

PRELIMINARY OFFICIAL STATEMENT DATED SEPTEMBER 28, 2018

NEW ISSUE  
BOOK ENTRY ONLY

RATING: Moody's "Baa3"  
SEE "BOND RATING"

In the opinion of Nixon Peabody LLP, Bond Counsel, under existing law and assuming compliance with the tax covenants described herein, and the accuracy of certain representations and certifications made by the Issuer and the Institution described herein, interest on the Series 2018 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") Bond Counsel is also of the opinion that such interest is not treated as a preference item in calculating the alternative minimum tax imposed under the Code. Bond Counsel is further of the opinion that interest on the Series 2018 Bonds is exempt from personal income taxation imposed by the State of New York or any political subdivision thereof including The City of New York. See "TAX MATTERS" herein regarding certain other tax considerations.

\$8,705,000\*

**BUILD NYC RESOURCE CORPORATION**  
**Revenue Bonds, Series 2018**  
**(Bronx Lighthouse Charter School Project)**

Dated: Date of Issuance

Due: June 1, as shown on the inside front cover

The above-referenced Build NYC Resource Corporation Revenue Bonds, Series 2018 (Bronx Lighthouse Charter School Project) (the "Series 2018 Bonds") are special limited revenue obligations of Build NYC Resource Corporation (the "Issuer") payable exclusively from the trust estate as described in this Official Statement. Undefined capitalized terms on this cover are defined in the text hereof or in APPENDIX F of this Official Statement

The Series 2018 Bonds are special limited revenue obligations of the Issuer, payable as to principal, redemption price and interest, from and secured by (i) certain unconditional payments to be made pursuant to the Loan Agreement, dated as of October 1, 2018 (the "Loan Agreement"), between 1005 Intervale Avenue LLC, a New York limited liability company (the "Institution"), whose initial sole member is Bronx Lighthouse Charter School, a New York nonprofit education corporation (the "School"), and the Issuer, (ii) a pledge of certain funds and accounts established under the Indenture of Trust, dated as of October 1, 2018 (the "Indenture"), between the Issuer and The Bank of New York Mellon, New York, New York, as trustee (the "Trustee"), and (iii) a mortgage on the High School Facility (as defined below). Neither the State of New York (the "State") nor any political subdivision thereof, including The City of New York, New York (the "City"), shall be obligated to pay the principal or redemption price of, or the interest on, the Series 2018 Bonds. Neither the faith and credit nor the taxing power of the State or any political subdivision thereof, including the City, is pledged to the payment of the Series 2018 Bonds. The Series 2018 Bonds will not be payable out of any funds of the Issuer other than those pledged therefor pursuant to the Indenture. The Series 2018 Bonds will not give rise to a pecuniary liability or charge against the credit or taxing powers of the State or any political subdivision thereof, including the City. No recourse will be had for the payment of the principal of, or the interest on, the Series 2018 Bonds against any member, officer, director, employee or agent of the Issuer. The Issuer has no taxing power.

The Series 2018 Bonds will be issued by the Issuer pursuant to the Indenture. The Series 2018 Bonds will be payable from (i) amounts held by the Trustee under the Indenture; and (ii) Loan Payments to be made by the Institution under the Loan Agreement. The Series 2018 Bonds will be additionally secured by the Mortgage, the Assignment of Lease, and a pledge of certain funds and accounts held under the Indenture. The Institution will enter into a Lease, dated as of October 1, 2018 (the "High School Facility Lease"), with the School whereby the School will lease the High School Facility from the Institution. Rent payable to the Institution under the High School Facility Lease will be in amounts sufficient to pay Loan Payments under the Loan Agreement. See "THE PROJECT AND PLAN OF FINANCE" and "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2018 BONDS" in this Official Statement

Proceeds derived from the sale of the Series 2018 Bonds will be used by the Institution, along with other available funds, for the purposes of funding: (i) the acquisition of an existing approximately 25,837 square foot five-story building on an approximately 9,059 square foot parcel of land (0.21 acres) located at 1005 Intervale Avenue, Bronx, New York (the "High School Facility"), which serves students in ninth through twelfth grade; (ii) a debt service reserve fund; and (iii) the costs of issuing the Series 2018 Bonds (collectively, the "Project"). In addition to the High School Facility, the School also leases from the New York City Department of Education (the "NYC DOE"), a three-story school building located immediately adjacent to the High School Facility at 1001 Intervale Avenue, Bronx, New York (the "K-8 Facility" and together with the High School Facility, the "School Facility"), for use as a public charter school serving students in kindergarten through eighth grade. The School leases the K-8 Facility under the terms of a Ground Lease, dated as of December 1, 2005 (as amended or supplemented from time to time, the "K-8 Facility Lease"), between NYC DOE, as landlord and successor to Civic Builders, Inc., and the School, as tenant. See "THE PROJECT AND PLAN OF FINANCE" and "THE SERIES 2018 BONDS" in this Official Statement.

Interest on the Series 2018 Bonds will be payable on June 1 and December 1 of each year, commencing June 1, 2019\* The Series 2018 Bonds will be issued as fully registered bonds in the minimum authorized denomination of \$5,000 or any integral multiple of \$5,000 in excess thereof in the name of Cede & Co., as registered owner and nominee for The Depository Trust Company, New York, New York ("DTC") Purchases of the Series 2018 Bonds will be made in book-entry form only Purchasers of beneficial interests will not receive physical certificates. The Series 2018 Bonds are subject to optional and mandatory redemption as described in this Official Statement See "THE SERIES 2018 BONDS" in this Official Statement. An investment in the Series 2018 Bonds is subject to certain risks. See "RISK FACTORS" in this Official Statement Investors must read the entire Official Statement, including the Appendices hereto

SEE THE INSIDE FRONT COVER FOR THE MATURITY SCHEDULE FOR THE SERIES 2018 BONDS

The Series 2018 Bonds are offered, subject to prior sale, when, as and if accepted by Piper Jaffray & Co (the "Underwriter") and subject to an opinion as to the validity of the Series 2018 Bonds and the tax-exempt status of the Series 2018 Bonds by Nixon Peabody LLP, New York, New York, Bond Counsel, the approval of certain legal matters for the Issuer by its General Counsel, for the Institution and School by their special counsel, Orrick, Herrington & Sutcliffe LLP, New York, New York, for the Trustee by its special counsel, Papparone Law PLLC, New York, New York, and for the Underwriter by its counsel, Barnes & Thornburg LLP, Minneapolis, Minnesota, and certain other conditions. It is expected that delivery of the Series 2018 Bonds will be made on or about October \_\_, 2018 through the facilities of DTC.

PiperJaffray.

This Official Statement is dated \_\_\_\_\_, 2018

\* Preliminary, subject to change

This Preliminary Official Statement and the information contained in this Preliminary Official Statement are subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time the Official Statement is delivered in final form. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.

SUPPLEMENT DATED OCTOBER 5, 2018 TO  
PRELIMINARY OFFICIAL STATEMENT DATED SEPTEMBER 28, 2018

**\$8,705,000\***  
**Build NYC Resource Corporation**  
**Revenue Bonds, Series 2018**  
**(Bronx Lighthouse Charter School Project)**

The Preliminary Official Statement, dated September 28, 2018 (the “Preliminary Official Statement”), with respect to the above-referenced bonds (the “Series 2018 Bonds”) is supplemented by this Supplement, dated October 5, 2018 (the “Supplement”). Capitalized terms used in this Supplement and not defined herein have the same meanings as defined in the Preliminary Official Statement.

The following academic information relating to Bronx Lighthouse Charter School (“BLCS” or the “School”) is added to “APPENDIX A – BRONX LIGHTHOUSE CHARTER SCHOOL – BLCS” in the Preliminary Official Statement

**Advanced Placement**

BLCS offers Advanced Placement (“AP”) opportunities to its students. Sixty-five (65%) of the 2018 graduating class sat for at least one AP exam, with 37% of all seniors earning a passing score (3 or higher).

**Graduation Rates**

Below is information with respect to the 4-year graduation rates of scholars at the School for the stated school-years compared to scholars in the 12<sup>th</sup> District, New York City and the State of New York (public schools).

**Four-Year Graduation Rates (School, 12<sup>th</sup> District, City, and State)**

	<u>BLCS</u>	<u>12<sup>th</sup> District</u>	<u>New York City</u>	<u>State of New York</u>
2015-16	56%	54%	70%	80%
2016-17	88%	54%	71%	80%
2017-18	87%	NA	NA	NA

*Source: BLCS; New York State Education Department*

**Academic Achievement Indicators**

The information shown below with a double underline is added to the table entitled “**Historical ELA / Math State Examination Proficiency Data in School Year**” with respect to grades 3-8 in “APPENDIX A – BRONX LIGHTHOUSE CHARTER SCHOOL – BLCS – Academic Achievement Indicators” in the Preliminary Official Statement.

