in place of Cede & Co., the words "Cede & Co." in this Indenture shall refer to such new nominee of the Depository.

(C) Upon receipt by the Trustee of written notice from the Depository to the effect that the Depository is unable or unwilling to discharge its responsibilities set forth herein, the Issuer shall issue and the Trustee shall transfer and exchange Bonds as requested in writing by the Depository in appropriate amounts and in Authorized Denominations, and whenever the Depository requests the Issuer and the Trustee to do so, the Trustee and the Issuer will, at the expense of the Institution, cooperate with the Depository in taking appropriate action after reasonable notice (1) to arrange for a substitute bond

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Beneficial Owners, upon registration of such Bonds in their names, shall become the Holders of such Bonds.

(J) Nothing herein shall prevent the Trustee from giving effect to any proxy, written certificate or other authorization furnished by the Depository and its Participants pursuant to customary practices governing the exercise of rights of the Holder of any Bond.

SECTION 214. ADDITIONAL BONDS. (A) So long as the Loan Agreement, the other Financing Documents and the Master Trust Documents are each in effect and no Event of Default exists thereunder or hereunder (and no event exists which, upon notice or lapse of time or both, would become an Event of Default thereunder or hereunder), the Issuer may, upon a request from the Institution complying with the provisions of this Section 214, issue one or more Series of Additional Bonds from time to time on a pari passu basis with the Initial 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 Section 209 of this Indenture, all as may be provided in the supplemental Indenture authorizing the issuance of such Additional Bonds.

(B) Prior to the execution of a supplemental Indenture authorizing the issuance of Additional Bonds, the Issuer must deliver the following documents to the Trustee:

(1) an amendment to the 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 this 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) an executed Master Obligation in the principal amount of the Series of Additional Bonds, having the same interest rate and other payment terms of the Series of Additional Bonds, executed by the Institution in favor of the Issuer under a Master Supplemental Indenture, authenticated by the Master Trustee, and assigned to the Trustee by the Issuer, and evidence that the Master Obligation has been issued in compliance with the applicable requirements therefor under the Master Trust Indenture;

(4) an executed Master Supplemental Indenture authorizing the Master Obligation referred to in paragraph (3) above;

(5) evidence that the Master Trust Documents, as amended or supplemented in connection with the issuance of the Master Obligation referred to in paragraph (3) above, provide for the security and payment of the Master Obligation referred to in paragraph (3) above on a parity with all other Master Obligations outstanding under the Master Trust Indenture;

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depository willing and able upon reasonable and customary terms to maintain custody of the Bonds or (2) to make available for transfer and exchange Bonds registered in whatever name or names and in whatever authorized denominations as the Depository shall designate.

(D) In the event the Institution determines that the Beneficial Owners should be able to obtain Bond certificates, the Institution may so notify the Depository and the Trustee, whereupon the Depository will notify the Participants of the availability through the Depository of Bond certificates. In such event, the Issuer shall issue and the Trustee shall authenticate, transfer and exchange Bond certificates as requested by the Depository in appropriate amounts and in Authorized Denominations. Whenever the Depository, in writing, requests the Trustee to do so, the Trustee and the Issuer will cooperate with the Depository in taking appropriate action after reasonable notice to make available for transfer and exchange Bonds registered in whatever name or names and in whatever Authorized Denominations as the Depository shall designate.

(E) Notwithstanding any other provision of this Indenture to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of the Depository, all payments with respect to the principal of, premium, if any, Sinking Fund Payments, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, to the Depository as provided in the Depository Letter from the Issuer to the Depository with respect to such Bond, as in effect from time to time. Bondholders shall have no lien or security interest in any rebate or refund paid by the Depository to the Trustee which arises from the payment by the Trustee of principal of and premium, if any, Sinking Fund Payments and interest on the Bonds in immediately available funds to the Depository.

(F) Notwithstanding any provision in this Section 213 to the contrary, so long as the Bonds outstanding are held in the Book Entry System, if less than all of such Bonds are to be redeemed upon any redemption of Bonds hereunder, the particular Bonds or portions of Bonds to be redeemed shall be selected by the Depository in such manner as the Depository may determine.

(G) For all purposes of this Indenture, the Depository shall be deemed to be Holder of a Book Entry Bond and neither the Issuer, the Institution nor the Trustee shall have any responsibility or obligation to the Beneficial Owner of such Bond or to any direct or indirect participant in such Depository.

(H) The Issuer, in its sole discretion, upon thirty (30) days prior written notice to the Trustee and without the consent of the Trustee or the Beneficial Owner of a Book Entry Bond or any other person, may terminate the services of the Depository with respect to a Book Entry Bond if the Issuer determines that (1) the Depository is unable to discharge its responsibilities with respect to such Book Entry Bond or (2) a continuation of the requirement that all of the Outstanding Bonds issued in book entry form be registered in the registration books of the Issuer in the name of the Depository, is not in the best interest of the Beneficial Owners of such Bonds, and the Issuer shall terminate the services of the Depository upon receipt by the Issuer and the Trustee of written notice from the Depository that it has received written requests that such Depository be removed from its participants having beneficial interests, as shown in the records of the Depository, in an aggregate amount of not less than fifty percent in principal amount of the then Outstanding Book Entry Bonds.

(I) Upon the termination of the services of a Depository with respect to a Book Entry Bond, or upon the resignation of a Depository with respect to a Book Entry Bond, after which no substitute securities depository willing to undertake the functions of such Depository can be found which, in the opinion of the Issuer, is able to undertake such functions upon reasonable and customary terms, such Bonds shall no longer be registered in the registration books kept by the Trustee in the name of a Depository, but may be registered in the name of the Beneficial Owners of such Bonds, and such

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(6) 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 and the Master Trust Documents described in paragraphs (3), (4) and (5) above;

(7) a written opinion of counsel to the Institution which shall state that (i) the amendments and supplements to the Financing Documents and the Master Trust Documents described in the paragraphs 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 Series of Additional Bonds, as well as the Master Trust Documents, as amended and supplemented to the Closing Date for such Master Obligation, each 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, (iii) all conditions precedent provided for in this Indenture to the issuance, execution and delivery of a Series of Additional Bonds have been complied with and (iv) all conditions precedent provided for in the Master Trust Indenture to the issuance, execution and delivery of such Master Obligation have been complied with;

(8) 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;

(9) 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;

(10) an opinion of Bond Counsel stating that, in the opinion of such Bond Counsel, the Issuer is duly authorized and entitled to issue such Series of Additional Bonds and that, upon the execution, authentication and delivery thereof, such Series of Additional Bonds will be duly and validly issued and will constitute valid and binding special limited 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 Series of Additional Bonds will not, in and of itself, adversely affect the validity of the Initial Bonds originally issued under this 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 this Indenture to the issuance, execution and delivery of the Series of Additional Bonds have been complied with;

(11) a written order to the Trustee executed by an Authorized Representative of the Issuer requesting that the Trustee authenticate and deliver the Series of Additional Bonds to the purchasers therein identified;

(12) written evidence from each Rating Agency by which any Series of Outstanding Bonds are then rated, if any, to the effect that the issuance of such Series of Additional Bonds will

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not result in a withdrawal, a suspension or a reduction of the long and short-term ratings, if applicable, then assigned to any Series of Outstanding Bonds by such Rating Agency;

(13) a parity mortgage and security agreement (and a parity assignment of leases and rents), or a supplement to the Mortgage (and the Assignment of Rents) in favor of the Master Trustee providing for a supplemental mortgage relating to the Additional Facilities and a specific increase in the principal amount of the indebtedness secured under the Mortgage and the Assignment of Rents by the principal amount of the Master Obligation being executed in connection therewith and, if appropriate, an intercreditor agreement or other similar agreement among the Institution, the Issuer, the Trustee and/or the Master Trustee and other appropriate parties providing that such Master Obligation is equal, ratable and pari passu with all outstanding Master Obligations under the Master Trust Indenture, and that the Series of Additional Bonds are equal, ratable and pari passu with the Outstanding Bonds;

(14) if 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 (and Assignment of Rents) securing the Master Obligations is a valid Lien on such real property or interest therein;

(15) a Certificate of an Authorized Representative of the Institution evidencing compliance with applicable requirements of the Master Trust Indenture relating to the incurrence of Indebtedness (as defined in the Master Trust Indenture) in the form of Long-Term Indebtedness (as defined in the Master Trust Indenture);

(16) the deposit to the Reserve Fund of an amount equal to the Reserve Fund Requirement relating to the Additional Bonds; and

(17) such other documents as the Trustee may reasonably request.

(C) Each Series of Additional Bonds shall be equally and ratably secured under this Indenture with the Initial Bonds issued on the Closing Date and with all other Series of Additional Bonds Outstanding, if any, previously issued under this Indenture, without preference, priority or distinction of any Bond over any other Bond.

(D) The consent of the Holders of the Bonds shall not be required prior to the issuance of a Series of Additional Bonds, or to the execution and delivery of any amendments to the Financing Documents or the Master Trust Documents required in connection therewith. The Institution shall provide to the Trustee the following: (1) a notice of the proposed issuance of such Series of Additional Bonds; and (2) a proposed form of notice to be sent 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 (a "Notice to Holders"), detailing, at least, the aggregate principal amount of such Series of Additional Bonds, and summarizing the nature of the amendments to the Financing Documents and the Master Trust Documents proposed to be executed in connection therewith. Within five (5) Business Days of receipt of the foregoing, the Trustee shall mail the Notice to Holders 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 Series of Additional Bonds.

Sinking Fund Payment Date (June 1)	Sinking Fund Payment
2030	\$255,000
2031	\$265,000
2032	\$275,000
2033	\$285,000
2034*	\$300,000

\*Maturity date.

(2) The Initial Bonds issued as Term Bonds maturing on June 1, 2044 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 June 1 of each year, commencing June 1, 2035 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 (June 1)	Sinking Fund Payment
2035	\$310,000
2036	\$325,000
2037	\$340,000
2038	\$355,000
2039	\$370,000
2040	\$385,000
2041	\$405,000
2042	\$425,000
2043	\$440,000
2044*	\$460,000

\*Maturity date.

(3) The Initial Bonds issued as Term Bonds maturing on June 1, 2054 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 June 1 of each year, commencing June 1, 2045 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:

ARTICLE III

REDEMPTION OF BONDS PRIOR TO MATURITY

SECTION 301. REDEMPTION OF BONDS PRIOR TO MATURITY. (A) The Bonds are subject to redemption prior to maturity (1) as a whole, without premium, as provided in Section 406 hereof, to the extent consistent with the applicable provisions of the Master Trust Indenture, 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 Bonds in accordance with Section 7.2 of the Loan Agreement, (b) damage to or destruction of part or all of the Project Facility and election by the Institution to redeem the Bonds in accordance with Section 7.1 of the Loan Agreement, or (c) a taking in Condemnation of part of the Project Facility and election by the Institution to redeem the Bonds in accordance with Section 7.2 of the Loan Agreement, (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, (3) in part, without premium, (a) as provided in Section 406(G) hereof, in the event that (i) subject to the applicable provisions of the Master Trust Indenture, 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 pursuant to Section 406(G) hereof, or (b) as provided in Section 404 hereof, in the event that excess moneys remain in the related account in the Project Fund after the Completion Date, in each case to the extent of such excess, or (4) as a whole, as a mandatory redemption, upon the occurrence of an Event of Taxability, without premium, or in part if such redemption in part (in such principal amount as is deemed necessary in the opinion of Bond Counsel) would have the result that interest payable on the Initial Bonds Outstanding after such redemption would not be includable in the gross income of any Holder of an Initial Bond. In any such event, the Bonds shall be redeemed, as a whole or in part, as the case may be, in the manner provided in this Article III, on the earliest practicable date for which the Trustee can give notice of redemption pursuant to Section 303 hereof, at a Redemption Price equal to the principal amount thereof, plus accrued interest to the redemption date, without premium.

(B) The Initial Bonds are also subject to redemption prior to maturity on or after December 1, 2030, at the option of the Institution by exercise of its right to prepay the Loan Payments payable under the Loan Agreement as provided in Section 5.3 thereof, as a whole or in part at any time, in denominations of \$5,000 or any integral multiple thereof, at a Redemption Price equal, on any particular date, to the percentage of the principal amount to be redeemed applicable to such date, as set forth in the table below, plus accrued interest to the Redemption Date:

REDEMPTION DATES	REDEMPTION PRICE
December 1, 2030 and thereafter	100%

(C) (1) The Initial Bonds issued as Term Bonds maturing on June 1, 2034 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 June 1 of each year, commencing June 1, 2030 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 (June 1)	Sinking Fund Payment
2045	\$480,000
2046	\$505,000
2047	\$530,000
2048	\$555,000
2049	\$580,000
2050	\$610,000
2051	\$1,425,000
2052	\$2,285,000
2053	\$2,395,000
2054*	\$2,510,000

\*Maturity date.

(4) The Initial Bonds issued as Term Bonds maturing on June 1, 2064 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 June 1 of each year, commencing June 1, 2055 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 (June 1)	Sinking Fund Payment
2055	\$2,625,000
2056	\$2,760,000
2057	\$2,895,000
2058	\$3,040,000
2059	\$3,195,000
2060	\$3,350,000
2061	\$3,520,000
2062	\$3,695,000
2063	\$3,880,000
2064*	\$4,075,000

\*Maturity date.

(D) In the event of any partial redemption, the particular 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 Series and maturity by lot or by such other method as the Trustee shall deem fair and appropriate, provided that for so long as the Bonds shall be Book Entry Bonds, the particular Bonds or portions thereof to be redeemed within a Series and maturity may be selected by lot by the Depository in such manner as the Depository may determine. If any maturity of the 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 thereof) of Bonds. In no event shall the principal amount of Bonds subject to any partial redemption be other than a whole multiple of \$5,000 thereof.

SECTION 302. INSTITUTION'S ELECTION TO REDEEM. The Institution shall give written notice to the Trustee and the Issuer of (1) its election to cause redemption of Bonds prior to maturity pursuant to subsection (A) or subsection (B) of Section 301 hereof and (2) the Redemption Date.

SECTION 303. NOTICE OF REDEMPTION; PAYMENT OF REDEEMED BONDS. (A) (1) Notice of the intended redemption of each Bond subject to redemption shall be given by the Trustee one time by first class, mail postage, prepaid to the registered Owner of such Bond at the address of such Owner shown on the Bond Register maintained by the Trustee as Bond Registrar. All such redemption notices shall be given not less than thirty (30) days prior nor more than sixty (60) days prior to the date fixed for redemption. A follow-up notice shall be given by the Trustee by registered or certified mail to each registered Owner who has not submitted a Bond subject to redemption within ninety (90) to one hundred twenty (120) days following the Redemption Date. Each notice shall specify the Redemption Price, the Series of the Bonds to be redeemed, the principal amount of the Bonds of such Series to be redeemed, the numbers of the Bonds of such Series to be redeemed if less than all of the Bonds of such Series are to be redeemed, the Redemption Date and the place or places where amounts due upon such redemption will be payable. Such notice shall further state that payment of the applicable Redemption Price plus accrued interest to the Redemption Date will be made upon presentation and surrender of the Bonds or portions thereof to be redeemed; that upon presentation and surrender to the Trustee of any Bond being redeemed in part, a new Bond of the same Series and in the principal amount of the unredeemed portion of such Bond will be issued; and that the Bonds or portions thereof so called for redemption will be deemed redeemed and will cease to bear interest on the specified Redemption Date, provided that moneys for their redemption have been duly deposited in the Bond Fund; and, except for the purpose of payment, that such Bonds will no longer be protected by this Indenture. 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. Any notice of optional redemption may provide (and shall provide if the Institution does not deposit with the Trustee moneys in an amount equal to the Redemption Price of the Bonds being redeemed plus accrued interest to the Redemption Date at the time the Institution delivers to the Trustee its notice of its election to cause the redemption of such Bonds) 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 Bonds scheduled to be redeemed together with accrued interest to the redemption date, such redemption may be rescinded (in which case the Trustee shall promptly so notify the Holders of such Bonds in the same manner in which notice of redemption was given), and if such redemption is rescinded, the Bonds scheduled to be redeemed shall remain Outstanding as if the notice of redemption had not been sent.

(2) Any notice of optional redemption may provide (and shall provide if the Institution does not deposit with the Trustee moneys in an amount equal to the Redemption Price of the Bonds being redeemed at the time the Institution delivers to the Trustee its notice of its election to cause the redemption of such Bonds) 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 Bonds scheduled to be redeemed, such redemption may be rescinded (in which case the Trustee shall promptly so notify the Holders of such Bonds in the same manner in which notice of redemption was given), and if such redemption is rescinded, the Bonds scheduled to be redeemed shall remain Outstanding as if the notice of redemption had not been sent.

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#### ARTICLE IV FUNDS AND APPLICATION OF PROCEEDS OF BONDS AND REVENUES

SECTION 401. ESTABLISHMENT OF FUNDS. (A) The Issuer hereby establishes and creates the following special separate trust funds:

(1) City of Albany Capital Resource Corporation – KIPP Capital Region Public Charter Schools Project – Project Fund (the "Project Fund"), and, within the Project Fund, the following special accounts: (a) the Series 2024 Project Account to be comprised of (i) the "Series 2024 Project Bond Proceeds Subaccount", (ii) the "Series 2024 Project Equity Contribution Subaccount" and (iii) the "Series 2024 Project Capitalized Interest Subaccount", and (b) 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) City of Albany Capital Resource Corporation – KIPP Capital Region Public Charter Schools Project – Bond Fund (the "Bond Fund") and, within the Bond Fund, the following special accounts: (a) the Series 2024 Bond Account, and (b) an additional, separate account for each Series of Additional Bonds, each such additional account to be known as the "Series \_\_\_\_\_ Bond Account", with the blank to be filled in with the same series designation as borne by the related series of Additional Bonds;

(3) City of Albany Capital Resource Corporation – KIPP Capital Region Public Charter Schools Project - Insurance and Condemnation Fund (the "Insurance and Condemnation Fund");

(4) City of Albany Capital Resource Corporation – KIPP Capital Region Public Charter Schools Project - Reserve Fund (the "Reserve Fund") and, within the Reserve Fund, the following special accounts: (a) the Series 2024 Reserve Account; and (b) an additional, separate account for each Series of Additional Bonds, each such additional account to be known as the "Series \_\_\_\_\_ Reserve Account", with the blank to be filled in with the same Series designation as borne by the related series of Additional Bonds;

(5) City of Albany Capital Resource Corporation – KIPP Capital Region Public Charter Schools Project – Repair and Replacement Fund (the "Repair and Replacement Fund"); and

(6) City of Albany Capital Resource Corporation – KIPP Capital Region Public Charter Schools Project - Rebate Fund (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.

(B) The funds created under this Indenture shall be maintained by the Trustee and shall be held in the custody of the Trustee. The Issuer authorizes and directs the Trustee to withdraw moneys from said funds for the purposes specified herein, which authorization and direction the Trustee hereby accepts. All moneys required to be deposited with or paid to the Trustee under any provision of this 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

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(B) After notice shall have been given in the manner provided in Subsection (A) above, the 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 Series and maturity in any of the Authorized Denominations.

(C) 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 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 this Indenture or be secured by or be entitled to the benefits of this Indenture. If such moneys shall not be so available on the Redemption Date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption and shall remain Outstanding under this Indenture and shall continue to be secured by and be entitled to the benefits of this Indenture until paid.

(D) Notwithstanding any other provision of this Indenture, any notice of redemption given with respect to a Book Entry Bond shall comply with the requirements for notice contained in the Depository Letter from the Issuer to the Depository relating to such Book Entry Bond. 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.

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Section 411 hereof 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 this 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.

(C) 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.

SECTION 402. APPLICATION OF PROCEEDS OF BONDS AND OTHER MONEYS. (A) 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 and the Institution shall deposit with the Trustee on the Closing Date, as provided in Section 3.1(A) of the Loan Agreement, \$1,840,000 (the "Equity Contribution"). The Trustee shall deposit the proceeds from the sale of the Initial Bonds and the Equity Contribution as follows:

(1) the Trustee shall deposit the Equity Contribution into the Series 2024 Equity Contribution Subaccount;

(2) 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;

(3) the Trustee shall deposit the portion of the proceeds of the Initial Bonds in an amount equal to \$1,999,983.43 into the Series 2024 Reserve Account, representing the Initial Reserve Fund Requirement;

(4) the Trustee shall deposit the portion of the proceeds of the Initial Bonds in an amount equal to \$2,693,163.62 into the Series 2024 Project Capitalized Interest Subaccount, representing interest payable on the Initial Bonds from the Closing Date through and including June 1, 2027; and

(5) the Trustee shall deposit the remainder of the proceeds of the Initial Bonds into the Series 2024 Project Bond Proceeds Subaccount of the Series 2024 Project Account of the Project Fund.

(B) The amounts held in the Series 2024 Project Account shall be disbursed in accordance with the provisions of Section 404 hereof.

(C) The proceeds of any Series of Additional Bonds shall be deposited as provided in the supplement to this Indenture authorizing the issuance of such Series of Additional Bonds. Any such proceeds required to be deposited in the Project Fund shall be deposited in the appropriate account relating to such Additional Bonds within the Project Fund.

SECTION 403. TRANSFERS OF REVENUES TO FUNDS. (A) Commencing on the first date on which Required Payments (as defined in the Master Trust Indenture) are received by the Trustee (i) from the Master Trustee pursuant to the Master Trust Indenture, (ii) from the Custodian pursuant to the Custody Agreement, or (iii) from the Institution pursuant to the Loan Agreement, and on each date upon which any such Required Payment is received thereafter, the Trustee shall deposit such Required 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

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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.

(B) In the event that the Institution shall have exercised its option to repair, rebuild or restore the Project Facility, the Master Trustee shall, subject to the applicable provisions of the Master Trust Indenture, transfer to the Trustee the Net Proceeds of any insurance settlement or Condemnation award received by the Master Trustee with respect to the Project Facility, and the Trustee shall, upon receipt of such Net Proceeds, be deposited by the Trustee into the Insurance and Condemnation Fund.

**SECTION 404. PROJECT FUND.** (A) In addition to moneys deposited in the Project Fund from the Equity Contribution and the proceeds of the sale of the Initial Bonds pursuant to Section 402 hereof, there shall be deposited into the Series 2024 Bond Proceeds Project Subaccount within the Series 2024 Bond Project Account of the Project Fund all other moneys received by the Trustee under or pursuant to this Indenture or the other Financing Documents or Master Trust Documents which, by the terms hereof or thereof, are to be deposited in the Project Fund. Moneys on deposit in (w) the Series 2024 Project Capitalized Interest Subaccount of the Project Fund with respect to the Initial Bonds shall be disbursed and applied by the Trustee for deposit in the Series 2024 Bond Account on the fifth (5<sup>th</sup>) Business Day preceding each Loan Payment Date in that amount which the Institution is obligated under Section 5.1(A)(1) and (2) with respect to interest payable on the Initial Bonds until no amount remains on deposit in the Series 2024 Project Capitalized Interest Subaccount, (x) the Series 2024 Project Bond Proceeds Subaccount of the Project Fund with respect to the Initial Bonds shall be disbursed and applied by the Trustee to pay the Costs of the Project relating to the Initial Project and certain Costs of Issuance (as defined in the Tax Regulatory Agreement), all pursuant to the provisions of Section 3.3 of the Loan Agreement, this Section 404 and, with respect to the Initial Bonds, the Initial Tax Regulatory Agreement, in each case to the extent not paid from the amounts on deposit in the Series 2024 Project Equity Contribution Subaccount, (y) the Series 2024 Project Equity Contribution Subaccount of the Project Fund shall be disbursed and applied by the Trustee to pay the Costs of the Project relating to the Initial Project and certain Costs of Issuance, in each case to the extent not paid from the amounts on deposit in the Series 2024 Project Bond Proceeds Subaccount of the Series 2024 Bond Project Account, and (z) the Series 2024 Project Bond Proceeds Subaccount shall be disbursed until exhausted prior to the disbursement of amounts in the Series 2024 Project Equity Contribution Subaccount. Moneys on deposit in the Project Fund with respect to a Series of Additional Bonds shall be disbursed in accordance with the provisions of the Supplemental Indenture authorizing issuance of such Series of Additional Bonds.

(B) The Trustee is hereby authorized and directed to disburse the moneys on deposit in the Series 2024 Project Bond Proceeds Subaccount and the Series 2024 Project Equity Contribution Subaccount of the Project Fund relating to the Initial Bonds upon receipt by the Trustee of a Request for Disbursement, in substantially the form attached hereto as Exhibit A, certified to by an Authorized Representative of the Institution in accordance with the applicable provisions of this Indenture and the Loan Agreement and, with respect to the Initial Bonds and the amounts on deposit in the Series 2024 Project Bond Proceeds Subaccount and the Series 2024 Project Equity Contribution Subaccount, the Initial Tax Regulatory Agreement. The Trustee shall rely exclusively on such Requests for Disbursements and shall have no duty, express or implied, to make any inspections or investigations with respect thereto.

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(C) 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 subsection (C) 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.

(D) Notwithstanding anything herein to the contrary, in NO EVENT shall moneys deposited in the Bond Fund be retained therein for a period in excess of one (1) year, except as otherwise provided in the Tax Documents.

**SECTION 406. INSURANCE AND CONDEMNATION FUND.** (A) Subject to the applicable provisions of the Master Trust Indenture, 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.

(B) If, pursuant to Sections 7.1 or 7.2 of the Loan Agreement, 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, upon direction by the Institution to the Master Trustee pursuant to the Master Trust Indenture, the Master Trustee shall transfer that portion of such Net Proceeds as determined in accordance with the applicable provisions of the Master Trust Indenture to the Trustee for deposit in the Insurance and Condemnation Fund, and the Trustee shall, after any transfer to the Rebate Fund required by the Tax Documents and Section 407 hereof is made, transfer all such 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 hereof.

(C) 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 hereunder or under any other Financing Document or Master Trust Document has occurred and is continuing, the Master Trustee shall transfer the Net Proceeds referred to in Section 406(A) to the Trustee for deposit in the Insurance and Condemnation Fund, and such moneys so transferred to and held in the Insurance and Condemnation Fund and attributable to the damage to or the destruction of or the taking of the Project Facility shall, after any transfer to the Rebate Fund required by the Tax Documents and Section 407 hereof is made, be applied to pay the costs of such repairs, rebuilding or restoration in accordance with the terms and conditions set forth in Section 406(D) hereof.

(D) Upon satisfaction of the conditions set forth in Section 406(C) and 406(H) hereof, the Trustee is hereby authorized to and shall make such disbursements, at the Institution's request, either upon the completion of such repairs, rebuilding or restoration or periodically as such repairs, rebuilding or restoration progress, upon receipt by the Trustee of a certificate of an Authorized Representative of the Institution, stating, with respect to each payment to be made: (1) the amount or amounts to be paid, the Person or Persons (which may include the Institution for reimbursement of such costs) to whom an amount is to be paid and the total sum of all such amounts; (2) that the Institution has expended, or is expending, concurrently with the delivery of such certificate, such amount or amounts on account of costs incurred in connection with the repair, rebuilding or restoration of the Project Facility; (3) that all contractors, workmen and suppliers have been or will be paid through the date of such certificate from the funds to be disbursed; (4) that there exists no Event of Default hereunder or under any other Financing

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(C) Moneys on deposit in the Project Fund may be invested in Authorized Investments in accordance with Section 412 hereof. 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 or subaccount of the Project Fund related to such monies and may be used to pay the Costs of the Project related to such account.

(D) (1) 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, (a) all moneys remaining in the Series 2024 Project Equity Contribution Subaccount in the Project Fund shall be transferred to the Institution and (b) all moneys in the Series 2024 Project Bond Proceeds Subaccount in the Project Fund (in excess of any amount required to be transferred to the Rebate Fund pursuant to Section 407 hereof and, with respect to the Initial Bonds, the Tax Documents) shall be transferred from the Project Fund to the Series 2024 Bond Account of the Bond Fund and applied to redeem the Initial Bonds as provided in Section 301(A) hereof.

(2) In the event that the unpaid principal amount of the Bonds shall be 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 Section 407 hereof and the Tax Documents) shall be transferred from the Project Fund to the Bond Fund as soon as possible and shall be used to pay the principal of, premium, if any, on, Sinking Fund Payments, and interest on the Bonds.

(E) The Trustee shall maintain adequate records pertaining to each account and subaccount of the Project Fund and all disbursements therefrom, and shall, upon request of the Issuer or the Institution and within sixty (60) days after the Completion Date, file an accounting thereof with the Issuer and the Institution.

**SECTION 405. BOND FUND.** (A) In addition to the moneys deposited into the Bond Fund (1) from the proceeds of the Bonds pursuant to Section 402 hereof, (2) pursuant to Section 3.02 of the Master Trust Indenture, all amounts withdrawn from the MTI Revenue Fund and paid by the Master Trustee to the Trustee as a Required Payment (as defined in the Master Trust Indenture) and (3) pursuant to Sections 403, 404 and 412 hereof, 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) subject to the applicable provisions of the Master Trust Indenture, any amount in the Insurance and Condemnation Fund directed to be paid into the Bond Fund under Section 406 hereof, (c) all prepayments by the Institution in accordance with Section 6.3 of the Loan Agreement in connection with which notice has been given to the Trustee pursuant to Section 302 hereof, (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 this Indenture or the other Financing Documents or any Master Trust Documents which by the terms hereof or 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.

(B) Moneys on deposit in the Bond Fund may be invested in Authorized Investments in accordance with Section 412 hereof. All interest and other income accrued and earned on moneys on deposit in the Bond Fund shall be deposited by the Trustee into the Bond Fund. Moneys on deposit in the Bond Fund shall, subject to Section 405(C) hereof, be applied by the Trustee to pay the principal of, premium, if any, Sinking Fund Payments, and interest on the Bonds as the same become due, whether at Stated Maturity, upon acceleration of the Bonds or upon redemption of the Bonds, except as provided in Section 413 hereof.

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Document or Master Trust Document, and no condition, event or act which, with notice or the lapse of time or both, would constitute an Event of Default hereunder or under any other Financing Document or Master Trust Document; (5) that such Authorized Representative of the Institution has no knowledge, after diligent inquiry and after searching the records of the appropriate state and local filing offices, of any vendor's Lien, mechanic's Lien or security interest which should be satisfied, discharged or bonded before the payment as requisitioned is made or which will not be discharged by such payment; (6) that no certificate with respect to such expenditures has previously been delivered to the Trustee; (7) that there remain sufficient moneys in the Insurance and Condemnation Fund attributable to the damage to, destruction of, or taking of the Project Facility to complete the repair, rebuilding or restoration of the Project Facility; and (8) that the requested payment is a proper charge against the Insurance and Condemnation Fund. Each such requisition shall be accompanied by bills, invoices or other evidences reasonably satisfactory to the Trustee. The Trustee shall be entitled to conclusively rely on such requisition and shall have no duty, express or implied, to make any inspections or investigations with respect thereto.

(E) Upon completion of the repair, rebuilding or restoration of the Project Facility, an Authorized Representative of the Institution shall deliver to the Issuer and the Trustee (with a copy to the Master Trustee) a certificate stating (1) the date of such completion, (2) that all labor, services, materials and supplies used therefor and all costs and expenses in connection therewith have been paid, (3) that the Project Facility has been restored to substantially its condition immediately prior to the damage or Condemnation thereof, or to a condition of at least equivalent value, operating efficiency and function, (4) that the Institution has good and valid title to all Property constituting part of the restored Project Facility, and that the Project Facility is subject to the Loan Agreement and the Liens and security interests of this Indenture and the other applicable Financing Documents and Master Trust Documents, (5) the applicable Rebate Amount with respect to the Net Proceeds of the insurance settlement or Condemnation award and the earnings therefrom (with a statement as to the determination of the Rebate Amount and a direction to the Trustee with respect to any required transfer to the Rebate Fund), and (6) that the restored Project Facility is ready for occupancy, use and operation for its intended purposes. Notwithstanding the foregoing, such certificate may state (a) that it is given without prejudice to any rights of the Institution against third parties which exist at the date of such certificate or which may subsequently come into being, (b) that it is given only for the purposes of this Section 406, and (c) that no Person other than the Issuer, the Trustee or the Master Trustee may benefit therefrom. Such certificate shall be accompanied by a certificate of occupancy, if required, and any and all permissions, licenses or consents required of Governmental Authorities for the occupancy, operation and use of the Project Facility for its intended purposes.

(F) (1) All earnings on amounts held in the Insurance and Condemnation Fund shall be retained by the Trustee in the Insurance and Condemnation Fund.

(2) All moneys which remain in the Insurance and Condemnation Fund following the date on which the Institution shall have no further right to draw on the same shall be transferred to the Bond Fund pursuant to Section 406(G) hereof.

(G) 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 or redemption of the Bonds in accordance with the Tax Documents (provided that all Tax-Exempt Bonds shall be redeemed prior to the redemption of any Taxable Bonds), 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

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affect the exclusion of the interest paid or payable on the Tax-Exempt Bonds from gross income for federal income tax purposes.

(H) If the cost of the repair, rebuilding or restoration of the Project Facility shall be in excess of the moneys held in the Insurance and Condemnation Fund, the Institution shall deposit such additional moneys in the Insurance and Condemnation Fund as are necessary to pay the cost of completing such repair, rebuilding or restoration. Prior to making any disbursement pursuant to Section 406(D) hereof, the Trustee shall receive a certificate from the Institution certifying as to the cost of repair, rebuilding or restoration of the Project Facility and the proposed sources of repayment thereof.

**SECTION 407. REBATE FUND.** (A) The Trustee shall make information regarding the Bonds and investments hereunder 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 this Section and the instructions must be retained by the Trustee until six years after the Tax-Exempt Bonds are no longer Outstanding. Any provision hereof to the contrary notwithstanding, amounts credited to the Rebate Fund shall be free and clear of any lien hereunder.

(B) (1) 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 of the Project pursuant to Section 404(D) hereof or the restoration of the Project Facility pursuant to Section 406(E) hereof at any time during a Bond Year, the Trustee shall 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 hereunder designated by the Institution, or, in the event the amounts held in such fund or funds are less than the Rebate Amount, the amount to be deposited shall be withdrawn from the fund or funds established hereunder designated by the Institution or from other moneys made available by the Institution.

(2) The Trustee shall make deposits and disbursements from the Rebate Fund in accordance with the written instructions received from the Authorized Representative of the Institution, shall invest the amounts held in the Rebate Fund pursuant to written instructions from the Authorized Representative of the Institution and shall deposit income from such investments immediately upon receipt thereof in the Rebate Fund. Amounts on deposit in the Rebate Fund Principal Account shall be invested in accordance with the provisions of Section 410 hereof and the Tax Documents. All income from such investments shall be deposited in the Rebate Fund Earnings Account and paid to the United States on the date of any payment made pursuant to Section 407(D) hereof.

(C) 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

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(H) As indicated in Section 513(B) hereof, the Issuer shall not be responsible for the calculation or payment of any rebate amount required by Section 148 of the Code.

**SECTION 408. RESERVE FUND.** (A) 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 2024 Reserve Account. Upon the issuance of any Series of Additional Bonds, the Trustee shall deposit an amount equal to the Reserve Fund Requirement relating to such Series of Additional Bonds into the Reserve Fund.

(B) If, on the Business Day preceding any Bond Payment Date, the amount on deposit in the Bond Fund, subsequent to the receipt of all payments pursuant to the Loan Agreement, the Custody Agreement and the Master Trust Indenture, 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.

(C) All earnings on amounts held in the Reserve Fund which, pursuant to Section 412(D) hereof, 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 Section 408(B) hereof.

(D) 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 Section 408(F) and Section 408(H) hereof. Pursuant to Section 5.1(A)(4) of the Loan Agreement, the Institution has agreed, upon receipt of notice from the Trustee pursuant to this subsection (D) 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, to make available to the Trustee for deposit in the Reserve Fund moneys to replenish such withdrawal from the Reserve Fund in payments from the Institution on 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.

(E) 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.

(F) 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 Section 408(H) hereof. 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 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.

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excess to the Series 2024 Project Bond Proceeds Subaccount of 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.

(D) 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 later 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 Tax-Exempt 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 Tax-Exempt 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 Tax-Exempt Bonds as of the date of such payment plus all amounts relating thereto then held in the Rebate Fund Earnings Account.

(E) Notwithstanding any other provision in this Indenture, general or specific, to the contrary, the Trustee shall have no obligations hereunder relating to arbitrage restrictions or rebate requirements, except to comply with specific written instructions received by the Trustee from the Institution with respect to deposits into the Rebate Fund and release of moneys therefrom. The Trustee shall not have any responsibility to make any calculations relating to arbitrage restrictions or rebate requirements, or to make any other determinations with respect to the excludability of the interest on the Tax-Exempt Bonds from gross income for federal income tax purposes or to verify, confirm or review (and the Trustee shall not verify, confirm or review) any such calculations or requirements or determinations made hereunder or under the Tax Regulatory Agreement relating to arbitrage restrictions or rebate requirements, or with respect to the excludability of the interest on the Tax-Exempt Bonds from gross income for federal income tax purposes or to take any other action with respect thereto hereunder. The Trustee shall not have any responsibility for verifying (and the Trustee shall not verify, confirm or review) that the use of proceeds of the Bonds is in compliance with the requirements of the Code. The Trustee shall not have any responsibility to notify the Institution or any other Person of any failure by the Institution or any other Person to provide to the Trustee timely written directions relating to arbitrage restrictions or rebate requirements as required hereunder or under the Tax Regulatory Agreement, including, without limitation, certifications or directions of the Institution regarding rebate determinations or rebate payments which may be due and payable to the Internal Revenue Service.

(F) This Section 407 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 Outstanding Tax-Exempt Bonds which exists on the Closing Date.

(G) Accompanying each certification of a Rebate Amount shall be a complete copy of the report of the Accountant or other service provider engaged by the Institution in making such determination, which report is provided to the Trustee for informational purposes, and the Trustee shall be under no obligation to review or evaluate the same.

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(G) 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 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 Reserve Fund to the Bond Fund to be applied to the Debt Service Payments on the Bonds on such Bond Payment Date.

(H) 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.

**SECTION 409. REPAIR AND REPLACEMENT FUND.** (A) Pursuant to Section 402(C) hereof, the Repair and Replacement Fund will be funded on the Closing Date 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 this Indenture or the other Financing Documents or Master Trust 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.

(B) 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 an Authorized Representative 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.

(C) 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.

(D) All earnings on amounts held in the Repair and Replacement Fund which, pursuant to Section 412(D) hereof, 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 Section 409(C) hereof.

(E) 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 Section 409(G) and Section 409(I) hereof. Pursuant to Section 5.1(A)(4) of the Loan Agreement, the Institution has agreed, upon receipt of notice from the Trustee pursuant to this subsection (E) that a withdrawal has been made from the Repair and Replacement Fund (or a valuation has been made) which results in a deficiency in the amount required to be on deposit to the credit of the Repair and Replacement Fund, to make available to the Trustee for deposit in the Repair and Replacement Fund moneys to replenish such withdrawal from

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the Repair and Replacement Fund in payments from the Master Trustee on 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 (1/6) 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 Repair and Replacement Fund is at least equal to the Repair and Replacement Fund Requirement.

(F) 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.

(G) 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 Section 409(H) hereof. 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 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.

(H) 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.

(I) 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.

**SECTION 410. CUSTODY AGREEMENT AND MASTER TRUST INDENTURE.** (A) At least ten (10) Business Days prior to each Loan Payment Date, the Trustee shall deliver to the Master Trustee (with a copy to each of the Custodian and the Institution), as provided in Section 3.02(b) of the Master Trust Indenture and Section 4.1 and 4.3 of the Custody Agreement, a notice of the amount due on the next succeeding Loan Payment Date (such notice being the "Trustee Loan Payment Date Notice"), and, based thereon and pursuant to Section 3.02 of the Master Trust Indenture and Sections 4.1 and 4.3 of the Custody Agreement, (1) the Master Trustee shall deliver a Custody Agreement Notice to the Custodian in the form required under the Custody Agreement no later than seven (7) Business Days prior to the next succeeding Loan Payment Date certifying to the Custodian that amount required to be transferred by the Custodian to the Master Trustee for deposit in the MTI Revenue Fund (less any amount otherwise on deposit in the MTI Revenue Fund and available for payment of Master Obligation No. 2) to equal the Loan Payment to be made by the Institution under Section 5.1(A)(1) and (2) of the Loan Agreement, (2) the Custodian shall, in accordance with Sections 4.1 and 4.3 of the Custody Agreement, transfer to the Master Trustee that amount so set forth in the Custody Agreement Notice for deposit by the Master Trustee in the MTI Revenue Fund no later than five (5) Business Days preceding such next succeeding

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Investments at the written direction of an Authorized Representative of the Institution, or, in the absence of such direction, moneys will be held uninvested.

(B) 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 this 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 this Article 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) hereof 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 hereof. 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 hereof. 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.

(C) 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 subsection.

(D) 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(G), 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), 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.

(E) The Trustee may make any investment permitted by this Section 412 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

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Loan Payment Date, and (3) no later than three (3) Business Days prior to such next succeeding Loan Payment Date, the Master Trustee shall, pursuant to Section 3.02(b) of the Master Trust Indenture, shall transfer such amount to the Trustee for deposit by the Trustee in the Series 2024 Bond Account of the Bond Fund.

(B) Each Trustee Loan Payment Date Notice shall state the amount necessary to be paid to the Trustee to satisfy the next succeeding Loan Payment Date payment obligation of the Institution under Section 5.1(A)(1) and (2) of the Loan Agreement. The Trustee shall prepare each Trustee Loan Payment Date Notice in consultation with the Institution.

(C) 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 Trustee Loan Payment Date Notice.

(D) Notwithstanding the foregoing provisions of this Section 410, the Trustee shall not be required to prepare a Trustee Loan Payment Date Notice with respect to any period described in the Custody Agreement if the aggregate amount to be transferred by the Custodian to the Master Trustee (for transfer by the Master Trustee to the trustee) is the same amount as certified in the most recent Trustee Loan Payment Date Notice delivered by the Trustee to the Master Trustee (with a copy to each of the Custodian and the Institution).

**SECTION 411. NON-PRESENTMENT OF BONDS.** (A) Subject to the provisions of Sections 205, 206 and 207 hereof, in the event any Bond shall not be presented for payment when the principal thereof becomes due, either at maturity or at the date fixed for redemption thereof or otherwise, or in the event any interest payment on a Bond shall be unclaimed, if moneys sufficient to pay such Bond or interest shall have been deposited with the Trustee for the benefit of the Holder thereof, such Bond shall be deemed cancelled, redeemed or retired on such date even if not presented on such date or such interest shall be deemed paid, as the case may be, and all liability of the Issuer to the Holder thereof for the payment of such Bond or interest shall forthwith cease, terminate and be completely discharged; and thereupon it shall be the duty of the Trustee to hold such funds, without liability for interest thereon, for the benefit of the Holder of such Bond or interest thereon who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Indenture or with respect to such Bond or interest.

(B) Subject to any law to the contrary, if any Bond shall not be presented for payment or any interest payment shall not be claimed prior to the earlier of (1) two years following the date when such Bond or interest becomes due, either at maturity or at the date fixed for redemption or otherwise, or (2) the Business Day prior to the date on which such moneys would escheat to the State, the Trustee shall, upon written request of the Institution, return to the Institution all funds held by the Trustee for the payment of such Bond or interest. Thereafter, (a) the Owner of such Bond shall be entitled to look only to the Institution for payment of such Bond or interest, and then only to the extent of the amount so repaid to the Institution, who shall not be liable for any interest thereon and shall not be regarded as a trustee of such money, (b) all liability of the Trustee with respect to such moneys shall terminate, and (c) such Bond shall, subject to the defense of any applicable statute of limitations, thereafter be an unsecured obligation of the Institution. The Trustee shall, at least sixty (60) days prior to the expiration of the above described period, give notice to the Institution and any Owner who has not presented any Bond for payment or claimed any interest that any moneys held for the payment of any such Bond or interest will be returned as provided in this Section 411 at the expiration of such period. The failure of the Trustee to give any such notice shall not affect the validity of any transfer of funds pursuant to this Section 411.

**SECTION 412. INVESTMENT OF FUNDS.** (A) Any moneys held as part of any fund created herein shall be continuously invested and reinvested, from time to time, by the Trustee in Authorized

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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 this 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 this Section 412 or for any loss arising from such investment.

**SECTION 413. FINAL DISPOSITION OF MONEYS.** 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 hereunder and under the other Financing Documents and after payment of any amounts required to be rebated to the United States hereunder and under the Tax Documents or any provision of the Code, all amounts remaining in any fund established under this 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).

**SECTION 414. PERIODIC REPORTS BY TRUSTEE.** Within thirty (30) days after each January 1 and July 1, and within thirty (30) days after any request from the Issuer or the Institution, the Trustee shall furnish to the Issuer and the Institution a report on the status of each of the funds, accounts and subaccounts established under this Article IV and any other funds held by the Trustee hereunder, including funds held under Section 411 hereof, showing at least the balance in each such fund, account and subaccount as of the final day of the period with respect to which the last such report described (or, if such report is the first such report, as of the Closing Date), the total of deposits into (including interest on investments) and the total of disbursements from each such fund, account and subaccount the dates of such deposits and disbursements, and the balance in each such fund, account and subaccount on the last day of the period to which such report relates (which date shall be not earlier than the last day of the calendar month preceding the date of such report), and such other information as the Issuer or the Institution may reasonably request.

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ARTICLE V  
GENERAL COVENANTS

**SECTION 501. AUTHORITY OF ISSUER; VALIDITY OF INDENTURE AND BONDS.** The Issuer hereby represents, warrants and covenants that it is duly authorized under the Constitution and laws of the State, including particularly and without limitation the Enabling Act, to issue the Bonds authorized hereby, to execute this Indenture and to pledge the revenues and receipts in the manner necessary for the issuance of the Bonds authorized hereby; that the execution and delivery of this Indenture has been duly and effectively authorized; and that such Bonds in the hands of the Owners thereof are and will be valid and enforceable special obligations of the Issuer according to the import thereof.

**SECTION 502. PAYMENT OF PRINCIPAL AND INTEREST.** The Issuer covenants that it shall promptly pay or cause to be promptly paid, the principal of, premium, if any, Sinking Fund Payments and interest on every Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in the Bonds, according to the true intent and meaning thereof, subject to the provisions of Section 202 and Section 1109 hereof.

**SECTION 503. PROCESSING OF TRANSFERS.** Subject to the provisions of Section 206 and Section 213 hereof, the Trustee represents to and covenants with the Issuer and the Bondholders that it will take all reasonable action required and capable of performance on its part to process transfers of Bonds within three (3) Business Days of receipt of a request therefor.

**SECTION 504. PERFORMANCE OF COVENANTS; AUTHORITY OF ISSUER.** The Issuer covenants (subject to Section 202, Section 515 and Section 1109 hereof), and the Trustee by executing this Indenture covenants, that each will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all proceedings pertaining thereto. The Issuer covenants and represents that it is duly authorized under the laws of the State to issue the Bonds authorized hereby and to execute and deliver this Indenture, to convey the interests described herein and conveyed hereby, to pledge the revenues, receipts and other moneys hereby pledged in the manner and to the extent herein set forth and to execute and deliver the Financing Documents and the Master Trust Documents to which it is a party; that all action on its part for the issuance of the Initial Bonds and the execution and delivery of the Financing Documents and the Master Trust Documents to which it is a party has been duly and effectively taken; and that the Bonds in the hands of the Holders and Owners thereof are and will be valid and enforceable special obligations of the Issuer according to the import thereof.

**SECTION 505. PRIORITY OF LIEN OF INDENTURE.** The Issuer hereby represents, warrants and covenants that this Indenture is and will be a first Lien upon the Trust Revenues and the Issuer agrees not to create or suffer to be created any Lien having priority or preference over the Lien of this Indenture upon the Trust Revenues or any part thereof, except as otherwise specifically provided herein.

**SECTION 506. INSTRUMENTS OF FURTHER ASSURANCE.** The Issuer covenants (subject to Section 202, Section 515 and Section 1109 hereof) that the Issuer will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such indentures supplemental hereto, and such further acts, instruments and transfers as the Trustee may reasonably require for the better assuring, transferring, conveying, pledging, assigning and confirming unto the Trustee all and singular its interest in all Property purported to be made subject to the Lien of this Indenture by the Granting Clauses hereof, and in the Trust Estate herein described and pledged hereby to the payment of the principal of, premium, if any, Sinking Fund Payments and interest on the Bonds. Any and all interest in the Trust

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(B) For the avoidance of doubt, the Trustee shall have no liability or responsibility for the preparation, review or filing of any financing statement, continuation statement or any other filing required hereunder or in connection therewith.

(C) The Institution shall furnish, from time to time as reasonably requested by the Trustee or the Master Trustee, satisfactory evidence to the Trustee and the Master Trustee of the recording and filing of all financing statements and continuation statements in such manner and in such places as may be required by law to preserve, protect and maintain the perfection of the Liens of, and security interests created by, the Financing Documents and the Master Trust Documents.

(D) The Mortgage, the Assignment of Mortgage, the Assignment of Rents, the Assignment of Assignment of Rents and Financing Statements relating to the security interests created and/or assigned thereby, shall be recorded or filed, as the case may be, by the Issuer (but at the sole cost and expense of the Institution) in the office of the County Clerk of Albany County, New York, or in such other office as may at the time be provided by law as the proper place for the recordation or filing thereof.

**SECTION 513. COVENANT AGAINST ARBITRAGE BONDS.** (A) Notwithstanding any other provision of this Indenture, so long as any Tax-Exempt Bonds shall be Outstanding, the Issuer shall 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. 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.

(B) The Issuer shall not be responsible for the calculation or payment of any rebate amount required by Section 148 of the Code.

(C) 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 this Indenture and the Tax Documents, shall direct.

**SECTION 514. COVENANT REGARDING ADJUSTMENT OF DEBTS.** In any case under Chapter 9 of Title 11 of the United States Code involving the Issuer as debtor, the Issuer, unless compelled by a court of competent jurisdiction, shall neither list the Trust Revenues or any part thereof or the Project Facility or any part thereof as an asset or property of the Issuer nor list any amounts owed upon the Bonds Outstanding as a debt of or claim against the Issuer.

**SECTION 515. LIMITATION ON OBLIGATIONS OF THE ISSUER.** (A) Notwithstanding any provision of this Indenture to the contrary, no order or decree of specific performance with respect to any of the obligations of the Issuer hereunder shall be sought or enforced against the Issuer unless (1) the party seeking such order or decree shall first have requested the Issuer in writing to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the Issuer shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten (10) days, shall have failed to institute and

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Estate or any other Property hereafter acquired which is of any kind or nature herein provided to be and become subject to the Lien of this Indenture shall, without any further conveyance, assignment or act on the part of the Issuer or the Trustee, become and be subject to the Lien of this Indenture as fully and completely as though specifically described herein, but nothing in this sentence contained shall be deemed to modify or change the obligations of the Issuer under this Section. The Issuer covenants and agrees that, except as herein otherwise provided, it has not and will not sell, convey, mortgage, encumber or otherwise dispose of any part of its interest in the Trust Estate.

**SECTION 507. INSPECTION OF PROJECT BOOKS.** The Issuer covenants and agrees that all books and documents in its possession relating to the Project Facility and the Bonds shall at all reasonable times and upon reasonable notice be open to inspection by such accountants or other agencies as the Trustee may from time to time reasonably designate.

**SECTION 508. NO MODIFICATION OF SECURITY; LIMITATION ON LIENS.** The Issuer covenants that it will not, without the written consent of the Trustee, 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 not reassigned by the Issuer), and which relates to or affects the security for the Bonds, except as contemplated hereby 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 this Indenture.

**SECTION 509. DAMAGE OR DESTRUCTION.** The rights and obligations of the Institution, the Issuer, the Trustee and the Master Trustee in the event of damage or destruction of the Project Facility or part thereof shall be determined by reference to Section 7.1 of the Loan Agreement, this Indenture and the Master Trust Indenture.

**SECTION 510. CONDEMNATION.** The rights and obligations of the Institution, the Issuer, the Trustee and the Master Trustee in the event of a taking of part or all of the Project Facility by Condemnation shall be determined by reference to Section 7.2 of the Loan Agreement, this Indenture and the Master Trust Indenture.

**SECTION 511. ACCOUNTS AND AUDITS.** The Trustee shall keep proper books of record and account (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the Project Facility or any part thereof, and which, together with all other books and papers of the Trustee in connection with the Project Facility, shall at all reasonable times be subject to the inspection of the Institution and the Issuer, or the Holder or Holders of not less than five percent (5%) in aggregate principal amount of the Bonds then Outstanding or their representatives duly authorized in writing.

**SECTION 512. RECORDATION; FINANCING STATEMENTS.** (A) The Liens on the Project Facility created by the Financing Documents (if any) and the Master Trust Documents shall be perfected by the recording by the Issuer, at the sole cost and expense of the Institution, of the relevant Financing Documents and the Master Trust Documents in the office of the County Clerk of Albany County, New York. The security interests in favor of the Trustee created by this Indenture and the other relevant Financing Documents and the security interests of the Issuer assigned to the Trustee shall be perfected by the filing by the Institution (which filings the Institution agrees to make) in the office of the New York State Department of State, Uniform Commercial Code Unit, of financing and continuation statements required to be filed pursuant to the Uniform Commercial Code of the State in order to perfect and to maintain the perfection of the security interests created by this Indenture and the other Financing Documents and the Master Trust Documents.

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diligently pursue action to cause compliance with such request within such ten (10) day period) or failed to respond within such notice period, (2) 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 shall have placed in an account with the Issuer an amount or undertaking sufficient to cover such reasonable fees and expenses, and (3) 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, directors, officers, agents (other than the Institution), servants or employees shall be subject to potential liability, the party seeking such order or decree shall (a) agree to indemnify and hold harmless the Issuer and its members, directors, officers, agents (other than the Institution), servants and employees against any liability incurred as a result of its compliance with such demand, and (b) if requested by the Issuer, furnish to the Issuer satisfactory security to protect the Issuer and its members, directors, officers, agents (other than the Institution), servants and employees against all liability expected to be incurred as a result of compliance with such request; provided, however, that no limitation on the obligations of the Issuer contained in this Section 515 by virtue of any lack of assurance provided in (1), (2) or (3) hereof shall be deemed to prevent the occurrence and full force and effect of any Event of Default hereunder.

(B) In the event that the party seeking an order or decree of specific performance with respect to any of the obligations of the Issuer hereunder is the Trustee, the Issuer agrees to contact the Institution for the purpose of obtaining from the Institution (1) the undertaking described in Section 515(A)(2) above, or (2) the indemnification described in Section 515(A)(3) above, as the case may be.

**SECTION 516. AGREEMENT TO PROVIDE INFORMATION; CONTINUING DISCLOSURE.** (A) The Trustee agrees, whenever requested in writing by the Issuer or the Institution, to provide to the Institution's expense such information that is known to the Trustee relating to the Bonds as the Issuer or the Institution from time to time may reasonably request, including, but not limited to, such information as may be necessary to enable the Issuer or the Institution to make any reports required by any Federal, state or local law or regulation.

(B) If a Series of Additional Bonds is issued under this Indenture and a continuing disclosure agreement is required to be executed by the Institution with respect thereto, the Trustee agrees to act as dissemination agent with respect to said Series of the Bonds and to enter into a written continuing disclosure agreement with the Institution for the benefit of the Holders of such Series of the Bonds, which shall be executed and delivered solely to assist the Institution and the Underwriter in complying with Rule 15c2-12(b)(5) of the Securities Exchange Act of 1934, as in effect on such date.

**SECTION 517. CERTIFICATES WITH RESPECT TO \$150,000,000 LIMITATION OF SECTION 145(b) OF THE CODE.** If the Tax Documents indicate that the \$150,000,000 limit in Section 145(b) of the Code applies to a particular Series of Tax-Exempt Bonds, then, upon receipt by the Trustee of a certificate of the Institution delivered pursuant to the relevant Tax Regulatory Agreement indicating that such \$150,000,000 limit has been or may have been exceeded at any time during the three-year period commencing on the later to occur of (A) the date that such particular Series of Tax-Exempt Bonds was issued or (B) the date the facilities financed thereby were placed in service, the Institution shall deliver to the Trustee an opinion of Bond Counsel as to whether, on the basis of the written statements, certificates, audits, filings and other documentation delivered to the Trustee in accordance with the Tax Regulatory Agreement, the \$150,000,000 limit (or any greater or lesser limit that may hereafter be imposed by the Code) of Section 145(b) of the Code was exceeded at any time during such three-year period. If at any time Bond Counsel shall opine that the \$150,000,000 limit of Section 145(b) of the Code was exceeded during such three-year period, the Trustee shall give notice thereof to all Holders of such Series of Tax-Exempt Bonds.

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ARTICLE VI  
DEFAULT PROVISIONS AND REMEDIES  
OF TRUSTEE AND BONDHOLDERS

SECTION 601. EVENTS OF DEFAULT. The following shall be "Events of Default" under this Indenture, and the terms "Event of Default" shall mean, when they are used in this Indenture, any one or more of the following events:

(A) failure by the Issuer to make due and punctual payment of the interest or premium or Sinking Fund Payments 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;

(B) 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;

(C) subject to Section 614 hereof, default in the performance or observance of any other covenant, agreement or condition on the part of the Issuer in this 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;

(D) the occurrence of an "Event of Default" under the Loan Agreement or any other Financing Document or Master Trust Document; or

(E) receipt by the Trustee of written notice from the Master Trustee to the effect that any of the Master Obligations have been accelerated under the Master Trust Indenture, unless such acceleration has been rescinded and annulled pursuant to the Master Trust Indenture.

SECTION 602. ACCELERATION. (A) Upon (1) the occurrence of an Event of Default under Section 601(A) hereof the Trustee shall, or (2) the occurrence of an Event of Default under Section 601(B), (C), (D) or (E) hereof, 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 and the Master Trustee, 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; provided, however, that upon the occurrence of an Event of Default under Section 10.1(A)(8) of the Loan Agreement, the unpaid principal of all of the Initial Bonds (and principal installments of Loan Payments under the Loan Agreement) and the interest accrued thereon to the date of payment shall be due and payable immediately without the necessity of any declaration or other action by the Trustee or any other Person.

(B) Upon the occurrence of any declaration by the Trustee under this Section 602, the principal of the Bonds then Outstanding and the interest accrued thereon shall thereupon become and be immediately due and payable, and interest shall continue to accrue thereon until the date of payment.

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(B) No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient.

(C) No waiver of any Event of Default hereunder, whether by the Trustee or by the Bondholders, shall extend to or shall affect any subsequent or concurrent Event of Default or shall impair any rights or remedies consequent thereto.

SECTION 607. RIGHTS OF BONDHOLDERS TO DIRECT PROCEEDINGS. 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 Section 701(I) herein, 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 this Indenture, the Loan Agreement or the other Financing Documents or Master Trust 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.

SECTION 608. WAIVER BY ISSUER. Upon the occurrence of an Event of Default, to the extent that such right may then lawfully be waived, neither the Issuer, nor anyone claiming through or under it, shall set up, claim or seek to take advantage of any appraisal, valuation, stay, extension or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement of this Indenture or any other Financing Document or Master Trust Document; and the Issuer, for itself and all who may claim through or under it, hereby waives, to the extent that it may lawfully do so, the benefit of all such laws and all rights of appraisal and redemption to which it may be entitled under the laws of the State.

SECTION 609. APPLICATION OF MONEYS. (A) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article VI shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses, liabilities, advances and Trustee fees (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 hereunder (other than amounts on deposit in the Rebate Fund and unclaimed funds held pursuant to Section 411 hereof), 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 this 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

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SECTION 603. ENFORCEMENT OF REMEDIES. (A) 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 this 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 or Master Trust Documents

(B) 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 and Master Trust Documents by such suits, actions or proceedings as the Trustee, being advised by counsel, shall deem expedient.

(C) 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 this Indenture, the Loan Agreement and the other Financing Documents and Master Trust 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 this Indenture or the other Financing Documents, without prejudice to any other right or remedy of the Trustee.

(D) 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 this Indenture and the other Financing Documents and Master Trust Documents by any acts which may be unlawful or in violation of this Indenture or of any other Financing Document or Master Trust Document or of any resolution authorizing the Bonds, or to preserve or protect the interest of the Trustee and/or the Bondholders.

SECTION 604. APPOINTMENT OF RECEIVERS. Upon the occurrence and during the continuance of an Event of Default and upon the filing of a suit or commencement of other judicial proceedings to enforce the rights of the Trustee under this Indenture and the other Financing Documents and Master Trust Documents, the Trustee shall, to the extent permitted by law, be entitled, as a matter of right, to the appointment of a receiver or receivers of the Project Facility and of the revenues and receipts thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

SECTION 605. RIGHTS OF BONDHOLDERS TO OBLIGATE TRUSTEE TO PROTECT BONDHOLDERS. If an Event of Default shall have occurred, and if requested in writing so to do by the Holders of not less than fifty-one percent (51%) in aggregate principal amount of Bonds then Outstanding, and if secured and indemnified as provided in Section 701(I) herein, the Trustee shall be obligated to proceed to protect its rights and the rights of the Bondholders under applicable law, the Loan Agreement, the Bonds, this Indenture and the other Financing Documents and Master Trust Documents, as the Trustee, being advised by Independent Counsel, shall deem most expedient in the interest of the Bondholders.

SECTION 606. REMEDIES NOT EXCLUSIVE; WAIVER AND NON-WAIVER OF EVENT OF DEFAULT. (A) No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Bondholders hereunder or now or hereafter existing at law or in equity or by statute.

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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.

(B) Whenever moneys are to be applied pursuant to the provisions of Section 609(A)(1) hereof, such moneys shall be applied at such times, and from time to time, by the Trustee, 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 the Trustee shall apply such moneys under Section 609(A)(1) hereof, the Trustee shall fix the date (which shall be an Interest Payment Date unless the Trustee shall deem another date more suitable) upon which such application is to be made, and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. Whenever moneys are to be applied pursuant to the provisions of Section 609(A)(2) hereof, 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 cancelled if fully paid.

SECTION 610. REMEDIES VESTED IN TRUSTEE. All rights of action, including the right to file proof of claims, under this Indenture, under any other Financing Document, under any Master Trust Document or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds. Subject to the provisions of Section 609 hereof, any recovery or judgment shall be for the equal benefit of the Holders of the Outstanding Bonds.

SECTION 611. LIMITATIONS ON RIGHTS AND REMEDIES OF BONDHOLDERS. No Holder of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or any other Financing Document or for the execution of any trust under this Indenture or for the appointment to the extent permitted by law of a receiver or any other remedy hereunder, unless an Event of Default under Section 601(A), (D) or (E) hereof has occurred or a default under Section 601(B) or (C) hereof has occurred of which the Trustee has been notified as provided in Section 614 hereof; nor unless also (A) such default, in the case of a default under Section 601(B) or (C), shall have become an Event of Default, and (B) the Holders of at least fifty-one percent (51%) in aggregate principal amount of Bonds then Outstanding shall have made written request to the Trustee and shall have offered reasonable opportunity either to proceed to exercise the powers hereinbefore granted or

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to institute such action, suit or proceeding in its own name; nor unless also they have offered to the Trustee indemnity as provided in Section 701(I) hereof; nor unless the Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding for a period of thirty (30) days after receipt by the Trustee of such request and offer of indemnity; and such notification, request and offer of indemnity are hereby declared in every case at the option of the Trustee to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment to the extent permitted by law of a receiver or for any other remedy hereunder; it being understood and intended that no one or more Holders of the Bonds shall have any right in any manner whatsoever to affect, disturb, or prejudice the Lien of this Indenture by any action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Holders of all Bonds then Outstanding. Nothing in this Indenture shall, however, affect or impair the right of any Bondholder to enforce the payment of the principal of and interest on any Bond at and after the maturity thereof, or the obligation of the Issuer to pay the principal of and interest on each of the Bonds issued hereunder to the respective Holders thereof, at the time and place and from the source and in the manner in the Bonds expressed.

**SECTION 612. TERMINATION OF PROCEEDINGS.** In case the Trustee shall have undertaken any proceedings to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case, the Issuer, the Institution and the Trustee shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

**SECTION 613. WAIVERS OF EVENTS OF DEFAULT.** The Trustee shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of and interest on the Bonds upon the written request of the Holders of not less than fifty-one percent (51%) of the aggregate principal amount of all the Bonds then Outstanding; provided, however, that there shall not be waived (A) any default in the payment of the principal of any Outstanding Bond at the date of maturity specified therein, or upon proceedings for mandatory redemption, or (B) any default in the payment when due of the interest or premium on any such Bonds, unless prior to such waiver or rescission all arrears of interest, with interest (to the extent permitted by law) at the respective rates borne by the Bonds in respect of which such default shall have occurred on overdue installments of interest or all arrears of payments of principal when due (whether at the stated maturity thereof or upon proceedings for redemption) as the case may be, shall have been paid or provided for, and no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereto. The Trustee shall not grant any waiver or rescission hereunder unless all ordinary and extraordinary fees and expenses of the Trustee, including, but not limited to, reasonable attorneys' fees, incurred in connection with said default have been paid or provided for, and in case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then, and in every such case, the Issuer, the Trustee and the Bondholders, respectively, shall be restored to their former positions and rights hereunder.

**SECTION 614. NOTICE OF DEFAULTS; OPPORTUNITY TO CURE.** (A) Anything herein to the contrary notwithstanding, no default under Section 601(B) or Section 601(C) hereof shall 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 shall be given by the Trustee or by the Holders of not less than fifty-one (51%) percent 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 shall have had thirty (30) days after receipt of such notice to correct said default or cause said default to be corrected, and shall not have corrected said default or caused said default to be corrected 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.

(B) The Trustee shall immediately notify the Issuer and the Institution of any Event of Default or Event of Taxability known to the Trustee.

**SECTION 615. STATEMENT OF INCOME AND EXPENDITURES.** Upon the occurrence and during the continuance of an Event of Default, the Trustee shall render annually to the Bondholders a summarized statement of income and expenditures prepared by the Institution in connection with the Project Facility, but only to the extent, if any, that the Trustee can obtain such information without unreasonable effort or expense.

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## ARTICLE VII THE TRUSTEE

**SECTION 701. ACCEPTANCE OF THE TRUSTS.** The Trustee hereby accepts the trusts imposed upon it by this Indenture and agrees to perform said trusts upon the following terms and conditions:

(A) The Trustee may execute any of the trusts or powers hereof and perform any of its duties hereunder 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 hereof and the duties hereunder, 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 hereof. The Trustee may act upon the opinion or advice of any attorney appointed without gross negligence, 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 shall neither be responsible for, nor chargeable with, knowledge of the terms and conditions of any other agreement, instrument, or document other than this Indenture and the Master Trust Indenture and the respective documents contemplated hereby and thereby, whether or not an original or a copy of such agreement has been provided to the Trustee. The Trustee shall have no obligation to monitor other parties and their performance of their respective obligations.

(B) Except as expressly provided herein, the Trustee shall not be responsible for any recital herein or in the Bonds (except in respect to the authentication certificate of the Trustee endorsed on the Bonds), or for the validity of the execution by the Issuer or the Institution of this Indenture or of any supplements thereto or instruments of further assurance or of any other Financing Document or Master Trust Document, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby, or for insuring the Property subject to the Lien of the Financing Documents or of the Master Trust Documents, or for the value or title of any of the Property subject to the Lien of the Financing Documents or of the Master Trust Documents, or for the payment of, or for minimizing taxes, charges, assessments or Liens upon the same, or otherwise as to the maintenance of the security hereof, except as to the safekeeping of the pledged collateral held by the Trustee and except that, in the event the Trustee enters into possession of part or all of the Property subject to the Lien of the Financing Documents pursuant to any provision thereof, it shall use due diligence in preserving the same, and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenant, condition or agreement on the part of the Issuer or the Institution, but the Trustee may require of the Issuer and the Institution full information and advice as to the performance of the covenants, conditions and agreements aforesaid and as to the condition of the Property subject to the Lien of the Financing Documents.

(C) The Trustee may become the Owner of Bonds secured hereby with the same rights which it would have if not the Trustee.

(D) The Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document reasonably believed to be genuine and correct and to have been signed or sent by the proper Person or Persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any Person who at the time of making such request or giving such authority or consent is the Owner of any Bond shall be conclusive and binding upon all future Owners of the same Bond and of any Bond or Bonds issued in exchange therefor or in place thereof. In addition, the Trustee shall have the right to rely upon any order or decree of a court of competent jurisdiction.

(E) The Trustee may accept a certificate of the Secretary or Assistant Secretary of the Issuer under its corporate seal to the effect that a resolution in the form therein set forth has been adopted by the Issuer as conclusive evidence that such resolution has been duly adopted and is in full force and effect. As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate of the Institution signed by an Authorized Representative of the Institution, or a certificate of an Authorized Representative of the Issuer under seal, as the case may be, as sufficient evidence of the facts therein contained and, prior to the occurrence of a default of which it has been notified as provided in paragraph (M) of this Section or of which by said paragraph it is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is or is not necessary or expedient, but may at its discretion, at the reasonable expense of the Institution, in every case secure such further evidence as it may think necessary or advisable, but shall in no case be bound to secure the same.

(F) The permissive right of the Trustee to do things enumerated in the Financing Documents or the Master Trust Documents shall not be construed as a duty unless so specified herein, and in doing or not doing so the Trustee shall not be answerable for other than its own active gross negligence or willful misconduct.

(G) At any and all reasonable times, the Trustee, and its duly authorized agents, attorneys, experts, accountants and representatives, shall have the right fully to inspect all books, papers and records of the Issuer and the Institution pertaining to the Project Facility and the Bonds, and to take such memoranda from and in regard thereto as may be desired.

(H) Notwithstanding anything elsewhere in this Indenture, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds, the withdrawal of any moneys, the release of any interest in Property or any action whatsoever, within the purview of this Indenture or of any Financing Document or Master Trust Document, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to those required herein.

(I) Before taking any action under this Indenture (except declaring an Event of Default, a mandatory redemption or an acceleration of the Bonds pursuant to this 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.

(J) All moneys received by the Trustee or any paying agent shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by law or by this Indenture. Neither the Trustee nor any paying agent shall be under any liability for interest on any moneys received hereunder except such as may be agreed upon with the Issuer. The Trustee shall not be liable for any loss pertaining to an Authorized Investment executed in accordance with written instructions from the Institution.

(K) The Trustee, prior to an Event of Default hereunder and after curing all Events of Default which may have occurred, undertakes to perform only such duties as are specifically set forth in this Indenture. In case an Event of Default has happened which has not been cured, the Trustee shall exercise the rights, duties and powers vested in the Trustee by this Indenture in good faith and with that degree of diligence, care and skill which ordinarily prudent persons would exercise under similar circumstances in handling their own affairs.

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(L) The Trustee shall furnish to the Issuer during the term of this Indenture upon the written request of the Issuer any reports or other account of the use of any of the Issuer's funds held by the Trustee that may be required by any governmental body.

(M) 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 Section 601(A) or (E) hereof, 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 hereunder, and all notices or other instruments required by this 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.

(N) The Trustee shall not be personally liable for any debts contracted or for damages to Persons or to personal Property injured or damaged, or for salaries or nonfulfillment of contracts, during any period in which it may be in the possession of or managing any Property subject to the Lien of the Financing Documents or of the Master Trust Documents as in this Indenture provided.

(O) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(P) All notices to, or requests of, the Trustee hereunder shall be in writing.

(Q) The Trustee shall have no liability for any action taken, or errors in judgment made, in good faith by it or any of its officers, employees or agents, unless it shall have been negligent in ascertaining the pertinent facts.

(R) Nothing in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder.

**SECTION 702. FEES, CHARGES AND EXPENSES OF TRUSTEE.** The Trustee shall be entitled to payment from the Institution for its Ordinary Services and Ordinary Expenses, including, but not limited to, reasonable attorney's fees, rendered or incurred hereunder and, in the event that it should become necessary for the Trustee to perform Extraordinary Services, it shall be entitled to reasonable extra compensation therefor from the Institution, and to reimbursement from the Institution for reasonable and necessary Extraordinary Expenses, including, but not limited to, reasonable attorney's fees, in connection therewith; provided that, if such Extraordinary Services or Extraordinary Expenses are occasioned by the gross negligence or willful misconduct of the Trustee, it shall not be entitled to compensation or reimbursement therefor. The fees, charges and expenses of the Trustee shall be payable by the Institution in accordance with Section 5.1(B)(1) of the Loan Agreement.

**SECTION 703. NOTICE TO BONDHOLDERS OF DEFAULT.** If an Event of Default occurs which the Trustee is, by Section 614 or subsection (M) of Section 701 hereof, required to take notice or if notice of an Event of Default has been given to the Trustee as in said Section 614 or Section 701(M) provided, then the Trustee shall give written notice thereof by mail to the Master Trustee and all Owners of Bonds then Outstanding as shown on the Bond Register maintained by the Trustee.

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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.

(B) Every such successor or temporary Trustee appointed pursuant to the provisions of this Section 708 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.

**SECTION 709. CONCERNING ANY SUCCESSOR TRUSTEE.** Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Issuer (with a copy to the Institution) an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, Properties, rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of the Issuer, or of its successor, and upon payment of all amounts due such predecessor, execute and deliver an instrument transferring to such successor Trustee all the estates, Properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee (subject to such payment) shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the Issuer be required by a successor Trustee for more fully and certainly vesting in such successor the estates, Properties, rights, powers and duties hereby vested or intended to be vested in the predecessor Trustee, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article VII, shall be filed and/or recorded by the successor Trustee in each recording office where this Indenture shall have been filed and/or recorded.

**SECTION 710. TRUSTEE PROTECTED IN RELYING UPON RESOLUTIONS, ETC.** (A) The resolutions, opinions, certificates and other instruments provided for in this Indenture or any other Financing Document or Master Trust Document may be accepted by the Trustee as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Trustee for the release of property under any other Financing Document or Master Trust Document and the withdrawal of moneys hereunder or for any other action to be taken by the Trustee in reliance thereon.

(B) In no event shall the Trustee be responsible or liable for special, indirect, punitive, incidental or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

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**SECTION 704. INTERVENTION BY TRUSTEE.** In any judicial proceeding to which the Issuer or the Institution is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of Bondholders, the Trustee may intervene on behalf of Bondholders and shall do so if requested in writing by the Owners of at least fifty-one percent (51%) in aggregate principal amount of all Bonds then Outstanding and if offered the security and indemnity provided for in Section 701(I) of this Indenture. The rights and obligations of the Trustee under this Section 704 are subject to the approval of a court of competent jurisdiction.

**SECTION 705. SUCCESSOR TRUSTEE.** Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, shall, ipso facto, be and become successor Trustee hereunder and vested with all of the title to the Trust Estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instruments or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

**SECTION 706. RESIGNATION BY THE TRUSTEE.** The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving sixty (60) days' written notice to the Master Trustee, the Issuer and the Institution and by registered or certified mail to each Owner of Bonds then Outstanding and such resignation shall take effect at the end of such sixty (60) day period, but not prior to the acceptance of appointment by a successor Trustee under Section 709 hereof. Such notice to the Issuer and the Institution may be served personally or sent by registered mail. If an instrument of acceptance by a successor Trustee shall not be delivered to the Trustee within sixty (60) days after the giving of such notice of resignation, the resigning trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

**SECTION 707. REMOVAL OF THE TRUSTEE.** (A) (1) The Trustee may be removed at any time, by the Owners of not less than fifty-one percent (51%) in aggregate principal amount of all Bonds then Outstanding, by an instrument or concurrent instruments in writing delivered to the Trustee, the Master Trustee, the Issuer and the Institution, and signed by the Owners of not less than fifty-one percent (51%) in aggregate principal amount of all Bonds then Outstanding, prior to an Event of Default for cause and after an Event of Default for any reason, by an instrument or concurrent instruments in writing delivered to the Trustee, the Master Trustee, the Issuer and the Institution, stating the cause or reason for such removal. Any such notice shall specify the date that such removal shall take effect.