**Historical ELA / Math State Examination Proficiency Data in School Year**

	MATH		ELA	
	<u>BLCS</u>	<u>12<sup>th</sup> District</u>	<u>BLCS</u>	<u>12<sup>th</sup> District</u>
2012-2013	22%	11%	15%	11%
2013-2014	19%	14%	11%	14%
2014-2015	27%	14%	18%	14%
2015-2016	21%	15%	28%	16%
2016-2017	30%	14%	35%	20%
<u>2017-2018*</u>	<u>43%</u>	<u>18%</u>	<u>33%</u>	<u>24%</u>

*\* Due to the State’s new two-session test design and performance standards, the 2018 Grades 3-8 ELA and math results cannot be compared with prior-year results. The new baseline established this year will enable comparisons with student scores in 2019 and 2020.*

*Source: New York State Education Department*

**Except as specifically amended by this Supplement, the Preliminary Official Statement has not been revised, amended or supplemented.**

*\*Preliminary, subject to change.*

## MATURITY SCHEDULE

**\$8,705,000\***  
**Build NYC Resource Corporation**  
**Revenue Bonds, Series 2018**  
**(Bronx Lighthouse Charter School Project)**

Maturity Date (June 1)*	Principal Amount*	Interest Rate	Yield	Price	CUSIP**
2019	\$ 95,000				
2020	150,000				
2021	155,000				
2022	160,000				
2023	170,000				
2024	175,000				
2025	180,000				
2026	190,000				
2027	195,000				
2028	205,000				

\$1,180,000\* \_\_\_\_\_% Series 2018 Term Bonds due June 1, 2033\*  
 Price of \_\_\_\_\_% to Yield \_\_\_\_\_  
 CUSIP: \_\_\_\_\_\*\*

\$1,500,000\* \_\_\_\_\_% Series 2018 Term Bonds due June 1, 2038\*  
 Price of \_\_\_\_\_% to Yield \_\_\_\_\_  
 CUSIP: \_\_\_\_\_\*\*

\$4,350,000\* \_\_\_\_\_% Series 2018 Term Bonds due June 1, 2048\*  
 Price of \_\_\_\_\_% to Yield \_\_\_\_\_  
 CUSIP: \_\_\_\_\_\*\*

\* Preliminary, subject to change.

\*\* CUSIP data is provided by CUSIP Global Services, which is managed on behalf of the American Bankers Association by S&P Global Market Intelligence, a division of S&P Global Inc. The CUSIP numbers listed above are being provided solely for the convenience of bondholders only at the time of issuance of the Series 2018 Bonds and neither the Issuer nor the Underwriter nor the Institution makes any representation with respect to such numbers or undertake any responsibility for their accuracy now or at any time in the future.

For a schedule of the mandatory sinking fund payments with respect to each maturity of the Series 2018 Bonds that are term bonds, see "THE SERIES 2018 BONDS - Redemption of Series 2018 Bonds - Mandatory Sinking Fund Installment Redemption" in this Official Statement

**Issuer**

Build NYC Resource Corporation

**Bond Counsel to the Issuer**

Nixon Peabody LLP  
New York, New York

**School Trustees**

Javier Lopez-Molina, President  
Nikali Jones, Vice President  
Robert Granado, Treasurer  
Sara Madavo, Secretary  
Vilma Caba, Trustee  
Evelyn De Gonzalez, Trustee  
Eric Kinsey, Trustee  
Frantz Merine, Trustee  
Stacy Sutherland, Trustee  
Briar Thompson, Trustee

**School Officials**

Travis Brown, Principal  
Estefany Angeles, Director of College and Career Advising  
Maria Dorsey, Manager, Operations

**Manager**

Lighthouse Academies, Inc.

**Financial Advisor to the School**

Urban Futures, Inc.  
Tustin, California

**Institution's and School's Special Counsel**

Orrick, Herrington & Sutcliffe LLP  
New York, New York

**Underwriter**

Piper Jaffray & Co.  
Minneapolis, Minnesota and New York, New York

**Underwriter's Counsel**

Barnes & Thornburg LLP  
Minneapolis, Minnesota

**Trustee and Paying Agent**

The Bank of New York Mellon  
New York, New York

**Trustee's Counsel**

Paparone Law PLLC  
New York, New York



No person has been authorized by the Issuer, the Underwriter, the Institution, or the School to give any information regarding the Series 2018 Bonds, the Institution, the School, the Project, the offering contained herein and related matters or to make any representations other than those contained in this Official Statement and if given or made, such other information or representations must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy in any state in which it is unlawful for any person to make such offer or solicitation. The information contained in this Official Statement has been furnished by or on behalf of the Issuer, the Institution, and the School and other sources which are believed to be reliable. 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 any implication that there has been no change in the affairs of the parties referred to above since the date hereof.

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.

Neither the Issuer nor any of its members, agents, employees or representatives has reviewed this Official Statement or investigated the statements or representations contained herein, except for those statements relating to the Issuer set forth under the captions "THE ISSUER" and "LITIGATION - The Issuer." Except with respect to the information contained under such captions, neither the Issuer nor any of its members, agents, employees or representatives makes any representation as to the completeness, sufficiency and truthfulness of the statements set forth in this Official Statement. Members of the governing body of the Issuer and any other person executing the Series 2018 Bonds are not subject to personal liability by reason of the issuance of the Series 2018 Bonds. Other than the information under the caption "THE ISSUER" and "LITIGATION - The Issuer," the Issuer assumes no responsibility for this Official Statement and has not reviewed or undertaken to verify any information contained herein.

The Trustee has not participated in the preparation of this Official Statement or any other disclosure documents relating to the Series 2018 Bonds. Except for information under the heading "THE TRUSTEE," the Trustee has or assumes no responsibility as to the accuracy or completeness of any information contained in this Official Statement or any other such disclosure documents.

References in this Official Statement to New York law, the Series 2018 Bonds, the Indenture, the Loan Agreement, the Account Control Agreement, the Covenant Agreement, the High School Facility Lease, the Mortgage, the Continuing Disclosure Agreement, and other documents do not purport to be complete. Potential investors should refer to such statutes and documents for full and complete details of their provisions. Copies of such documents are on file with the Trustee and the School.

The Chancellor of the City School District of the City of New York (the "Authorizer") has not participated in the preparation of this Official Statement or any other disclosure documents relating to the Series 2018 Bonds. The Authorizer does not assume any responsibility as to the accuracy or completeness of any information contained in this Official Statement or any other such disclosure documents.

THE SERIES 2018 BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT, AND THE INDENTURE HAS NOT 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 2018 BONDS IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF LAWS OF THE STATES IN WHICH SERIES 2018 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 2018 BONDS OR THE ACCURACY OR COMPLETENESS OF THIS OFFICIAL STATEMENT. ANY REPRESENTATION TO THE CONTRARY MAY BE A CRIMINAL OFFENSE.

**CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS**

THIS OFFICIAL STATEMENT, INCLUDING THE APPENDICES HERETO, CONTAINS STATEMENTS WHICH SHOULD BE CONSIDERED “FORWARD-LOOKING STATEMENTS,” MEANING THEY REFER TO POSSIBLE FUTURE EVENTS OR CONDITIONS. SUCH STATEMENTS ARE GENERALLY IDENTIFIABLE BY THE WORDS SUCH AS “PLAN,” “EXPECT,” “ESTIMATE,” “BUDGET,” OR SIMILAR WORDS. THE BUDGET PROJECTION CONTAINED IN APPENDIX C ATTACHED TO THIS OFFICIAL STATEMENT IS NOT A HISTORICAL STATEMENT OF FINANCIAL PERFORMANCE BUT IS A FORWARD LOOKING PROJECTION OF FUTURE, PROJECTED FINANCIAL PERFORMANCE. THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS OR IN THE BUDGET PROJECTION INVOLVE KNOWN AND UNKNOWN RISKS, UNCERTAINTIES, AND OTHER FACTORS WHICH MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE, OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS OR IN THE BUDGET PROJECTION. THE SCHOOL DOES NOT EXPECT OR INTEND TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS OR TO THE BUDGET PROJECTION IF OR WHEN ITS EXPECTATIONS, OR EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS OR FORECASTS ARE BASED, OCCUR.

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## SUMMARY INFORMATION

The following is a summary of certain information contained in this Official Statement. The summary is not comprehensive or complete and is qualified in its entirety by reference to the complete Official Statement (including the Appendices hereto). This Official Statement speaks only as of the date shown herein, and the information herein is subject to change. Undefined capitalized terms used below are defined in APPENDIX F hereto or elsewhere in this Official Statement.

- Issuer**.....Build NYC Resource Corporation (the “Issuer”) is a not-for-profit local development corporation created pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York (the “Act”), and is authorized by the Act to issue the Series 2018 Bonds. See “THE ISSUER” in this Official Statement.
- Institution** ..... 1005 Intervale Avenue LLC (the “Institution”) is a New York limited liability company formed for the sole purpose of furthering the educational and charitable purposes of Bronx Lighthouse Charter School (the “School”). The School is the initial sole member of the Institution. See “THE INSTITUTION” and “APPENDIX A – BRONX LIGHTHOUSE CHARTER SCHOOL” in this Official Statement.
- School**.....The School is a New York nonprofit education corporation organized under Article 56 of the New York Education Law, as amended (the “Charter Schools Act”), and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”). On April 8, 2004, the Board of Trustees of the School and the Authorizer entered into a proposed charter agreement to establish and operate the School. On May 18, 2004, the Board of Regents of the University of the State of New York, for and on behalf of the State Education Department (the “Board of Regents”), approved such charter agreement for a five-year term and incorporated the School by issuing a certificate of incorporation known as a provisional charter. The Authorizer approved the School’s charter renewal application in 2009 for a five-year term, in 2014 for an approximately two year term and in 2016 for an approximately three-year term (such applications, together with the related renewal charter agreements between the Board of Trustees of the School and the Authorizer, are referred to herein as the “Charter”). Concurrently with its approval of each renewal charter agreement, the Board of Regents extended BLCS’ provisional charter for a parallel term. The Charter is currently in effect through June 30, 2019. See “THE SCHOOL” and “APPENDIX A – BRONX LIGHTHOUSE CHARTER SCHOOL” in this Official Statement. See also “CHARTER SCHOOL FUNDING IN THE STATE OF NEW YORK” and “APPENDIX B – SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW” in this Official Statement.
- Manager**.....Lighthouse Academies, Inc., a Delaware nonstock, not for profit corporation and an organization described in Section 501(c)(3) of the Code (the “Manager”), manages the operations of the School under the terms of a Management Service Agreement (the “Management Agreement”) between the School and the Manager. See “APPENDIX A – BRONX LIGHTHOUSE CHARTER SCHOOL – LIGHTHOUSE ACADEMIES, INC.” in this Official Statement.
- Series 2018 Bonds** ..... The Issuer is issuing its Revenue Bonds, Series 2018 (Bronx Lighthouse Charter School Project) (the “Series 2018 Bonds”), in the original aggregate principal amount of \$8,705,000\*, pursuant to an Indenture of Trust, dated as of October 1, 2018 (the “Indenture”), between the Issuer and The Bank of New York Mellon, as trustee (the “Trustee”). The Series 2018 Bonds will be issued in minimum authorized denominations of \$5,000 or any integral multiples of \$5,000 in excess thereof (“Authorized Denominations”). See “THE SERIES 2018 BONDS” in this Official Statement.

**Plan of Finance and**

**Use of Proceeds** ..... The Issuer will loan the proceeds derived from the sale of the Series 2018 Bonds to the Institution pursuant to the terms of a Loan Agreement, dated as of October 1, 2018 (the “Loan Agreement”), by and between the Issuer and the Institution. Proceeds of the Series 2018 Bonds will be used by the Institution, along with other available funds, for the purposes of funding: (i) the acquisition of an existing approximately 25,837 square foot five-story building on an approximately 9,059 square foot parcel of land (0.21 acres) located at 1005 Intervale Avenue, Bronx, New York (the “High School Facility”), which serves students in ninth through twelfth grade; (ii) a debt service reserve fund; and (iii) the costs of issuing the Series 2018 Bonds (collectively, the “Project”). The High School Facility will be owned by the Institution and leased to the School for use as a public charter school for students in grades 9-12 pursuant to a Lease, dated as of October 1, 2018 (the “High School Facility Lease”). See “THE PROJECT AND PLAN OF FINANCE,” “SOURCES AND USES OF FUNDS” and “APPENDIX A – BRONX LIGHTHOUSE CHARTER SCHOOL” in this Official Statement.

In addition to the High School Facility, the School also leases from the New York City Department of Education (the “NYC DOE”), a three-story school building located immediately adjacent to the High School Facility at 1001 Intervale Avenue, Bronx, New York (the “K-8 Facility” and together with the High School Facility, the “School Facility”), for use as a public charter school serving students in kindergarten through eighth grade. The School leases the K-8 Facility from NYC DOE under the terms of a Ground Lease, dated as of December 1, 2005 (as amended or supplemented from time to time, the “K-8 Facility Lease”), between NYC DOE, as landlord and as successor to Civic Builders, Inc., and the School, as tenant. The High School Facility and the K-8 Facility are referred to together as the “School Facility.”

**Security for**

**the Series 2018 Bonds** ..... The Series 2018 Bonds will be secured by and payable from an assignment and pledge of (i) all money held under the Indenture, including the Series 2018 Bond proceeds initially deposited in the Debt Service Reserve Fund, (ii) the interest of the Issuer in the Loan Agreement (except for the Issuer’s Reserved Rights), and (iii) Loan Payments due from the Institution under the Loan Agreement.

The School will lease the High School Facility from the Institution pursuant to the High School Facility Lease. The Rent (as defined in the High School Facility Lease) payable to the Institution under the High School Facility Lease will be in amounts sufficient to pay Loan Payments under the Loan Agreement. Revenues from the operation of both the High School Facility and the K-8 Facility will be pledged to the payment of debt service on the Series 2018 Bonds.

The Series 2018 Bonds will also be secured, with respect to the High School Facility, under (i) the terms of the Mortgage and Security Agreement, dated as of October 1, 2018 (the “Mortgage”), from the Institution in favor of the Issuer and the Trustee, as assigned by the Issuer to the Trustee under the terms of an Assignment of Mortgage and Security Agreement, dated as of the date of issuance of the Series 2018 Bonds (the “Assignment of Mortgage”), and (ii) an Assignment of Lease, dated as of October 1, 2018 (the “Assignment of Lease”), from the Institution to the Trustee. *The mortgage lien provided by the Mortgage is only against the High School Facility; the K-8 Facility will not be subject to the lien of the Mortgage.*

Pursuant to the terms of the High School Facility Lease, the School will pay all Rent directly to the Institution’s bank account that is subject to the Account Control Agreement (as defined below). The Charter Schools Act prohibits the School from pledging or assigning Education Aid Payments (as defined herein), and other amounts payable by the New York State Department of Education (the “Department of Education”) to the School in connection with the construction, acquisition,

reconstruction, rehabilitation, or improvement of a school facility. Pursuant to the terms of an Account Control Agreement, dated as of October 1, 2018 (the “Account Control Agreement”), between the Institution, the Trustee, and The Bank of New York Mellon, as depositary bank (the “Depositary Bank”), the Institution will grant a security interest in the Institution’s operating account to the Trustee and will direct the Depositary Bank to transfer each Rent payment from the Institution’s operating account to the Trustee for deposit to the Revenue Fund (such payment of Rent is anticipated to be sufficient to make all payments required under the Loan Agreement). Under the terms of the Account Control Agreement, upon an Event of Default under the Indenture the Trustee will have control of and have the right to make withdrawals from such operating account. In the Account Control Agreement, the Institution covenants not to open any additional bank accounts unless such accounts are subject to the Account Control Agreement.

Pursuant to a Covenant Agreement, dated as of October 1, 2018 (the “Covenant Agreement”), between the School and the Trustee, the School will make certain covenants for the benefit of the Trustee, including that the School will comply with the terms of the High School Facility Lease, for the benefit of the holders of the Series 2018 Bonds and any Additional Bonds issued under the Indenture. The School also agrees in the Covenant Agreement to comply with the terms of the K-8 Facility Lease. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2018 BONDS” in this Official Statement.

Pursuant to the terms of an Assignment and Subordination of Management Agreement, dated as of October 1, 2018 (the “Assignment of Management Agreement”), from the School and the Institution to the Trustee and acknowledged by the Manager, the Manager, the School and the Institution have agreed to subordinate the payment of the Manager’s fees under the terms of the Management Agreement for the School to payment of the Rent payments required under the High School Facility Lease. In addition, under the terms of the Assignment of Management Agreement, the School will not pay the Manager its fees under the Management Agreement if, as a result of such payment, the School would not be in compliance with its minimum Days Cash on Hand requirement under the Covenant Agreement at the end of a fiscal year.