(2) So long as no Event of Default has occurred and is continuing, the Trustee may also be removed by the Institution, by an instrument in writing signed by the Institution and delivered to the Trustee and the Issuer. Such removal shall be subject to the consent of the Issuer, which consent may be withheld in the absolute discretion of the Issuer and, upon a determination by the Issuer, subject to the requirement that the Institution obtain the consent of the Owners of not less than fifty-one percent (51%) in aggregate principal amount of all Bonds then Outstanding. Any such notice shall specify the date that such removal shall take effect.

(B) No removal of the Trustee under this Section 707 shall be effective until a successor Trustee shall have been appointed and shall have accepted the terms and conditions imposed hereby.

**SECTION 708. APPOINTMENT OF SUCCESSOR TRUSTEE BY THE BONDHOLDERS; TEMPORARY TRUSTEE.** (A) In case the Trustee hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a

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(C) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused, directly or indirectly, by circumstances beyond its control, including without limitation, any act or provision of any present or future law or regulation or governmental authority; acts of God; earthquakes; fires; floods; wars; terrorism; civil or military disturbances; sabotage; epidemics; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service; accidents; labor disputes; acts of civil or military authority or governmental actions; or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility; it being understood that the Trustee shall use its best efforts to resume performance as soon as practicable under the circumstances.

(D) If any conflict, disagreement or dispute arises between, among, or involving any of the parties hereto concerning the meaning or validity of any provision hereunder or concerning any other matter relating to this Indenture and the documents contemplated thereby, or the Trustee is in doubt as to the action to be taken hereunder, the Trustee may, at its option, after sending written notice of the same to the parties, refuse to act until such time as it (a) receives a final non-appealable order of a court of competent jurisdiction directing delivery of the assets held in trust under this Indenture or (b) receives a written instruction, executed by each of the parties involved in such disagreement or dispute, in a form reasonably acceptable to the Trustee, directing delivery of such assets. The Trustee will be entitled to act on any such written instruction or final, non-appealable order of a court of competent jurisdiction without further question, inquiry or consent. The Trustee may file an interpleader action in a state or federal court, and upon the filing thereof. The Trustee will be relieved of all liability as to the assets held in trust under this Indenture and will be entitled to recover reasonable and documented out-of-pocket attorneys' fees, expenses and other costs incurred in commencing and maintaining any such interpleader action.

**SECTION 711. SUCCESSOR TRUSTEE AS TRUSTEE, PAYING AGENT AND BOND REGISTRAR.** In the event of a change in the office of Trustee, the predecessor Trustee which has resigned or has been removed shall cease to be Trustee and paying agent on the Bonds and Bond Registrar, and the successor Trustee shall become such Trustee and paying agent and Bond Registrar.

**SECTION 712. TRUST MAY BE VESTED IN SEPARATE OR CO-TRUSTEE.** (A) It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction, including particularly the law of the State, denying or restricting the right of banking corporations or associations to transact business as trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture, and in particular in case of the enforcement of any such instrument on default, or in case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the trust herein created, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional individual or institution as a separate or co-trustee.

(B) In the event that the Trustee appoints an additional institution as a separate or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate or co-trustee, but only to the extent necessary to enable such separate or co-trustee to exercise such powers, rights and remedies; and every covenant and obligation necessary to the exercise thereof by such separate or co-trustee shall run to and be enforceable by either of them.

(C) Should any deed, conveyance or instrument in writing from the Issuer be required by the separate trustee or co-trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to him or it such Properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and

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delivered by the Issuer. In case any separate trustee or co-trustee, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, Properties, rights, powers, trusts, duties and obligations of such separate trustee or co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such separate trustee or co-trustee.

ARTICLE VIII  
SUPPLEMENTAL INDENTURES

SECTION 801. SUPPLEMENTAL INDENTURES NOT REQUIRING CONSENT OF BONDHOLDERS. (A) 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 this Indenture and not inconsistent with the terms and provisions hereof 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 this 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 this 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 this Indenture or any indenture supplemental hereto in such manner as to permit the qualification hereof and 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 this Indenture 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 this Indenture; or
  - (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.
- (B) The Issuer and the Trustee may rely on an opinion of Independent Counsel as conclusive evidence that the execution and delivery of any amendment or supplemental indenture has been effected in compliance with this Section 801.
- (C) The Trustee may, but shall not be obligated to, enter into any such supplemental indenture that modifies the Trustee's rights, duties or immunities under this Indenture or otherwise.

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SECTION 802. SUPPLEMENTAL INDENTURES REQUIRING CONSENT OF BONDHOLDERS. (A) Except for supplemental indentures as provided in Section 801 hereof, the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, anything in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the Issuer and the Trustee of such indenture or indentures supplemental hereto as shall be deemed necessary or desirable by the Issuer or the Trustee for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture; provided, however, that nothing contained in this Section 802 shall permit or be construed as permitting (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 this 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.

(B) If at any time the Issuer and the Trustee propose to enter into any such supplemental indenture for any of the purposes specified in this Section 802, the Trustee shall, upon being satisfactorily secured and indemnified as provided in Section 701(1) hereof with respect to fees, costs and expenses, including, but not limited to, reasonable attorneys' fees, cause notice of the proposed execution of such supplemental indenture to be mailed to each Bondholder. Such notice, which shall be prepared by Independent Counsel, shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the Office of the Trustee for inspection by all Bondholders. If, within sixty (60) days or such longer period as shall be prescribed by the Trustee following the mailing of such notice, the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no Holder of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as in this Section 802 permitted and provided, this Indenture shall be and be deemed to be modified and amended in accordance therewith.

(C) The Issuer and the Trustee may rely upon an opinion of Independent Counsel as conclusive evidence that the execution and delivery of a supplemental indenture has been effected in compliance with the provisions of this Section 802.

SECTION 803. SUPPLEMENTAL INDENTURES; CONSENT OF THE INSTITUTION. (A) Notwithstanding anything contained in this Indenture to the contrary, no supplemental indenture which affects any rights or liabilities of the Institution shall become effective unless or until the Institution shall have consented in writing to the execution and delivery of such supplemental indenture. In this regard, the Trustee shall cause notice, which shall be prepared by Independent Counsel, of the proposed execution and delivery of any such supplemental indenture to be mailed by certified or registered mail to the Institution at least fifteen (15) days prior to the proposed date of execution and delivery of any supplemental indenture. The Institution shall be deemed to have consented to the execution and delivery of any supplemental indenture if the Trustee has not received a letter of protest or objection signed by the

Institution within fifteen (15) days after the mailing of said notice and a copy of the supplemental indenture.

(B) The Issuer and the Trustee may rely upon an opinion of Independent Counsel as conclusive evidence whether or not a supplemental indenture affects any rights or liabilities of the Institution within the meaning of, and for the purposes of, this Section 803.

SECTION 804. EFFECT OF SUPPLEMENTAL INDENTURES. Any supplemental indenture executed in accordance with the provisions of this Article VIII shall thereafter form part of the terms and conditions of this Indenture for any and all purposes.

SECTION 805. CONDITION PRECEDENT TO SUPPLEMENTAL INDENTURES. Prior to executing any supplemental indenture in accordance with the provisions of this Article VIII, 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.

SECTION 806. AMENDMENTS TO MASTER TRUST INDENTURE AND OTHER MASTER TRUST DOCUMENTS. The Institution may enter into amendments to the Master Trust Indenture or any other Master Trust Document in accordance with the provisions of such documents, with prior written notice to, but without the consent of, the Issuer and the Trustee, other than any consent as may be required of a Holder (as such term is defined in the Master Trust Indenture) of a Master Obligation under the Master Trust Indenture, in which case the Trustee shall be deemed such Holder of Master Obligation No. 2, unless otherwise provided in the Master Trust Indenture or other Master Trust Document. With respect to any such amendment for which the Trustee is deemed the Holder of Master Obligation No. 2, the Trustee shall be under no obligation or duty to grant such consent unless and until it shall have been provided with the written consent or direction of the Owners of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds Outstanding to take such action.

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ARTICLE IX

AMENDMENT TO LOAN AGREEMENT,  
OR OTHER FINANCING DOCUMENTS AND MASTER TRUST DOCUMENTS

SECTION 901. AMENDMENTS TO LOAN AGREEMENT OR OTHER FINANCING DOCUMENTS NOT REQUIRING CONSENT OF BONDHOLDERS. (A) 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 this 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 entered into pursuant to Section 801 hereof, or to effect any purpose for which there could be a supplemental indenture pursuant to Section 801 hereof, (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, (8) to modify or supplement from time to time the procedures then required by this Indenture and the Custody Agreement to assure the timely receipt by the Trustee of revenues pursuant to the Custody Agreement and the Master Trust Indenture in adequate amounts to fund the requirements under this 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.

(B) The Issuer and the Trustee may rely upon an opinion of Independent Counsel as conclusive evidence that the execution and delivery of any amendment, change or modification to the Loan Agreement or any other Financing Document (other than this Indenture) has been effected in compliance with the provisions of this Section 901.

SECTION 902. AMENDMENTS TO LOAN AGREEMENT OR OTHER FINANCING DOCUMENTS REQUIRING CONSENT OF BONDHOLDERS. (A) Except for the amendments, changes or modifications as provided in Section 901 hereof, 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 this Indenture) without mailing notice thereof to, and obtaining the written approval or consent thereto of, the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds at the time Outstanding given as in this Section 902 provided.

(B) If at any time the Issuer and the Institution shall request the consent of the Trustee to any such proposed amendment, change or modification of the Loan Agreement or any other Financing Document (other than this Indenture) not authorized by Section 901 hereof, the Trustee shall, upon being satisfactorily secured and indemnified as provided in Section 701(f) hereof with respect to fees, costs and expenses including, but not limited to, reasonable attorney's fees, cause notice of such proposed amendment, change or modification to be given in the same manner as provided by Section 802 hereof with respect to supplemental indentures. Such notice, which shall be prepared by Independent Counsel, shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the Office of the Trustee for inspection by all Bondholders.

(C) The Issuer and the Trustee may rely upon an opinion of Independent Counsel as conclusive evidence that the consent to the execution and delivery of any amendment, change or

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ARTICLE X

SATISFACTION AND DISCHARGE OF INDENTURE

SECTION 1001. SATISFACTION AND DISCHARGE OF LIEN. (A) 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 herein, (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 herein, (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 Section 407 hereof, 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 this Indenture have been met, then these presents and the trust and rights hereby granted shall cease, terminate and be void, and thereupon the Trustee shall (a) cancel and discharge the Lien of this 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) surrender Master Obligation No. 2 to the Master Trustee for cancellation, (c) reconvey to the Issuer the Loan Agreement and the trust hereby conveyed, and (d) assign and deliver to the Institution any interest in Property at the time subject to the Lien of this 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, the interest and premium, if any, and Sinking Fund Payments on the Bonds.

(B) All Outstanding Bonds shall, prior to the maturity or Redemption Date thereof, be deemed to have been paid within the meaning and with the effect expressed in Section 1001(A) if, under circumstances which, in the opinion of Bond Counsel, do 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, the following conditions shall have been fulfilled: (1) in case any of the Bonds are to be redeemed on any date 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 herein; and (2) there shall be on deposit with the Trustee 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 under this Indenture.

(C) The Trustee may rely upon an opinion of an Accountant as to the sufficiency of the cash or such Defeasance Obligations on deposit.

(D) Anything in Article VIII to the contrary notwithstanding, if moneys or Defeasance Obligations have been deposited or set aside with the Trustee pursuant to this Article for the payment of the principal or redemption price of the Bonds and the interest thereon and the principal or redemption price of such Bonds and the interest thereon shall not have in fact been actually paid in full, no amendment to the provisions of this Article shall be made without the consent of the Owner of each of the Bonds affected thereby.

(E) Notwithstanding the foregoing, those provisions relating to the maturity of Bonds, interest payments and dates thereof, optional and mandatory redemption provisions, exchange, transfer and registration of Bonds, replacement of mutilated, destroyed, lost or stolen Bonds, the safekeeping and

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modification to the Loan Agreement or any other Financing Document (other than this Indenture) has been effected in compliance with the provisions of this Section 902.

SECTION 903. CONDITION PRECEDENT TO AMENDMENT TO LOAN AGREEMENT OR OTHER FINANCING DOCUMENTS OR MASTER TRUST DOCUMENTS. Prior to any amendment to the Loan Agreement or other Financing Documents or Master Trust Documents taking effect, Bond Counsel must deliver its opinion that the amendment of the Loan Agreement or other Financing Document or Master Trust 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.

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cancellation of Bonds, non-presentment of Bonds, the holding of moneys in trust, and repayments to the Institution from the Bond Fund, the rebate of moneys to the United States in accordance with Section 407 hereof, and the duties of the Trustee and the Bond Registrar in connection with all of the foregoing, shall remain in effect and be binding upon the Trustee, the Bond Registrar, the Paying Agents and the Bondholders notwithstanding the release and discharge of this Indenture. The provisions in this Article shall survive the release, discharge and satisfaction of this Indenture.

SECTION 1002. DEFEASANCE. (A) So long as the Bonds shall remain Outstanding, then, notwithstanding the provisions of Section 1001, the Bonds may not be defeased, unless (1) no less than five (5) Business Days prior to the scheduled defeasance, the Trustee shall be notified and provided with draft copies of the proposed escrow agreement (the "Escrow Agreement"), a verification report from a verifier acceptable to the Trustee (in form and substance satisfactory to the Trustee) stating that the escrow is sufficient to meet the standards of Section 1001 hereof (the "Verification Report"), and an opinion of Bond Counsel to the effect that all of the requirements of the Financing Documents for defeasance of the Bonds have been complied with and that such defeasance will not cause the interest on Tax-Exempt Bonds to cease to be excluded from gross income for federal income tax purposes (the "Defeasance Opinion") and (2) such defeasance shall be accomplished only with an irrevocable deposit in escrow of Defeasance Obligations.

(B) Further substitutions of securities in the escrow are not permitted. The deposit in the escrow must be sufficient, without reinvestment, to pay all principal, premium, if any, and interest as scheduled on the Bonds to and including the date of redemption.

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ARTICLE XI  
MISCELLANEOUS

**SECTION 1101. CONSENTS AND OTHER INSTRUMENTS OF BONDHOLDERS.** (A) Any consent, request, direction, approval, waiver, objection, appointment or other instrument required by this Indenture to be signed and executed by the Bondholders may be signed and executed in any number of concurrent writings of similar tenor and may be signed or executed by such Bondholders in person or by agent appointed in writing. Proof of the execution of any such instrument, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken under such instrument, namely:

(B) The fact and date of the execution by any Person of any such instrument may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying to the execution thereof, or in any other manner satisfactory to the Trustee. Where such execution is by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, such affidavit or certificate shall also constitute sufficient proof of his authority.

(C) The Bond Register shall prove the ownership of Bonds.

(D) Any request, consent or vote of the Holder of any Bond shall bind every future holder of the same Bond and the holder of every Bond issued in exchange therefor or in lieu thereof or upon registration of transfer thereof, in respect of anything done or permitted to be done by the Trustee or the Issuer pursuant to such request, consent or vote.

(E) In determining whether the Holders of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are owned by the Issuer, the Institution or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer or the Institution shall be disregarded and deemed not to be Outstanding. For the purposes of determining whether the Trustee shall be protected in relying on any such demand, request, direction, consent or waiver, only Bonds which the Trustee knows to be so owned shall be disregarded. Bonds so owned which have been pledged in good faith may be regarded as Outstanding for the purposes of this Section 1101 if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Bonds. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

**SECTION 1102. LIMITATION OF RIGHTS.** With the exception of rights herein expressly conferred, nothing expressed or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any person other than the parties hereto, and the Holders of the Bonds, any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions hereof.

**SECTION 1103. NOTICES.** (A) All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when (1) delivered to the applicable address stated below by registered or certified mail, return receipt requested, or by such other means as shall provide the sender with documentary evidence of such delivery, or (2) delivery is refused by the addressee, as evidenced by the affidavit of the Person who attempted to effect such delivery.

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WITH A COPY TO:

Bond, Schoeneck & King, PLLC  
One Lincoln Center  
Syracuse, New York 13202  
Attention: Matthew N. Wells, Esq.

(C) A duplicate copy of each notice, certificate and other communication given hereunder by the Trustee or the Issuer shall also be given to the Institution and the Master Trustee.

(D) The Issuer, the Institution, the Trustee and the Master Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

**SECTION 1104. TRUSTEE AS PAYING AGENT AND BOND REGISTRAR.** The Trustee is hereby designated and agrees to act as paying agent and the Bond Registrar for and in respect to the Bonds.

**SECTION 1105. COUNTERPARTS.** This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 1106. SUCCESSORS AND ASSIGNS.** All the covenants and representations contained in this Indenture, by or on behalf of the Issuer, shall bind and inure to the benefit of its successors and assigns, whether so expressed or not.

**SECTION 1107. INFORMATION UNDER UNIFORM COMMERCIAL CODE.** The Issuer is the Debtor. The Trustee is the Secured Party. The address of the Trustee from which information concerning the security interest may be obtained and the address of the Issuer are set forth in Section 1103 of this Indenture.

**SECTION 1108. APPLICABLE LAW.** This Indenture shall be governed exclusively by the applicable laws of the State. The parties hereby (i) irrevocably submit to the exclusive jurisdiction of any federal or state court sitting in the City of Albany, New York, (ii) waive any objection to laying of venue in any such action or proceeding in such courts, and (iii) waive any objection that such courts are an inconvenient forum or do not have jurisdiction over any party. Each of the parties hereto hereby waives the right to trial by jury with respect to any litigation directly or indirectly arising out of, under or in connection with this Indenture.

**SECTION 1109. NO RECOURSE; SPECIAL OBLIGATION.** (A) All covenants, stipulations, promises, agreements and obligations of the Issuer contained in this Indenture, in the Bonds, and in the other Financing Documents and the Master Trust Documents shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Issuer and not of any member, director, officer, agent, servant or employee of the Issuer in his individual capacity, and no recourse under or upon any obligation, covenant or agreement in the Financing Documents or the Master Trust Documents contained or otherwise based upon or in respect of the Financing Documents or the Master Trust Documents, or for any claim based hereon or thereon or otherwise in respect hereof or thereof, shall be had against any past, present or future member, director, officer, agent, servant or employee, as such, of the Issuer or of any successor entity or political subdivision or any Person executing any of the Financing Documents or the Master Trust Documents on behalf of the Issuer, either directly or through the Issuer or any successor entity or political subdivision or any Person so executing any of the Financing Documents or Master Trust Documents on behalf of the Issuer, it being expressly understood that the Financing Documents and the Bonds issued thereunder and the Master Trust Documents are solely corporate obligations, and that no

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(B) The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

IF TO THE ISSUER:

City of Albany Capital Resource Corporation  
21 Lodge Street  
Albany, New York 12207  
Attention: Chairperson

WITH A COPY TO:

Office of the Corporation Counsel  
City Hall, Eagle Street - Room 106  
Albany, New York 12207  
Attention: Corporation Counsel

AND A COPY TO:

Hodgson Russ LLP  
677 Broadway - Suite 401  
Albany, New York 12207  
Attention: Christopher C. Canada, Esq.

IF TO THE INSTITUTION:

KIPP Capital Region Public Charter Schools  
321 Northern Boulevard  
Albany, New York 12210  
Attention: Chief Executive Officer

WITH A COPY TO:

Whiteman Osterman & Hanna, LLP  
One Commerce Plaza  
Albany, New York 12260  
Attention: Robert J. McLaughlin, Esq.

IF TO THE TRUSTEE OR THE MASTER TRUSTEE:

Manufacturers and Traders Trust Company  
285 Delaware Avenue - 3<sup>rd</sup> Floor  
Buffalo, New York 14202  
Attention: Corporate Trust Department

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such personal liability whatever shall attach to, or is or shall be incurred by, any such member, director, officer, agent, servant or employee of the Issuer or of any successor entity or political subdivision or any Person so executing any of the Financing Documents or the Master Trust Documents on behalf of the Issuer because of the creation of the indebtedness thereby authorized, or under or by reason of the obligations, covenants or agreements contained in the Financing Documents or the Master Trust Documents or implied therefrom; and that any and all such personal liability of, and any and all such rights and claims against, every such member, director, officer, agent, servant or employee because of the creation of the indebtedness authorized by the Financing Documents or the Master Trust Documents, or under or by reason of the obligations, covenants or agreements contained in the Financing Documents or the Master Trust Documents 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 Issuer of the Financing Documents and the Master Trust Documents and the issuance, sale and delivery of the Bonds.

(B) The obligations and agreements of the Issuer contained herein shall not constitute or give rise to an obligation of the State or the City of Albany, New York, and neither the State nor the City of Albany, New York shall be liable thereon, and further, such obligations and agreements shall not constitute or give rise to a general obligation of the Issuer, but rather shall constitute special limited obligations of the Issuer payable solely from Loan Payments and 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).

(C) No order or decree of specific performance with respect to any of the obligations of the Issuer hereunder (other than pursuant to Section 502 hereof, and then only to the extent of the Issuer's obligations thereunder) shall be sought or enforced against the Issuer unless the party seeking such order or decree shall first have complied with Section 515 hereof.

(D) The Issuer and the Trustee shall be entitled to the advice of counsel (who may be counsel to any party or to any Bondholder) appointed with due care and shall be wholly protected as to any action taken or omitted to be taken in good faith in reliance on such advice. Each of the Issuer and the Trustee may rely conclusively on any notice, certificate or other document furnished to it under any Financing Document or Master Trust Document and reasonably believed by it to be genuine. Each of the Issuer and the Trustee shall not be liable for any action taken by it in good faith and reasonably believed by it to be within the discretion or power conferred upon it, or in good faith omitted to be taken by it and reasonably believed to be beyond such discretion or power, or taken by it pursuant to any direction or instruction by which it is governed under any Financing Document or Master Trust Document, or omitted to be taken by it by reason of the lack of direction or instruction required for such action under any Financing Document or Master Trust Document, and shall not be responsible for the consequences of any error of judgment reasonably made by it. When any consent or other action by the Issuer or the Trustee is called for by this Indenture (other than the making of any payment with respect to the Bonds), each of the Issuer or the Trustee (as the case may be) may defer such action pending an investigation or inquiry or receipt of such evidence, if any, as it may require in support thereof. A permissive right or power to act shall not be construed as a requirement to act, and no delay in the exercise of a right or power shall affect the subsequent exercise thereof. Each of the Issuer and the Trustee shall in no event be liable for the application or misapplication of funds or for other acts or defaults by any Person except by its own directors, officers and employees.

(E) In approving, concurring in or consenting to any action or in exercising any discretion or in making any determination under this Indenture, the Issuer may consider the interests of the public, which shall include the anticipated effect of any transaction on tax revenues and employment, as well as the interests of the other parties hereto and the Bondholders; provided, however, that nothing herein shall be construed as conferring on any Person other than the Trustee and the Bondholders any right to notice,

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hearing or participation in the Issuer's consideration, and nothing in this Section 1109 shall be construed as conferring on any of them any right additional to those conferred elsewhere herein. Subject to the foregoing, the Issuer shall not unreasonably withhold any approval or consent to be given by it hereunder.

SECTION 1110. NOTICES TO RATING AGENCIES. (A) If the Bonds have received a rating from Moody's or Standard & Poor's or any other Rating Agency, the Trustee shall immediately notify Standard & Poor's and/or Moody's and/or such other Rating Agency if any of the following events occur: (1) any redemption (other than pursuant to the sinking fund redemption provisions of this Indenture), purchase or defeasance of all Outstanding Bonds; (2) any amendment to any Financing Document or Master Trust Document entered into or consented to by the Trustee pursuant to Article VIII or Article IX hereof; (3) the occurrence of any Event of Default hereunder; (4) the appointment of a successor Trustee; or (5) the redemption in whole or defeasance of the Bonds.

(B) If the Bonds have received a rating from Moody's or Standard & Poor's or any other Rating Agency, no amendment to any Financing Document or Master Trust Document shall be executed by the Issuer or the Trustee unless Standard & Poor's and/or Moody's and/or such other Rating Agency has received notice of such proposed amendment, and a copy thereof, at least fifteen (15) Business Days in advance of the execution thereof.

(C) All notices to Standard & Poor's required by this Section 1110 shall be sent to the following address:

S&P Global Ratings  
55 Water Street, 38th Floor  
New York, New York 10041  
Attention: Rating Surveillance Department

(D) All notices to Moody's required by this Section 1110 shall be sent to the following address:

Moody's Investors Services, Inc.  
7 World Trade Center at 250 Greenwich Street  
New York, New York 10007  
Attention: Rating Surveillance Department

(E) Any Rating Agency may, by notice in writing to the Trustee, designate any further or different address to which subsequent notices under this Section 1110 shall be sent.

(F) Prior to the occurrence of an Event of Default under this Indenture, the Trustee's agreement to give notices to Rating Agencies pursuant to Section 1110(A) is made as a matter of courtesy and accommodation only and the Trustee shall have no liability to any Person for any failure to comply with said Section.

SECTION 1111. U.S.A. PATRIOT ACT. The parties hereto acknowledge that in accordance with Section 326 of the U.S.A. Patriot Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. Patriot Act.

IN WITNESS WHEREOF, the Issuer has caused these presents to be signed in its name and behalf by its authorized officer, and to evidence its acceptance of the trusts hereby created, the Trustee has caused these presents to be signed in its name and behalf by one of its duly authorized trust officers, all as of the day and year first hereinabove written.

CITY OF ALBANY CAPITAL  
RESOURCE CORPORATION

BY: \_\_\_\_\_  
Authorized Officer

MANUFACTURERS AND TRADERS  
TRUST COMPANY, as Trustee

BY: \_\_\_\_\_  
Authorized Officer

CONSENT BY THE INSTITUTION

The Institution hereby approves, consents to and agrees to be bound by all of the terms and provisions of this Indenture insofar as such terms or provisions, directly or indirectly, relate to, apply to, require or prohibit action by or deal with the Institution, or Property of the Institution, including, without limitation, the Project Facility, and including, but not limited to, all provisions for the deposit or payment of moneys to funds held by the Trustee under this Indenture. The Institution hereby agrees, at its own expense, to do all things and take all actions as shall be necessary to enable the Issuer to perform its obligations under this Indenture. This paragraph shall bind the Institution and its successors and assigns.

KIPP CAPITAL REGION PUBLIC  
CHARTER SCHOOLS

BY: \_\_\_\_\_  
Authorized Officer

SECTION 1112. NO RECOURSE RELATING TO THE INSTITUTION. All covenants, stipulations, promises, agreements and obligations of the Institution contained in this 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 this Indenture contained herein or otherwise based upon or in respect of this Indenture, or for any claim based hereon or thereon or otherwise in respect hereof, 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 this 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 this Indenture, or under or by reason of the obligations, covenants or agreements contained in this 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 this Indenture.

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF ALBANY )

On the 5<sup>th</sup> day of June, in the year 2024, before me, the undersigned, personally appeared LEE E. ECK, JR., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

Nadene E. Zeigler  
Notary Public, State of New York  
Qualified in Albany County  
No. 02ZE5050898  
Commission Expires October 23, 2025

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF ERIE )

On the \_\_\_\_ day of June, in the year 2024, before me, the undersigned, personally appeared MAUREEN AULD, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF ALBANY )

On the \_\_\_\_ day of June, in the year 2024, before me, the undersigned, personally appeared STEPHANIE VALLE, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

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APPENDIX A  
SCHEDULE OF DEFINITIONS

The following words and terms used in the document to which this Appendix is attached shall have the respective meanings set forth below unless the context or use indicates another or different meaning or intent:

"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" shall have the meaning assigned to such term in the Master Trust Indenture.

"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 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.

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"Annual Debt Service" shall have the meaning assigned to such term in the Master Trust Indenture.

"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, 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 Initial 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.

"Architect" means Collins+Scoville Architecture.

"Architect Consent" means the agreement and consent to assignment by architect dated as of June 1, 2024, from the Architect to the Master Trustee, as said agreement and consent to assignment by architect may be amended and supplemented from time to time in accordance with its terms and the terms of the Master Trust Indenture.

"Assigned Properties" shall have the meaning assigned to such term in the Assignment of Rents.

"Assignment of Assignment of Rents" means the assignment of assignment of leases and rents dated as of June 1, 2024 from the Issuer to the Master Trustee, as said assignment of assignment of leases and rents may be amended and supplemented from time to time in accordance with its terms and the terms of the Master Trust Indenture.

"Assignment of Contracts" means the assignment of contracts and interests in licenses, permits and agreements dated as of June 1, 2024, from the Institution to the Master Trustee, as said assignment of contracts and interests in licenses, permits and agreements may be amended and supplemented from time to time in accordance with its terms and the terms of the Master Trust Indenture.

"Assignment of Master Obligation No. 2" means the assignment of obligation dated as of June 1, 2024 from the Issuer to the Trustee, as said assignment of obligation may be amended and supplemented from time to time in accordance with its terms and the terms of the Master Trust Indenture.

"Assignment of Mortgage" means the assignment of mortgage dated as of June 1, 2024 from the Issuer to the Master Trustee, as said assignment of mortgage may be amended and supplemented from time to time in accordance with its terms and the terms of the Master Trust Indenture.

"Assignment of Rents" means the assignment of leases and rents dated as of June 1, 2024 from the Institution to the Issuer, which, among other things, assigns to the Issuer (a) the rents, issues and profits of the Assigned Properties and (b) all leases, subleases, licenses or occupancy agreements

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affecting any of the Assigned Properties, as said assignment of leases and rents 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 of 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)

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"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.

"Building Loan Agreement" means the building loan agreement dated as of June 1, 2024 by and among the Institution, the Issuer, the Trustee and the Master Trustee, as said building loan agreement may be amended or supplemented from time to time.

"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.

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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.

"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.

"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, (A) with respect to the Initial Project, the date of substantial completion of the undertaking of the Initial Project and (B) with respect to any Additional Project, the date of substantial completion of the undertaking of such Additional Project, in each case 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 the Initial Project or any Additional Project, as applicable, 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.

"Contractor Consent" means the agreement and consent to assignment by general contractor dated as of June 1, 2024 from the General Contractor to the Master Trustee, as said agreement and consent to assignment by general contractor may be amended or supplemented from time to time in accordance with its terms and the terms of the Master Trust Indenture.

"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.

"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.

"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.

"Contractor Consent" means the agreement and consent to assignment by general contractor dated as of June 1, 2024 from the General Contractor to the Master Trustee, as said agreement and consent to assignment by general contractor may be amended or supplemented from time to time in accordance with its terms and the terms of the Master Trust Indenture.

"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.

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"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 amended and restated custody agreement dated as of June 1, 2024 by and among the Institution, the Custodian and the Master Trustee, as said amended and restated custody agreement may be amended or supplemented from time to time.

"Custody Agreement Notice" shall have the meaning assigned to such term in the Custody 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 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" shall have the meaning assigned to such term in the Custody Agreement.

"Equipment" means, collectively, the Initial Equipment and any Additional Equipment.

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"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.

"First Supplemental Master Trust Indenture" means the first supplemental master trust indenture dated as of December 4, 2020 by and between the Institution, as the initial Member and the Obligated Group Representative, and the Master Trustee.

"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.

"General Contractor" means BBL Construction Services, LLC.

"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 Revenues" shall have the meaning assigned to such term in the Master Trust Indenture.

"Holder" or "holder", when used with respect to a Bond, means a Bondholder.

"Immediate Notice" means notice transmitted through a time-sharing terminal, if operative as between two parties, or if not operative, same-day notice by telephone, teletype 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 Master Trustee, the Issuer, the Underwriter and the payee and holder of any Initial Bond.

"Indenture" means the trust indenture dated as of June 1, 2024 by and between the Issuer and the Trustee, as said trust indenture may be amended or supplemented from time to time.

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"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 or Master Trust 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) 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 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.

"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.

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"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 the Institution, and (iii) is not connected with the Institution as an officer, employee, promoter or member of the governing body 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.

"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) May 16, 2024 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 Initial Bonds executed by the Issuer and relating to certain requirements set forth in Section 148 of the Code applicable to the Initial Bonds and the Initial Project.

"Initial Bond Purchase Agreement" means the bond purchase agreement dated May 29, 2024 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 May 16, 2024 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 the Issuer's Tax-Exempt Revenue Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024 in the aggregate principal amount of \$50,105,000 issued pursuant to the Initial Bond Resolution and Article II of the Indenture and sold by the Underwriter pursuant to the Initial Bond Purchase Agreement, in substantially the form attached to the Indenture as Schedule I, and any Initial Bonds issued in exchange or substitution therefor.

"Initial Continuing Disclosure Agreement" means the continuing disclosure agreement dated as of June 1, 2024 by and between the Institution and the Dissemination Agent relating to the Initial Bonds, as said continuing disclosure agreement may be amended or supplemented from time to time.

"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.

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"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 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" shall have the meaning assigned to such term in the fourth recital clause to the Indenture and the Loan Agreement.

"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 Reserve Fund Requirement" means (a) the initial amount of \$1,999,983.43 or (b) if less than the applicable amount in (a), fifty percent (50%) of the maximum annual debt service of the Initial Bonds, calculated from time to time as of any date on which a portion of the Initial 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 Initial Bonds, or if any Initial Bonds are issued with original issue discount, 10% of the proceeds of such Initial Bonds, (ii) the maximum annual debt service on the Initial Bonds, or (iii) 125% of the average annual debt service on the Initial Bonds.

"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 Initial 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 Initial 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

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"Loan Payment Date" shall have the meaning ascribed to such term in Section 5.1 of the Loan Agreement.

"Long-Term Indebtedness" shall have the meaning assigned to such term in the Master Trust Indenture.

"Master Obligation" means an "Obligation" as such term is defined in the Master Trust Indenture.

"Master Obligation No. 2" means KIPP Capital Region Public Charter Schools Obligated Group Obligation No. 2 in the original principal amount of \$50,105,000 issued pursuant to the Second Supplemental Master Trust Indenture.

"Master Supplemental Indenture" means a "Supplement" as such term is defined in the Master Trust Indenture.

"Master Trust Documents" means, collectively, the Master Trust Indenture, all Master Obligations including the Master Obligation No. 2, the Architect Consent, the Assignment of the Assignment of Rents, the Assignment of Contracts, the Assignment of Mortgage, the Assignment of Rents, the Contractor Consent, the Custody Agreement, the Mortgage, the Building Loan Agreement and any other document now or hereafter executed by the Issuer or the Institution or any other Person in favor of the Master Trustee.

"Master Trust Indenture" means the Master Trust Indenture, dated as of December 1, 2020, as amended by the First Amendment to Master Trust Indenture dated as of June 1, 2024, between the Institution, as initial Member of the Obligated Group and initial Obligated Group Representative, and the Master Trustee, as the same may be further amended and supplemented from time to time, including the First Supplemental Master Trust Indenture and the Second Supplemental Master Trust Indenture.

"Master Trustee" means Manufacturers and Traders Trust Company, as Master Trustee under the Master Trust Indenture, and its successors and assigns in such capacity.

"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 June 1, 2024 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 Mortgaged Property and (b) assigns to the Issuer the rents, issues and profits of

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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 KIPP Capital Region Public Charter Schools, a not-for-profit 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) having a general reputation for the skill and expertise necessary to evaluate the insurance needs of the Project Facility, (C) who is Independent 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, June 1 and December 1 of each year, commencing December 1, 2024, 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.

"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 June 1, 2024 by and between the Issuer and the Institution, as said loan agreement may be amended or supplemented from time to time.

"Loan Payments" means the amounts required to be paid by the Institution pursuant to the provisions of Section 5.1 of the Loan Agreement.

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the Mortgaged Property, as said mortgage and security agreement may be assigned, amended or supplemented from time to time.

"Mortgaged Property" shall have the meaning assigned to such term in the Mortgage.

"MTI Revenue Fund" means that fund so designated created pursuant to Section 3.02 of the Master Trust Indenture.

"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.

"Operating Expenses" shall have the meaning assigned to such term in the Master Trust Indenture.

"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.

"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

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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.

"Outstanding", when used with reference to "Obligations", shall have the meaning assigned such term by the Master Trust Indenture.

"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 or the Master Trustee and (F) Permitted Liens (as such term is defined in the Master Trust Indenture).

"Person" means an individual, partnership, corporation, limited liability company, trust, unincorporated organization or Governmental Authority.

"Plans and Specifications" means (A) with respect to the Initial Project, (1) as to the Issuer, the description of the Initial Project appearing in the Issuer's preliminary inducement resolution relating thereto, and (2) as to the Trustee, the plans and specifications for the Initial Project prepared by the Institution, and all amendments and modifications thereof made by approved changed orders, and if an item for the construction of the Initial Project 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, and (B) 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 June 1, 2024 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.

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"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.

"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.

"Required Payments" shall have the meaning assigned to such term in the Master Trust 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 Initial Bonds, the Initial Reserve Fund Requirement and (b) 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.

"Second Supplemental Master Trust Indenture" means the second supplemental master trust indenture dated as of December 4, 2020 by and between the Institution, as initial Member and Obligated Group Representative, and the Master Trustee.

"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.

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"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 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.

"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.

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"Series 2024 Project Capitalized Interest Subaccount" means the subaccount so designated within the Project Fund established pursuant to Section 401(A)(1)(a) of the Indenture.

"Series 2024 Project Account" means the account so designated within the Project Fund established pursuant to Section 401(A)(1)(a) of the Indenture.

"Series 2024 Project Bond Proceeds Subaccount" means the subaccount so designated within the Project Fund established pursuant to Section 401(A)(1)(a) of the Indenture.

"Series 2024 Project Equity Contribution Subaccount" means the subaccount so designated within the Project Fund established pursuant to Section 401(A)(1)(a) of the Indenture.

"Series 2024 Reserve Account" means the account so designated within the Reserve Fund established pursuant to Section 401(A)(4)(a) of the Indenture.

"Short-Term Indebtedness" shall have the meaning assigned to such term in the Master Trust Indenture.

"Sinking Fund Payments" means (A) with respect to the Initial Bonds, the sinking fund redemption payments due on the Initial 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.

"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.

"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 any Additional Bonds not constituting Tax-Exempt Bonds.

"Tax Documents" means, collectively, (A) with respect to the Initial 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.

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"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 Initial 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 from the Master Trustee under the Master Trust Documents; (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.

"Trustee Loan Payment Date Notice" has the meaning assigned to such term in Section 410 of 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 Report" shall have the meaning ascribed to such term in Section 1002 of the Indenture.

"Yield", when used with respect to the Initial Bonds, shall have the meaning assigned to such term in the Initial Tax Regulatory Agreement.

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SCHEDULE I  
FORM OF INITIAL BOND

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York limited purpose trust company ("DTC") to the Issuer or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), any transfer, pledge or other use hereof for value or otherwise by or to any person is wrongful inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

CITY OF ALBANY CAPITAL  
RESOURCE CORPORATION  
TAX-EXEMPT REVENUE BOND  
(KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS PROJECT),  
SERIES 2024

NO.: R-___	PRINCIPAL AMOUNT: \$ _____
INTEREST RATE: ___ % per annum	MATURITY DATE: June 1, 20__
DATED DATE: June 12, 2024	CUSIP NO: _____
REGISTERED OWNER: Cede & Co	

City of Albany Capital Resource Corporation (the "Issuer"), a not-for-profit corporation of the State of New York (the "State") constituting a public instrumentality of the City of Albany, New York, for value received, hereby promises to pay, solely from the sources hereinafter described, to the registered owner indicated above, and its registered successors or assigns, on the Maturity Date identified above (subject to any right of prior redemption hereinafter provided for), the Principal Amount set forth above (subject to reduction as hereinafter provided) and interest thereon (computed on the basis of a 360-day year composed of twelve 30-day months) from the Dated Date set forth above, or from the most recent Interest Payment Date (as hereinafter defined) to which interest has been paid or duly provided for (unless authenticated after a Regular Record Date and on or before such succeeding Interest Payment Date, in which event from such succeeding Interest Payment Date), to the Maturity Date identified above (or such earlier date on which the principal hereof has been paid or duly provided for), at the Interest Rate identified above, on June 1 and December 1 of each year (each, an "Interest Payment Date"), commencing December 1, 2024.

The principal of this Initial Bond (as defined herein) due on the Maturity Date shall be paid on the Maturity Date upon presentation and surrender hereof at the corporate trust office presently located at 285 Delaware Avenue - 3<sup>rd</sup> Floor, Buffalo, New York 14202 (the "Office of the Trustee") of Manufacturers and Traders Trust Company, as trustee (together with its successors in trust, the "Trustee") under the trust indenture dated as of June 1, 2024 (from time to time, as amended or supplemented, the "Indenture") by and between the Issuer and the Trustee, or at the duly designated office of any successor trustee under the Indenture. Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the Indenture. Reference is made to the Indenture for a more complete description of the Initial Project, the provisions, among others, with respect to the nature and extent of the security for the Initial Bonds, the rights, duties and obligations of the Issuer, the Trustee and the Bondholders, and the terms and conditions upon which the Initial Bonds are issued and secured. All terms used herein with initial capitalization where the rules of grammar or context do not otherwise require shall have the meanings ascribed to such terms in the Indenture. Each Bondholder assents, by its acceptance hereof, to all of the provisions of the Indenture. Capitalized terms used in this Initial Bond but not defined herein shall have the respective meaning assigned to such terms in the Indenture.

Except when the Bonds are Book Entry Bonds, the installments of interest described above and any Sinking Fund Payment or principal payment due prior to maturity on this Initial Bond shall, as provided in the Indenture, be paid to the Person in whose name this Initial Bond (or one or more Predecessor Bonds) is registered at the close of business on the fifteenth day (whether or not a Business Day) of the calendar month immediately preceding the calendar month in which the applicable Interest Payment Date occurs (the "Regular Record Date"), and shall be paid by check or draft of the Trustee mailed by the Trustee on such Interest Payment Date to such registered Owner at his address appearing on the registration books of the Issuer, or at the written request of any Holder of Initial Bonds in an aggregate principal amount of \$100,000 or greater be transmitted on such Interest Payment Date by wire transfer at such Holder's written request to the bank account number on file with the Trustee, provided such Holder has delivered adequate instructions regarding same to the Trustee at least ten (10) Business Days prior to such Bond Payment Date. Any such interest, Sinking Fund Payment or principal payment not so punctually paid or duly provided for shall forthwith cease to be payable to the registered owner on such Regular Record Date, and may be paid to the Person in whose name this Initial Bond (or one or more Predecessor Bonds) is registered at the close of business on a date for the payment of such Defaulted Payment to be fixed by the Trustee (the "Special Record Date"), notice whereof being mailed one time, first-class postage prepaid, to registered owners of the Initial Bonds not less than ten (10) days prior to such Special Record Date, or may be paid in any other lawful manner as shall be determined by the Trustee. Notwithstanding anything herein to the contrary, when this Initial Bond is registered in the name of a Depository (as hereinafter defined) or its nominee, the principal and redemption price of and interest on this Initial Bond shall be payable in same day funds delivered or transmitted to the Depository or its nominee by 2:30 o'clock p.m. (New York time) on any date on which the principal and redemption price of and interest on any Initial Bond is due and payable.

(Project Description)

This Initial Bond is one of a duly authorized issue of bonds of the Issuer designated "City of Albany Capital Resource Corporation Tax-Exempt Revenue Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024" in the aggregate principal amount of \$50,105,000 (the "Initial Bonds"). The Initial Bonds are issued for the purpose of assisting in providing financing to the Issuer for a project (the "Initial Project") being undertaken by the Issuer for the benefit of KIPP Capital Region Public Charter Schools (the "Institution"), a New York not-for-profit education corporation and public charter school, which Initial Project consists of the following: (A) the construction of an approximately 98,185 square foot high school building (the "Initial Facility") on an approximately 10.38 acre parcel of land

located at 400 Northern Boulevard and 10 Dudley Heights in the City of Albany, New York (the "Initial Land"), (2) the acquisition and installation thereon and therein of certain related furniture, fixtures, machinery and equipment (the "Initial Equipment") (the Initial Facility, the Initial Land and the Initial Equipment hereinafter collectively referred to as the "Initial Project Facility"), all of the foregoing to be operated by the Institution as an educational facility and any other directly or indirectly related activities; (B) the refinancing of an existing loan of the Institution, the proceeds of which were used by the Institution to purchase certain buildings located at 2 Polk Street and 3055 6<sup>th</sup> Avenue, respectively, in the City of Troy, Albany County, New York; (C) the financing of all or a portion of the costs of the foregoing by the issuance of the Initial Bonds; and (D) the paying of all or a portion of the costs incidental to the issuance of the Initial Bonds, including issuance costs of the Initial Bonds, capitalized interest and any reserve funds as may be necessary to secure the Initial Bonds. Pursuant to the terms of a loan agreement dated as of June 1, 2024 (the "Loan Agreement") between the Issuer, as lender, and the Institution, as borrower, the Issuer made a loan to the Institution of the proceeds of the Initial Bonds (the "Loan") for the purpose of assisting in financing the Initial Project.

(Additional Bonds)

As provided in the Indenture, additional Series of Bonds (the "Additional Bonds", and collectively with the Initial Bonds, the "Bonds") may be issued from time to time pursuant to supplements to the Indenture on a parity with, and secured and payable equally and ratably with, all other Series of Bonds issued under the Indenture, which Additional Bonds may mature at different times, may bear interest at different rates, and may otherwise vary as provided in the Indenture and the supplement thereto authorizing any such Series of Additional Bonds. The aggregate principal amount of Bonds which may be issued under the Indenture is not limited, except as otherwise provided in the Indenture.

The obligation of the Institution with respect to the Loan is further evidenced by the execution and issuance by the Institution, as Obligated Group Representative (as defined in the Master Trust Indenture referred to below) of the KIPP Capital Region Public Charter Schools Obligated Group Obligation No. 2 in the original principal amount of \$50,105,000, in favor of the Issuer and endorsed by the Issuer to the Trustee ("Master Obligation No. 2"), and issued under the Master Trust Indenture dated as of December 1, 2020 (as the same has been and may further be amended and supplemented, the "Master Trust Indenture") between the Institution, as initial Member of the Obligated Group and initial Obligated Group Representative (as such terms are defined in the Master Trust Indenture) and Manufacturers and Traders Trust Company, as Master Trustee (together with any successor thereto a under the Master Trust Indenture, the "Master Trustee").

(Additional Master Obligations)

As provided in the Master Trust Indenture and subject to the limitations set forth therein, the Institution may from time to time execute and issue additional Master Obligations which shall be entitled to the security of the Master Trust Indenture and the other Master Trust Documents, which shall rank equally and on parity with Master Obligation No. 2, except as may be set forth in any Master Supplemental Indenture authorizing the issuance of such additional Master Obligation.

(Security for the Bonds)

The Initial Bonds are issued under and are equally and ratably secured by the Indenture. The Indenture grants the Trustee a first security interest in the Trust Revenues (as defined in the Indenture).

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As security for the Initial Bonds, the Issuer will execute and deliver to the Trustee a pledge and assignment dated as of June 1, 2024 (the "Pledge and Assignment") from the Issuer to the Trustee, which Pledge and Assignment will assign to the Trustee certain of the Issuer's rights under the Loan Agreement. Pursuant to the Pledge and Assignment, Loan payments made by the Institution under the Loan Agreement are to be paid directly to the Trustee.

Master Obligation No. 2, together with Master Obligation No. 1 and any Master Obligations which may hereafter be issued under the Master Trust Indenture, are secured equally and ratably under the Master Trust Documents, which include, among other documents, the Assignment of Rents, the Assignment of Contracts, and the Mortgage. As additional security for the Master Obligations, each of the Institution, Manufacturers and Traders Trust Company, as Custodian (the "Custodian"), and the Master Trustee have entered into an Amended and Restated Custody Agreement dated as of June 1, 2024 (the "Custody Agreement") pursuant to which the Institution has agreed to cause certain payments of Education Aid (as defined therein) due to the Institution to be delivered to the Custodian for deposit in the Custody Account created under the Custody Agreement, and the Custodian has agreed in turn, upon receipt of a Custody Agreement Notice from the Master Trustee, to make transfers of certain moneys to the Master Trustee for deposit and application under the Master Trust Indenture in order to make the required payments thereunder.

Reference is hereby made to the Indenture, the Loan Agreement, the Pledge and Assignment, the Master Trust Indenture and the other Master Trust Documents including the Custody Agreement, and to all amendments and supplements thereto, for a description of the nature and extent of the security for the Initial Bonds and Master Obligation No. 2, the terms and conditions upon which the Initial Bonds are issued and secured and the rights, duties and obligations of the Issuer, the Trustee, the Institution, the Bondholders and the Master Trustee. Copies of such documents are on file in the Office of the Trustee.

(Limited Liability)

THE INITIAL BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM PAYMENTS MADE BY THE INSTITUTION UNDER THE LOAN AGREEMENT, MONEYS AND SECURITIES HELD BY THE TRUSTEE UNDER THE INDENTURE, AND THE SECURITY PROVIDED BY THE PLEDGE AND ASSIGNMENT AND THE MASTER TRUST DOCUMENTS.

NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE OF, SINKING FUND PAYMENTS, OR THE INTEREST ON THIS INITIAL BOND OR FOR ANY CLAIM BASED HEREON OR ON THE INDENTURE, AGAINST ANY PAST, PRESENT OR FUTURE MEMBER, DIRECTOR, OFFICER, AGENT (EXCEPT THE INSTITUTION), SERVANT OR EMPLOYEE, 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, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE HEREOF, EXPRESSLY WAIVED AND RELEASED.

THE INITIAL BONDS DO NOT CONSTITUTE AND SHALL NOT BE 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 SHALL BE LIABLE THEREON. THE INITIAL BONDS DO NOT GIVE RISE TO A PECUNIARY LIABILITY OR CHARGE AGAINST

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THE GENERAL CREDIT OR TAXING POWERS OF THE STATE OF NEW YORK OR THE CITY OF ALBANY, NEW YORK. THE ISSUER HAS NO TAXING POWER.

(Extraordinary Redemption Without Premium)

The Initial Bonds are subject to redemption prior to maturity (1) as a whole, without premium, to the extent consistent with the applicable provisions of the Master Trust Indenture, 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 Initial 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 Initial Bonds in accordance with the Loan Agreement, or (c) a taking in Condemnation of part of the Project Facility and election by the Institution to redeem the Initial Bonds, subject, however, to the terms of the Master Trust Indenture, or in accordance with the Loan Agreement, (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, subject, however, to the terms of the Master Trust Indenture and as provided in the Indenture, in the event that (a) subject to the applicable provisions of the Master Trust Indenture, 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 and, pursuant to the Indenture, by the Institution, and (ii) such excess moneys are not paid to the Institution, pursuant to the Indenture, or (b) as provided in the Indenture, excess moneys remain in the related account of the Project Fund on the Completion Date, in each case to the extent of such excess, or (4) as a whole, as a mandatory redemption, upon the occurrence of an Event of Taxability, without premium, or in part, if such redemption in part (in such principal amount as is deemed necessary in the opinion of Bond Counsel) would have the result that interest payable on the Initial Bonds Outstanding after such redemption would not be includable in the gross income of any Holder of an Initial Bond. In any such event, the Initial Bonds will be redeemed, as a whole or in part, at such time as the Trustee determines, at a Redemption Price equal to the principal amount thereof, plus accrued interest to the redemption date, without premium.

(Optional Redemption without Premium at the Institution's Option)

The Initial Bonds are also subject to redemption prior to maturity on or after December 1, 2030, at the option of the Institution by exercise of its right to prepay the Loan Payments payable under the Loan Agreement as provided therein, as a whole or in part at any time, in denominations of \$5,000 or any integral multiple thereof, at a Redemption Price equal, on any particular date, to the percentage of the principal amount to be redeemed applicable to such date, as set forth in the table below, plus accrued interest to the Redemption Date:

REDEMPTION DATES	REDEMPTION PRICE
December 1, 2030 and thereafter	100%

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(Scheduled Mandatory Redemption without Premium)

The Initial Bonds issued as Term Bonds maturing on June 1, 2034 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 June 1 of each year, commencing June 1, 2030 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 (June 1)	Sinking Fund Payment
2030	\$255,000
2031	\$265,000
2032	\$275,000
2033	\$285,000
2034*	\$300,000

\*Maturity date.

The Initial Bonds issued as Term Bonds maturing on June 1, 2044 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 June 1 of each year, commencing June 1, 2035 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 (June 1)	Sinking Fund Payment
2035	\$310,000
2036	\$325,000
2037	\$340,000
2038	\$355,000
2039	\$370,000
2040	\$385,000
2041	\$405,000
2042	\$425,000
2043	\$440,000
2044*	\$460,000

\*Maturity date.

The Initial Bonds issued as Term Bonds maturing on June 1, 2054 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 June 1 of each year, commencing June 1, 2045 by the application of Sinking Fund

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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 (June 1)	Sinking Fund Payment
2045	\$480,000
2046	\$505,000
2047	\$530,000
2048	\$555,000
2049	\$580,000
2050	\$610,000
2051	\$1,425,000
2052	\$2,285,000
2053	\$2,395,000
2054*	\$2,510,000

\*Maturity date.

The Initial Bonds issued as Term Bonds maturing on June 1, 2064 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 June 1 of each year, commencing June 1, 2055 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 (June 1)	Sinking Fund Payment
2055	\$2,625,000
2056	\$2,760,000
2057	\$2,895,000
2058	\$3,040,000
2059	\$3,195,000
2060	\$3,350,000
2061	\$3,520,000
2062	\$3,695,000
2063	\$3,880,000
2064*	\$4,075,000

\*Maturity date.

(Procedures for Redemption)

Notice of the intended redemption of each Initial 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

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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 Initial Bond with respect to which no such failure to give notice, or defect therein, has occurred. Notice of any redemption hereunder with respect to Initial 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 Initial Bonds. Selection of book entry interests in the Initial Bonds called for redemption is the responsibility of the Depository and any failure of any Direct Participant, Indirect Participant of 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 Series Initial Bonds.

Any notice of optional redemption may provide (and shall provide if the Institution does not deposit with the Trustee moneys in an amount equal to the Redemption Price of the Initial Bonds being redeemed at the time the Institution delivers to the Trustee its notice of its election to cause the redemption of such Initial Bonds) 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.

In the event of any partial redemption, the particular Initial 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 which method as the Trustee shall deem fair and appropriate. If any maturity of the Initial 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 redemption of portions (equal to \$5,000 or any integral multiple thereof) of Outstanding Initial Bonds. In no event shall the principal amount of Initial Bonds subject to any partial redemption be other than \$5,000 or any integral multiple thereof.

Notice of any redemption hereunder with respect to Initial 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 Initial Bonds. Selection of book entry interests in the Initial Bonds called for redemption is the responsibility of the Depository and any failure of any Direct Participant, Indirect Participant of 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 Initial Bonds.

Initial Bonds (or portions thereof as aforesaid) for whose redemption and payment provision is made in accordance with the Indenture shall thereupon cease to be entitled to the Lien of the Indenture and shall cease to bear interest from and after the date fixed for redemption.

Notice of redemption having been duly mailed, this Initial Bond, or the principal portion called for redemption, will become due and payable on the Redemption Date at the applicable redemption price and, moneys for the redemption having been deposited with the Trustee, from and after the date fixed for redemption, interest on this Initial Bond (or such portion) will no longer accrue.

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While a Depository is the sole holder of the Initial Bonds, delivery or notation of partial redemption of the Initial Bonds shall be effected in accordance with the provisions of the Depository Letter, as defined in the Indenture.

(Transfer and Exchange)

As provided in the Indenture and subject to certain limitations therein set forth, this Initial Bond, upon surrender for transfer at the Office of the Trustee, as Bond Registrar, is transferable upon an assignment duly executed by the registered owner hereof or his duly authorized legal representative. Upon such transfer, one or more new Initial Bonds of authorized denominations and for the same aggregate principal amount and interest rate will be issued to the designated transferee or transferees.

The Initial Bonds are issuable only in fully registered form and shall be in original minimum denominations of \$5,000 and any integral multiple thereof.

No service charge shall be made for any transfer or exchange of Initial Bonds, but the Issuer or the Trustee may make a charge for transfer or exchange of Initial Bonds sufficient to reimburse them for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange, and such charge shall be paid before any new Initial Bond shall be delivered.

In any case where the date for payment on this Initial Bond, whether of interest or principal at maturity or a date fixed for redemption, shall be a day other than a Business Day, then such payment shall be made on the next succeeding Business Day with the same force and effect as if made on the due date and no interest shall accrue on the amount due for the period after such date.

The Issuer, the Trustee and the Institution may treat the registered owner as the absolute owner of this Initial Bond for all purposes, notwithstanding any notice to the contrary.

(Miscellaneous)

If an Event of Default as defined in the Indenture occurs, the principal of all Initial Bonds issued under the Indenture may become due and payable upon the conditions and in the manner and with the effect provided in the Indenture.

The owner of this Initial Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

The Indenture permits certain amendments or supplements to the Loan Agreement, the Indenture and the other Financing Documents not prejudicial to the Bondholders to be made without the consent of or notice to the Bondholders, and other amendments or supplements thereto to be made with the consent of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds then Outstanding.

This Initial Bond shall not be entitled to any benefit under the Indenture or become valid or obligatory for any purpose until the certificate of authentication of the Trustee shall be endorsed hereon.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture, and the

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issuance of this Initial Bond, do exist, have happened and have been performed in the time, form and manner as required by law, and that the issuance of the Initial Bonds does not violate any constitutional or statutory limitation.

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IN WITNESS WHEREOF, City of Albany Capital Resource Corporation has caused this Initial Bond to be duly executed in its name by the manual or facsimile signature of its authorized officer, and its corporate seal to be impressed or reproduced hereon, attested by the manual or facsimile signature of its Secretary or Assistant Secretary, all as of the Dated Date identified above.

(Form of Certificate of Authentication)

This Initial Bond is one of the Initial Bonds designated therein as described in the within-mentioned Indenture.

CITY OF ALBANY CAPITAL  
RESOURCE CORPORATION

MANUFACTURERS AND TRADERS  
TRUST COMPANY, as Trustee

BY: \_\_\_\_\_  
Authorized Officer

BY: \_\_\_\_\_  
Authorized Representative

(SEAL)

ATTEST:

\_\_\_\_\_  
Date of Authentication

\_\_\_\_\_  
(Assistant) Secretary

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[Form of Assignment for Transfer]

EXHIBIT A

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto (please insert name, address and social security or tax identification number of assignee):

FORM OF REQUEST FOR DISBURSEMENT - INITIAL BONDS

the within Bond and does hereby irrevocably constitute and appoint to transfer the said Bond on the books kept for registration thereof, with full power of substitution in the premises.

To: Manufacturers and Traders Trust Company  
285 Delaware Avenue - 3<sup>rd</sup> Floor  
Buffalo, New York 14202  
Attention: Maureen Auld, Assistant Vice President

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

Re: City of Albany Capital Resource Corporation  
Tax-Exempt Revenue Bonds  
(KIPP Capital Region Public Charter Schools Project), Series 2024

Requisition Number: \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_

In the presence of:  
\_\_\_\_\_

Dear Sir/Madam:

NOTICE: The signature(s) on this assignment must correspond with the name(s) as it (they) appear(s) on the face of the within Bond in every particular.

You are hereby authorized and directed to make the disbursements set forth in Schedule A attached hereto (in the total amount of \$ \_\_\_\_\_) from the moneys on deposit in the ["Series 2024 Project Bond Proceeds Account"] ["Series 2024 Project Equity Contribution Subaccount"] in the "Project Fund", as such quoted terms are defined in the trust indenture dated as of June 1, 2024 (the "Indenture") by and between City of Albany Capital Resource Corporation (the "Issuer") and Manufacturers and Traders Trust Company, as trustee (the "Trustee") (capitalized terms used herein, and not otherwise defined herein, shall have the meanings assigned to them in the Indenture). In connection with this request, the Institution hereby represents and warrants to the Issuer and Trustee as follows:

Signature Guaranteed:

Signature must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Trustee, which requirements will include membership or participation in STAMP or such other "signature guarantee program" as may be determined by the Trustee in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

(A) The name and address of each person to whom a disbursement is to be made, the amount to be paid to each, and the description of the purpose for which the requested disbursements from the Project Fund are to be made, are as set forth on Schedule A attached hereto;

(B) Each disbursement requested hereby is for a proper expenditure of moneys on deposit in the Project Fund under the Indenture. All of the conditions to the making of the disbursements requested hereby set forth in the Loan Agreement, in Article IV of the Indenture and (with respect to a disbursement from the Series 2024 Project Bond Proceeds Account) in the Tax Regulatory Agreement have been satisfied;

(C) With respect to a disbursement from the Series 2024 Project Bond Proceeds Account, the items for which payment is to be made were not paid or incurred prior to the Inducement Date (except to the extent that you have received a letter from Bond Counsel to the effect that payment of amounts incurred prior to the Inducement Date will not adversely affect the tax-exempt status of the interest paid or payable on the captioned Initial Bonds), and the payment of all amounts requested hereby is consistent in all material respects with the Initial Tax Regulatory Agreement;

(D) If any amount requested hereby is to reimburse to the Institution for costs or expenses of the Institution incurred by reason of work performed or supervised by officers or employees of the Institution, (1) such officers or employees were specifically employed or designated by the Institution for such purpose, (2) the amount to be paid does not exceed the actual cost thereof to the Institution, and (3) such costs or expenses will be treated by the Institution on its books as capital expenditures in

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conformity with generally accepted accounting principles applied on a consistent basis (or would have been so treated either with an election by the Institution or but for an election by the Institution to deduct the amount of such payment);

(E) With respect to a disbursement from the Series 2024 Project Bond Proceeds Account, the payment of the amount requested, when added to all other payments previously made from the Series 2024 Project Bond Proceeds Subaccount of the Project Fund, will not result in (1) less than ninety-five percent (95%) of the proceeds of the Initial Bonds (including any investment earnings on the Initial Bonds) being used for the acquisition of Property which will be used for activities directly related to the exempt purposes for which the Institution was created, for which it is an organization exempt from taxation under Section 501(c)(3) of the Code, and not in connection with any unrelated trade or business within the meaning of Section 513(a) of the Code, or (2) more than two percent (2%) of the proceeds of the Initial Bonds being used to pay issuance costs of the Initial Bonds or (3) the projected funds remaining available in the Project Fund being insufficient to cover all costs necessary to complete the Initial Project Facility;

(F) As of the date of this Request for Disbursement, the representations and covenants made in Section 2.2 of the Loan Agreement are true and correct, and there is no Event of Default under any of the Financing Documents, nor any event, condition or act that, with the passage of time or the giving of notice or both, would ripen into such an event of default;

(G) The Initial Project Facility has not been materially injured or damaged by fire or other casualty; and

(H) None of the items for which this requisition is made has been the basis for any prior disbursement from the Project Fund.

KIPP CAPITAL REGION PUBLIC  
CHARTER SCHOOLS

BY: \_\_\_\_\_  
Authorized Representative

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SCHEDULE A

Name and Address of Person to Whom Disbursement is to be Made	Amount	Description of Purpose

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Loan Agreement and is for convenience of reference only.)

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THIS LOAN AGREEMENT dated as of June 1, 2024 (the "Loan Agreement") by and between CITY OF ALBANY CAPITAL RESOURCE CORPORATION (the "Issuer"), a not-for-profit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 21 Lodge Street, Albany, New York and KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS (the "Institution"), a not-for-profit education corporation and public charter school organized and existing under the laws of the State of New York having an office for the transaction of business located at 321 Northern Boulevard, Albany, New York;

WITNESSETH:

WHEREAS, Section 1411 of the Not-For-Profit Corporation Law of the State of New York, as amended (the "Enabling Act") (A) authorizes any city to cause a not-for-profit local development corporation to be incorporated by public officers for, among other things, the public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, and lessening the burdens of government and acting in the public interest, (B) declares that in carrying out the aforesaid purposes and in exercising the powers conferred in the Enabling Act, such corporations will be performing essential governmental functions, and (C) authorizes each such corporation to acquire real and personal property, to borrow money and issue negotiable bonds, notes and other obligations therefor, and to lease, sell, mortgage or otherwise dispose of or encumber any of its real or personal property upon such terms as it may determine and otherwise carry out its corporate purposes in the territory in which the operations of such corporation are principally to be conducted; and

WHEREAS, pursuant to the provisions of the Enabling Act and Revenue Ruling 57-187 and Private Letter Ruling 200936012, the Common Council of the City of Albany, New York (the "City") adopted a resolution on March 15, 2010 (the "Sponsor Resolution") (A) authorizing the incorporation of the Issuer under the Enabling Act and (B) appointing the initial members of the board of directors of the Issuer, who serve at the pleasure of the Common Council of the City; and

WHEREAS, on April 13, 2010, a certificate of incorporation was filed with the New York Secretary of State's Office (the "Certificate of Incorporation") creating the Issuer pursuant to the Enabling Act as a public instrumentality of the City; and

WHEREAS, in March, 2024, the Institution presented an application (the "Application") to the Issuer, which Application requested that the Issuer consider undertaking a project (the "Initial Project") for the benefit of the Institution, said Initial Project to consist of the following: (A) the construction of an approximately 98,185 square foot high school building (the "Initial Facility") on an approximately 10.38 acre parcel of land located at 400 Northern Boulevard and 10 Dudley Heights in the City of Albany, New York (the "Initial Land") and (2) the acquisition and installation thereon and therein of certain related furniture, fixtures, machinery and equipment (the "Initial Equipment") (the Initial Facility, the Initial Land and the Initial Equipment hereinafter collectively referred to as the "Initial Project Facility"), all of the foregoing to be operated by the Institution as an educational facility and any other directly or indirectly related activities; (B) the refinancing of an existing loan of the Institution, the proceeds of which were used by the Institution to purchase certain buildings located at 2 Polk Street and 3055 6<sup>th</sup> Avenue, respectively, in the City of Troy, Albany County, New York; (C) the financing of all or a portion of the costs of the foregoing by the issuance of the Initial Bonds (as defined herein); (D) the paying of all or a portion of the costs incidental to the issuance of the Initial Bonds, including issuance costs of the

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Initial Bonds, capitalized interest and any reserve funds as may be necessary to secure the Initial Bonds; and (E) the making of a loan (the "Loan") of the proceeds of the Initial Bonds to the Institution by the Issuer; and

WHEREAS, pursuant to the authorization contained in a resolution adopted by the members of the board of directors of the Issuer on April 18, 2024 (the "Inducement Resolution"), the Chief Executive Officer of the Issuer (A) caused notice of the public hearing of the Issuer (the "Public Hearing") pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") and, as provided in the Certificate of Incorporation, pursuant to the applicable provisions of Section 859-a and Section 859-b of the General Municipal Law of the State of New York (the "GML"), to hear all persons interested in the Initial Project and the financial assistance being contemplated by the Issuer with respect to the Initial Project, published on April 27, 2024 in the Daily Gazette and on April 29, 2024 in the Albany Times Union, respectively, each a newspaper of general circulation available to the residents of the City of Albany, New York, (B) caused notice of the Public Hearing to be posted on April 29, 2024 on a public bulletin board located at City Hall, 24 Eagle Street, in the City of Albany, New York, (C) caused notice of the Public Hearing to be posted on April 29, 2024 on the Issuer's website, (D) caused notice of the Public Hearing to be mailed on April 26, 2024 to the chief executive officers of the county and of each city, town, village and school district in which the Initial Project Facility is (or will be) located, (E) conducted the Public Hearing on May 8, 2024 at 12:00 o'clock p.m. local time at 21 Lodge Street in the City of Albany, Albany County, New York, and (F) prepared a report of the Public Hearing (the "Public Hearing Report") which fairly summarized the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the board of directors of the Issuer and to the Mayor of City of Albany, New York (the "Mayor"); and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6NYCRR Part 617, as amended (the "Regulations" and collectively with the SEQR Act, "SEQRA"), by resolution adopted by the members of the board of directors of the Issuer on May 16, 2024 (the "SEQR Resolution"), the Issuer (A) concurred in the determination that the City of Albany Planning Board (the "Planning Board") is the "lead agency" with respect to SEQRA and (B) acknowledged receipt of a negative declaration from the Planning Board dated September 13, 2023 (the "Negative Declaration"), in which the Planning Board determined that the Initial Project is a "Type I action" and that the Initial Project will result in no significant adverse impacts on the environment, and therefore, an environmental impact statement need not be prepared; and

WHEREAS, by resolution adopted by the members of the board of directors of the Issuer on May 16, 2024 (the "Initial Bond Resolution"), the board of directors of the Issuer (A) authorized the issuance of the Issuer's Tax-Exempt Revenue Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024 in the aggregate principal amount of \$50,105,000 (the "Initial Bonds") for the purpose of financing a portion of the costs of the Initial Project, (B) authorized the circulation of a preliminary official statement (the "Initial Preliminary Official Statement") in connection with the marketing of the Initial Bonds and (C) delegated to the Chairperson, Vice Chairperson or Chief Executive Officer of the Issuer authority to determine the final details of the Initial Bonds (the "Bond Details") once the marketing of the Initial Bonds is completed and the Institution has agreed to the Bond Details; and

WHEREAS, by certificate executed by the Mayor on May 29, 2024 (the "Public Approval"), the Mayor approved the issuance of the Initial Bonds for purposes of Section 147(f) of the Code; and

WHEREAS, the Issuer will now issue the Initial Bonds under the Initial Bond Resolution, a certificate of determination dated June 12, 2024 (the "Certificate of Determination") executed by the Chairperson or Vice Chairperson of the Issuer and a trust indenture dated as of June 1, 2024 (the "Indenture") by and between the Issuer and Manufacturers and Traders Trust Company, as trustee (the "Trustee") for the holders of the Initial Bonds and any additional bonds issued by the Issuer under the Indenture (the "Additional Bonds", and collectively with the Initial Bonds, the "Bonds"); and

WHEREAS, prior to or simultaneously with the issuance of the Initial Bonds, the Issuer and the Institution will execute and deliver this Loan Agreement as borrower, pursuant to the terms of which (A) the Issuer will agree (1) to issue the Initial Bonds, and (2) to 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 (B) in consideration of the Loan, the Institution will agree (1) to cause the Initial Project to be undertaken and completed, (2) to use the proceeds of the Loan disbursed under the Indenture to pay (or reimburse the Institution for the payment of) the costs of the Initial Project, and (3) to make payments in amounts sufficient to pay when due all amounts due with respect to the Initial Bonds and Master Obligation No. 2 (as defined herein) (collectively, the "Loan Payments") to or upon the order of the Issuer in repayment of the Loan, which Loan Payments shall include amounts equal to the Debt Service Payments (as defined herein) due on the Initial Bonds; and

WHEREAS, as security for the Initial Bonds, the Issuer will execute and deliver to the Trustee a pledge and assignment dated as of June 1, 2024 (the "Pledge and Assignment") from the Issuer to the Trustee, and acknowledged by the Institution, which Pledge and Assignment will assign to the Trustee certain of the Issuer's rights under this Loan Agreement; and

WHEREAS, the Institution, as the initial Member of the Obligated Group and the Obligated Group Representative (as such terms are defined in the hereinafter defined Master Trust Indenture), and Manufacturers and Traders Trust Company, as master trustee (the "Master Trustee"), previously entered into a master trust indenture dated as of December 1, 2020 (the "Master Trust Indenture") by and between the Institution, as initial Member of the Obligated Group and the Obligated Group Representative, and the Master Trustee and, in connection with the issuance of the Initial Bonds, an Obligation (as defined in the Master Trust Indenture) will be issued by the Institution in favor of the Issuer pursuant to the Master Trust Indenture and a second supplemental master trust indenture dated as of June 1, 2024 (the "Second Supplemental Master Trust Indenture") by and between the Institution, as Obligated Group Representative, and the Master Trustee in the principal amount of the Initial Bonds ("Master Obligation No. 2") for purposes of securing the obligation of the Institution to make the Loan Payments required under this Loan Agreement; and

WHEREAS, the Issuer has executed an assignment of obligation dated as of June 1, 2024 ("Assignment of Master Obligation No. 2") transferring all of the Issuer's right, title and interest in Master Obligation No. 2 to the Trustee; and

WHEREAS, as additional security for Master Obligation No. 2 (and all Master Obligations now or hereafter issued under the Master Trust Indenture), (A) the Institution will execute and deliver to the Issuer (1) a mortgage dated as of June 1, 2024 (the "Mortgage"), which Mortgage, among other things, grants to the Issuer a mortgage lien on, and a security interest in, among other things, the Initial Project Facility and the remaining Mortgaged Property (as defined in the Mortgage) and (2) an assignment of leases and rents dated as of June 1, 2024 (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 the remaining Assigned Properties (as defined in the Assignment of Rents) and (b) all leases, subleases, licenses or occupancy agreements affecting the Initial Project Facility and the remaining Assigned

Properties and (B) the Issuer will execute and deliver to the Master Trustee (1) an assignment of mortgage dated as of June 1, 2024 (the "Mortgage Assignment") from the Issuer to the Master Trustee pursuant to which the Issuer will assign the Mortgage to the Master Trustee and (2) an assignment of assignment of leases and rents dated as of June 1, 2024 (the "Assignment of Assignment of Rents") from the Issuer to the Master Trustee, pursuant to which the Issuer will assign the Assignment of Rents to the Master Trustee; and

WHEREAS, pursuant to the terms of the Indenture: (A) the net proceeds of the sale of the Initial Bonds (the "Initial Bond Proceeds") and certain equity funds of the Institution will be deposited into various trust funds held by the Trustee under the Indenture and will be disbursed by the Trustee from time to time to pay the costs of the Initial Project, but only upon satisfaction of the requirements for making such disbursements set forth in the Indenture and in this Loan Agreement; (B) a portion of the proceeds of the Initial Bonds will be disbursed from the Project Fund created under the Indenture by the Trustee to the Institution pursuant to the terms of the Indenture, this Loan Agreement and a building loan agreement dated as of June 1, 2024 (the "Building Loan Agreement") by and among the Issuer, the Institution, the Trustee and the Master Trustee, which is intended to be filed in the office of the County Clerk of Albany County, New York; and (C) the balance of the Initial Bond Proceeds will be disbursed from the Project Fund (and the other funds created under the Indenture) by the Trustee to the Institution pursuant to the terms of the Indenture and this Loan Agreement; and

WHEREAS, concurrently with the execution of the Master Trust Indenture, the Institution, the Master Trustee and Manufacturers and Traders Trust Company, as custodian (the "Custodian"), executed and delivered a Custody Agreement dated as of December 4, 2020 (the "Original Custody Agreement"), pursuant to which the Institution agreed to cause certain of the payments of Education Aid (as defined therein) due to the Institution to be delivered to the Custodian for deposit in a custody account created under the Original Custody Agreement (the "Custody Account"), and the Custodian agreed in turn, upon receipt of a Custody Agreement Notice from the Master Trustee, to make transfers of certain moneys to the Master Trustee for deposit and application under the Master Trust Indenture in order to make the required payments thereunder, and thereafter periodically remit any excess moneys remaining from such Education Aid so deposited in the Custody Account to the Institution, all as set forth in the Original Custody Agreement; and

WHEREAS, to facilitate payments of principal of, interest on and redemption premium, if any, on the Initial Bonds, the Institution, the Master Trustee and the Custodian will enter into an amended and restated custody agreement dated as of June 1, 2024 (the "Amended and Restated Custody Agreement"), amending and restating the Original Custody Agreement; and

WHEREAS, in connection with the issuance of the Initial Bonds, the Institution will execute and deliver an environmental compliance and indemnification agreement dated as of June 1, 2024 (the "Environmental Compliance Agreement") from the Institution to the Issuer, the Trustee and the Master Trustee, pursuant to which, among other things, the Institution shall indemnify the Issuer, the Trustee and the Master Trustee against certain environmental liabilities related to the Mortgaged Property; and

WHEREAS, (A) the Initial Bonds will be initially purchased by Robert W. Baird & Co. Incorporated, acting as underwriter for the Initial Bonds (the "Underwriter") pursuant to a bond purchase agreement dated as of May 29, 2024 (the "Initial Bond Purchase Agreement") by and among the Underwriter, the Issuer and the Institution, (B) the Underwriter will utilize the Initial Preliminary Official Statement and a final official statement (the "Initial Official Statement") in connection with the initial offering and sale of the Initial Bonds, and (C) the Underwriter also intends to obtain a rating of the Initial

Bonds from one or more securities rating agencies (each such rating agency that provides a rating of the Initial Bonds, a "Rating Agency"); and

WHEREAS, to assure compliance with the continuing disclosure requirements imposed by the United States Securities and Exchange Commission, the Institution will execute and deliver to the Underwriter and the Trustee a continuing disclosure agreement dated as of June 1, 2024 (the "Initial Continuing Disclosure Agreement") from the Institution to Manufacturers and Traders Trust Company, as dissemination agent, relating to the Initial Bonds; and

WHEREAS, the Initial Bonds will be issued as "book-entry-only" obligations to be held by The Depository Trust Company, as depository (the "Depository") for the Initial Bonds; and

WHEREAS, to demonstrate compliance with the provisions of the Code relating to the issuance of tax-exempt obligations, (A) the Issuer will (1) execute an arbitrage certificate dated the date of delivery of the Initial Bonds (the "Initial Arbitrage Certificate") with respect to the Initial Bonds relating to certain requirements set forth in Section 148 of the Code, (2) execute a completed Internal Revenue Service Form 8038 (Information Return for Private Activity Bonds) relating to the Initial Bonds (the "Information Return") pursuant to Section 149(e) of the Code, and (3) file the Information Return with the Internal Revenue Service, (B) the Institution will execute a tax regulatory agreement dated the date of delivery of the Initial Bonds (the "Initial Tax Regulatory Agreement") with respect to the Initial Bonds relating to the requirements in Sections 145 through 150 of the Code and (C) the Underwriter will execute a letter (the "Issue Price Letter") confirming the issue price of the Initial Bonds for purposes of Section 148 of the Code; and

WHEREAS, the Issuer proposes to make the Loan for the purpose of financing a portion of the costs of the Initial Project, and the Institution desires to induce the Issuer to make the Loan and to agree to repay the Loan, all pursuant to the terms and conditions hereinafter set forth in this Loan Agreement; and

WHEREAS, the financing of the Initial Project Facility through the making of the Loan pursuant to this Loan Agreement is for a proper purpose, to wit, relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, and lessening the burdens of government and acting in the public interest pursuant to the provisions of the Enabling Act; and

WHEREAS, all things necessary to constitute this Loan Agreement a valid and binding agreement by and between the parties hereto in accordance with the terms hereof have been done and performed, and the creation, execution and delivery of this Loan Agreement have in all respects been duly authorized by the Issuer and the Institution;

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE PREMISES AND THE MUTUAL COVENANTS HEREINAFTER CONTAINED, THE PARTIES HERETO HEREBY FORMALLY COVENANT, AGREE AND BIND THEMSELVES AS FOLLOWS, TO WIT:

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ARTICLE I  
DEFINITIONS

SECTION 1.1. DEFINITIONS. Unless the context or use indicates another or different meaning or intent, capitalized terms used in this Loan Agreement and the preambles hereto not otherwise defined herein shall have the meanings assigned thereto in the Schedule of Definitions attached hereto as Appendix A and made a part hereof.

SECTION 1.2. INTERPRETATION. In this Loan Agreement, unless the context otherwise requires:

- (A) The terms "hereby", "hereof", "herein", "hereunder", and any similar terms as used in this Loan Agreement, refer to this Loan Agreement, and the term "heretofore" shall mean before, and the term "hereafter" shall mean after, the Closing Date.
- (B) Words of masculine gender shall mean and include correlative words of feminine and neuter genders.
- (C) Words importing the singular number shall mean and include the plural number, and vice versa.
- (D) Any headings preceding the texts of the several Articles and Sections of this Loan Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall neither constitute a part of this Loan Agreement nor affect its meaning, construction or effect.
- (E) Any certificates, letters or opinions required to be given pursuant to this Loan Agreement shall mean a signed document attesting to or acknowledging the circumstances, representations, opinions of law or other matters therein stated or set forth or setting forth matters to be determined pursuant to this Loan Agreement.

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ARTICLE II  
REPRESENTATIONS, WARRANTIES AND COVENANTS

SECTION 2.1. REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE ISSUER. The Issuer makes the following representations, warranties and covenants as the basis for the undertakings on its part herein contained:

- (A) The Issuer is duly established under the provisions of the Enabling Act and has the power to enter into this Loan Agreement and to carry out its obligations hereunder. By proper official action, the Issuer has been duly authorized to execute, deliver and perform this Loan Agreement and the other Financing Documents and Master Trust Documents to which the Issuer is a party.
- (B) Neither the execution and delivery of this Loan Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of the other Financing Documents and Master Trust Documents by the Issuer will conflict with or result in a breach by the Issuer of any of the terms, conditions or provisions of the Enabling Act, the certificate of incorporation or by-laws of the Issuer or any order, judgment, restriction, agreement or instrument to which the Issuer is a party or by which the Issuer is bound, or will constitute a default by the Issuer under any of the foregoing.
- (C) To assist in financing a portion of the Cost of the Initial Project related to the Initial Project, the Issuer will issue and sell the Initial Bonds. In no event will the Issuer issue and sell additional obligations to pay the Cost of the Initial Project if the issuance and sale of such further obligations would cause interest on the Initial Bonds to be or become subject to federal income taxation under the Code.
- (D) The Issuer shall cooperate with the Institution in the filing by the Institution, as agent of the Issuer, of such returns and other information with the Internal Revenue Service as the Trustee or the Institution requests in writing and which Bond Counsel advises the Issuer in writing is necessary to preserve the tax-exempt status of the interest payable on the Initial Bonds, provided the Institution shall bear all costs of preparing, gathering and/or filing such returns and other information. In addition, the Issuer, at the request of the Institution, shall cooperate with the Institution in the filing by the Institution, as agent of the Issuer, of such returns and other information with the State and the City of Albany, New York.
- (E) The Issuer has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that the Issuer is a bond issuer whose arbitrage certifications may not be relied upon.
- (F) Subject to the limitations contained in Section 11.10 hereof, so long as the Initial 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 cause (1) the proceeds from the sale of the Initial Bonds to be applied in a manner contrary to that provided in the Financing Documents, or (2) adversely affect the exclusion of the interest paid or payable on any Initial 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

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information concerning the investment of such administrative fee as shall be requested by the Institution and as shall be reasonably available to the Issuer.

**SECTION 2.2. REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE INSTITUTION.** The Institution makes the following representations, warranties and covenants as the basis for the undertakings on its part herein contained:

(A) The Institution is a not-for-profit education corporation and public charter school 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 this Loan Agreement and the other Financing Documents and Master Trust Documents to which the Institution is a party and to carry out its obligations hereunder and thereunder, has been duly authorized to execute this Loan Agreement and the other Financing Documents and Master Trust Documents to which the Institution is a party, and is qualified to do business in all jurisdictions in which its operations or ownership of Property so requires. This Loan Agreement and the other Financing Documents and Master Trust Documents to which the Institution is a party, and the transactions contemplated hereby and thereby, have been duly authorized by all necessary action on the part of the board of trustees of the Institution.

(B) Neither the execution and delivery of this Loan Agreement or the other Financing Documents and Master Trust Documents to which the Institution is a party, the consummation of the transactions contemplated hereby and thereby nor the fulfillment of or compliance with the provisions of this Loan Agreement or the other Financing Documents and Master Trust Documents to which the Institution is a party will (1) conflict with or result in a breach of or a default under any of the terms, conditions or provisions of the charter or the bylaws of the Institution or any other corporate restriction or any order, judgment, agreement or instrument to which the Institution is a party or by which the Institution is bound, or constitute a default under any of the foregoing, or (2) result in the creation or imposition of any Lien of any nature upon any Property of the Institution other than pursuant to the Financing Documents, the Master Trust Documents and the Permitted Encumbrances, or (3) require consent (which has not been heretofore received) under any corporate restriction or any order, judgment, agreement or instrument to which the Institution is a party or by which the Institution or any of its Property may be bound or affected, or (4) require consent under (which has not been heretofore received), conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction or decree of any government, governmental instrumentality or court (domestic or foreign) having jurisdiction over the Institution or any of the Property of the Institution, including the Charter Schools Act and any rules promulgated thereunder.

(C) The Financing Documents and Master Trust Documents to which the Institution is a party constitute, or upon their execution and delivery in accordance with the terms thereof will constitute, valid and legally binding obligations of the Institution, enforceable in accordance with their respective terms.

(D) 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 (1) adversely affect the exclusion of the interest paid or payable on the Initial Bonds from gross income for federal income tax purposes, or (2) cause the proceeds of the Initial Bonds to be applied in a manner contrary to that provided in the Financing Documents.

(E) The Initial 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 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.

(F) The Initial Project will not have a "significant impact on the environment" (within the meaning of such term as used in SEQRA), and the Institution hereby covenants to comply with all mitigation measures, requirements and conditions, if any, enumerated in (1) the SEQRA Resolution and (2) any other environmental determinations issued under SEQRA by any other Governmental Authority applicable to the Initial Project Facility. No material changes with respect to any aspect of the Initial Project Facility have arisen from the date of the issuance of such SEQRA Resolution which would cause the determinations contained in the SEQRA Resolution to be untrue.

(G) 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 be at least equal to \$50,105,000.

(H) The Institution will comply with all of the terms, conditions and provisions of the Tax Regulatory Agreement. All of the representations, certifications, statements of reasonable expectation and covenants made by the Institution in the Tax Regulatory Agreement are hereby declared to be for the benefit of, among others, the Issuer and, by this reference, are incorporated herein by this reference as though set forth in full herein.

(I) All proceeds of the Initial Bonds shall be used to pay the Cost of the Initial Project related to the Initial Project, and the total Cost of the Initial Project, including all costs related to the issuance of the Initial Bonds, shall not be less than the total Bond Proceeds advanced by the Trustee under the Indenture. In no event will "costs of issuance" (within the meaning of Section 147(g) of the Code) paid from the proceeds of the Initial Bonds exceed two percent (2%) of the proceeds of the Initial Bonds.

(J) The Institution represents that (1) the Institution is an organization described in Section 501(c)(3) of the Code, or corresponding provisions of prior law; (2) the Institution has received a letter or other notification from the Internal Revenue Service to that effect; (3) such letter or other notification has not been modified, limited or revoked; (4) the Institution is in compliance with all terms, conditions and limitations, if any, contained in such letter or other notification; (5) 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 (6) 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.

(K) The provision of financial assistance to be made available to the Institution under this Loan Agreement and the commitments therefor made by the Issuer have induced the Institution to undertake the transactions contemplated by this Loan Agreement and none of the proceeds of the Initial Bonds will be used in any manner that will be inconsistent with the Enabling Act or the Code.

(L) THE INSTITUTION RECOGNIZES THAT THE ISSUER HAS NOT MADE AN INSPECTION OF THE INITIAL PROJECT OR OF ANY FIXTURE OR OTHER ITEM CONSTITUTING A PORTION THEREOF, AND THE ISSUER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED OR OTHERWISE WITH RESPECT TO THE SAME OR THE LOCATION, USE, DESCRIPTION, DESIGN, MERCHANTABILITY, FITNESS FOR USE

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FOR ANY PARTICULAR PURPOSE, CONDITION OR DURABILITY THEREOF, OR AS TO THE INSTITUTION'S TITLE THERETO OR OWNERSHIP THEREOF OR OTHERWISE, IT BEING AGREED THAT ALL RISKS INCIDENT THERETO ARE TO BE BORNE BY THE INSTITUTION. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE IN THE INITIAL PROJECT OR ANY FIXTURE OR OTHER ITEM CONSTITUTING A PORTION THEREOF, WHETHER PATENT OR LATENT, THE ISSUER SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO. THE PROVISIONS OF THIS SECTION HAVE BEEN NEGOTIATED AND ARE INTENDED TO BE A COMPLETE EXCLUSION AND NEGATION OF ANY WARRANTIES OR REPRESENTATIONS BY THE ISSUER EXPRESS OR IMPLIED, WITH RESPECT TO THE INITIAL PROJECT OR ANY FIXTURE OR OTHER ITEM CONSTITUTING A PORTION THEREOF, WHETHER ARISING PURSUANT TO THE UNIFORM COMMERCIAL CODE OF THE STATE OF NEW YORK OR ANOTHER LAW NOW OR HEREAFTER IN EFFECT OR OTHERWISE.

(M) All property to be purchased from moneys on deposit in the Project Fund will be owned by the Institution.

(N) All representations and covenants of the Institution contained in this Section 2.2 shall remain in effect and be binding on the Institution until all of the Initial Bonds have been paid and retired, notwithstanding any early termination of this Loan Agreement or any provision for payment of principal of and premium, if any, and interest on the outstanding Bonds.

(O) The Institution has examined the Indenture and approves the form and substance of, and agrees to be bound by, its terms. The Institution, for the benefit of the Issuer and each Bondholder, shall do and perform all acts and things required or contemplated in the Indenture to be done or performed by the Institution.

(P) The Institution has received the proper licenses and permits and all other required governmental authorities to operate the Initial Project Facility as a charter school.

(Q) The Institution agrees to comply with the United States Securities and Exchange Commission Rule 15c2-12, to provide any necessary information to cause all necessary compliance with Rule 15c2-12 and to pay all costs of the Issuer, if any, in respect of such compliance.

(R) The Institution is not in default under the Master Trust Indenture or any Related Loan Agreement (as defined in the Master Trust Indenture) or Mortgage (as defined in the Master Trust Indenture).

**SECTION 2.3. COVENANT WITH THE TRUSTEE AND THE BONDHOLDERS.** The Issuer and the Institution agree that this 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 this Loan Agreement (other than the Unassigned Rights) are hereby 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.

## ARTICLE III

### UNDERTAKING AND COMPLETION OF THE INITIAL PROJECT; ISSUANCE OF THE INITIAL BONDS; USE OF BOND PROCEEDS

**SECTION 3.1. ACQUISITION, CONSTRUCTION AND INSTALLATION OF THE INITIAL PROJECT FACILITY.** (A) The Institution shall promptly acquire, construct, renovate, install, equip and furnish the Initial Project Facility, or cause the acquisition, construction, renovation, installation, equipping and furnishing of the Initial Project Facility, all in accordance with the Plans and Specifications. The Institution is and/or will be the owner of the Initial Project Facility for federal income tax purposes, and the Initial Project Facility is used and will be used, by the Institution in activities which do not constitute an "unrelated trade or business" within the meaning of Section 513(a) of the Code.

(B) No material change in the Plans and Specifications shall be made unless the Issuer shall have consented thereto in writing (which consent of the Issuer shall not be unreasonably withheld or delayed).

(C) All moneys loaned to the Institution pursuant to the Loan being made hereunder shall be used solely for Costs of the Initial Project.

(D) The Institution has given or will give or cause to be given all notices and has complied or will comply or cause compliance in all material respects with all Applicable Laws, and the Institution will defend, indemnify and save the Issuer and the Trustee and their respective members, directors, officers, agents, servants and employees harmless from all fines and penalties due to failure to comply therewith.

**SECTION 3.2. ISSUANCE OF THE INITIAL BONDS; LOAN OF THE PROCEEDS THEREOF.** (A)(1) In order to make the Loan for the purposes of financing a portion of the Cost of 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 \$50,105,000 and (b) cause the Initial Bonds to be delivered to the Underwriter as original purchaser of the Initial Bonds, all as provided in the Bond Resolution, the Certificate of Determination, the Initial Bond Purchase Agreement and the Indenture.

(2) As provided in Section 214 of the Indenture, the Issuer, upon a request of the Institution, may, but shall not be required to, issue Additional Bonds to provide moneys required for the cost of completing the Initial Project in excess of the moneys in the applicable account in the Project Fund. Nothing contained herein or in the Indenture shall be construed as creating any obligation upon the Issuer to issue Bonds for such purpose, it being the intent hereof to reserve to the Issuer full and complete discretion to decline to issue such Additional Bonds. The proceeds of any Additional Bonds shall be deposited and applied as specified in the supplemental indenture authorizing issuance of such Additional Bonds.

(B) As provided in Section 402(A) of 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 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 Issuer with the Trustee and

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deposited by the Trustee into the Reserve Fund, (3) a sum in the amount of \$2,693,163.62 being equal to interest on the Initial Bonds from the Closing Date through and including June 1, 2027 shall be deposited in the Series 2024 Project Capitalized Interest Subaccount of the Series 2024 Project Account of the Project Fund and (4) the balance of the proceeds from the sale of the Initial Bonds shall be deposited by the Issuer with the Trustee and deposited by the Trustee into the Series 2024 Project Bonds Proceeds Subaccount of the Project Fund. Pending disbursement pursuant to Section 3.4 hereof and the provisions of 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.

(C) THE ISSUER MAKES NO REPRESENTATION, EXPRESS OR IMPLIED, THAT THE NET PROCEEDS OF THE INITIAL BONDS WILL BE SUFFICIENT TO COMPLETE THE INITIAL PROJECT.

### SECTION 3.3. APPLICATION OF PROCEEDS OF THE INITIAL BONDS AND OTHER AMOUNTS.

(A) The portion of the proceeds of the sale of the Initial Bonds on deposit in the Project Fund shall be deposited by the Issuer with the Trustee as provided in the Indenture. On the Closing Date, the Institution shall use its own funds and pay to the Trustee (i) the amount of \$100,000 for deposit by the Trustee into the Renewal and Replacement Fund and (ii) the amount of \$1,840,000 for deposit by the Trustee into the Series 2024 Project Equity Contribution Subaccount of the Project Fund.

(B) 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 Series 2024 Project Account of the Project Fund relating to the Initial Bonds shall be applied to pay the Costs of the Project relating to the Initial Project, including, without limitation:

(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, the Master 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 this 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.

(C) Any disbursements from the Project Fund for the payment of the Project Costs relating to the Initial Project pursuant to Section 3.3(B) hereof (other than from the Series 2024 Project Capitalized Interest Subaccount of the Series 2024 Project Account of the Project Fund) shall be made by the Trustee

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SECTION 3.7. REBATE FUND. 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 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.

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only upon the written order of the Authorized Representative of the Institution. Each such written order shall be in substantially the form of the Request for Disbursement attached to the Indenture as Exhibit A thereto and shall be consecutively numbered and accompanied by invoices or other appropriate documentation supporting the payments or reimbursements requested.

(D) Any moneys relating to the Initial Bonds remaining in the Project Fund after the date of completion of the Initial Project and the payment, or provision for payment, in full of the Project Costs relating to the Initial Project, at the direction of the Authorized Representative of the Institution, promptly shall be paid into the Bond Fund to be applied to the redemption of the Initial Bonds as provided in the Indenture.

SECTION 3.4. COMPLETION OF THE INITIAL PROJECT. The Institution will proceed with due diligence to commence and complete the Initial Project.

SECTION 3.5. COMPLETION BY THE INSTITUTION. (A) In the event that the proceeds of the Initial Bonds are not sufficient to pay in full all costs of the Initial Project, the Institution agrees to complete the Initial Project with its own funds. THE ISSUER DOES NOT MAKE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, THAT THE MONEYS WHICH WILL BE DEPOSITED INTO THE PROJECT FUND, AND WHICH UNDER THE PROVISIONS OF THIS LOAN AGREEMENT WILL BE AVAILABLE FOR PAYMENT OF THE COST OF THE INITIAL PROJECT, WILL BE SUFFICIENT TO PAY ALL OF THE COSTS WHICH WILL BE INCURRED IN CONNECTION THEREWITH.

(B) No payment by the Institution pursuant to this Section 3.5 shall entitle the Institution to any reimbursement for any such expenditure from the Issuer, the Trustee or the Master Trustee or to any diminution or abatement of any amounts payable by the Institution under this Loan Agreement or under any other Financing Document or Master Trust Document.

SECTION 3.6. INVESTMENT OF FUND MONEYS. (A) At the 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 Initial 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 Initial Bonds, so that the Initial Bonds will not constitute arbitrage bonds under Section 148 of the Code.

(B) Any officer of the Issuer having responsibility for issuing the Initial Bonds is authorized and directed, alone or in conjunction with any of the foregoing or with any other officer, employee or agent or consultant to the Issuer, or with the Institution or any officer, employee or agent or consultant to the Institution, to give an appropriate certificate of the Issuer pursuant to said Section 148, for inclusion in the transcript of proceedings for the Initial Bonds, setting forth the reasonable expectations of the Issuer regarding the amount and use of the proceeds of the Initial Bonds and the facts, estimates and circumstances on which those expectations are based, that certificate to be premised on the reasonable expectations and the facts, estimates and circumstances on which those expectations are based, as provided by the Institution, all as of the date of delivery of and payment for the Initial Bonds. The Institution shall provide the Issuer with, and the Issuer's certificate shall be based on, a certificate of an appropriate officer, employee or agent or consultant to the Institution setting forth the reasonable expectations of the Institution on the date of delivery of and payment for the Initial Bonds regarding the amount and use of the proceeds of the Initial Bonds and the facts, estimates and circumstances on which they are based.

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## ARTICLE IV SECURITY FOR THE INITIAL BONDS

SECTION 4.1. EXECUTION OF SECURITY DOCUMENTS. At or before the delivery by the Issuer of the Initial Bonds, the Institution shall execute and deliver to the Issuer and/or the Trustee the Pledge and Assignment, the Indenture and the Master Trust Documents to which it is a party (collectively, the "Security Documents").

SECTION 4.2 WARRANTY AS TO TITLE; ENCUMBRANCES; TITLE INSURANCE. (A) The Institution warrants and represents to the Issuer that (1) it has good and marketable title to the Initial Project Facility and all other Mortgaged Property, free and clear of liens and encumbrances, except Permitted Encumbrances, so as to permit it to have quiet enjoyment and use thereof for purposes hereof and the Institution's programs and (2) the Institution has such rights of way, easements or other rights in land as may be reasonably necessary for ingress and egress to and from the Initial Project Facility and all other Mortgaged Property, for proper operation and utilization of the Initial Project Facility and such other Mortgaged Property and for utilities required to serve the Initial Project Facility and such other Mortgaged Property, together with such rights of way, easements or other rights in, to and over land as may be necessary for operation by the Institution of the Initial Project Facility and the other Mortgaged Property.

(B) The Institution covenants that title to the Initial Project Facility and all Mortgaged Property shall be kept free from any encumbrances, liens or commitments of any kind, other than Permitted Encumbrances.

(C) The Institution warrants, represents and covenants that (1) the Initial Project Facility is and shall be serviced by all necessary utilities (including, to the extent applicable, without limitation, electricity, gas, water, sewer, steam, heating, air-conditioning and ventilation), and (2) to the extent applicable, the Initial Project Facility shall have its own separate and independent means of access, apart from any other property owned by the Institution or others. Such access, however, may be through common roads or walks owned by the Institution used also for other parcels owned by the Institution.

SECTION 4.3. RECORDATION OF SECURITY DOCUMENTS; UCC FILINGS. (A) The Mortgage, the Assignment of Mortgage, the Assignment of Rents, the Assignment of Assignment of Rents and the Building Loan Agreement shall be recorded or filed, as the case may be, by the Issuer (but at the sole cost and expense of the Institution) in the office of the County Clerk of Albany, New York, or in such other office as may at the time be provided by law as the proper place for the recordation or filing thereof.

(B) The Institution hereby covenants that, during the term hereof, the Institution shall execute one or more financing statements and continuation statements therefor as to the security interests granted to the Issuer, the Trustee and the Master Trustee in any moneys (or investments thereof) or Gross Revenues (as defined in the Master Trust Indenture) and the right to receive the same, assigned or pledged to the Issuer, the Trustee or the Master Trustee pursuant to any Security Document and to file such financing statements and continuation statements in all appropriate public offices. The Institution hereby irrevocably appoints each of the Issuer, the Trustee and the Master Trustee during the term hereof as its lawful attorney-in-fact to complete, on behalf of the Institution, one or more financing statements and continuation statements therefor as to the security interests granted to the Issuer, the Trustee or the Master Trustee, as the case may be, in any moneys (or investments thereof) or Gross Revenues and the rights to receive the same, pledged to the Issuer, the Trustee or the Master Trustee pursuant to any Security

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Document and to file such financing statements and continuation statements therefor in any appropriate public office; provided, however, that so long as no Event of Default hereunder is then continuing, the Institution shall be accorded the opportunity to review and approve any proposed financing statement or modification (but not continuation statements) prepared by the Issuer, the Trustee or the Master Trustee, but such statement or modification may be filed by the Issuer, the Trustee or the Master Trustee on behalf of the Institution if the Institution has not approved within a reasonable period of time, not to exceed thirty (30) days, after such statement was presented to the Institution for approval; provided, further, that the failure to send any such copy to the Institution for its review and approval shall not affect the validity or enforceability of any statement or modification executed by the Issuer, the Trustee or the Master Trustee or the filing thereof. The Issuer, the Trustee and the Master Trustee shall forward to the Institution, in due course, a copy of any such financing or continuation statement filed on behalf of the Institution as provided herein.

(C) For avoidance of doubt, none of the Issuer, the Trustee nor the Master Trustee shall have any liability or responsibility for the preparation, review or filing of any financing statement, continuation statement or any other filing required hereunder or in connection therewith.

(D) The Issuer and the Institution shall execute and deliver all instruments and shall furnish all information that is necessary or appropriate to protect any Lien created or contemplated by this Loan Agreement or any of the other Financing Documents or Master Trust Documents.

**SECTION 4.4. PLEDGE AND ASSIGNMENT OF ISSUER'S INTERESTS TO TRUSTEE.** (A) The Issuer has, pursuant to the terms of the Pledge and Assignment, pledged and assigned certain of its rights and interests under and pursuant to this Loan Agreement to the Trustee as security for the payment of the principal of, premium, if any, and interest on the Initial Bonds. Such pledge and assignment shall in no way impair or diminish any obligations of the Issuer under this Loan Agreement.

(B) The Institution hereby acknowledges receipt of notice of and consents to such pledge and assignment by the Issuer to the Trustee and specifically agrees to perform for the benefit of the Trustee all of its duties and undertakings hereunder (except duties undertaken with respect to the Unassigned Rights).

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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 amounts are on deposit in the Bond Fund and available therefor (i) from transfers to the Bond Fund by the Trustee from the Capitalized Interest Subaccount of the Series 2024 Project Fund Account with respect to interest payable on the Initial Bonds, or (ii) from the Master Trustee to the Trustee for deposit in the Bond Fund pursuant to the Custody Agreement and the Master Trust Indenture.

(B) The Institution shall pay as additional Loan Payments hereunder any premium when due on the Initial 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 this Loan Agreement, or (ii) the Issuer under the Initial Bonds, the Indenture or this 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 or Master Trust 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 Initial 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 financing of the Initial Project Facility or in connection with the carrying out of the Issuer's duties and obligations under this Loan Agreement or any of the other Financing Documents or the Master Trust Documents, and any other fee or expense of the Issuer with respect to the Initial Project Facility, the Initial Bonds or any of the other Financing Documents or Master Trust Documents, the payment of which is not otherwise provided for under this 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.

(C) The Institution agrees to make the above-mentioned payments, without any further notice, in lawful money of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts. In the event the Institution shall fail to make any payment required by this Section 5.3 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.

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## ARTICLE V

### LOAN BY THE ISSUER; REPAYMENT OF THE LOAN; LOAN PAYMENTS AND OTHER AMOUNTS PAYABLE

**SECTION 5.1. LOAN PAYMENTS AND OTHER AMOUNTS PAYABLE.** (A) (1) On each January 15, March 15 and May 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 June 1 and one-sixth (1/6) of the principal payable on the Initial Bonds on the next June 1;

(2) on each July 15, September 15 and November 15 (with each January 15, March 15, May 15, July 15, September 15 and November 15 being referred to herein 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 December 1 and one-sixth (1/6) of the principal payable on the Initial Bonds on the next June 1;

(3) upon receipt of notice from the Trustee pursuant to the Indenture that a withdrawal has been made from the Reserve Fund or a valuation has been made of 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 (1/6) 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) upon receipt of notice from the Trustee pursuant to the Indenture that a withdrawal has been made from the Repair and Replacement Fund or a valuation has been made of 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-sixth (1/6) 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 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 this Section 5.1, 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.

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**SECTION 5.2. NATURE OF OBLIGATIONS OF THE INSTITUTION HEREUNDER.** (A) The obligations of the Institution to make the payments required by this Loan Agreement and to perform and observe any and all of the other covenants and agreements on its part contained herein shall be general obligations of the Institution and shall be absolute and unconditional irrespective of any defense or any right of set-off, recoupment, counterclaim or abatement that the Institution may otherwise have against the Issuer, the Trustee, the Master Trustee or the Custodian. The Institution agrees that it will not suspend, discontinue or abate any payment required by, or fail to observe any of its other covenants or agreements contained in, this Loan Agreement, or terminate this Loan Agreement for any cause whatsoever, including, without limiting the generality of the foregoing, failure to complete the Initial Project Facility, any defect in the title, design, operation, merchantability, fitness or condition of the Initial Project Facility or any part thereof or in the suitability of the Initial Project Facility or any part thereof for the Institution's purposes or needs, failure of consideration for, destruction of or damage to, Condemnation of title to or the use of all or any part of the Initial Project Facility, any change in the tax or other laws of the United States of America or of the State or any political subdivision thereof, or any failure of the Issuer to perform and observe any agreement, whether expressed or implied, or any duty, liability or obligation arising out of or in connection with this Loan Agreement.

(B) Nothing contained in this Section 5.2 shall be construed to release the Issuer from the performance of any of the agreements on its part contained in this Loan Agreement, and, in the event the Issuer should fail to perform any such agreement, the Institution may institute such action against the Issuer as the Institution may deem necessary to compel performance or recover damages for non-performance (subject to the provisions of Section 11.10 hereof); provided, however, that the Institution shall look solely to the Issuer's estate and interest in the Initial Project Facility for the satisfaction of any right or remedy of the Institution for the collection of a judgment (or other judicial process) requiring the payment of money by the Issuer in the event of any liability on the part of the Issuer, and no other property or assets of the Issuer or of the members, directors officers, agents (other than the Institution), servants or employees of the Issuer shall be subject to levy, execution, attachment or other enforcement procedure for the satisfaction of the Institution's remedies under or with respect to this Loan Agreement, the relationship of the Issuer and the Institution hereunder or the Institution's title to the Initial Project Facility, or any other liability of the Issuer to the Institution.

**SECTION 5.3. PREPAYMENT OF LOAN PAYMENTS.** At any time that the Initial Bonds are subject to redemption under Section 301(B) of the Indenture, the Institution may, at its option, prepay, in whole or in part, the Loan Payments payable hereunder by causing there to be moneys in an amount equal to the Redemption Price of the Initial Bonds being redeemed on deposit with the Trustee on or before the Redemption Date and applied to the redemption of such Bonds under Section 301 of the Indenture, subject to Section 303(A)(2) of the Indenture. Pending application for those purposes, any moneys so delivered shall be held by the Trustee in a special account in the Bond Fund and delivery of those moneys shall not operate to abate or postpone Loan Payments or additional Loan Payments otherwise becoming due or to alter or suspend any other obligations of the Institution under this Loan Agreement.

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ARTICLE VI

MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE

SECTION 6.1. MAINTENANCE AND MODIFICATION OF THE INITIAL PROJECT FACILITY.

(A) So long as any of the Initial Bonds are Outstanding, and during the term of this Loan Agreement, the Institution shall keep and maintain or make arrangements with others to keep and maintain the Initial Project Facility in accordance with (A) the requirements of the Security Documents, and (B) the purposes and requirements of the Act and the Code. The Institution further agrees that it shall pay at its own expense all extraordinary costs of maintaining, repairing and replacing the Initial Project Facility except insofar as funds are made available therefor from proceeds of insurance, condemnation or eminent domain awards as provided in Article VII of this Loan Agreement.

(B) So long as any of the Initial Bonds are Outstanding, and during the term of this Loan Agreement, the Institution shall keep and maintain or make arrangements with others to keep and maintain the Initial Project Facility in accordance with purposes and requirements of the Code necessary to preserve the adversely affect the exclusion from gross income for federal income tax purposes of the interest paid and payable on the Initial Bonds.

SECTION 6.2. TAXES, ASSESSMENTS AND UTILITY CHARGES. (A) The Institution shall pay or cause to be paid, as the same respectively become due, (1) all taxes and governmental charges of any kind whatsoever which may at any time be lawfully assessed or levied against or with respect to the Initial Project Facility, (2) all utility and other charges, including "service charges", incurred or imposed for the operation, maintenance, use, occupancy, upkeep and improvement of the Initial Project Facility, and (3) all assessments and charges of any kind whatsoever lawfully made against the Initial Project Facility by any Governmental Authority for public improvements; provided that, with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Institution shall be obligated hereunder to pay only such installments as are required to be paid during all periods that any Bond shall be Outstanding and/or during the term of this Loan Agreement or any other Financing Document.

(B) Notwithstanding the provisions of subsection (A) of this Section 6.2, after prior notice to the Trustee, in the case of any material item, the Institution, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or application in whole or in part of any such taxes, assessments and other charges, provided that (1) no Event of Default shall have occurred and shall be continuing under any of the Financing Documents or Master Trust Documents, (2) such proceeding shall suspend the collection of the contested taxes, assessments or charges from the Institution and from the Initial Project Facility, (3) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which the Institution or the Initial Project Facility is subject and shall not constitute a default thereunder, and (4) the Institution shall have set aside in an interest-bearing account with the Trustee adequate cash reserves for the payment of the contested taxes, assessments and charges, together with all interest and penalties thereon.

SECTION 6.3. INSURANCE REQUIRED. So long as any Bond is Outstanding and/or during the term of this Loan Agreement, the Institution shall maintain insurance with respect to the Initial Project Facility against such risks and for such amounts and with such deductibles as are customary to the industry, paying, as the same become due and payable, all premiums with respect thereto, including, but not necessarily limited to:

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Issuer to evidence all insurance required hereby shall be delivered to the Issuer, the Trustee and the Master Trustee on or before the Closing Date. At the request of the Trustee, the Institution will deliver the policies to the Trustee. At least thirty (30) days prior to the expiration of any such policy, the Institution shall furnish to the Issuer, the Trustee and the Master Trustee evidence that the policy has been renewed or replaced or is no longer required by this Loan Agreement.

(B) All premiums with respect to the insurance required by Section 6.3 hereof shall be paid by the Institution. If at any time the Issuer, the Trustee and the Master Trustee are not in receipt of written evidence that all insurance required hereunder is in force and effect, the Issuer, the Trustee and the Master Trustee shall each have the right without notice to the Institution to take such action as the Issuer and/or the Trustee and/or the Master Trustee deems necessary to protect their/its interest in the Initial Project Facility, including, without limitation, the obtaining of such insurance coverage as the Issuer, the Trustee and the Master Trustee in their sole discretion deem appropriate, and all expenses incurred by the Issuer, the Trustee and/or the Master Trustee in connection with such action or in obtaining such insurance and keeping it in effect shall be paid by the Institution to the Issuer, the Trustee and/or the Master Trustee, as the case may be, upon demand, together with interest thereon at the Default Interest Rate.

(C) The provisions of subsection 4 of Section 254 of the Real Property Law of the State covering the insurance of buildings against loss by fire shall not apply to this Loan Agreement.

SECTION 6.5. APPLICATION OF NET PROCEEDS OF INSURANCE. The Net Proceeds of the insurance carried pursuant to the provisions of Section 6.3 hereof shall be applied as follows: (A) the Net Proceeds of the insurance required by Section 6.3(A) and 6.3(D) hereof shall be paid to the Master Trustee and applied as provided in accordance with the applicable provisions of the Master Trust Indenture, and (B) the Net Proceeds of the insurance required by Section 6.3(B) and 6.3(C) hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

SECTION 6.6. INSURANCE REVIEW. The insurance required to be maintained pursuant to this Article VI shall be subject to annual review by the State University of New York Charter Schools Institute (the "Charter Schools Institute"). The Institution shall provide to the Trustee on an annual basis confirmation that such review has occurred; provided, however, that if the Charter Schools Institute is unable or unwilling to provide such review for any given year, the Institution agrees that it will to the extent permitted by law follow any reasonable recommendations of the Insurance Consultant. In such event, the Institution agrees to deliver to the Issuer, the Trustee and the Master Trustee for any given year (A) a report of the Insurance Consultant setting forth the insurance maintained pursuant to this Article and then in effect and stating whether, in the opinion of the Insurance Consultant, such insurance, the manner of providing such insurance and any reductions or eliminations of the amount of any insurance coverage during the years covered by such report, complies with the requirements of this Article and adequately protects the Initial Project Facility, the Institution's operations and the Issuer, and (B) a letter from the Insurance Consultant evidencing compliance with its recommendations.

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(A) Insurance protecting the interests of the Institution as insured against loss or damage to the Initial Project Facility by fire, lightning, vandalism, malicious mischief and other perils normally insured against with a uniform extended coverage endorsement, such insurance at all times to be in an amount not less than the greater of the total principal amount of the Initial Bonds Outstanding or the actual replacement value of the Initial Project Facility.

(B) To the extent applicable, workers' compensation insurance, disability benefits insurance and such other forms of insurance which the Institution is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Institution who are located at or assigned to the Initial Project Facility.

(C) Insurance protecting the Institution, the Issuer, the Trustee and the Master Trustee against loss or losses from liabilities imposed by law or assumed in any written contract (including, without limitation, the contractual liability assumed by the Institution under Sections 8.2 and 8.13 of this Loan Agreement) and arising from personal injury or death or damage to the Property of others caused by any accident or occurrence, with limits of not less than \$1,000,000 per person per accident or occurrence on account of personal injury, including death resulting therefrom, and \$500,000 per accident or occurrence on account of damage to the Property of others, excluding liability imposed upon the Institution by any applicable workers' compensation law, and a separate umbrella liability policy protecting the Institution, the Issuer, the Trustee and the Master Trustee, with a limit of not less than \$5,000,000.

(D) If the Initial Project Facility is located within an area identified by the Secretary of Housing and Urban Development as having special flood hazards, insurance against loss by floods in an amount at least equal to the total principal amount of the Initial Bonds Outstanding or to the maximum limit of coverage made available, whichever is less. If no portion of the Initial Project Facility is located in such a federally designated "special flood hazard area," such fact shall be substantiated by a certificate in form satisfactory to the Trustee from a licensed surveyor, appraiser or professional engineer or other qualified person.

(E) THE ISSUER DOES NOT IN ANY WAY REPRESENT THAT THE INSURANCE SPECIFIED HEREIN, WHETHER IN SCOPE OR IN LIMITS OF COVERAGE, IS ADEQUATE OR SUFFICIENT TO PROTECT THE INSTITUTION'S BUSINESS OR INTERESTS.

SECTION 6.4. ADDITIONAL PROVISIONS RESPECTING INSURANCE. (A) Except as otherwise provided herein, all policies of insurance required by Section 6.3 (the "Policies") shall be issued by insurers having a minimum policy holders rating of "A" pursuant to the latest rating publication of Property and Casualty Insurers by A.M. Best Company and who are lawfully doing business in the State and are otherwise acceptable in all respects to the Issuer. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Institution is engaged. All policies evidencing such insurance shall name the Institution as insured and, in the case of the insurance specified in Section 6.3(A) and Section 6.3(D), shall name the Master Trustee as mortgagee and loss payee, as its interests may appear, and provide for at least thirty (30) days' written notice to the Institution, the Issuer, the Trustee and the Master Trustee prior to cancellation, lapse, reduction in policy limits or material change in coverage thereof. The insurance required by Section 6.3(A) hereof shall contain a standard non-contributory mortgagee endorsement in favor of the Master Trustee as mortgagee and loss payee, as its interests may appear. All insurance required hereunder shall be in form, content and coverage satisfactory to the Issuer. Blanket insurance policies shall not be acceptable for the purposes of this subsection unless otherwise approved to the contrary by the Issuer. Certificates satisfactory in form and substance to the

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ARTICLE VII

DAMAGE, DESTRUCTION AND CONDEMNATION

SECTION 7.1. DAMAGE OR DESTRUCTION. (A) If the Initial Project Facility shall be damaged or destroyed, in whole or in part:

(1) the Issuer shall have no obligation to replace, repair, rebuild or restore the Initial Project Facility;

(2) there shall be no abatement or reduction in the amounts payable by the Institution under this Loan Agreement or under any of the other Financing Documents or Master Trust Documents (whether or not the Initial Project Facility is replaced, repaired, rebuilt or restored);

(3) the Institution shall promptly give notice thereof to the Issuer, the Trustee and the Master Trustee; and

(4) except as otherwise provided in subsection (B) of this Section 7.1, and subject to the applicable provisions of the Master Trust Indenture and the other Master Trust Documents,

(a) the Institution shall promptly replace, repair, rebuild or restore the Initial Project Facility to substantially the same condition and value as an operating entity as existed prior to such damage or destruction, with such changes, alterations and modifications as may be desired by the Institution, provided that such changes, alterations or modifications do not (i) change the use of the Initial Project Facility as specified in Section 8.18 hereof without the prior written consent of the Issuer, or (ii) adversely affect the exclusion from gross income for federal income tax purposes of the interest paid or payable on the Initial Bonds; and

(b) pursuant to and in accordance with Section 406 of the Indenture, the Trustee shall make available to the Institution (from the Net Proceeds of any insurance settlement received by the Trustee from the Master Trustee) such moneys as may be necessary to pay the costs of the replacement, repair, rebuilding or restoration of the Initial Project Facility. In the event such Net Proceeds are not sufficient to pay in full the costs of such replacement, repair, rebuilding or restoration, the Institution shall nonetheless complete such work and shall pay from its own moneys that portion of the costs thereof in excess of such Net Proceeds. Any balance of such Net Proceeds remaining in the Insurance and Condemnation Fund after payment of all of the costs of such replacement, repair, rebuilding or restoration shall be applied as provided in Section 406 of the Indenture.

(B) Notwithstanding anything to the contrary contained in subsection (A) of this Section 7.1 but subject to the applicable provisions of the Master Trust Documents, in the event that the cost of repairing any damage to the Initial Project Facility exceeds the sum of all Indebtedness then secured by a Lien on the Initial Project Facility or any part thereof, the Institution shall not be obligated to replace, repair, rebuild or restore the Initial Project Facility, and the Net Proceeds of any insurance settlement shall not be applied as provided in subsection (A) of this Section 7.1, if the Institution shall notify the Issuer, the Trustee and the Master Trustee that it elects to cause the defeasance of the Initial Bonds, as provided in the Tax Documents. In such event, or if an Event of Default shall have occurred and be continuing (or

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if an event exists which with the passage of time or notice or both would become an Event of Default), the lesser of (1) the total amount of the Net Proceeds collected under any and all policies of insurance covering the damage to or destruction of the Initial Project Facility, or (2) the amount necessary to defease the Initial Bonds in whole and all interest accrued thereon, together with any other sums payable to the Issuer or the Trustee pursuant to this Loan Agreement, shall be transferred by the Trustee from the Insurance and Condemnation Fund to an escrow fund to be created by the Trustee at the written direction of the Institution, and applied to the defeasance of the Initial Bonds and payment of all such amounts to the Issuer and the Trustee. Subject to the applicable provisions of the Master Trust Documents, if the Net Proceeds collected under any and all policies of insurance are less than the amount necessary to defease the Initial Bonds in full and pay any and all amounts payable to the Issuer and the Trustee, the Institution shall pay the difference between such amounts and the Net Proceeds of all insurance settlements so that all of the Initial Bonds then Outstanding shall be defeased and any and all amounts payable under the Financing Documents to the Issuer and the Trustee shall be paid in full.

(C) Except as otherwise provided in the Master Trust Documents, unless an Event of Default under any of the Financing Documents shall have occurred and be continuing (or if an event exists which with the passage of time or notice or both would become an Event of Default), the Institution may adjust all claims under any policies of insurance required by Section 6.3(A) and 6.3(D) hereof.

**SECTION 7.2. CONDEMNATION.** (A) To the knowledge of the Institution, the Institution represents and warrants that no condemnation or eminent domain proceeding has been commenced or threatened against any part of the Initial Project Facility. The Institution shall promptly notify the Issuer, the Trustee and the Master Trustee of the commencement of any condemnation proceedings and, within seven (7) days after inquiry from the Issuer, the Trustee or the Master Trustee, inform the Issuer, the Trustee and the Master Trustee in writing of the status of such proceeding. If title to, or the use of, less than substantially all of the Initial Project Facility shall be taken by Condemnation:

- (1) the Issuer shall have no obligation to restore the Initial Project Facility;
- (2) there shall be no abatement or reduction in the amounts payable by the Institution under this Loan Agreement or under any of the other Financing Documents or Master Trust Documents (whether or not the Initial Project Facility is restored);
- (3) the Institution shall promptly give notice thereof to the Issuer, the Trustee and the Master Trustee; and
- (4) except as otherwise provided in subsection (B) of this Section 7.2, and subject to the applicable provisions of the Master Trust Documents,
  - (a) the Institution shall promptly restore the Initial Project Facility (excluding any part of the Land or the Facility taken by Condemnation) to substantially the same condition and value as an operating entity as existed prior to such Condemnation, with such changes, alterations and modifications as may be desired by the Institution and consented to in writing by the Issuer, provided that such changes, alterations or modifications do not (i) change the use of the Initial Project Facility as specified in Section 8.18 hereof without the prior written consent of the Issuer, or (ii) adversely affect the exclusion from gross income for federal income tax purposes of the interest paid or payable on the Initial Bonds; and

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proceedings and within seven (7) days after inquiry from the Issuer, the Trustee or the Master Trustee shall inform the Issuer, the Trustee and the Master Trustee in writing as to the status of such proceeding.

(F) The Issuer shall, at the expense of the Institution, cooperate fully with the Institution in the handling and conduct of any such Condemnation proceeding. In no event shall the Issuer voluntarily settle, or consent to the settlement of, any Condemnation proceeding without the written consent of the Institution and the Trustee.

**SECTION 7.3. ADDITIONS TO THE INITIAL PROJECT FACILITY.** All replacements, repairs, rebuilding or restoration made pursuant to Sections 7.1 or 7.2, whether or not requiring the expenditure of the Institution's own money, shall automatically become part of the Initial Project Facility as if the same were specifically described herein.

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(b) pursuant to and in accordance with Section 406 of the Indenture, the Trustee shall make available to the Institution (from the Net Proceeds of any Condemnation award paid to the Trustee by the Master Trustee) such moneys as may be necessary to pay the costs of the restoration of the Initial Project Facility. In the event such Net Proceeds are not sufficient to pay in full the costs of such restoration, the Institution shall nonetheless complete such restoration and shall pay from its own moneys that portion of the costs thereof in excess of such Net Proceeds. Any balance of such Net Proceeds remaining after payment of all of the costs of such restoration shall be applied in accordance with Section 406 of the Indenture.

(B) Notwithstanding anything to the contrary contained in subsection (A) of this Section 7.2 but subject to the applicable provisions of the Master Trust Documents, the Institution shall not be obligated to restore the Initial Project Facility, and the Net Proceeds of any Condemnation award shall not be applied as provided in subsection (A) of this Section 7.2, if the Institution shall notify the Issuer, the Trustee and the Master Trustee that it elects to cause the defeasance of all or a portion of the Initial Bonds, as provided in the Tax Documents. In such event, or if an Event of Default under any of the Financing Documents or Master Trust Documents shall have occurred and be continuing, (or if an event exists which with the passage of time or notice or both would become an Event of Default) the lesser of (1) the Net Proceeds of any Condemnation award, or (2) the amount necessary to defease the Initial Bonds in whole and all interest accrued thereon, together with any other sums payable to the Issuer or the Trustee pursuant to this Loan Agreement, shall be transferred by the Trustee from the Insurance and Condemnation Fund to an escrow fund to be created by the Trustee at the written direction of the Institution, and applied to the defeasance of the Initial Bonds and payment of all such amounts to the Issuer and the Trustee. If the Net Proceeds collected under any and all Condemnation awards are less than the amount necessary to defease the Initial Bonds in full, the Institution shall pay the difference between such amounts and the Net Proceeds of such Condemnation awards so that all of the Initial Bonds then Outstanding shall be defeased and any and all amounts payable under the Financing Documents to the Issuer and the Trustee shall be paid in full.

(C) If title to, or use of, all or substantially all of the Initial Project Facility shall be taken by Condemnation:

- (1) neither the Issuer nor the Institution shall have any obligation to restore the Initial Project Facility;
- (2) there shall be no abatement or reduction in the amounts payable by the Institution under this Loan Agreement (or under any of the other Financing Documents or Master Trust Documents); and
- (3) subject to the applicable provisions of the Master Trust Documents, the Net Proceeds of any Condemnation award shall be applied as provided in subsection (B) of this Section 7.2.

(D) Except as otherwise provided in the Master Trust Documents, unless an Event of Default under any of the Financing Documents or Master Trust Documents shall have occurred and be continuing (or if an event exists which with the passage of time or notice or both would become an Event of Default), the Institution shall have sole control of any Condemnation proceeding with respect to the Initial Project Facility or any part thereof and may negotiate the settlement of any such proceeding. The Institution shall promptly notify the Issuer, the Trustee and the Master Trustee of the institution of any Condemnation

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## ARTICLE VIII

### SPECIAL COVENANTS

**SECTION 8.1. NO WARRANTY OF CONDITION OR SUITABILITY BY ISSUER.** THE ISSUER MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF THE INITIAL PROJECT FACILITY OR ANY PART THEREOF OR AS TO THE SUITABILITY OF THE INITIAL PROJECT FACILITY OR ANY PART THEREOF FOR THE INSTITUTION'S PURPOSES OR NEEDS. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE, WHETHER PATENT OR LATENT, THE ISSUER SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.

**SECTION 8.2. HOLD HARMLESS PROVISIONS.** (A) The Institution hereby releases the Issuer and its members, directors, officers, agents (other than the Institution), servants and employees from, agrees that the Issuer and its members, directors, officers, agents (other than the Institution), servants and employees shall not be liable for and agrees to indemnify, defend and hold the Issuer and its members, directors, officers, agents (other than the Institution), servants and employees harmless from and against any and all claims, causes of action, judgments, liabilities, damages, losses, costs and expenses arising as a result of the Issuer's undertaking the Initial Project, including, but not limited to, (1) liability for loss or damage to Property or bodily injury to or death of any and all Persons that may be occasioned, directly or indirectly, by any cause whatsoever pertaining to the Initial Project Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any Person or Property on, in or about the Initial Project Facility, (2) liability arising from or expense incurred by the Issuer's financing the acquisition, construction, equipping and installing the Initial Project Facility, including, without limiting the generality of the foregoing, all liabilities or claims arising as a result of the Issuer's obligations under this Loan Agreement or any of the other Financing Documents or Master Trust Documents or the enforcement of or defense of validity of any provision of any Financing Document or Master Trust Document, and all liabilities or claims arising as a result of or in connection with the offering, issuance, sale or resale of the Initial Bonds, (3) all claims arising from the issuance and sale of the Initial Bonds, or any remarketing of the Initial Bonds, and (4) all causes of action and attorneys' fees and other expenses incurred in connection with any suits or actions which may arise as a result of any of the foregoing; provided that any such claims, causes of action, judgments, liabilities, damages, losses, costs or expenses of the Issuer are not incurred or do not result from the intentional wrongdoing of the Issuer or any of its members, directors, officers, agents (other than the Institution), servants or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Issuer or any of its members, directors, officers, agents (other than the Institution), servants or employees and notwithstanding the breach of any statutory obligation or any rule of comparative or apportioned liability.

(B) In the event of any claim against the Issuer or its members, directors, officers, agents (other than the Institution), servants or employees by any employee of the Institution or any contractor of the Institution or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the Institution hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Institution or such contractor under workers' compensation laws, disability benefits laws or other employee benefit laws.

(C) To effectuate the provisions of this Section 8.2, the Institution agrees to provide for and insure, in the liability policies required by Section 6.3(C) of this Loan Agreement, its liabilities assumed

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pursuant to this Section 8.2, to the extent that the liabilities assumed give rise to personal injury or damage to property.

(D) Notwithstanding any other provisions of this Loan Agreement, the obligations of the Institution pursuant to this Section 8.2 shall remain in full force and effect after the termination of this Loan Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all expenses, charges and costs incurred by the Issuer, or its members, directors, officers, agents (other than the Institution), servants or employees, relating thereto.

(E) The Institution further agrees, at the request of the Issuer pursuant to Section 515(B) of the Indenture, to provide (1) the undertaking described in Section 515(A)(2) of the Indenture, or (2) the indemnification described in Section 515(A)(3) of the Indenture, as the case may be.

**SECTION 8.3. RIGHT OF ACCESS TO THE INITIAL PROJECT FACILITY.** The Institution agrees that the Issuer, the Trustee and the Master Trustee and their duly authorized agents shall have the right at all reasonable times to enter upon and to examine and inspect the Initial Project Facility.

**SECTION 8.4. INSTITUTION NOT TO TERMINATE EXISTENCE OR DISPOSE OF ASSETS; CONDITIONS UNDER WHICH EXCEPTIONS ARE PERMITTED.** The Institution agrees that, so long as the Initial Bonds are Outstanding and/or during the term of this Loan Agreement, it will maintain its corporate existence, will not dissolve or otherwise dispose of all or substantially all of its assets, and will not consolidate with or merge into another entity, or permit one or more entities to consolidate with or merge into it, or acquire all or substantially all of the assets of another Person; provided, however, that, if no Event of Default specified in Section 10.1 hereof shall have occurred and be continuing (or if no event exists which with the passage of time or notice or both would become an Event of Default), the Institution may consolidate with or merge into another domestic entity organized and existing under the laws of one of the states of the United States, or permit one or more such domestic corporations to consolidate with or merge into it, or acquire all or substantially all of the assets of another Person, or sell or otherwise transfer to another Person all or substantially all of its assets as an entirety and thereafter dissolve, provided that (A) the Institution provides prior written notice thereof to the Issuer, and the Issuer gives its prior written consent to the proposed transaction, which consent of the Issuer shall not be unreasonably withheld or delayed, (B) the surviving, resulting or transferee entity is a "501(c)(3) organization" (as such quoted term is used in Section 145 of the Code) and assumes in writing all of the obligations of and restrictions on the Institution under this Loan Agreement and the other Financing Documents and Master Trust Documents, (C) the approval of the New York State Education Department to the proposed transaction is obtained by the Institution and provided to the Issuer; (D) the proposed transaction will not, in and of itself, adversely affect the exclusion of the interest paid or payable on the Initial Bonds from the gross income of the Holders thereof for federal income tax purposes, and (E) as of the date of such transaction, the Trustee, the Master Trustee and the Issuer shall be furnished with (1) an opinion of Bond Counsel as to the compliance with item (C) of this Section 8.4, (2) an opinion of counsel to the Institution as to compliance with item (B) of this Section 8.4 and (3) a certificate, dated the effective date of such transaction, signed by an Authorized Representative of the Institution and an authorized officer of the surviving, resulting or transferee entity or the transferee of its assets, as the case may be, to the effect that immediately after the consummation of the transaction and after giving effect thereto, no Event of Default exists under this Loan Agreement and no event exists which, with notice or lapse of time or both, would become such an Event of Default.

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Permitted Encumbrances, on the Initial Project Facility or any part thereof or any funds of the Issuer applicable to the Mortgaged Property.

(B) Notwithstanding the provisions of subsection (A) of this Section 8.8, the Institution may in good faith actively contest any such Lien, provided that the Institution (1) first shall have notified the Issuer, the Trustee and the Master Trustee in writing of such contest, (2) is not in default under any of the Financing Documents or Master Trust Documents, and (3) such Lien shall be removed promptly by the Institution or secured by the Institution's posting a bond in form and substance satisfactory to the Issuer and the Trustee.

(C) Subject to the provisions of the Tax Documents and the Master Trust Documents, the Institution may lease, sell or grant the right to occupy and use the Initial Project Facility, in whole or in part, to others, provided that no such grant, sale or lease shall relieve the Institution from its obligations under this Loan Agreement or adversely affect the exclusion from gross income of interest on the Initial Bonds.

**SECTION 8.9. PERFORMANCE OF THE INSTITUTION'S OBLIGATIONS.** Should the Institution fail to make any payment or to do any act as herein provided, the Issuer, the Trustee or the Master Trustee may, but need not, without notice to or demand on the Institution and without releasing the Institution from any obligation herein, make or do the same, including, without limitation, appearing in and defending any action purporting to affect the rights or powers of the Institution or the Issuer, and paying all fees, costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by the Issuer, the Trustee or the Master Trustee in connection therewith; and the Institution shall pay immediately upon demand all sums so incurred or expended by the Issuer, the Trustee or the Master Trustee under the authority hereof, together with interest thereon, at the Default Interest Rate.

**SECTION 8.10. DEPRECIATION DEDUCTIONS, TAX CREDITS AND CODE ELECTIONS.** (A) The parties agree that as between them the Institution shall be entitled to all depreciation deductions and accelerated cost recovery system deductions with respect to any portion of the Initial Project Facility pursuant to Sections 167 and 168 of the Code and to any investment credit pursuant to Section 38 of the Code with respect to any portion of the Initial Project Facility which constitutes "Section 38 Property" and to all other state and/or federal income tax deductions and credits which may be available with respect to the Initial Project Facility.

(B) Pursuant to the Code and the Treasury Regulations, the Issuer can make various elections under the Code and/or the Treasury Regulations with respect to the Initial Bonds as described in the Tax Regulatory Agreement and Schedule O attached thereto (each, a "Code Election"). The Issuer hereby authorizes the Institution to act as agent of the Issuer with respect to the Code Elections relating to the Initial Bonds, and hereby authorizes the Institution to make the Code Elections relating to the Initial Bonds on behalf of the Issuer.

**SECTION 8.11. COVENANT AGAINST ARBITRAGE BONDS.** So long as any Initial Bond shall be Outstanding, neither the Issuer nor the Institution shall use, or direct or permit the use of, the proceeds of the Initial Bonds or any other moneys within their respective control (including, without limitation, the proceeds of any insurance settlement or any Condemnation award with respect to the Initial Project Facility) in any manner which, if such use had been reasonably expected on the date of issuance of the Initial Bonds, would have caused any of the Initial Bonds to be an "arbitrage bond" within the meaning ascribed to such quoted term in Section 148 of the Code. The Institution agrees that it will comply with all of its covenants in the Tax Regulatory Agreement relating to the restrictions contained in Section 148 of the Code. The Issuer authorizes the Institution, in the Issuer's behalf, to calculate and make the rebate

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**SECTION 8.5. AGREEMENT TO PROVIDE INFORMATION.** The Institution agrees, whenever requested by the Issuer, the Trustee or the Master Trustee, to provide and certify or cause to be provided and certified such information concerning the Institution, its finances and other topics as the Issuer, the Trustee or the Master Trustee from time to time reasonably considers necessary or appropriate, including, but not limited to, such information as to enable the Issuer, the Trustee or the Master Trustee to make any reports required by law or governmental regulation.

**SECTION 8.6. BOOKS OF RECORD AND ACCOUNT; COMPLIANCE CERTIFICATES.** (A) The Institution agrees to maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles, consistently applied, of all business and affairs of the Institution.

(B) As soon as possible after the end of each fiscal year of the Institution so long as any Initial Bonds shall be Outstanding, the Institution shall furnish to the Issuer a certificate of an Authorized Representative of the Institution stating that no Event of Default hereunder has occurred or is continuing or, if any Event of Default exists, specifying the nature and period of existence thereof and what action the Institution has taken or proposes to take with respect thereto, and setting forth the unpaid principal balance of the Initial Bonds and accrued but unpaid interest thereon and that no defenses, offsets or counterclaims exist with respect to the indebtedness evidenced thereby.

**SECTION 8.7. COMPLIANCE WITH APPLICABLE LAWS.** (A) The Institution agrees, for the benefit of the Issuer and the Trustee, that it will, during any period in which any Initial Bonds are Outstanding, promptly comply in all material respects with all Applicable Laws.

(B) Notwithstanding the provisions of subsection (A) of this Section 8.7, the Institution may in good faith actively contest the validity or the applicability of any Applicable Law, after prior notice to the Trustee, and at its own expense, by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, provided that (1) no Event of Default shall have occurred and shall be continuing under any of the Financing Documents or Master Trust Documents, (2) the Institution is permitted to do so under the provisions of any mortgage or deed of trust superior in lien to the Financing Documents or the Master Trust Documents, (3) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which the Institution or the Initial Project Facility is subject and shall not constitute a default thereunder, (4) neither the Initial Project Facility nor any part thereof nor any interest therein, nor any funds of the Issuer applicable to the acquisition, construction, reconstruction and/or installation of the Initial Project Facility, will be in danger of being sold, forfeited, terminated, cancelled or lost at any time during the pendency of or after such proceeding, and (5) the Institution shall have set aside in an interest-bearing account with the Trustee adequate cash reserves for the compliance with the contested Applicable Law, together with all interest and penalties related thereto. Otherwise, the Institution shall promptly take such action with respect thereto as shall be satisfactory to the Issuer.

(C) Notwithstanding the provisions of subsection (B) of this Section 8.7, if the Issuer or any of its members, directors, officers, agents (other than the Institution), servants or employees may be liable for prosecution for failure to comply therewith, the Institution shall promptly take such action with respect thereto as shall be satisfactory to the Issuer.

**SECTION 8.8. DISCHARGE OF LIENS AND ENCUMBRANCES; LEASE, SALE OR GRANT OF USE BY THE INSTITUTION.** (A) The Institution hereby covenants that, except for Permitted Encumbrances, the Mortgage and the Assignment of Rents are each a valid Lien on the Mortgaged Property and the Institution hereby agrees not to create or suffer to be created any other Lien, except for

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payments required by Section 148 (f) of the Code. 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.

**SECTION 8.12. IDENTIFICATION OF EQUIPMENT.** All Equipment which is or may become part of the Initial Project Facility pursuant to the provisions of this Loan Agreement shall be properly identified by the Institution by such appropriate records, including computerized records.

**SECTION 8.13. INDEMNIFICATION OF THE TRUSTEE.** (A) Notwithstanding any other provisions of the Financing Documents or the Master Trust Documents, the Institution agrees to indemnify and hold the Trustee, and its directors, officers, agents and employees, harmless from and against any and all claims, causes of action, judgments, liabilities, damages, losses, costs and expenses, including, but not limited to, reasonable attorneys' fees, arising out of the execution, delivery, performance or administration of the Financing Documents and the Master Trust Documents, provided that the same are not a result of the gross negligence or willful misconduct of the Trustee.

(B) Notwithstanding any other provisions of this Loan Agreement or other Financing Documents or Master Trust Documents, the obligations of the Institution pursuant to this Section 8.13 shall remain in full force and effect after the termination of this Loan Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all reasonable fees, expenses and charges paid or incurred by the Trustee, or its directors, officers, agents or employees, relating thereto.

(C) To effectuate the provisions of this Section 8.13, the Institution agrees to provide for and insure, in the liability policies required by Section 6.3(C) of this Loan Agreement, its liabilities assumed pursuant to this Section 8.13, to the extent that the liabilities assumed give rise to personal injury or damage to property.

**SECTION 8.14. EMPLOYMENT OPPORTUNITIES.** The Institution shall insure that all employees and applicants for employment opportunities created as a result of the completion of the Initial Project are afforded equal employment opportunities without discrimination.

**SECTION 8.15. SALES AND USE TAX EXEMPTION.** Because the Institution enjoys its own exemption from sales and use taxes imposed by the State and its local governments, the Institution does not intend to claim any sales tax exemption by virtue of the Issuer's involvement in the Initial Project.

**SECTION 8.16. RESTRICTION ON RELIGIOUS USE.** (A) The Institution agrees that with respect to any portion of the Initial Project Facility financed or refinanced with the proceeds of Initial Bonds (the "Tax-Exempt Project Facility"), so long as any Tax-Exempt Bonds are Outstanding under the Indenture, and unless and until the Tax-Exempt Project Facility is sold for the fair market value thereof, the Tax-Exempt Project Facility shall not be used for sectarian religious purposes or as a place of religious worship or in connection with any part of a program of a school or department of divinity for any religious denomination; provided, however, that the foregoing restriction shall not prohibit the free exercise of any religion; and, further provided, however, that if at any time hereafter, in the opinion of Bond Counsel, the then applicable law would permit the Tax-Exempt Project Facility to be used without

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regard to the above stated restriction, said restriction shall not apply to the Tax-Exempt Project Facility. The Issuer and its agents may conduct such inspections as the Issuer deems necessary to determine whether Tax-Exempt Project Facility is being used for any purpose proscribed hereby.

(B) The Institution hereby further agrees that, so long as any Initial Bonds are Outstanding under the Indenture, prior to any disposition of any portion of the Tax-Exempt Project Facility for less than fair market value, the Institution shall execute and record in the appropriate real property records an instrument subjecting, to the satisfaction of the Issuer, the use of such portion of the Tax-Exempt Project Facility to the restriction that (1) so long as such portion of the Tax-Exempt Project Facility (and, if included in the Tax-Exempt Project Facility, the real property on or in which such portion of the Tax-Exempt Project Facility is situated) shall exist and (2) until such portion of the Tax-Exempt Project Facility is sold or otherwise transferred to a person who purchases the same for the fair market value thereof at the time of such sale or transfer, such portion of the Tax-Exempt Project Facility shall not be used for sectarian religious purposes or as a place of religious worship or used in connection with any part of the program of a school or department of divinity of any religious denomination. The instrument containing such restriction shall also provide that if at any time thereafter, in the opinion of Bond Counsel, the then applicable law would permit such portion of the Tax-Exempt Project Facility, or, if included in the Tax-Exempt Project Facility, the real property on or in which such portion is situated, to be used without regard to the above stated restriction, then said restriction shall be without any force or effect. For the purposes of this Section an involuntary transfer or disposition of the Tax-Exempt Project Facility or a portion thereof, upon foreclosure or otherwise, shall be considered a sale for the fair market value thereof.

SECTION 8.17. TERMINATION. (A) 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 this Loan Agreement and (4) performance by the Institution of all other obligations of the Institution to the Issuer pursuant to the provisions of this Loan Agreement (collectively, the "Termination Preconditions"), this Loan Agreement shall terminate, except as provided in Section 11.8 hereof. Upon satisfaction of the Termination Preconditions, the Issuer agrees to execute and deliver to the Institution the Termination of Loan Agreement, in substantially the form attached hereto as Exhibit B and by this reference made a part hereof.

(B) The Institution agrees to (1) prepare evidence satisfactory to the Issuer of the satisfaction of the Termination Preconditions and (2) prepare the Termination of Loan Agreement and to forward same to the Issuer at least thirty (30) days prior to the date that the Institution proposes that the issuer execute and deliver the Termination of Loan Agreement.

SECTION 8.18. USE OF THE INITIAL PROJECT FACILITY. 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 an 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.

SECTION 8.19. FINANCIAL COVENANTS; LIMITATIONS ON INCURRENCE OF ADDITIONAL INDEBTEDNESS. Pursuant to the Master Trust Indenture, the Institution is subject to (A) certain

financial covenants including (i) a Debt Service Coverage Ratio covenant (as defined therein) and (ii) a Days Cash on Hand covenant (as defined therein) under Section 3.07 of the Master Trust Indenture and (B) certain limitations on the incurrence of Additional Indebtedness (as defined therein) under Section 3.05 of the Master Trust Indenture, respectively. For purposes of this Loan Agreement, the Institution shall be subject to such covenants and limitations so long as Master Obligation No. 2 shall be Outstanding.

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## ARTICLE IX

### ASSIGNMENTS; MERGER OF THE ISSUER

SECTION 9.1. ASSIGNMENT BY THE INSTITUTION. (A) This 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 shall not be unreasonably withheld or delayed.

(B) Pursuant to the terms of the Pledge and Assignment, the Issuer has pledged and assigned certain of its rights and interests under and pursuant to this Loan Agreement to the Trustee as security for the payment of the principal of, and premium, if any, and interest on the Initial Bonds. The Institution hereby acknowledges receipt of notice of and consent to such pledge and assignment by the Issuer to the Trustee and specifically agrees to perform for the benefit of the Trustee all of its duties and undertakings hereunder (except duties undertaken with respect to the Unassigned Rights).

SECTION 9.2. MERGER OF THE ISSUER. (A) Nothing contained in this 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 hereunder, provided that (1) the exclusion of the interest payable on the Initial Bonds from gross income for Federal income tax purposes shall not be adversely affected 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 this Loan Agreement, the Initial 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 this Loan Agreement shall be assigned.

(B) As of the date of any such consolidation, merger or assignment, the Issuer shall give notice thereof in reasonable detail to the Institution and the Trustee. The Issuer shall promptly furnish to the Trustee and the Institution such additional information or opinions with respect to any such consolidation, merger or assignment as the Trustee and the Institution may reasonably request.

SECTION 9.3. SALE OR LEASE OF THE PROJECT FACILITY. (A) Except for leases or subleases of portions of the Project Facility entered into in the ordinary course of business and in compliance with the provisions of the Tax Documents and the Master Trust Documents, the Institution may not sell, lease, transfer, convey or otherwise dispose of the Project Facility or any part thereof without the prior written consent of the Issuer, which consent of the Issuer shall not be unreasonably withheld or delayed; provided, however, that the prior written consent of the Issuer shall not be required when the Institution proposes to sublease a portion of the Project Facility and such sublease is consistent with Section 8.18 of this Loan Agreement and the provisions of the Tax Documents and the Master Trust Documents.

(B) In no event, however, shall the Issuer consent to any sale, lease, transfer, sublease, conveyance or other disposition of the Project Facility, or any part thereof, prior to receipt of an opinion of Bond Counsel that such disposition will not adversely affect the exclusion of the interest paid or payable on the Tax-Exempt Bonds from gross income of the holders thereof for federal income tax purposes.

(C) Notwithstanding anything to the contrary contained herein, in any instance where the Institution reasonably determines that any portion of the Equipment has become inadequate, obsolete,

worn out, unsuitable, undesirable or unnecessary, the Institution may remove such portion of the Equipment and may sell, trade in, exchange or otherwise dispose of the same, as a whole or in part, without the prior written consent of the Issuer, provided that such removed Equipment is forthwith replaced with similar items of Equipment having a similar value, free from all Liens other than any Liens created by the Financing Documents and the Master Trust Documents.

(D) In the Initial Tax Regulatory Agreement, the Institution has covenanted that the Institution will not do anything that would cause the change in use provisions contained in Section 150(b)(3) of the Code to become applicable to the Initial Bonds (any such event being hereinafter referred to as a "Change in Use"), unless the Institution first receives an opinion of Bond Counsel that such change in use will not adversely affect the exclusion from gross income from federal income tax purposes of interest paid or payable on the Initial Bonds. Notwithstanding anything to the contrary contained herein, the Institution hereby agrees that, before any Change in Use shall occur, the Institution shall first file with the Issuer and the Trustee an opinion of Bond Counsel that such action will not adversely affect the exclusion from gross income for federal income tax purposes of interest paid or payable on the Initial Bonds (a "Change in Use Opinion"). If, in connection with obtaining any such Change in Use Opinion, Bond Counsel indicates that an amount of money is required to be applied to the redemption of the Initial Bonds, the Institution shall transfer such amount to the Trustee for deposit in the Bond Fund and use to redeem Bonds as provided in Section 301(A) of the Indenture.

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ARTICLE X  
EVENTS OF DEFAULT AND REMEDIES

SECTION 10.1. EVENTS OF DEFAULT DEFINED. (A) The following shall be "Events of Default" under this Loan Agreement, and the terms "Event of Default" or "Default" shall mean, whenever they are used in this Loan Agreement, any one or more of the following events:

- (1) A default by the Institution in the due and punctual payment of the amounts specified to be paid pursuant to Section 5.1(A) hereof.
- (2) The Institution shall fail to deliver to the Trustee, or cause to be delivered on its behalf, the moneys needed to redeem any Outstanding Initial 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 this 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 ninety (90) days after such written notice is given.
- (4) The occurrence of an "Event of Default" under any of the other Financing Documents or Master Trust Documents.
- (5) Any representation or warranty made by the Institution herein or in any other Financing Document or Master Trust Document proves to have been materially 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, whether occurring voluntarily or involuntarily, or by operation of law or otherwise, by the Issuer or the Institution (except pursuant to this Loan Agreement or a Permitted Encumbrance) of their respective interests in the Initial Project Facility or any part thereof, or the granting of any easements or restrictions or the permitting of any encroachments on the Initial Project Facility, except as permitted in this 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 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

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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.

(C) Notwithstanding any other provision of this Loan Agreement, failure of the Institution to comply with Section 8.6(B) of this Loan Agreement shall not be considered an Event of Default; however, the Trustee may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Institution to comply with its obligations under Section 8.6(B) hereof.

SECTION 10.2. REMEDIES ON DEFAULT. (A) 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, whereupon the same shall become immediately due and payable, (a) the principal portion and accrued interest of all unpaid Loan Payments payable pursuant to Section 5.1(A) hereof, and (b) all other payments due under this Loan Agreement or any of the other Financing Documents; provided, however, that upon the occurrence of an Event of Default under Section 10.1(A)(8) hereof, all principal installments of Loan Payments payable under Section 5.1(A) hereof, together with the accrued interest thereon, shall immediately become due and payable without any declaration, notice or other action of the Issuer, the Trustee, the Owners of the Initial Bonds or any other Person being a condition to such acceleration;
- (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 hereunder and to enforce the obligations, agreements or covenants of the Institution under this Loan Agreement;
- (3) terminate disbursement of the Bond Proceeds; or
- (4) exercise any remedies available pursuant to any of the other Financing Documents.

(B) Notwithstanding anything herein to the contrary, whenever any Event of Default or Default shall have occurred, the Issuer may take any action at law or in equity which may appear necessary or desirable to collect any amounts then due or thereafter to become due hereunder and to enforce the obligations, agreements or covenants of the Institution under this Loan Agreement.

(C) Any sums paid to the Issuer as a consequence of any action taken pursuant to this Section 10.2 (excepting sums payable to the Issuer as a consequence of action taken to enforce the Unassigned Rights) shall be paid to the Trustee and applied in accordance with the provisions of Section 609 of the Indenture.

(D) No action taken pursuant to this Section 10.2 shall relieve the Institution from its obligations to make all payments required by this Loan Agreement and the other Financing Documents and the Master Trust Documents.

SECTION 10.3. REMEDIES CUMULATIVE. No remedy herein conferred upon or reserved to the Issuer or the Trustee is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Loan Agreement or the other Financing Documents or now or hereafter existing at law or in equity. No delay or omission to exercise

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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 the City of Albany, New York, without the prior written consent of the Issuer, other than in connection with a removal permitted under Section 4.1 hereof.

(10) Any provision of this Loan Agreement or any of the other Financing Documents or Master Trust 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, the Trustee or the Master Trustee, in a judicial or administrative proceeding or the Institution shall revoke or attempt to revoke this Loan Agreement.

(11) Any Financing Document or Master Trust 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 or Master Trust Document, having the priority purported to be given such Lien under such Financing Documents or Master Trust Documents, or the Institution, the Trustee, the Master 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.

(B) Notwithstanding the provisions of Section 10.1(A) hereof, if by reason of force majeure (as hereinafter defined) either party hereto shall be unable, in whole or in part, to carry out its obligations under this 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 this 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 subsection (B) shall not be deemed an Event of Default under this Section 10.1. Notwithstanding anything to the contrary in this subsection (B), an event of force majeure shall not excuse, delay or in any way diminish the obligations of the Institution to make the payments required by Sections 3.5 and 5.1 hereof, to obtain and continue in full force and effect the insurance required by Article VI hereof, to provide the indemnity required by Sections 8.2 and 8.13 hereof and to comply with the provisions of Sections 2.2(G), 3.3, 3.5, 8.2, 8.4, 8.5 and 8.7(C) hereof. The term "force majeure" as used herein 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

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any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee to exercise any remedy reserved to it in this Article X, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

SECTION 10.4. AGREEMENT TO PAY ATTORNEYS' FEES AND EXPENSES. In the event the Institution should default under any of the provisions of this Loan Agreement, and the Issuer or the Trustee should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the Institution herein contained, the Institution shall, on demand therefor, pay to the Issuer or the Trustee, as the case may be, the reasonable fees of such attorneys and such other expenses so incurred, whether an action is commenced or not.