**Special, Limited Obligations** .....

THE SERIES 2018 BONDS ARE SPECIAL LIMITED REVENUE OBLIGATIONS OF THE ISSUER, PAYABLE AS TO PRINCIPAL, REDEMPTION PRICE AND INTEREST, SOLELY FROM THE TRUST ESTATE AND CERTAIN FUNDS AND ACCOUNTS ESTABLISHED UNDER THE INDENTURE. NEITHER THE STATE OF NEW YORK (THE “STATE”) NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY OF NEW YORK, NEW YORK (THE “CITY”) SHALL BE OBLIGATED TO PAY THE PRINCIPAL OR REDEMPTION PRICE OF, OR INTEREST ON, THE SERIES 2018 BONDS. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY, IS PLEDGED TO SUCH PAYMENT OF THE SERIES 2018 BONDS. THE SERIES 2018 BONDS WILL NOT BE PAYABLE OUT OF ANY FUNDS OF THE ISSUER OTHER THAN THOSE PLEDGED THEREFOR PURSUANT TO THE INDENTURE. THE SERIES 2018 BONDS WILL NOT GIVE RISE TO A PECUNIARY LIABILITY OR CHARGE AGAINST THE CREDIT OR TAXING POWERS OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY. NO RECOURSE WILL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE OF, OR INTEREST ON, THE SERIES 2018 BONDS AGAINST ANY MEMBER, OFFICER, DIRECTOR, EMPLOYEE OR AGENT OF THE ISSUER. THE ISSUER HAS NO TAXING POWER.

**Risk Factors** .....

Purchase of the Series 2018 Bonds involves a degree of risk. A prospective purchaser of the Series 2018 Bonds is advised to read this entire Official Statement including the

Appendices attached hereto in their entirety, particularly the section entitled “RISK FACTORS” in this Official Statement, for a discussion of certain risk factors, which should be considered in connection with an investment in the Series 2018 Bonds.

**Optional Redemption** ..... The Series 2018 Bonds maturing on or prior to June 1, 202\_, are not subject to optional redemption prior to maturity. The Series 2018 Bonds maturing on or after June 1, 202\_ are subject to optional redemption, on or after June 1, 202\_, in whole or in part at any time (but if in part in integral multiples of \$5,000 and in the minimum principal amount of \$5,000), at the option of the Issuer (which option shall be exercised only upon the giving of notice by the Institution of its intention to prepay Loan Payments due under the Loan Agreement), at the Redemption Price of (a) from June 1, 202\_ through May 31, 202\_, \_\_\_%, (b) from June 1, 202\_ through May 31, 202\_, \_\_\_%, and (c) on and after June 1, 202\_, 100%, of unpaid principal amount of the Series 2018 Bonds to be redeemed, plus accrued interest to the date of redemption. See “THE SERIES 2018 BONDS - Redemption of Series 2018 Bonds - *General Optional Redemption*” in this Official Statement.

**Mandatory Redemption** ..... Certain maturities of the Series 2018 Bonds are also subject to mandatory sinking fund redemption as set forth in this Official Statement. See “THE SERIES 2018 BONDS – Redemption of Series 2018 Bonds” in this Official Statement.

**Extraordinary Mandatory Redemption** . Under certain circumstances the Series 2018 Bonds are also subject to redemption at a redemption price equal to the principal amount, plus accrued interest upon the occurrence of certain events of damage, destruction or condemnation. The Series 2018 Bonds are also subject to mandatory redemption upon the Issuer’s determination of (i) the Institution’s failure to operate the High School Facility for the Approved Project Operations, (ii) the Institution’s material violation of material legal requirements, (iii) false representation by the Institution, (iv) a required disclosure statement delivered to the Issuer is not acceptable or (v) the Institution’s failure to maintain liability insurance. See “THE SERIES 2018 BONDS – Redemption of Series 2018 Bonds” in this Official Statement.

**Exchange and Transfer** ..... While the Series 2018 Bonds remain in book-entry only form, transfer of ownership by Beneficial Owners may be made as described in “THE SERIES 2018 BONDS” and “APPENDIX L – BOOK-ENTRY ONLY SYSTEM” in this Official Statement.

**Payment** ..... Interest accrues on the Series 2018 Bonds at the rates set forth on the inside front cover of this Official Statement from their date of issuance and is payable on June 1 and December 1 of each year, commencing June 1, 2019\* (each an “Interest Payment Date”). The Series 2018 Bonds mature as set forth on the inside front cover of this Official Statement. Interest on and the principal of the Series 2018 Bonds is payable as described under the heading “THE SERIES 2018 BONDS – Interest; Maturity; Payment” and “THE SERIES 2018 BONDS – Redemption of Series 2018 Bonds – *Mandatory Sinking Fund Installment Redemption*” in this Official Statement.

**Trustee and Paying Agent** ..... The Bank of New York Mellon in New York, New York. See “THE TRUSTEE” in this Official Statement.

**Form** ..... The Series 2018 Bonds will be registered under a book-entry system in the name of The Depository Trust Company (“DTC”) or its nominees. See “THE SERIES 2018 BONDS” in this Official Statement.

**Tax Status** ..... In the opinion of Nixon Peabody LLP, Bond Counsel, under existing law and assuming compliance with the tax covenants described herein, and the accuracy of certain representations and certifications made by the Issuer, the Institution and the School

\*Preliminary, subject to change.

described herein, interest on the Series 2018 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Code. Bond Counsel is also of the opinion that such interest is not treated as a preference item in calculating the alternative minimum tax imposed under the Code. Bond Counsel is further of the opinion that interest on the Series 2018 Bonds is exempt from personal income taxation imposed by the State or any political subdivision thereof including the City, assuming compliance with the tax covenants and the accuracy of the representations and certifications referred to in the first sentence of this paragraph. See “TAX MATTERS” and “APPENDIX J – FORM OF BOND COUNSEL OPINION” in this Official Statement.

**Continuing Disclosure**

**Agreement** ..... Pursuant to the requirements of Securities and Exchange Commission Rule 15c2-12 (17 CFR Part 240, § 240.15c2-12) (the “Rule”), the Institution and the School have agreed for the benefit of the Registered Owners and Beneficial Owners of the Series 2018 Bonds to provide certain financial information, other operating data and notices of material events. Neither the Institution nor the School has been subject to any prior continuing disclosure undertaking under the Rule. See “CONTINUING DISCLOSURE,” and “APPENDIX K – FORM OF CONTINUING DISCLOSURE AGREEMENT” in this Official Statement.

**Rating** ..... Moody’s Investor Service has assigned a rating of “Baa3” to the Series 2018 Bonds. See “BOND RATING” in this Official Statement.

**Delivery Information** ..... The Series 2018 Bonds are offered when, as, and if issued by the Issuer and accepted by the Underwriter, subject to prior sale and the approving legal opinion of Bond Counsel and certain other conditions. It is expected that delivery of the Series 2018 Bonds will be made on or about October \_\_, 2018 through the facilities of DTC in New York, New York, against payment therefor.

**Agents and Advisors** ..... Nixon Peabody LLP, New York, New York, is acting as Bond Counsel. Certain legal matters will be passed upon for the Institution and the School by their special counsel, Orrick, Herrington & Sutcliffe LLP, New York, New York. Certain legal matters will be passed upon for the Trustee by its special counsel, Paparone Law PLLC, New York, New York and for the Underwriter by its counsel, Barnes & Thornburg LLP, Minneapolis, Minnesota. Piper Jaffray & Co., Minneapolis, Minnesota and New York, New York will serve as the Underwriter for the Series 2018 Bonds. See “UNDERWRITING” in this Official Statement. The Bank of New York Mellon, New York, New York, will serve as the Trustee for the Series 2018 Bonds. Urban Futures Incorporated, Tustin, California (“Financial Advisor”) has been retained by the School to act as financial advisor in connection with the issuance of the Series 2018 Bonds. Certain fees that are payable with respect to the Series 2018 Bonds to various counsel, the Underwriter, the Trustee and Financial Advisor are contingent upon the issuance and delivery of the Series 2018 Bonds.

**Additional**

**Information** ..... The summaries of or references to constitutional provisions, statutes, resolutions, agreements, contracts, financial statements, reports, publications and other documents or compilations of data or information set forth in this Official Statement do not purport to be complete statements of the provisions of the items summarized or referred to and are qualified in their entirety by the actual provisions of such items, copies of which are either publicly available or available upon request and the payment of a reasonable copying, mailing and handling charge from the Underwriter, 800 Nicollet Mall, J12NPF, Minneapolis, Minnesota 55402 or the Trustee, 240 Greenwich Street, Floor 7W, New York, New York, Attention: Corporate Trust Administration.

**Audited Financial**

**Statements** ..... The audited financial statements of the School for the fiscal year ended June 30, 2017 are included in this Official Statement as APPENDIX D. These are the most recent audited



financial statements available for the School. The financial statements in APPENDIX D were audited by Marks Paneth LLP. See “AUDITED FINANCIAL STATEMENTS OF THE SCHOOL” and “APPENDIX D - AUDITED FINANCIAL STATEMENTS OF THE SCHOOL FOR THE FISCAL YEAR ENDED JUNE 30, 2017 (INCLUDING JUNE 30, 2016 COMPARATIVE INFORMATION)” in this Official Statement.

**Unaudited**

**Financial Statements** ..... The unaudited financial statements of the School for the fiscal year ended June 30, 2018 are contained in APPENDIX E. The financial statements contained in APPENDIX E have been prepared by the School and have not been audited, reviewed or examined by any independent accounting firm. *Marks Paneth LLP has not performed any procedures relating to the School's unaudited financial statements* See “APPENDIX E – UNAUDITED FINANCIAL STATEMENTS OF THE SCHOOL FOR THE FISCAL YEAR ENDED JUNE 30, 2018” in this Official Statement.

**Budget Projection** ..... The Budget Projection (the “Budget Projection”) attached hereto in APPENDIX C is a projection of the future financial performance of the School based upon certain assumptions made by the School and contained therein. NO ASSURANCES CAN BE GIVEN THAT THE OPERATIONS OF THE SCHOOL WILL EQUAL OR EXCEED THE PROJECTED FUTURE FINANCIAL PERFORMANCE SET FORTH IN THE BUDGET PROJECTION. The Budget Projection is for the five fiscal years of the School ending June 30, 2019 through June 30, 2023.

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## OFFICIAL STATEMENT

**\$8,705,000\***

**Build NYC Resource Corporation  
Revenue Bonds, Series 2018  
(Bronx Lighthouse Charter School Project)**

### INTRODUCTORY STATEMENT

The following is a brief introduction as to certain matters discussed elsewhere in this Official Statement and is qualified in its entirety as to such matters by such discussion and the text of the actual documents described or referenced. Capitalized terms not defined herein have the meanings assigned in APPENDIX F or in the Indenture, the Loan Agreement or other document with respect to which the term is used. Definitions contained in the text hereof are for ease of reference only and are qualified in their entirety by the definitions in APPENDIX F or the documents with respect to which such terms relate. The Appendices to this Official Statement are an integral part of this Official Statement and each potential investor should review the Appendices in their entirety.

#### General

Build NYC Resource Corporation, a not-for-profit local development corporation created pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York (the “Issuer”), will issue its Revenue Bonds, Series 2018 (Bronx Lighthouse Charter School Project) (the “Series 2018 Bonds”), in the original aggregate principal amount of \$8,705,000\*, pursuant to an Indenture of Trust, dated as of October 1, 2018 (the “Indenture”), between the Issuer and The Bank of New York Mellon, as trustee (the “Trustee”). The Issuer will loan the proceeds of the Series 2018 Bonds (the “Loan”) to 1005 Intervale Avenue LLC, a New York limited liability company (the “Institution”), whose sole member is currently Bronx Lighthouse Charter School, a New York nonprofit education corporation (the “School”) and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), pursuant to a Loan Agreement, dated as of October 1, 2018 (the “Loan Agreement”), between the Issuer and the Institution. See “APPENDIX G - SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT” in this Official Statement.

Proceeds of the Series 2018 Bonds will be used by the Institution, along with other available funds, for the purposes of funding: (i) the acquisition of an existing approximately 25,837 square foot five-story building on an approximately 9,059 square foot parcel of land (0.21 acres) located at 1005 Intervale Avenue, Bronx, New York (the “High School Facility”), which serves students in ninth through twelfth grades; (ii) a debt service reserve fund; and (iii) the costs of issuing the Series 2018 Bonds (collectively, the “Project”). The High School Facility will be owned by the Institution and leased to the School for use as a public charter school for students in grades 9-12 pursuant to a Lease, dated as of October 1, 2018 (the “High School Facility Lease”). See “THE PROJECT AND PLAN OF FINANCE,” “SOURCES AND USES OF FUNDS” and “APPENDIX A – BRONX LIGHTHOUSE CHARTER SCHOOL” in this Official Statement.

In addition to the High School Facility, the School also leases from the New York City Department of Education (the “NYC DOE”), a three-story school building located immediately adjacent to the High School Facility at 1001 Intervale Avenue, Bronx, New York (the “K-8 Facility”) for use as a public charter school serving students in kindergarten through eighth grade. The School leases the K-8 Facility from NYC DOE under the terms of a Ground Lease, dated as of December 1, 2005 (as amended or supplemented from time to time, the “K-8 Facility Lease”), between NYC DOE, as landlord and

successor to Civic Builders, Inc., and the School, as tenant. The High School Facility and the K-8 Facility are referred to together as the “School Facility.”

### **Loan of Series 2018 Bond Proceeds; Mortgage and Other Security**

Proceeds of the Series 2018 Bonds will be loaned by the Issuer to the Institution pursuant to the Loan Agreement and the Series 2018 Bonds will be payable primarily from and secured by a pledge of payments to be made by the Institution (the “Loan Payments”) under the Loan Agreement and one or more Promissory Notes from the Institution to the Issuer (collectively, the “Promissory Note”), which, if fully and promptly paid, will be sufficient to pay when due the scheduled principal of and interest on the Series 2018 Bonds (collectively with any Additional Bonds issued pursuant to the Indenture, the “Bonds”). The Series 2018 Bonds will also be secured, with respect to the High School Facility, by (i) the Mortgage and Security Agreement, dated as of October 1, 2018 (the “Mortgage”), to be executed by the Institution in favor of the Issuer and the Trustee, as assigned by the Issuer to the Trustee under the terms of an Assignment of Mortgage and Security Agreement, dated as of October 1, 2018 (the “Assignment of Mortgage”) with respect to the High School Facility, and (ii) an Assignment of Lease, dated as of October 1, 2018 (the “Assignment of Lease”), from the Institution to the Trustee with respect to the High School Facility. *The mortgage lien provided by the Mortgage is only against the High School Facility; the K-8 Facility will not be subject to the lien of the Mortgage.* See “APPENDIX G – SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT” and “APPENDIX H – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE OF TRUST” in this Official Statement.

Pursuant to the terms of the High School Facility Lease, the School will pay all Rent directly to the Institution’s bank account that is subject to the Account Control Agreement (as defined below). The Charter Schools Act prohibits the School from pledging or assigning Education Aid Payments (as defined herein), and other amounts payable by the New York State Department of Education (the “Department of Education”) to the School in connection with the construction, acquisition, reconstruction, rehabilitation, or improvement of a school facility. Pursuant to the terms of an Account Control Agreement, dated as of October 1, 2018 (the “Account Control Agreement”), between the Institution, the Trustee, and The Bank of New York Mellon, as depository bank (the “Depository Bank”), the Institution will grant a security interest in the Institution’s operating account to the Trustee and will direct the Depository Bank to transfer each Rent payment from the Institution’s operating account to the Trustee for deposit to the Revenue Fund (such payment of Rent is anticipated to be sufficient to make all payments required under the Loan Agreement). Under the terms of the Account Control Agreement, upon an Event of Default under the Indenture, the Trustee will have control of and have the right to make withdrawals from such operating account. In the Account Control Agreement, the Institution covenants not to open any additional bank accounts unless such accounts are subject to the Account Control Agreement.

Pursuant to the Indenture, the Issuer will pledge to the Trustee, for the benefit of the holders of the Series 2018 Bonds, all of its interest in the Loan Agreement (other than the Issuer’s Reserved Rights) to secure payment of the principal of, premium, if any, and interest on the Series 2018 Bonds. Pursuant to the Mortgage, the payment of the principal of, premium, if any, and interest on the Series 2018 Bonds will be secured by a mortgage lien on and security interest in the High School Facility, subject to certain “Permitted Encumbrances” described in the Mortgage. *The K-8 Facility will not be subject to the lien of the Mortgage.* Pursuant to the Assignment of Lease, the Institution will assign all of its interest in the High School Facility Lease and the Rent payments to the Trustee to secure payment of the principal of, premium, if any, and interest on the Series 2018 Bonds. The obligation of the Institution to make Loan Payments under the Loan Agreement is an absolute and unconditional obligation of the Institution. However, the Institution will not have any other sources of revenue other than Rent payments received from the School under the High School Facility Lease, and the ability of the Institution to generate

additional revenues is limited in the event that the Education Aid Payments received by the School are not sufficient to make the required payments of Rent under the High School Facility Lease. Revenues from the operation of both the High School Facility and the K-8 Facility will be pledged to the payment of debt service on the Series 2018 Bonds. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2018 BONDS” in this Official Statement.

### **Leases of the School Facilities**

Pursuant to the High School Facility Lease, the Institution, upon purchase of the High School Facility using proceeds of the Series 2018 Bonds, will lease the High School Facility to the School. The School currently operates, and will continue to operate, its public charter school at the High School Facility. Rent payable to the Institution by the School under the High School Facility Lease will be sufficient to pay Loan Payments under the Loan Agreement. The initial term of the High School Facility Lease is equal to the term of the Series 2018 Bonds, with the School having the right to extend the High School Facility Lease term for two more five year periods. Pursuant to the Assignment of Lease, as security for the Series 2018 Bonds, the Institution will assign to the Trustee all of the Institution’s interest in and to the High School Facility Lease, including all of its right, title and interest in all rents, income, receipts, revenue and profits arising from the High School Facility Lease. The terms of the High School Facility Lease require that the School pay all amounts of Rent directly to the Institution’s bank account that is subject to the terms of the Account Control Agreement. The Depositary Bank will transfer each Rent payment from the Institution’s operating account to the Trustee for deposit in the Revenue Fund as required by the terms of the Account Control Agreement and related Depositary Agreement.