SECTION 10.5. NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER. In the event any agreement contained herein should be breached by either party and thereafter such breach be waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

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ARTICLE XI  
MISCELLANEOUS

SECTION 11.1. NOTICES. (A) All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when (1) sent to the applicable address stated below by registered or certified mail, return receipt requested, or by such other means as shall provide the sender with documentary evidence of such delivery, or (2) delivery is refused by the addressee, as evidenced by the affidavit of the Person who attempted to effect such delivery.

(B) The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

IF TO THE ISSUER:

City of Albany Capital Resource Corporation  
21 Lodge Street  
Albany, New York 12207  
Attention: Chairperson

WITH A COPY TO:

Office of the Corporation Counsel  
City Hall, Eagle Street - Room 106  
Albany, New York 12207  
Attention: Corporation Counsel

AND A COPY TO:

Hodgson Russ LLP  
677 Broadway - Suite 401  
Albany, New York 12207  
Attention: Christopher C. Canada, Esq.

IF TO THE INSTITUTION:

KIPP Capital Region Public Charter Schools  
321 Northern Boulevard  
Albany, New York 12210  
Attention: Chief Executive Officer

WITH A COPY TO:

Whiteman Osterman & Hanna, LLP  
One Commerce Plaza  
Albany, New York 12260  
Attention: Robert J. McLaughlin, Esq.

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to be paid from moneys paid to the Institution pursuant to the preceding sentence, the Holders of the Initial Bonds entitled to those moneys shall look solely to the Institution for the payment of those moneys.

(B) Further, any other amounts remaining in the Bond Fund created under this Loan Agreement or the Indenture after all of the Outstanding Bonds shall be deemed to have been paid and discharged under the provisions of the Indenture and all other amounts required to be paid under this Loan Agreement and the Indenture have been paid, shall be paid to the Institution to the extent that those moneys are in excess of the amounts necessary to effect the payment and discharge of the Outstanding Bonds.

SECTION 11.8. SURVIVAL OF OBLIGATIONS. (A) The obligations of the Institution to make the payments required by Section 5.1(B) hereof and to provide the indemnity required by Sections 3.3, 8.2 and 8.13 hereof shall survive the termination of this Loan Agreement and the full payment of the Initial Bonds, and all such payments after such termination shall be made upon demand of the party to whom such payment is due.

(B) The obligations of the Institution with respect to the Unassigned Rights shall survive the termination of this Loan Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the Unassigned Rights may be brought and the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all expenses and charges incurred by the Issuer, or its members, directors, officers, agents, servants or employees, relating thereto.

SECTION 11.9. TABLE OF CONTENTS AND SECTION HEADINGS NOT CONTROLLING. The Table of Contents and the headings of the several Sections in this Loan Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Loan Agreement.

SECTION 11.10. NO RECOURSE; SPECIAL OBLIGATION. (A) All covenants, stipulations, promises, agreements and obligations of the Issuer contained in this Loan Agreement, in the Initial Bonds, in the other Financing Documents or in the Master Trust Documents executed by the Issuer and in the other documents and instruments connected herewith or therewith, and in any documents supplemental thereto (collectively, the "Issuer Documents") shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Issuer and not of any member, director, officer, agent, servant or employee of the Issuer in his individual capacity, and no recourse under or upon any obligation, covenant or agreement in the Issuer Documents contained or otherwise based upon or in respect of the Issuer Documents, or for any claim based hereon or thereon or otherwise in respect hereof or thereof, shall be had against any past, present or future member, director, officer, agent, servant or employee, as such, of the Issuer or of any successor entity or political subdivision or any Person executing any of the Issuer Documents on behalf of the Issuer, either directly or through the Issuer or any successor entity or political subdivision or any Person so executing any of the Issuer Documents on behalf of the Issuer, it being expressly understood that the Issuer Documents and the Initial Bonds issued thereunder are solely corporate obligations, and that no such personal liability whatever shall attach to, or is or shall be incurred by, any such member, director, officer, agent, servant or employee of the Issuer or of any successor entity or political subdivision or any Person so executing any of the Issuer Documents on behalf of the Issuer because of the creation of the indebtedness thereby authorized, or under or by reason of the obligations, covenants or agreements contained in the Issuer Documents or implied therefrom; and that any and all such personal liability of, and any and all such rights and claims against, every such member, director, officer, agent, servant or employee because of the creation of the indebtedness authorized by the Issuer Documents, or under or by reason of the obligations, covenants or agreements contained in the Issuer

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IF TO THE TRUSTEE OR THE MASTER TRUSTEE:

Manufacturers and Traders Trust Company  
285 Delaware Avenue - 3<sup>rd</sup> Floor  
Buffalo, New York 14202  
Attention: Corporate Trust Department

WITH A COPY TO:

Bond, Schoeneck & King, PLLC  
One Lincoln Center  
Syracuse, New York 13202  
Attention: Matthew N. Wells, Esq.

(C) A duplicate copy of each notice, certificate and other communication given hereunder by the Issuer or the Institution shall be given to the Trustee and the Master Trustee.

(D) The Issuer, the Institution, the Trustee and the Master Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

SECTION 11.2. BINDING EFFECT. This Loan Agreement shall inure to the benefit of the Issuer, the Institution, the Trustee, the Master Trustee and the Holders of the Initial Bonds and shall be binding upon the Issuer, and the Institution and, as permitted by this Loan Agreement, their respective successors and assigns.

SECTION 11.3. SEVERABILITY. If any one or more of the covenants or agreements provided herein on the part of the Issuer or the Institution to be performed shall, for any reason, be held or shall, in fact, be inoperative, unenforceable or contrary to law in any particular case, such circumstance shall not render the provision in question inoperative or unenforceable in any other case or circumstance. Further, if any one or more of the phrases, sentences, clauses, paragraphs or sections herein shall be contrary to law, then each such phrase, sentence, clause, paragraph or section shall be deemed separable from the remaining phrases, sentences, clauses, paragraphs or sections hereof and shall in no way affect the validity of the other provisions of this Loan Agreement.

SECTION 11.4. AMENDMENTS. This Loan Agreement may not be amended, changed, modified, altered or terminated, except by an instrument in writing signed by the parties hereto, with the written consent of the Trustee.

SECTION 11.5. EXECUTION OF COUNTERPARTS. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 11.6. APPLICABLE LAW. This Loan Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State.

SECTION 11.7. AMOUNTS REMAINING IN FUNDS. (A) Any amounts in the Bond Fund remaining unclaimed by the Holders of Bonds for two (2) years after the due date thereof (whether at stated maturity, by redemption or pursuant to any mandatory sinking fund requirements or otherwise), shall be paid to the Institution. With respect to that principal of and any premium and interest on the Initial Bonds

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Documents 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 Issuer of the Issuer Documents and the issuance, sale and delivery of the Initial Bonds.

(B) The obligations and agreements of the Issuer contained herein and therein shall not constitute or give rise to an obligation 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 shall be liable hereon or thereon, and, further, such obligations and agreements shall not constitute or give rise to a general obligation of the Issuer, but rather shall constitute limited obligations of the Issuer payable solely from the revenues of the Issuer derived and to be derived from this Loan Agreement and the other Financing Documents (except for revenues derived by the Issuer with respect to the Unassigned Rights).

(C) No order or decree of specific performance with respect to any of the obligations of the Issuer hereunder shall be sought or enforced against the Issuer unless (1) the party seeking such order or decree shall first have requested the Issuer in writing to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the Issuer shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten days, shall 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, (2) 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 shall have placed in an account with the Issuer an amount or undertaking sufficient to cover such reasonable fees and expenses; and (3) 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, directors, officers, agents (other than the Institution), servants or employees shall be subject to potential liability, the party seeking such order or decree shall (a) agree to indemnify, defend and hold harmless the Issuer and its members, directors, officers, agents (other than the Institution), servants and employees against any liability incurred as a result of its compliance with such demand, and (b) if requested by the Issuer, furnish to the Issuer satisfactory security to protect the Issuer and its members, directors, officers, agents (other than the Institution), servants 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 Section 11.10(C) shall not affect the full force and effect of an Event of Default hereunder.

SECTION 11.11. NO RECOURSE RELATING TO THE INSTITUTION. All covenants, stipulations, promises, agreements and obligations of the Institution contained in this 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 this Loan Agreement contained hereon or otherwise based upon or in respect of this Loan Agreement, or for any claim based hereon or thereon or otherwise in respect hereof, 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 this 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 this Loan Agreement, or under or by reason of the obligations, covenants or agreements contained in this 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 this Loan Agreement.

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IN WITNESS WHEREOF, the Issuer and the Institution have caused this Loan Agreement to be executed in their respective names by their respective authorized officers, all as of the day and year first above written.

CITY OF ALBANY CAPITAL  
RESOURCE CORPORATION

BY: \_\_\_\_\_  
Authorized Officer

KIPP CAPITAL REGION PUBLIC  
CHARTER SCHOOLS

BY: \_\_\_\_\_  
Authorized Officer

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF ALBANY )

On the 5<sup>th</sup> day of June, in the year 2024, before me, the undersigned, personally appeared LEE E. ECK, JR., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

Nadene E. Zeigler  
Notary Public, State of New York  
Qualified in Albany County  
No. 02ZE5050898  
Commission Expires October 23, 2025

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF ALBANY )

On the \_\_\_\_ day of June, in the year 2024, before me, the undersigned, personally appeared STEPHANIE VALLE, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

APPENDIX A

SCHEDULE OF DEFINITIONS

The following words and terms used in the document to which this Appendix is attached shall have the respective meanings set forth below unless the context or use indicates another or different meaning or intent:

"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" shall have the meaning assigned to such term in the Master Trust Indenture.

"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 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" shall have the meaning assigned to such term in the Master Trust Indenture.

"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, 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 Initial 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.

"Architect" means Collins+Scoville Architecture.

"Architect Consent" means the agreement and consent to assignment by architect dated as of June 1, 2024, from the Architect to the Master Trustee, as said agreement and consent to assignment by architect may be amended and supplemented from time to time in accordance with its terms and the terms of the Master Trust Indenture.

"Assigned Properties" shall have the meaning assigned to such term in the Assignment of Rents.

"Assignment of Assignment of Rents" means the assignment of assignment of leases and rents dated as of June 1, 2024 from the Issuer to the Master Trustee, as said assignment of assignment of leases and rents may be amended and supplemented from time to time in accordance with its terms and the terms of the Master Trust Indenture.

"Assignment of Contracts" means the assignment of contracts and interests in licenses, permits and agreements dated as of June 1, 2024, from the Institution to the Master Trustee, as said assignment of contracts and interests in licenses, permits and agreements may be amended and supplemented from time to time in accordance with its terms and the terms of the Master Trust Indenture.

"Assignment of Master Obligation No. 2" means the assignment of obligation dated as of June 1, 2024 from the Issuer to the Trustee, as said assignment of obligation may be amended and supplemented from time to time in accordance with its terms and the terms of the Master Trust Indenture.

"Assignment of Mortgage" means the assignment of mortgage dated as of June 1, 2024 from the Issuer to the Master Trustee, as said assignment of mortgage may be amended and supplemented from time to time in accordance with its terms and the terms of the Master Trust Indenture.

"Assignment of Rents" means the assignment of leases and rents dated as of June 1, 2024 from the Institution to the Issuer, which, among other things, assigns to the Issuer (a) the rents, issues and profits of the Assigned Properties and (b) all leases, subleases, licenses or occupancy agreements

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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.

"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.

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affecting any of the Assigned Properties, as said assignment of leases and rents 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. ("REFCO RP") 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 "AAA-m", "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)

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"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.

"Building Loan Agreement" means the building loan agreement dated as of June 1, 2024 by and among the Institution, the Issuer, the Trustee and the Master Trustee, as said building loan agreement may be amended or supplemented from time to time.

"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.

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"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, (A) with respect to the Initial Project, the date of substantial completion of the undertaking of the Initial Project and (B) with respect to any Additional Project, the date of substantial completion of the undertaking of such Additional Project, in each case 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 the Initial Project or any Additional Project, as applicable, 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.

"Contractor Consent" means the agreement and consent to assignment by general contractor dated as of June 1, 2024 from the General Contractor to the Master Trustee, as said agreement and consent to assignment by general contractor may be amended or supplemented from time to time in accordance with its terms and the terms of the Master Trust Indenture.

"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.

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"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 or Master Trust 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) 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 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.

"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.

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"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 amended and restated custody agreement dated as of June 1, 2024 by and among the Institution, the Custodian and the Master Trustee, as said amended and restated custody agreement may be amended or supplemented from time to time.

"Custody Agreement Notice" shall have the meaning assigned to such term in the Custody 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 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" shall have the meaning assigned to such term in the Custody Agreement.

"Equipment" means, collectively, the Initial Equipment and any Additional Equipment.

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"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.

"First Supplemental Master Trust Indenture" means the first supplemental master trust indenture dated as of December 4, 2020 by and between the Institution, as the initial Member and the Obligated Group Representative, and the Master Trustee.

"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.

"General Contractor" means BBL Construction Services, LLC.

"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 Revenues" shall have the meaning assigned to such term in the Master Trust Indenture.

"Holder" or "holder", when used with respect to a Bond, means a 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 Master Trustee, the Issuer, the Underwriter and the payee and holder of any Initial Bond.

"Indenture" means the trust indenture dated as of June 1, 2024 by and between the Issuer and the Trustee, as said trust indenture may be amended or supplemented from time to time.

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"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 the Institution, and (iii) is not connected with the Institution as an officer, employee, promoter or member of the governing body 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.

"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) May 16, 2024 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 Initial Bonds executed by the Issuer and relating to certain requirements set forth in Section 148 of the Code applicable to the Initial Bonds and the Initial Project.

"Initial Bond Purchase Agreement" means the bond purchase agreement dated May 29, 2024 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 May 16, 2024 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 the Issuer's Tax-Exempt Revenue Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024 in the aggregate principal amount of \$50,105,000 issued pursuant to the Initial Bond Resolution and Article II of the Indenture and sold by the Underwriter pursuant to the Initial Bond Purchase Agreement, in substantially the form attached to the Indenture as Schedule I, and any Initial Bonds issued in exchange or substitution therefor.

"Initial Continuing Disclosure Agreement" means the continuing disclosure agreement dated as of June 1, 2024 by and between the Institution and the Dissemination Agent relating to the Initial Bonds, as said continuing disclosure agreement may be amended or supplemented from time to time.

"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.

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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 KIPP Capital Region Public Charter Schools, a not-for-profit 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) having a general reputation for the skill and expertise necessary to evaluate the insurance needs of the Project Facility, (C) who is Independent 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, June 1 and December 1 of each year, commencing December 1, 2024, 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.

"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 June 1, 2024 by and between the Issuer and the Institution, as said loan agreement may be amended or supplemented from time to time.

"Loan Payments" means the amounts required to be paid by the Institution pursuant to the provisions of Section 5.1 of the Loan Agreement.

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"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 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" shall have the meaning assigned to such term in the fourth recital clause to the Indenture and the Loan Agreement.

"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 Reserve Fund Requirement" means (a) the initial amount of \$1,999,983.43 or (b) if less than the applicable amount in (a), fifty percent (50%) of the maximum annual debt service of the Initial Bonds, calculated from time to time as of any date on which a portion of the Initial 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 Initial Bonds, or if any Initial Bonds are issued with original issue discount, 10% of the proceeds of such Initial Bonds, (ii) the maximum annual debt service on the Initial Bonds, or (iii) 125% of the average annual debt service on the Initial Bonds.

"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 Initial 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 Initial 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

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"Loan Payment Date" shall have the meaning ascribed to such term in Section 5.1 of the Loan Agreement.

"Long-Term Indebtedness" shall have the meaning assigned to such term in the Master Trust Indenture.

"Master Obligation" means an "Obligation" as such term is defined in the Master Trust Indenture.

"Master Obligation No. 2" means KIPP Capital Region Public Charter Schools Obligated Group Obligation No. 2 in the original principal amount of \$50,105,000 issued pursuant to the Second Supplemental Master Trust Indenture.

"Master Supplemental Indenture" means a "Supplement" as such term is defined in the Master trust Indenture.

"Master Trust Documents" means, collectively, the Master Trust Indenture, all Master Obligations including the Master Obligation No. 2, the Architect Consent, the Assignment of the Assignment of Rents, the Assignment of Contracts, the Assignment of Mortgage, the Assignment of Rents, the Contractor Consent, the Custody Agreement, the Mortgage, the Building Loan Agreement and any other document now or hereafter executed by the Issuer or the Institution or any other Person in favor of the Master Trustee.

"Master Trust Indenture" means the Master Trust Indenture, dated as of December 1, 2020, as amended by the First Amendment to Master Trust Indenture dated as of June 1, 2024, between the Institution, as initial Member of the Obligated Group and initial Obligated Group Representative, and the Master Trustee, as the same may be further amended and supplemented from time to time, including the First Supplemental Master Trust Indenture and the Second Supplemental Master Trust Indenture.

"Master Trustee" means Manufacturers and Traders Trust Company, as Master Trustee under the Master Trust Indenture, and its successors and assigns in such capacity.

"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 June 1, 2024 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 Mortgaged Property and (b) assigns to the Issuer the rents, issues and profits of

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the Mortgaged Property, as said mortgage and security agreement may be assigned, amended or supplemented from time to time.

"Mortgaged Property" shall have the meaning assigned to such term in the Mortgage.

"MTT Revenue Fund" means that fund so designated created pursuant to Section 3.02 of the Master Trust Indenture.

"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.

"Operating Expenses" shall have the meaning assigned to such term in the Master Trust Indenture.

"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.

"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

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"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 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.

"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.

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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.

"Outstanding", when used with reference to "Obligations", shall have the meaning assigned such term by the Master Trust Indenture.

"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 or the Master Trustee and (F) Permitted Liens (as such term is defined in the Master Trust Indenture).

"Person" means an individual, partnership, corporation, limited liability company, trust, unincorporated organization or Governmental Authority.

"Plans and Specifications" means (A) with respect to the Initial Project, (1) as to the Issuer, the description of the Initial Project appearing in the Issuer's preliminary inducement resolution relating thereto, and (2) as to the Trustee, the plans and specifications for the Initial Project prepared by the Institution, and all amendments and modifications thereof made by approved changed orders, and if an item for the construction of the Initial Project 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, and (B) 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 changed 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 June 1, 2024 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.

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"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.

"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.

"Required Payments" shall have the meaning assigned to such term in the Master Trust 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 Initial Bonds, the Initial Reserve Fund Requirement and (b) 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.

"Second Supplemental Master Trust Indenture" means the second supplemental master trust indenture dated as of December 4, 2020 by and between the Institution, as initial Member and Obligated Group Representative, and the Master Trustee.

"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.

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"Series 2024 Project Capitalized Interest Subaccount" means the subaccount so designated within the Project Fund established pursuant to Section 401(A)(1)(a) of the Indenture.

"Series 2024 Project Account" means the account so designated within the Project Fund established pursuant to Section 401(A)(1)(a) of the Indenture.

"Series 2024 Project Bond Proceeds Subaccount" means the subaccount so designated within the Project Fund established pursuant to Section 401(A)(1)(a) of the Indenture.

"Series 2024 Project Equity Contribution Subaccount" means the subaccount so designated within the Project Fund established pursuant to Section 401(A)(1)(a) of the Indenture.

"Series 2024 Reserve Account" means the account so designated within the Reserve Fund established pursuant to Section 401(A)(4)(a) of the Indenture.

"Short-Term Indebtedness" shall have the meaning assigned to such term in the Master Trust Indenture.

"Sinking Fund Payments" means (A) with respect to the Initial Bonds, the sinking fund redemption payments due on the Initial 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.

"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.

"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 any Additional Bonds not constituting Tax-Exempt Bonds.

"Tax Documents" means, collectively, (A) with respect to the Initial 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 Initial 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 pursuant to 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 from the Master Trustee under the Master Trust Documents; (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.

"Trustee Loan Payment Date Notice" has the meaning assigned to such term in Section 410 of 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 to 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

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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 Report" shall have the meaning ascribed to such term in Section 1002 of the Indenture.

"Yield", when used with respect to the Initial Bonds, shall have the meaning assigned to such term in the Initial Tax Regulatory Agreement.

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#### EXHIBIT A

#### DESCRIPTION OF THE INITIAL EQUIPMENT

All articles of personal property and all appurtenances acquired with the proceeds of the City of Albany Capital Resource Corporation Tax-Exempt Revenue Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024 in the aggregate principal amount of \$50,105,000.

EXHIBIT B

IN WITNESS WHEREOF, the Institution and the Issuer have signed this termination of Loan Agreement and caused same to be dated as of the \_\_\_ day of \_\_\_\_\_, 20\_\_.

FORM OF TERMINATION OF LOAN AGREEMENT

WHEREAS, KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS, a not-for-profit education corporation and public charter school organized and existing under the laws of the State of New York having an office for the transaction of business located at 321 Northern Boulevard, Albany, New York (the "Institution"), and CITY OF ALBANY CAPITAL RESOURCE CORPORATION, a not-for-profit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 21 Lodge Street, Albany, New York (the "Issuer"), entered into a loan agreement dated as of June 1, 2024 (the "Loan Agreement"); and

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS

BY: \_\_\_\_\_  
Authorized Officer

WHEREAS, pursuant to the Loan Agreement, (A) the Issuer agreed (1) to issue its Tax-Exempt Revenue Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024 in the aggregate principal amount of \$50,105,000 (the "Initial Bonds") and (2) to 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 (B) in consideration of the Loan, the Institution will agree (1) to cause the Initial Project to be undertaken and completed, (2) to use the proceeds of the Loan disbursed under the Indenture to pay (or reimburse the Institution for the payment of) the costs of the Initial Project, and (3) to make payments sufficient in amount to pay when due all amounts due with respect to the Initial Bonds (the "Loan Payments") to or upon the order of the Issuer in repayment of the Loan, which Loan Payments shall include amounts equal to the Debt Service Payments due on the Initial Bonds; and

CITY OF ALBANY CAPITAL RESOURCE CORPORATION

BY: \_\_\_\_\_  
Authorized Officer

WHEREAS, the Initial Bonds were issued pursuant to the terms of a trust indenture dated as of June 1, 2024 (the "Indenture") between the Issuer and Manufacturers and Traders Trust Company, as trustee (the "Trustee") for the holders of the Initial Bonds and all other indebtedness issued by the Issuer under the Indenture (collectively with the Initial Bonds, the "Bonds"); and

WHEREAS, as security for the Initial Bonds, the Issuer executed and delivered to the Trustee a pledge and assignment dated as of June 1, 2024 (the "Pledge and Assignment") from the Issuer to the Trustee, and acknowledged by the Institution, which Pledge and Assignment assigned to the Trustee certain of the Issuer's rights under the Loan Agreement; and

WHEREAS, pursuant to the Loan Agreement, the Institution and the Issuer agreed that the Loan Agreement would terminate 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 (as defined therein) 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; and

WHEREAS, the Initial Bonds and the other Indebtedness have been paid in full, and the Institution and the Issuer now desire to evidence the termination of the Loan Agreement;

NOW, THEREFORE, it is hereby agreed that the Loan Agreement has terminated as of the dated date hereof; provided, however, that, as provided in Section 11.8 of the Loan Agreement, certain obligations of the Institution shall survive the termination of the Loan Agreement, and the execution of this termination of Loan Agreement by the Issuer is not intended, and shall not be construed, as a waiver or alteration by the Issuer or the Institution of the provisions of Section 11.8 of the Loan Agreement.

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**MASTER TRUST INDENTURE**

by and between

**KIPP: ALBANY COMMUNITY PUBLIC CHARTER SCHOOLS,**  
as initial Member of the Obligated Group and initial Obligated Group Representative

and

**MANUFACTURERS AND TRADERS TRUST COMPANY,**  
as Master Trustee

Dated as of December 1, 2020

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MASTER TRUST INDENTURE

THIS MASTER TRUST INDENTURE dated as of December 1, 2020, by and between KIPP: ALBANY COMMUNITY PUBLIC CHARTER SCHOOLS, a not-for-profit education corporation organized and existing under the laws of the State of New York and the initial Member of the Obligated Group (the "Institution" and the initial "Obligated Group Representative") and MANUFACTURERS AND TRADERS TRUST COMPANY, a banking corporation organized and existing under the laws of the State of New York, being qualified to accept and administer the trusts hereby created (the "Master Trustee").

WITNESSETH:

WHEREAS, the Institution is authorized and deems it necessary and desirable to enter into this Master Indenture for the purpose of providing for the issuance from time to time by Members of the Obligated Group (as defined herein) of Obligations (as defined herein) to refinance educational facilities or other facilities, or for other lawful and proper corporate purposes; and

WHEREAS, the Institution has done and performed all acts and things necessary to constitute this Master Indenture a valid indenture and agreement according to its terms, the Institution has duly authorized the execution and delivery of this Master Indenture, and the Institution, in the exercise of the legal rights and powers vested in it, shall execute this Master Indenture and the Institution proposes to enter into supplements hereto with the Master Trustee to provide for the making, execution, issuance and delivery of one or more Obligations hereunder; and

WHEREAS, the Master Trustee agrees to accept and administer the trusts created hereby;

NOW, THEREFORE, in consideration of the premises, of the acceptance by the Master Trustee of the trusts hereby created, and of the giving of consideration for and acceptance of Obligations issued hereunder by the Holders thereof, and for other good and valuable consideration the receipt of which is hereby acknowledged, and for the purpose of fixing and declaring the terms and conditions upon which Obligations are to be issued, authenticated, delivered and accepted by all persons who shall from time to time be or become Holders thereof, each Member of the Obligated Group covenants and agrees with the Master Trustee for the equal and proportionate benefit of the respective Holders from time to time of Obligations issued hereunder as follows:

ARTICLE I

DEFINITIONS AND OTHER PROVISIONS CONCERNING INTERPRETATION

Section 1.01. Definitions. For the purposes hereof unless the context otherwise indicates, the following words and phrases shall have the following meanings:

"ACCS Elementary School Campus" means the Albany Community Charter Elementary School, located at 65 Krank Street, Albany, NY 12202.

"Balloon Long-Term Indebtedness" means (i) Long-Term Indebtedness payments of 25% or more of the principal of which are due in a single twelve-month period, which portion of the principal is not required by the documents pursuant to which such Indebtedness is issued to be amortized by payment or redemption prior to such date, and (ii) Qualified Commercial Paper.

"Capital Lease Obligation" means any lease that under relevant provisions of the Code causes the transfer of ownership of the subject property to the lessee thereunder.

"Charter Schools" means, the Albany Community Charter Elementary School, the Albany Community Charter Middle School, the Kipp: Tech Valley Middle School, and the Kipp: Tech Valley Primary School, each a New York charter school operated by the Institution and any other charter schools that may be added from time to time.

"Charters" means the Fifth Renewal Charter, dated as of March 31, 2020 between the State University of New York Board of Trustees and the Borrower.

"Chartering Authority" means the entity that approves, renews or decides to revoke an application or agreement with a public charter school established and operated in accordance with Article 56 of the New York Education Law.

"Code" when used with reference to this Master Indenture means the Internal Revenue Code of 1986, as amended from time to time, and any regulations promulgated thereunder.

"Corporate Trust Office" means the office of the Master Trustee at which its corporate trust business is conducted, which at the date hereof is located at 285 Delaware Avenue, 3rd Floor, Buffalo, New York 14202, Attention: Corporate Trust Administration.

"Custody Account" means that certain custody account created pursuant to the Custody Agreement.

"Custody Agreement" means that certain Custody Agreement dated as of December 4, 2020, by and among, the Custodian, the Master Trustee and the Borrower.

"Custodian" means Manufacturers and Traders Trust Company, as custodian, under the Custody Agreement, and its successors and assigns.

"Days Cash on Hand" means, for any Fiscal Year, the number of days determined by dividing the product of the sum of each Member of the Obligated Group's unrestricted cash and cash equivalents, as provided in their respective Financial Statements for such Fiscal Year, and three hundred sixty-five (365), by the sum of the Operating Expenses of each Member of the Obligated Group for such Fiscal Year.

"Debt Service Coverage Ratio" means, for any period for which a calculation is made, the ratio determined by dividing the Available Net Income for such period by the Annual Debt Service for such period.

"Debt Service Requirement" means, for any period for which such determination is made, the aggregate of the payments required to be made in respect of principal (whether at maturity as a result of mandatory sinking fund redemption, mandatory prepayment or otherwise) and interest

"ACCS Middle School Campus" means the Albany Community Charter Middle School, located at 42 South Dove Street, Albany, NY 12202.

"Additional Indebtedness" means any Indebtedness (including all Obligations) incurred subsequent to the issuance of the Initial Obligation, excluding and except as set forth in Section 3.05 (a) - (h) herein.

"Aggregate Principal Amount" means the outstanding principal of a security and, in the case of a discount or non-interest bearing security, its accreted value calculated in accordance with the documents authorizing such security or if not so defined, generally accepted accounting principles.

"Annual Debt Service" means the aggregate amount of principal payments and interest payments paid or payable in any Fiscal Year of the Obligated Group on all Indebtedness.

"Authorized Representative" means the Person or Persons at the time designated to act on behalf of the Obligated Group in a written certificate furnished to the Master Trustee, which certificate shall contain a specimen signature of such Person and shall be signed on behalf of the Obligated Group by the Institution's Chief Executive Officer, President, Executive Director, Director of Financial Planning or Director of Finance, or any other individual or individuals designated as the Authorized Representative thereof by the Members of the Obligated Group in a writing filed with the Master Trustee and Related Bond Trustee.

"Available Net Income" means Gross Revenues less Operating Expenses; provided, that no determination thereof shall take into account:

- (a) any revenue or expense of the Obligated Group or any gain or loss resulting from either the early extinguishment or refinancing of Indebtedness or the sale, exchange or other disposition of capital assets not made in the ordinary course of business;
- (b) gifts, grants, bequests, donations or contributions, but only to the extent specifically restricted by the donor to a particular purpose inconsistent with their use for the payment of principal of, redemption premium and interest on Indebtedness or the payment of Operating Expenses;
- (c) the net proceeds of insurance (other than business interruption insurance);
- (d) any unrealized gain or loss due to valuation of investments or derivative instruments;
- (e) adjustments to the value of assets or liabilities resulting from changes in generally accepted accounting principles;
- (f) nonrecurring items which do not involved the receipt, expenditure or transfer of assets; or
- (g) proceeds of Indebtedness.

on Outstanding Long-Term Indebtedness of the Obligated Group during such period, except that (a) with respect to Balloon Long-Term Indebtedness the amount of debt service taken into account shall, at the option of the Obligated Group, assume that such Indebtedness is to be amortized over a 30-year period, beginning on the date of such calculation, on a level debt service basis and at the rate of interest specified in such obligation (determined as of the time of calculation of the Debt Service Requirement and, if such obligation bears interest at a variable rate, calculated in the manner provided herein with respect to Variable Rate Indebtedness), provided, however, that if, as of the calculation date, the final maturity of such Balloon Long-Term Indebtedness (other than Qualified Commercial Paper) is within 12 months and the Obligated Group has neither (i) obtained a firm commitment from a financial institution to retire such Balloon Long-Term Indebtedness nor (ii) set aside or committed in an irrevocable reserve (which may be held by the Obligated Group) in cash or other securities permitted as investments under the applicable Related Bond Indenture or other instrument securing such Balloon Long-Term Indebtedness in an amount sufficient to retire such Balloon Long-Term Indebtedness, then the entire Outstanding amount of such Balloon Long-Term Indebtedness shall be included in the calculation of the Debt Service Requirement, (b) the interest on Variable Rate Indebtedness shall be calculated at a rate equal to an assumed fixed rate of interest equal to the average interest rate outstanding on such Indebtedness for the most recent 24-month period; provided, however, that if the Indebtedness has not been outstanding for 24 months, then the interest rate shall be the average rate for the most recent 12 months or the interest rate in effect on the date of calculation, whichever is higher; provided further, if the debt has not been outstanding for a 12-month period, the assumed rate shall be the average interest rate per annum which would have been in effect, (c) with respect to any Guaranty (including for purposes of determining whether the Guaranty can be entered into pursuant to Section 3.05 hereof), only that portion of the guaranteed indebtedness as to which the counterparty to such Guaranty has delivered a written notice to a Member of the Obligated Group demanding payment of such portion of the guaranteed indebtedness by such Member of the Obligated Group pursuant to the terms of such Guaranty, and that remains outstanding, shall be taken into account and (d) any Tender Obligations shall be deemed to mature on the stated maturity or mandatory redemption date or dates thereof, whichever is earlier. If the Indebtedness being calculated is with respect to a series of Related Bonds, portions of which may bear interest at types of rates and for periods of time different than those for other Related Bonds of that same series ("Modes"), each portion of the Indebtedness corresponding to a Mode then applicable to one or more Related Bonds shall be deemed separate Indebtedness for the purposes of this definition.

"Event of Default" means any one or more of those events set forth in Section 4.01 hereof.

"Excluded Collateral" means (a) that certain modular building located at 321 Northern Boulevard, Albany, New York leased from Williams Scotsman, (b) any monies provided, or to be provided, to the Borrower pursuant to Section 2856(1) of the New York Education Law, (c) that certain grant from the KIPP Foundation in the approximate amount of \$300,000 and any renewals thereof, (d) that certain charter school program grant from the KIPP Foundation in the approximate amount of \$1,200,000 and any renewals thereof, (e) Payroll Protection Program loan from the U.S. Small Business Administration in the approximate amount of \$2,200,000, (f) Federal funding in the approximate amount of \$500,000 under the Every Student Succeeds Act and any renewals thereof, (g) State funding in the approximate amount of \$1,300,000 under the New York State Child Nutrition Program and any renewals thereto, (h) any monies in the Custody Account not otherwise transferred to the MTI Revenue Fund, and (i) any other funding from State or Federal

sources or any other grant funding or donations from any other source that is restricted as to use by such source, including, without limitation, State Education Operating Aid.

**"Financial Statements"** means, for each fiscal year, the audited financial statements of the Obligated Group which are presented in the form of and prepared in accordance with generally accepted accounting principles; such financial statements shall include accompany schedules of other financial information which present the details of the combined balance sheets and statements of operations and changes in net assets of the Obligated Group. The financial statements of the Obligated Group shall be examined by Independent certified public accountants in accordance with generally accepted auditing standards. The report of such Independent certified public accountants shall express an opinion relative to such financial statements and shall state that the schedules of other financial information of the Obligated Group have been subject to the auditing procedures applied in the audit of the financial statements of the Obligated Group, and are fairly stated in all material respects in relation to such financial statements taken as a whole.

**"Fiscal Year"** means July 1 to June 30 or such other twelve-month period adopted as the Fiscal Year as designated by the Authorized Representative of the Obligated Group Representative.

**"Fitch"** means Fitch Ratings, Inc., a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, and its successors and assigns or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Obligated Group Representative.

**"Governing Body"** means, when used with respect to any Member of the Obligated Group, its board of directors, board of trustees or other board, including its executive committee, or group of individuals in which the powers of such Member of the Obligated Group are vested.

**"Governmental Issuer"** means any municipal corporation, political subdivision, state, territory or possession of the United States, or any constituted authority or agency or instrumentality of any of the foregoing empowered to issue obligations on behalf thereof, which obligations constitute Related Bonds.

**"Gross Revenues"** means all revenues, income, receipts and money received by or on behalf of the Obligated Group for its education operations and related activities attributable to the Mortgaged Campus Facilities and the Non-Mortgaged Campus Facilities consisting of (a) all income and revenues directly or indirectly derived by the Borrower's operation of the Charter Schools, including but not limited to any State Education Operating Aid payments made by the State and local school district with respect to the Charter Schools, (b) gross revenues derived from the operation and possession, within the Mortgaged Campus Facilities and the Non-Mortgaged Campus Facilities, of a charter school pursuant to the Charters, (c) federal, State or local funds for school lunches and other food programs, special education, transportation, summer school and special programs which are not otherwise restricted as to use, (d) any rental receipts for the lease of property, (e) gifts, grants, bequests, donations and contributions, exclusive of any gifts, grants, bequests, donations and contributions to the extent specifically restricted by the donor to a particular purpose inconsistent with their use for the payment of Obligations or funds of Members of the Obligated Group derived therefrom which due to donor restrictions cannot legally be used to pay Obligations; and (f) proceeds derived from (i) accounts receivable, (ii) investment earnings

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premium, if any, and interest on, as the same shall become due, of any such Indebtedness which would otherwise be considered Outstanding. The trustee of such deposit may be the Master Trustee, a Related Bond Trustee or any other trustee or escrow agent authorized to act in such capacity.

**"Lien"** means any mortgage, deed of trust or pledge of, security interest in or encumbrance on any Property which secures any Obligation.

**"Line of Credit"** means that certain line of credit with M&T Bank existing as of the date hereof or acquired by March 1, 2021, in an amount not to exceed \$1,500,000, unless otherwise approved to exceed such amount by Equitable Facilities Fund, Inc.

**"Long-Term Indebtedness"** means all Indebtedness having a maturity longer than one year and Qualified Commercial Paper incurred or assumed by any Member of the Obligated Group including: (a) money borrowed for an original term, or renewable at the option of the Member for a period from the date originally incurred, longer than one year, (b) leases which are required to be capitalized in accordance with generally accepted accounting principles having an original term, or renewable at the option of the lessee for a period from the date originally incurred, longer than one year, and (c) installment sale or conditional sale contracts having an original term in excess of one year.

**"Majority"** means more than 66%.

**"Management Consultant"** means a firm of professional management consultants, or a school management organization, knowledgeable in the operation of public or private schools and having a favorable reputation for skill and experience in the field of public or private school management consultation, which term may include any Person serving as financial advisor to any Member of the Obligated Group.

**"Master Indenture"** means this Master Trust Indenture, and any amendments and supplements hereto.

**"Master Trustee"** means Manufacturers and Traders Trust Company, and its successors in the trusts created hereunder.

**"Maximum Debt Service Requirement"** means the highest Debt Service Requirement for any current or subsequent Fiscal Year.

**"Member of the Obligated Group"** or **"Member"** means, initially, the Institution, and thereafter, any Person which shall become a Member of the Obligated Group in accordance with Section 3.12 hereof and not including any Person which shall have withdrawn from the Obligated Group in accordance with Section 3.13 hereof.

**"Moody's"** means Moody's Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Obligated Group Representative.

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and gains on the sale and liquidation securities or other investments and (iii) business interruption insurance proceeds.

**"Guaranty"** means any obligation of a legal entity guaranteeing in any manner, directly, indirectly or contingently, and whether by payment, advance, purchase, reserve or otherwise, any obligation of any other Person which obligation of such other Person would, if such obligation were the obligation of a Member of the Obligated Group, constitute Indebtedness hereunder.

**"Holder"** means the registered owner of any Obligation issued in registered form.

**"Indebtedness"** means (a) all obligations for borrowed money incurred or assumed by any Member of the Obligated Group which are secured by a pledge of the Pledged Revenues (provided however, the Excluded Collateral shall be excluded from any pledge and assignment), payable from any funds constituting Gross Revenues, or the liability for which provides for recourse to the Property, (b) all real property installment sales, conditional sales and Capital Lease Obligations of any Member of the Obligated Group which are payable from funds constituting Gross Revenues or secured by a pledge of the Pledged Revenues (provided however, the Excluded Collateral shall be excluded from any pledge or assignment) or the liability for which provides for recourse to the Property and (c) all Guaranties whether constituting Long-Term Indebtedness or Short-Term Indebtedness. Indebtedness shall not include any Non-Recourse Indebtedness or any Guaranty by one Member of the Obligated Group of the Indebtedness of another Member of the Obligated Group.

**"Independent"** when used with respect to any Person means such a Person who (i) is independent in fact, (ii) does not have a direct financial interest or any material indirect financial interest in a Member of the Obligated Group, and (iii) is not connected with any Member of the Obligated Group as an officer, employee, promoter or member of the Governing Body. Whenever it is provided that any Independent Person's opinion, certificate or report shall be furnished to the Master Trustee, such opinion, certificate or report shall state that the signer has read this definition and that the signer is Independent within the meaning hereof.

**"Independent Consultant"** means a Person that (1) does not have any direct financial interest or any material indirect financial interest in any Member or any affiliate and (2) is not connected with any Member or any affiliate as an officer, employee, promoter, trustee, partner, director or Person performing similar functions, and designated by the Obligated Group Representative, qualified to pass upon questions relating to the financial affairs of facilities of the type or types operated by the Members and having a favorable reputation for skill and experience in the financial affairs of such facilities.

**"Initial Obligation"** means the first Obligation No. 1 issued under this Master Indenture.

**"Institution"** means KIPP: Albany Community Public Charter Schools, a not-for-profit education corporation organized and existing under the laws of the State of New York, and its successors and assigns.

**"Irrevocable Deposit"** means the irrevocable deposit in trust of cash in an amount, or Government Obligations, or other securities permitted for such purpose pursuant to the terms of the documents governing the payment of or discharge of Indebtedness, the principal of and interest on which will be an amount, and under terms sufficient to pay all or a portion of the principal of,

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**"Mortgaged Campus Facilities"** means, collectively, the Tech Valley Primary School Campus, the Tech Valley Middle School Campus, the ACCS Elementary School Campus, the ACCS Middle School Campus, and any property that is added as a Related Campus Facility pursuant to the terms and provisions hereof.

**"Mortgaged Premises"** shall mean the real and personal property subject to the Lien of the Mortgage.

**"Mortgaged Property"** has the meaning set forth in the last paragraph of Section 3.08 hereof.

**"Mortgages"** means (1) each mortgage, including leasehold deed of trust, deed of trust, security agreement, assignment of rents and leases, and/or financing statement identified on Appendix A attached hereto and incorporated by reference, as originally executed and as amended and modified from time to time in accordance with its terms and (2) any mortgage, including leasehold deed of trust, deed of trust, security agreement, assignment of rents and leases, and/or financing statement encumbering Property for the benefit of Holders executed and delivered in accordance with Sections 3.06 or 3.08 hereof.

**"MTI Revenue Fund"** means the MTI Revenue Fund created in Section 3.02 of this Master Indenture.

**"Non-Mortgaged Campus Facilities"** means all facilities owned by the Institution that are not the Mortgaged Campus Facilities.

**"Non-Recourse Indebtedness"** means any Indebtedness secured by a Lien on Property of a Member and the liability for which is effectively limited to the Property subject to the Lien with no recourse, directly or indirectly (whether through credit enhancement of such Indebtedness or otherwise), to any other Property of the Member.

**"Obligated Group"** means, collectively, the Members of the Obligated Group, which initially is the Institution.

**"Obligated Group Representative"** means, initially the Institution or such other Member(s) or other Person as may have been designated to act as the Obligated Group Representative hereunder pursuant to written notice to the Master Trustee executed by all the Members.

**"Obligation"** means any obligation of a Member of the Obligated Group issued hereunder that may be in the form set forth in a Supplement, including but not limited to bonds, obligations, debentures, reimbursement agreements, loan agreements, guaranties, leases or other payment obligations.

**"Obligation No. 1"** means KIPP Albany Obligated Group Obligation No. 1 in the original principal amount of \$24,537,151.60 issued pursuant to that First Supplemental Master Indenture dated as of the date hereof.

**"Officer's Certificate"** when used with reference to this Master Indenture means a certificate signed by the Authorized Representative of the Obligated Group Representative.

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"*Operating Expenses*" means all current expenses of the Members of the Obligated Group, paid or accrued, to operate the Mortgaged Campus Facilities and the Non- Mortgaged Campus Facilities as determined in accordance with GAAP, including without limitation (i) salaries and administrative expenses, (ii) the cost of supplies and materials, (iii) insurance premiums, (iv) professional services, and (v) any rental payments made for operating leases; provided however, there shall be excluded from Operating Expenses (a) any non-cash expenses resulting from depreciation, amortization or the write down of existing assets, (b) expenses incurred for capital improvements and capital leases (e.g., payments for bus acquisition), (c) expenses paid from grants from state, federal, local sources, or from any Person, provided that such grants were not included as part of Gross Revenue, (d) management fees paid to an affiliate of a Member of the Obligated Group, the payment of which is subordinate to the payment of Indebtedness and to the payment of all other Operating Expenses, and (e) any and all principal paid under or with respect to any Indebtedness and the Debt Service Requirements; provided, however, notwithstanding anything to the contrary herein, Operating Expenses shall always be determined in accordance with GAAP.

"*Opinion of Bond Counsel*" means an opinion in writing signed by an attorney or firm of attorneys experienced in the field of public finance whose opinions are generally accepted by purchasers of bonds issued by or on behalf of a Governmental Issuer.

"*Opinion of Counsel*" means a written opinion signed by an attorney or firm of attorneys, who may be counsel for the Obligated Group Representative.

"*Outstanding*" when used with reference to Obligations and other Indebtedness means, as of any date of determination, all Obligations and Indebtedness theretofore issued or incurred and not paid and discharged other than (a) Obligations theretofore canceled by the Master Trustee or delivered to the Master Trustee for cancellation, (b) Indebtedness deemed paid and no longer outstanding pursuant to the terms thereof, whether by payment, prepayment, defeasance or otherwise, (c) Obligations in lieu of which other Obligations have been authenticated and delivered or have been paid pursuant to the provisions hereof regarding mutilated, destroyed, lost or stolen Obligations unless proof satisfactory to the Master Trustee has been received that any such Obligation is held by a bona fide purchaser, (d) Obligations owned by Members of the Obligated Group as provided in Section 8.02 of this Master Indenture, and (e) Obligations or Indebtedness for which there has been made an Irrevocable Deposit, but only to the extent that payment of debt service on such Obligation or Indebtedness is payable from such Irrevocable Deposit; provided, however, that if two or more obligations which constitute Indebtedness represent the same underlying obligation (as when an Obligation secures an issue of Related Bonds and another Obligation secures current repayment obligations to a bank) for purposes of the various financial covenants contained in the Master Indenture, but only for such purposes, only one of such obligations shall be deemed Outstanding and the obligation so deemed to be Outstanding shall be that one which produces the greater amount to be included in the Debt Service Requirement to be included in the calculation of such covenants.

"*Payment Date*" means the 1st of each month commencing January 1, 2021.

"*Permitted Investments*" means the following obligations, subject to any requirements of the laws of the State of New York:

- (a) Cash (insured at all times by the Federal Deposit Insurance Corporation or continuously on deposit with the Master Trustee in a trust account);

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administrator, servicing agent, and/or custodian or subcustodian, notwithstanding that (i) the Master Trustee or an affiliate of the Master Trustee receives fees from such funds for services rendered, and (ii) the Master Trustee charges and collects fees for services rendered pursuant to the Bond Indenture, which fees are separate from the fees received from such funds;

- (h) Pre-refunded municipal obligations, defined as any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call such obligations on the date specified in the notice of such call; and
  - (i) which are rated, based on an irrevocable escrow account or fund (the "escrow"), in the highest rating category of Moody's or S&P or any successors to such Rating Agencies; or
  - (ii) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph (b) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates of such Bonds or obligations or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (B) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates specified in the irrevocable instructions referred to above, as appropriate;
- (i) Municipal obligations rated "Aaa/AAA" or general obligations of states with a rating of "A2/A" or higher by both Moody's and S&P;
- (j) Investment agreements, GIC's, forward delivery agreements or similar arrangements approved in writing by the Obligated Group, and supported by enforceability opinions of counsel; and
- (k) Other forms of investments (including repurchase agreements) approved in writing by the Obligated Group.

The value of the above investments shall be determined as follows:

- (a) For the purpose of determining the amount in any Fund or Account, all Permitted Investments credited to such Fund or Account shall be valued at fair market value. The Master Trustee shall determine the fair market value based on accepted industry standards and from accepted industry providers. Accepted industry providers shall include but are not limited to pricing

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- (b) Obligations of, or obligations guaranteed as to principal and interest by, the United States of America or any agency or instrumentality of the United States of America or any agency or instrumentality whose obligations are backed by the full faith and credit of the United States of America, including:

United States treasury obligations  
Farmers Home Administration  
General Services Administration  
Guaranteed Title XI financing  
Government National Mortgage Association (GNMA)  
State and Local Government Series

- (c) Obligations of any of the following federal agencies which obligations represent the full faith and credit of the United States of America, including:
  - Export-Import Bank
  - Rural Economic Community Development Administration
  - U.S. Maritime Administration
  - Small Business Administration
  - United States Department of Housing & Urban Development (PHAs)
  - Federal Housing Administration
  - Federal Financing Bank
- (d) Direct obligations of any of the following entities which obligations are not fully guaranteed by the full faith and credit of the United States of America:
  - Senior debt obligations issued by the Federal National Mortgage Association (Fannie Mae) or Federal Home Loan Mortgage Corporation (FHLMC)
  - Obligations of the Resolution Funding Corporation (REFCORP)
  - Senior debt obligations of the Federal Home Loan Bank System
  - Senior debt obligations of other government sponsored entities rated in the highest rating category by a nationally recognized rating agency;
- (e) United States dollar denominated deposit accounts, federal funds and bankers' acceptances with banks which have a rating on their short term certificates of deposit on the date of purchase of "P-1" by Moody's and "A-1" or "A-1+" by S&P and maturing not more than 360 calendar days after the date of purchase, or available for withdrawal for program purposes without cost or penalty (ratings on holding companies are not considered as the rating of the bank);
- (f) Commercial paper which is rated at the time of purchase in the single highest classification, "P-1" by Moody's and "A-1+" by S&P and which matures not more than 270 calendar days after the date of purchase;
- (g) Investments in a money market fund rated "AAAm" or "AAAm-G" or better by S&P, including without limitation, any mutual fund for which the Master Trustee or any of its affiliates serve as an investment manager,

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services provided by Financial Times Interactive Data Corporation, Merrill Lynch, Citigroup Global Markets Inc., and Bloomberg Financial Services; and

- (b) As to certificates of deposit and bankers' acceptances, the face amount of such certificates of deposit and bankers' acceptances, plus accrued interest on such certificates of deposit and bankers' acceptances.

"*Permitted Liens*" shall mean and include:

- (a) Any judgment lien or notice of pending action against any Member so long as such judgment or pending action is being contested in good faith and execution thereon is stayed, or while the period for responsive pleading has not lapsed;
- (b) (i) Rights reserved to or vested in any municipality or public authority by the terms of any right, power, franchise, grant, license, permit or provision of law, affecting any Property; (ii) any liens on any Property for taxes, assessment, levies, fees, water and sewer charges, and other governmental and similar charges and any liens of mechanics, materialmen, laborers, suppliers or vendors for work or services performed or materials furnished in connection with such Property, which are not due and payable or which are not delinquent or which, or the amount or validity of which, are being contested and execution thereon is stayed or which are subject to an installment payment obligation with a tax collection authority and execution thereon is stayed or, with respect to liens of mechanics, materialmen and laborers, have been due for less than sixty (60) days; (iii) covenants, conditions and restriction agreements, easements, rights-of-way, water rights, servitudes, waivers, reservations of abutter's rights, restrictions, governmental requirements and other defects, encumbrances, and irregularities in the title to any Property which do not materially impair the use of such Property or materially and adversely affect the value thereof; (iv) condominium declarations, condominium plans, condominium maps, tract maps, lot splits or lot line adjustment maps affecting the property; and (v) rights reserved to or vested in any municipality or public authority to control or regulate any Property or to use such Property in any manner, which rights do not materially impair the use of such Property in any manner, or materially and adversely affect the value thereof;
- (c) Any Lien described in the final title policy which summarized certain liens existing on the date of execution of this Master Indenture provided that no such Lien (or the amount of Indebtedness secured thereby) may be increased, extended, renewed or modified to apply to any Property of any Member not subject to such Lien on such date, unless (1) such Lien as so extended, renewed or modified otherwise qualifies as a Permitted Lien or (2) the maturity date of the Indebtedness secured by such Lien is not extended and either the total principal and interest requirements or the maximum annual principal and interest requirements (calculated in a manner consistent with the calculation of the Debt Service Requirement) on such Indebtedness is not increased as a result of the refinancing of such Indebtedness;
- (d) Any Lien in favor of the Master Trustee securing all Obligations other than Non-recourse Indebtedness on a parity basis, including without limitation the Lien of the Mortgages and the Lien on Pledged Revenues;

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(e) Liens arising by reason of good faith deposits with any Member in connection with leases of real estate, bids or contracts (other than contract for the payment of money), deposits by any Member to secure public or statutory obligations, or to secure, or in lieu of, surety, stay or appeal bonds, and deposits as security for the payment of taxes or assessments or other similar charges;

(f) Any Lien arising by reason of deposits with, or the giving of any form of security to, any governmental agency or any body created or approved by law or governmental regulation for any purpose at any time as required by law or governmental regulation as a condition to the transaction of any business or the exercise of any privilege or license, or to enable any Member to maintain self-insurance or to participate in any funds established to cover any insurance risks or in connection with workers' compensation, unemployment insurance, pension or profit sharing plans or other similar social security plans, or to share in the privileges or benefits required for companies participating in such arrangements, and any Lien in the nature of a banker's lien or right of setoff with respect to deposits which any Member is not required to maintain with the bank in question;

(g) Any Lien arising by reason of any escrow established to pay debt service with respect to Indebtedness, including Irrevocable Deposits;

(h) Any Lien in favor of a trustee on the proceeds of Indebtedness prior to the application of such proceeds;

(i) Liens on Property received by any Member through gifts, grants or bequests, such Liens being due to restrictions on such gifts, grants or bequests of Property or the income thereon, up to the Fair Market Value of such Property;

(j) Liens securing Non-recourse Indebtedness incurred pursuant to this Master Indenture so long as the Property purchased, acquired, constructed, or equipped with the proceeds of such Non-recourse Indebtedness does not replace any Property of the Members which generated more than ten percent (10%) of the Total Revenues of the Members for the most recent Fiscal Year for which Obligated Group Financial Statements are available;

(k) Liens securing leases of Property and Liens on leased Property, including without limitation that certain modular building located at 321 Northern Boulevard, Albany, New York leased from Williams Scotsman;

(l) the lease or license of the use of all or a part of any portion of the Property in connection with the proper and economical use of such Property in accordance with customary and prudent business practice;

(m) purchase money security interests and security interests existing on any Property prior to the time of its acquisition through purchase, merger, consolidation or otherwise, or placed upon Property to secure a portion of the purchase price thereof, or placed upon instruments evidencing Indebtedness to secure the purchase price thereof, or lessee's interests in leases required to be capitalized in accordance with generally accepted accounting principles;

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consideration of the execution, authentication and delivery of an Obligation or Obligations to or for the order of such Related Bond Issuer.

**"Related Campus Facilities"** means the land and improvements at the Tech Valley Primary School Campus, the Tech Valley Middle School Campus, the ACCS Elementary School Campus, the ACCS Middle School Campus, and any property that is added as a Related Campus Facility pursuant to the terms and provisions hereof.

**"Related Loan Agreement"** means any loan agreement, financing or other comparable instrument pursuant to which proceeds of Related Bonds are lent to a Member of the Obligated Group.

**"Related Supplement"** means a Supplement executed in connection with Related Bonds.

**"Required Payment"** means any payment, whether at maturity, by acceleration, upon proceeding for redemption or otherwise, including the purchase price of Related Bonds tendered or deemed tendered for purchase pursuant to the terms of a Related Bond Indenture, required to be made by any Member under this Master Indenture, any Related Supplement or any Obligation.

**"S&P"** means S&P Global Ratings, a business unit of Standard & Poor's Financial Services LLC, its successors and assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Obligated Group Representative.

**"Short-Term Indebtedness"** means all Indebtedness having a maturity of one year or less, other than the current portion of Long-Term Indebtedness and other than Qualified Commercial Paper, incurred or assumed by any Member of the Obligated Group, including (a) money borrowed for an original term, or renewable at the option of the Member for a period from the date originally incurred, of one year or less, (b) leases which are required to be capitalized in accordance with generally accepted accounting principles having an original term, or renewable at the option of the lessee for a period from the date originally incurred, of one year or less, and (c) installment purchase or conditional sale contracts having an original term of one year or less.

**"State"** means the State of New York.

**"State Education Operating Aid"** means all New York State Education Department operating aid payments appropriated for the purpose of funding operating expenses of the Borrower on a per-pupil basis, including, without limitation, all monies provided to the Borrower pursuant to Section 2856(1) of the New York Education Law.

**"Subordinated Indebtedness"** means any Indebtedness, other than Obligations, the payment of which is either unsecured or secured on a subordinate basis, but which is in any case specifically subordinated to the payment of principal and interest on Obligations and payable solely from moneys released from the MTI Revenue Fund and the security interest granted pursuant to this Master Trust Indenture to the Master Trustee.

**"Supplement"** means an indenture supplemental to, and authorized and executed pursuant to the terms of, this Master Indenture.

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(n) any other Lien, provided that either (i) the aggregate Book Value of Property subject to Liens created or permitted to exist pursuant to this clause (n) shall not exceed 5% of the aggregate Book Value of all Property of the Obligated Group or (ii) the aggregate Fair Market Value of Property subject to Liens created or permitted to exist pursuant to this clause (n) shall not exceed 5% of the aggregate Fair Market Value of all Property of the Obligated Group; and

(o) any other Lien on Non-Mortgaged Campus Facilities.

**"Person"** means an individual, association, unincorporated organization, corporation, partnership, joint venture, limited liability company, limited liability partnership, business trust or a government or an agency or a political subdivision thereof, or any other entity.

**"Pledged Revenues"** means the Gross Revenues less any Excluded Collateral.

**"Property"** means (a) the Pledged Revenues, (b) any and all real property assets and interests in real property, tangible or intangible, attributable to the Mortgaged Campus Facilities and any Related Campus Facilities including, without limitation, leasehold interests, and (c) the MTI Revenue Fund, all deposit accounts and investment property related thereto and all cash and investment securities on deposit therein; notwithstanding anything in the foregoing to the contrary, Property shall specifically and expressly exclude the Non-Mortgaged Campus Facilities and any Excluded Collateral.

**"Qualified Commercial Paper"** means commercial paper secured by a pledge of Pledged Revenues and issued, incurred or assumed by any Member of the Obligated Group or issued as Related Program Bonds, which commercial paper is rated in either of the two highest rating categories of either Moody's, S&P or Fitch, or their respective successors, and which commercial paper is marketed by a nationally recognized commercial paper dealer, and for which there is in place and effective a commercial paper dealer agreement with such a party.

**"Rating Agency"** means, as at any time, any nationally recognized rating agency including Fitch, Moody's, or S&P, then rating Related Bonds at the request of the Obligated Group Representative.

**"Related Bond Indenture"** means any indenture, loan agreement, trust agreement, bond resolution or other comparable instrument pursuant to which Related Bonds are issued, including a Related Loan Agreement.

**"Related Bond Issuer"** means a Governmental Issuer of any Related Bonds or any other financial institution serving as lender of proceeds of any Related Bonds.

**"Related Bond Trustee"** means the bond trustee and its successors in the trusts created under any Related Bond Indenture, and if there is no such bond trustee, means the Related Bond Issuer.

**"Related Bonds"** means the revenue bonds, notes, loans or other obligations issued, incurred or delivered by a Related Bond Issuer, pursuant to a Related Bond Indenture, the proceeds of which are loaned or otherwise made available to a Member of the Obligated Group in

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**"Tax-Exempt Bonds"** means any Related Bonds interest on which is excluded from gross income for federal income tax purposes under Section 103 of the Code.

**"Tax-Exempt Organization"** means a Person organized under the laws of the United States of America or any state thereof which is an organization described in Section 501(c)(3) of the Code and exempt from federal income taxes under Section 501(a) of the Code, or corresponding provisions of federal income tax laws from time to time in effect.

**"Tech Valley Middle School Campus"** means the Kipp: Tech Valley Middle School, located at 321 Northern Boulevard, Albany NY 12210.

**"Tech Valley Primary School Campus"** means the Kipp: Tech Valley Primary School, located at 1 Dudley Heights, Albany NY 12210.

**"Tender Obligation"** means Long-Term Indebtedness of any Member of the Obligated Group which by its terms may be required to be tendered for purchase, or which may be tendered for payment by and at the option of the Holders thereof prior to the stated maturity thereof.

**"Transfer"** means any sale, gift, donation or any other act or occurrence the result of which is to dispose (including through leasing, as a lessor) any Person of any asset or interest therein, including specifically in all cases, but without limitation, the forgiveness of any debt; provided, however, that the payment of bills or other accounts in the ordinary course of business shall be excluded from this definition.

**"Uniform Commercial Code"** means the Uniform Commercial Code of the State of New York, as the same may be amended from time to time.

**"Variable Rate Indebtedness"** means all or any portion of Indebtedness the interest rate on which has not been established at a fixed or constant rate to maturity.

#### Section 1.02. Interpretation.

(a) Any reference herein to any officer or member of the Governing Body of a Member of the Obligated Group shall include those succeeding to their functions, duties or responsibilities pursuant to or by operation of law or who are lawfully performing their functions.

(b) Unless the context otherwise indicates, words importing the singular shall include the plural and vice versa, and the use of the neuter, masculine, or feminine gender is for convenience only and shall be deemed to mean and include the neuter, masculine or feminine gender.

(c) When the character or amount of any assets, liability or item of income or expense is required to be determined or any consolidation, combination or other accounting computation is required to be made for the purposes hereof or of any agreement, document or certificate executed and delivered in connection with or pursuant to this Master Indenture, the same shall be done in accordance with generally accepted accounting principles at the time in effect, to the extent applicable, except where such principles are inconsistent with the requirements hereof or of such agreement, document or certificate.

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(d) Headings of articles and sections herein and in the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

(e) Provisions calling for the redemption of Obligations or the calling of Obligations for redemption do not mean or include the payment of Obligations at their stated maturity or maturities.

(f) Provisions calling for or referring to the delivery by each Member of the Obligated Group of financial statements for any given period shall be deemed satisfied if the combined or consolidated financial statements for such period, prepared in accordance with generally accepted accounting principles, of such entities are so delivered.

(g) Each Officer's Certificate presented under this Master Indenture shall state that it is being delivered pursuant to (and shall identify the section or subsection of) this Master Indenture and shall incorporate by reference and use in all appropriate instances all terms defined in Section 1.01 of this Master Indenture. Each Officer's Certificate shall state (i) whether the terms thereof are in compliance with the requirements of the section or subsection pursuant to which such Officer's Certificate is delivered or shall state in reasonable detail the nature of any noncompliance and the steps being taken to remedy such non-compliance and (ii) that it is being delivered together with any opinions, schedules, statements or other documents required in connection therewith.

## ARTICLE II

### INDEBTEDNESS; AUTHORIZATION, ISSUANCE AND TERMS OF OBLIGATIONS

**Section 2.01. Amount of Indebtedness.** The Members of the Obligated Group may incur Indebtedness by issuing Obligations hereunder or by creating Indebtedness under any other document, in each case subject to the provisions and restrictions of this Master Indenture. No Obligations issued hereunder shall be secured on a basis senior to other Obligations; provided, however, that the provision of bond insurance, a letter or line of credit, standby bond purchase agreement or other similar instrument or obligation issued by a financial institution or the establishment of a debt service reserve fund or account for the benefit of the Holders of certain Obligations shall not be considered as the providing of security on a senior basis for such Obligations. The principal amount of Indebtedness that may be created hereunder or under other documents is not limited, except as limited by the provisions hereof, including Section 3.05 hereof, or of any Supplement.

**Section 2.02. Designation of Obligations.** Obligations shall be issued in such forms as may from time to time be created by Supplements permitted hereunder. Each Obligation or series of Obligations shall be designated in such a manner as will differentiate such Obligation from any other Obligation.

**Section 2.03. Appointment of Obligated Group Representative.** Each Member, by becoming a Member, irrevocably appoints the Obligated Group Representative as its agent and true and lawful attorney in fact and grants to the Obligated Group Representative full power to execute Related Supplements authorizing the issuance of Obligations or Series of Obligations, and

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Related Bond Trustee as assignee of the issuer of the Related Bonds. Unless an Obligation has been registered under the Securities Act of 1933, as amended (or similar legislation subsequently enacted), such Obligation shall be endorsed with a legend which shall read substantially as follows: "This [describe Obligation] has not been registered under the Securities Act of 1933 or any state securities law (or any such similar subsequent legislation)," provided, however, such legend shall not be required if the Master Trustee is provided with an Opinion of Counsel to the effect that such legend is not required.

A Supplement and the Obligations issued thereunder may contain, as applicable, provisions relating to bond insurance or other forms of credit enhancement, as well as any and all compatible provisions necessary in order to make the Obligations meet the requirements of an issuer of such bond insurance or other form of credit enhancement. Similarly, a Supplement may provide for Obligations to be issued in fixed or variable rate forms, as the case may be, with such tender and redemption provisions as may be deemed necessary for the issuance thereof and provide for the execution of required documents necessary for such purposes.

**Section 2.06. Conditions to Issuance of Obligations Hereunder.** With respect to Obligations created or secured hereunder, simultaneously with or prior to the execution, authentication and delivery of Obligations evidencing such Indebtedness pursuant to this Master Indenture:

(a) An Officer's Certificate shall have been delivered to the Master Trustee to the effect that no Event of Default has occurred and is continuing hereunder;

(b) The Master Trustee shall have received an Officer's Certificate to the effect that each Member is in full compliance with all warranties, covenants and agreements set forth in this Master Indenture and in any Related Supplement;

(c) The Obligated Group Representative and the Master Trustee shall have entered into a Supplement as provided in Section 2.05 hereof, and all requirements and conditions to the issuance of such Obligations, if any, set forth in the Supplement or in this Master Indenture shall have been complied with and satisfied, as provided in an Officer's Certificate, an executed counterpart of which shall be delivered to the Master Trustee;

(d) The Authorized Representative of the Obligated Group Representative have delivered to the Master Trustee (i) an Opinion of Counsel to the effect that (A) registration of such Obligation under the Securities Act of 1933, as amended, and qualification of this Master Indenture or the Supplement under the Trust Indenture Act of 1939, as amended, is not required, or, if such registration or qualification is required, that all applicable registration and qualification provisions of said Acts have been complied with, and (B) this Master Indenture, the Related Supplement and the subject Obligation have been duly authorized, executed and delivered by the Obligated Group Representative and are valid, binding and enforceable obligations of the Members of the Obligated Group in accordance with their terms, with such exceptions and limitations as are acceptable to the Master Trustee and that all conditions of this Master Indenture have been satisfied with respect to the issuance of such Obligation, and (ii) in the event any Tax-Exempt Bonds are Outstanding, an Opinion of Bond Counsel that the issuance of such Obligation will not result in inclusion of interest in gross income for purposes of federal income taxation on any Related Bonds that are intended to be federally tax-exempt obligations; and

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containing covenants and other provisions related thereto, and to execute and deliver Obligations and documents related thereto.

**Section 2.04. Execution, Authentication and Delivery of Obligations.** Each Obligation shall be executed for and on behalf of the Members of the Obligated Group. The signature of any Authorized Representative of the Obligated Group Representative may be mechanically or photographically reproduced on the Obligation. If any Authorized Representative whose signature appears on any Obligation ceases to be such Authorized Representative before delivery thereof, such signature shall remain valid and sufficient for all purposes as if such Authorized Representative of the Obligated Group Representative remained in office until such delivery. Each Obligation shall be manually authenticated by an authorized officer of the Master Trustee, without which authentication no Obligation shall be valid or constitute an Obligation hereunder or entitled to any security or benefits hereunder. Such executed certificate of authentication of the Master Trustee upon any Obligation shall be conclusive evidence that such Obligation has been authenticated and delivered under this Master Indenture.

The Master Trustee's authentication certificate shall be in substantially the following form:

#### MASTER TRUSTEE'S AUTHENTICATION CERTIFICATE

The undersigned Master Trustee hereby certifies that this is one of the Obligations described in the within-mentioned Master Indenture.

By \_\_\_\_\_  
as Master Trustee  
Dated: \_\_\_\_\_ By \_\_\_\_\_  
Authorized Signatory

The Authorized Representative of the Obligated Group Representative shall issue and deliver, or cause to be delivered, Obligations simultaneously with the execution and delivery of the Supplements pursuant to which such Obligations are authorized. The Initial Obligation shall be issued and delivered simultaneously with the execution and delivery hereof.

**Section 2.05. Supplement Creating Obligations.** The Obligated Group Representative and the Master Trustee may from time to time enter into a Supplement to create Obligations hereunder. Each Supplement authorizing the issuance of Obligations shall specify and determine the date of the Obligations, the principal amount thereof, the purposes for which such Obligations are being issued, the form, title, designation and the manner of numbering and denominations, if applicable, of such Obligations, the date or dates of maturity and redemption features of such Obligations, the rate or rates of interest (or method of determining the rate or rates of interest) and premium, if any, borne by such Obligations, the arrangement for place and medium of payment and any other provisions deemed advisable or necessary. Each Obligation shall be issuable, shall be transferable and exchangeable and shall be subject to redemption as specified in this Master Indenture and in the Related Supplement. Any Obligation to be held by a Related Bond Trustee in connection with the issuance of Related Bonds shall be in the principal amount equal to the Aggregate Principal Amount of such Related Bonds and shall be registered in the name of the

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(e) Except with respect to the Initial Obligations, an Officer's Certificate shall have been delivered to the Master Trustee certifying that Indebtedness secured by such Obligation has been incurred in accordance with Section 3.05 hereof.

(f) If the Obligation is issued to finance the acquisition or construction of a new Institution facility, there shall have been delivered to the Master Trustee a Supplement adding such Institution facility as a Related Campus Facility hereunder and a Mortgage on such Related Campus Facility.

**Section 2.07. List of Holders of Obligations.** The Master Trustee shall keep on file at its office a list of the names and addresses of the Holders of all Obligations. At reasonable times and under reasonable regulations established by the Master Trustee, said list may be inspected and copied by the Members of the Obligated Group, the Holder of any Obligation or the authorized representative thereof, provided that the ownership by such Holder and the authority of any such designated representative shall be evidenced to the satisfaction of the Master Trustee.

**Section 2.08. Office for Payment, Registration, Transfer and Exchange of Obligations.** When appropriate according to the provisions of Section 2.15 hereof, so long as an Obligation or series of Obligations are Outstanding, the Obligated Group agrees that it shall cause to be maintained by the Master Trustee, at the designated Corporate Trust Office of the Master Trustee, an office or agency where the Obligations issued by the Members of the Obligated Group may be presented for payment and an office or agency for the registration of such Obligations and for the registration of transfer and exchange of such Obligations in accordance with their respective terms.

**Section 2.09. Registration, Transfer and Exchange of Obligations.** When appropriate according to the provisions of Section 2.15 hereof, the Obligated Group agrees that it will cause to be kept by the Master Trustee at the Corporate Trust Office as provided in Section 2.08 hereof a register or registers, in which, subject to such reasonable regulations as it may prescribe, it will register all Obligations or series of Obligations which may be issued and will register the transfer and exchange of such Obligations as provided in this Section.

Upon due presentment for registration or transfer of any Obligations at the designated Corporate Trust Office of the Master Trustee, the Obligated Group shall execute and the Master Trustee shall authenticate and deliver, in exchange for such Obligations, a new registered Obligation or Obligations registered in the name of the transferee, of the same series, maturity and tenor of authorized denominations and for a like Aggregate Principal Amount.

Obligations presented for registration or transfer shall be duly endorsed by, or be accompanied by, a written instrument or instruments of transfer in form satisfactory to the Master Trustee duly executed by the Holder or by the Holder's duly authorized attorney.

The execution of any Obligation as provided in Section 2.03 hereof shall constitute full and due authorization of such denomination and the Master Trustee shall thereby be authorized to authenticate and deliver such Obligation.

**Section 2.10. Charges for Registration, Transfer and Exchange.** When appropriate according to the provisions of Section 2.15 hereof, upon every registration, transfer or exchange of an Obligation, the Master Trustee may make a reasonable charge therefor sufficient to reimburse

it for any documented printing costs incurred by it in connection therewith and any tax or taxes or other governmental charge in respect thereof required to be paid by the Obligated Group or the Master Trustee, and said charge shall be paid by the Holder requesting such registration, transfer or exchange as a condition precedent to the exercise of the privilege of making the same, unless a Member of the Obligated Group shall assume such payment in any Supplement.

**Section 2.11. Mutilated, Destroyed, Lost or Stolen Obligations.** When appropriate according to the provisions of Section 2.14 hereof, if any Obligation shall become mutilated, the Obligated Group shall, and if any Obligation shall be destroyed, lost or stolen, the Obligated Group in its discretion may, upon the written request of the Holder, execute, and the Master Trustee shall thereupon authenticate and deliver in replacement thereof, a new Obligation of the same series, maturity and tenor, bearing a number not contemporaneously outstanding, payable in the same Aggregate Principal Amount and dated the same date as the Obligation so mutilated, destroyed, lost or stolen. If any such mutilated, destroyed, lost or stolen Obligation shall have matured or if any such Obligation shall have been called for redemption, in lieu of executing and delivering a new Obligation, as aforesaid, any Member of the Obligated Group may pay such Obligation.

In each case the applicant for a new Obligation shall pay all costs incurred in connection with the issuance thereof and shall furnish to the Members of the Obligated Group and the Master Trustee such security or indemnity as may be required by them to save each of them harmless on account of the issuance thereof. In addition, in each case of loss, theft or destruction, the applicant shall furnish to the Members of the Obligated Group and the Master Trustee evidence to their satisfaction of the loss, theft or destruction of such Obligation and of the ownership thereof, and in each case of the mutilation of any Obligation, the applicant shall surrender to the Master Trustee such mutilated Obligation.

Every new Obligation issued pursuant to the provisions of this Section, by virtue of the fact that any Obligation is destroyed, lost or stolen, shall constitute an additional contractual obligation of the Members of the Obligated Group, whether or not the lost, stolen or destroyed Obligation shall be at any time enforceable, and shall be entitled to all the benefits of this Master Indenture equally and proportionately with all other Obligations duly issued hereunder. All Obligations shall be held and owned upon the express condition that, to the extent permitted by law, the foregoing provisions are exclusive with respect to the replacement of destroyed, lost or stolen Obligations, and shall preclude any and all other rights or remedies (other than any rights or remedies provided in any Supplement), notwithstanding any law or statute now existing or hereafter enacted to the contrary with respect to replacement or payment of negotiable instruments or other securities without their surrender.

**Section 2.12. Cancellation of Surrendered Obligations.** When appropriate according to the provisions of Section 2.15 hereof, all Obligations surrendered for the purpose of payment or redemption, and all Obligations surrendered for transfer or exchange, shall be canceled by or under the direction of the Master Trustee and no Obligations shall be issued in lieu thereof, except as expressly required or permitted by any of the provisions of this Master Indenture. Upon written request of a Member of the Obligated Group, such canceled Obligations shall be delivered by the Master Trustee to the Authorized Representative or upon similar request shall be destroyed by the Master Trustee, which shall thereupon furnish the Authorized Representative with a proper affidavit or certificate as to such destruction.

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the Master Trustee or the Authorized Representative, constitute notice of redemption of the corresponding amounts of principal of such Obligations and the same amounts of principal of the Obligations of such series shall thereby become due and payable on the date of redemption of such Related Bonds and at a redemption price equal to the redemption price payable with respect to such Related Bonds.

**Section 2.15. Effect of Certain Sections in the Case of Related Bonds.** The provisions of Sections 2.08, 2.09, 2.10, 2.11, 2.12 and 2.13 or portions thereof may be made operative in the case of all Obligations or series of Obligations for which there are Related Bonds, and any one or more of said Sections may be made operative by the terms of any Supplement in the case of all other Obligations or series of Obligations.

### ARTICLE III

#### PARTICULAR COVENANTS OF THE OBLIGATED GROUP

**Section 3.01. Security; Required Payments.** Each Member jointly and severally covenants and agrees (a) to pay or cause to be paid promptly all Required Payments at the place, on the dates and in the manner provided herein, in any Related Supplement and in said Obligations and (b) to faithfully observe and perform all of the conditions, covenants and requirements of this Master Indenture, any Related Supplement and any Obligation. Each Member acknowledges and agrees that the time of such payment and performance is of the essence of the obligations hereunder.