The term of the K-8 Facility Lease, as amended or supplemented, is currently through September 30, 2026. The School has occupied the K-8 Facility under the terms of the K-8 Facility Lease since September 2006. Under the terms of the K-8 Facility Lease, the School has a renewal option (provided that no event of default has occurred or is continuing), at any time that is 180 days prior to the end of the initial term of the K-8 Facility Lease, to extend the term of the K-8 Facility Lease for one additional 10 year period. This means that the outside date of the K-8 Facility Lease term is September 30, 2036. The option to extend the initial term of the K-8 Facility Lease must be exercised in writing by the School and if the School provides such renewal notice in writing, then the term of the K-8 Facility Lease will be automatically renewed and extended to September 30, 2036.

### **Debt Service Reserve Fund**

On the closing date for the issuance of the Series 2018 Bonds, proceeds of the Series 2018 Bonds in an amount equal to the Reserve Fund Requirement (initially \$566,750\*) will be deposited in the Debt Service Reserve Fund created by the Indenture. Earnings on amounts in the Debt Service Reserve Fund will be deposited therein so long as the balance therein is less than the Reserve Fund Requirement. Amounts in the Debt Service Reserve Fund will secure the Series 2018 Bonds and may be used by the Trustee to pay principal of and interest on the Series 2018 Bonds in the event sums in the Bond Fund are insufficient for such purpose. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2018 BONDS – Debt Service Reserve Fund” and “APPENDIX H – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE OF TRUST – The Debt Service Reserve Fund” in this Official Statement.

### **Continuing Disclosure**

The Institution and the School will agree in the Continuing Disclosure Agreement to provide certain annual financial reports, certain periodic quarterly and annual financial reports and notices of

certain other events with respect to the Series 2018 Bonds. See “CONTINUING DISCLOSURE” in this Official Statement.

### **Special Covenants of the School; Additional Indebtedness**

The Covenant Agreement requires the School to comply with certain financial covenants and places certain restrictions on the incurrence of indebtedness by the School. The Loan Agreement prohibits the Institution from incurring any additional indebtedness other than Additional Bonds issued pursuant to the Indenture. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2018 BONDS – Special Covenants of the School; Additional Indebtedness” in this Official Statement.

### **Bondholders’ Risks**

Certain risks associated with an investment in the Series 2018 Bonds are discussed under “RISK FACTORS” in this Official Statement.

### **Miscellaneous**

This Official Statement (including the Appendices hereto) contains descriptions of, among other matters, the Indenture, the Loan Agreement, the Mortgage, the High School Facility Lease, the Assignment of Lease, the Account Control Agreement, the Covenant Agreement, the Continuing Disclosure Agreement, the Issuer, the High School Facility, the Institution, the School, and the Series 2018 Bonds. Such descriptions and information do not purport to be comprehensive or definitive. All references to documents described herein are qualified in their entirety by reference to such documents, copies of which are available for inspection at the designated corporate trust office of the Trustee.

## **THE ISSUER**

The Issuer, created in 2011, 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 New York, New York (the “City”). The Issuer is not an agency of State or City government and is not subject to administrative direction by any department, commission, board or agency of the State or of 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 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 “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 2018 Bonds, the Issuer has not otherwise assisted in the public offer, sale or distribution of the Series 2018 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 2018 Bonds.

The Series 2018 Bonds are special limited revenue obligations of the Issuer payable solely from the payments made by the Institution under the Loan Agreement, the Promissory Note, and from the Trust Estate as described in the Indenture. Neither the Issuer nor its directors or officers are personally liable with respect to the Series 2018 Bonds. Accordingly, no financial information with respect to the Issuer or its directors or officers has been included in this Official Statement.

## **THE INSTITUTION**

The Institution is a New York limited liability company whose initial sole member is the School. The Institution was formed on April 12, 2018. The Institution has elected to be treated as a “disregarded entity” under the Code. The Institution will acquire and own the High School Facility. The Institution will lease the High School Facility to the School. Additional information about the Institution is located in “APPENDIX A – BRONX LIGHTHOUSE CHARTER SCHOOL” in this Official Statement. It is anticipated that the School’s interest as sole member of the Institution will be transferred in the future to Bronx Support Corporation (the “Support Corporation”), a New York not-for-profit corporation organized for the sole purpose of supporting the School, upon determination by the Internal Revenue Service that the Support Corporation is an organization described in Section 501(c)(3) of the Code. The Support Corporation will not be a borrower under or a party to the Loan Agreement or the Promissory Note and will not be obligated to make payments under the Loan Agreement or pay debt service on the Series 2018 Bonds.

## **THE SCHOOL**

The School is a nonprofit education corporation incorporated under Article 56 of the New York Education Law and operates pursuant to a charter agreement with the Chancellor of the City School District of the City of New York (the “Authorizer”). On April 8, 2004, the Board of Trustees of the School and the Authorizer entered into a proposed charter agreement to establish and operate the School. On May 18, 2004, the Board of Regents of the University of the State of New York, for and on behalf of the State Education Department (the “Board of Regents”), approved such charter agreement for a five-year term and incorporated the School by issuing a certificate of incorporation known as a provisional charter. The Authorizer approved the School’s charter renewal application in 2009 for a five-year term, in 2014 for an approximately two-year term and in 2016 for an approximately three-year term (such applications, together with the related renewal charter agreements between the Board of Trustees of the School and the Authorizer, are referred to herein as the “Charter”). Concurrently with its approval of each renewal charter agreement, the Board of Regents extended BLCS’ provisional charter for a parallel term. The Charter is currently in effect through June 30, 2019. The Charter provides for the education of students in grades K-12. See “APPENDIX A – BRONX LIGHTHOUSE CHARTER SCHOOL – The Charter Contract” for a more detailed description of the Charter and renewal process.

The School is an organization described in Section 501(c)(3) of the Code which is exempt from federal income taxation under Section 501(a) of the Code (except with respect to “unrelated business taxable income” within the meaning of Section 512(a) of the Code) and which is not a “private foundation” as defined in Section 509(a) of the Code. The School operates as a New York nonprofit education corporation and as such is governed by the law applicable to such entities and its Charter and bylaws. The School’s bylaws provide that the School is managed and controlled by a Board of Trustees. For more information with respect to the School, the Charter and the School’s history and operations, see

“APPENDIX A – BRONX LIGHTHOUSE CHARTER SCHOOL” in this Official Statement. The School will not be a borrower under or a party to the Loan Agreement or the Promissory Note and will not be obligated to make payments under the Loan Agreement or pay debt service on the Series 2018 Bonds.

### **THE MANAGER**

Lighthouse Academies, Inc., a Delaware nonstock, not for profit corporation and an exempt organization described in Section 501(c)(3) of the Code (the “Manager”), manages the operations of the School pursuant to a Management Services Agreement (the “Management Agreement”). The Manager currently manages charter schools in three states serving approximately 5,500 students. See “APPENDIX A – BRONX LIGHTHOUSE CHARTER SCHOOL – LIGHTHOUSE ACADEMIES, INC.” in this Official Statement.

### **THE PROJECT AND PLAN OF FINANCE**

*Use of Proceeds of the Series 2018 Bonds.* Proceeds of the Series 2018 Bonds will be used by the Institution for the purposes of funding: (i) the acquisition of the High School Facility; (ii) a debt service reserve fund; and (iii) the costs of issuing the Series 2018 Bonds (collectively, the “Project”). The High School Facility will be owned by the Institution and leased to the School for use as a public charter school for students in grades 9-12 pursuant to the High School Facility Lease.

*Acquisition of the High School Facility.* On June 2, 2011, the School entered into a lease agreement (the “Current High School Lease”) with BLCS Property Holding Company, Inc. (the “High School Seller”) for the High School Facility. Construction of the High School Facility was completed in August 2012 and the School has occupied and operated its charter school at the High School Facility since the start of the 2012-2013 school year. The High School Seller will enter into a Sale Agreement dated as of October 12, 2018, pursuant to which the Institution will agree to purchase, and the High School Seller will agree to sell, the High School Facility at a purchase price of \$10,442,072.79\* based on the anticipated closing date. The purchase price of the High School Facility is equal to the pay-off amount of the High School Seller’s outstanding New Market Tax Credit debt and is not based upon the appraised value of the High School Facility.

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## SOURCES AND USES OF FUNDS

Following are the estimated sources and uses for funds (excluding investment income) associated with the Project and the issuance of the Series 2018 Bonds:

<b>Sources of Funds*</b>	
Series 2018 Bond Proceeds	\$ 8,705,000
Original Issue Premium	336,801
Equity Contribution	<u>2,848,063</u>
<b>Total Sources of Funds</b>	<u>\$11,889,864</u>
<b>Uses of Funds*</b>	
Refinancing of the Acquisition of the High School Facility	\$10,443,440
Reserve Fund Requirement Deposit	566,750
Costs of Issuance and Real Estate Closing Costs <sup>(1)</sup>	<u>879,674</u>
<b>Total Uses of Funds</b>	<u>\$11,889,864</u>

<sup>(1)</sup> Includes Underwriter's compensation, legal fees and expenses, printing, title insurance, Rating Agency fees; Trustee fees, Issuer fees, accountant fees, real estate costs and other expenses associated with the issuance of the Series 2018 Bonds.

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## DEBT SERVICE SCHEDULE

The table below sets forth the amounts required to be paid with respect to the Series 2018 Bonds, assuming no prepayments or redemption prior to maturity. All amounts shown in the table below are gross debt service prior to the application of any earnings on amounts deposited in the Debt Service Reserve Fund and the other funds and accounts established under the Indenture. Interest on the Series 2018 Bonds will be paid on June 1 and December 1 of each year, commencing June 1, 2019\*. Principal of the Series 2018 Bonds will be paid on June 1 of each year, commencing June 1, 2019\*.

<b>Year Ending (June 1)</b>	<b>Principal Amount*</b>	<b>Interest Amount</b>	<b>Total Debt Service</b>
2019	\$ 95,000		
2020	150,000		
2021	155,000		
2022	160,000		
2023	170,000		
2024	175,000		
2025	180,000		
2026	190,000		
2027	195,000		
2028	205,000		
2029	215,000		
2030	225,000		
2031	235,000		
2032	245,000		
2033	260,000		
2034	270,000		
2035	285,000		
2036	300,000		
2037	315,000		
2038	330,000		
2039	345,000		
2040	365,000		
2041	380,000		
2042	400,000		
2043	420,000		
2044	440,000		
2045	465,000		
2046	490,000		
2047	510,000		
2048 <sup>(1)</sup>	535,000		
<b>Totals</b>	<b>\$8,705,000</b>		

<sup>(1)</sup> Does not include application of the amount on deposit in the Debt Service Reserve Fund to the final payment of principal due on the Series 2018 Bonds

## **CHARTER SCHOOL FUNDING IN THE STATE OF NEW YORK**

This section provides a brief overview of New York's current system for funding charter schools. Prospective purchasers of the Series 2018 Bonds should note that the overview contained below and the summary of relevant New York state law provisions contained in APPENDIX B hereto are provided for the convenience of prospective purchasers but are not and do not purport to be comprehensive. Potential purchasers should note that the law applicable to charter schools in New York has developed over time and is subject to further changes in the future. See "RISK FACTORS – Changes in Law; Annual Appropriation; Inadequate Education Aid Payments" in this Official Statement.

### **General**

Charter schools in New York are eligible to receive funds from State, federal and private sources. The principal source of charter school funding in New York is "Charter School Basic Tuition" which is paid directly to a charter school by the school district of residence of each student enrolled in the charter school. The enrollment of students attending charter schools is included in the enrollment, attendance, membership and, if applicable, count of students with disabilities of the school district in which the pupil resides. The amount of Charter School Basic Tuition for a particular school year paid by a school district is derived from formulas based on the school district's "Expense Per Pupil" as defined in the State Education Law. See "Charter School Basic Tuition" below for a more detailed description. In addition, the school district of residence of a student with a disability attending a charter school is required to pay directly to such charter school any federal or state aid attributable to such student in proportion to the level of services for such student with a disability that the charter school provides directly or indirectly (any such payments, together with Charter School Basic Tuition, are referred to herein as "Education Aid Payments"). Such amounts may be reduced pursuant to an agreement between the school and the charter entity as set forth in the charter. See "Federal and State Aid Attributable to a Student with a Disability" below for further detail. In the event a school district fails to make the payments described above, the State comptroller is directed to deduct from any State funds which become due to such school district an amount equal to the unpaid obligation, which the State comptroller will then pay to the charter school. In 2014, the Charter Schools Act was amended to provide for facilities assistance to charter schools under certain circumstances. Such assistance may be in the form of co-located space within a school district facility, alternative private space or, under certain circumstances, rental subsidy payments in an amount determined pursuant to the Charter Schools Act. See "Facilities Access Payments/Rental Assistance" below for a more detailed description. See "APPENDIX B – SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW" in this Official Statement.

### **Charter School Basic Tuition**

Charter School Basic Tuition is calculated according to a series of statutory formulas, which are detailed and complicated. By way of overview, a description of the Charter School Basic Tuition formula is provided in this section. Pursuant to Section 2856 of the Charter Schools Act, Charter School Basic Tuition is equal to the school district's "Expense Per Pupil" for the year prior to the "Base Year" (i.e., the school year immediately preceding the current year) increased by the percentage change in the state total "Approved Operating Expense" from two years prior to the Base Year to the Base Year, with certain adjustments set forth for each school year. See "APPENDIX B – SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW – Financing of Charter Schools" for a detailed description of the Charter School Basic Tuition for each school year. The calculation for Expense Per Pupil is a function of 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: (i) "Total Aidable Pupil Units" and (ii) "Weighted Pupils With Disabilities." See "APPENDIX B – SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW – Charter School Basic Tuition" in this Official

Statement for a detailed discussion of the Charter School Basic Tuition formula and applicable definitions, including “Approved Operating Expense.”

For this purpose, “Total Aidable Pupil Units” is the sum of: (i) the school district’s “Adjusted Average Daily Attendance” for the year prior to the Base Year multiplied by the “Enrollment Index” for the Base Year, plus (ii) the “Additional Aidable Pupil Units” for the year prior to the Base Year.

*Adjusted Average Daily Attendance.* For purposes of computing Adjusted Average Daily Attendance, the average daily attendance of public school pupils in a full-day kindergarten and grades 1-12 is counted as the basic unit, with the attendance of such pupils in one-half day kindergartens counted as one-half of such basic unit. The sum of all such units of attendance is the Adjusted Average Daily Attendance. Adjusted Average Daily Attendance is calculated by: (i) determining the number of religious holidays which fall on a school day within a school year according to regulations established by the Commissioner; (ii) deducting the aggregate attendance on such religious holidays from the total aggregate attendance, by grade level; (iii) deducting such religious holidays from the total number of days of session, by grade level; and (iv) computing the adjusted average daily attendance for the school year.

*Enrollment Index.* Enrollment Index is computed by dividing the public school enrollment for the current year by public school enrollment for the Base Year, with the result carried to three decimal places without rounding. “Enrollment” means the unduplicated count of all children registered to receive educational services in grades 9-12, including children in ungraded programs, as registered on the date prior to November 1 that is specified by the Commissioner as the enrollment reporting date. “Public School District Enrollment” means 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 on such date; (4) the number of children with disabilities who are residents of such district who are registered on such date to attend certain programs under the New York Education Law; (5) the number of children eligible to receive educational services on such date but not claimed for aid; and (6) the number of children registered on such date to attend certain programs pursuant to the New York Education Law.

*Additional Aidable Pupil Units.* Additional Aidable Pupil Units is the sum of: (i) the attendance of summer session pupils multiplied by 12%, and (ii) the “Weighted Pupils With Special Educational Needs.” Weighted Pupils With Special Educational Needs is calculated by multiplying pupils with special educational needs by 25%, with the result rounded up to the next whole number.

*Weighted Pupils With Disabilities.* Weighted Pupils With Disabilities is calculated as the attendance 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, 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 is 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 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, the special services weighting is 90%.

The Charter School Basic Tuition is set annually in June. School districts (in the case of the School, the NYC DOE on behalf of the New York City Community School District 12) are required to pay no later than the first business day of July, September, November, January, March and May the appropriate payment amounts as specified in the New York Education Law relating to the Charter School Basic Tuition. The payments are made in equal installments, adjusted for any supplemental payments due or overpayments to be recovered for the prior school year. See “APPENDIX B – SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW – Financial Obligations of Charter Schools, Public School Districts and Education Department” in this Official Statement.

### **Federal and State Aid Attributable to a Student with a Disability**

In addition to the Charter School Basic Tuition, school districts are required to pay directly to charter schools any federal or state aid attributable to a student with a disability attending the charter school in proportion to the level of services for such student with a disability that the charter school provides directly or indirectly. Such amounts may be reduced pursuant to an agreement between the school and the charter entity set forth in the charter. See “APPENDIX B – SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW – Financing of Charter Schools” and “– Public School District Payments to Charter Schools” in this Official Statement.