The obligation of each Member with respect to Required Payments shall not be abrogated, prejudiced or affected by:

- (i) the granting of any extension, waiver or other concession given to any Member by the Master Trustee or any Holder or by any compromise, release, abandonment, variation, relinquishment or renewal of any of the rights of the Master Trustee or any Holder or anything done or omitted or neglected to be done by the Master Trustee or any Holder in exercise of the authority, power and discretion vested in them by this Master Indenture, or by any other dealing or thing which, but for this provision, might operate to abrogate, prejudice or affect such obligation;
- (ii) the liability of any Member under this Master Indenture ceasing for any cause whatsoever, including the release of any Member pursuant to the provisions of this Master Indenture or any Related Supplement from membership in the Obligated Group; or
- (iii) any Member's becoming incompetent or otherwise failing to become liable as, or losing eligibility to become, a Member with respect to an Obligation.

Subject to the provisions of Section 3.13 hereof permitting withdrawal from the Obligated Group, the obligation of each Member to make Required Payments is a continuing one and is to remain in effect until all Required Payments have been paid in full in accordance with Article VII hereof. All moneys from time to time received by the Obligated Group Representative or the Master Trustee to reduce liability on Obligations, whether from or on account of the Members or otherwise, shall be regarded as payments in gross without any right on the part of any

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**Section 2.13. Persons Deemed Owners of Obligations.** When appropriate according to the provisions of Section 2.15 hereof, the Obligated Group and the Master Trustee shall deem and treat the Holder of any Obligation as the absolute owner thereof for all purposes, and neither Members of the Obligated Group nor the Master Trustee shall be affected by any notice to the contrary. Payment of or on account of the principal of and the interest on any Obligation shall be made only to or upon the written order of the Holder thereof or such Person's legal representative duly authorized in writing, as herein provided, but such registration may be changed as herein provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Obligation to the extent of the sum or sums so paid.

**Section 2.14. Notice of Redemption; Contents of Notice.** Unless waived by the Holders of all Obligations then Outstanding of a series of Obligations to be redeemed or unless otherwise provided in a Related Supplement, in order to exercise any option to redeem Obligations in whole or in part, the Master Trustee shall give notice of such redemption to the Holder of such Obligations to be redeemed by mailing a copy of such notice not less than thirty (30) days (or if Related Bonds are to be redeemed, such shorter period of time as may be permitted for the redemption of such Related Bonds) prior to the date fixed for redemption to such Holder at its address as the same shall appear upon the register maintained as provided in Section 2.09 hereof.

Each such notice of redemption shall specify the date fixed for redemption and the redemption price at which such Obligations or portions thereof are to be redeemed, and shall state that payment of the redemption price of such Obligations or portions thereof to be redeemed will be made in the manner provided in the Supplement upon presentation and surrender of such Obligations, that interest accrued to the date fixed for redemption will be paid as specified in said notice, and that on and after said date interest thereon will cease to accrue. If less than all Obligations are to be redeemed, the notice of redemption shall specify the number of the Obligations to be redeemed as a whole or in part. In case any Obligation is to be redeemed in part only, the notice shall state the portion of the principal amount thereof to be redeemed (which shall be in such denominations as is authorized by the relevant Supplement), and shall state that on and after the redemption date, upon surrender of such Obligation, the Holder will receive the redemption price in respect of the principal amount thereof called for redemption and, without charge, a new Obligation or Obligations of the same series, maturity and tenor of authorized denominations for the Aggregate Principal Amount thereof remaining unredeemed. After the date fixed for redemption, all Obligations or portions thereof so called for redemption shall cease to bear interest thereon (unless there shall be a default in the payment of such Obligations at the redemption price, together with accrued interest thereon to the date fixed for redemption), shall be deemed not to be Outstanding hereunder (except for purposes of Section 2.11 hereof) and shall not be entitled to the benefits of this Master Indenture, other than payment of the redemption price, together with accrued interest to the date fixed for redemption.

Except for redemptions with respect to mandatory sinking fund payments, if all or less than all Obligations of a series are to be redeemed, the Authorized Representative shall give the Master Trustee notice of the Aggregate Principal Amount of Obligations to be redeemed, and the particular Obligations or portions thereof to be redeemed in accordance with the provisions of the Supplement.

Any Related Supplement may provide that notice of redemption of Related Bonds in accordance with the terms of the Related Bond Indenture shall, without further notice or action by

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one or more of the Members to claim the benefit of any moneys so received until the whole of the amounts owing on Obligations has been paid or satisfied and so that in the event of any such Member's filing bankruptcy, the Obligated Group Representative or the Master Trustee shall be entitled to prove up the total indebtedness or other liability on Obligations Outstanding as to which the liability of such Member has become fixed.

Each such Obligation shall be a primary obligation and shall not be treated as ancillary to or collateral with any other obligation and shall be independent of any other security so that the covenants and agreements of each Member hereunder shall be enforceable without first having recourse to any such security or source of payment and without first taking any steps or proceedings against any other Person. The Obligated Group Representative and the Master Trustee are each empowered to enforce each covenant and agreement, as hereinbefore provided, and to enforce the making of Required Payments. Each Member hereby authorizes the Obligated Group Representative and the Master Trustee to enforce or refrain from enforcing any covenant and agreement of the Members hereunder and to make any arrangement or compromise with any particular Member or Members as the Obligated Group Representative or the Master Trustee may deem appropriate, consistent with this Master Indenture and any Related Supplement. Each Member hereby waives in favor of the Obligated Group Representative and the Master Trustee all rights against the Obligated Group Representative, the Master Trustee and any other Member, insofar as is necessary to give effect to any of the provisions of this Section.

The Master Trustee hereby covenants that it shall not take recourse against the Institution, the Obligated Group Representative or any of the Members with respect to the failure by the Institution, the Obligated Group Representative or any of the Members to make any Required Payment under this Master Indenture and any Related Supplement except recourse to the Pledged Revenues and the amounts held in the funds and accounts created under the Related Bond Indenture (except the rebate fund) or hereunder, or to such other security as may from time to time be given for the payment of obligations arising out of this Master Indenture, any Related Supplement or any other agreement securing the obligations of the Institution or any of the Members with respect to the Related Bonds.

No recourse under or upon any covenant or agreement of this Master Indenture, or of any Obligations, or for any claim based thereon or otherwise in respect thereof, shall be had against any past, present or future incorporator, officer, employee, agent or member of the governing body of any Member, or of any successor, either directly or through the Member, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that this Master Indenture and the Obligations issued hereunder are solely corporate obligations, and that no personal liability whatever shall attach to, or is or shall be incurred by, any incorporator, officer, employee, agent or member of the governing body of any Member or any successor, or any of them, because of the issuance of the Obligations, or under or by reason of the covenants or agreements contained in this Master Indenture or in any Obligations or implied therefrom.

Subject only to the provisions of this Master Indenture permitting the application thereof for the purposes and on the terms and conditions set forth herein, each Member, respectively, hereby pledges, and to the extent permitted by law grants a security interest to the Master Trustee in, the MTI Revenue Fund and all of the Pledged Revenues of the Obligated Group (provided however, no Excluded Collateral, including without limitation State Education

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Operating Aid, may be subject to nor is hereby pledged or assigned) to secure the payment of Required Payments and the performance by the Members of their other obligations under this Master Indenture. Each Member, respectively, shall execute and cause to be filed Uniform Commercial Code financing statements, shall execute and cause to be sent to the Custodian and to the Master Trustee a notice of the security interest granted hereunder and shall execute and deliver such other documents (including, but not limited to, control agreements and continuation statements) as may be necessary or reasonably requested by the Master Trustee in order to perfect or maintain as perfected such security interest or give public notice thereof. Notwithstanding anything to the contrary contained herein, neither the Master Trustee nor any other Person (other than the Obligated Group) shall be responsible for any initial filings of any financing statements or the information contained therein (including the exhibits thereto), the perfection or priority of any such security interests, or the accuracy or sufficiency of any description of collateral in such initial filings or for filing any modifications or amendments to the initial filings required by any amendments to Article 9 of the Uniform Commercial Code.

#### Section 3.02. MTI Revenue Fund

(a) The Master Trustee will establish and maintain, for the benefit of the Holders, a fund designated as the "MTI Revenue Fund," into which the Custodian shall have remitted from the Custody Account the funds, if any, required to be remitted pursuant to the Custody Agreement for such next succeeding Payment Date. All amounts deposited to the MTI Revenue Fund will be held in the name of the Master Trustee in trust for the benefit of the Holders in accordance with the terms and provisions of the Indenture. Notwithstanding the foregoing, the Master Trustee acknowledges and agrees that the Custody Account shall not be subject to any lien, pledge or security interest in favor of the Master Trustee.

(b) The Master Trustee shall, subject to the terms of Section 3.02(c), use and withdraw amounts in the MTI Revenue Fund from time to time to make the Required Payments as such payments become due (whether by maturity, redemption, acceleration or otherwise), and, if such amounts shall not be sufficient to pay in full all such payments due on any date, then to make the payment of Required Payments ratably without any discrimination or preference. Each Member agrees to execute and deliver all instruments as may be required to implement this Section. Each Member further agrees that a failure to comply with the terms of this Section shall cause irreparable harm to the Holders and shall entitle the Master Trustee, with or without notice, to take immediate action to compel the specific performance of the obligations of the Members as provided in this Section.

(c) If an Event of Default shall have occurred and be continuing under Article IV of this Master Indenture, the moneys on deposit in the MTI Revenue Fund shall be distributed in accordance with the provisions of Section 4.04 hereof.

(d) Pending disbursements of the amounts on deposit in the MTI Revenue Fund, the Master Trustee shall promptly invest and reinvest such amounts in Permitted Investments as directed in writing by the Members of the Obligated Group; provided however, all such investments shall have a maturity not greater than 91 days from date of purchase and, if an Event of Default shall have occurred and be continuing under Article IV of this Master Indenture, shall be held in cash.

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(e) To pay promptly or otherwise satisfy and discharge all of its Indebtedness in excess of \$25,000 and all demands and claims against it as and when the same become due and payable other than any thereof (exclusive of the Obligations Outstanding hereunder) whose validity, amount or collectability is being contested in good faith.

(f) At all times to comply with all terms, covenants and provisions of any Liens at such time existing upon the Property or any part thereof or securing any Obligation unless noncompliance is waived by the holder of such Lien or is being contested in good faith by a Member of the Obligated Group.

(g) Not take any action or suffer any action to be taken by others, including any action which would result in the alteration or loss of its status as a Tax-Exempt Organization, or fail to take any action which failure in the Opinion of Bond Counsel would, result in the inclusion of interest on any Related Bond in gross income for federal income tax purposes.

(h) To operate its Property so as not to discriminate on a legally impermissible basis.

(i) To comply with or cooperate with the Authorized Representative's obligation to comply with the provisions of any continuing disclosure agreement as may be necessary to comply with Rule 15c2-12 of the Securities and Exchange Commission.

(j) To take all actions to maintain its charter affording it the right to operate its schools as charter schools under applicable laws of the State of New York.

(k) To include as Related Campus Facilities and the Pledged Revenues attributable to the same, the schools constructed or improved, in whole or in substantial part, from the proceeds of Related Bonds.

#### Section 3.04. Insurance.

(a) Each Member of the Obligated Group shall at all times keep and maintain its property and facilities insured against such risks and in such amounts, with such deductible provisions, as are customary in connection with the operation of facilities of the type and size comparable to such properties and facilities and consistent with the requirements of State law. Subject to subsection (c) hereof, the Members of the Obligated Group shall carry and maintain, or cause to be carried and maintained, and pay or cause to be paid timely the premiums for, at least the following insurance in the aggregate with respect to Mortgaged Campus Facilities:

(1) insurance (including builder's all-risk insurance) against loss or damage to any structure constituting any part of the Facilities by fire and lightning, with extended coverage and vandalism and malicious mischief insurance. Said extended coverage insurance shall, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance. All insurance provided pursuant to this subsection shall be in an amount not less than greater of Aggregate Principal Amount of the Outstanding Obligations or the replacement value of the Mortgaged Campus Facilities;

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(e) All investment income generated from Permitted Investments held in any fund or account hereunder shall be retained in such fund or account, unless otherwise directed herein.

#### Section 3.03. Covenants of Corporate Existence, Maintenance of Properties, Etc. Each Member of the Obligated Group agrees:

(a) Except as otherwise expressly provided herein, including without limitation Section 3.09(a) hereof, to preserve its corporate or other legal existence and all its rights and licenses to the extent necessary or desirable in the operation of its business and affairs and to be qualified to do business in each jurisdiction where its ownership of Property or the conduct of its business requires such qualification; provided, however, that nothing herein contained shall be construed to obligate it to retain or preserve any of its rights or licenses no longer used or, in the judgment of its Governing Body, useful in the conduct of its business or affairs.

(b) At all times to cause the land and facilities comprising Property to be maintained, preserved and kept in good repair, working order and condition (ordinary wear and tear excepted) and all needed and proper repairs, renewals and replacements thereof to be made; provided, however, that nothing contained in this subsection shall be construed to (i) prevent it from ceasing to operate any immaterial portion of its Property, (ii) prevent it from ceasing to operate any material portion of its Property if in its judgment it is advisable not to operate the same, and within a reasonable time endeavors to effect disposition of such material portion of its Property, or (iii) obligate it to retain, preserve, repair, renew or replace any Property no longer used or, in the judgment of its Governing Body, useful in the conduct of its business.

(c) To do all things reasonably necessary to conduct its affairs and carry on its business or affairs and operations in such manner as to comply with any and all applicable laws of the United States and the State of New York and to duly observe and conform to all valid orders, regulations or requirements of any governmental authority relative to the conduct of its business or affairs and the ownership of its Property; provided, however, that nothing herein contained shall require it to comply with, observe and conform to any such law, order, regulation or requirement of any governmental authority so long as the validity thereof or the applicability thereof to it shall be contested in good faith.

(d) To pay promptly when due (i) all lawful taxes, governmental charges and assessments at any time levied or assessed upon or against it or its Property, including, but not limited to, all sales, use, occupation, real and personal property taxes, all permit and inspection fees, occupation and license fees and all water, gas, electric, light, power or other utility charges assessed or charged on or against its Property or on account of its use or occupancy thereof or the activities conducted thereon or therein, and (ii) all taxes, assessments and impositions, general and special, ordinary and extraordinary, of every name and kind, which shall be taxed, levied, imposed or assessed during the term of this Master Indenture upon its interest or the interest of any Related Bond Trustee or the interest of any Related Bond Issuer in this Master Indenture or the amounts payable hereunder or under the Obligations; provided, however, that it shall have the right to contest in good faith any of the foregoing or the collection of any such sums and pending the final outcome of such contest may delay or defer payment thereof. If, under applicable law, any such tax, levy, charge, fee, rate, imposition or assessment may at the option of the taxpayer be paid in installments, the Members of the Obligated Group may exercise such option.

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(2) business interruption insurance to cover loss, total or partial, of the use of any structures constituting any part of the Mortgaged Campus Facilities as the result of any of the hazards covered by the insurance required by subsection (a)(1), in an amount sufficient to pay the Annual Debt Service;

(3) during the course of any construction, reconstruction, remodeling or repair of the properties and facilities, builders' all risk extended coverage insurance (non-reporting Completed Value with Special Cause of Loss form) in amounts based upon the completed replacement value of the properties and facilities and insurance coverage for lost revenues due to damage or destruction of the properties and facilities prior to construction in an amount sufficient to provide temporary or interim facilities and equipment during the period of replacement or repair of the damaged or destroyed facility, and endorsed to provide that occupancy by any Person shall not void such coverage;

(4) general liability of no less than \$1,000,000 per occurrence and \$2,000,000 aggregate for each Member; and

(5) worker's compensation insurance as required by the laws of the State.

if it is ever determined that any facility is located in a flood plain (as defined by federal regulations), the applicable Member of the Obligated Group shall carry and maintain, or cause to be carried and maintained, and pay or cause to be paid timely the premiums for flood insurance for the facility. Such flood insurance shall constitute the type of such insurance that is available at the time and as is customary in connection with the operation of facilities of the type and size comparable to the facility.

(b) Each insurance policy required by subparagraph (a) above (i) shall be issued or written by such insurer (or insurers), or by an insurance fund established by the United States or State or an agency or instrumentality thereof unless such insurance is not otherwise available on commercially reasonable terms from an insurer rated at least "A" by S&P or "Excellent (A or A-)" by Fitch/Moody's, (ii) shall be in such form and with such provisions (including, without limitation and where applicable, loss payable clauses payable to the Master Trustee, waiver of subrogation clauses, provisions relieving the insurer of liability to the extent of minor claims and the designation of the named insurers) as are generally considered standard provisions for the type of insurance involved, (iii) shall prohibit cancellation or substantial modification by the insurer without at least thirty (30) days' prior written notice to the Master Trustee, except in the case of cancellation for non-payment, in which case at least twenty-one (21) days' prior written notice shall be provided by the insurer to the Master Trustee

and the applicable Member of the Obligated Group and (iv) shall name the Master Trustee as additional insured. The Members of the Obligated Group shall deliver to the Master Trustee, no later than the date on which it is required to obtain an insurance policy pursuant to Section 3.04(a), a certificate of insurance from the insurer for each such insurance policy.

Section 3.05. Limitations on Indebtedness. Each Member of the Obligated Group agrees that it will not incur any Additional Indebtedness, other than existing Indebtedness and Indebtedness consisting of one or more of the following:

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(a) Long-Term Indebtedness may be incurred if prior to incurrence of such Additional Indebtedness clause (a)(i) and (a)(ii) below are:

(i) an Officer's Certificate is filed with the Master Trustee demonstrating that, for the Obligated Group's most recently completed Fiscal Year, the Debt Service Coverage Ratio, taking into account all then Outstanding Long-Term Indebtedness (but not taking into account the Additional Indebtedness to be issued), is not less than 1.20; and

(ii) an Independent Management Consultant selected by the Obligated Group Representative provides a written report setting forth projections which indicate that the Available Net Income for the first full Fiscal Year in which a Member of the Obligated Group will have scheduled payments of interest on or principal of the Additional Indebtedness to be issued for the payment of which provision has not been made as indicated in the report of such Independent Management Consultant from proceeds of such Additional Indebtedness, investment income thereon or from other appropriate sources (other than Available Net Income), provides for a Debt Service Coverage Ratio, taking into account all Outstanding Long Term Indebtedness and the Additional Indebtedness to be issued, of not less than 1.20. The report of the Independent Management Consultant shall take into account the audited results of operations and verified enrollment of the Mortgaged Campus Facilities and the Non-Mortgaged Campus Facilities for the most recently completed Fiscal Year and shall assume that the Long Term Indebtedness then to be incurred shall have been outstanding for the entire year.

(b) Long-Term Indebtedness may be incurred for the purpose of refunding any Outstanding Indebtedness, if prior to the incurrence thereof, there is delivered to the Master Trustee an Officer's Certificate demonstrating that (i) the Maximum Debt Service Requirement will not increase by more than 10% after the incurrence of such proposed refunding Long-Term Indebtedness and after giving effect to the disposition of the proceeds thereof or (ii) the total Debt Service Requirement on the Indebtedness being refinanced will not increase by more than 10% after the incurrence of such proposed refunding Long-Term Indebtedness and after giving effect to the disposition of the proceeds thereof; or (iii) the requirements of subsection (a)(i) hereof are met.

(c) Short-Term Indebtedness and Subordinate Indebtedness may be incurred by any Member of the Obligated Group unless otherwise set forth in an Obligation. So long as the Initial Obligation is outstanding, Short-Term Indebtedness and Subordinate Indebtedness may only be incurred by any Member of the Obligated Group with consent of a Majority of Holders of a Majority in Aggregate Principal Amount of the Outstanding Obligations.

(d) Non-Recourse Indebtedness may be incurred not to exceed \$750,000 in the aggregate Outstanding among all Members of the Obligated Group as tested as of the end of each Fiscal Year and reported on the audited financial statement of the Members of the Obligated Group. Notwithstanding the foregoing, the Borrower may maintain its existing Line of Credit; provided further, that any loan obtained by the Borrower through the Small Business

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as may be necessary or as the Master Trustee may reasonably require in order to perfect or maintain as perfected such security interest or give public notice thereof, including the timely filing of appropriate continuation statements during the period ninety (90) days preceding each fifth anniversary of the initial delivery of this Master Indenture unless the Obligated Group Representative provides to the Master Trustee, no later than the fifth day next preceding each such fifth anniversary, an Opinion of Counsel to the effect that no continuation statements need be filed in order to maintain the perfection of such security interest until the next succeeding fifth anniversary of the initial delivery of this Master Indenture.

(b) Unless project funds allocated to the financing of such Property are escrowed until the filing of a Mortgage, each Member shall enter into a mortgage, deed of trust, security agreement, assignment of rents and leases and/or financing statement described in clause (l) of the definition of "Mortgages" contained in Section 1.01 hereof for the Property to secure the obligations of the Members hereunder, except that in no circumstance shall the Excluded Collateral secure the obligations of the Members hereunder. Each Member, respectively, agrees to supplement such deed of trust or mortgage or to execute and deliver such other deeds of trust or mortgages as may be necessary from time to time to grant to the Master Trustee a first priority Lien on any Property of Mortgaged Campus Facilities of the Member (but not any Non-Mortgaged Campus Facilities or Excluded Collateral).

(c) Except as provided in subparagraph (b) above, each Member, respectively, covenants and agrees that it will not create, assume or suffer to exist any Lien upon the Property of the Obligated Group; provided that the following Liens are permitted: (i) a Lien that is subordinate to the Obligations or (ii) a Permitted Lien. Notwithstanding the foregoing, each Member, respectively, further covenants and agrees that if such a Lien is created or assumed by any Member, it will make or cause to be made effective a provision whereby all Obligations will be secured prior to any such Indebtedness or other obligation secured by such Lien; provided, however, that notwithstanding the provisions of this Section 3.06 each Member may create, assume or suffer to exist Permitted Liens.

(d) Each Member agrees to obtain, or to cause to be obtained, at its own cost and expense, ALTA policies of lender's title insurance on its respective Property, in an aggregate amount not less than the aggregate principal amount of the Related Bonds, naming and payable to the Master Trustee, insuring the leasehold or fee title interests, as applicable, of the respective Members to the Facilities, subject only to Permitted Liens, issued by a title insurance company qualified to do business in the State.

(e) Upon written request of the Obligated Group Representative, the Master Trustee shall execute and deliver such releases, subordinations, requests for reconveyance or other instruments as may be reasonably requested by the Obligated Group Representative in connection with (1) the disposition of Property in accordance with the provisions of Section 3.08 hereof, (2) the withdrawal of a Member pursuant to Section 3.12 hereof, (3) the granting by a Member of any Lien which constitutes a Permitted Lien hereunder, or (4) payment or redemption of Related Bonds. In connection with any such request, the Obligated Group Representative shall deliver an Officer's Certificate certifying that such instrument is permitted by the terms of this Master Indenture.

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Administration's Paycheck Protection Program is exempt from the Non-Recourse Indebtedness limit of \$750,000.

(e) Nothing in this Section 3.05 shall prohibit any Outstanding Indebtedness in existence as of the date of issuance of Obligation No. 1 or the incurrence of Indebtedness to refinance any Outstanding Indebtedness as of the date of the first issuance of Obligations under this Master Indenture, or any future refinancings thereof.

(f) For purposes of this Section 3.05, the conversion of Indebtedness from Variable Rate Indebtedness to Indebtedness bearing a fixed interest rate or from one type of Variable Rate Indebtedness to another type of Variable Rate Indebtedness or from Indebtedness bearing a fixed interest rate to Variable Rate Indebtedness or from interest-only Indebtedness to fully or partially amortized Indebtedness, so long as such interest-only Indebtedness was incurred pursuant to Section 3.05(a), pursuant to the terms of the documents providing for the issuance of such Indebtedness shall not be considered to be incurrence of Indebtedness.

(g) For the purposes of meeting the tests set forth in subsection (a) above, any Indebtedness that will no longer be Outstanding on the proposed issuance date of the Indebtedness then to be incurred shall be excluded from the calculations required by such tests.

(h) Indebtedness incurred pursuant to any one of the subsections of this Section 3.05 may be reclassified as Indebtedness incurred pursuant to any other of such subsections if the tests set forth in the subsection to which such Indebtedness is to be reclassified are met at the time of such reclassification.

(i) Concurrent with the issuance of any Additional Indebtedness, the Authorized Representative of the Obligated Group Representative shall furnish the Master Trustee with an Officer's Certificate which identifies the Indebtedness to be incurred, identifies the subsection of this Section pursuant to which such Indebtedness is to be incurred, demonstrates compliance with the provisions of such subsection and states that no Event of Default then exists under this Master Indenture and that upon issuance of the Additional Indebtedness no Event of Default will exist under this Master Indenture and that no event shall have occurred which with the passage of time or the giving of notice or both would become an Event of Default; provided, however, that said Officer's Certificate is not required to state that no Event of Default is then existing in connection with the issuance of Additional Indebtedness which is issued to refund any Indebtedness theretofore issued and then Outstanding if the Authorized Representative of the Obligated Group Representative has delivered an Officer's Certificate (which is accompanied by an Opinion of Counsel acceptable to the Master Trustee as to any conclusions of law supporting such Officer's Certificate) that any existing Event of Default under this Master Indenture will be cured by such refunding.

#### Section 3.06. Mortgages; Encumbrances.

(a) To secure the payment and the performance of the other obligations of the Members hereunder, each Member hereby grants to the Master Trustee, for the benefit of the Holders of the Obligations, a security interest in the Property of such Member, provided, however, no security interest is granted in any Excluded Collateral, including without limitation any State Education Operating Aid. Each Member covenants and agrees to execute and cause to be filed Uniform Commercial Code financing statements and to execute and deliver such other documents

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#### Section 3.07. Debt Service Coverage and Cash on Hand.

(a) It shall constitute an Event of Default under this paragraph (a) if the Debt Service Coverage Ratio, as calculated at the end of any Fiscal Year, is less than 1.0, based upon the results of the annual audit.

(b) The Obligated Group agrees to manage its business such that the Debt Service Coverage Ratio calculated at the end of each Fiscal Year, will not be less than 1.10 for such Fiscal Year. Failure to maintain the Debt Service Coverage Ratio as required by this Section 3.07 shall not constitute an Event of Default so long as the Obligated Group timely engages an Independent Consultant within thirty (30) days. Within sixty (60) days of engaging an Independent Consultant, such Independent Consultant shall prepare a report with recommendations for meeting the required Debt Service Coverage Ratio. As soon as practicable, but no later than thirty (30) days after receipt of such report, the Members shall, to the extent legally permissible, implement the Independent Consultant's recommendations. Notwithstanding any other provision of this Section 3.07(b), failure of the Obligated Group to maintain a Debt Service Coverage Ratio of not less than 1.0:1.0 shall immediately constitute an Event of Default.

(c) The Obligated Group agrees to manage its business to maintain not less than sixty (60) Days Cash on Hand in the Fiscal Year ending June 30, 2021 and for each Fiscal Year thereafter. Failure to maintain the sixty (60) Days Cash on Hand as required by this Section 3.07 shall not constitute an Event of Default so long as the Obligated Group timely engages an Independent Consultant within thirty (30) days. Within sixty (60) days of engaging an Independent Consultant, such Independent Consultant shall prepare a report with recommendations for meeting the required sixty (60) Days Cash on Hand. As soon as practicable, but no later than thirty (30) days after receipt of such report, the Members shall, to the extent legally permissible, implement the Independent Consultant's recommendations. Notwithstanding any other provision of this Section 3.07(c), failure of the Obligated Group to maintain sixty (60) Days Cash on Hand for two consecutive Fiscal Years shall immediately constitute an Event of Default.

**Section 3.08. Sale, Lease or Other Disposition of Property.** Each Member of the Obligated Group agrees not to Transfer in any Fiscal Year any Property except for Transfers of Property:

- (a) to any Person, if such Transfer is made in the ordinary course of business;
- (b) to any Person provided that the Member of the Obligated Group shall receive as consideration for such Transfer cash, services or other Property equal to the fair market value of the asset so transferred;
- (c) to any Person if such Property is replaced with Property of comparable value and utility, as determined in the reasonable opinion of the Member of the Obligated Group; or
- (d) permitted to be Transferred by Section 3.09 hereof.

In addition to the foregoing limitations, the Members may not sell, lease or otherwise dispose of any Property subject to the Mortgages (the "Mortgaged Property") unless the Master Trustee shall be furnished with an Officer's Certificate to the effect that (i) the security of the

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Mortgage and the ability of the trustee thereunder to foreclose upon the remaining adjoining Mortgaged Property will not be impaired as a result of the disposition of such Property, and (ii) the appropriate Member shall have conveyed to the trustee under such Mortgage such rights-of-way, easements and other rights in land as are required for ingress to and egress from the remaining Mortgaged Property, for the utilization of the facilities located thereon and for utilities required to serve such facilities.

**Section 3.09. Consolidation, Merger, Sale or Conveyance.**

(a) Each Member of the Obligated Group agrees not to merge or consolidate with, or sell or convey all or substantially all or substantially all of its Property to any Person unless:

(i) at the time of such consolidation, merger, sale or conveyance, (including without limitation the purchase of all or substantially all of the Property of a Member of the Obligated Group) such successor corporation is an entity organized under the laws of the State of New York or one of the other states of the United States of America and shall execute and deliver to the Master Trustee an appropriate instrument containing the agreement of such successor entity to assume the due and punctual payment of the principal of, premium, if any, and interest on all Obligations according to their tenor and the due and punctual performance and observance of all the covenants and conditions of this Master Indenture to be kept and performed by the Members of the Obligated Group;

(ii) An Officer's Certificate is delivered to the Master Trustee demonstrating that each Member of the Obligated Group, including any such successor entity, immediately after such merger, consolidation, sale or conveyance would not be in default in the performance or observance of any covenant or condition of this Master Indenture and the test described in Section 3.05(a)(i) and (ii) of this Master Indenture would be met for the incurrence of one additional dollar of Long-Term Indebtedness, assuming such merger, consolidation, sale or conveyance actually occurred at the beginning of the most recent Fiscal Year or period of 12 full consecutive calendar months for which Financial Statements are available; and

(iii) If all amounts due or to become due on any Related Bond have not been fully paid to the holder thereof, there shall have been delivered to the Master Trustee (A) an Opinion of Bond Counsel to the effect that the consummation of such merger, consolidation, sale or conveyance, whether or not contemplated on any date of the delivery of any Related Bonds, would not adversely affect the validity of such Related Bonds or result in the inclusion of interest payable on such Related Bonds (which are intended to be tax-exempt bonds) in gross income for purposes of federal income taxation and (B) an Opinion of Counsel to the effect that the consummation of such transaction (1) would not require the registration of the Related Bonds under the Securities Act of 1933, as amended, or any state securities law, or the Related Supplement under the Trust Indenture Act of 1939, as amended, or any state securities law,

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Financial Statements shall be prepared in accordance with generally accepted accounting principles and shall include such statements necessary for a fair presentation of unrestricted fund financial position, results of operations and changes in unrestricted fund balance and cash flows as of the end of such fiscal reporting period.

(d) No later than 180 days after the end of each Fiscal Year, it will file or cause to be filed with the Master Trustee and with each Holder who may have so requested in writing an Officer's Certificate stating the Debt Service Coverage Ratio for such fiscal reporting period and stating whether, to the best knowledge of the signer, there is an Event of Default in the performance of any covenant contained in this Master Indenture and, if so, specifying each such Event of Default of which the signer may have knowledge.

(e) If an Event of Default shall have occurred and is continuing, it will (i) file with the Master Trustee such other financial statements and information concerning the operations and financial affairs of the Members of the Obligated Group as the Master Trustee may from time to time reasonably request and (ii) provide access to the facilities of the Institution for the purpose of inspection by the Master Trustee during regular business hours or at such other times as the Master Trustee may reasonably request.

(f) Within thirty (30) days after its receipt thereof (if not filed earlier pursuant to some other provision hereof), it will file or cause to be filed with the Master Trustee a copy of each report which any provision of this Master Indenture requires to be prepared by a Management Consultant.

**Section 3.11. Representations and Warranties by the Obligated Group.** Each Member of the Obligated Group makes the following representations and warranties as the basis for its covenants herein:

(a) It is a non-profit corporation duly incorporated under the laws of the State of New York, is in good standing and duly authorized to conduct its business and affairs in such state, is duly authorized and has full power under applicable laws and its articles of incorporation and by-laws to create, issue, enter into, execute and deliver this Master Indenture and all action on its part necessary for the valid execution and delivery of this Master Indenture has been duly and effectively taken; and this Master Indenture will be the legal and valid obligation of the Obligated Group.

(b) The execution and delivery of this Master Indenture, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any organizational restriction or of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing, or result in the creation or imposition of any Lien of any nature upon any of its respective Obligations. The easements, rights-of-way, liens, encumbrances, covenants, conditions, restrictions, exceptions, minor defects, irregularities of title and encroachments on adjoining real estate, if any, now existing with respect to its Property constituting real property do not and will not materially adversely affect the value of the Property currently affected thereby, materially impair the same, or materially impair or materially interfere with the operation and usefulness thereof for the purpose for which it was acquired or is held by it. Its Property constituting real property and the use thereof does not violate any applicable zoning, land use, environmental or similar law or restriction.

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or if such registration is required, that all applicable registration and qualification provisions of said acts have been complied with, (2) will not adversely affect the status as a Tax-Exempt Organization of the Institution and (3) will result in the Master Indenture being a valid, binding and enforceable obligation of the Person which is the successor.

(b) In case of any such consolidation, merger, sale or conveyance, such successor entity shall succeed to and be substituted for its predecessor, and its predecessor shall be released from all obligations hereunder.

(c) In case of any such consolidation, merger, sale or conveyance such changes in phraseology and form (but not in substance) may be made in Obligations thereafter to be issued as may be appropriate.

(d) The Master Trustee shall have received a duly executed and delivered Mortgage encumbering the Property the surviving/successor corporation, for the benefit of the Master Trustee, subject only to Permitted Liens.

(e) The Master Trustee may accept an Opinion of Counsel as conclusive evidence that any such consolidation, merger, sale or conveyance, and any such assumption, complies with the provisions of this Section and that it is proper for the Master Trustee under the provisions of Article VI hereof and of this Section to join in the execution of any instrument required to be executed and delivered by this Section.

Concurrent with such consolidation, merger, sale or conveyance, the Authorized Representative shall furnish the Master Trustee with an Officer's Certificate to the effect that no Event of Default then exists under this Master Indenture and that upon such consolidation, merger, sale or conveyance no Event of Default will exist under this Master Indenture and that no event shall have occurred which with the passage of time or the giving of notice or both would become an Event of Default.

**Section 3.10. Filing of Financial Statements, Certificate of No Default, Other Information.** Each Member of the Obligated Group agrees to comply with the following covenants:

(a) To keep adequate records and books of accounts, each separate from the other and from all other records and accounts, in which complete and correct entries shall be made, in accordance with generally accepted accounting principles consistently applied (such books at all times to be subject to the inspection by the Master Trustee and any Holder, or their representatives duly authorized in writing; provided, however, the Master Trustee shall not be obligated to inspect such books).

(b) To prepare Financial Statements annually, as soon as practicable.

(c) No later than 180 days after the end of each fiscal reporting period for which the Financial Statements are reported upon by Independent certified public accountants, it will file or cause to be filed with the Master Trustee and with each Holder who may have so requested in writing a copy of the audited Financial Statements as of the end of such fiscal reporting period accompanied by the opinion of the Independent certified public accountants. Such audited

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(c) It has full power and lawful authority to enter into and maintain a security agreement under laws of the State of New York and grant a security interest to the Master Trustee in the "trust estate" hereof, and will preserve, warrant and defend the same unto the Master Trustee against the claims of all Persons and parties.

**Section 3.12. Parties Becoming Members of the Obligated Group.** Persons which are not Members of the Obligated Group and entities which are successor entities to any Member of the Obligated Group through a merger or consolidation permitted by Section 3.09 hereof may, with the prior written consent of the current Members of the Obligated Group, be admitted as a Member of the Obligated Group, if the following conditions are satisfied:

(a) a copy of a resolution of the Governing Body of the proposed new Member which authorizes the execution and delivery of a Related Supplement and compliance with the terms of this Master Indenture;

(b) a Related Supplement executed by the Obligated Group Representative, the new Member and the Master Trustee pursuant to which the proposed new Member (1) agrees to become a Member, (2) agrees to be bound by the terms and restrictions imposed by this Master Indenture and the Obligations, and (3) irrevocably appoints the Obligated Group Representative as its agent and attorney-in-fact and grants to the Obligated Group Representative full power to execute Related Supplements authorizing the issuance of Obligations and to execute and deliver Obligations;

(c) an Opinion of Counsel addressed to the Master Trustee to the effect that (i) the proposed new Member has taken all necessary action to become a Member, and upon execution of the Related Supplement, such proposed new Member will be bound by the terms of this Master Indenture and that such Related Supplement constitutes a valid and binding obligation enforceable in accordance with its terms and (ii) the addition of such Member will not cause this Master Indenture or any Obligations to be subject to registration under the Securities Act of 1933, as amended, or the Trust Indenture Act of 1939, as amended (or, that any such registration, if required, has occurred);

(d) an Independent Management Consultant's report, or an Officer's Certificate, as appropriate, to the effect that the conditions described in Subsection 3.05(a)(i) and (ii) hereof would be met for the incurrence of one dollar of additional Long-Term Indebtedness immediately following the addition of such new Member;

(e) an Opinion of Bond Counsel to the effect that the addition of such Member will not result in the inclusion of interest on any Related Bonds that purports to be a Tax-Exempt Bond in gross income for purposes of federal income taxation, nor cause this Master Indenture, Related Supplement nor the Obligations issued under this Master Indenture to be subject to registration under the Securities Act of 1933, as amended or the Trust Indenture Act of 1939, as amended (or unless such registration, if required, has occurred);

(f) an Officer's Certificate to the effect that no Member, immediately after the addition of such new Member, would be in default in the performance or observance of any covenant or condition of this Master Indenture;

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(g) a duly executed and delivered Mortgage encumbering the Property of such new Member, subject only to Permitted Liens; and

(h) any other document, agreement, certificate, waiver or other instrument from such parties, as the Master Trustee reasonably requests.

Any certification or calculation made in accordance with this Section 3.12 may take into account the effect of the withdrawal of another Member or Members from the Obligated Group in connection with the addition of a Member to the Obligated Group contemplated herein.

#### Section 3.13. Withdrawal from the Obligated Group.

(a) The Institution may not withdraw from the Obligated Group.

(b) Except for the Institution, no other Member of the Obligated Group may withdraw from the Obligated Group unless, prior to the taking of such action, there is delivered to the Master Trustee:

(i) an Officer's Certificate to the effect that, immediately following withdrawal of such Member, no Member would be in default in the performance or observance of any covenant or condition of this Master Indenture;

(ii) an Opinion of Bond Counsel to the effect that the withdrawal of such Member is in compliance with the conditions contained in this Section 3.13, and such withdrawal will not result in the inclusion of interest on any Related Bonds that purports to be a Tax-Exempt Bond in gross income for purposes of federal income taxation, nor cause this Master Indenture nor the Obligations issued under this Master Indenture to be subject to registration under the Securities Act of 1933, as amended, or the Trust Indenture Act of 1939, as amended (or unless such registration, if required, has occurred); and

(iii) either:

(A) if a rating has been assigned by a Rating Agency and remains outstanding, an Officer's Certificate to the effect that the Related Bonds outstanding hereunder have been assigned a rating by at least one rating agency and the withdrawal of such Member will not cause a downgrade or withdrawal of such rating; or

(B) an Independent Consultant's report stating that the forecasted Debt Service Coverage Ratio for the two consecutive Fiscal Years immediately following such withdrawal, taking such withdrawal into account, is projected to be not less than 1.20:1.00 in each Fiscal Year or would be greater than it would otherwise have been absent such withdrawal.

Any certification or calculation made in accordance with this Section 3.13 may take into account the effect of the addition of another Member or Members to the Obligated Group in connection with the withdrawal of a Member from the Obligated Group contemplated herein.

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or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed and in effect for a period of six (6) consecutive days.

(f) The institution by any Member of the Obligated Group of proceedings of an order for relief, or the consent by it to an order for relief against it, or the filing by it of a petition or answer or consent seeking reorganization, arrangement, adjustment, compensation or relief under the United States Bankruptcy Code or any other similar applicable federal or state law, or the consent by it to the filing of any such petition or to the appointment of a receiver, liquidator, custodian, assignee, trustee or sequestrator (or other similar official) of such Member of the Obligated Group or of any substantial part of its Property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due.

#### Section 4.02. Acceleration; Annulment of Acceleration.

(a) Upon the occurrence and during the continuation of an Event of Default hereunder, the Master Trustee may and, upon the written request of (i) the Holders of not less than two-thirds in Aggregate Principal Amount of Obligations Outstanding or (ii) any Person properly exercising the right given to such Person under any Supplement to require acceleration of the Obligations issued pursuant to such Supplement, shall, by notice to the Authorized Representative declare all Obligations Outstanding immediately due and payable, whereupon such Obligations shall become and be immediately due and payable, anything in the Obligations or in any other Section of this Master Indenture to the contrary notwithstanding; provided, however, that if the terms of any Supplement give a Person the right to consent to acceleration of the Obligations issued pursuant to said Supplement, the Obligations issued pursuant to such Supplement may not be accelerated by the Master Trustee unless such consent is properly obtained pursuant to the terms of such Supplement. In the event Obligations are accelerated there shall be due and payable on such Obligations an amount equal to the total principal amount of all such Obligations, plus all interest accrued thereon to the date of acceleration and, to the extent permitted by applicable law, which accrues to the date of payment.

(b) At any time after the principal of the Obligations shall have been so declared to be due and payable and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, if (i) the Obligated Group has paid or caused to be paid or deposited with the Master Trustee moneys sufficient to pay all matured installments of interest and interest on installments of principal and interest and principal or redemption prices then due (other than the principal then due only because of such declaration) of all Obligations Outstanding; (ii) the Obligated Group has paid or caused to be paid or deposited with the Master Trustee moneys sufficient to pay the charges, compensation, expenses, disbursements, advances, fees and liabilities of the Master Trustee; (iii) all other amounts then payable by the Obligated Group hereunder shall have been paid or a sum sufficient to pay the same shall have been deposited with the Master Trustee; and (iv) every Event of Default (other than a default in the payment of the principal of such Obligations then due only because of such declaration) shall have been remedied, then the Master Trustee may, and upon the written request of Holders of a Majority in Aggregate Principal Amount of the Obligations Outstanding shall, annul such declaration and its consequences with respect to any Obligations or portions thereof not then due by their terms; provided that no such annulment shall extend to Obligations issued pursuant to a Supplement which provides that no such declaration may be annulled by the Master Trustee unless consent of

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Upon compliance with the conditions contained in this Section 3.13, the Master Trustee shall execute any documents reasonably requested by the withdrawing Member to evidence the termination of such Member's obligations hereunder, including without limitation termination of the pledge of such Member's Pledged Revenues (provided however, no Excluded Collateral, may be subject to nor is hereby pledged or assigned) under any Related Supplements and under all Obligations (including without limitation reconveyance of the Mortgage encumbering such Member's Property for the benefit of the Master Trustee).

## ARTICLE IV

### DEFAULT AND REMEDIES

Section 4.01. Events of Default. Event of Default, as used herein, shall mean any of the following events:

(a) The Members of the Obligated Group shall fail to make due and punctual payment of any Required Payment on an Obligation.

(b) The Members of the Obligated Group shall fail duly to perform, observe or comply with any other covenant or agreement on their part under this Master Indenture, including covenants and agreements contained in any Related Supplement or Obligation for a period of sixty (60) days after the date on which written notice of such failure, requesting the same to be remedied, shall have been given to the Authorized Representative by the Master Trustee, or to the Obligated Group Representative and the Master Trustee by the Holders of a Majority in Aggregate Principal Amount of Obligations then Outstanding; provided, however, that if said failure is such that it cannot be corrected within sixty (60) days after the receipt of such notice, it shall not constitute an Event of Default if corrective action is instituted within such sixty (60) day period and diligently pursued until the Event of Default is corrected.

(c) Any representation or warranty made by a Member of the Obligated Group herein or in any statement or certificate furnished to the Master Trustee or the purchaser of any Obligation in connection with the sale of any Obligation or furnished by a Member of the Obligated Group pursuant hereto proves untrue in any material respect as of the date of the issuance or making thereof and shall not be corrected or brought into compliance within thirty (30) days after written notice thereof to the Authorized Representative by the Master Trustee or the Holders of a Majority in Aggregate Principal Amount of the Outstanding Obligations.

(d) An event of default shall occur under a Related Bond Indenture or upon a Related Bond (after giving effect to applicable notice and cure periods, if any).

(e) The entry of a decree or order by a court having jurisdiction in the premises for relief against any Member of the Obligated Group, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of such Member of the Obligated Group under the United States Bankruptcy Code or any other applicable federal or state law, or appointing a receiver, liquidator, custodian, assignee or sequestrator (or other similar official) of such Member of the Obligated Group or of any substantial part of its Property,

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a particular Person is obtained without the consent of such Person. No such annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

#### Section 4.03. Additional Remedies and Enforcement of Remedies.

(a) Upon the occurrence and continuance of any Event of Default, the Master Trustee may, and upon the written request of the Holders of a Majority in Aggregate Principal Amount of the Obligations Outstanding, together with indemnification of the Master Trustee to its satisfaction therefor, shall, proceed forthwith to protect and enforce its rights and the rights of the Holders hereunder by such suits, actions or proceedings as the Master Trustee, being advised by counsel, shall deem expedient, but only to the extent permitted by law, including but not limited to:

(i) Enforcement of the right of the Holders to collect and enforce the payment of amounts due or becoming due under the Obligations;

(ii) Suit upon all or any part of the Obligations;

(iii) Civil action to require any Person holding moneys, documents or other property pledged to secure payment of amounts due or to become due on the Obligations to account as if it were the trustee of an express trust for the Holders;

(iv) Civil action to enjoin any acts or things which may be unlawful or in violation of the rights of the Holders;

(v) Realize upon the security interest in the Pledged Revenues (for the avoidance of doubt, the Excluded Collateral shall be excluded from any pledge or assignment) and exercise all of the rights and remedies of a secured party under applicable state laws; and

(vi) Enforcement of any other right of the Holders conferred by law or hereby.

So long as any Obligation is secured by a Mortgage and Outstanding, upon the occurrence or continuation of an Event of Default, the Master Trustee may (or shall, if directed by Holders of a Majority in Aggregate Principal Amount of the Obligations Outstanding) inform the holders of the Mortgage of the Event of Default and pursuant to the Mortgage, instruct the holders to enter, take possession of and complete, protect, sell, lease, rent or otherwise transfer or use all or any part of the Facility, or otherwise exercise remedies thereunder and to the extent provided in the Mortgage and applicable law.

(b) Regardless of the happening of an Event of Default, the Master Trustee, if requested in writing by the Holders of a Majority in Aggregate Principal Amount of the Obligations then Outstanding, shall, upon being indemnified to its satisfaction therefor, institute and maintain such suits and proceedings as it may be advised shall be necessary or expedient (i) to prevent any impairment of the security hereunder by any acts which may be unlawful or in violation hereof, or (ii) to preserve or protect the interests of the Holders, provided that such request

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and the action to be taken by the Master Trustee are not in conflict with any applicable law or the provisions hereof.

**Section 4.04. Application of Moneys after Default.** During the continuance of an Event of Default all moneys received by the Master Trustee pursuant to any right given or action taken under the provisions of this Article (except for security given with respect to particular Obligations to the extent permitted herein, which security shall only be applied to payment of debt service on such particular Obligations), after payment of (i) the costs and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses and advances incurred or made by the Master Trustee with respect thereto and all other fees and expenses of the Master Trustee under this Master Indenture and (ii) in the sole discretion of the Master Trustee, the payment of the expenses of operating the Property shall be applied as follows:

(a) Unless the principal of all Outstanding Obligations shall have become or have been declared due and payable:

*First:* To the payment to the Persons entitled thereto of all installments of interest then due on Obligations in the order of the maturity of such installments and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon to the Persons entitled thereto, without any discrimination or preference; and

*Second:* To the payment to the Persons entitled thereto of the unpaid principal installments of any Obligations which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and if the amounts available shall not be sufficient to pay in full all Outstanding Obligations due on any date, then to the payment thereof ratably, according to the amounts of principal installments due on such date, to the Persons entitled thereto, without any discrimination or preference.

(b) If the principal of all Outstanding Obligations shall have become or have been declared due and payable, to the payment of the principal and interest then due and unpaid upon Outstanding Obligations without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Obligation over any other Obligation, ratably, according to the amounts due respectively for principal and interest, to the Persons entitled thereto without any discrimination or preference.

(c) If the principal of all Outstanding Obligations shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of this Article IV, then, subject to the provisions of paragraph (b) of this Section in the event that the principal of all Outstanding Obligations shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of paragraph (a) of this Section.

Whenever moneys are to be applied by the Master Trustee pursuant to the provisions of this Section, such moneys shall be applied by it at such times, and from time to time, as the Master Trustee shall determine, having due regard for the amount of such moneys available for application

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The foregoing notwithstanding, the Holders of a Majority in Aggregate Principal Amount of the Obligations then Outstanding which are entitled to the exclusive benefit of certain security (to the extent provided herein) in addition to that intended to secure all or other Obligations shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Master Trustee, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Master Indenture, the Supplement or Supplements pursuant to which such Obligations were issued or so secured with respect to such separate security; provided, however, that such direction shall not be otherwise than in accordance with the provisions of law and of this Master Indenture.

**Section 4.09. Termination of Proceedings.** In case any proceeding taken by the Master Trustee on account of an Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Master Trustee or to the Holders, then the Members of the Obligated Group, the Master Trustee and the Holders shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Master Trustee and the Holders shall continue as if no such proceeding had been taken.

**Section 4.10. Waiver of Events of Default.**

(a) No delay or omission of the Master Trustee or of any Holder to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein. Every power and remedy given by this Article to the Master Trustee and the Holders, respectively, may be exercised from time to time and as often as may be deemed expedient by them.

(b) The Master Trustee may waive any Event of Default which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions hereof or before the completion of the enforcement of any other remedy hereunder.

(c) Notwithstanding anything contained herein to the contrary, the Master Trustee, upon the written request of the Holders of a Majority of the Aggregate Principal Amount of Obligations then Outstanding, shall waive any Event of Default hereunder and its consequences; provided, however, that, except under the circumstances set forth in subsection (b) of Section 4.02 hereof, a default in the payment of the principal of, premium, if any, or interest on any Obligation, when the same shall become due and payable by the terms thereof or upon call for redemption, may not be waived without the written consent of the Holders of all the Outstanding Obligations with respect to which such payment default exists.

(d) In case of any waiver by the Master Trustee of an Event of Default hereunder, the Members of the Obligated Group, the Master Trustee and the Holders shall be restored to their former positions and rights hereunder, respectively, but no such waiver shall extend to any subsequent or other Event of Default or impair any right consequent thereon.

**Section 4.11. Remedies Subject to Provisions of Law.** All rights, remedies and powers provided by this Article IV may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Article IV are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited

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and the likelihood of additional moneys becoming available for such application in the future. Whenever the Master Trustee shall apply such moneys, it shall fix the date upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue. The Master Trustee shall give such notice as it may deem appropriate of the deposit with it 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 unpaid Obligation until such Obligation shall be presented to the Master Trustee for appropriate endorsement of any partial payment or for cancellation if fully paid.

Whenever all Obligations and interest thereon have been paid under the provisions of this Section and all expenses and charges of the Master Trustee have been paid, any balance remaining shall be paid to the Person entitled to receive the same; if no other Person shall be entitled thereto, then the balance shall be paid to the Members of the Obligated Group.

**Section 4.05. Remedies Not Exclusive.** No remedy by the terms hereof conferred upon or reserved to the Master Trustee or the Holders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or existing at law or in equity or by statute on or after the date hereof.

**Section 4.06. Remedies Vested in the Master Trustee.** All rights of action (including the right to file proof of claims) hereunder or under any of the Obligations may be enforced by the Master Trustee without the possession of any of the Obligations or the production thereof in any trial or other proceedings relating thereto. Any such suit or proceeding instituted by the Master Trustee may be brought in its name as the Master Trustee without the necessity of joining as plaintiffs or defendants any Holders. Subject to the provisions of Section 4.04 hereof, any recovery or judgment shall be for the equal benefit of the Holders.

**Section 4.07. Appointment of Receivers.** Upon the occurrence of an Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Master Trustee and the Holders of Obligations under this Master Indenture, the Master Trustee shall be entitled, as a matter of right, to the extent permitted under applicable law, to the appointment of a receiver or receivers of the rights and properties pledged hereunder and of the revenues, issues, payments and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

**Section 4.08. Holders' Control of Proceedings.** If an Event of Default shall have occurred and is continuing, notwithstanding anything herein to the contrary, the Holders of a Majority in Aggregate Principal Amount of Obligations then Outstanding shall have the right, at any time, by an instrument in writing executed and delivered to the Master Trustee and accompanied by indemnity satisfactory to the Master Trustee, to direct the method and place of conducting any proceeding to be taken in connection with the enforcement of the terms and conditions hereof or for the appointment of a receiver or any other proceedings hereunder, provided that such direction is not in conflict with any applicable law or the provisions hereof, and provided further, that the Master Trustee shall have the right to decline to follow any such direction if the Master Trustee in good faith shall determine that the proceeding so directed would involve it in personal liability. Nothing in this Section shall impair the right of the Master Trustee in its discretion to take any other action hereunder which it may deem proper and which is not inconsistent with such direction by Holders.

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to the extent necessary so that they will not render this Master Indenture or the provisions hereof invalid or unenforceable under the provisions of any applicable law.

**Section 4.12. Notice of Default.** The Master Trustee shall, within ten (10) days after an officer in the Corporate Trust Office has actual knowledge of the occurrence of an Event of Default, mail to all Holders as the names and addresses of such Holders appear upon the records of the Master Trustee, notice of such Event of Default known to the Master Trustee, unless such Event of Default shall have been cured before the giving of such notice.

**ARTICLE V**

**THE MASTER TRUSTEE**

**Section 5.01. Certain Duties and Responsibilities.**

(a) Except during the continuance of an Event of Default:

(i) The Master Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Master Indenture, and no implied covenants or obligations shall be read into this Master Indenture against the Master Trustee. The permissive right of the Master Trustee to do things enumerated in this Indenture (where specifically designated as permissive, only (as denoted through the words "permitted", "may" or words of similar import)) shall not be construed as an affirmative obligation hereunder and the Master Trustee shall not be answerable for other than its willful misconduct or negligence with regard thereto; and

(ii) In the absence of negligence or willful misconduct on its part, the Master Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Master Trustee and conforming to the requirements of this Master Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Master Trustee, the Master Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Master Indenture. The Master Trustee shall have no duty, however, to review any accompanying financial statements or other documents to determine the truth or accuracy of statements contained in such certificates.

(b) In case an Event of Default has occurred and is continuing, the Master Trustee shall exercise such of the rights and powers vested in it by this Master Indenture and use the same degree of care and skill in its exercise as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(c) No provision of this Master Indenture shall be construed to relieve the Master Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

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(i) this subsection shall not be construed to limit the effect of subsection (a) of this Section;

(ii) the Master Trustee shall not be liable for any error of judgment made in good faith by the chairman or vice-chairman of the board of directors, the chairman or vice-chairman of the executive committee of the board of directors, the president, any executive vice president, any senior vice president, any vice president, the secretary, any assistant secretary, the treasurer, any assistant treasurer, the cashier, any assistant cashier, any trust officer or assistant trust officer, the controller and any assistant controller or any other officer of the Master Trustee customarily performing functions similar to those performed by any of the above designated officers or with respect to a particular matter, any other officer to whom such matter is referred because of his or her knowledge of and familiarity with the particular subject, unless it shall be proved that the Master Trustee was negligent in ascertaining the pertinent facts;

(iii) the Master Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a Majority in Aggregate Principal Amount of the Outstanding Obligations (or consent of any Person if required under any Supplement) relating to the time, method and place of conducting any proceeding for any remedy available to the Master Trustee, or exercising any trust or power conferred upon the Master Trustee under this Master Indenture, except under the circumstances set forth in subsection (c) of Section 4.10 hereof requiring the consent of the Holders of all the Obligations at the time Outstanding; and

(iv) no provision of this Master Indenture shall require the Master Trustee to expend or risk its own funds or otherwise incur any financial or other liability, directly or indirectly, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers.

(d) Whether or not therein expressly so provided, every provision of this Master Indenture relating to the conduct or affecting the liability of or affording protection to the Master Trustee shall be subject to the provisions of this Section.

**Section 5.02. Certain Rights of Master Trustee.** Except as otherwise provided in Section 5.01 hereof:

(a) The Master Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

(b) Any request, direction or statement of any Member of the Obligated Group mentioned herein shall be sufficiently evidenced by an Officer's Certificate and any action of the Governing Body may be sufficiently evidenced by a copy of a resolution certified by the Authorized Representative to have been duly adopted by the Governing Body and to be in full force and effect on the date of such certification and delivered to the Master Trustee.

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it were not such Master Trustee and may commence or join in any action which a Holder or a holder of a Related Bond is entitled to take with like effect as if the Master Trustee were not the Master Trustee.

**Section 5.04. Removal and Resignation of the Master Trustee.** The Master Trustee may resign or may be removed at any time by an instrument or instruments in writing signed by the Holders of a Majority of the Aggregate Principal Amount of Obligations then Outstanding or, if no Event of Default shall have occurred and is continuing, by an instrument in writing signed by the Authorized Representative. No such resignation or removal shall become effective unless and until a successor Master Trustee (or temporary successor trustee as provided below) has been appointed and has assumed the trusts created hereby. Written notice of such resignation or removal shall be given to the Members of the Obligated Group and to each Holder at the address then reflected on the records of the Master Trustee and such resignation or removal shall take effect upon the appointment and qualification of a successor Master Trustee. A successor Master Trustee may be appointed at the direction of the Holders of a Majority in Aggregate Principal Amount of Obligations Outstanding or by the Authorized Representative if the Master Trustee was removed by the Authorized Representative. In the event a successor Master Trustee has not been appointed and qualified within sixty (60) days of the date notice of resignation is given, the Master Trustee, the Members of the Obligated Group or any Holder may apply to any court of competent jurisdiction for the appointment of a temporary successor Master Trustee to act until such time as a successor is appointed as above provided.

Unless otherwise ordered by a court or regulatory body having competent jurisdiction, or unless required by law, any successor Master Trustee shall be a trust company or bank having the powers of a trust company as to trusts, qualified to do and doing trust business in one or more states of the United States of America and having an officially reported combined capital, surplus, undivided profits and reserves aggregating at least \$25,000,000, if there is such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

Every successor Master Trustee howsoever appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to each Member of the Obligated Group an instrument in writing, accepting such appointment hereunder, and thereupon such successor Master Trustee, without further action, shall become fully vested with all the rights, immunities, powers, trusts, duties and obligations of its predecessor, and such predecessor shall execute and deliver an instrument transferring to such successor Master Trustee all the rights, powers and trusts of such predecessor. The predecessor Master Trustee shall execute any and all documents necessary or appropriate to convey all interest it may have to the successor Master Trustee. The predecessor Master Trustee shall promptly deliver all records relating to the trust or copies thereof and communicate all material information it may have obtained concerning the trust to the successor Master Trustee.

Each successor Master Trustee, not later than ten (10) days after its assumption of the duties hereunder, shall mail a notice of such assumption to each Holder.

**Section 5.05. Compensation and Reimbursement.** Each Member of the Obligated Group respectively, jointly and severally, agrees:

(a) To pay the Master Trustee from time-to-time reasonable compensation as and to the extent set forth in that certain Proposal for Trustee and Custodial Services dated as of

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(c) Whenever in the administration of this Master Indenture the Master Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Master Trustee (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officer's Certificate.

(d) The Master Trustee may consult with counsel or Independent auditor and the written advice of such counsel or Independent auditor or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(e) The Master Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Master Indenture whether on its own motion or at the request or direction of any of the Holders pursuant to this Master Indenture which in the opinion of the Master Trustee is likely to involve expense or liability not otherwise provided for herein, unless such Holders shall have offered and furnished to the Master Trustee security or indemnity satisfactory to the Master Trustee against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction or otherwise in connection herewith.

(f) The Master Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note or other paper or document, but the Master Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Master Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of any Member of the Obligated Group, personally or by agent or attorney.

(g) The Master Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Master Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

(h) If any conflict, disagreement or dispute arises between, among, or involving any of the parties hereto concerning the meaning or validity of any provision hereunder or concerning any other matter relating to the Master Indenture and the documents contemplated thereby, or the Master Trustee is in doubt as to the action to be taken hereunder, the Master Trustee may, at its option, after sending written notice of the same to the parties, refuse to act until such time as it (a) receives a final non-appealable order of a court of competent jurisdiction directing delivery of the assets held in trust under the Master Indenture or (b) receives a written instruction, executed by each of the parties involved in such disagreement or dispute, in a form reasonably acceptable to the Master Trustee, directing delivery of such assets. The Master Trustee will be entitled to act on any such written instruction or final, non-appealable order of a court of competent jurisdiction without further question, inquiry or consent. The Master Trustee may file an interpleader action in a state or federal court, and upon the filing thereof. The Master Trustee will be relieved of all liability as to the assets held in trust under the Master Indenture and will be entitled to recover reasonable and documented out-of-pocket attorneys' fees, expenses and other costs incurred in commencing and maintaining any such interpleader action.

**Section 5.03. Right to Deal in Obligations and Related Bonds.** The Master Trustee may in good faith buy, sell or hold and deal in any Obligations and Related Bonds with like effect as if

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October 23, 2020 for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust), subject to any agreement with the Master Trustee with respect thereto.

(b) Except as otherwise expressly provided herein, to reimburse the Master Trustee within fifteen (15) days of its request for all reasonable, documented expenses, disbursements and advances incurred or made by the Master Trustee, including reasonable, documented counsel fees and expenses incurred prior to trial, at trial or on appeal and in any bankruptcy or arbitration proceeding, and fees on collection and enforcement, in accordance with any provision of this Master Indenture (including the reasonable compensation and the expenses and disbursements of its counsel and its agents), except any such expense, disbursement or advance as may be attributable to its negligence, willful misconduct or bad faith.

(c) To indemnify the Master Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence, willful misconduct or bad faith on its part, arising out of or in connection with the acceptance or administration of this trust or its duties hereunder, including the reasonable, documented costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

As security for the performance of the Members of the Obligated Group under this Section, the Master Trustee shall have a lien prior to any Obligations upon all property and funds held or collected by the Master Trustee as such, except funds held in trust for the payment of principal of or interest or premium on particular Obligations.

**Section 5.06. Recitals and Representations.** The recitals, statements and representations contained herein, or in any Obligation (excluding the Master Trustee's authentication on the Obligations) shall be taken and construed as made by and on the part of the Members of the Obligated Group and not by the Master Trustee, and the Master Trustee neither assumes nor shall be under any responsibility for the correctness of the same.

The Master Trustee makes no representation as to and is not responsible for, the validity or sufficiency hereof, of the Obligations, or the validity or sufficiency of insurance to be provided. The Master Trustee shall be deemed not to have made representations as to the security afforded hereby or hereunder or as to the validity or sufficiency of such document. The Master Trustee shall not be concerned with or accountable to anyone for the use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof. The Master Trustee shall have no duty of inquiry with respect to any default or Event of Default described herein without actual knowledge of an officer in the Corporate Trust Office or receipt by the Master Trustee of written notice of a default or an Event of Default from a Member of the Obligated Group or any Holder.

**Section 5.07. Separate or Co-Master Trustee.** At any time or times, for the purpose of meeting any legal requirements of any jurisdiction, the Master Trustee shall have power to appoint, and, upon the request of the Holders of at least 25% in Aggregate Principal Amount of Obligations Outstanding, shall appoint, one or more Persons approved by the Master Trustee either to act as co-trustee or co-trustees, jointly with the Master Trustee, or to act as separate trustee or separate trustees, and to vest in such Person or Persons, in such capacity, such rights, powers, duties, trusts

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or obligations as the Master Trustee may consider necessary or desirable, subject to the remaining provisions of this Section.

Every co-trustee or separate trustee shall, to the extent permitted by law but to such extent only, be appointed subject to the following terms, namely:

- (a) The Obligations shall be authenticated and delivered solely by the Master Trustee.
- (b) All rights, powers, trusts, duties and obligations conferred or imposed upon the trustees shall be conferred or imposed upon and exercised or performed by the Master Trustee, or by the Master Trustee and such co-trustee or co-trustees or separate trustee or separate trustees jointly, as shall be provided in the instrument appointing such co-trustee or co-trustees or separate trustee or separate trustees, except to the extent that, under the law of any jurisdiction in which any particular act or acts are to be performed, the Master Trustee shall be incompetent or unqualified to perform such act or acts, in which event such act or acts shall be performed by such co-trustee or co-trustees or separate trustee or separate trustees.
- (c) Any request in writing by the Master Trustee to any co-trustee or separate trustee to take or to refrain from taking any action hereunder shall be sufficient warrant for the taking, or the refraining from taking, of such action by such co-trustee or separate trustee.
- (d) Any co-trustee or separate trustee may, to the extent permitted by law, delegate to the Master Trustee the exercise of any right, power, trust, duty or obligation, discretionary or otherwise.
- (e) The Master Trustee at any time, by any instrument in writing, may accept the resignation of or remove any co-trustee or separate trustee appointed under this Section. Upon the request of the Master Trustee, the Members of the Obligated Group shall join with the Master Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal.
- (f) No trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder, nor will the act or omission of any trustee hereunder be imputed to any other trustee.
- (g) Any demand, request, direction, appointment, removal, notice, consent, waiver or other action in writing delivered to the Master Trustee shall be deemed to have been delivered to each such co-trustee or separate trustee.
- (h) Any moneys, papers, securities or other items of personal property received by any such co-trustee or separate trustee hereunder shall forthwith, so far as may be permitted by law, be turned over to the Master Trustee.

Upon the acceptance in writing of such appointment by any such co-trustee or separate trustee, it or he or she shall be vested with such rights, powers, duties or obligations as shall be specified in the instrument of appointment jointly with the Master Trustee (except insofar as local law makes it necessary for any such co-trustee or separate trustee to act alone) subject to all the terms hereof. Every such acceptance shall be filed with the Master Trustee. To the extent

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- (h) To remove a Member as provided in Section 3.13 hereof.
- (i) To add real property as a Related Campus Facility or add a Charter School.

#### Section 6.02. Supplements Requiring Consent of Holders.

(a) Other than Supplements referred to in Section 6.01 hereof and subject to the terms and provisions and limitations contained in this Article and not otherwise, the Holders of a Majority in Aggregate Principal Amount of Obligations then Outstanding shall have the right, from time to time, anything contained herein to the contrary notwithstanding, to consent to and approve the execution by the Authorized Representative of such Supplements as shall be deemed necessary and desirable for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained herein; provided, however, nothing in this Section or in Section 6.01 hereof shall permit or be construed as permitting a Supplement which would:

- (i) Effect a change in the times, amounts or currency of payment of the principal of, premium, if any, and interest on any Obligation or a reduction in the principal amount or redemption price of any Obligation or the rate of interest thereon, without the consent of the Holder of such Obligation;
- (ii) Permit the preference or priority of any Obligation over any other Obligation except as expressly provided herein, without the consent of the Holders of all Obligations then Outstanding; or
- (iii) Reduce the Aggregate Principal Amount of Obligations then Outstanding the consent of the Holders of which is required to authorize such Supplement without the consent of the Holders of all Obligations then Outstanding.

(b) If at any time each Member of the Obligated Group shall request the Master Trustee to enter into a Supplement pursuant to this Section, which request is accompanied by a copy of the resolution or other action of its Governing Body certified by its secretary or if it has no secretary, the Authorized Representative, and the proposed Supplement and if within such period as shall be prescribed by each Member of the Obligated Group following the request, the Master Trustee shall receive an instrument or instruments purporting to be executed by the Holders of not less than the Aggregate Principal Amount or number of Obligations specified in subsection (a) hereof for the Supplement in question, which instrument or instruments shall refer to the proposed Supplement and shall specifically consent to and approve the execution thereof in substantially the form of the copy thereof as on file with the Master Trustee, thereupon, but not otherwise, the Master Trustee may execute such Supplement in substantially such form, without liability or responsibility to any Holder, whether or not such Holder shall have consented thereto.

(c) Any such consent shall be binding upon the Holder giving such consent and upon any subsequent Holder of such Obligation and of any Obligation issued in exchange therefor (whether or not such subsequent Holder thereof has notice thereof), unless such consent is revoked in writing by the Holder of such Obligation giving such consent or by a subsequent Holder thereof by filing with the Master Trustee, prior to the execution by the Master Trustee of such Supplement, such revocation. At any time after the Holders of the required Aggregate Principal Amount or

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permitted by law, any co-trustee or separate trustee may, at any time by an instrument in writing, constitute the Master Trustee its or his or her attorney-in-fact and agent, with full power and authority to perform all acts and things and to exercise all discretion on its, his or her behalf and in its, his or her name.

In case any co-trustee or separate trustee shall die, become incapable of acting, resign or be removed, all rights, powers, trusts, duties and obligations of said co-trustee or separate trustee shall, so far as permitted by law, vest in and be exercised by the Master Trustee unless and until a successor co-trustee or separate trustee shall be appointed in the manner herein provided.

**Section 5.08. Merger or Consolidation.** Any company into which the Master Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Master Trustee may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible under Section 5.04, shall be the successor to such Master Trustee without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

## ARTICLE VI

### SUPPLEMENTS AND AMENDMENTS

**Section 6.01. Supplements Not Requiring Consent of Holders.** The Obligated Group Representative, acting for itself and as agent for each Member, and the Master Trustee may, without the consent of or notice to any of the Holders, enter into one or more Supplements for one or more of the following purposes:

- (a) To cure any ambiguity or formal defect or omission herein.
- (b) To correct or supplement any provision herein which may be inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising hereunder and which shall not materially and adversely affect the interests of the Holders.
- (c) To grant or confer ratably upon all of the Holders any additional rights, remedies, powers or authority that may lawfully be granted or conferred upon them or to add to the covenants of and restrictions on the Members, subject to the provisions of Section 6.02(a) hereof.
- (d) To qualify this Master Indenture under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal law from time to time in effect.
- (e) To create and provide for the issuance of an Obligation or Series of Obligations as permitted hereunder.
- (f) To obligate a successor to a Member of the Obligated Group as provided in Section 3.09 hereof.
- (g) To add a new Member as provided in Section 3.12 hereof.

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number of Obligations shall have filed their consents to the Supplement, the Master Trustee shall make and file with Members of the Obligated Group a written statement to that effect. Such written statement shall be conclusive that such consents have been so filed.

(d) If the Holders of the required Aggregate Principal Amount of the Obligations Outstanding shall have consented to and approved the execution of such Supplement as herein provided, no Holder shall have any right to object to the execution thereof, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Master Trustee or any Member of the Obligated Group from executing the same or from taking any action pursuant to the provisions thereof.

**Section 6.03. Execution and Effect of Supplements.** In executing any Supplement permitted by this Article, the Master Trustee shall be entitled to receive and to rely upon an Opinion of Counsel stating that the execution of such Supplement is authorized or permitted hereby. The Master Trustee may but shall not be obligated to enter into any such Supplement which adversely affects the Master Trustee's own rights, duties or immunities. Upon the execution and delivery of any Supplement in accordance with this Article, the provisions hereof shall be modified in accordance therewith and such Supplement shall form a part hereof for all purposes and every Holder of an Obligation theretofore or thereafter authenticated and delivered hereunder shall be bound thereby. Any Obligation authenticated and delivered after the execution and delivery of any Supplement in accordance with this Article may, and if required by the Members of the Obligated Group or the Master Trustee shall, bear a notation in form approved by the Master Trustee as to any matter provided for in such Supplement. If the Members of the Obligated Group or the Master Trustee shall so determine, new Obligations so modified as to conform in the opinion of the Master Trustee and the Members of the Obligated Group to any such Supplement may be prepared and executed by the Authorized Representative and authenticated and delivered by the Master Trustee in exchange for and upon surrender of Obligations then Outstanding.

Any Supplement may provide that the provisions thereof may be amended without the consent of or notice to any of the Holders or pursuant to such terms and conditions as may be specified in such Supplement. If a Supplement does not contain provisions relating to the amendment thereof, amendment of such Supplement shall be governed by the provisions of Section 6.01 and 6.02 hereof.

## ARTICLE VII

### SATISFACTION AND DISCHARGE OF MASTER INDENTURE

**Section 7.01. Satisfaction and Discharge of Master Indenture.** If (a) the Authorized Representative shall deliver to the Master Trustee for cancellation all Obligations theretofore authenticated (other than any Obligations which shall have been mutilated, destroyed, lost or stolen and which shall have been replaced or paid as provided in the Supplement) and not theretofore canceled, or (b) all Obligations that have not become due and payable and have not been canceled or delivered to the Master Trustee for cancellation shall be deemed to have been paid and discharged pursuant to the terms of the Supplement under which such Obligations were issued, and if in all cases the Members of the Obligated Group shall also pay or cause to be paid all other sums payable hereunder, then this Master Indenture shall cease to be of further effect, and the

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Master Trustee, on demand of the Members of the Obligated Group at the cost and expense of the Members of the Obligated Group, shall, upon written request of the Authorized Representative, and upon receipt by the Master Trustee of an Officer's Certificate and an Opinion of Counsel acceptable to the Master Trustee, each stating that in the opinion of the signers all conditions precedent to the satisfaction and discharge of this Master Indenture have been complied with, execute proper instruments acknowledging satisfaction of and discharging this Master Indenture. The Members of the Obligated Group hereby agree to reimburse the Master Trustee for any costs or expenses theretofore and thereafter reasonably and properly incurred by the Master Trustee in connection with this Master Indenture or such Obligations.

**Section 7.02. Payment of Obligations after Discharge of Lien.** Notwithstanding the discharge of the lien hereof as in this Article provided, the Master Trustee shall nevertheless retain such rights, powers and duties hereunder as may be necessary and convenient for the payment of amounts due or to become due on the Obligations and the registration, transfer, exchange and replacement of Obligations as provided herein. Nevertheless, any moneys held by the Master Trustee for the payment of the principal of, premium, if any or interest on any Obligation remaining unclaimed for one (1) year after the principal of all Obligations has become due and payable, whether at maturity or upon proceedings for redemption or by declaration as provided herein, subject to applicable escheat law, shall then be paid to the Members of the Obligated Group, and the Holders of any Obligations not theretofore presented for payment shall thereafter be entitled to look only to the Members of the Obligated Group for payment thereof as unsecured creditors and all liability of the Master Trustee with respect to such moneys shall thereupon cease.

## ARTICLE VIII

### CONCERNING THE HOLDERS

**Section 8.01. Evidence of Acts of Holders.** As to any request, direction, consent or other instrument provided hereby to be signed and executed by the Holders, such action may be in any number of concurrent writings, shall be of similar tenor, and may be signed or executed by such Holders in person or by agent appointed in writing. Proof of the execution of any such request, direction, consent or other instrument or of the writing appointing any such agent and of the ownership of Obligations, if made in the following manner, shall be sufficient for any of the purposes hereof and shall be conclusive in favor of the Master Trustee and the Members of the Obligated Group with regard to any action taken by them, or either of them, under such request, direction or consent or other instrument:

(a) The fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments in such jurisdiction that the person signing such writing acknowledged before him or her the execution thereof, or by the affidavit of a witness of such execution; and

(b) The ownership of Obligations may be proved by the registration records maintained pursuant to this Master Indenture.

Nothing in this Section shall be construed as limiting the Master Trustee to the proof herein specified, it being intended that the Master Trustee may accept any other evidence of the matters herein stated which it may deem sufficient. Any action taken or suffered by the Master Trustee pursuant to any provision hereof upon the request or with the assent of any Person who at the time

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right, remedy or claim under or in respect to this Master Indenture or any covenants, conditions and provisions herein contained; this Master Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties mentioned in this Section

**Section 9.02. Severability.** If any one or more sections, clauses, sentences or parts hereof shall for any reason be questioned in any court of competent jurisdiction and shall be adjudged invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions hereof, or the Obligations issued pursuant hereto, but shall be confined to the specific sections, clauses, sentences and parts so adjudged.

**Section 9.03. Holidays.** Except to the extent a Supplement or an Obligation provides otherwise:

(a) When any action is provided herein to be done on a day or within a time period named, and the day or the last day of the period falls on a day on which banking institutions in the jurisdiction where the Corporate Trust Office is located are authorized by law to remain closed, the action may be done on the next ensuing day not a day on which banking institutions in such jurisdiction are authorized by law to remain closed with the same effect as though done on the day or within the time period named.

(b) When the date on which principal of or interest or premium on any Obligation is due and payable is a day on which banking institutions at the place of payment are authorized by law to remain closed, payment may be made on the next ensuing day on which banking institutions at such place are not authorized by law to remain closed with the same effect as though payment were made on the due date, and, if such payment is made, no interest shall accrue from and after such due date.

**Section 9.04. Governing Law.** This Master Indenture and any Obligations issued hereunder are contracts made under the laws of the State of New York and shall be governed by and construed in accordance with such laws. THE PARTIES HERETO HEREBY IRREVOCABLY CONSENT TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT IN ALBANY COUNTY, NEW YORK. The parties hereto acknowledge and agree that the venue provided above is the most convenient forum for the parties hereto. Each party hereto waives any objection to venue and any objection based on a more convenient forum in any action instituted under this Master Indenture. Each of the parties hereto hereby waives the right to trial by jury with respect to any litigation directly or indirectly arising out of, under or in connection with this Indenture.

**Section 9.05. Counterparts.** This Master Indenture shall be valid, binding, and enforceable against a party when executed and delivered by an authorized individual on behalf of the party by means of (i) an original manual signature; (ii) a faxed, scanned, or photocopied manual signature, or (iii) any other electronic signature permitted by the federal Electronic Signatures in Global and National Commerce Act, state enactments of the Uniform Electronic Transactions Act, and/or any other relevant electronic signatures law, including any relevant provisions of the Uniform Commercial Code (collectively, "Signature Law"), in each case to the extent applicable. Each faxed, scanned, or photocopied manual signature, or other electronic signature, shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature. This Master Indenture may be executed in any number of counterparts, each of which

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is the Holder of any Obligation shall be conclusive and binding upon all future Holders of the same Obligation.

**Section 8.02. Obligations or Related Bonds Owned by the Members of the Obligated Group.** In determining whether the Holders of the requisite Aggregate Principal Amount of Obligations have occurred in any demand, direction, request, notice, consent, waiver or other action under this Master Indenture, Obligations or Related Bonds that are owned by any Member of the Obligated Group or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with such Member of the Obligated Group shall be disregarded and deemed not to be Outstanding or outstanding under the Related Bond Indenture, as the case may be, for the purpose of any such determination, provided that for the purposes of determining whether the Master Trustee shall be protected in relying on any such direction, consent or waiver, only such Obligations or Related Bonds which an officer in the Corporate Trust Office of the Master Trustee has actual notice or knowledge are so owned shall be so disregarded. Obligations or Related Bonds so owned that have been pledged in good faith may be regarded as Outstanding or outstanding under the Related Bond Indenture, as the case may be, for purposes of this Section if the pledgee shall establish to the satisfaction of the Master Trustee the pledgee's right to vote such Obligations or Related Bonds and that the pledgee is not a Person directly or indirectly controlling or controlled by or under direct or indirect common control with any Member of the Obligated Group. In case of a dispute as to such right, any decision by the Master Trustee taken upon the advice of counsel shall be full protection to the Master Trustee.

**Section 8.03. Instruments Executed by Holder Bind Future Holders.** At any time prior to the Master Trustee taking action in reliance upon evidence, as provided in Section 8.01 hereof, of the taking of any action by the Holders of the percentage in Aggregate Principal Amount of Obligations specified herein in connection with such action, any Holder of such an Obligation or Related Bond that is shown by such evidence to be included in Obligations the Holders of which have consented to such action may, by filing written notice with the Master Trustee and upon proof of holding as provided in Section 8.01 hereof, revoke such action so far as concerns such Obligation or Related Bond. Except upon such revocation any such action taken by the Holder of an Obligation or Related Bond in any direction, demand, request, waiver, consent, vote or other action of the Holder of such Obligation or Related Bond which by any provision hereof is required or permitted to be given shall be conclusive and binding upon such Holder and upon all future Holders of such Obligation or Related Bond, and of any Obligation or Related Bond issued in lieu thereof, whether or not any notation in regard thereto is made upon such Obligation or Related Bond. Any action taken by the Holders of the percentage in Aggregate Principal Amount of Obligations specified herein in connection with such action shall be conclusively binding upon each Member of the Obligated Group, the Master Trustee and the Holders or owner of all of such Obligations or Related Bonds.

## ARTICLE IX

### MISCELLANEOUS PROVISIONS

**Section 9.01. Limitation of Rights.** With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Master Indenture or the Obligations issued hereunder is intended or shall be construed to give to any Person other than each Member of the Obligated Group, the Master Trustee and the Holders any legal or equitable

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shall be deemed to be an original, but such counterparts shall, together, constitute one and the same instrument.

**Section 9.06. Immunity of Individuals.** No recourse shall be had for the payment of the principal of, premium, if any, or interest on any Obligation issued hereunder or for any claim based thereon or upon any obligation, covenant or agreement herein against any past, present or future officer, member, director, employee or agent of the Members of the Obligated Group, and all such liability of any such individual as such is hereby expressly waived and released as a condition of and in consideration for the execution hereof and the issuance of the Obligations hereunder.

**Section 9.07. Binding Effect.** This Master Indenture shall inure to the benefit of and shall be binding upon each Member of the Obligated Group, the Master Trustee and their respective successors and assigns subject to the limitations contained herein. This Master Indenture may be supplemented and amended as provided in Article VI herein.

**Section 9.08. Notices.** Unless otherwise expressly specified or permitted by the terms hereof, all notices, consents or other communications required or permitted hereunder shall be in writing and shall be telexed, cabled, facsimile, delivered by hand, overnight mail, certified or registered mail or mailed by first class mail, postage prepaid, and addressed as follows:

(a) If to any Member of the Obligated Group, to KIPP: Albany Community Public Charter Schools, 321 Northern Blvd., Albany, New York 12210, Attention: Executive Director, or by electronic notice to [svalle@kipptechvalley.org](mailto:svalle@kipptechvalley.org).

(b) If to the Master Trustee, addressed to it at 285 Delaware Avenue, 3rd Floor, Buffalo, New York 14202, Attention: Maureen A. Auld, or by electronic notice to [mauld@wilmingtontrust.com](mailto:mauld@wilmingtontrust.com).

(c) If to any registered Holder, addressed to such Holder at the address shown on the records of the Master Trustee kept pursuant hereto.

Any of the parties referred to in subsections (a) and (b) above may from time to time by notice in writing to the others and to the Holders designate a different address or addresses for notices hereunder.

**Section 9.09. Master Indenture to Constitute Contract.** In consideration of the purchase and acceptance of all Obligations issued under and secured by this Master Indenture, the provisions of this Master Indenture shall be part of the contract with the Holders of the Obligations and shall be deemed to be and shall constitute a contract between the Members of the Obligated Group and the Holders of the Obligations. The covenants, pledges, representations and Institution warranties contained in this Master Indenture, including without limitation, the Members of the Obligated Group's covenants and pledges contained in Article III hereof, and the other covenants and agreements herein set forth to be performed by or on behalf shall be contracts for the equal benefit, protection and security of the Holders of the Obligations, all of which shall be of equal rank without preference, priority or distinction of any of such Holders of the Obligations over any other thereof, except as expressly provided in or pursuant to this Master Indenture.

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IN WITNESS WHEREOF, each Member of the Obligated Group has caused these presents to be signed in its name and on its behalf and attested by the duly authorized officer of such Member of the Obligated Group and to evidence its acceptance of the trusts hereby created, the Master Trustee has caused these presents to be signed in its name and on its behalf by its duly authorized officer, all as of the day and year first above written.

MANUFACTURERS AND TRADERS  
TRUST COMPANY, as Master Trustee

KIPP: ALBANY COMMUNITY  
CHARTER PUBLIC SCHOOLS,  
as initial Member of the Obligated Group and  
Obligated Group Representative

By: Maureen A. Auld  
Name: Maureen A. Auld  
Title: Assistant Vice President

By: Stephanie Valle  
Name: STEPHANIE VALLE  
Title: EXECUTIVE DIRECTOR

ATTEST:

By: [Signature]  
Name: Rosita M. Gull  
Title: Attorney

[Signature Page to Master Trust Indenture]

[Signature Page to Master Trust Indenture]



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SECOND SUPPLEMENTAL  
MASTER TRUST INDENTURE

by and between

**KIPP CAPITAL REGIONAL PUBLIC CHARTER SCHOOLS** (as successor in interest to  
**KIPP: Albany Community Charter Public Schools**),  
On behalf of itself as sole Member of the Obligated Group and as Obligated Group  
Representative

and

**MANUFACTURERS AND TRADERS TRUST COMPANY**,  
as Master Trustee

Dated as of June 1, 2024

SECOND SUPPLEMENTAL MASTER TRUST INDENTURE

**THIS SECOND SUPPLEMENTAL MASTER TRUST INDENTURE** (this "Second Supplement") dated as of June 1, 2024, to the Master Trust Indenture, dated as of December 1, 2020 (the "Master Trust Indenture"), by and between **KIPP CAPITAL REGIONAL PUBLIC CHARTER SCHOOLS** (as successor in interest to KIPP: Albany Community Charter Public Schools), a New York not-for-profit education corporation and the sole Member of the Obligated Group (the "Institution" or the "Obligated Group Representative"), and **MANUFACTURERS AND TRADERS TRUST COMPANY**, a banking corporation organized and existing under the laws of the State of New York, as trustee under the Master Trust Indenture (the "Master Trustee").

WITNESSETH:

WHEREAS, the Institution, on behalf of itself as sole Member of the Obligated Group (as defined in the Master Trust Indenture) and as Obligated Group Representative (as defined in the Master Trust Indenture), and the Master Trustee have entered into the Master Trust Indenture which provides for the issuance by Members of the Obligated Group of Obligations of the Obligated Group and provides that, in connection therewith, the Obligated Group Representative and the Master Trustee may enter into an indenture supplemental to the Master Trust Indenture; and

WHEREAS, the Obligated Group desires to create an Obligation in the principal amount of \$50,105,000 ("Obligation No. 2") under the Master Trust Indenture to evidence and secure its obligations arising from a loan to the Institution by the City of Albany Capital Resource Corporation (the "Issuer") of the proceeds of the Issuer's \$50,105,000 Tax-Exempt Revenue Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024 (the "Series 2024 Bonds"); and

WHEREAS, the Obligated Group Representative has all requisite corporate power and is authorized under the terms of the Master Trust Indenture to issue Obligations, which constitute the joint and several Obligations of the Members of the Obligated Group; and

WHEREAS, the Master Trust Indenture provides for the supplementing and amending of the Master Trust Indenture upon the Obligated Group and the Master Trustee entering into an indenture supplemental thereto in accordance with the procedures set forth in the Master Trust Indenture; and

WHEREAS, all acts and things necessary to make Obligation No. 2, when executed by the Obligated Group Representative and authenticated and delivered by the Master Trustee as provided in the Master Trust Indenture and this Second Supplement, the valid, binding and legal obligation of the Members of the Obligated Group, and to constitute these presents, together with the Master Trust Indenture, a valid indenture and agreement according to its terms and the terms of the Master Trust Indenture, have been done and performed, and the execution of this Second Supplement and Obligation No. 2 have in all respects been duly authorized, and the Obligated Group Representative in the exercise of the legal rights and powers vested in it hereby executes

this Second Supplement and the Members of the Obligated Group propose to make, execute, issue and deliver Obligation No. 2; and

WHEREAS, the Obligated Group and the Master Trustee further desire to amend certain provisions of the Master Trust Indenture as more fully described in Section 3 of this Second Supplemental Indenture; and

NOW, THEREFORE, THIS INDENTURE WITNESSETH that to declare the terms and conditions upon which Obligation No. 2 is issued, authenticated and delivered and in consideration of the premises and the purchase and acceptance of Obligation No. 2 by the Holder thereof, the Obligated Group Representative covenants and agrees with the Master Trustee as follows:

**Section 1. Definitions.** Unless the context shall otherwise require, the capitalized words and terms used in this Second Supplement shall have the meanings specified above. In addition, unless the context shall otherwise require, capitalized words and terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Master Trust Indenture. Except where otherwise indicated or provided, words importing persons include firms, associations and corporations, and words importing the singular number include the plural number and vice versa. For purposes of this Second Supplement, the following terms shall have the following meanings:

"Series 2024 Bond Trustee" means Manufacturers and Traders Trust Company, acting as trustee for the Series 2024 Bonds under the Series 2024 Trust Indenture, and its successors and assigns.

"Series 2024 Loan Agreement" means the Loan Agreement, dated as of June 1, 2024, between the Issuer and the Institution relating to the Series 2024 Bonds.

"Series 2024 Trust Indenture" means the Trust Indenture, dated as of June 1, 2024 between the Series 2024 Bond Trustee and the Issuer.

**Section 2. Interpretation of this Second Supplement.** The provisions of this Second Supplement are intended to amend and supplement the Master Trust Indenture, and the Members of the Obligated Group shall comply with the provisions of both the Master Trust Indenture and all Supplements thereto, including this Second Supplement.

**Section 3. Amendments to Master Trust Indenture.**

(a) The definition of the term "Custody Agreement" contained in Section 1.01 of the Master Trust Indenture is hereby amended and restated in its entirety to read as follows:

"Custody Agreement" means that certain Amended and Restated Custody Agreement dated as of June 1, 2024, by and among the Custodian, the Master Trustee and the Borrower, as the same may be amended in accordance with its terms.

(b) The definition of the term "Institution" contained in Section 1.01 of the Master Trust Indenture is hereby amended and restated in its entirety to read as follows:

"Institution" means KIPP Capital Region Public Charter Schools, a not-for-profit education corporation organized and existing under the laws of the State of New York, and its successors and assigns.

(c) The definition of the term "Excluded Collateral" contained in Section 1.01 of the Master Trust Indenture is hereby amended and restated in its entirety to read as follows:

"Excluded Collateral" means (a) any monies provided, or to be provided, to the Institution pursuant to Section 2856(1) of the New York Education Law, (b) all donor-designated philanthropic contributions or grants that are restricted as to use by the donor, (c) Federal funding under the Every Student Succeeds Act and any renewals thereof or like program, (d) State funding under the New York State Child Nutrition Program and any renewals thereof or like program, and (e) any other funding from State or Federal sources or any other grant funding, contributions or donations from any other source, that in each case is restricted as to use by such source.

(d) The definition of the term "Mortgaged Campus Facilities" contained in Section 1.01 of the Master Trust Indenture is hereby amended and restated in its entirety to read as follows:

"Mortgaged Campus Facilities" means each of the Related Campus Facilities.

(e) Paragraph (c) of the definition of the term "Permitted Liens" contained in Section 1.01 of the Master Trust Indenture is hereby amended and restated to read as follows:

(c) Any Lien described in the final title policy which summarized certain liens existing on the date of execution of the Second Supplement to this Master Indenture provided no such Lien (or the amount of Indebtedness secured thereby) may be increased, extended, renewed or modified to apply to any Property of any Member not subject to such Lien on such date, unless (1) such Lien as so extended, renewed or modified otherwise qualifies as a Permitted Lien or (2) the maturity date of the Indebtedness secured by such Lien is not extended and either the total principal and interest requirements or the maximum annual principal and interest requirements (calculated in a manner consistent with the calculation of the Debt Service Requirement) on such Indebtedness is not increased as a result of the refinancing of such Indebtedness.

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deposited into an account or accounts, as may be required by any Related Bond Indenture or Related Loan Agreement, any insurance proceeds or condemnation awards (or allocable portion thereof) to be applied to the restoration, reconstruction or repair of any Property or the prepayment of Related Bonds and (z) if an Event of Default under this Master Indenture is continuing and the Master Trustee gives written notice to the Obligated Group of the acceleration of the Obligations and the exercise of remedies under the Master Indenture as a secured party, such insurance proceeds or condemnation awards shall be paid to the Master Trustee and applied in accordance with Section 4.04."

(i) Clauses (a)(i) and (a)(ii) of Section 3.05 are hereby amended and restated in their entirety to read as follows:

(a) Long-Term Indebtedness may be incurred if prior to incurrence of such Additional Indebtedness either:

(i) an Officer's Certificate is filed with the Master Trustee demonstrating that the Available Net Income, as determined by the most recent audited financial statements of the Obligated Group, is equal to or greater than 110% of the combined Annual Debt Service for Outstanding Long-Term Indebtedness, as determined by the most recent audited financial statements of the Obligated Group, and the Long-Term Indebtedness related to the borrowing proposed to be incurred; or

(ii) an Independent Management Consultant selected by the Obligated Group Representative provides a written report setting forth projections which indicate that the projected Available Net Income will be equal to or greater than 120% of the combined projected Annual Debt Service for currently Outstanding Long-Term Indebtedness, as determined by the most recent audited financial statements of the Obligated Group, and the Long-Term Indebtedness related to the borrowing 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 any capitalized interest is expended.

**Section 4. Creation of Obligation No. 2.** There is hereby created an Obligation of the Obligated Group to be known as and entitled "KIPP Capital Region Obligated Group Obligation No. 2." Obligation No. 2 shall be dated June 12, 2024, shall be issued as a single note in the principal amount of \$50,105,000, and shall be executed, authenticated and delivered in accordance with Article 11 of the Master Trust Indenture. Obligation No. 2 shall bear interest and shall be payable in such amounts, at such times and in such manner and shall have such other terms and provisions as are set forth in the form of Obligation No. 2 as provided in Exhibit A hereto.

The Obligated Group shall receive certain credits against its required payments of principal of and interest on Obligation No. 2, to the extent set forth in Section 5 hereof.

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(f) The definition of the term "Related Campus Facilities" contained in Section 1.01 of the Master Trust Indenture is hereby amended and restated in its entirety to read as follows:

"Related Campus Facilities" means, collectively, the land and improvements at those campus facilities located at, collectively, 2 Polk Street, Troy, New York, 523 First Street, Troy, New York, 3055 6<sup>th</sup> Avenue, Troy, New York, 765 River Street, Troy, New York, 780 River Street, Troy, New York, 321 Northern Boulevard, Albany, New York, 400 Northern Boulevard, Albany, New York, 66, 7, 9 and 10 Dudley Heights, Albany, New York, 65 Krank Street, Albany, New York and 42 South Dove Street, Albany, New York (a/k/a KIPP: Troy Prep Elementary School, KIPP: Troy Prep Middle School, KIPP: Troy Prep High School, KIPP: Tech Valley Primary School, KIPP Tech Valley Middle School, KIPP Albany Community Charter Elementary School, KIPP: Albany Community Charter Middle School and KIPP Capital High School) and any other property that is added as a Related Campus Facility pursuant to the terms and provisions hereof.

(g) The definition of the term "Required Payment" contained in Section 1.01 of the Master Trust Indenture is hereby amended and restated in its entirety to read as follows:

"Required Payments" means any payment, whether in anticipation of any interest payment date, at maturity, by acceleration, upon proceeding for redemption or otherwise, including the purchase price of Related Bonds tendered or deemed tendered for purchase pursuant to the terms of a Related Bond Indenture, required to be made by any Member under this Master Indenture, any Related Supplement or any Obligation.

(h) The title of Section 3.04 is hereby amended and restated in its entirety to read "Insurance; Proceeds; Awards" and the following paragraph is hereby added to the end of such Section 3.04 as subsection (c):

(c) Insurance proceeds or condemnation awards paid or payable to the Obligated Group, or to the Master Trustee pursuant to, or in connection with, any Related Bond Indenture or any Related Loan Agreement, shall be applied, at the direction of the Obligated Group Representative, either to (i) repair, reconstruct, restore or replace the damaged or condemned Property, or (ii) prepay all Outstanding Obligations pro-rata among all such Outstanding Obligations. Any such insurance proceeds or condemnation awards remaining after application as provided in the preceding sentence shall be paid or applied as directed by the Obligated Group Representative for any purpose as may be determined by the Obligated Group Representative. Notwithstanding the foregoing, (x) the Obligated Group agrees that it shall not permit or direct the application of any insurance proceeds or condemnation awards received with respect to any Property financed with the proceeds of Related Bonds in any manner that would adversely affect the tax-exempt status of any Related Bonds; (y) upon the written direction of the Obligated Group Representative, the Master Trustee shall deposit or cause to be

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Such principal and interest on Obligation No. 2 are payable to the Series 2024 Bond Trustee from amounts deposited in the MTT Revenue Fund. The Master Trustee shall give written notice to the Institution of each such payment.

Obligation No. 2 shall be an accelerable instrument for purposes of Section 4.02(a) of the Master Trust Indenture. Upon the occurrence and continuation of an Event of Default of Obligation No. 2, the Holder of such Obligation shall be entitled, by notice to the Master Trustee and the Obligated Group Representative, to require the Master Trustee to declare such Obligation immediately due and payable, subject to the provisions of Section 4.02 of the Master Trust Indenture and subject to this Second Supplement. The Holder of such Obligation shall also be entitled to consent to any acceleration of such Obligation, in accordance with Section 4.02 of the Master Trust Indenture and therefore Obligation No. 2 may not be accelerated by the Master Trustee without the consent of the Holder thereof. The principal of and interest on Obligation No. 2 are payable in any coin or currency of the United States of America which at the respective times of payment is legal tender for the payment of public and private debts.

**Section 5. Purposes; Related Bonds.** Obligation No. 2 is being issued to secure the obligation of the Institution to make payments required to be made under the Series 2024 Loan Agreement. The Series 2024 Bonds constitute Related Bonds pursuant to the Master Trust Indenture, the Issuer constitutes a Related Bond Issuer pursuant to the Master Trust Indenture, the Series 2024 Loan Agreement constitutes a Related Loan Agreement pursuant to the Master Trust Indenture, the Series 2024 Bond Trustee constitutes a Related Bond Trustee pursuant to the Master Trust Indenture, the Series 2024 Trust Indenture constitutes a Related Bond Indenture pursuant to the Master Trust Indenture and this Second Supplement constitutes a Related Supplement to the Series 2024 Bonds pursuant to the Master Trust Indenture.

**Section 6. Credits.** The Institution shall receive credit for payment on Obligation No. 2, in addition to any credits resulting from payment or prepayment from other sources, as follows:

(a) on installments of interest on Obligation No. 2 in an amount equal to payments of interest made by the Institution under the Series 2024 Loan Agreement with respect to interest on the Series 2024 Bonds, to the extent such amounts have not previously been credited against payments on Obligation No. 2; and

(b) on installments of principal of Obligation No. 2 in an amount equal to payments of principal made by the Institution under the Series 2024 Loan Agreement with respect to principal or sinking fund installments on the Series 2024 Bonds, to the extent such amounts have not previously been credited against payments on Obligation No. 2.

**Section 7. Prepayment of Obligations.** The Obligated Group may prepay Obligation No. 2 as set forth in the Series 2024 Loan Agreement and the Series 2024 Trust Indenture.

**Section 8. Section 2.05 of the Master Trust Indenture.** All requirements of Sections 2.05 and 2.06 of the Master Trust Indenture have been met in connection with the issuance of Obligation No. 2. Pursuant to Section 3.06 of the Master Trust Indenture, Obligation No. 2 shall be secured by the Mortgaged Campus Facilities, including any Related Campus Facilities.

**Section 9. Registration, Number, Negotiability and Transfer of Obligations.**

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(a) Obligation No. 2 shall consist of a single Obligation without coupons registered in the name of the Issuer and no transfer of Obligation No. 2 shall be registered under the Master Trust Indenture except for the transfer by the Issuer to the Series 2024 Bond Trustee and transfers to a successor Series 2024 Bond Trustee.

(b) The provisions of Sections 2.08, 2.09, 2.10, 2.11, 2.12 and 2.13 of the Master Trust Indenture shall be operative with respect to Obligation No. 2. The Obligated Group Representative shall assume the payment of amounts referred to in Section 2.10 of the Master Trust Indenture.

**Section 10. Form of Obligation No. 2.** Obligation No. 2 shall be in substantially the form set forth in Exhibit A hereto, with such necessary and appropriate omissions, insertions and variations as are permitted or required hereby or by the Master Trust Indenture and are approved by those officers executing Obligation No. 2, execution thereof by such officers to constitute conclusive evidence of such approval.

**Section 11. Discharge of Obligation No. 2.** Obligation No. 2 shall be deemed to be paid and discharged for all purposes of the Master Trust Indenture if the Series 2024 Bonds have been paid in full and are no longer Outstanding (as defined in the Series 2024 Trust Indenture) and all other amounts payable by the Institution under the Series 2024 Loan Agreement have been paid in compliance with the provisions of the Series 2024 Loan Agreement and the Series 2024 Trust Indenture.

**Section 12. Other Payments.** The Institution shall be responsible for the payment of all amounts required to be paid by the Institution to the Issuer under the Series 2024 Loan Agreement.

**Section 13. Holidays.** When the date on which principal of or interest on Obligation No. 2 is due and payable is a day on which banking institutions at the place of payment are authorized by law to remain closed, then, unless the payment provisions with respect to the Series 2024 Bonds are different as provided in the Series 2024 Loan Agreement or the Series 2024 Trust Indenture, payment may be made on the next ensuing day on which banking institutions at such place are not authorized by law to remain closed with the same effect as though payment were made on the due date, and, if such payment is made, no interest shall accrue from and after such due date.

**Section 14. Severability.** If any one or more sections, clauses, sentences or parts hereof shall for any reason be questioned in any court of competent jurisdiction and shall be adjudged invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions hereof or of Obligation No. 2, but shall be confined to the specific sections, clauses, sentences and parts so adjudged.

**Section 15. Governing Law.** This Second Supplement and Obligation No. 2 are contracts made under the laws of the State of New York and shall be governed by and construed in accordance with such laws. THE PARTIES HERETO HEREBY IRREVOCABLY CONSENT TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT IN ALBANY COUNTY, NEW YORK. The parties hereto hereby acknowledge and agree that the venue

provided above is the most convenient forum for both parties. The parties hereto hereby waive any obligation to venue and any objection based on a more convenient forum in any action instituted under this Second Supplement.

**Section 16. Counterparts.** This Second Supplement shall be valid, binding, and enforceable against a party when executed and delivered by an authorized individual on behalf of the party by means of (i) an original manual signature; (ii) a faxed, scanned, or photocopied manual signature, or (iii) any other electronic signature permitted by the federal Electronic Signatures in Global and National Commerce Act, state enactments of the Uniform Electronic Transactions Act, and/or any other relevant electronic signatures law, including any relevant provisions of the Uniform Commercial Code (collectively, "Signature Law"), in each case to the extent applicable. Each faxed, scanned, or photocopied manual signature, or other electronic signature, shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature. This Second Supplement may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute one and the same instrument.

**Section 17. Binding Effect.** This Second Supplement shall inure to the benefit of and shall be binding upon the Obligated Group and the Master Trustee and their respective successors and assigns subject to the limitations contained herein.

**Section 18. Ratification of Master Trust Indenture.** As supplemented hereby, the Master Trust Indenture is in all respects ratified, approved and confirmed and the Master Trust Indenture as so supplemented hereby shall be read, taken and construed as one and the same instrument.

**Section 19. Second Supplement to Constitute Contract.** In consideration of the purchase and acceptance of Obligation No. 2 by the Holder thereof, the provisions of this Second Supplement shall be part of the contract of the Members of the Obligated Group with the Holder of Obligation No. 2 and shall be deemed to be and shall constitute a contract between the Members of the Obligated Group and the Holder of Obligation No. 2.

IN WITNESS WHEREOF, the Institution, on behalf of itself and as Obligated Group Representative, has caused these presents to be signed in its name and on its behalf by the duly authorized officer of the Institution and to evidence its acceptance of the trusts hereby created, the Master Trustee has caused these presents to be signed in its name and on its behalf by its duly authorized officer, all as of the day and year first above written.

**KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS** (as successor in interest to KIPP: Albany Community Charter Public Schools), on behalf of itself and as Obligated Group Representative

By: \_\_\_\_\_  
Name: Stephanie Valle  
Title: Chief Executive Officer

**MANUFACTURERS AND TRADERS TRUST COMPANY**, as Master Trustee

By: \_\_\_\_\_  
Name: Maureen A. Auld  
Title: Assistant Vice President

**EXHIBIT A**

**FORM OF OBLIGATION NO. 2**

THIS OBLIGATION NO. 2 HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR ANY STATE SECURITIES LAW (OR ANY SUCH SIMILAR LEGISLATION)

R-1 \$50,105,000

**KIPP CAPITAL REGION OBLIGATED GROUP**

**OBLIGATION NO. 2**

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS (as successor in interest to KIPP: Albany Community Public Charter Schools), a New York not-for-profit education corporation (the "Institution" or the "Obligated Group Representative"), for value received, hereby promises to pay to the City of Albany Capital Resource Corporation (the "Issuer") or its registered assigns the principal sum of \$50,105,000, and to pay interest on the unpaid balance of said sum on the dates and in the manner hereinafter described.

This Obligation constitutes a duly authorized Obligation designated as "KIPP Capital Region Obligated Group Obligation No. 2" ("Obligation No. 2") issued under and pursuant to the Master Trust Indenture, dated as of December 1, 2020 (the "Original Master Trust Indenture"), between the Institution, on behalf of itself as sole Member of the Obligated Group and as Obligated Group Representative, and Manufacturers and Traders Trust Company, as Master Trustee (the "Master Trustee"), as amended and supplemented by a First Supplemental Master Trust Indenture dated as of December 4, 2020 (the "First Supplement") and a Second Supplemental Master Trust Indenture, dated as of June 1, 2024 (the "Second Supplement"), by and between the Obligated Group Representative and the Master Trustee. The Original Master Trust Indenture, as supplemented and amended by the First Supplement and the Second Supplement and all other supplements thereto, is herein called the "Master Trust Indenture." All capitalized terms used in this Obligation No. 2 that are not otherwise defined herein shall have the meanings given in the Master Trust Indenture.

This Obligation No. 2 is issued in the principal amount of \$50,105,000 for the purpose of evidencing and securing the Institution's loan payment obligations under the Loan Agreement, dated as of June 1, 2024 (as the same may be amended in accordance with its terms, the "Series 2024 Loan Agreement"), by and between the Issuer and the Institution, relating to the \$50,105,000 aggregate principal amount of the Issuer's Tax-Exempt Revenue Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024 (the "Series 2024 Bonds"), issued by the Issuer under and pursuant to a Trust Indenture, dated as of June 1, 2024 (the "Series 2024 Trust Indenture"), by and between the Issuer and Manufacturers and Traders Trust Company, as bond trustee (the "Series 2024 Bond Trustee"), and a resolution adopted by the Issuer on May 16, 2024 relating thereto.

This Obligation No. 2 is subject to prior prepayment, if any, as provided in the Second Supplement and the Series 2024 Loan Agreement, and shall be payable as to principal and interest on the same dates and in the same amounts as the Institution is obligated to make Loan Payments on Loan Payment Dates (as such capitalized terms are defined in the Series 2024 Loan Agreement) under the Series 2024 Loan Agreement.

Pursuant to the Custody Agreement, the Custodian shall make periodic transfers to the Master Trustee for deposit in the MTI Revenue Fund, and from which the Master Trustee shall make the Required Payments with respect to the Loan Payments to the Series 2024 Bond Trustee following the transfer of this Obligation No. 2 by the Issuer to the Series 2024 Bond Trustee. The Institution shall receive certain credits against its required payments of principal of and interest on this Obligation No. 2 to the extent set forth in Section 5 of the Second Supplement. The Master Trustee shall give written notice to the Institution of each such payment by the Master Trustee to the Series 2024 Bond Trustee.

This Obligation No. 2 shall be subject to prepayment in the amounts, at the times and with the effects set forth in the Series 2024 Trust Indenture and the Series 2024 Loan Agreement. The Holder hereof expressly assents to such provisions and agrees to notify the Master Trustee with respect to prepayment as required by the Second Supplement.

Copies of the Master Trust Indenture are on file at the Corporate Trust Office of the Master Trustee and reference is hereby made to the Master Trust Indenture and the Second Supplement for the provisions, among others, with respect to the nature and extent of the security for this Obligation No. 2, the rights of the Holder of this Obligation No. 2, the terms and conditions on which, and the purposes for which, this Obligation No. 2 is issued, and the rights, duties and obligations of the Members of the Obligated Group and the Master Trustee under the Master Trust Indenture, to all of which the Holder hereof, by acceptance of this Obligation No. 2, assents.

The Master Trust Indenture permits the issuance of additional series of Obligations under the Master Trust Indenture to be secured by the covenants made therein, all of which, regardless of the times of issue or maturity, may be of equal rank with this Obligation No. 2 and all other Obligations theretofore or thereafter issued under the Master Trust Indenture without preference, priority or distinction of any Obligation issued under the Master Trust Indenture over any other such Obligation except as expressly provided or permitted in the Master Trust Indenture.

To the extent permitted by and as provided in the Master Trust Indenture, modifications or changes of the Master Trust Indenture and of the rights and obligations of the Members of the Obligated Group and of the Holders of the Obligations in any particular may be made by the execution and delivery of an indenture or indentures supplemental to the Master Trust Indenture, subject to the provisions of the Master Trust Indenture with respect thereto.

Upon the occurrence and during the continuation of an Event of Default under the Master Trust Indenture, the principal of all outstanding Obligations may be declared, and thereupon shall become, immediately due and payable as provided in the Master Trust Indenture. Upon an Event of Default, the Holder of this Obligation No. 2 shall be entitled, by notice to the Master Trustee and the Obligated Group Representative, to require the Master Trustee to declare this Obligation No. 2 immediately due and payable, subject to the provisions of the Master Trust Indenture. The

Holder hereof shall also be entitled to consent to any acceleration of this Obligation No. 2 in accordance with the Master Trust Indenture, and therefore this Obligation No. 2 may not be accelerated by the Master Trustee without the consent of the Holder hereof.

The Holder of this Obligation No. 2 shall have no right to enforce the provisions of the Master Trust Indenture, or to institute any action to enforce the covenants therein, or to take any action with respect to any default under the Master Trust Indenture, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Master Trust Indenture.

This Obligation No. 2 is issuable only as a registered Obligation without coupons. No transfer of this Obligation No. 2 shall be permitted except for transfers to the Series 2024 Bond Trustee or a successor Series 2024 Bond Trustee under the Series 2024 Trust Indenture. This Obligation No. 2 shall be registered on the records required to be maintained by the Master Trustee. This Obligation No. 2 shall be transferable only upon presentation hereof at the Corporate Trust Office of the Master Trustee by the Holder or by its, his or her duly authorized attorney and subject to the limitations set forth in the Master Trust Indenture. Such transfer shall be without charge to the Holder hereof. Upon any such transfer, each Member of the Obligated Group shall execute and the Master Trustee shall authenticate and deliver in exchange for this Obligation No. 2 a new registered Obligation No. 2 without coupons, registered in the name of the transferee.

The Obligated Group and the Master Trustee may deem and treat the person in whose name this Obligation No. 2 is registered as the absolute owner hereof for all purposes, and neither the Obligated Group nor the Master Trustee shall be affected by any notice to the contrary. All payments made to the registered owner hereof shall be valid and effectual to satisfy and discharge the liability upon this Obligation No. 2 to the extent of the sum or sums so paid.

No recourse shall be had for the payment of the principal of or interest on this Obligation No. 2 or for any claim based hereon or upon any obligation, covenant or agreement herein against any past, present or future officer, member, employee or agent of any Member of the Obligated Group, and all such liability of any such individual as such is hereby expressly waived and released as a condition of and in consideration for the execution hereof and the issuance of this Obligation No. 2.

It is hereby certified that all conditions, acts and things required to exist, happen and be performed under the Master Trust Indenture precedent to and in the issuance of this Obligation No. 2 exist, have happened and have been performed and that the issuance, authentication and delivery of this Obligation No. 2 have been duly authorized by each Member of the Obligated Group and thereby binds under the terms of the Master Trust Indenture.

This Obligation No. 2 shall not be entitled to any benefit under the Master Trust Indenture except as set forth in the Second Supplement, or be valid or become obligatory for any purpose, until it shall have been authenticated by execution by the Master Trustee of the certificate of authentication inscribed hereon.

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IN WITNESS WHEREOF, each Member of the Obligated Group has caused this Obligation No. 2 to be executed by the manual signature of its Authorized Representative hereunto manually affixed, all as of June \_\_, 2024.

**KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS** (as successor in interest to KIPP: Albany Community Public Charter Schools), on behalf of itself and as Obligated Group Representative

Attest:

By \_\_\_\_\_ By \_\_\_\_\_  
Its \_\_\_\_\_ Authorized Representative

(Form of Master Trustee's Certificate of Authentication)

Date of Authentication: June \_\_, 2024.

**MASTER TRUSTEE'S AUTHENTICATION CERTIFICATE**

The undersigned Master Trustee hereby certifies that this is one of the Obligations described in the within-mentioned Master Trust Indenture.

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**MANUFACTURERS AND TRADERS TRUST COMPANY**, as Master Trustee

By \_\_\_\_\_  
Its \_\_\_\_\_

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KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS,  
 AS INSTITUTION

AND

MANUFACTURERS AND TRADERS TRUST COMPANY,  
 AS CUSTODIAN

AND

MANUFACTURERS AND TRADERS TRUST COMPANY,  
 AS MASTER TRUSTEE

AMENDED AND RESTATED  
 CUSTODY AGREEMENT

DATED AS OF June 1, 2024

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AMENDED AND RESTATED CUSTODY AGREEMENT

THIS AMENDED AND RESTATED CUSTODY AGREEMENT dated as of June 1, 2024 (this "Custody Agreement") is by and among KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS (the "Institution"), a not-for-profit education corporation organized and existing under the laws of the State of New York, having its principal office located at 321 Northern Blvd, Albany, New York 12210, MANUFACTURERS AND TRADERS TRUST COMPANY, a banking corporation organized and existing under the laws of the State of New York, having a corporate trust office at 285 Delaware Avenue, 3rd Floor, Buffalo, New York 14202 (the "Custodian") and MANUFACTURERS AND TRADERS TRUST COMPANY, a banking corporation organized and existing under the laws of the State of New York, having a corporate trust office at 285 Delaware Avenue, 3rd Floor, Buffalo, New York 14202 (the "Master Trustee") for the Holders of Obligations issued pursuant to the Master Trust Indenture, dated as of December 1, 2020, as amended and supplemented, by and between the Institution and the Master Trustee (as may further be amended and supplemented from time to time, the "Master Indenture"), and amends and restates that certain Custody Agreement, dated as of December 4, 2020, among the predecessor entity to the Institution, the Custodian and the Master Trustee (the "Original Custody Agreement").

WITNESSETH

WHEREAS, on December 4, 2020 the Institution and the Master Trustee entered into the Master Indenture which provides for the issuance of Obligations, and, in connection therewith, the Institution, the Master Trustee and the Custodian entered into the Original Custody Agreement; and

WHEREAS, concurrently with the execution of the Master Indenture and the Original Custody Agreement, (i) the Institution entered into a Loan Agreement with Equitable Facilities Fund, Inc. (the "EFF"), dated December 4, 2020 (as amended or otherwise modified from time to time, the "EFF Loan Agreement") pursuant to which EFF made a loan to the Institution (the "EFF Loan") for the purposes of refinancing existing debt of the Institution and paying costs associated with closing the EFF Loan; (ii) the Institution, as the initial Member of the Obligated Group and the initial Obligated Group Representative, entered into a First Supplemental Master Trust Indenture, dated as of December 4, 2020, with the Master Trustee (the "First Supplemental Master Trust Indenture"), supplemental to the Master Indenture, and pursuant to which the Institution as the Obligated Group Representative issued under the Master Indenture Obligation No. 1 in the principal amount of \$24,537,151.60 in favor of EFF, and the Master Trustee authenticated the same as a valid Obligation under the Master Indenture ("Master Obligation No. 1"); and (iii) the Institution, as mortgagor, executed and delivered a Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing, dated as of December 4, 2020, in favor of the Master Trustee, as mortgagee (the "2020 Mortgage"), with respect to the Property (as defined in the 2020 Mortgage) of the Institution and as security for Master Obligation No. 1 and all other Obligations (as defined in the Master Indenture) as may thereafter be issued under the Master Indenture; and

WHEREAS, the Institution has entered into a Loan Agreement dated as of June 1, 2024 (the "2024 Loan Agreement") with the City of Albany Capital Resource Corporation (the "Bond Issuer"), pursuant to which the Bond Issuer has issued \$50,105,000 aggregate principal amount of its Tax-Exempt Revenue Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024 (the "2024 Bonds") and has loaned the proceeds of the 2024 Bonds to the Institution; and

WHEREAS, the 2024 Bonds were issued pursuant to a Trust Indenture dated as of June 1, 2024 (the "2024 Bond Indenture") between the Bond Issuer and Manufacturers and Traders Trust Company, as Trustee (the "2024 Bond Trustee"), and, in connection with the issuance of the 2024 Bonds, the Institution, (i) as initial Member of the Obligated Group and initial Obligated Group Representative, entered into a Second Supplemental Master Trust Indenture, dated as of June 1, 2024, supplemental to the Master Trust

Indenture, and pursuant to which the Institution as the Obligated Group Representative issued under the Master Indenture Obligation No. 2 in the principal amount of \$50,105,000.00 in favor of the Bond Issuer, and the Master Trustee authenticated the same as a valid Obligation under the Master Indenture, and the Bond Issuer by allonge assigned the same to the 2024 Bond Trustee ("Master Obligation No. 2"); and (ii) as security for Master Obligation No.2, Master Obligation No. 1 and all other Obligations as may thereafter be issued under the Master Indenture, (y) the Institution as mortgagor, has executed and delivered a certain Mortgage, dated as of June 1, 2024, in favor of the Bond Issuer, as mortgagee, with respect to the "Mortgaged Property" (as defined in said Mortgage), and the Bond Issuer has assigned to the Master Trustee all of the Bond Issuer's right, title and interest in said Mortgage pursuant to an Assignment of Mortgage, dated as of June 1, 2024, from the Bond Issuer to the Master Trustee (collectively, the "2024 Mortgage"), and the 2020 Mortgage and the 2024 Mortgage have been consolidated into a single mortgage pursuant to a Mortgage Consolidation Agreement, (z) the Institution, as assignor, has executed and delivered an Assignment of Leases and Rents, dated as of June 1, 2024, in favor of the Bond Issuer, as assignee, with respect to the "Mortgaged Property", and the Bond Issuer has assigned to the Master Trustee all of the Bond Issuer's right, title and interest in said Assignment of Leases and Rents pursuant to an Assignment of Assignment of Leases and Rents, dated as of June 1, 2024, from the Bond Issuer to the Master Trustee (collectively, the "2024 ALR"); and

WHEREAS, in order to accommodate the application of Education Aid payments toward the payment of Obligations including Master Obligation No.1, Master Obligation No.2 and all future Obligations hereafter issued under the Master Trust Indenture, the Institution, the Custodian and the Master Trustee desire to execute and deliver this Custody Agreement;

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

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## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

**SECTION 2.1. REPRESENTATIONS AND WARRANTIES OF THE INSTITUTION.** The Institution makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(A) The Institution is a not-for-profit education corporation and a public charter school duly organized and validly existing under the laws of the State, is qualified to do business in the State and all other jurisdictions in which its operations or ownership of Properties so require, and has the power to enter into this Custody Agreement and carry out its obligations hereunder and has been duly authorized to execute this Custody Agreement. The Institution has been qualified as, and continues to be, a not-for-profit corporation exempt from federal income taxation under Section 501(c)(3) of the Code. This Custody Agreement and the transactions contemplated hereby have been duly authorized by all necessary action on the part of the board of trustees of the Institution.

(B) Neither the execution and delivery of this Custody Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Custody Agreement will (1) conflict with or result in a breach of any of the terms, conditions or provisions of the certificate of incorporation or by-laws of the Institution or any order, judgment, agreement or instrument to which the Institution is a party or by which the Institution or any of its Properties is bound, or constitute a default under any of the foregoing, or (2) result in the creation or imposition of any Lien of any nature upon any Property of the Institution, or (3) require consent (which has not been heretofore received) under any corporate restriction, agreement or instrument to which the Institution is a party or by which the Institution or any of its Property may be bound or affected, or (4) require consent (which has not been heretofore received) under, conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction or decree of any government, governmental instrumentality or court (domestic or foreign) having jurisdiction over the Institution or any of the Property of the Institution.

**SECTION 2.2. REPRESENTATIONS AND WARRANTIES OF THE CUSTODIAN.** The Custodian makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(A) The Custodian is a banking corporation duly organized and validly existing under the laws of the State of New York, is qualified to do business in the State and all other jurisdictions in which its operations or ownership of properties so require, and has the power to enter into this Custody Agreement and carry out its obligations hereunder and has been duly authorized to execute this Custody Agreement. This Custody Agreement and the transactions contemplated hereby have been duly authorized by all necessary action on the part of the Custodian.

(B) Neither the execution and delivery of this Custody Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Custody Agreement will (1) conflict with or result in a breach of any of the terms, conditions or provisions of the articles of association or by-laws of the Custodian or any order, judgment, agreement or instrument to which the Custodian is a party or by which the Custodian is bound, or constitute a default under any of the foregoing, or (2) result in the creation or imposition of any Lien of any nature upon any property of the Custodian, or (3) require consent (which has not been heretofore received) under any corporate restriction, agreement or instrument to which the Custodian is a party or by which the Custodian or any of its property may be bound or affected, or (4) require consent (which has not been heretofore received) under, conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction or decree of any

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## ARTICLE I

### DEFINITIONS

**SECTION 1.1. DEFINITIONS.** Capitalized terms used herein and not otherwise defined herein shall have the same meanings assigned to such terms in the Master Indenture, or if not in the Master Indenture, the EFF Loan Agreement with respect to Master Obligation No.1, and the 2024 Bond Indenture with respect to Master Obligation No. 2. In addition, the following terms shall have the following meanings:

"Education Aid" means all State Education Operating Aid payable to the Institution from the Albany City School District and the Troy City School District. (or such other two school districts that provide the highest percentage of the Institution's per pupil funding).

"Payment Date" means the first day of each month.

"Remittance Date" means three (3) Business Days preceding each Payment Date.

"State Education Operating Aid" means all New York State Education Department operating aid payments appropriated for the purpose of funding operating expenses of the Institution on a per-pupil basis, including, without limitation, all monies provided to the Institution pursuant to the New York Charter Schools Act of 1998, as amended (N.Y. Educ. Law Section 2850 et seq.).

**SECTION 1.2. INTERPRETATION.** In this Custody Agreement, unless the context otherwise requires:

(A) The terms "hereby", "hereof", "herein", "hereunder", and any similar terms as used in this Custody Agreement, refer to this Custody Agreement, and the term "heretofore" shall mean before, and the term "hereafter" shall mean after, December 4, 2020, the date of execution and delivery of the Original Custody Agreement.

(B) Words of masculine gender shall mean and include correlative words of feminine and neuter genders.

(C) Words importing the singular number shall mean and include the plural number, and vice versa.

(D) Any headings preceding the texts of the several Articles and Sections of this Custody Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall neither constitute a part of this Custody Agreement nor affect its meaning, construction or effect.

(E) Any certificates, letters or opinions required to be given pursuant to this Custody Agreement shall mean a signed document attesting to or acknowledging the circumstances, representations, opinions of law or other matters therein stated or set forth or setting forth matters to be determined pursuant to this Custody Agreement.

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government, governmental instrumentality or court (domestic or foreign) having jurisdiction over the Custodian or any of the property of the Custodian.

**SECTION 2.3. REPRESENTATIONS AND WARRANTIES OF THE MASTER TRUSTEE.** The Master Trustee makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(A) The Master Trustee is a banking corporation duly organized and validly existing under the laws of the State of New York, is qualified to do business in the State and all other jurisdictions in which its operations or ownership of properties so require, and has the power to enter into this Custody Agreement and carry out its obligations hereunder and has been duly authorized to execute this Custody Agreement. This Custody Agreement and the transactions contemplated hereby have been duly authorized by all necessary action on the part of the Master Trustee.

(B) Neither the execution and delivery of this Custody Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Custody Agreement will (1) conflict with or result in a breach of any of the terms, conditions or provisions of the articles of association or by-laws of the Master Trustee or any order, judgment, agreement or instrument to which the Master Trustee is a party or by which the Master Trustee is bound, or constitute a default under any of the foregoing, or (2) result in the creation or imposition of any Lien of any nature upon any property of the Master Trustee, or (3) require consent (which has not been heretofore received) under any corporate restriction, agreement or instrument to which the Master Trustee is a party or by which the Master Trustee or any of its property may be bound or affected, or (4) require consent (which has not been heretofore received) under, conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction or decree of any government, governmental instrumentality or court (domestic or foreign) having jurisdiction over the Master Trustee or any of the property of the Master Trustee.

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ARTICLE III  
THE CUSTODIAN

SECTION 3.1. APPOINTMENT OF THE CUSTODIAN. (A) The Custodian appointed by the Institution in the Original Custody Agreement as custody agent is hereby ratified and confirmed, and the Custodian hereby agrees to continue to act as such and to continue to accept all cash, other amounts, instruments, securities and Authorized Investments to be delivered to or held by the Custodian pursuant to the terms of this Custody Agreement. The Custodian shall continue to hold and safeguard the Custody Account (as hereinafter defined) and the cash, instruments and securities on deposit therein during the term of this Custody Agreement.

(B) The Custodian agrees to continue to undertake the performance of only such duties as are expressly set forth herein. The duties and responsibilities of the Custodian hereunder shall be determined solely by the express provisions of this Custody Agreement, and no further duties or responsibilities shall be implied. The Custodian shall not have any liability under, nor duty to inquire into the terms and provisions of any agreement or instructions, other than outlined in this Custody Agreement. The Custodian may rely and shall be protected in acting or refraining from acting upon any written notice, instruction or request furnished to it hereunder and believed by it to be genuine and to have been signed or presented by the proper party or parties. The Custodian shall be under no duty to inquire into or investigate the validity, accuracy or content of any such document. The Institution shall, in the notice section of this Custody Agreement, provide the Custodian with its Tax Identification Number ("TIN") as assigned by the Internal Revenue Service. All interest or other income under this Custody Agreement shall be allocated and paid as provided herein and reported by the recipient to the Internal Revenue Service as having been so allocated and paid. The Custodian shall have no duty to solicit any payments that may be due it hereunder, except as expressly provided herein. The Custodian shall not be liable for any action taken or omitted by it in good faith unless a court of competent jurisdiction determines that the Custodian's negligence or willful misconduct was the primary cause of any loss to the Institution. The Custodian shall not incur any liability for following the instructions herein contained or expressly provided for, or written instructions given by the parties hereto. In the administration of this Custody Agreement and the Custody Account hereunder, the Custodian may execute any of its powers and perform its duties hereunder directly or through agents or attorneys and may consult with counsel and accountants to be selected and retained by it. The Custodian shall not be liable for anything done, suffered or omitted in good faith by it in accordance with the advice or opinion of any such counsel, accountants or other skilled persons. None of the provisions contained in this Custody Agreement shall require the Custodian to use or advance its own funds in the performance of any of its duties or the exercise of any of its rights or powers hereunder. Anything in this Custody Agreement to the contrary notwithstanding, in no event shall the Custodian be liable for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Custodian has been advised of such loss or damage and regardless of the form of action. In the event that the Custodian shall be uncertain as to its duties or rights hereunder or shall receive instructions, claims or demands from any party hereto which, in its opinion, conflict with any of the provisions of this Custody Agreement, it shall be entitled to refrain from taking any action and its sole obligation shall be to keep safely all property held in escrow until it shall be directed otherwise in writing by all of the other parties hereto or by a final order of judgment of a court of competent jurisdiction.

(C) The Institution hereby agrees to continue to pay the Custodian its reasonable fees, costs and expenses (including but not limited to any attorneys' fees and expenses) for performing its obligations under this Custody Agreement, including any extraordinary fees and expenses.

(D) The Institution covenants and agrees to indemnify and hold the Custodian and its directors, officers, agents and employees (collectively, the "Indemnitees") harmless, to the extent permitted by law

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(C) No appointment of a successor Custodian under this Section 3.3 (other than a successor Custodian who is the corporate successor to substantially all of the prior Custodian's fiduciary obligations) shall be effective until the following conditions are satisfied:

(1) A successor Custodian shall have been appointed and shall have accepted in writing the terms and conditions imposed by this Custody Agreement.

(2) The prior Custodian shall have transferred to the successor Custodian the books and records of the prior Custodian, together with any moneys, instruments and securities held by the prior Custodian under this Custody Agreement and agreed to pay any amount subsequently received by it pursuant to the New York State Education Law or federal law for the payment of operations of the Institution or from the Institution immediately upon receipt to the successor Custodian.

(3) The Institution shall have provided written notification to all applicable State and federal agencies, divisions and authorities providing Education Aid to pay directly to the successor Custodian any and all amounts of Education Aid payable to the Institution. A copy of such notification shall be delivered to the successor Custodian and the Master Trustee.

SECTION 3.4. RESIGNATION OF CUSTODIAN. (A) The Custodian may resign and be discharged of its duties and obligations hereunder by giving notice in writing of such resignation specifying a date when such resignation shall take effect.

(B) No resignation of the Custodian under this Section 3.4 shall be effective until the following conditions are satisfied:

(1) A successor Custodian shall have been appointed and shall have accepted in writing the terms and conditions imposed by this Custody Agreement.

(2) The prior Custodian shall have transferred to the successor Custodian the books and records of the prior Custodian, together with any moneys, instruments and securities held by the prior Custodian under this Custody Agreement and agreed to pay any amount subsequently received by it from any applicable State and federal agencies, divisions and authorities providing Education Aid or from the Institution immediately upon receipt to the successor Custodian.

(3) The Institution shall have provided written notification to all applicable State and federal agencies, divisions and authorities providing Education Aid to pay directly to the successor Custodian any and all amounts of Education Aid payable to the Institution. A copy of such notification shall be delivered to the successor Custodian and the Master Trustee.

(C) Any corporation or association into which the Custodian in its individual capacity may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion or consolidation to which the Custodian in its individual capacity shall be a party, or any corporation or association to which all or substantially all the corporate trust business of the Custodian in its individual capacity may be sold or otherwise transferred, shall be the Custodian under this Custody Agreement without further act.

SECTION 3.5. VACANCY. In the event that the position of Custodian shall be vacant for any reason, the Master Trustee shall accept the assignment and delivery of the books and records and moneys held by the former Custodian and shall hold and dispose of them as set forth in this Custody Agreement. It is expressly understood hereunder that if in the event the position of Custodian is vacant for any reason, the Master Trustee shall temporarily assume the duties of Custodian under the Custody Agreement as the

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and provided the Custodian has not acted with negligence or engaged in willful misconduct, from and against any and all liabilities, losses, damages, fines, suits, actions, demands, penalties, costs and expenses, including out-of-pocket, incidental expenses, legal fees and expenses, the allocated costs and expenses of in-house counsel and legal staff and the costs and expenses of defending or preparing to defend against any claim ("Losses") that may be imposed on, incurred by, or asserted against, the Indemnitees or any of them for following any instruction or other direction upon which the Custodian is authorized to rely pursuant to the terms of this Custody Agreement. In addition to and not in limitation of the immediately preceding sentence, the Institution also covenants and agrees to indemnify and hold the Indemnitees and each of them harmless, to the extent permitted by law, from and against any and all Losses that may be imposed on, incurred by, or asserted against the Indemnitees or any of them in connection with or arising out of the Custodian's performance under this Custody Agreement provided the Custodian has not acted with negligence or engaged in willful misconduct. The obligation of the Institution to provide the indemnification described in this Section 3.1(D) shall be a general obligation of the Institution and shall be in addition to any indemnification provisions set forth in the Master Indenture; provided, however, that any funds or moneys held by the Custodian pursuant to this Custody Agreement may not be applied to satisfy such obligation. The provisions of this Section 3.1 shall survive the termination of the Custody Agreement and the resignation or removal of the Custodian for any reason.

SECTION 3.2. REMOVAL OF THE CUSTODIAN. (A) The Custodian may be removed at any time by the Institution, by an instrument in writing delivered to the Custodian and the Master Trustee, stating the cause or reason for such removal. Any such notice shall specify the date that such removal shall take effect.

(B) No removal of the Custodian under this Section 3.2 shall be effective until the following conditions are satisfied:

(1) A successor Custodian shall have been appointed and shall have accepted in writing the terms and conditions imposed by this Custody Agreement.

(2) The prior Custodian shall have transferred to the successor Custodian the books and records of the prior Custodian, together with any moneys, instruments or securities held by the prior Custodian under this Custody Agreement and agreed to pay any amount subsequently received by it from any applicable State and federal agencies, divisions and authorities providing Education Aid or from the Institution immediately upon receipt to the successor Custodian.

(3) The Institution shall have provided written notification to all applicable State and federal agencies, divisions and authorities providing Education Aid to pay directly to the successor Custodian any and all amounts of Education Aid payable to the Institution. A copy of such notification shall be delivered to the successor Custodian and the Master Trustee.

SECTION 3.3. SUCCESSOR CUSTODIAN.

(A) A successor Custodian may be appointed by the Institution, by an instrument in writing signed by the Institution.

(B) Every such successor Custodian appointed pursuant to the provisions of this Section 3.3 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 \$50,000,000, or be a subsidiary of a bank holding company with such capital and surplus.

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Institution's agent with duties separate and distinct from those of the Master Trustee. In the event the Master trustee acts as Custodian hereunder, any successor or temporary successor Master Trustee shall be the successor or temporary successor Custodian hereunder without further act.

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ARTICLE IV  
COVENANTS AND AGREEMENTS

SECTION 4.1. COVENANTS OF THE MASTER TRUSTEE. The Master Trustee covenants and agrees with the Institution and the Custodian that from and after December 4, 2020 and until the Obligations are paid in full:

(A) The Master Trustee shall prepare a Custody Agreement Notice, in substantially the form of Exhibit A attached, with respect to each Payment Date, certifying the respective aggregate amounts to be transferred by the Custodian to the Master Trustee for deposit to the MTI Revenue Fund; such amount shall equal the Required Payment (as defined in the Master Indenture) for all Obligations (as shown, in the case of Master Obligation No. 1, on the Net Debt Service Schedule with respect to Master Obligation No. 1, attached hereto as Exhibit C-1, and, in the case of Master Obligation No. 2, on the Net Debt Service Schedule with respect to Master Obligation No. 2, attached hereto as Exhibit C-2 (subject to modification in the event of any partial prepayments) for the next two (2) succeeding Payment Dates less any amounts already on deposit in the MTI Revenue Fund. By the close of business on the following Business Day, the Custodian shall automatically transfer moneys, if any, remaining credited to the Custody Account after the completion of all transfers described above to the Institution, unless the Custodian receives written instructions from the Institution to the contrary.

(B) Notwithstanding the provisions of Section 4.1(A) above, it shall not be necessary for the Master Trustee to prepare a Custody Agreement Notice with respect to any period described therein if the respective aggregate amounts to be transferred by the Custodian to the Master Trustee are the same as such amounts as certified in the most recent Custody Agreement Notice delivered by the Master Trustee.

(C) The Master Trustee agrees to deliver the applicable Custody Agreement Notice to the Custodian and the Institution on the 1st day of each January, March, May, July, September and November, commencing on January 1, 2021, and if such 1st day is not a Business Day, the next succeeding Business Day.

(D) Upon receipt of any moneys pursuant to the Custody Agreement or from the Institution, the Master Trustee shall immediately deposit the moneys in the funds and accounts held by the Master Trustee in accordance with the Master Indenture.

(E) The Master Trustee shall immediately notify the Custodian and the Institution of any failure by the Custodian to transfer to the Master Trustee the amount of moneys described in the Custody Agreement Notice on the Business Day following the Remittance Date.

SECTION 4.2. COVENANTS OF THE INSTITUTION. The Institution covenants and agrees with the Custodian and the Master Trustee that from and after December 4, 2020 and until the Obligations are paid in full:

(A) For so long as Education Aid payments are distributed via paper check, the Institution, within two (2) Business Days of receipt thereof, shall deposit such checks into the Custody Account. Such checks represent any and all amounts of per pupil funding received from the Albany City School District and the Troy City School District (or such other two school districts that provide the highest percentage of the Institution's per pupil funding) pursuant to Section 2856(1) of the New York State Education Law ("Education Aid").

(D) In the event that the Institution has incurred Additional Indebtedness satisfying the requirements of Section 3.05 of the Master Indenture or any Supplement thereto, the Custodian shall, in addition to the payments required to be made to the Master Trustee pursuant to paragraph (C) of this Section 4.3, transfer to the issuer of, or the trustee for, any such Additional Indebtedness, as the case may be, any amounts due and payable with respect to such Additional Indebtedness. In the event that the Custodian shall at any time be required to transfer moneys held by it to two or more recipients (excluding the Institution) and the aggregate amount then on deposit in the Custody Account shall not be sufficient to pay such recipients in full, the Custodian shall transfer the available amount to such recipients on a pro rata basis.

(E) The Custodian shall automatically transfer moneys, if any, remaining credited to the Custody Account after the completion of all transfers described in this Section 4.3 to the Institution by the close of business on the following Business Day, unless the Custodian receives written instructions from the Institution to the contrary. The Custodian shall transfer all funds pursuant to this Custody Agreement within two (2) Business Days of its receipt of funds.

(F) The Custodian shall immediately notify the Master Trustee and the Institution of any failure to receive payment of Education Aid within one (1) Business Day of an Education Aid payment date.

(G) If all amounts required to be on deposit in the MTI Revenue Fund have been transferred by the Institution and an Education Aid payment has not been received after forty-five (45) days of its expected receipt, the Institution shall notify the State Commissioner of Education of such failure of receipt of funds and provide an intercept letter to the State Commissioner of Education. If the Education Aid payments payable by the State Comptroller can be received by the Institution by wire or ACH payments, the Institution shall cause the State Comptroller to pay any such Education Aid payments directly to the Custodian in accordance with the Custodian's Wire/ACH Instructions in Exhibit B. Notwithstanding the foregoing, in the event that such Education Aid payments are paid by the State Comptroller to the Institution, as opposed to the Custodian, the Institution shall immediately transfer such amounts to the Custodian to be applied in accordance with the provisions hereof.

(H) All records related to the Custody Account shall be available for inspection and audit by the Institution or its representatives on reasonable notice to the Custodian during normal business hours throughout the term of this Custody Agreement and for one (1) year thereafter.

(B) The Institution shall take all such customary actions as may be necessary to deliver in a timely fashion to any State or federal education agency, as applicable, all such information as may be necessary in accordance with the Federal Education Act to permit each such agency to make each payment of federally funded education aid to the Institution permitted by the Federal Education Act. The Institution shall provide copies of all materials provided to any such agency with respect to such Education Aid to the Custodian and the Master Trustee to the extent permitted by law. If Education Aid payments are distributed via wire or ACH, the Institution shall direct the New York State Education Department, or any third party on its behalf, to deposit all Education Aid payments directly into the Custody Account, in accordance with the Custodian's Wire/ACH Instructions in Exhibit B.

(C) The Institution irrevocably directs the Custodian pursuant to the Custody Agreement to deposit with the Master Trustee, immediately upon receipt by the Custodian of a payment of Education Aid, the amounts necessary, along with any other amounts previously so deposited in the applicable period, to cause the aggregate amount so deposited to equal the aggregate amount specified in the Custody Agreement Notice delivered by the Master Trustee with respect to such period.

(D) The Institution agrees to provide the Master Trustee, in a timely fashion (but in any event, no later than the (15th) day of each February, April, June, August, October and December, and if such (15th) day is not a Business Day, the next succeeding Business Day, such information as may be reasonably required by the Master Trustee in order to permit the Master Trustee to prepare each Custody Agreement Notice.

(E) The Institution agrees to give the BFF Lender, the 2024 Bond Trustee, the Master Trustee and the Custodian notice of its intention to incur Additional Indebtedness (as defined in the Master Indenture) at least sixty (60) days prior to the incurrence thereof. The Institution agrees to provide the Custodian with all information necessary to enable the Custodian to make the payments described in Section 4.3(D) below in a timely manner with respect to such Additional Indebtedness.

(F) With respect to the first Payment Date as to any Outstanding Obligation, the Institution shall deposit an amount equal to the first two payments (as shown on the Net Debt Service Schedule, attached hereto as Exhibit C-1 and Exhibit C-2, as applicable) within ten (10) Business Days of the first Payment Date.

SECTION 4.3. COVENANTS OF THE CUSTODIAN. The Custodian covenants and agrees with the Institution and the Master Trustee that, from and after December 4, 2020, and until the Obligations are paid in full:

(A) The Custodian, at the direction of the Institution has established, and shall continue, an account (which account shall be owned by the Institution) called the KIPP Capital Region Public Charter Schools Custody Account (the "Custody Account") for the deposit of moneys received pursuant to this Custody Agreement.

(B) The Custodian shall immediately deposit all moneys received pursuant to this Custody Agreement into the Custody Account.

(C) Upon receipt and deposit of any moneys pursuant to this Custody Agreement, the Custodian shall immediately transfer to the Master Trustee the total amount of money described in the then applicable Custody Agreement Notice, along with any deficiency in amounts described in prior Custody Agreement Notices, which shall include any amounts necessary to fund deficiencies in the MTI Revenue Fund, to the extent necessary, along with all other amounts previously transferred with respect thereto to fully fund the requirements described therein (the "Current Funding Amount").

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ARTICLE V  
EVENTS OF DEFAULT AND REMEDIES

SECTION 5.1. DEFAULT. (A) Any one or more of the following events shall constitute an "Event of Default" under this Custody Agreement:

(1) The failure of the Custodian, the Institution or the Master Trustee to make or cause to be made, as the case may be, any payment required under Article IV hereof within two (2) Business Days after receipt of written notice from the Holder of an Obligation specifying the nature of such default;

(2) The failure of the Custodian, the Institution or the Master Trustee to take such other actions as are required under (a) Article IV hereof (other than as described in Section 5.1(A)(1) hereof), or (b) any other provision hereof on their part, respectively, within fifteen (15) days after written notice from the Holder of an Obligation specifying the nature of such default;

(3) Any direction by the Institution to the Custodian to apply Education Aid in any manner which is inconsistent with the express requirements of the Custody Agreement; or

(4) Notwithstanding the foregoing, a failure of the applicable governmental body to timely distribute Education Aid payments by the Albany City School District or State Comptroller shall not constitute an Event of Default of this Agreement.

SECTION 5.2. REMEDIES ON DEFAULT. Whenever any Event of Default hereunder by one party hereto shall have occurred and be continuing, any other party may enforce the provisions of this Custody Agreement and may enforce and protect its rights by a suit or suits in equity or at law for (1) the specific performance of any covenant or agreement contained herein or (2) any other appropriate legal or equitable remedy.

SECTION 5.3. REMEDIES CUMULATIVE. No remedy herein conferred upon or reserved to the Master Trustee is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Custody Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Master Trustee to exercise any remedy reserved to it in this Article V, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

SECTION 5.4. NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER. In the event any agreement contained herein should be breached by any party and thereafter such breach be waived by another party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

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- 13 -



ARTICLE VI  
MISCELLANEOUS

SECTION 6.1. TERM. (A) The term of this Custody Agreement shall commence upon December 4, 2020.

(B) Subject to the prior written consent of the Master Trustee, which consent shall not be unreasonably withheld, this Custody Agreement shall terminate and the obligations of the Institution created hereunder shall be discharged upon the irrevocable payment in full of all Obligations, provided that no Event of Default has theretofore occurred and is continuing hereunder or under the Master Indenture. On the date of such discharge, the Custodian and the Institution shall be released from any and all conditions, terms, covenants or restrictions created or placed upon it by this Custody Agreement and the Institution shall not have any further obligation or liability hereunder.

SECTION 6.2. NOTICES. (A) All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when (1) sent to the applicable address stated below by registered or certified mail, return receipt requested, or by such other means as shall provide the sender with documentary evidence of such delivery, or (2) delivery is refused by the addressee, as evidenced by an affidavit of the Person who attempted to effect such delivery.

(B) The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

IF TO THE EFF LENDER:

Equitable Facilities Fund, Inc.  
228 Park Ave S, Suite 61633,  
New York, New York 10003  
michelle@chartersmpaefund.org  
Attention: Chief Credit Officer r

WITH A COPY TO:

Orrick Herrington & Sutcliffe LLP  
609 Main Street  
40th Floor  
Houston, Texas 77002  
Attention: Amanda Stephens, Esq.

IF TO THE INSTITUTION:

KIPP Capital Region Public Charter Schools  
321 Northern Blvd  
Albany, New York 12210  
Attention: Chief Executive Officer

SECTION 6.7. EXECUTION OF COUNTERPARTS. This Custody Agreement shall be valid, binding, and enforceable against a party when executed and delivered by an authorized individual on behalf of the party by means of (i) an original manual signature; (ii) a faxed, scanned, or photocopied manual signature, or (iii) any other electronic signature permitted by the federal Electronic Signatures in Global and National Commerce Act, state enactments of the Uniform Electronic Transactions Act, and/or any other relevant electronic signatures law, including any relevant provisions of the Uniform Commercial Code (collectively, "Signature Law"), in each case to the extent applicable. Each faxed, scanned, or photocopied manual signature, or other electronic signature, shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature. This Custody Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute one and the same instrument.

SECTION 6.8. TABLE OF CONTENTS AND SECTION HEADINGS NOT CONTROLLING. The Table of Contents and the headings of the several Sections in this Custody Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Custody Agreement.

SECTION 6.9. ORIGINAL CUSTODY AGREEMENT IS AMENDED AND RESTATED. The Original Custody Agreement is hereby amended and restated in its entirety by this Custody Agreement.

WITH A COPY TO:

Whiteman Osterman & Hanna LLP  
One Commerce Plaza  
Albany, New York 12260  
Attention: Robert J. McLaughlin, Esq.

IF TO THE 2024 BOND TRUSTEE OR THE MASTER TRUSTEE:

Manufacturers and Traders Trust Company, as [2024 Bond] [Master] Trustee  
285 Delaware Avenue  
3rd Floor  
Buffalo, New York 14202  
Attention: Corporate Trust Administration

IF TO THE CUSTODIAN:

Manufacturers and Traders Trust Company, as Custodian  
285 Delaware Avenue  
3rd Floor  
Buffalo, New York 14202  
Attention: Corporate Trust Administration

(C) A duplicate copy of each notice, certificate and other communication given hereunder by the Custodian or the Institution shall be given to the Master Trustee.

(D) The Institution, the Custodian and the Master Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

SECTION 6.3. APPLICABLE LAW. This Custody Agreement shall be governed exclusively by the applicable laws of the State of New York with jurisdiction in Albany County.

SECTION 6.4. BINDING EFFECT. This Custody Agreement shall inure to the benefit of, and shall be binding upon the Institution, the Custodian and the Master Trustee and their respective successors and assigns.

SECTION 6.5. SEVERABILITY. If any one or more of the covenants or agreements provided herein on the part of the Institution, the Custodian or the Master Trustee to be performed shall, for any reason, be held or shall, in fact, be inoperative, unenforceable or contrary to law in any particular case, such circumstance shall not render the provision in question inoperative or unenforceable in any other case or circumstance. Further, if any one or more of the phrases, sentences, clauses, paragraphs or sections herein shall be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed separable from the remaining provisions hereof and shall in no way affect the validity of the other provisions of this Custody Agreement.

SECTION 6.6. AMENDMENTS, CHANGES AND MODIFICATIONS. This Custody Agreement may not be amended, changed, modified, altered or terminated, except by an instrument in writing signed by the parties hereto and executed and delivered in accordance with the provisions of the Master Indenture.

IN WITNESS WHEREOF, the parties hereto have caused this Custody Agreement to be duly executed and delivered as of the day and year first above written.

KIPP CAPITAL REGION PUBLIC CHARTER  
SCHOOLS, as Institution

By: \_\_\_\_\_  
Stephanie Valle  
Chief Executive Officer

MANUFACTURERS AND TRADERS TRUST  
COMPANY, as Custodian

By: \_\_\_\_\_  
Maureen A. Auld  
Assistant Vice President

MANUFACTURERS AND TRADERS TRUST  
COMPANY, as Master Trustee

By: \_\_\_\_\_  
Maureen A. Auld  
Assistant Vice President

EXHIBIT A  
FORM OF CUSTODY AGREEMENT NOTICE

To: Manufacturers and Traders Trust Company, as Custodian  
285 Delaware Avenue  
3rd Floor  
Buffalo, New York 14202  
Attention: Corporate Trust Administration

KIPP Capital Region Public Charter Schools  
321 Northern Blvd  
Albany, New York 12210  
Attention: Chief Executive Officer

Re: Applicable Remittance Date Transfer  
[Date] to [Date]

Pursuant to Section 4.1(A) of the Amended and Restated Custody Agreement dated as of June 1, 2024, by and among KIPP Capital Region Public Charter Schools (the "Institution"), Manufacturers and Traders Trust Company, as custodian (the "Custodian") and Manufacturers and Traders Trust Company, as trustee (the "Master Trustee"), the Master Trustee hereby certifies the respective aggregate amounts to be transferred by the Custodian to the Master Trustee for deposit into the MTI Revenue Fund on the Remittance Date for the next succeeding Payment Date as described above:

<u>Applicable Fund</u>	<u>Amount</u>
------------------------	---------------

1. For deposit in the MTI Revenue Fund:	\$
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Pursuant to Section 4.1(D) of the Custody Agreement, all remaining amounts shall be transferred to the Institution.

A-1

A-2

EXHIBIT B  
WIRE/ACH INSTRUCTIONS

Incoming Funds

To the Custodian - Wire

Bank Name: M&T Bank  
ABA No.: 031100092  
Account Number: 144916-000  
Account Name: KIPP Capital Region Public Charter Schools Custody Account  
Attn: Maureen A. Auld  
Call back contact: Maureen A. Auld 716-842-5662  
Jason Jaskolka 716-842-4332  
Jennifer Wieszcholek 716-842-2364  
Anthony Argenio 716-842-5935  
Steven Wattie - 716-842-5849

To the Custodian - ACH

Bank Name: M&T Bank  
ABA No.: 022000046  
DDA Number: 16629826  
Reference: KIPP Capital Region Public Charter Schools Custody Account  
Attention: Maureen A. Auld  
Call back contact: Maureen A. Auld 716-842-5662  
Jenima Opoku 716-842-5439  
Jennifer Wieszcholek 716-842-2364  
Anthony Argenio 716-842-5935  
Steven Wattie - 716-842-5849

Checks:

Manufacturers and Traders Trust Company, as Custodian  
285 Delaware Avenue  
3rd Floor  
Buffalo, New York 14202  
Attention: Corporate Trust Administration, Maureen A. Auld

B-1

IN WITNESS WHEREOF, I have hereunto set my signature as an Authorized Representative of the Master Trustee this \_\_\_ day of \_\_\_, 20\_\_.

MANUFACTURERS AND TRADERS TRUST  
COMPANY, as Master Trustee

By: \_\_\_\_\_  
Maureen A. Auld  
Assistant Vice President

Outgoing Funds

If to the Master Trustee for deposit in the MTI Revenue Fund

Wire:

Bank Name: M&T Bank  
ABA No.: 031100092  
Account Name: KIPP Capital Region Public Charter Schools MTI Revenue Fund  
Attention: Maureen A. Auld  
Call back contact: Maureen A. Auld 716-842-5662  
Jenima Opoku 716-842-5439  
Jennifer Wieszcholek 716-842-2364  
Anthony Argenio 716-842-5935  
Steven Wattie - 716-842-5849

ACH

Bank Name: M&T Bank  
ABA No.: 022000046  
DDA Number: 16629826  
Reference: KIPP Capital Region Public Charter Schools MTI Revenue Fund  
Attention: Maureen A. Auld  
Call back contact: Maureen A. Auld 716-842-5662  
Jenima Opoku 716-842-5439  
Jennifer Wieszcholek 716-842-2364  
Anthony Argenio 716-842-5935  
Steven Wattie - 716-842-5849

If to the Institution

Bank Name: M&T Bank  
ABA No.: 022000046  
Account Name: KIPP Capital Region Public Charter Schools Operating Account  
DDA Number: 9881563515  
Reference: Custody Account  
Attention: Chief Executive Officer  
Call back contact: Stephanie Valle 518-694-9494

B-2

EXHIBIT C-1

NET DEBT SERVICE SCHEDULE WITH RESPECT TO MASTER OBLIGATION NO. 1

(See attached)

EXHIBIT C-2

NET DEBT SERVICE SCHEDULE WITH RESPECT TO MASTER OBLIGATION NO. 2

(See attached)

MORTGAGE

KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS  
TO  
CITY OF ALBANY CAPITAL RESOURCE CORPORATION

MORTGAGE

DATED AS OF JUNE 1, 2024

THIS MORTGAGE (A) AFFECTS TANGIBLE AND INTANGIBLE PERSONAL PROPERTY AS WELL AS REAL PROPERTY, (B) CONTAINS AFTER-ACQUIRED PROPERTY PROVISIONS, AND (C) IS INTENDED TO CONSTITUTE A SECURITY AGREEMENT UNDER THE UNIFORM COMMERCIAL CODE OF THE STATE OF NEW YORK.

PROPERTY ADDRESSES

400 Northern Boulevard, Albany, NY 2 Polk Street, Troy, NY  
County: Albany; City: Albany County: Rensselaer; City: Troy  
Tax ID Sec. 65.11 Block 2 Lot 1 Tax ID Sec. 111.52 Block 6 Lot 1  
321 Northern Boulevard, Albany, NY 780 River Street, Troy, NY  
County: Albany; City: Albany County: Rensselaer; City: Troy  
Tax ID Sec. 65.11 Block 1 Lot 4 Tax ID Sec. 90.62 Block 3 Lot 32  
65 Frank Street, Albany, NY 523 First Street, Troy, NY  
County: Albany; City: Albany County: Rensselaer; City: Troy  
Tax ID Sec. 76.18 Block 1 Lot 1 Tax ID Sec. 111.52 Block 6 Lot 12  
42 South Dove Street, Albany, NY 765 River Street, Troy, NY  
County: Albany; City: Albany County: Rensselaer; City: Troy  
Tax ID Sec. 76.14 Block 2 Lot 1.2 Tax ID Sec. 90.62 Block 8 Lot 9  
3055 Sixth Avenue, Troy, NY  
County: Rensselaer; City: Troy  
Tax ID Sec. 90.70 Block 3 Lot 1.2

Record and Return:  
Hodgson Russ LLP  
677 Broadway – Suite 401  
Albany, New York 12207  
Attn: Michael Chille, Paralegal

of the costs of the foregoing by the issuance of the Initial Bonds; (D) the paying of all or a portion of the costs incidental to the issuance of the Initial Bonds, including issuance costs of the Initial Bonds, capitalized interest and any reserve funds as may be necessary to secure the Initial Bonds; and (E) the making of a loan (the "2024 Loan") of the proceeds of the Initial Bonds to the Mortgagor by the Issuer; and

WHEREAS, pursuant to the authorization contained in a resolution adopted by the members of the board of directors of the Issuer on April 18, 2024 (the "Inducement Resolution"), the Chief Executive Officer of the Issuer (A) caused notice of the public hearing of the Issuer (the "Public Hearing") pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") and, as provided in the Certificate of Incorporation, pursuant to the applicable provisions of Section 859-a and Section 859-b of the General Municipal Law of the State of New York (the "GML"), to hear all persons interested in the Initial Project and the financial assistance being contemplated by the Issuer with respect to the Initial Project, published on April 27, 2024 in the Daily Gazette and on April 29, 2024 in the Albany Times Union, respectively, each a newspaper of general circulation available to the residents of the City of Albany, New York, (B) caused notice of the Public Hearing to be posted on April 29, 2024 on a public bulletin board located at City Hall, 24 Eagle Street, in the City of Albany, New York, (C) caused notice of the Public Hearing to be posted on April 29, 2024 on the Issuer's website, (D) caused notice of the Public Hearing to be mailed on April 26, 2024 to the chief executive officers of the county and of each city, town, village and school district in which the Initial Project Facility is (or will be) located, (E) conducted the Public Hearing on May 8, 2024 at 12:00 o'clock p.m. local time at 21 Lodge Street in the City of Albany, Albany County, New York, and (F) prepared a report of the Public Hearing (the "Public Hearing Report") which fairly summarized the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the board of directors of the Issuer and to the Mayor of City of Albany, New York (the "Mayor"); and

WHEREAS, by resolution adopted by the members of the board of directors of the Issuer on [May 16], 2024 (the "Initial Bond Resolution"), the board of directors of the Issuer (A) authorized the issuance of the Initial Bonds for the purpose of financing a portion of the costs of the Initial Project, (B) authorized the circulation of a preliminary official statement (the "Initial Preliminary Official Statement") in connection with the marketing of the Initial Bonds and (C) delegated to the Chairperson, Vice Chairperson or Chief Executive Officer of the Issuer authority to determine the final details of the Initial Bonds (the "Bond Details") once the marketing of the Initial Bonds is completed and the Mortgagor has agreed to the Bond Details; and

WHEREAS, by certificate executed by the Mayor on May 29, 2024 (the "Public Approval"), the Mayor approved the issuance of the Initial Bonds for purposes of Section 147(f) of the Code; and

WHEREAS, the Issuer has issued the Initial Bonds under the Initial Bond Resolution, a certificate of determination dated June 12, 2024 (the "Certificate of Determination") executed by the Chairperson or Vice Chairperson of the Issuer, and the Indenture; and

WHEREAS, prior to or simultaneously with the issuance of the Initial Bonds, the Issuer and the Mortgagor executed and delivered a loan agreement dated as of June 1, 2024 (the "2024 Loan Agreement") by and between the Issuer, as lender, and the Mortgagor, as borrower, pursuant to the terms of which 2024 Loan Agreement (A) the Issuer agreed (1) to issue the Initial Bonds, and (2) to make the 2024 Loan to the Mortgagor of the proceeds of the Initial Bonds for the purpose of assisting in financing the Initial Project, and (B) in consideration of the 2024 Loan, the Mortgagor agreed (1) to cause the Initial Project to be undertaken and completed, (2) to use the proceeds of the 2024 Loan disbursed under the Indenture to pay (or reimburse the Mortgagor for the payment of) the costs of the Initial Project, and (3) to make payments in amounts sufficient to pay when due all amounts due with respect to the Initial

THIS MORTGAGE dated as of June 1, 2024 (this "Mortgage") from KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS (the "Mortgagor"), a not-for-profit education corporation and public charter school organized and existing under the laws of the State of New York having an office for the transaction of business located at 321 Northern Boulevard, Albany, New York to CITY OF ALBANY CAPITAL RESOURCE CORPORATION (the "Issuer" or the "Mortgagee"), a not-for-profit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 21 Lodge Street, Albany, New York, as issuer of the Issuer's Tax-Exempt Revenue Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024 in the aggregate principal amount of \$50,105,000 (the "Initial Bonds") issued by the Issuer pursuant to a certain trust indenture dated as of June 1, 2024 (the "Indenture") by and between the Issuer and Manufacturers and Traders Trust Company, as trustee (the "Bond Trustee");

WITNESSETH:

WHEREAS, Section 1411 of the Not-For-Profit Corporation Law of the State of New York, as amended (the "Enabling Act") (A) authorizes any city to cause a not-for-profit local development corporation to be incorporated by public officers for, among other things, the public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, and lessening the burdens of government and acting in the public interest, (B) declares that in carrying out the aforesaid purposes and in exercising the powers conferred in the Enabling Act, such corporations will be performing essential governmental functions, and (C) authorizes each such corporation to acquire real and personal property, to borrow money and issue negotiable bonds, notes and other obligations therefor, and to lease, sell, mortgage or otherwise dispose of or encumber any of its real or personal property upon such terms as it may determine and otherwise carry out its corporate purposes in the territory in which the operations of such corporation are principally to be conducted; and

WHEREAS, pursuant to the provisions of the Enabling Act and Revenue Ruling 57-187 and Private Letter Ruling 200936012, the Common Council of City of Albany, New York (the "City") adopted a resolution on March 15, 2010 (the "Sponsor Resolution") (A) authorizing the incorporation of the Issuer under the Enabling Act and (B) appointing the initial members of the board of directors of the Issuer, who serve at the pleasure of the Common Council of the City; and

WHEREAS, on April 13, 2010, a certificate of incorporation was filed with the New York Secretary of State's Office (the "Certificate of Incorporation") creating the Issuer pursuant to the Enabling Act as a public instrumentality of the City; and

WHEREAS, in March, 2024, the Mortgagor presented an application (the "Application") to the Issuer, which Application requested that the Issuer consider undertaking a project (the "Initial Project") for the benefit of the Mortgagor, said Initial Project to consist of the following: (A) the construction of an approximately 98,185 square foot high school building (the "Initial Facility") on an approximately 10.38 acre parcel of land located at 400 Northern Boulevard and 10 Dudley Heights in the City of Albany, New York (the "Initial Land") and (2) the acquisition and installation thereon and therein of certain related furniture, fixtures, machinery and equipment (the "Initial Equipment") (the Initial Facility, the Initial Land and the Initial Equipment hereinafter collectively referred to as the "Initial Project Facility"), all of the foregoing to be operated by the Mortgagor as an educational facility and any other directly or indirectly related activities; (B) the refinancing of an existing loan of the Mortgagor, the proceeds of which were used by the Mortgagor to purchase certain buildings located at 2 Polk Street and 3055 6<sup>th</sup> Avenue, respectively, in the City of Troy, Albany County, New York; (C) the financing of all or a portion

Bonds (the "2024 Loan Payments") to or upon the order of the Issuer in repayment of the 2024 Loan, which 2024 Loan Payments include amounts equal to the Debt Service Payments (as defined in the Indenture) due on the Initial Bonds; and

WHEREAS, as security for the Initial Bonds, the Issuer executed and delivered to the Bond Trustee a pledge and assignment dated as of June 1, 2024 (the "Pledge and Assignment") from the Issuer to the Bond Trustee, and acknowledged by the Mortgagor, which Pledge and Assignment assigned to the Bond Trustee certain of the Issuer's rights under the 2024 Loan Agreement; and

WHEREAS, the Mortgagor, as the initial Member of the Obligated Group and the Obligated Group Representative (as such terms are defined in the hereinafter defined Master Trust Indenture), and Manufacturers and Traders Trust Company, as master trustee (the "Master Trustee"), previously entered into a master trust indenture dated as of December 1, 2020 (as amended and supplemented pursuant to the First Supplemental Master Trust Indenture and the Second Supplemental Master Trust Indenture, each as referred to below, and as may hereafter be amended and supplemented, the "Master Trust Indenture") by and between the Mortgagor, as initial Member of the Obligated Group and the Obligated Group Representative, and the Master Trustee, and, in connection with the issuance of the Initial Bonds, an Obligation (as defined in the Master Trust Indenture) has been issued by the Mortgagor as Obligated Group Representative in favor of the Issuer pursuant to the Master Trust Indenture and a Second Supplemental Master Trust Indenture dated as of June 1, 2024 (the "Second Supplemental Master Trust Indenture") by and between the Mortgagor, as Obligated Group Representative, and the Master Trustee, in the principal amount of the Initial Bonds ("Master Obligation No. 2") for the purposes of securing the obligation of the Mortgagor to make the 2024 Loan Payments required under the 2024 Loan Agreement; and

WHEREAS, concurrently with the original execution of the Master Trust Indenture, the Mortgagor as Obligated Group Representative issued under the Master Trust Indenture Obligation No. 1 in the original principal amount of \$24,537,151.60 in favor of Equitable Facilities Fund, Inc. ("Master Obligation No. 1") pursuant to a First Supplemental Master Trust Indenture, dated as of December 4, 2020, between the Mortgagor, as Obligated Group Representative, and the Master Trustee (the "First Supplemental Master Trust Indenture"), the Master Trustee authenticated Master Obligation No. 1 under the Master Trust Indenture, and, in connection therewith, the Mortgagor, executed and delivered a Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing, dated as of December 4, 2020, in favor of the Master Trustee, as mortgagee (the "2020 Mortgage"), encumbering certain properties of the Mortgagor and as security for Master Obligation No. 1 and all other Obligations (as defined in the Master Trust Indenture) as may hereafter be issued under the Master Trust Indenture; and

WHEREAS, the Master Trustee has authenticated Master Obligation No. 2 under the Master Trust Indenture, and the Issuer has executed an allonge transferring all of the Issuer's right, title and interest in Master Obligation No. 2 to the Bond Trustee; and

WHEREAS, as additional security for Master Obligation No. 1 and Master Obligation No. 2 (and all Obligations now or hereafter issued under the Master Trust Indenture), (A) the Mortgagor is executing and delivering this Mortgage on the Mortgaged Property (as defined herein) in favor of the Issuer, and the Issuer intends concurrently herewith to assign all of its right, title and interest in this Mortgage to the Master Trustee pursuant to an Assignment of Mortgage, dated as of June 1, 2024, from the Issuer to the Master Trustee (the "Assignment of Mortgage"), and (B) the 2020 Mortgage and this Mortgage will be consolidated into a single mortgage pursuant to a Mortgage Consolidation Agreement, dated as of June 1, 2024, between the Mortgagor and the Master Trustee (the "Mortgage Consolidation Agreement"); and

WHEREAS, this Mortgage constitutes a "Mortgage" as defined in Section 1.01 of the Master Trust Indenture and shall secure all Obligations under the Master Trust Indenture on an equal and ratable basis in accordance with the terms of the Master Trust Indenture without regard to the timing or priority of recording of any other Mortgage (as defined in the Master Trust Indenture) hereafter granted to secure any other Obligation issued under the Master Trust Indenture; and

WHEREAS, capitalized terms not defined herein shall have the meanings ascribed to them in the 2024 Loan Agreement, the Indenture or the Master Trust Indenture and, to the extent that any terms or provisions of this Mortgage conflict with any terms or provisions of the 2024 Loan Agreement, the Indenture or the Master Trust Indenture, the 2024 Loan Agreement or the Master Trust Indenture, as applicable, shall control.

NOW, THEREFORE, to secure all Obligations under the Master Trust Indenture, including without limitation Master Obligation No. 1 and Master Obligation No.2, and all other Obligations as may hereafter be issued and Outstanding under the Master Trust Indenture, and pay all other sums advanced by the Mortgagee hereunder and thereunder, and to secure the due and punctual performance by the Mortgagor of all of the covenants and agreements contained in the Master Trust Indenture, the 2024 Loan Agreement, the Financing Documents (as defined in the Indenture), the Master Trust Documents (as also defined in the Indenture) and this Mortgage (collectively, the "2024 Loan Documents"), and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Mortgagor hereby irrevocably and unconditionally grants, mortgages, bargains, sells, transfers, conveys and assigns to the Mortgagee, and grants to the Mortgagee a security interest in and lien upon, all of such Mortgagor's all estate, right, title and interest which the Mortgagor now has or may later acquire in and to the following property:

ALL OF Mortgagor's interest in and to the land which is described in Exhibit A attached hereto (the "Land") located in Troy, New York and Albany, New York;

TOGETHER WITH all right, title and interest of the Mortgagor in and to, and remedies under (a) any and all leases, subleases, license agreements, concessions, tenancies and other use or occupancy agreements (whether oral or written), or any part thereof, now or hereafter existing, covering or affecting any or all of the Mortgaged Property (as defined below), all extensions and renewals thereof, and all modifications, amendments and guaranties thereof (each of which is hereinafter called a "Lease"), and (b) any and all rents, income, receipts, revenues, royalties, issues, profits, contract rights, accounts receivable, or general intangibles growing out of or in connection with the Leases and other payments, payable to the Mortgagor pursuant to any Lease, including, without limitation, cash or securities deposited under any Lease to secure performance by the tenants of their obligations under the Leases, whether such cash or securities are to be held until the expiration of the term of such Leases or are to be applied to one or more of the installments of rent coming due prior to the expiration of such terms and further including subsidy payments received from any source (collectively, the "Rents"), subject, however, to the provisions hereof; and

TOGETHER WITH any and all rights, alleys, ways, tenements, hereditaments, easements, passages, waters, water rights, water courses, riparian rights, licenses, franchises, privileges and appurtenances now or hereafter to the same belonging or in any way appertaining, as well as any after-acquired right, title, interest, franchise, license, reversion and remainder, and

TOGETHER WITH all right, title and interest of the Mortgagor, including any after-acquired right, title or reversion, in and to the right of ways, streets, avenues and alleys, open or proposed, located wholly or partially within the boundary of the Land or adjacent thereto, and

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TOGETHER WITH all of Mortgagor's rights in and to policies of insurance including any and all payments, proceeds, settlements or other compensation heretofore or hereafter made, including any interest thereon, and the right to receive the same, from any and all insurance policies covering the Land or the Improvements or any portion thereof, and

TOGETHER WITH all contract rights (including any contract deposits), but not any contract obligations or liabilities, relating to or arising out of any agreement to sell, transfer, assign, convey or encumber the Land, the Improvements, any portion thereof, any interest therein, and

TOGETHER WITH all plans and specifications, surveys, reports, diagrams, drawings, service contracts, accounting records, construction contracts, architect contracts, plans and specifications, invoices, change orders, licenses, authorizations, certificates, variances, approvals and other permits necessary or appropriate to permit the construction, reconstruction, repair or alteration, addition, improvement, use, operation and management of the Land and the Improvements, and

TOGETHER WITH all of the Mortgagor's cash, bank accounts, notes and other instruments, documents, accounts receivable, contract rights, permits, receipts, sales and promotional literature and forms, advertising materials and the like, trademarks, names, logos, copyrights and other items of intangible personal property now or hereafter owned by the Mortgagor relating to the ownership, operation, development, leasing or management of the Land or the Improvements, but specifically excluding the following therefrom: (a) any monies provided, or to be provided, to the Mortgagor pursuant to Section 2856(1) of the New York Education Law, (b) all donor-designated philanthropic contributions or grants that are restricted as to use by the donor, (c) Federal funding under the Every Student Succeeds Act and any renewals thereof or like program, (d) State funding under the New York State Child Nutrition Program and any renewals thereof or like program, and (e) any other funding from State or Federal sources or any other grant funding, contributions or donations from any other source, that in each case is restricted as to use by such source, and

TOGETHER WITH all of Mortgagor's right, title and interest in and to the Initial Equipment as described in Exhibit B attached hereto, and

TO HAVE AND TO HOLD the Land, the Improvements, Initial Equipment, fixtures, personal property, tenements, hereditaments, appurtenances and other property interests granted hereinabove (hereinafter collectively called the "Mortgaged Property") unto the Mortgagee, its successors and assigns, subject only to the Permitted Liens.

FOR THE PURPOSE OF SECURING:

(a) payment and performance of each and every obligation, covenant and agreement of the Mortgagor contained in the 2024 Loan Documents from and after the execution and delivery thereof, including Master Obligation No. 1, Master Obligation No. 2 and all Obligations hereafter issued and Outstanding under the Master Trust Indenture;

(b) performance of every obligation, covenant and agreement of the Mortgagor contained in any of the 2024 Loan Documents or in any other agreement or instrument now or hereafter executed by the Mortgagor which recites that the obligations thereunder are secured by this Mortgage; and

(c) payment of all sums, with interest thereon at the rate set forth in the 2024 Loan Documents that may become due and payable to or for the benefit of the Mortgagee pursuant to the terms of this Mortgage; and

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TOGETHER WITH all buildings, structures, surface parking and other improvements of every kind and description now or hereafter erected or placed on the Land, all additions, alterations and replacements thereto or thereof, and all materials now owned or hereafter acquired by the Mortgagor and intended for the operation, construction, reconstruction, alteration and repair thereof, all of which materials shall be deemed to be included within the Mortgaged Property immediately upon the delivery thereof to the Land, but specifically excluding therefrom that certain modular building located at 321 Northern Boulevard, Albany, leased by Mortgagor from Williams Scotsman (all of which are hereinafter called collectively the "Improvements") and, the Improvements and the Land are hereinafter called the "Premises"), and

TOGETHER WITH all of the walks, fences, shrubbery, driveways, fixtures, machinery, apparatus, equipment, fittings, and other goods of every kind and description whatsoever, now owned or hereafter acquired by the Mortgagor and attached to or contained in and used for any present or future operation or management of the Land or the Improvements, including, without limitation, all lighting, laundry, incinerating and power equipment; all engines, boilers, machines, motors, furnaces, compressors and transformers; all generating equipment; all pumps, tanks, ducts, conduits, wires, switches, fans, switchboards, and other electrical equipment and fixtures; all telephone equipment; all piping, tubing, plumbing equipment and fixtures; all heating, refrigeration, air conditioning, cooling, ventilating, sprinkling, water, power and communications equipment, systems and apparatus; all water coolers and water heaters; all fire prevention, alarm and extinguishing systems and apparatus; all cleaning equipment; all lift, elevator and escalator equipment and apparatus; all partitions, shades, blinds, awnings, screens, screen doors, storm doors, exterior and interior signs, gas fixtures, stoves, ovens, refrigerators, garbage disposals and compactors, dishwashers, cabinets, mirrors, mantles, floor coverings, carpets, rugs, draperies and other furnishings and furniture installed or to be installed or used or usable in any way in the operation of any Improvements or appurtenant facilities erected or to be erected in or upon the Land; and every renewal, replacement or substitution thereof, whether or not the same are now or hereafter attached to the Land in any manner; all except for any right, title or interest therein held by any tenant of any or all of the Land or the Improvements, or by any other person, so long as such tenant or other person is not a party hereto or bound, with respect to such right, title or interest, by the provisions hereof (it being agreed by the parties hereto that all personal property owned by the Mortgagor and placed by it on the Land shall, so far as permitted by law, be deemed to be affixed to the Land, appropriated to its use, and covered by this Mortgage), and

TOGETHER WITH all of the Mortgagor's right, title and interest in and to any and all easements and appurtenances, including, without limitation, any easements and agreements which are or may be established to allow satisfactory ingress to, egress from and operation of the Land and the Improvements, and

TOGETHER WITH any and all judgments, awards of damages (including but not limited to severance and consequential damages), payments, proceeds, settlements or other compensation heretofore or hereafter made, including interest thereon, and the right to receive the same, as a result of, in connection with, or in lieu of (a) any condemnation, either temporarily or permanently, (b) any change or alteration of the grade or widening of any street or road, and (c) any other damage, destruction, or injury to, or decrease in value of, the Land or the Improvements or any part thereof, to the extent of all Secured Obligations at the date of receipt by the Mortgagee of any such judgment, award of damages, payment, proceeds, settlement or other compensation, including interest thereon, and of the reasonable counsel fees, costs and disbursements, if any, incurred by the Mortgagee in connection with the collection of such judgment, award of damages, payment, proceeds, settlement or other compensation, including interest thereon, and

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(d) the reimbursement of the Mortgagee for all money advanced, as provided herein, and all expenses (including, reasonable attorneys' fees) incurred or paid by, the Mortgagee on account of any action (whether formal litigation or otherwise) that may arise in connection with this Mortgage, the 2024 Loan Documents or the Mortgaged Property, or in obtaining possession of the Mortgaged Property as hereinafter provided.

The obligations described in subparagraphs (a) through (d) above shall hereinafter be referred to collectively as the "Secured Obligations."

TO PROTECT THE SECURITY GRANTED BY THIS MORTGAGE, THE MORTGAGOR, AGREES AS FOLLOWS:

ARTICLE I

REPRESENTATIONS, COVENANTS AND AGREEMENTS OF THE MORTGAGOR

**SECTION 1.01. REPRESENTATIONS AND WARRANTIES OF MORTGAGOR.** The Mortgagor does hereby represent and warrant that:

(a) The Mortgagor is a not-for-profit education corporation and a public charter school duly organized, validly existing and in good standing under the laws of the State, is duly qualified to do business and in good standing under the laws of the State, is not in violation of any provision of the Mortgagor's Organizational Documents, has the requisite corporate power and authority to own its property and assets, to carry on its business as now being conducted by it and to execute, deliver and perform this Mortgage and each other 2024 Loan Document to which it is or shall be a party.

(b) The execution, delivery and performance of this Mortgage and each other 2024 Loan Document to which the Mortgagor is or shall be a party and the consummation of the transactions herein and therein contemplated will not (x) violate any provision of law, any order of any court or agency of government, or any of the Mortgagor's Organizational Documents, or any indenture, agreement or other instrument to which the Mortgagor is a party or by which it or any of its property is bound or to which it or any of its property is subject, (y) be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument, or (z) result in the imposition of any lien, charge or encumbrance of any nature whatsoever other than Permitted Liens.

(c) There is no action or proceeding pending or, to the best of the Mortgagor's knowledge, after diligent inquiry, threatened by or against the Mortgagor by or before any court or administrative agency that would adversely affect the ability of the Mortgagor to perform its obligations under this Mortgage or any other 2024 Loan Document to which it is or shall be a party.

(d) The Mortgagor has obtained all authorizations, consents and approvals of governmental bodies or agencies required to be obtained by the Mortgagor as of the Closing Date in connection with the execution and delivery of this Mortgage and each other 2024 Loan Document to which the Mortgagor is a party or in connection with the performance of the obligations of the Mortgagor hereunder and under each of the 2024 Loan Documents.

(e) This Mortgage and the other 2024 Loan Documents to which the Mortgagor is a party (x) have been duly authorized by all necessary action on the part of the Mortgagor, (y) have been duly executed and delivered by the Mortgagor, and (z) constitute the legal, valid and binding obligations of the Mortgagor, enforceable against the Mortgagor in accordance with their respective terms.

(f) The assumption by the Mortgagor of its obligations hereunder will result in a direct financial benefit to the Mortgagee.

(g) The Mortgagor has power to enter into and perform this Mortgage, to create, pledge and grant the mortgage, pledge, assignment and security interest in the Mortgaged Property as provided in this Mortgage, and to own its property and assets.

(h) The Mortgagor is vested with good and marketable fee title to the Mortgaged Property, subject to no mortgage, lien, charge, pledge, assignment, security interest, conditional sale agreement or encumbrance of any kind whatsoever, other than Permitted Liens.

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assignment of the Mortgaged Property in extinguishment, in whole or in part, of the Secured Obligations, all right, title and interest of the Mortgagor in and to all policies of property insurance maintained with respect to all or any portion of the Mortgaged Property and all other policies of insurance required by the 2024 Loan Agreement and relating to the Mortgaged Property shall inure to the benefit of and pass to the successor in interest to the Mortgagor or the purchaser or mortgagee of the Mortgaged Property, to the extent the same may be assigned.

**SECTION 1.07. CONDEMNATION.** The Mortgagor shall promptly notify the Mortgagee if the Mortgagor shall become aware of the threat or institution of any proceeding or negotiations for the taking of the Mortgaged Property, or any part thereof, whether for permanent or temporary use and occupancy in condemnation or by the exercise of the power of eminent domain or by agreement of interested parties in lieu of such condemnation (all the foregoing herein called a "taking"); shall keep the Mortgagee currently advised, in detail, as to the status of such proceedings or negotiations and will promptly give to the Mortgagee copies of all notices, pleadings, judgments, determinations and other papers received or delivered by the Mortgagor therein. Mortgagee shall have the right to appear and participate in any proceedings or negotiations in connection with a taking, and in connection with such proceedings the Mortgagee may be represented by counsel of its choice. The Mortgagor will not, without the Mortgagee's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed so long as no Event of Default is continuing, enter into any agreement for the taking of the Mortgaged Property, or any part thereof, with anyone authorized to acquire the same by eminent domain or in condemnation.

**SECTION 1.08. OBLIGATIONS UNCONDITIONAL; WAIVER OF OFFSET.** All sums payable by the Mortgagor under this Mortgage shall be paid without notice, demand, counterclaim, set-off, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of the Mortgagor hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein or in any of the 2024 Loan Documents) by reason of: (i) any damage to or destruction of or any condemnation or similar taking of the Mortgaged Property or any part thereof; (ii) any restriction or prevention of or interference by any third party with any use of the Mortgaged Property or any part thereof; (iii) any title defect or encumbrance or any eviction from the Premises or the Improvements or any part thereof by title paramount or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to the Mortgagee, or any action taken with respect to this Mortgage by a trustee or receiver of the Mortgagee, or by any court, in any such proceeding; (v) any claim which the Mortgagor has or might have against the Mortgagee; (vi) any default or failure on the part of the Mortgagee to perform or comply with any of the terms hereof; (vii) any default or failure on the part of the Mortgagee to perform or comply with any of the terms of any other agreement with the Mortgagor; (viii) any homestead or similar rights; or (ix) any other occurrence whatsoever, whether similar or dissimilar to the foregoing; provided that the Mortgagor has notice or knowledge of any of the foregoing. Except as expressly provided herein, the Mortgagor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sum secured hereby and payable by the Mortgagor.

**SECTION 1.09. TAXES AND IMPOSITIONS.**

(a) The Mortgagor shall not suffer, permit or initiate the joint assessment of any real or personal property which may constitute all or a portion of the Mortgaged Property or suffer, permit or initiate any other procedure whereby the lien of the real property taxes and the lien of the personal property taxes shall be assessed, levied or charged to the Mortgaged Property as a single lien, provided, however, that the Mortgagor shall have the right before any delinquency occurs to contest or object to the amount or validity of any such taxes, assessments or charges by appropriate proceedings, but this shall not be deemed or construed in any way as relieving, modifying or extending the Mortgagor's covenant to pay any such taxes, assessments or charges at the time and in the manner provided in this Section 1.09.

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(i) The Mortgagor is, as of the Closing Date, and after giving effect to all instruments evidencing or securing the Secured Obligations will be, in a solvent condition.

(j) The execution and delivery of this Mortgage does not constitute a "fraudulent conveyance" within the meaning of Title 11 of the United States Code as so constituted or under any other applicable law.

(k) No bankruptcy or insolvency proceedings are pending or contemplated by or, to the best knowledge of the Mortgagor, against, the Mortgagor.

(l) This Mortgage does not give any Person other than the Mortgagee the right to payment of the Secured Obligations.

(m) The Mortgagor is duly authorized to mortgage and grant a security interest in the Mortgaged Property, and this Mortgage is a valid lien upon the Mortgaged Property, subject only to Permitted Liens.

**SECTION 1.02. PAYMENT AND PERFORMANCE OF SECURED OBLIGATIONS.** The Mortgagor shall pay and perform when due all of the Secured Obligations, including all of the Mortgagor's obligations under the Master Trust Indenture and all of the other 2024 Loan Documents, in accordance with the terms thereof.

**SECTION 1.03. MAINTENANCE, REPAIR, ALTERATIONS.** The Mortgagor (i) shall maintain, keep and preserve the Mortgaged Property in accordance with the terms of the 2024 Loan Agreement and this Mortgage; (ii) shall not commit or permit any waste or deterioration of the Mortgaged Property; (iii) shall comply with the provisions of all Leases; (iv) shall not abandon the Mortgaged Property or any portion thereof or leave the Premises vacant or deserted; (v) shall not initiate, join in or affirmatively consent to any change in any zoning ordinance, general plan, specific plan, private restrictive covenant or other public or private restriction limiting the uses which may be made of the Premises other than Permitted Liens; (vi) shall secure and maintain in full force and effect all permits necessary for the use, occupancy and operation of the Premises; (vii) shall not cause or permit any fixture or any article of Personal Property (as defined in Article 4 below) to be removed from the Premises without the prior written consent of the Mortgagee except in accordance with Section 4.02(a); and (viii) except as otherwise prohibited or restricted by the 2024 Loan Documents, shall do any and all other acts which may be reasonably necessary to protect and preserve the value of the Mortgaged Property and the rights of the Mortgagee with respect thereto.

**SECTION 1.04. REQUIRED INSURANCE.** The Mortgagor shall at all times provide, maintain and keep in force, or cause to be provided, maintained and kept in force, at no expense to the Mortgagee, policies of insurance in form and amounts, issued by such insurance companies, associations or organizations, and covering such casualties, risks, perils, liabilities and other hazards as are required under Section 6.3 of the 2024 Loan Agreement.

**SECTION 1.05. CASUALTIES; INSURANCE PROCEEDS.** If there shall occur any loss of title or any loss of or damage to or destruction of all or any portion of the Mortgaged Property (any of the foregoing, a "Casualty Event"), the Mortgagor shall promptly send to the Mortgagee a written notice setting forth the nature and extent thereof. The proceeds payable in respect of any such Casualty Event are hereby assigned and shall be paid to the Mortgagee.

**SECTION 1.06. ASSIGNMENT OF POLICIES UPON FORECLOSURE.** In the event of foreclosure of this Mortgage, exercise of the power of sale hereunder or other transfer of title or

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(b) The Mortgagor hereby agrees to pay and indemnify the Mortgagee from the payment of all documentary stamp taxes and intangible taxes that may be levied upon the holder of the Secured Obligations, the indebtedness evidenced by the other 2024 Loan Documents, the making or recording of this Mortgage or any evidence of indebtedness secured hereby, or, except as otherwise expressly provided therein, the transactions contemplated by the 2024 Loan Agreement, this Mortgage or any of the other 2024 Loan Documents, including interest, penalties and costs. The Mortgagor agrees to pay the Mortgagee reasonable attorneys' fees and costs incurred in connection with any inquiry from or assertion by governmental authority that any such taxes have not been paid promptly when due.

**SECTION 1.10. UTILITIES.** The Mortgagor shall pay or cause to be paid prior to delinquency all utility charges incurred by the Mortgagor for the benefit of the Mortgaged Property or which may become a charge or lien against the Mortgaged Property for gas, electricity, water or sewer services furnished to the Mortgaged Property and all other assessments or charges of a similar nature, whether public or private, affecting or related to the Premises or any portion thereof, whether or not such taxes, assessments or charges are or may become liens thereon.

**SECTION 1.11. ACTIONS AFFECTING MORTGAGED PROPERTY.** The Mortgagor shall give the Mortgagee prompt written notice of the assertion of any claim with respect to, or the filing of any action or proceeding purporting to affect, the Mortgaged Property, the security of this Mortgage or the rights or powers of the Mortgagee. The Mortgagor shall appear in and contest, in accordance with the reasonable direction of the Mortgagee, any such action or proceeding and shall pay all costs and expenses, including costs of evidence of title and attorneys' fees, in any such action or proceeding.

**SECTION 1.12. TRANSFER OF MORTGAGED PROPERTY BY THE MORTGAGOR.** The Mortgagor shall not transfer the Mortgaged Property or any portion thereof or interest therein without the prior written consent of the Mortgagee. In the event of any transfer of the Mortgaged Property or any portion thereof or interest therein, the Mortgagee shall have the absolute right, without prior demand or notice, to declare all of the Secured Obligations for which the Mortgagor is then liable to be immediately due and payable. Consent to one such transfer shall not be deemed to be a waiver of the Mortgagee's right to require consent to future or successive transfers. With respect to any transfer that requires the consent of the Mortgagee, the Mortgagee may grant or deny such consent in its sole and absolute discretion, and may charge a fee in connection with such request for consent. If consent is given, and if this Mortgage is not released to the extent of the transferred portion of the Mortgaged Property by a writing executed by the Mortgagee and recorded in the proper city, town, or county records, then any such transfer shall be subject to this Mortgage, and any such transferee shall, by accepting such transfer, assume all obligations hereunder and agree to be bound by all provisions contained herein. Such assumption shall not, however, release the Mortgagor or any maker or guarantor of any of the Secured Obligations from any liability hereunder or thereunder prior to the date of such transfer without the prior written consent of the Mortgagee. The covenants contained in this Section shall run with the Land and shall remain in full force and effect until all of the Secured Obligations are fully paid and fully performed. The Mortgagee may, without notice to the Mortgagor, deal with any transferees with reference to the Secured Obligations in the same manner as the Mortgagor, without in any way altering or discharging the Mortgagor's liability with respect thereto.

**SECTION 1.13. FULL PERFORMANCE REQUIRED; SURVIVAL OF WARRANTIES.** All obligations, representations, warranties and covenants of the Mortgagor contained in any 2024 Loan Document shall survive the execution and delivery of this Mortgage and shall remain continuing obligations, warranties, representations and covenants of the Mortgagor so long as any portion of the Secured Obligations remains Outstanding, and the Mortgagor shall fully and faithfully satisfy and perform all such obligations, representations, warranties and covenants.

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**SECTION 1.14. LIENS.** Except for Permitted Liens, the Mortgagor shall not create, incur, or permit to exist any lien, encumbrance or charge upon the Mortgaged Property, or any portion thereof or interest therein (individually, a "Lien" or "Encumbrance" and collectively, "Liens" or "Encumbrances"). If the Mortgagor fails to promptly remove and discharge any Lien or Encumbrance (except for Permitted Liens) by payment, bond or otherwise to the reasonable satisfaction of the Mortgagee or contest the same in good faith to the reasonable satisfaction of the Mortgagee (which may require the same to be bonded over), then such uncured failure shall be deemed an Event of Default; provided if such Lien or Encumbrance cannot be cured by monetary payment and such failure cannot be cured within thirty (30) days following Mortgagor becoming aware thereof, Mortgagor shall deliver written notice to Mortgagee and have an additional thirty (30) days to cure such failure so long as Mortgagor is diligently pursuing a cure for such failure before such uncured failure shall be deemed to be an Event of Default. In addition to any other right or remedy of the Mortgagee, the Mortgagee may, but shall not be obligated to, take such action at the direction of the Mortgagee as the Mortgagee deems warranted to discharge any Lien or Encumbrance either by paying the amount claimed to be due, or by procuring the discharge of such Lien or Encumbrance by depositing in a court a bond or the amount claimed or otherwise giving security for such claim, or by procuring such discharge in such manner as is or may be prescribed by law. The Mortgagor shall, within thirty (30) days of demand therefor by the Mortgagee, pay to the Mortgagee an amount equal to all out-of-pocket costs and expenses incurred by the Mortgagee in connection with the exercise by the Mortgagee of the foregoing right to discharge any such Lien or Encumbrance, together with interest thereon from the date of such expenditure to the date of payment at the Default Interest Rate.

**SECTION 1.15. MORTGAGOR'S POWERS.** None of the following actions by or caused by the Mortgagee, with or without notice to any person, shall have any effect on either (a) the liability of any other person liable for the payment of any of the Secured Obligations, or (b) the lien or charge of this Mortgage upon any portion of the Mortgaged Property not then or theretofore released as security for the full amount of all unpaid or unperformed Secured Obligations: (i) the release of any person so liable, (ii) the extension of the maturity or the alteration of any of the terms of any of the Secured Obligations, (iii) the grant of any other indulgences, (iv) the release or reconveyance of all or any portion of the Mortgaged Property, (v) the taking or release of any other or additional security for any of the Secured Obligations, or (vi) the making of arrangements with debtors in relation thereto.

**SECTION 1.16. MORTGAGOR REMAINS LIABLE.** Anything herein to the contrary notwithstanding, (a) the Mortgagor shall remain liable under all contracts and agreements relating to the Mortgaged Property, to the extent set forth therein, to perform all of its duties and obligations thereunder to the same extent as if this Mortgage had not been executed, (b) the exercise by the Mortgagee of any of its rights hereunder shall not release the Mortgagor from any of the Mortgagor's duties or obligations under any contracts and agreements related to the Mortgaged Property, and (c) the Mortgagee shall not have any obligations or liability under any of the contracts or agreements related to the Mortgaged Property by reason of this Mortgage and shall not be obligated to perform any of the obligations or duties of the Mortgagor thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

**SECTION 1.17. WARRANTIES AND REPRESENTATIONS OF MORTGAGOR.** The Mortgagor further represents and warrants to the Mortgagee as follows:

(a) The Mortgagor is the owner of a good and valid fee simple interest in the Land, the owner of the remainder of the Mortgaged Property free and clear of any lien, security interest, charge or encumbrance, except for the lien and charge of this Mortgage and the Permitted Liens and will warrant and defend title to the Mortgaged Property against all claims and demands (subject to the Permitted Liens).

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requirements; dispossession of Mortgagor if necessary to remedy an emergency condition; payments of amounts due on liens having priority over this Mortgage if such lien constitutes a default pursuant to this Mortgage; curing any default by Mortgagor under any of the 2024 Loan Documents including this Mortgage; payment of any tax or charge for purposes of assuring the priority or enforceability of this Mortgage; payment of any tax or charge for purposes of assuring the priority or enforceability of this Mortgage if failure to pay such tax by Mortgagor is a default pursuant to this Mortgage; obtaining insurance on the Mortgaged Property; or commencement or defense of any legal action or proceeding to assert or protect the validity or priority of the lien of this Mortgage. Mortgagor agrees to reimburse the Mortgagee for all expenses in taking any such action, on demand, with interest at the Default Interest Rate and the amount thereof shall be secured by this Mortgage and shall, to the extent permitted by law, be in addition to the maximum amount of the Secured Obligations heretofore stated.

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(b) The Mortgagor has good, right and lawful authority to encumber the Mortgaged Property with and grant the lien and charge created by this Mortgage, and the execution, delivery and performance by the Mortgagor of this Mortgage have been duly authorized by all necessary parties and do not and will not (i) violate the articles of incorporation, charter or by-laws of the Mortgagor or any provision of any law, rule or regulation, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to the Mortgagor, or (ii) result in a breach of or constitute a default under any material indenture or loan or credit agreement or any other material agreement, lease or instrument to which the Mortgagor is a party or by which the Mortgagor or its properties may be bound or affected. The Mortgagor will warrant and defend its title to the Mortgaged Property against claims of all persons and entities whomsoever (other than Permitted Liens), and the Mortgagor will maintain and preserve the lien and charge of this Mortgage so long as any of the Secured Obligations is outstanding.

(c) No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body, other than the recordation of this Mortgage in the official records of the city, town or county in which the Mortgaged Property is located, is required (i) for the grant by the Mortgagor of the lien created hereby or for the execution, delivery and performance by the Mortgagor of this Mortgage, or (ii) for the perfection of the security interests granted hereunder or the exercise by the Mortgagee of the rights and remedies conferred hereunder (except as may be required by the express terms of this Mortgage).

**SECTION 1.18. FURTHER ACTS.** The Mortgagor shall do and perform all acts necessary to keep valid and effective the charges and lien hereof and to carry into effect its objectives and purposes, in order to protect the Mortgagee. Promptly upon written request, from time to time, of the Mortgagee and at the Mortgagor's expense, the Mortgagor shall execute, acknowledge and deliver to the Mortgagee such other and further instruments and do such other acts as in the opinion of the Mortgagee may be reasonably necessary or appropriate to (a) grant to the Mortgagee the priority perfected lien and security interest in respect of the Mortgaged Property to secure all of the Secured Obligations, (b) grant to the Mortgagee, to the fullest extent permitted by applicable law, the right to foreclose on the Mortgaged Property judicially or nonjudicially or to exercise the power of sale, (c) correct any defect, error or omission which may be discovered in the contents of this Mortgage (including all exhibits and/or schedules hereto) or any of the other 2024 Loan Documents, (d) identify more fully and subject to the liens, encumbrances and security interests and assignments created hereby and properly intended by the terms hereof to be covered hereby (including any renewals, additions, substitutions, replacements or apportionments to the Mortgaged Property), (e) assure the intended priority of this Mortgage and of such liens, encumbrances, security interests and assignments, and (f) otherwise effect the intent of this Mortgage. Without limiting the generality of the foregoing, the Mortgagor, upon the Mortgagee's written request, at such times and as often as may be reasonably necessary, and, to the extent consistent with applicable law, at the Mortgagor's own expense, shall promptly record, re-record, file and refile in such offices, this Mortgage, and every other instrument in addition or supplemental hereto, including applicable financing statements, as may be necessary to create, perfect, maintain and preserve the liens, encumbrances and security interests (and priority thereof) intended to be created hereby and the rights and remedies of the Mortgagee hereunder. Upon written request by the Mortgagee, the Mortgagor shall supply evidence of fulfillment of its obligations under this Section 1.17.

**SECTION 1.19. PROTECTIVE ACTION.** Mortgagee may take such action as the Mortgagee deems reasonably appropriate upon ten (10) days prior written notice to Mortgagor (except that no such prior notice shall be required if in the reasonable judgment of Mortgagee an emergency condition shall exist that threatens to do severe damage to or destruction of the Mortgaged Property) to protect the Mortgaged Property or the status or priority of the lien of this Mortgage thereon including, but not limited to, entry upon the Mortgaged Property to protect it from deterioration or damage, or to cause the Mortgaged Property to be put in compliance with any governmental, insurance rating or contract

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## ARTICLE II

### ASSIGNMENT OF RENTS, LEASES AND OTHER AGREEMENTS

**SECTION 2.01. ASSIGNMENT OF RENTS AND LEASES, ISSUES AND PROFITS.** As part of the consideration for the Secured Obligations, and not as additional security therefor, the Mortgagor hereby irrevocably, absolutely, presently, and unconditionally assigns to the Mortgagee all of the Rents and hereby gives to and confers upon the Mortgagee the right, power and authority to collect such Rents. The Mortgagor irrevocably appoints the Mortgagee its true and lawful attorney-in-fact, at any time and from time to time, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue in its name or in the name of the Mortgagor, for all such Rents, and apply the same to the payment of the Secured Obligations; provided, however, that the Mortgagor shall have and is hereby granted the right, in the form of a revocable license, to enforce payment, give satisfactions, sue for and collect such Rents (but not more than one (1) month in advance unless the written approval of the Mortgagee has first been obtained), and to retain and enjoy the same, so long as an Event of Default shall not have occurred hereunder and be continuing. The assignment of the Rents in this Article 2 is intended to be an absolute assignment from the Mortgagor to the Mortgagee and not merely the passing of a security interest. The Mortgagor and the Mortgagee further agree that, solely for the purposes of any bankruptcy of the Mortgagor or its general partners, during the term of this Mortgage, the Rents shall not constitute property of the Mortgagor (or of any estate of the Mortgagor) within the meaning of 11 U.S.C. §541, as amended from time to time.

**SECTION 2.02. COLLECTION UPON DEFAULT.** Upon the occurrence and during the continuation of an Event of Default hereunder beyond any applicable notice and cure periods, the license granted to the Mortgagor in Section 2.01 shall be automatically revoked without notice. The Mortgagee may, at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the Secured Obligations, enter upon and take possession of the Mortgaged Property, or any part thereof, and, with or without taking possession of the Mortgaged Property or any part hereof, in its own name sue for or otherwise collect such Rents (including those past due and unpaid, and all prepaid rents and all other monies which may have been or may hereafter be deposited with the Mortgagor by any lessee or tenant of the Mortgagor to secure the payment of any rent or for any services thereafter to be rendered by the Mortgagor for any other obligation of any tenant to the Mortgagor arising under any Lease). The Mortgagor agrees that, upon the occurrence of any Event of Default hereunder, the Mortgagor shall promptly deliver all such Rents and monies to the Mortgagee. The Mortgagee shall apply such Rents and monies (other than security deposits), less costs and expenses of operation and collection (including reasonable attorneys' fees whether or not suit is brought or prosecuted to judgment), to the payment of any Secured Obligations, in such order as the Mortgagee may determine, notwithstanding that said indebtedness or the performance of said obligation may not then be due. The collection of such Rents, or the entering upon and taking possession of the Mortgaged Property, or the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default or be deemed or construed to make the Mortgagee a mortgagee-in-possession of the Mortgaged Property or any portion thereof.

### SECTION 2.03. ASSIGNMENT OF LEASES.

(a) As part of the consideration for the Secured Obligations, Mortgagor absolutely and unconditionally assigns and transfers to Mortgagee all of Mortgagor's right, title and interest in, to and under the Leases, including Mortgagor's right, power and authority to modify the terms of any such Lease, or extend or terminate any such Lease. It is the intention of Mortgagor to establish a present, absolute and irrevocable transfer and assignment to Mortgagee of all of Mortgagor's right, title and

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interest in, to and under the Leases. Mortgagor and Mortgagee intend this assignment of the Leases to be immediately effective and to constitute an absolute present assignment and not an assignment for additional security only. For purposes of giving effect to this absolute assignment of the Leases, and for no other purpose, the Leases shall not be deemed to be a part of the "Mortgaged Property," as that term is defined in the granting clauses. However, if this present, absolute and unconditional assignment of the Leases is not enforceable by its terms under the laws of the State, then the Leases shall be included as a part of the Mortgaged Property and it is the intention of the Mortgagor that in this circumstance this Mortgage create and perfect a lien on the Leases in favor of Mortgagee, which lien shall be effective as of the date of this Instrument.

(b) Until the occurrence of an Event of Default and the continuation thereof beyond any applicable notice and cure periods, Mortgagor shall have all rights, power and authority granted to Mortgagee under any Lease (except as otherwise limited by this Section or any other provision of this Mortgage), including the right, power and authority to modify the terms of any Lease or extend or terminate any Lease. Upon the occurrence of an Event of Default and the continuation thereof beyond any applicable notice and cure periods, the permission given to Mortgagee pursuant to the preceding sentence to exercise all rights, power and authority under Leases shall automatically terminate. Mortgagee shall comply with and observe Mortgagor's obligations under all Leases, including Mortgagor's obligations pertaining to the maintenance and disposition of tenant security deposits.

(c) Mortgagor acknowledges and agrees that the exercise by Mortgagee, either directly or by a receiver, of any of the rights conferred under this Section 2.03 shall not be construed to make Mortgagee a mortgagee-in-possession of the Mortgaged Property so long as Mortgagee has not itself entered into actual possession of the Land and the Improvements. The acceptance by Mortgagee of the assignment of the Leases pursuant to Section 2.03(a) shall not at any time or in any event obligate Mortgagee to take any action under this Mortgage or to expend any money or to incur any expenses. Mortgagee shall not be liable in any way for any injury or damage to person or property sustained by any person or persons, firm or corporation in or about the Mortgaged Property. Prior to Mortgagee's actual entry into and taking possession of the Mortgaged Property, Mortgagee shall not (i) be obligated to perform any of the terms, covenants and conditions contained in any Lease (or otherwise have any obligation with respect to any Lease); (ii) be obligated to appear in or defend any action or proceeding relating to the Lease or the Mortgaged Property; or (iii) be responsible for the operation, control, care, management or repair of the Property or any portion of the Mortgaged Property. The execution of this Mortgage by Mortgagor shall constitute conclusive evidence that all responsibility for the operation, control, care, management and repair of the Mortgaged Property is and shall be that of Mortgagor, prior to such actual entry and taking of possession.

(d) From and after the occurrence of an Event of Default beyond any applicable notice and cure periods, and without the necessity of Mortgagee entering upon and taking and maintaining control of the Mortgaged Property directly, by a receiver, or by any other manner or proceeding permitted by the laws of the State, Mortgagee immediately shall have all rights, powers and authority granted to Mortgagee under any Lease, including the right, power and authority to modify the terms of any such Lease, or extend or terminate any such Lease.

**SECTION 2.04. FURTHER ASSIGNMENTS.** Upon written demand of the Mortgagee, the Mortgagor shall, from time to time hereafter, execute and deliver to the Mortgagee recordable assignments of, or other agreements relating to, or affecting the use, occupancy, management or maintenance of, or services provided to, the Mortgaged Property or now or hereafter affecting the Mortgaged Property or any portion thereof. Each such assignment shall be made by an instrument (herein, an "Assignment") in form and substance satisfactory to the Mortgagee. The Mortgagee may exercise its rights hereunder or under any such Assignment, and such exercise shall not constitute a waiver of any

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employee, agent or servant of Mortgagor or of any successor entity on behalf of Mortgagor because of the creation of the obligations hereby authorized, or under or by reason of the obligations, covenants or agreements contained in this Mortgage; 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 this Mortgage, or under or by reason of the obligations, covenants or agreements contained in this Mortgage 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 Mortgagor of this Mortgage.

**SECTION 2.10. NO RECOURSE RELATING TO ISSUER.** (a) The obligations and agreements of the Issuer contained herein shall be deemed the obligations and agreements of the Issuer, and not of any member, officer, employee, servant or agent of the Issuer in his individual capacity, and the members, officers, employees, agent or servants of the Issuer shall not be liable personally hereon or be subject to any personal liability or accountability based upon or in respect hereof or of any transaction contemplated hereby.

(b) The obligations and agreements of the Issuer contained herein shall not constitute or give rise to an obligation of the State of New York or the City of Albany, New York, and neither the State or New York nor the City of Albany, New York shall be liable hereunder, and further, such obligations and agreements shall not constitute or give rise to a general obligation of the Issuer, but rather shall 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 Initial Project Facility (except for revenues derived by the Issuer with respect to the Unassigned Rights, as defined in the 2024 Loan Agreement).

(c) No order or decree of specific performance with respect to any of the obligations of the Issuer hereunder shall be sought or enforced against the Issuer unless (1) the party seeking such order or decree shall first have requested the Issuer in writing to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the Issuer shall have refused to comply with such request (or if compliance therewith would reasonably be expected to take longer than ten (10) days shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period, (2) 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 shall have placed in an account with the Issuer an amount or undertaking sufficient to cover such reasonable fees and expenses, and (3) 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 or employees shall be subject to potential liability, the party seeking such order or decree shall (i) agree to indemnify, defend 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 (ii) if requested by the Issuer shall furnish 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.

(d) The limitations on the liability of the Issuer contained in this Section 2.10 shall not be deemed to prevent the occurrence and full force and effect of any Event of Default pursuant to Section 3.03 hereof.

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right hereunder or thereunder. To the extent not inconsistent, all rights and remedies of the Mortgagee under any such Assignment and under this Mortgage shall be cumulative.

**SECTION 2.05. CHANGES IN LAWS REGARDING TAXATION.** In the event of the passage after the date of this Mortgage of any law of the State deducting from the value of real property for the purpose of taxation any lien or encumbrance thereon or changing in any way the laws for the taxation of mortgages or debts secured by mortgages for state or local purposes or the manner of the collection of any such taxes, and imposing a tax, either directly or indirectly, on this Mortgage or the indebtedness secured hereby, Mortgagor shall, if permitted by law, pay any tax imposed as a result of any such law within the statutory period or within thirty (30) days after demand by Mortgagee, whichever is less, provided, however, that if, in the opinion of the attorneys for Mortgage, Mortgagor is not permitted by law to pay such taxes, Mortgagee shall have the right, at its option, to declare the indebtedness secured hereby due and payable on a date specified in a prior notice to Mortgagee of not less than thirty (30) days.

**SECTION 2.06. NO CREDITS ON ACCOUNT OF THE DEBT.** Mortgagor will not claim or demand or be entitled to any credit or credits on account of the indebtedness secured hereby for any part of the taxes assessed against the Mortgaged Property or any part thereof and no deduction shall otherwise be made or claimed from the taxable value of the Mortgaged Property, or any part thereof, by reason of this Mortgage or the indebtedness secured hereby. If at any time this Mortgage shall secure less than all of the principal amount of the indebtedness secured hereby, it is expressly agreed that any repayment of the principal amount of such indebtedness shall not reduce the amount of the lien of this Mortgage until the lien amount shall equal the outstanding principal amount of such indebtedness.

**SECTION 2.07. OFFSETS, COUNTERCLAIMS AND DEFENSES.** Any assignee of this Mortgage shall take the same free and clear of all offsets, counterclaims or defenses of any nature whatsoever which Mortgagor may have against any assignor of this Mortgage, and no such offset, counterclaim or defense shall be interposed or asserted by Mortgagor in any action or proceeding brought by any such assignee upon this Mortgage and any such right to interpose or assert any such offset, counterclaim or defense in any such action or proceeding is hereby expressly waived by Mortgagor.

**SECTION 2.08. WAIVER OF STATUTORY RIGHTS.** Mortgagor shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws to the full extent that Mortgagor may do so under applicable law. Mortgagor for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Mortgaged Property marshaled upon any foreclosure of the lien of this Mortgage and agrees that any court having jurisdiction to foreclose such lien may order the Mortgaged Property sold as an entirety. Mortgagor hereby waives for itself and all who may claim through or under it, and to the full extent Mortgagor may do so under applicable law, any and all rights of redemption from sale under any order of decree of foreclosure of this Mortgage or granted under any statute now existing or hereafter enacted.

**SECTION 2.09. NO RECOURSE RELATING TO MORTGAGOR.** All covenants, stipulations, promises, agreements and obligations of Mortgagor contained in this Mortgage shall be deemed to be the covenants, stipulations, promises, agreements and obligations of Mortgagor and not of any officer, director, employee, agent or servant of Mortgagor in his individual capacity, and no recourse under or upon any obligation, covenant or agreement in this Mortgage contained herein or otherwise based upon or in respect of this Mortgage, or for any claim based hereon or thereon or otherwise in respect hereof, shall be had against any past, present or future officer, director, employee, agent or servant as such, of Mortgagor or of any successor entity on behalf of Mortgagor, it being expressly understood that no such personal liability whatever shall attach to, or is or shall be incurred by, any such officer, director,

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## ARTICLE III

### REMEDIES UPON DEFAULT

**SECTION 3.01. EVENT OF DEFAULT.** The term "Event of Default", as used herein means an "Event of Default" as defined in any of the 2024 Loan Documents.

**SECTION 3.02. ACCELERATION UPON DEFAULT.** Upon the occurrence of an Event of Default and the continuation thereof beyond any applicable notice and cure periods, the Mortgagee may declare all Secured Obligations to be immediately due and payable without any presentment, demand, protest or notice of any kind; provided no such declaration shall be required, and acceleration shall be deemed to have occurred, if the default is an event set forth in Section 4.01 of the Master Trust Indenture.

### SECTION 3.03. REMEDIES.

(a) Upon the occurrence of an Event of Default and the continuation thereof beyond any applicable notice and cure periods, the Mortgagee may either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security,

(i) enter upon the Premises and take possession of the Mortgaged Property, or any part thereof, in its own name, and do any act which it deems necessary or desirable to preserve the value, marketability or rentability of the Mortgaged Property, or part thereof or interest therein, increase the income therefrom or protect the security hereof;

(ii) with or without taking possession of the Mortgaged Property, sue for or otherwise collect the Rents including those past due and unpaid, and apply the same, less costs and expenses of operation and collection including attorneys' fees, to the payment of any Secured Obligations, all in such order as the Mortgagee may determine;

(iii) specifically enforce any of the covenants hereof; or

(iv) exercise all other rights and remedies provided herein, in any of the other 2024 Loan Documents, or provided by law or equity.

(b) The entering upon the Premises and taking possession of the Mortgaged Property, the collection of such Rents and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default and, notwithstanding the continuance in possession, by the Mortgagee or a receiver of all or any portion of the Mortgaged Property or the collection, receipt and application of any of the Rents thereby, the Mortgagee shall be entitled to exercise every right provided for in any of the 2024 Loan Documents or by law upon occurrence of any Event of Default and the continuation thereof beyond any applicable notice and cure periods.

### SECTION 3.04. FORECLOSURE.

(a) When the Secured Obligations, or any part thereof, shall become due, whether upon maturity, by acceleration, or otherwise, the Mortgagee may institute an action of foreclosure against the Mortgaged Property, or take such other action at law or in equity of the enforcement of this Mortgage and realization on the Mortgaged Property or any other security herein or elsewhere provided for as the law may allow, and may proceed therein to final judgment and execution for the entire unpaid balance of

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the Secured Obligations, with interest from and after the occurrence of the Event of Default at the Default Interest Rate together with all other sums due by the Mortgagor in accordance with the provisions of this Mortgage and the other 2024 Loan Documents including all sums which may have been paid, incurred or advanced by or on behalf of the Mortgagee for taxes, water or sewer rents, charges or claims, payments of prior liens, insurance appraiser's charges, publication costs, and costs (which may be estimated as to items to be expended after entry of judgment) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title as the Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such judgment the true condition of the title to or the value of the Mortgaged Property, all costs of suit, together with interest at the Default Interest Rate on any judgment obtained by the Mortgagee from and after the date of such judgment including the period from and after the date of any judicial sale until actual payment is made of the full amount due the Mortgagee as a result of such sale, and a reasonable attorney's commission for collection.

(b) If any or all of the Mortgaged Property or any estate or interest therein is to be sold under the provisions of this Mortgage, by virtue of a judicial sale, it may be sold, as an entirety or in one or more parcels, by one sale or by several sales held at one time or at different times, with such postponement of any such sale as the Mortgagee may deem appropriate and without regard to any right of the Mortgagor or any other person to the marshaling of assets. The Mortgagee may bid and become the purchaser at any such sale.

(c) Upon any sale of the Mortgagor's interest in any or all of the Mortgaged Property, whether by other foreclosure or judicial proceedings, the proceeds of such sale, together with any other sum then held as security hereunder or due under any of the provisions hereof as part of the Mortgaged Property (after paying all expenses of sale, including reasonable attorneys' fees, and all taxes, assessments or impositions in connection with the Mortgaged Property which the Mortgagee deems it advisable or expedient to pay and all sums advanced, with interest thereon, as herein provided shall be applied) to the payment of the Secured Obligations then due and owing under the 2024 Loan Documents and secured hereby and interest thereon to the date of payment and prepayment fees, if any, paying over the surplus, if any, less the expense, if any, of obtaining possession, to the Mortgagor or any person entitled thereto upon the surrender and delivery to the purchaser of possession of the Mortgaged Property.

**SECTION 3.05. APPOINTMENT OF RECEIVER.** Upon the occurrence of an Event of Default hereunder and the filing of a suit or commencement of other judicial proceedings to enforce rights of Mortgagee under this Mortgage, Mortgagee shall be entitled, as a matter of right, without notice and without regard to the adequacy of any security for the debt secured hereby, to the appointment of a receiver or receivers of the Mortgaged Property and of the revenues and receipts thereof, pending the conclusion of such proceedings and any appeal therefrom, with such powers as the court making such appointment shall confer. The receiver shall be entitled to occupational rent from an owner/occupant and may upon non-payment of said rent evict the owner/occupant. The Mortgagee may apply for the appointment of a receiver of the Mortgaged Property and/or the Rents, without notice except as required by law, and shall be entitled to the appointment of the receiver as a matter of right, without consideration of the value of the Mortgaged Property, the solvency of any person liable for the payment of the Secured Obligations, or the effect of the receivership on the operation of the Mortgaged Property or the Mortgagor's business thereon. Further, Mortgagee may take possession of, all or any part of the Mortgaged Property, together with the books, papers and accounts of Mortgagor pertaining thereto, and hold, operate and manage the same, and from time to time to make all needed repairs and improvements as Mortgagee shall deem wise; and Mortgagee may sell the Mortgaged Property or any part thereof, or lease the Mortgaged Property or any part thereof in the name and for the account of Mortgagor, collect, receive and sequester the rents, revenues, earnings, income, products and profits therefrom, and pay out of the same all proper costs and expenses of taking, holding, leasing, selling and managing the Mortgaged

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have relieved Mortgagor from any responsibility therefor or given Mortgagee "control" over the Mortgaged Property or cause Mortgagee to be considered to be a mortgagee in possession, "owner" or "operator" of the Mortgaged Property for purposes of any environmental law.

Without limiting the generality of the foregoing, upon the occurrence of any Event of Default, Mortgagee may take such other actions or proceedings as Mortgagee deems necessary or advisable to protect its interest in the Mortgaged Property and ensure payment and performance of the Secured Obligations including, without limitation, appointment of a receiver (and Mortgagor hereby waives any right to object to such appointment and any requirement relating to the condition, value or adequacy of the Mortgaged Property) and exercise of any of Mortgagee's remedies provided in the 2024 Loan Documents, or in any document evidencing, securing or relating to any of the Secured Obligations available to a secured party under the Uniform Commercial Code in the State of New York or under other applicable law.

**SECTION 3.06. APPLICATION OF FUNDS AFTER DEFAULT.** Except as otherwise herein provided or provided in the other 2024 Loan Documents, upon the occurrence of an Event of Default and the continuation thereof beyond any applicable notice and cure periods, the Mortgagee may, at any time without notice, apply any or all sums or amounts received and held by the Mortgagee (other than the security deposits from tenant leases) to pay insurance premiums, taxes, assessments and other impositions in connection with the Mortgaged Property, or apply amounts received as rents or income of the Mortgaged Property, or as insurance or condemnation proceeds, and all other sums or amounts received by the Mortgagee from or on account of the Mortgagor or the Mortgaged Property, or otherwise, to any of the Secured Obligations then due and payable, in such manner and order as the Mortgagee may elect, notwithstanding that said indebtedness or the performance of said obligation may not yet be due. The receipt, use or application of any such sum or amount shall not be construed (i) to affect the maturity of any Secured Obligations or any of the rights or powers of the Mortgagee hereunder or under the terms of the 2024 Loan Documents; or (ii) any of the obligations of the Mortgagor or any guarantor hereunder or under the 2024 Loan Documents; or (iii) to cure or waive any default or notice of default hereunder or under any of the 2024 Loan Documents; or (iv) to invalidate any act of the Mortgagee.

**SECTION 3.07. COSTS OF ENFORCEMENT.** If any Event of Default occurs and continues beyond any applicable notice and cure periods, the Mortgagee may employ an attorney or attorneys to protect their respective rights hereunder. The Mortgagor agrees to pay to the Mortgagee, on demand, the fees and expenses of such attorneys and all other costs of enforcing the obligations secured hereby, including recording fees, receivers' fees and expenses, and all other expenses, of whatever kind or nature, incurred by the Mortgagee, in connection with the enforcement of the Secured Obligations, whether or not such enforcement includes the filing of a lawsuit. Until paid, such sums shall be secured hereby and shall bear interest, from date of expenditure, at the Default Interest Rate.

**SECTION 3.08. REMEDIES NOT EXCLUSIVE.** The Mortgagee shall be entitled to enforce payment and performance of any Secured Obligations and to exercise all rights and powers under this Mortgage or under any 2024 Loan Documents or other agreement or any law now or hereafter in force, notwithstanding some or all of the Secured Obligations may now or hereafter be otherwise secured, whether by guaranty, mortgage, deed of trust, deed to secure debt, pledge, lien, assignment or otherwise. Neither the acceptance of this Mortgage nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect the Mortgagee's rights to realize upon or enforce any other security now or hereafter held by the Mortgagee, it being agreed that the Mortgagee shall be entitled to enforce this Mortgage and any other security now or hereafter held by the Mortgagee in such order and manner as the Mortgagee in its sole discretion may direct. No remedy herein conferred upon or reserved to the Mortgagee is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition

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Property, including reasonable compensation to Mortgagee and its agents and counsel, and any charges hereunder, and any taxes and other charges prior to the lien of this Mortgage which Mortgagee may deem it wise to pay, and all expenses of such repairs and improvements, and apply the remainder of the moneys so received in accordance with the provisions of Section 3.06 hereof.

Notwithstanding anything herein contained to the contrary, Mortgagor and anyone claiming through or under Mortgagor (1) will not (a) at any time insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of any stay or extension or moratorium law, any exemption from execution or sale of the Mortgaged Property or any part thereof, wherever enacted, now or at any time hereafter in force, which may affect the covenants and terms of performance of this Mortgage, (b) claim, take or insist upon any benefit or advantage of any law now or hereafter in force providing for the valuation or appraisal of the Mortgaged Property, or any part thereof, prior to any sale or sales thereof which may be made pursuant to any provision hereof, or pursuant to the decree, judgment or order of any court of competent jurisdiction, or (c) after any such sale or sales, claim or exercise any right under any statute heretofore or hereafter enacted to redeem the Mortgaged Property so sold or any part thereof, (2) hereby expressly waive all benefit or advantage of any such law or laws, and (3) covenant not to hinder, delay or impede the execution of any power herein granted or delegated to Mortgagee, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted. Mortgagor, for itself and all who may claim under it, waives, to the extent that Mortgagor lawfully may, all right to have the Mortgaged Property marshaled upon any foreclosure hereof.

Upon and during the continuance of any Event of Default, Mortgagee shall be entitled to exercise any and all rights of a secured party with respect to the Mortgaged Property under the Uniform Commercial Code. Mortgagee may take possession of any of the Mortgaged Property and sell any portion of such property pursuant to the provisions of the New York Uniform Commercial Code and generally exercise any of such other rights and remedies with respect to such property as may be provided by said Code. Any requirement of such Uniform Commercial Code as to reasonable notice shall be met by delivering written notice to Mortgagor ten (10) days prior to any such sale. In the event of any foreclosure under this Mortgage, the Mortgaged Property may be sold in whole or in part as part of the realty or separately. Mortgagee shall also be entitled to take possession of, assemble and collect all or any portion of the Mortgaged Property and require Mortgagor to assemble the Mortgaged Property and make it available at any place Mortgagor may designate so as to allow Mortgagee to take possession of or dispose of all or any portion of the Mortgaged Property.

Upon and during the continuance of any Event of Default, Mortgagee shall be entitled to ask for, demand, collect, receive, compound and give acquaintance therefor or any part thereof, to extend the time of payment of, compromise or settle for cash, credit or otherwise, and upon any terms and conditions, any thereof, to endorse the name of Mortgagor on any checks, drafts or other orders or instruments for the payment of moneys payable to Mortgagee which shall be issued in respect thereof, to exercise and enforce any rights and remedies in respect thereof, to file any claims, commence, maintain or discontinue any actions, suits or other proceedings deemed by Mortgagee necessary or advisable for the purpose of collecting or enforcing payment and performance thereof, to make test verifications thereof or any portion thereof, to notify any or all account debtors thereunder to make payment thereof directly to Mortgagee for the account of Mortgagee and to require Mortgagor to forthwith give similar notice to the account debtors and to require Mortgagor forthwith to account for and transmit to Mortgagee in the same form as received all proceeds (other than physical property) or collection thereof received by Mortgagor and, until so transmitted, to hold the same in trust for Mortgagee and not commingle such proceeds with any other funds of Mortgagor.

Upon the occurrence of an Event of Default, Mortgagee may cause one or more environmental remedial actions to be taken, provided that the exercise of any of such remedies shall not be deemed to

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to every other remedy given hereunder now or hereafter existing at law or in equity or by statute. Every power or remedy given hereunder or under any of the 2024 Loan Documents to the Mortgagee or to which the Mortgagee may be otherwise entitled may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by the Mortgagee and the Mortgagee may pursue inconsistent remedies.

**SECTION 3.09. WAIVER OF MORATORIUM.** Mortgagor will not at any time insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of any stay or extension or moratorium law, or the exemption from execution from sale of any or all of the property, now or any time hereafter enacted or enforced, nor claim, take or insist upon the benefit of any law now or hereafter enacted or enforced providing for the valuation or appraisal of the Mortgaged Property or any part thereof prior to any sale or sales thereof which may be made pursuant to any provisions herein or pursuant to the decree, judgment or order of any court of competent jurisdiction; nor, after any sale or sales, claim or exercise any right under any statute heretofore or hereafter enacted or enforced to redeem the property so sold or any part thereof. Mortgagor, to the extent permitted by law, hereby expressly waives the benefit or advantage of any such law or laws and covenants not to delay or impede the execution of any power herein granted or delegated to Mortgagee.

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ARTICLE IV  
SECURITY AGREEMENT

**SECTION 4.01. CREATION OF SECURITY INTEREST.** The Mortgagor hereby grants to the Mortgagee a security interest in all rights, titles, interests, estates, power and privileges that the Mortgagor now has or may hereafter acquire in and to that portion of the Mortgaged Property, which, under applicable law, may be subject to a security interest under the Uniform Commercial Code of the State of New York (the "Personal Property") to secure the Secured Obligations. Notwithstanding the foregoing, Mortgagee acknowledges and agrees that the security interest in favor of Mortgagee created hereby shall not include any of the following: (a) that certain modular building located at 321 Northern Boulevard, Albany, New York leased from Williams Scotsman, (b) any monies provided, or to be provided, to the Mortgagor pursuant to Section 2856(1) of the New York Education Law, (c) all donor-designated philanthropic contributions or grants that are restricted as to use by the donor; (d) Federal funding under the Every Student Succeeds Act and any renewals thereof or like program, (e) State funding under the New York State Child Nutrition Program and any renewals thereof or like program, and (f) any other funding from State or Federal sources or any other grant funding, contributions or donations from any other source that is restricted as to use by such source (collectively, the "Excluded Collateral").

**SECTION 4.02. REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE MORTGAGOR.** The Mortgagor further hereby represents, warrants and covenants as follows:

(a) The tangible portion of the Personal Property shall be kept on or at the Premises and the Mortgagor shall not, without the prior written consent of the Mortgagee, remove the Personal Property or any portion thereof therefrom except such portions or items of Personal Property as are consumed or worn out in ordinary usage, all of which shall be promptly replaced by the Mortgagor with similar items of comparable value if required for the efficient operation of the Mortgaged Property.

(b) The Mortgagor shall promptly notify the Mortgagee of any material claim against the Personal Property adverse to the interest of the Mortgagee therein.

(c) Without the prior written consent of the Mortgagee, the Mortgagor shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in the Personal Property, including replacements and additions thereto.

**SECTION 4.03. USE OF PERSONAL PROPERTY BY THE MORTGAGOR.** Until the occurrence of an Event of Default and the continuation thereof beyond any applicable notice and cure periods, the Mortgagor may have possession of the Personal Property and use it in any lawful manner not inconsistent with this Mortgage and not inconsistent with any policy of insurance covering the Premises or the Personal Property.

**SECTION 4.04. REMEDIES UPON AN EVENT OF DEFAULT.**

(a) In addition to the remedies provided in Article 3, upon the occurrence of an Event of Default and during the continuation thereof beyond any applicable notice and cure periods, the Mortgagee may, at the Mortgagee's option, do any one or more of the following:

(i) Either personally, or by means of a court appointed receiver, take possession of all or any of the Personal Property and exclude therefrom the Mortgagor and all others claiming under the Mortgagor, and thereafter hold, store, use, operate, manage, maintain

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(iii) to be held as collateral for any obligation of the Mortgagor to the Mortgagee under the 2024 Loan Documents; and

(iv) the surplus, if any, shall be paid to the Mortgagor or to whosoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

(d) The Mortgagee shall have the right to enforce one or more remedies under this Section 4.04 successively or concurrently and such action shall not operate to stop or prevent the Mortgagee from pursuing any further remedy that it may have. Any repossession or retaking or sale of the Personal Property pursuant to the provisions hereof shall not operate to release the Mortgagor until full payment of any deficiency has been made in cash.

**SECTION 4.05. SECURITY AGREEMENT.** This Mortgage constitutes and shall be deemed to be a "security agreement" for all purposes of the Uniform Commercial Code; and the Mortgagee shall be entitled to all the rights and remedies of a "secured party" under the Uniform Commercial Code as to any Personal Property. Information concerning the security interest in Personal Property can be obtained from the Mortgagee at its address set forth in the opening paragraph of this Mortgage. The mailing address of the Mortgagor (debtor) is also set forth in the opening paragraph of this Mortgage.

**SECTION 4.06. FIXTURE FILING.** Some of the Personal Property is or is to become fixtures on the Premises and this instrument is to be recorded in the real estate records. This Mortgage is effective as a financing statement filed as a fixture filing, executed by the Mortgagor, as debtor, in favor of the Mortgagee, as secured party, with respect to all fixtures included in the Mortgaged Property and the Personal Property. Products of the collateral are also covered. Information concerning the security interest in fixtures can be obtained from the Mortgagee at its address set forth in the opening paragraph of this Mortgage. The mailing address of the Mortgagor (debtor) is also set forth in the opening paragraph of this Mortgage. The Mortgagor's organizational identification number is 20-1347748.

**SECTION 4.07. FINANCING STATEMENTS.** The Mortgagor hereby authorizes the Mortgagee to file any financing statements, as well as extensions, renewals and amendments thereof, and any reproductions of this Mortgage in such form as the Mortgagee may reasonably require to perfect a security interest with respect to such items. The Mortgagor shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements as the Mortgagee may require. The filing of such financing statements shall under no circumstance be construed as impairing either the Mortgagee's remedies or the priority of the lien granted hereby, and the Mortgagor agrees that all items of Personal Property are, and at all times, for all purposes and in all proceedings (both legal and equitable) shall be, at the election of the Mortgagee, regarded as part of the real estate encumbered by this Mortgage. It is understood and agreed that the Mortgagee shall have no duty or obligation to file financing statements hereunder, and such duty shall be solely that of the Mortgagor.

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and control, make repairs, replacements, alterations, additions and improvements to and exercise all rights and powers of the Mortgagor with respect to the Personal Property or any part thereof;

(ii) Without notice to or demand upon the Mortgagor, make such payments and do such acts as the Mortgagee may direct to protect the Mortgagee's security interest in the Personal Property (including paying, purchasing, contesting or compromising any Lien or Encumbrance (other than Permitted Liens), whether superior or inferior to such security interest) and in exercising any such powers or authority to pay all expenses (including litigation costs and reasonable attorneys' fees) incurred in connection therewith;

(iii) Require the Mortgagor from time to time to assemble the Personal Property, or any portion thereof, at a place designated by the Mortgagee and promptly deliver such Personal Property to the Mortgagee or an agent or representative designated by the Mortgagee;

(iv) Realize upon the Personal Property or any part thereof as herein provided or in any manner permitted by law and exercise any and all of the other rights and remedies conferred upon the Mortgagee by this Mortgage or by any of the other 2024 Loan Documents or by law, either concurrently or in such order as the Mortgagee may determine;

(v) Sell or cause to be sold in such order as the Mortgagee may determine, as a whole or in such parcels as the Mortgagee may determine, the Personal Property;

(vi) Sell, lease or otherwise dispose of the Personal Property at public or private sale, upon terms and in such manner as the Mortgagee may determine, and the Mortgagee may be a purchaser at any sale; and

(vii) Exercise any remedies of a secured party under the Uniform Commercial Code or any other applicable law.

The Mortgagee and its agents and representatives shall have the right to enter upon any or all of the Premises to exercise the Mortgagee's rights hereunder.

(b) Unless the Personal Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Mortgagee shall give the Mortgagor at least five (5) days' prior written notice of the time and place of any public sale of the Personal Property or other intended disposition thereof to be made, which notice the Mortgagor agrees is reasonable. Such notice may be mailed to the Mortgagor at its address set forth in the opening paragraph of this Mortgage.

(c) The proceeds of any sale under Section 4.04(a)(vii) shall be applied as follows:

(i) to the repayment of the costs and expenses of taking, holding and preparing for the sale and the selling of the Personal Property (including costs of litigation and reasonable attorneys' fees) and the discharge of all Impositions, Liens and Encumbrances, and claims thereof, if any, on the Personal Property prior to the security interest granted herein (except any Impositions or Liens and Encumbrances subject to which such sale shall have been made);

(ii) the payment of the Secured Obligations, including interest, in such order as the Mortgagee shall determine;

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ARTICLE V  
MISCELLANEOUS

**SECTION 5.01. AMENDMENTS.** No amendment or waiver of any provision of this Mortgage nor consent to any departure by the Mortgagor herefrom shall in any event be effective unless the same shall be in writing and signed by the Mortgagee, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

**SECTION 5.02. FUTURE ADVANCES.** Until this Mortgage is released of record, the Mortgagee may advance or re-advance additional sums of money to the Mortgagor from time to time and such advances or re-advances shall become part of the Secured Obligations secured hereby to the fullest extent permitted by law.

**SECTION 5.03. BUSINESS PURPOSE.** The Mortgagor hereby stipulates and warrants that the Secured Obligations are a commercial facility and that such facility is being granted solely to acquire or carry on a business, professional or commercial enterprise or activity.

**SECTION 5.04. MORTGAGOR WAIVER OF RIGHTS.** The Mortgagor waives, to the extent permitted by law, (a) the benefit of all laws now existing or that may hereafter be enacted providing for any appraisal before sale of any portion of the Mortgaged Property, (b) all rights of redemption, valuation, appraisal, stay of execution, notice of election to mature or declare due the whole of the indebtedness secured hereby and marshaling in the event of foreclosure of the liens hereby created, (c) all rights and remedies which the Mortgagor may have or be able to assert by reason of applicable laws pertaining to the rights and remedies of sureties, and (d) all homestead rights.

**SECTION 5.05. STATEMENTS BY THE MORTGAGOR.** The Mortgagor shall, within ten (10) business days after a request from the Mortgagee, deliver to the Mortgagee a written statement setting forth the then unpaid amounts of the Secured Obligations and stating whether any offset or defense exists against payment of such amounts.

**SECTION 5.06. NOTICES.** All notices, requests and demands to be made hereunder to the parties hereto shall be in writing and shall be given in the manner prescribed in the 2024 Loan Agreement, to the addresses provided therein.

**SECTION 5.07. CAPTIONS.** The captions or headings at the beginning of each Section hereof are for the convenience of the parties and are not a part of this Mortgage.

**SECTION 5.08. INVALIDITY OF CERTAIN PROVISIONS.** Every provision of this Mortgage is intended to be severable. In the event any term or provision hereof is declared to be illegal or invalid for any reason whatsoever by a court of competent jurisdiction, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable. If the lien of this Mortgage is invalid or unenforceable as to any part of the Secured Obligations, or if the lien is invalid or unenforceable as to any part of the Mortgaged Property, the unsecured or partially secured portion of the Secured Obligations shall be completely paid prior to the payment of the remaining secured or partially secured portion of the Secured Obligations, and all payments made under the Secured Obligations, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the Secured Obligations which is not secured or fully secured by the lien of this Mortgage.

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**SECTION 5.09. SUBROGATION.** To the extent that the Mortgagee pays any outstanding lien, charge or prior encumbrance against the Mortgaged Property, the Mortgagee shall be subrogated to any and all rights and liens held by any owner or holder of such outstanding liens, charges and prior encumbrances, irrespective of whether said liens, charges or encumbrances are released.

**SECTION 5.10. ATTORNEYS' FEES.** If the Secured Obligations are not paid when due or if any Event of Default occurs and continues beyond any applicable notice and cure periods, the Mortgagor agrees to pay all costs of enforcement and collection incurred by the Mortgagee, including reasonable attorneys' fees, whether or not such enforcement and collection includes the filing of a lawsuit. As used herein, the terms "attorneys' fees" and "attorneys' fees and costs" shall each mean the reasonable fees and expenses of counsel to the parties hereto, which may include printing, photocopying, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals, librarians and others not admitted to the bar but performing services under the supervision of an attorney. The terms "attorneys' fees" and "attorneys' fees and costs" shall also each include all such reasonable fees and expenses incurred with respect to appeals, arbitrations and bankruptcy proceedings, and whether or not any action or proceeding is brought with respect to the matter for which said fees and expenses were incurred and shall also include all such fees and expenses incurred in enforcing any judgment. This agreement to pay costs is part of and not a limitation on any obligation on the part of the Mortgagor to pay costs and expenses under the 2024 Loan Documents.

**SECTION 5.11. GOVERNING LAW, JURISDICTION.** THIS MORTGAGE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO ITS CONFLICT OF LAWS PRINCIPLES.

NOTWITHSTANDING THE FOREGOING, THE PARTIES STIPULATE AND AGREE THAT THE MORTGAGEE MAY ENFORCE, IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK, ANY OR ALL OF ITS RIGHTS TO SUE THE MORTGAGOR, TO COLLECT ANY INDEBTEDNESS IN NEW YORK OR ELSEWHERE, BEFORE OR AFTER FORECLOSURE, AND IF THE MORTGAGEE OBTAINS A DEFICIENCY JUDGMENT OUTSIDE OF THE STATE OF NEW YORK, THE MORTGAGEE MAY ENFORCE THAT JUDGMENT IN THE STATE OF NEW YORK, AS WELL AS IN OTHER STATES.

THE PARTIES HEREBY IRREVOCABLY CONSENT TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT IN ALBANY COUNTY, NEW YORK. The Parties acknowledge and agree that the venue provided above is the most convenient forum for both Mortgagor and Mortgagee. Mortgagor and Mortgagee waive any objection to venue and any objection based on a more convenient forum in any action instituted under this Mortgage.

**SECTION 5.12. CONSTRUCTION.** Whenever required by the context hereof, the singular shall be deemed to include the plural, and the plural shall be deemed to include the singular, and the masculine, feminine and neuter genders shall each be deemed to include the others. Except as otherwise indicated herein, all section and exhibit references in this Mortgage shall be deemed to refer to the sections and exhibits of and to this Mortgage, and the terms "herein", "hereof", "hereto", "hereunder" and similar terms refer to this Mortgage generally rather than to the particular provision in which such term is used. Whenever the words "including", "include" or "includes" are used in this Mortgage, they shall be interpreted as though immediately followed by the words "without limitation." As used herein, the word "person" includes corporation, partnership, limited liability company, and any other form of association, as well as any governmental or quasi-governmental body or agency.

**SECTION 5.13. NON-FOREIGN ENTITY.** Section 1445 of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code") provides that a transferee of a U.S. real property interest must

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**SECTION 5.15. SUCCESSORS AND ASSIGNS.** This Mortgage applies to, inures to the benefit of and binds the Mortgagor and the heirs, legatees, devisees, administrators, personal representatives, executors and the successors and assigns thereof, and the Mortgagee. The term "Mortgagee" means the Person named herein as the Mortgagee, and its successors-in-interest or assigns under the Master Trust Indentures from time to time, whether or not named as the Mortgagee herein and any such successor or assignee shall be for all purposes the sole Mortgagee after the date of such substitution. The term "Mortgagor" means the Mortgagor named herein and the successors-in-interest, if any, of the named the Mortgagor in and to the Mortgaged Property or any part thereof. If there is more than one Mortgagor hereunder, their obligations are joint and several.

**SECTION 5.16. NO MERGER OF LEASE.** Upon the foreclosure of the lien created by this Mortgage on the Mortgaged Property or the exercise of the power of sale granted hereunder pursuant to the provisions hereof, any Lease then existing and affecting all or any portion of the Mortgaged Property shall not be destroyed or terminated by application of the law of merger or as a matter of law or as a result of such foreclosure unless the Mortgagee or any purchaser at such foreclosure or exercise of the power of sale shall so elect. If both the lessor's and lessee's estate under any Lease or any portion thereof which constitutes a part of the Mortgaged Property shall at any time become vested in one owner, this Mortgage and the lien created hereby shall not be destroyed or terminated by application of the doctrine of merger unless the Mortgagee so elects as evidenced by recording a written declaration so stating, and, unless and until the Mortgagee so elects, the Mortgagee shall continue to have and enjoy all of the rights and privileges of the Mortgagee hereunder as to the separate estates.

**SECTION 5.17. COUNTERPARTS, ELECTRONIC SIGNATURES.** This Mortgage may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. To the fullest extent permitted by applicable law, electronically transmitted or facsimile signatures shall constitute original signatures for all purposes under this Mortgage.

**SECTION 5.18. INDEMNITY.**

(a) The Mortgagor shall indemnify, defend, protect and hold harmless the Mortgagee, its parents, subsidiaries, directors, officers, employees, representatives, agents, successors, and assigns from and against any and all liability, damage, loss, cost, or expense (including, without limitation, attorneys' fees and expenses), action, proceeding, claim or dispute incurred or suffered by the foregoing parties so indemnified except as the result of the gross negligence or willful misconduct of any party so indemnified, whether voluntarily or involuntarily incurred or suffered, in respect of the following:

(i) any litigation concerning this Mortgage or the Mortgaged Property, or any interest of the Mortgagor or the Mortgagee therein, or the right of occupancy thereof by the Mortgagor or the Mortgagee, whether or not such litigation is prosecuted to a final, non-appealable judgment;

(ii) any dispute among or between any of the constituent parties or other partners or ventures of the Mortgagor if the Mortgagor is a general or limited partnership, or among or between any employees, officers, directors, shareholders, members or managers of the Mortgagor if the Mortgagor is a corporation or limited liability company, or among or between any members, trustees or other responsible parties if the Mortgagor is an association, trust or other entity;

(iii) any action taken or not taken by the Mortgagee which is allowed or permitted under this Mortgage relating to the Mortgagor, the Mortgaged Property, any

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withhold tax if the transferor is a foreign person. To inform the Mortgagee that the withholding of tax will not be required in the event of the disposition of the Mortgaged Property pursuant to the terms of this Mortgage, the Mortgagor hereby certifies, under penalty of perjury, that the Mortgagor is not a foreign corporation, foreign partnership, foreign trust or foreign estate, as those terms are defined in the Internal Revenue Code and the regulations promulgated thereunder, that the Mortgagor's U.S. employer identification number and that the Mortgagor's principal place of business is as set forth on the first page of this Mortgage. It is understood that the Mortgagee may disclose the contents of this certification to the Internal Revenue Service and that any false statement contained herein could be punished by fine, imprisonment or both. The Mortgagor shall execute such further certificates, which shall be signed under penalty of perjury, as the Mortgagee shall reasonably require. The covenants set forth in this Section shall survive the foreclosure of the lien of this Mortgage or acceptance of a deed in lieu thereof.

**SECTION 5.14. ACCESS TO MORTGAGED PROPERTY AND DISSEMINATION OF INFORMATION.** The Mortgagor hereby authorizes the Mortgagee, any prospective bidder at any foreclosure sale, or in connection with the exercise of the power of sale hereunder, and their respective officers, directors, employees, agents and independent contractors, upon commercially reasonable prior notice, and so long as such persons do not unreasonably interfere with the Mortgagor's operations on the Premises (which may include endeavoring to limit such access during school instructional hours) or the rights of tenants, to enter upon all or any portion of the Premises at any time and from time to time (following the occurrence of an Event of Default and the continuation thereof beyond any applicable notice and cure periods) for the purpose of conducting such tests, inspections, inquiries, examinations, studies, analyses, samples, surveys and other information-gathering activities (collectively, "Tests and Studies") with respect to the Premises as any of them may from time to time deem reasonably necessary or appropriate, including Tests and Studies with respect to the structural integrity of the Improvements and the presence of hazardous substances in or around the Premises. The Mortgagor hereby covenants and agrees to reasonably cooperate with such persons and entities in their efforts to conduct Tests and Studies, and further covenants and agrees to make reasonably available to such persons and entities such portions of the Premises as any of them may designate; provided, however, that Mortgagee shall use commercially reasonable efforts to perform such Tests and Studies during non-school instructional hours. The results of all Tests and Studies shall be and at all times remain the property of such persons and entities, and under no circumstances shall any such person have any obligation whatsoever to disclose or otherwise make available to the Mortgagor or any other person such results or any other information obtained by them in connection with such Tests and Studies, unless such Tests and Studies are used to demonstrate or provide evidence of an Event of Default. Notwithstanding the foregoing provisions of this Section, the Mortgagee reserves the right, and the Mortgagor expressly authorizes the Mortgagee, to make available to any person (including any governmental agency or authority and any prospective bidder at any foreclosure sale of the Mortgaged Property) any and all information which the Mortgagee may have with respect to the Mortgaged Property, whether provided by the Mortgagor or any other person or obtained as a result of Tests and Studies (including environmental reports, surveys and engineering reports). The Mortgagor consents to the Mortgagee's notifying any person (either as a part of a Notice of Sale or otherwise) of the availability of any or all of the Tests and Studies and the information contained therein. The Mortgagor acknowledges that the Mortgagee cannot control or otherwise assure the truthfulness or accuracy of the Tests and Studies, and that the release of the Tests and Studies or any information contained therein to prospective bidders at any foreclosure sale of the Mortgaged Property may have a material and adverse effect upon the amount which a person may bid at such sale. The Mortgagor agrees that the Mortgagee shall have no liability whatsoever as a result of delivering in accordance with this Section 5.14 any or all of the Tests and Studies or any information contained therein to any person, and the Mortgagor hereby releases, remises and forever discharges the Mortgagee from any and all claims, damages or causes of action arising out of, connected with or incidental to the Tests and Studies or the delivery thereof in accordance with this Section 5.14 to any person.

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constituent parties or otherwise in connection with this Mortgage, including without limitation, the protection or enforcement of any lien, security interest or other right, remedy or recourse created or afforded by this Mortgage;

(iv) any action brought by the Mortgagee against the Mortgagor under this Mortgage, whether or not such action is prosecuted to a final, non-appealable judgment; and

(v) any and all loss, damage, costs, expense, action, causes of action, or liability (including reasonable attorneys' fees and costs) directly or indirectly arising from or attributable to the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal, or presence of a hazardous substance on, in, under or about the property, whether known or unknown at the time of the execution hereof, including without limitation (1) all foreseeable consequential damages of any such use, generation, manufacture, production, storage, release, threatened release, discharge, disposal, or presence; and (2) the costs of any required or necessary environmental investigation or monitoring, any repair, cleanup, or detoxification of the property, and the preparation and implementation of any closure, remedial, or other required plans.

THE MORTGAGEE MAY EMPLOY AN ATTORNEY OR ATTORNEYS TO PROTECT OR ENFORCE ITS RIGHTS, REMEDIES AND RECOURSES UNDER THIS MORTGAGE AND THE OTHER 2024 LOAN DOCUMENTS, AND TO ADVISE AND DEFEND MORTGAGEE WITH RESPECT TO ANY SUCH ACTIONS AND OTHER MATTERS. THE MORTGAGOR SHALL REIMBURSE MORTGAGEE FOR ITS REASONABLE ATTORNEYS' FEES AND EXPENSES (INCLUDING EXPENSES AND COSTS FOR EXPERTS) IMMEDIATELY UPON RECEIPT OF A WRITTEN DEMAND THEREFOR, WHETHER ON A MONTHLY OR OTHER TIME INTERVAL, AND WHETHER OR NOT AN ACTION IS ACTUALLY COMMENCED OR CONCLUDED. ALL OTHER REIMBURSEMENT AND INDEMNITY OBLIGATIONS HERUNDER SHALL BECOME DUE AND PAYABLE WHEN ACTUALLY INCURRED BY THE MORTGAGEE. ANY PAYMENTS NOT MADE WITHIN THIRTY (30) DAYS AFTER WRITTEN DEMAND THEREFOR SHALL BEAR INTEREST AT THE DEFAULT INTEREST RATE FROM THE DATE OF SUCH DEMAND UNTIL FULLY PAID. THE PROVISIONS OF THIS SECTION 5.18 SHALL SURVIVE REPAYMENT OF THE INDEBTEDNESS AND PERFORMANCE OF THE OBLIGATIONS, THE RELEASE OF THE LIEN OF THIS MORTGAGE, ANY FORECLOSURE (OR ACTION IN LIEU OF FORECLOSURE), THE TRANSFER BY THE MORTGAGOR OF ANY OR ALL OF ITS RIGHT, TITLE AND INTEREST IN OR TO THE MORTGAGED PROPERTY AND THE EXERCISE BY MORTGAGEE OF ANY AND ALL REMEDIES SET FORTH HEREIN.

**SECTION 5.19. RECORDATION OF MORTGAGE AND MORTGAGE ASSIGNMENT AND FILING OF SECURITY INSTRUMENTS.** (a) By acceptance of the benefits of this Mortgage, the Issuer hereby covenants that it will, at the sole cost and expense of the Mortgagor, cause this Mortgage and the Assignment of Mortgage and all supplements hereto and thereto, together with all other security instruments and financing statements, to be recorded and filed, as the case may be, in such manner and in such places as may be requested by Mortgagee in order to perfect the lien created by this Mortgage. Mortgagor covenants that it will, upon request of the Mortgagee, cause to be filed all documents requested by the Mortgagee, including, without limitation, continuation statements under the Uniform Commercial Code of the State, in such manner and in such places as may be required by law in order to protect and maintain in force the lien of this Mortgage.

(b) Without limiting the foregoing, Mortgagor hereby irrevocably appoints Mortgagee as attorney-in-fact for Mortgagor to execute, deliver and file such instruments for and on behalf of

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Mortgagor without the necessity of the signature of Mortgagor or anyone claiming under or through Mortgagor, including, but not limited to, Mortgagor.

**SECTION 5.20. ENFORCEMENT OF RIGHTS UNDER ASSIGNED CONTRACT RIGHTS.** Mortgagor agrees to perform all obligations, conditions and agreements to be performed by Mortgagor with respect to all permits, licenses and approvals for the Mortgaged Property and to enforce the performance of all obligations, conditions and agreements to be performed by each third party with respect to contracts, subcontracts, and other agreements for the acquisition, construction, renovation, use or occupancy of the Mortgaged Property.

**SECTION 5.21. USURY LAWS.** This Mortgage and all other 2024 Loan Documents are subject to the express condition that at no time shall Mortgagor be obligated or required to pay interest on the principal balance due under the Secured Obligations at a rate which could subject the holder of the Secured Obligations to either civil or criminal liability as a result of being in excess of the maximum interest rate which Mortgagor is permitted by law to contract or agree to pay. If by the terms of this Mortgage or any of the other 2024 Loan Documents, Mortgagor is at any time required or obligated to pay interest on the principal balance due under the Secured Obligations at a rate in excess of such maximum rate, the rate of interest under the Secured Obligations shall be deemed to be immediately reduced to such maximum rate and the interest payable shall be computed at such maximum rate.

**SECTION 5.22. NO MERGER.** It is the intention of this Mortgage that if Mortgagor shall at any time hereafter acquire title to all or any portion of the Mortgaged Property, or any interest therein or lien thereon under any other mortgage or instrument, then, and until the Secured Obligations have been paid in full or otherwise discharged or satisfied in accordance with their terms, the interest of the Mortgagor hereunder and the security interest created by this Mortgage shall not merge or become merged in or with the estate and interest of the Mortgagor as the holder and owner of title to all or any portion of the Mortgaged Property, or in or with the interest of the Mortgagor under the lien of such other mortgage or instrument, and that, until such payment, discharge or satisfaction, the estate of the Mortgagor in the Mortgaged Property and the security interest created by this Mortgage and the interest of the Mortgagor hereunder shall continue in full force and effect to the same extent as if the Mortgagor had not acquired title to all or any portion of the Mortgaged Property or any other interest therein or lien thereon. If, however, the Mortgagor shall consent to such merger or if such merger shall nevertheless occur without its consent, then this Mortgage shall attach to, and cover and be a conveyance of the fee title or any other estate, title or interest in the Mortgaged Property acquired by the Mortgagor, and the same shall be considered as granted, released, assigned, transferred, pledged, conveyed and set over to the Mortgagor and this Mortgage spread to cover such estate with the same force and effect as though specifically herein granted, released, assigned, transferred, pledged, conveyed, set over and spread, provided, however, Mortgagor shall pay any and all transfer, recording or other taxes in connection therewith.

**SECTION 5.23. THIS MORTGAGE CONSTITUTES A COMMERCIAL TRANSACTION.** MORTGAGOR ACKNOWLEDGES THAT THE TRANSACTION OF WHICH THIS MORTGAGE IS A PART IS A COMMERCIAL TRANSACTION, AND HEREBY VOLUNTARILY AND KNOWINGLY WAIVES, TO THE EXTENT PERMITTED BY LAW, ITS RIGHTS TO NOTICE AND HEARING AS ALLOWED UNDER ANY STATE OR FEDERAL LAW OR OTHER RIGHT WITH RESPECT TO ANY PREJUDGMENT REMEDY OR OTHER RIGHT WHICH THE MORTGAGOR MAY DESIRE TO USE. FURTHER, MORTGAGOR HEREBY WAIVES, TO THE EXTENT PERMITTED BY LAW, THE BENEFITS OF ALL PRESENT AND FUTURE VALUATION, APPRAISEMENT, HOMESTEAD, EXEMPTION, STAY, REDEMPTION AND MORATORIUM LAWS.

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**WITH A COPY TO:**

Whiteman Osterneck & Hanna, LLP  
One Commerce Plaza  
Albany, New York 12260  
Attention: Robert M. Gach, Esq.

**IF TO THE BOND TRUSTEE OR THE MASTER TRUSTEE:**

Manufacturers and Traders Trust Company  
285 Delaware Avenue – 3rd Floor  
Buffalo, New York 14202  
Attention: Corporate Trust Department

**WITH A COPY TO:**

Bond, Schoeneck & King, PLLC  
One Lincoln Center  
Syracuse, New York 13202  
Attention: Matthew N. Wells, Esq.

(c) A duplicate copy of each notice, certificate and other communication given hereunder by the Master Trustee shall also be given to the Issuer and the Bond Trustee.

(d) The Issuer, the Mortgagor, the Bond Trustee and the Master Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

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**SECTION 5.24. CONSENTS.** Wherever in this Mortgage the prior consent of the Mortgagor is required, the consent of the Mortgagor given as to one such transaction shall not be deemed to be a waiver of the right to require such consent to future or successive transactions. Any such consents shall be in writing.

**SECTION 5.25. INCORPORATION OF CERTAIN MASTER TRUST INDENTURE PROVISIONS.** All provisions of Article V of the Master Trust Indenture shall be construed as extending to and including all of the rights, duties and obligations imposed upon the Master Trustee under this Mortgage as fully and for all purposes as if said Article V were contained in this Mortgage.

**SECTION 5.26. ASSIGNMENT OF MORTGAGE.** Upon the execution and delivery of the Assignment of Mortgage, all references within this Mortgage to the "Mortgagor" shall be deemed to refer to the Master Trustee.

**SECTION 5.27. NOTICES.** (a) All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when (1) delivered to the applicable address stated below by registered or certified mail, return receipt requested, or by such other means as shall provide the sender with documentary evidence of such delivery, or (2) delivery is refused by the addressee, as evidenced by the affidavit of the Person who attempted to effect such delivery.

(b) The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

**IF TO THE ISSUER:**

City of Albany Capital Resource Corporation  
21 Lodge Street  
Albany, New York 12207  
Attention: Chairperson

**WITH A COPY TO:**

Office of the Corporation Counsel  
City Hall, Eagle Street - Room 106  
Albany, New York 12207  
Attention: Corporation Counsel

**AND A COPY TO:**

Hodgson Russ LLP  
677 Broadway - Suite 401  
Albany, New York 12207  
Attention: Christopher C. Canada, Esq.

**IF TO THE MORTGAGOR:**

KIPP Capital Region Public Charter Schools  
321 Northern Boulevard  
Albany, New York 12210  
Attention: Chief Executive Officer

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**ARTICLE VI**

**STATE SPECIFIC PROVISIONS**

In the event of any inconsistencies between the terms and conditions of this Article 6 and the other terms and conditions of this Mortgage, the terms and conditions of this Article 6 shall control and be binding.

**SECTION 6.01. ACCELERATION; REMEDIES.**

(a) At any time after the occurrence of an Event of Default, Mortgagor, at Mortgagor's option, may declare the Secured Obligations to be immediately due and payable without further demand, and may foreclose this Mortgage by judicial or nonjudicial proceedings, will be entitled to the appointment of a receiver, without notice, and may invoke any other remedies permitted by New York law or provided in this Mortgage, the 2024 Loan Agreement or in any other 2024 Loan Document.

(b) Mortgagor may, at Mortgagor's option, also foreclose this Mortgage for any portion of the Secured Obligations which is then due and payable, subject to the continuing Lien of this Mortgage for the balance of the Secured Obligations.

(c) Mortgagor will be entitled to collect all costs and expenses allowed by New York law, including reasonable attorneys' fees and costs, costs of documentary evidence, abstracts, title reports, statutory costs and any additional allowance made pursuant to Section 8303 of the Civil Practice Law and Rules.

(d) The rights and remedies of Mortgagor specified in this Mortgage will be in addition to Mortgagor's rights and remedies under New York law, specifically including Section 254 of the Real Property Law. In the event of any conflict between the provisions of this Mortgage, the 2024 Loan Agreement, any other 2024 Loan Document and the provisions of Section 254 of the Real Property Law, the provisions of this Mortgage will control. Notwithstanding anything contained in this Mortgage, it is specifically acknowledged that the provisions of subsection 4 of Section 254 of the Real Property Law covering the insurance of buildings against loss by fire will not apply to this Mortgage or the 2024 Loan Agreement.

**SECTION 6.02. SATISFACTION OF DEBT.** Upon payment of the Secured Obligations, Mortgagor will discharge this Mortgage. If it is the practice of the industry at the time the Secured Obligations is paid to assign, rather than discharge, a mortgage, then at Mortgagor's request, Mortgagor will assign Mortgagor's interest in this Mortgage, together with the Obligations or supplemental Obligations secured by this Mortgage, to a Person specified by Mortgagor in writing to Mortgagor. Mortgagor will make any such assignment without recourse to Mortgagor, using Mortgagor's then-current form of assignment. If any original note is lost or destroyed, Mortgagor will provide a lost note affidavit, which will provide that Mortgagor will have no liability for such loss or destruction. Mortgagor will pay Mortgagor's reasonable costs incurred in discharging or assigning this Mortgage, as applicable.

**SECTION 6.03. LIEN LAW.** Mortgagor will receive advances under this Mortgage subject to the trust fund provisions of Section 13 of the Lien Law, and will hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of constructing the Improvements to the Land and will apply the same first to such payment before using any part of the same for any other purpose, but nothing herein shall be construed to impose upon Mortgagor any obligation to see to the proper allocation of such advances by Mortgagor.

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**SECTION 6.04. MAXIMUM PRINCIPAL AMOUNT.** Notwithstanding any provision set forth in this Mortgage to the contrary, the maximum amount of principal Secured Obligations secured by this Mortgage at execution, or which under any contingency may become secured by this Mortgage at any time hereafter, is \$50,105,000.00, plus all interest payable under Master Obligation No. 2 and all amounts expended by Mortgagee after an Event of Default and the continuation thereof beyond any applicable notice and cure periods for all of the following:

- (a) For the payment of taxes, charges or assessments which may be imposed by legal requirements upon the Mortgaged Property.
- (b) To maintain the insurance required under the 2024 Loan Agreement.
- (c) For any expenses incurred in maintaining the Mortgaged Property and upholding the Lien of this Mortgage, including the expense of any litigation to prosecute or defend the rights and Lien created by this Mortgage.
- (d) For any amount, cost or charge to which Mortgagee becomes subrogated, upon payment, whether under recognized principles of law or equity, or under express statutory authority, together with interest on all of the foregoing amounts at the Default Interest Rate.

**SECTION 6.05. SECTION 291-F OF THE REAL PROPERTY LAW.** In addition to any other right or remedy contained in this Mortgage, the 2024 Loan Agreement or in any other 2024 Loan Document, Mortgagee will have all the rights against lessees of all or any part of the Mortgaged Property as are set forth in Section 291-F of the Real Property Law of New York.

**SECTION 6.06. TRANSFER TAX PROVISIONS.** Mortgagor covenants and agrees to each of the following:

- (b) In the event of a sale of the Mortgaged Property or other Transfer, Mortgagor will timely and duly complete, execute and deliver to Mortgagee, all forms and supporting documentation required by such taxing authority or recording officer to estimate and fix any and all applicable state and local real estate transfer taxes (collectively "Transfer Taxes") assessable by reason of such sale or other Transfer or recording of the deed evidencing such sale or other Transfer.
- (c) Mortgagor will pay all Transfer Taxes that may hereafter become due and payable with respect to any Transfer, and if Mortgagor fails to pay any such Transfer Taxes, Mortgagee may pay such Transfer Taxes and the amount of such payment will be added to the Secured Obligations and, unless incurred in connection with a foreclosure of this Mortgage, be secured by this Mortgage.
- (d) The provisions of this Section will survive any Transfer and the delivery of the deed in connection with any Transfer.

**SECTION 6.07. WAIVER OF TRIAL BY JURY.**

(a) MORTGAGOR AND MORTGAGEE EACH COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS INSTRUMENT OR THE RELATIONSHIP BETWEEN THE PARTIES AS MORTGAGOR AND MORTGAGEE THAT IS TRIABLE OF RIGHT BY A JURY.

(b) MORTGAGOR AND MORTGAGEE EACH WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH

**RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.**

**SECTION 6.08. STATEMENT IN ACCORDANCE WITH SECTION 253.1 A(A) OF THE NEW YORK TAX LAW.** This Mortgage does not cover real property principally improved or to be improved by one or more structures containing in the aggregate not more than six (6) residential dwelling units, each having their own separate cooking facilities.

**SECTION 6.09. BENEFIT OF SECTION 254 OF THE REAL PROPERTY LAW.** Nothing herein contained shall be construed as depriving the Mortgagee of any right or advantage available under Section 254 of the Real Property Law of the State of New York, but all covenants herein differing therefrom shall be construed as conferring additional and not substitute rights and advantages.

IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be executed in its name by a duly authorized officer of Mortgagor and has caused this Mortgage to be dated as of the day and year first above written.

KIPP CAPITAL REGION PUBLIC  
CHARTER SCHOOLS

BY: \_\_\_\_\_  
Authorized Officer

STATE OF NEW YORK )  
 : ss.  
COUNTY OF ALBANY )

On the \_\_\_\_ day of June, in the year 2024, before me, the undersigned, personally appeared STEPHANIE VALLE, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

EXHIBIT A

DESCRIPTION OF THE LAND

**KIPP: Tech Valley Primary School**

**400 Northern Boulevard, City of Albany Tax Map Number 65.11-2-1**

All that tract, piece or parcel of land, situated in the City of Albany, County of Albany, State of New York, and being more particularly bounded and described as follows:

Beginning at a point on the easterly road boundary of Northern Boulevard at its intersection with the property division line between lands now or formerly of Kipp Tech Valley Charter School as described in Book 3053 of Deeds at page 1121, on the north and lands now or formerly of Yousef A. Zaid as described in Deed Instrument #R2021-26635, on the south;

Thence proceeding along said easterly road boundary and along other lands of Kipp Tech Valley Charter School, as described in Book 3053 of Deeds at page 1115 the following two (2) courses and distances:

- 1) North 03°34'38" East, a distance of 517.16 to a point; and
- 2) North 10°41'28" East, a distance of 321.39 to a point on the property division line between said lands of Kipp Tech Valley Charter School as described in Book 3053 of Deeds at page 1115, on the south and lands now or formerly of CSX Transportation as described in Book 2647 of Deeds at page 973, on the north;

Thence South 69°01'20" East, along said division line, a distance of 656.90 feet to a point at its intersection with the property division line between said lands of Kipp Tech Valley Charter School, on the west and lands now or formerly of City of Albany, on the east; Thence proceeding along said division line and along the first-mentioned lands of Kipp Tech Valley Charter School the following three (3) courses and distances:

- 1) South 06°45'21" West, a distance of 110.60 feet to a point;
  - 2) North 84°37'07" West, a distance of 68.80 to a point; and
  - 3) South 06°45'26" West, a distance of 549.95 feet to a point on the first-mentioned property division line;
- Thence North 84°37'01" West, along said division line, a distance of 561.51 feet to the point of beginning.

FOR INFORMATION ONLY, NOT FOR POLICY: Containing 446,527± square feet or 10.25± acres of land, more or less.

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**KIPP: Albany Community Charter Elementary School**

**65 Krank Street, City of Albany Tax Map Number 76.18-1-1**

ALL those certain lots, pieces, or parcels of land situate, lying, and being in the City of Albany, County of Albany, and State of New York, more particularly bounded and described as follows:

BEGINNING AT A POINT ON THE SOUTHWESTERLY BOUNDARY OF LEONARD STREET AT ITS INTERSECTION OF THE NORTHWESTERLY BOUNDARY OF KRANK STREET, SAID POINT BEING THE NORTHEASTERLY CORNER OF LANDS OF BRIGHTER CHOICE FOUNDATION AS DESCRIBED IN LIBER 2886 OF DEEDS AT PAGE 760, AND RUNS THENCE FROM SAID POINT OF BEGINNING ALONG SAID NORTHWESTERLY BOUNDARY OF KRANK STREET, SOUTH 37 DEG. 56 MIN. 44 SEC. WEST A DISTANCE OF 348.20 FEET TO ITS INTERSECTION WITH THE NORTHERLY BOUNDARY OF WAYNE STREET (PAPER STREET); THENCE ALONG SAID NORTHERLY BOUNDARY OF WAYNE STREET NORTH 84 DEG. 41 MIN. 05 SEC. WEST A DISTANCE OF 725.17 FEET TO ITS INTERSECTION WITH THE BOUNDARY BETWEEN LANDS NOW OR FORMERLY OF THE CITY OF ALBANY AS DESCRIBED IN LIBER 1636 OF DEEDS AT PAGE 275 ON THE WEST AND SAID LANDS OF BRIGHTER CHOICE FOUNDATION ON THE EAST; THENCE ALONG SAID BOUNDARY LINE NORTH 05 DEG. 18 MIN. 55 SEC. EAST A DISTANCE OF 342.00 FEET TO A POINT AND 2) NORTH 67 DEG. 02 MIN. 28 SEC. WEST A DISTANCE OF 37.50 FEET TO ITS INTERSECTION WITH THE BOUNDARY LINE BETWEEN LANDS NOW OR FORMERLY OF ANDERSON AS DESCRIBED IN LIBER 2917 OF DEEDS AT PAGE 288 ON THE WEST AND LANDS HEREIN DESCRIBED ON THE EAST; THENCE ALONG SAID BOUNDARY LINE NORTH 22 DEG. 57 MIN. 32 SEC. EAST A DISTANCE OF 100.00 FEET TO ITS INTERSECTION WITH THE SOUTHERLY BOUNDARY OF VAN ORDEN AVENUE; THENCE ALONG THE SOUTHERLY, EASTERLY, AND NORTHERLY BOUNDARIES OF VAN ORDEN AVENUE THE FOLLOWING THREE COURSES AND DISTANCES: 1.) SOUTH 67 DEG. 02 MIN. 28 SEC. EAST A DISTANCE OF 287.50 FEET TO A POINT 2.) NORTH 22 DEG. 57 MIN. 32 SEC. EAST A DISTANCE OF 60.00 FEET TO A POINT AND 3.) NORTH 67 DEG. 02 MIN. 28 SEC. WEST A DISTANCE OF 354.52 FEET TO ITS INTERSECTION WITH THE BOUNDARY LINE BETWEEN LANDS NOW OR FORMERLY OF THOMAS AS DESCRIBED IN LIBER 2522 OF DEEDS AT PAGE 948 ON THE WEST (LOT 12) AS SHOWN ON A MAP ENTITLED "SUBDIVISION OF PROPERTY OWNED BY W.T.B. VAN ORDEN" PREPARED BY JOHN J. O'HARE, DATED MAY 31, 1910 AND FILED IN THE ALBANY COUNTY CLERKS OFFICE, AND LANDS HEREIN DESCRIBED ON THE EAST (LOT 14); THENCE ALONG SAID BOUNDARY LINE NORTH 22 DEG. 57 MIN. 32 SEC. EAST A DISTANCE OF 115.00 FEET TO A POINT ON THE BOUNDARY LINE BETWEEN PARCEL B AS SHOWN ON A MAP ENTITLED "RE-SUBDIVISION OF PROPERTY OWNED BY JOSEPH H. MYERS AND JOHN J. CREGAN" PREPARED BY E.P. NEUSCHWANDER, C.E., DATED SEPTEMBER 6, 1915 AND FILED IN THE ALBANY COUNTY CLERK'S OFFICE ON OCTOBER 13, 1915, ON THE NORTHEAST, AND SAID LANDS OF THOMAS ON THE SOUTHWEST; THENCE ALONG SAID BOUNDARY LINE NORTH 22 DEG. 18 MIN. 26 SEC. WEST A DISTANCE OF 105.58 FEET TO A POINT; THENCE ALONG THE SOUTHWESTERLY BOUNDARIES OF LOT 22, 21, 20A, 19A, 18A, 17A, THE FOLLOWING COURSES AND DISTANCES 1.) SOUTH 29 DEG. 50 MIN. 37 SEC. EAST A DISTANCE OF 117.29 FEET TO A POINT. 2.) SOUTH 51 DEG. 08 MIN. 18 SEC. EAST A DISTANCE OF 12.23 FEET TO A POINT. 3.) SOUTH 10 DEG. 00 MIN. 24 SEC. WEST A DISTANCE OF 9.12 FEET TO A POINT. 4.) SOUTH 47 DEG. 41 MIN. 23 SEC. EAST A DISTANCE OF 47.32 FEET TO A POINT. 5.) SOUTH 85 DEG. 42 MIN. 14 SEC. EAST A DISTANCE OF 98.49 FEET TO A POINT AND 6.) NORTH 22 DEG. 57 MIN. 32 SEC. EAST A DISTANCE OF 13.13 FEET TO ITS INTERSECTION WITH THE SOUTHERLY BOUNDARY OF LOTS 17 THROUGH 11 AS SHOWN ON THE ABOVE LAST DESCRIBED MAP,

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**KIPP: Tech Valley Middle School**

**321 Northern Boulevard, City of Albany Tax Map Number 65.11-1-4**

ALL THAT CERTAIN plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Albany, County of Albany and State of New York, bounded and described as follows:

BEGINNING at a point on the northeasterly boundary of Manning Boulevard, at its intersection of the northwesterly boundary of Northern Boulevard, said point being the southwesterly corner of a parcel of land acquired by the State of New York for the Lark-Dove Arterial Highway and shown on Map No. 125 as Parcel No. 139 dated August 11, 1967, and runs

THENCE from said point of beginning along the northeasterly boundary of Manning Boulevard, North 53 degrees 14 minutes 34 seconds West, a distance of 356.00 feet to its intersection with the boundary line between the lands of the State of New York (Tivoli Preserve) on the northwest and lands herein described on the southeast;

THENCE along said lands of the State of New York the following two courses and distances:

1. North 36 degrees 45 minutes 26 seconds East, a distance of 199.31 feet to a point; and
2. North 53 degrees 14 minutes 34 seconds West, a distance of 217.95 feet to its intersection with the lands of the City of Albany (Tivoli Park) on the west and lands herein described on the east;

THENCE along said boundary line North 04 degrees 49 minutes 26 seconds East, a distance of 143.33 feet to its intersection with the lands now or formerly of New York Central Lines LLC on the northeast and lands herein described on the southwest;

THENCE along lands of New York Central Lines LLC along a curve to the right having a radius of 1509.41 feet, an arc distance of 731.11 feet and a chord of South 55 degrees 42 minutes 07 seconds East, 723.99 feet to its intersection with the above first mentioned boundary of Northern Boulevard;

THENCE along the northwesterly boundary of Northern Boulevard the following two courses and distances:

1. South 41 degrees 35 minutes 59 seconds West, a distance of 153.25 feet to a point; and
2. South 53 degrees 40 minutes 27 seconds West, a distance of 208.32 feet to the point or place of BEGINNING.

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AND LOTS 49 THROUGH 69 AS SHOWN ON A MAP ENTITLED "MAP OF PROPERTY IN THE FIRST WARD OF THE CITY OF ALBANY BELONGING TO ADAM LIBBEL, ESQ." PREPARED BY W. H. SLINGERLAND & SON DATED JUNE 26, 1874 AND FILED IN THE ALBANY COUNTY CLERKS OFFICE ON JULY 15, 1878; THENCE ALONG SAID SOUTHERLY BOUNDARY THE FOLLOWING FOUR (4) COURSES AND DISTANCES: 1.) SOUTH 85 DEG. 42 MIN. 14 SEC. EAST A DISTANCE OF 292.78 FEET TO A POINT. 2.) SOUTH 76 DEG. 25 MIN. 08 SEC. EAST A DISTANCE OF 198.12 FEET TO A POINT. 3.) SOUTH 63 DEG. 37 MIN. 44 SEC. EAST A DISTANCE OF 117.72 FEET TO A POINT AND 4.) SOUTH 43 DEG. 19 MIN. 03 SEC. EAST A DISTANCE OF 77.36 FEET TO ITS INTERSECTION WITH THE WESTERLY BOUNDARY OF LEONARD STREET; THENCE ALONG THE WESTERLY AND SOUTHWESTERLY BOUNDARIES OF LEONARD STREET. 1.) SOUTH 10 DEG. 0 MIN. 24 SEC. WEST A DISTANCE OF 120.69 FEET TO A POINT. 2.) SOUTH 52 DEG. 03 MIN. 16 SEC. EAST A DISTANCE OF 130.48 FEET TO THE POINT OR PLACE OF BEGINNING.

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**KIPP: Albany Community Charter Middle School**

**42 South Dove Street, City of Albany Tax Map Number 76.14-2-1.2**

ALL that certain tract, piece or parcel of land situate, lying and being in the City of Albany, County of Albany and State of New York more particularly bounded and described as follows:

BEGINNING at a point at the southeast corner of Alexander Street and South Dove Street and running from said point of beginning South 89 deg 40' 32" East along the south line of Alexander Street 200.00 feet to a point at the southwest corner of Alexander Street and Moore Street; thence South 00 deg 19' 28" West along the west line of Moore Street 390.00 feet to a point; thence along the North, East and North lines of lands now or formerly of St. George Antiochian Orthodox Christian Church, *aka* St. George Syrian Orthodox Church (Liber 1481 cp 395) the following three courses and distances: 1) North 89 deg 40' 32" West 16.00 feet to a point; 2) thence North 00 deg 19' 28" East 70.00 feet to a point; and 3) thence North 89 deg 40' 32" West 184.00 feet to a point in the west line of South Dove Street; thence North 00 deg 19' 28" East 320.00 feet to the point and place of beginning.

The above described property includes the KIPP Primary School and where the KIPP High School is to be constructed. It appears that the KIPP High School parcel has to be subdivided off the KIPP Primary School Property and new description of the KIPP High School to be provided.

Determination to be made whether any exclusive and/or reciprocal easements for access, parking, water, sanitary sewer, storm sewer, storm water detention and/or retention, and general utility services purposes including, but not limited to, electric, natural gas, telephone, telecommunications, fiber optic cable and cable television, must be established benefiting and/or burdening the premises described in Schedule A herein. Said easement(s) to be recorded, Form TP-584 filed and, if appropriate, Schedule A herein to be amended to describe the premises together with and subject to said easement(s). The terms and provisions of said easement(s) to be excepted in Schedule B § 2 hereof.

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THENCE South 5°56'45" West partially along the division line between the lands now or formerly of Bakht Kahn as described in Book 4225 of Deeds at Page 245 to the East and the herein described parcel to the West a distance of 116.75 feet to a point;

THENCE through the lands now or formerly of Ark Community School District the following three (3) courses and distances:

1. North 84°03'15" West a distance of 10.00 feet to a point;
2. North 5°56'45" East a distance of 13.25 feet to a point;
3. North 84°04'35" West a distance of 80.63 feet to a point;

THENCE North 84°03'15" East along the Easterly bounds of River Street a distance of 103.53 feet to the point of beginning.

**PARCEL #3**

ALL that tract or parcel of land, situate, lying and being located in the City of Troy, County of Rensselaer, State of New York, and being bounded and described as follows:

BEGINNING at a point lying in the Westerly bounds of River Street, said point being South 6°09'15" West a distance of 80.65 feet from the intersection between the Southerly bounds of Douw Street and the Westerly bounds of River Street;

THENCE South 6°09'15" West along the Westerly bounds of River Street a distance of 27.00 feet to a point;

THENCE North 83°43'53" West along the division line between the here described parcel to the North and the lands now or formerly of 761 River Street, Inc. as described in Book 7507 of Deeds at page 43 to the South a distance of 156.86 feet to a point;

THENCE North 6°29'14" East along the Easterly bounds of Drouin Street a distance of 27.00 to a point;

THENCE South 83°43'53" East along the division line between the lands now or formerly of Booker T. Prince to the North and the herein described parcel to the North a distance of 156.70 feet to the point of beginning.

**PARCEL #4**

ALL that tract or parcel of land situate, lying and being located in the City of Troy, County of Rensselaer, State of New York, and being bounded and described as follows:

BEGINNING at the intersection between the Northerly bounds of Douw Street with the Easterly bounds of River Street;

THENCE along the Easterly bounds of River Street the following two (2) courses and distances:

1. North 6°09'15" East a distance of 75.00 feet to a point;
2. North 0°39'27" West a distance of 25.17 feet to a point;

THENCE South 84°03'15" East along the division line between the lands now or formerly of Joe Lee Thomas as described in Book 1576 of Deeds at Page 264 to the North and the herein described parcel to the South a distance of 92.95 feet to a point;

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**KIPP Capital Region Public Charter Schools**

**KIPP Troy Prep Elementary School, KIPP Troy Prep Middle School and KIPP Troy Prep High School**

**3055 Sixth Avenue, City of Troy Tax Map Number 90.70-3-1.2;  
2 Polk Street, City of Troy Tax Map Number 111.52-6-1;  
780 River Street, City of Troy Tax Map Number 90.62-3-32;  
523 First Street, City of Troy Tax Map Number 111.52-6-12; and  
765 River Street, City of Troy Tax Map Number 90.62-8-9**

**TRACT 1:**

ALL those tracts or parcels of land situate, lying and being located in the City of Troy, County of Rensselaer, State of New York, and being bounded and described as follows:

**PARCEL #1:**

BEGINNING at a point lying in the Easterly bounds of River Street, said point being South 6°09'15" West a distance of 103.53 feet from the intersection between the Easterly bounds of River Street and the Northerly bounds of Douw Street;

THENCE through the lands now or formerly of Ark Community Charter School as described in Book 4934 of Deeds at Page 124 the following three (3) courses and distances:

1. South 84°04'35" East a distance of 80.63 feet to a point;
2. South 5°56'45" West a distance of 13.25 feet to a point;
3. South 84°04'35" East a distance of 10.00 feet to a point;

THENCE South 84°03'15" East along the division line between the lands now or formerly of St. Patricks Church to the North and the herein described parcel to the South a distance of 90.25 feet to a point;

THENCE South 5°56'45" West along the Westerly bounds of Sixth Avenue a distance of 75.50 feet to a point;

THENCE North 84°03'15" West along the division line between the herein described parcel to the North and the lands now or formerly of St. Patricks Church to the South a distance of 181.21 feet to a point;

THENCE North 06°09'15" East along the Easterly bounds of River Street a distance of 88.73 feet to the point of beginning.

TOGETHER WITH the benefits of the easements in the Reciprocal Easement Agreement made by and between Saint Patrick's Church Troy, N.Y. and Ark Community Charter School dated February 27, 2009 and recorded in the Rensselaer County Clerk's Office on March 2, 2009 in Volume 4934 Page 129.

**PARCEL #2**

BEGINNING at the intersection between the Easterly bounds of River Street with the Southerly bounds of Douw Street;

THENCE South 84°03'15" East along the Douw Street a distance of 90.26 feet to a point;

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THENCE South 5°56'45" West a distance of 100.00 feet to a point;

THENCE North 84°03'15" West along the Northerly bounds of Douw Street a distance of 90.33 feet to the point of beginning.

**TRACT 2:**

ALL that tract or parcel of land, situate in the Twelfth Ward of the City of Troy, County of Rensselaer and State of New York, with the buildings and improvements thereon, bounded and described as follows: Bounded on the north by Tyler Street, on the east by an alley between First Street and River Street, on the south by Polk Street, on the west by land now or formerly of the Troy and Greenbush Railroad and being more particularly bounded and described as follows:

Beginning at a point in the southerly line of Tyler Street at its intersection with lands now or formerly of Penn Central Railroad on the west and the herein described premises on the east and runs thence from said point of beginning N 86 deg. 45' 30" E and along the southerly line of Tyler Street 103.00 feet to the westerly line of an alley; thence S 03 deg. 14' 30" E and along the westerly line of said alley a distance of 519.20 feet to the northerly line of Polk Street; thence S 86 deg. 45' 30" W and along the northerly line of Polk Street 103.00 feet; thence N 03 deg 14' 30" W and along lands now or formerly of Penn Central Railroad 519.20 feet to the southerly line of Tyler Street and the point and place of beginning.

FOR INFORMATION ONLY, NOT INSURED: Also, all the right, title and interest in and to any streets and alleys adjacent to said premises, all rights to the use of said railroad land as reserved to the grantors as adjacent owners in deed executed by Francis N. Mann and others to David Buel, Jr. and John Paine recorded March 25, 1844 in the Rensselaer County Clerk's Office in Book of Deeds 60, page 129 and all rights in any easement or easements appurtenant to said premises.

**TRACT 3:**

ALL THAT TRACT OR PARCEL OF LAND situate in the Twelfth Ward of the City of Troy, County of Rensselaer and State of New York on the West side of First Street between Tyler and Polk Streets, designated on the maps of that part of said City as Lots One Hundred Eleven (111) and One Hundred Thirteen (113), together bounded as follows:

Northerly by Lot No. 109, Easterly by First Street, Southerly by Lot No. 115 and Westerly by an alley.

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EXHIBIT B

DESCRIPTION OF THE INITIAL EQUIPMENT

LIST OF SPECIFIC EQUIPMENT  
[TO BE CONFIRMED BY INSTITUTION]

All articles of personal property and all appurtenances acquired with the proceeds of the Tax-Exempt Revenue Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024 in the aggregate principal amount of \$50,105,000 (the "Initial Bonds") issued by City of Albany Capital Resource Corporation (the "Issuer") or any payment made by KIPP Capital Region Public Charter Schools (the "Institution") pursuant to Section 3.5 of the Loan Agreement dated as of June 1, 2024 (the "Loan Agreement") by and between the Issuer and the Institution and now or hereafter attached to, contained in or used in connection with the Land and Improvements or placed on any part thereof, though not attached thereto, and all other machinery, equipment, furniture and fixtures now or hereafter attached to, contained in or used in connection with the Land and Improvements, whether or not acquired with the proceeds of the Initial Bonds, now owned or hereafter acquired, including but not limited to the following:

- (1) Pipes, screens, fixtures, heating, lighting, plumbing, ventilation, air conditioning, compacting and elevator plants, call systems, stoves, ranges, refrigerators and other lunch room facilities, rugs, movable partitions, cleaning equipment, maintenance equipment, shelving, flagpoles, signs, waste containers, outdoor benches, drapes, blinds and accessories, sprinkler systems and other fire prevention and extinguishing apparatus and materials, motors, machinery and motor vehicles;
- (2) See attached list of any specific equipment not covered by the previous description and intended to be funded or refunded with proceeds of the Initial Bonds, if any; and
- (3) Together with any and all products of any of the above, all substitutions, replacements, additions or accessions therefor, and any and all cash proceeds or non-cash proceeds realized from the sale, transfer or conversion of any of the above.

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## FORM OF CONTINUING DISCLOSURE AGREEMENT

THIS CONTINUING DISCLOSURE AGREEMENT (this “Disclosure Agreement”), dated as of June 1, 2024, by and between KIPP CAPITAL REGION PUBLIC CHARTER SCHOOLS (the “Institution”), on behalf of itself and as Obligated Group Representative under the Master Indenture (as such terms are defined herein), 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 Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024 (the “Bonds”) issued pursuant to that certain Trust Indenture, dated as of June 1, 2024 (the “Bond Indenture”), by and between the Issuer and Manufacturers and Traders Trust Company, as bond trustee (the “Bond Trustee”). Capitalized terms used in this Disclosure Agreement which are not otherwise defined herein or in the Bond Indenture shall have the respective meanings forth in the Official Statement of the Issuer, dated May 29, 2024, 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 Disclosure Agreement, the parties hereto agree as follows:

1. Purpose of Disclosure Agreement. This Disclosure Agreement is being executed and delivered by the Obligated Group Representative 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 the Underwriter, in complying with the Rule.

2. Defined Terms.

“Agreement” or “Disclosure Agreement” means this Continuing Disclosure Agreement, dated as of June 1, 2024, by and between the Institution, on behalf of itself and as Obligated Group Representative, and the Dissemination Agent.

“Annual Report” means the financial information and operating data required to be transferred by the Obligated Group 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.

“Bond Indenture” means the Trust Indenture, dated as of June 1, 2024, by and between the Issuer and the Bond Trustee, as the same may be amended or supplemented.

“Bond Trustee” means Manufacturers and Traders Trust Company, and its successors and assigns, as Bond Trustee under the Bond Indenture.

“Bonds” means the Issuer’s Tax-Exempt Revenue Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024.

“Dissemination Agent” means Manufacturers and Traders Trust Company, and its successors and assigns, as Dissemination Agent under this Disclosure Agreement.

“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.

“Institution” means KIPP Capital Region Public Charter Schools, its successors and assigns.

“Issuer” means the City of Albany Capital Resource Corporation, its successors and assigns.

“Interim Reports” means any report to be provided or action to be undertaken by the Obligated Group, pursuant to Section 4 of this Disclosure Agreement.

“Listed Events” means the events for which notices are required to be given by the Obligated Group pursuant to Section 5 of this Disclosure Agreement.

“Master Indenture” means the Master Trust Indenture, dated as of December 1, 2020, among the Institution, as successor in interest to KIPP: Albany Community Public Charter Schools, and any other Obligated Group Members from time to time thereunder, and the Master Trustee (as amended and supplemented from time to time).

“Master Trustee” means Manufacturers and Traders Trust Company, and its successors in the trusts created under the Master Indenture.

“Member of the Obligated Group” or “Member” means the Institution, and thereafter, any Person (as defined in the Master Indenture) which shall become a Member of the Obligated Group in accordance with the Master Indenture and not including any Person which shall have withdrawn from the Obligated Group in accordance with the Master Indenture.

“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](http://www.msrb.org) and [www.emma.msrb.org](http://www.emma.msrb.org) (for municipal disclosures and market data).

“Obligated Group Representative” means the Institution or such other Member(s) or other Person as may have been designated to act as the Obligated Group Representative under the Master Indenture pursuant to written notice to the Master Trustee executed by all the Members of the Obligated Group.

“Official Statement” means the Official Statement, dated May 29, 2024, relating to the Bonds.

“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 United States Securities and Exchange Commission, its successors and assigns.

“State” shall mean the State of New York.

“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 each fiscal year of the the Obligated Group, commencing with the fiscal year ended June 30, 2025, the Obligated Group shall provide to EMMA, or shall cause the Dissemination Agent to provide to EMMA, an Annual Report which is consistent with the requirements of subsection (e) of this Section 3. 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 Obligated Group 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 Obligated Group may change its current fiscal year, but must notify the Issuer, the Bond Trustee and EMMA 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, the Obligated Group shall provide each Annual Report to the Dissemination Agent in word searchable, .pdf format or any other format consistent with the requirements of EMMA. The Dissemination Agent shall, at the Obligated Group's cost, transmit the information contained in the Annual Report in accordance with the requirements of Section 7 hereof.

(c) If the Obligated Group 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 Obligated Group Representative, EMMA, and the Underwriter, in substantially the form attached as EXHIBIT B. In the event that the Obligated Group files the Annual Report directly with EMMA on or before the dates required in Section 3(a) above, the Obligated Group shall promptly provide the Dissemination Agent with a certification, or other documentation reasonably required by the Dissemination Agent, that the filing of the Annual 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 EMMA; and

(ii) provided that the Annual Report has been provided to the Dissemination Agent by the Obligated Group, file a report with the Obligated Group Representative, and (if the Dissemination Agent is not the Bond Trustee) the Bond Trustee certifying that the Annual Report has been provided pursuant to this Disclosure Agreement, stating the date it was provided.

(e) *Content of Annual Reports.* The Annual Report shall contain or include by reference the audited financial statements of the Obligated Group for the prior fiscal year, prepared in accordance with generally accepted accounting principles as promulgated from time to time. If the Obligated Group's 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 Obligated Group's audited financial statements, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

To the extent not included in the audited final statements of the Obligated Group, the Annual Report shall also include (i) updates to the tables titled: "Historical, Budgeted and Projected Enrollment" (but only as to the historical data); "KIPP Capital Region Waiting List Data"; "Student Retention Data", "Basic Tuition" (but only for the most recent fiscal year available); and the various tables starting with "State of New York Testing Program Assessment Results" (for the most recent assessment data available and only for the Obligated Group 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 Obligated Group data and demonstrates the Obligated Group's compliance with certain operating covenants contained in the Master Indenture.

(g) Any or all of the Annual Report may be incorporated by reference from other documents, including an official statement, which have been submitted to EMMA. If the Annual Report information is changed or this Disclosure Agreement is amended in accordance with its terms, then the Obligated Group is to include in the next Annual 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 Obligated Group intends, but is not required (with the exception of subsections (a)(i), (c) and (d) of this Section, which are required), to provide Interim Reports, consisting of the information set forth below.

(a) *Interim Financial Reports.* Periodic reports from the Obligated Group including (i) unaudited financial statements of the Obligated Group for the previous calendar quarter reflecting revenues and expenses in comparative form with the Obligated Group's operating budget as submitted by the Members of the Obligated Group to each Members' governing boards, within 60 days of the close of each respective calendar quarter, (ii) individual and consolidated annual budgets of the Obligated Group within 30 days of their adoption, (iii) results of any federal or State of New York testing within 45 days of receipt by any Member of the Obligated Group, (iv) within 14 days of receipt, notification or any report of any potential or alleged violation of the charter by any Member of the Obligated Group, (v) within 14 days of submission, any information that any Member of the Obligated Group has provided to any Rating Agency then rating the 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 this Disclosure Agreement, and (vi) within 14 days of receipt, any notice or allegation of a violation of governmental approvals in connection with the operation of the Initial Project Facility, and

(b) *Information Submitted to the NYSED.* Copies of each report on enrollment, headcount, membership, attendance and similar statistics with respect to any Member of the Obligated Group submitted by such Member 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, 2025, the Obligated Group shall hold an investor conference call after the filing of the 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 Obligated Group on the investor conference call, if material as determined in the sole discretion of the Obligated Group, shall include, but not be limited to, the following:

(i) 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 bodies of the Members of the Obligated Group since the last call;

(ii) the use of any Short-Term Indebtedness (as defined in the Master Indenture) or new Long-Term Indebtedness (as defined in the Master Indenture) incurred since the date of the immediately preceding investor call;

(iii) capital spending plans which any governing body of the Members has taken official action;

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

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

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

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

(d) *Construction Reports.* Until such time as the Initial Project is complete, quarterly reports, within 60 days of the close of each respective calendar quarter, commencing with the calendar quarter ending June 30, 2024, with sufficient detail describing construction status of the Initial Project as well as an updated schedule reflecting material changes, if any to the schedule, and an overview of the funds expended to date along with a comparison to budget.

With the exception of the requirements of subsections (a)(i), (c) and (d), which are mandatory, 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. If the Dissemination Agent does not receive any quarterly reports as referenced in subsections (a) (other than as required under subsection (a)(i)) and (b) of this Section 4 within 60 days of the close of each respective calendar quarter, it can assume that any such reports will not be forthcoming for such quarter. Any reports provided by the Institution to the Dissemination Agent pursuant to this Section 4 shall be prepared in word searchable, .pdf format or any other format consistent with the requirements of EMMA.

5. Material Events.

(a) Pursuant to the provisions of this Section 5, the Obligated Group 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 Bonds, or other material events affecting the tax status of the 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 any Member;
- (xiii) the consummation of a merger, consolidation, or acquisition involving any Member or the sale of all or substantially all of the assets of any Member, 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 any Member, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of any Member, 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 any Member, 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 any Member obtains knowledge of the occurrence of a Listed Event, the Obligated Group 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 Obligated Group 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 Obligated Group may cause the 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 Bond 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 Obligated Group has engaged Bond Trustee as the Dissemination Agent to assist the Obligated Group in disseminating information hereunder. The Obligated Group shall send all Annual 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 Annual Report and within ten (10) days of the occurrence of a Listed Event requiring a notice, forward such information to EMMA or any other filing system approved by the SEC, as appropriate. The Obligated Group agrees 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 Obligated Group 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. Duties, Immunities and Liabilities of Dissemination Agent. (a) The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement. The Dissemination Agent's obligation to deliver the information at the times and with the contents described herein shall be limited to the extent the Obligated Group has provided such information to the Dissemination Agent as provided in this Disclosure Agreement. The Dissemination Agent shall have no duty with respect to the content of any disclosures or notice made pursuant to the terms hereof. The Dissemination Agent shall have no duty or obligation to review or verify any information, disclosures or notices provided to it by the Institution and shall not be deemed to be acting in any fiduciary capacity for the Issuer, the Institution, the Holders of the Bonds or any other party. The Dissemination Agent shall have no responsibility for the Institution's failure to report to the Dissemination Agent a Notice Event or a

duty to determine the materiality thereof. The Dissemination Agent shall have no duty to determine or liability for failing to determine whether the Institution has complied with this Disclosure Agreement. The Dissemination Agent may conclusively rely upon certifications of the Institution at all times.

THE INSTITUTION AGREES TO INDEMNIFY AND SAVE THE DISSEMINATION AGENT, THE ISSUER AND THE BOND TRUSTEE AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, HARMLESS AGAINST ANY LOSS, EXPENSE AND LIABILITY WHICH THEY MAY INCUR ARISING OUT OF OR IN THE EXERCISE OR PERFORMANCE OF THEIR POWERS AND DUTIES HEREUNDER, INCLUDING THE COSTS AND EXPENSES (INCLUDING ATTORNEYS FEES) OF DEFENDING AGAINST ANY CLAIM OF LIABILITY, BUT EXCLUDING LOSSES, EXPENSES AND LIABILITIES DUE TO THE DISSEMINATION AGENT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AND THE BOND TRUSTEE'S (AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS') NEGLIGENCE OR WILLFUL MISCONDUCT.

The obligations of the Institution under this Section shall survive resignation or removal of the Dissemination Agent and defeasance, redemption or payment of the Bonds.

(b) The Dissemination Agent may, from time to time, consult with legal counsel (either in-house or external) of its own choosing in the event of any disagreement or controversy, or question or doubt as to the construction of any of the provisions hereof or its respective duties hereunder, and it shall not incur any liability and shall be fully protected in acting in good faith upon the advice of such legal counsel. The fees and expenses of such counsel shall be payable by the Institution.

(c) All documents, reports, notices, statements, information and other materials provided to the MSRB under this Disclosure Agreement shall be provided in an electronic format through the EMMA System and accompanied by identifying information as prescribed by the MSRB.

9. Termination of Obligations. Pursuant to paragraph (b)(5)(iii) of the Rule, the Obligated Group's obligation to provide the Annual Reports and any Listed Events notice, as set forth in this Disclosure Agreement, shall terminate if and when the Obligated Group 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 Bond Indenture.

10. 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 Bond Trustee, and the Bond 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 Bond Trustee shall be entitled to the indemnification and other provisions of the Bond Indenture with regard to any actions. Prior to proceeding at the request or direction of the Underwriter, the Bond Trustee may require the same types of indemnification and related protections from the Underwriter to which the Bond



Trustee would otherwise be entitled under the Bond Indenture if so requested or directed by the Registered Owners under the terms of the Bond Indenture. Any failure by the Obligated Group to comply with the provisions of this Disclosure Agreement shall not be an Event of Default under the Loan Agreement or the Bond Indenture.

The Registered Owners' and the Bond 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 Members of the Obligated Group to perform their obligations under this Disclosure Agreement, and the Members, 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 10 entitles the Bond 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 Bond Trustee shall nevertheless be entitled to attorneys' fees and such other rights and amounts as provided in the Bond Indenture.

11. Amendment. Notwithstanding any other provision of this Disclosure Agreement, the Obligated Group and the Bond 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 Bond 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 any Member of the Obligated Group, 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 Obligated Group (which shall include the Bond Trustee or Bond Counsel (as defined in the Bond Indenture), 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 Bond Indenture at the time of the amendment or waiver.

The Obligated Group shall provide notice of each amendment or waiver to EMMA or any other filing system approved by the SEC. The initial annual financial or operating information provided by the Obligated Group 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.

12. 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.

13. 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.

14. 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.

15. Other Instruments. The Obligated Group 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.

16. 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.

17. 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.

**KIPP CAPITAL REGION PUBLIC CHARTER  
SCHOOLS**, on behalf of itself and as Obligated Group  
Representative

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

Name: Stephanie Valle

Title: Chief Executive Officer

**MANUFACTURERS AND TRADERS TRUST  
COMPANY**, as 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 Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024

Dissemination Agent: Manufacturers and Traders Trust Company

Name of Charter School: KIPP Capital Region Public Charter Schools

Date of Issuance: June 12, 2024

NOTICE IS HEREBY GIVEN that the Obligated Group is providing to the Dissemination Agent the following operational information as required under Section 3(e) of the Continuing Disclosure Agreement, dated as of June 1, 2024 (the "Disclosure Agreement"), by and between the Dissemination Agent and the Obligated Group. The Disclosure Agreement requires that the Obligated Group 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 Trust Indenture, dated as of June 1, 2024, as supplemented (as supplemented, the "Bond Indenture"), between the Issuer and Manufacturers and Traders Trust Company, as bond trustee or the Master Trust Indenture, dated as of December 1, 2020, among KIPP Capital Region Public Charter Schools, as successor in interest to KIPP: Albany Community Public Charter Schools, and any other Obligated Group Members from time to time thereunder, and Manufacturers and Traders Trust Company, as master trustee (as amended and supplemented from time to time, the "Master Indenture"). The information contained below is unaudited.

**Certain Financial Covenants as outlined under the Master Indenture:**

As of June 30, 20\_\_:

- (a) The Obligated Group's unrestricted cash and equivalents was equal to \_\_\_\_\_.
- (b) The Obligated Group's Days Cash on Hand was \_\_\_\_ days (the product of 365 times a fraction, (i) the numerator of which is the amount of Obligated Group's unrestricted cash and equivalents of \$ \_\_\_\_\_; and (ii) the denominator of which is total Operating Expenses for such Fiscal Year of \$ \_\_\_\_\_).
- (c) The amount of unrestricted cash and equivalents required to comply with the Days Cash on Hand covenant contained in the Master Indenture for the current Fiscal Year is \$ \_\_\_\_\_ and the Obligated Group [is/is not] in compliance with such covenant.
- (d) The Obligated Group'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 Obligated Group due in that Fiscal Year of \$ \_\_\_\_\_.

**Budget**

A copy of the Obligated Group's annual budget then in effect for the current Fiscal Year is attached hereto.

**Insurance Compliance**

The Obligated Group is in compliance with the insurance requirements set forth in the Master Indenture and the Loan Agreement. Evidence of such compliance has been delivered to the Bond Trustee on or about the date of the delivery of this Certificate and we hereby authorize the Bond Trustee to make such evidence available to the holders of the Bonds upon their request.

**Certification**

The undersigned, on behalf of the Obligated Group, 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.

This certificate is being provided by the Obligated Group to the Dissemination Agent on a date which is [within][outside] of one hundred eighty (180) days from the end of the Obligated Group's prior fiscal year.

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

**KIPP CAPITAL REGION PUBLIC CHARTER  
SCHOOLS**, on behalf of itself and as Obligated Group  
Representative

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

Name: Stephanie Valle

Title: Chief Executive Officer

**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 Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024  
Dissemination Agent: Manufacturers and Traders Trust Company  
Name of Charter School: KIPP Capital Region Public Charter Schools  
Date of Issuance: June \_\_, 2024

NOTICE IS HEREBY GIVEN that the Obligated Group has not provided an Annual Report with respect to the above-named Bonds as required by the Continuing Disclosure Agreement, dated as of June 1, 2024, between the undersigned Dissemination Agent and the Obligated Group. The Obligated Group anticipates that the Annual Report will be filed by \_\_\_\_\_.

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

Manufacturers and Traders Trust Company  
as Dissemination Agent

By \_\_\_\_\_  
Authorized Signatory

cc: KIPP Capital Region Public Charter Schools  
Robert W. Baird & Co. Incorporated

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APPENDIX F

FORM OF OPINION OF BOND COUNSEL

June 12, 2024

City of Albany Capital Resource Corporation  
21 Lodge Street  
Albany, New York 12207

Re: City of Albany Capital Resource Corporation  
Tax-Exempt Revenue Bonds  
(KIPP Capital Region Public Charter Schools Project), Series 2024  
in the aggregate principal amount of \$50,105,000

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance on the date hereof of the Tax-Exempt Revenue Bonds (KIPP Capital Region Public Charter Schools Project), Series 2024 in the aggregate principal amount of \$50,105,000 (the “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 May 16, 2024, a certificate of determination dated June 12, 2024 (the “Certificate of Determination”) executed by the Vice Chairperson of the Issuer and a trust indenture dated as of June 1, 2024 (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 KIPP Capital Region Public Charter Schools (the “Institution”), said Initial Project consisting of the following: (A) (1) the construction of an approximately 98,185 square foot high school building (the “Initial Facility”) on an approximately 10.38 acre parcel of land located at 400 Northern Boulevard and 10 Dudley Heights in the City of Albany, New York (the “Initial Land”) and (2) the acquisition and installation thereon and therein of certain related furniture, fixtures, machinery and equipment (the “Initial Equipment”) (the Initial Facility, the Initial Land and the Initial Equipment hereinafter collectively referred to as the “Initial Project Facility”), all of the foregoing to be operated by the Institution as an educational facility and any other directly or indirectly related activities; (B) the refinancing of an existing loan of the Institution, the proceeds of which were used by the Institution to purchase certain buildings located at 2 Polk Street and 3055 6<sup>th</sup> Avenue, respectively, in the City of Troy, Albany County, New York; (C) the financing of all or a portion of the costs of the foregoing by the issuance of the Initial Bonds; and (D) the paying a portion of the costs incidental to the issuance of the Initial Bonds, including issuance costs of the Initial Bonds, capitalized interest 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 June 1, 2024 (the “Loan Agreement”) between the Issuer, as lender, and the Institution, as borrower. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Indenture.

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, sinking fund payments 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 June 1, 2024 (the "Pledge and Assignment") which assigns to the Trustee certain of the Issuer's rights under the Loan Agreement.

Prior to the date hereof, on December 4, 2020, the Institution, as the initial Member of the Obligated Group and the Obligated Group Representative (as such terms are defined in the hereinafter defined Master Trust Indenture) entered into a master trust indenture dated as of December 1, 2020 (the "Master Trust Indenture") with Manufacturers and Traders Trust Company, as Master Trustee (the "Master Trustee"), pursuant to which Obligations (as defined in the Master Trust Indenture) may be issued and secured thereunder and, as further evidence of the debt obligation of the Institution to make loan payments with respect to the Initial Bonds under the Loan Agreement, on the date hereof, Obligation No. 2 ("Master Obligation No. 2") is being issued under the Master Trust Indenture pursuant to a second supplemental master trust indenture dated as of June 1, 2024 by and between the Institution, as the initial Member of the Obligated Group and the Obligated Group Representative, and the Master Trustee.

As additional security for Master Obligation No. 2 (and all other Obligations heretofore or hereafter issued under the Master Trust Indenture), (A) the Institution is executing and delivering to the Issuer (1) a mortgage dated as of June 1, 2024 (the "Mortgage"), which Mortgage, among other things, grants to the Issuer a mortgage lien on, and a security interest in, among other things, the Initial Project Facility and the remaining Mortgaged Property (as defined in the Mortgage) and (2) an assignment of leases and rents dated as of June 1, 2024 (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 the remaining Assigned Properties (as defined in the Assignment of Rents) and (b) all leases, subleases, licenses or occupancy agreements affecting the Initial Project Facility and the remaining Assigned Properties and (B) the Issuer is executing and delivering to the Master Trustee (1) an assignment of mortgage dated as of June 1, 2024 (the "Mortgage Assignment") from the Issuer to the Master Trustee, pursuant to which the Issuer is assigning the Mortgage to the Master Trustee, and (2) an assignment of assignment of leases and rents dated as of June 1, 2024 (the "Assignment of Assignment of Rents") from the Issuer to the Master Trustee, pursuant to which the Issuer is assigning the Assignment of Rents to the Master 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 Assignment of Rents (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 and Master 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 and the Master 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 (i) the Institution or another person, by failing to comply with certain requirements contained in the Code, may cause interest on the Initial Bonds to become subject to federal income taxation and certain other taxes from the date of issuance thereof, (ii) interest on the Initial 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 (iii) interest on the Initial Bonds will be included in the "adjusted financial statement income" of certain corporations that are subject to the alternative minimum tax under Section 55 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, or any of the other Mortgaged Property, (B) the priority of any liens, charges, security interests or encumbrances affecting the Initial Project Facility or any part thereof or any other Assigned Properties or portion thereof (or the effectiveness of any remedy which is dependent upon the existence of title to the Initial Project Facility, the other Mortgaged Property or Assigned Properties 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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