State aid attributable to a student with a disability attending a charter school is calculated as the sum of: (i) “Excess Cost Aid” payable to a public school district pursuant to 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 (ii) any apportionment payable to such public school district pursuant to 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 is calculated as the product of: (i) excess cost aid per pupil calculated pursuant to the New York Education Law; (ii) the proportion of the weighting attributable to the student’s level of service provided directly or indirectly by the charter school pursuant to the New York Education Law; and (iii) the student’s enrollment in such charter school in the current school year.

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, is calculated as follows:

(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 for a pupil who is identified as a student with a disability, 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 is 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 for a pupil who is identified as a student with a disability, 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.

Payments for federal or state aid attributable to a student with a disability to charter schools must 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. See “APPENDIX B – SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW – Financing of Charter Schools” in this Official Statement.

#### **Facilities Access Payments/Rental Assistance**

In March 2014, Section 2853 of the Charter Schools Act was amended to grant a subset of New York charter schools a new statutory right to request access to facilities. Charter schools in New York City that commenced instruction or added grade levels in the 2014-2015 school year or thereafter are eligible to request co-location within a public school building. Upon such request, such charter school must be provided access to facilities pursuant to the Charter Schools Act, either in co-located space in a school district building, alternative private space provided by the school district at no cost to the charter school, or, upon a successful appeal by the charter school, in the form of rental assistance payments from the school district (“Facilities Access Payments”). For eligible charter schools that have expanded grade levels during the 2014-2015 school year or thereafter, the Facilities Access Payments are calculated, as the lesser of (a) actual rental cost of an alternative privately owned site selected by the charter school or (b) 30% of the product of Charter School Basic Tuition and, for a new charter school commencing instruction on or after July 1, 2014, the charter school’s current year enrollment, or, for a charter school which expands its grade level, the increases in enrollment from the school year prior to the first year of the expansion to the current school year. *As of 2018, the School is not eligible to receive Facilities Access Payments and the Budget Projection in “APPENDIX C – BUDGET PROJECTION” does not assume that the School will receive any Facilities Access Payments. However, if there is a change in law allowing the School to receive Facilities Access Payments in the future, the structure of the financing transaction involving the Series 2018 Bonds is intended to allow for any such Facilities Access Payments to be applied towards the School’s Rent payments.* See also “APPENDIX B – SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW” in this Official Statement.

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## THE SERIES 2018 BONDS

### Interest; Maturity; Payment

The Series 2018 Bonds will be issued in the original aggregate principal amount of \$8,705,000\*. The Series 2018 Bonds will bear interest as set forth on the inside front cover hereof. Interest on the Series 2018 Bonds will be payable semi-annually on June 1 and December 1 (each an “Interest Payment Date”) of each year, commencing on June 1, 2019\*. Interest on the Series 2018 Bonds will be calculated on the basis of a 360-day year with twelve months of thirty days.

The Series 2018 Bonds will be issued in the form of fully registered bonds without coupons in minimum authorized denominations of \$5,000 or any integral multiple of \$5,000 in excess thereof (each an “Authorized Denomination”). The principal of, interest on, and premium, if any, on the Series 2018 Bonds will be payable when due by wire of the Trustee to The Depository Trust Company, New York, New York (“DTC”), which will in turn remit such principal, interest and premium, if any, to Participants, which Participants will in turn remit such principal, interest and premium, if any, to the Beneficial Owners of the Series 2018 Bonds as described in this Official Statement. See “APPENDIX L – BOOK-ENTRY ONLY SYSTEM” in this Official Statement.

In the event the Series 2018 Bonds are not registered in the name of Cede & Co., as nominee of DTC, or another eligible depository as described below, the principal of, Sinking Fund Installments for, and the Redemption Price of the Series 2018 Bonds will be payable by check or draft or wire transfer to the persons in whose names such Bonds are registered on the registration books maintained by the Trustee at the maturity or redemption thereof, or with respect to any payment in full of any Series 2018 Bond either at final maturity or upon redemption in whole, only at the designated corporate trust office of the Trustee, as described in the Indenture. Interest payable on each Series 2018 Bond on any Interest Payment Date will be paid by the Trustee to the registered owner of such Series 2018 Bond as shown on the bond registration books of the Trustee at the close of business on the regular Record Date for such interest, by check or draft mailed to such registered owner at his address as it appears on the bond registration books, or at the written request by any registered owner of Series 2018 Bonds in the aggregate principal amount of at least \$1,000,000, by electronic transfer, as described in the Indenture.

Interest on any Series 2018 Bond that is due and payable but not paid on the date due (“Defaulted Interest”) shall cease to be payable to the owner of such Series 2018 Bond on the relevant regular Record Date and shall be payable to the owner in whose name such Series 2018 Bond is registered at the close of business on a special record date (the “Special Record Date”) for the payment of such Defaulted Interest, which Special Record Date shall be fixed as provided in the Indenture.

### Redemption of Series 2018 Bonds

*General Optional Redemption.* The Series 2018 Bonds maturing on or prior to June 1, 202\_, shall not be subject to optional redemption prior to maturity. The Series 2018 Bonds maturing on or after June 1, 202\_ are subject to optional redemption, on or after June 1, 202\_ (but if in part in integral multiples of \$5,000 and in the minimum principal amount of \$5,000) at the option of the Issuer (which option shall be exercised only upon the giving of notice by the Institution of its intention to prepay loan payments due under the Loan Agreement), at the applicable Redemption Price described below, plus accrued interest to the date of redemption:

<u>Optional Redemption Date</u>	<u>Price</u>
June 1, 202_ through May 31, 202_	___%
June 1, 202_ through May 31, 202_	___%
June 1, 202_ and thereafter	100%

*Mandatory Sinking Fund Installment Redemption.* The Series 2018 Bonds maturing on June 1, 2033\*, 2038\* and 2048\* are subject to mandatory sinking fund redemption by the Issuer prior to maturity, in part by lot, at a Redemption Price equal to one hundred percent (100%) of the principal amount thereof, together with accrued interest to the date of redemption, from mandatory Sinking Fund Installments on the dates and in the principal amounts set forth below, provided that the amounts of such Sinking Fund Installments shall be reduced by the credits provided for in the Indenture.

***Series 2018 Term Bonds Maturing June 1, 2033\****

<u>Redemption Date (June 1)</u>	<u>Principal Amount</u>	<u>Redemption Date (June 1)</u>	<u>Principal Amount</u>
2029		2032	
2030		2033**	
2031			

\*\*Stated Maturity.

***Series 2018 Term Bonds Maturing June 1, 2038\****

<u>Redemption Date (June 1)</u>	<u>Principal Amount</u>	<u>Redemption Date (June 1)</u>	<u>Principal Amount</u>
2034		2037	
2035		2038**	
2036			

\*\*Stated Maturity

***Series 2018 Term Bonds Maturing June 1, 2048\****

<u>Redemption Date (June 1)</u>	<u>Principal Amount</u>	<u>Redemption Date (June 1)</u>	<u>Principal Amount</u>
2039		2044	
2040		2045	
2041		2046	
2042		2047	
2043		2048**	

\*\*Stated Maturity

*Extraordinary Redemption.* The Series 2018 Bonds are subject to redemption prior to maturity, at the option of the Issuer exercised at the direction of the Institution (which option shall be exercised only upon the giving of notice by the Institution of its intention to prepay loan payments due under the Loan

Agreement), as a whole on any date, upon notice or waiver of notice as provided in the Indenture, at a Redemption Price of one hundred percent (100%) of the unpaid principal amount thereof plus accrued interest to the date of redemption, if one or more of the following events shall have occurred:

(i) The High School Facility shall have been damaged or destroyed to such extent that, as evidenced by a certificate of an Independent Engineer filed with the Issuer and the Trustee, (A) the High School Facility cannot be reasonably restored within a period of one year from the date of such damage or destruction to the condition thereof immediately preceding such damage or destruction, (B) the Institution is thereby prevented or likely to be prevented from carrying on its normal operation at the High School Facility for a period of one year from the date of such damage or destruction, or (C) the restoration cost of the High School Facility would exceed the total amount of all insurance proceeds, including any deductible amount, in respect of such damage or destruction; or

(ii) Title to, or the temporary use of, all or substantially all of the High School Facility shall have been taken or condemned by a competent authority which taking or condemnation results, or is likely to result, in the Institution being thereby prevented or likely to be prevented from carrying on its normal operation at the High School Facility for a period of one year from the date of such taking or condemnation, as evidenced by a certificate of an Independent Engineer filed with the Issuer and the Trustee; or

(iii) As a result of changes in the Constitution of the United States of America or of the State or of legislative or executive action of the State or any political subdivision thereof or of the United States of America or by final decree or judgment of any court after the contest thereof by the Institution, the Loan Agreement becomes void or unenforceable or impossible of performance in accordance with the intent and purpose of the parties as expressed therein or unreasonable burdens or excessive liabilities are imposed upon the Institution by reason of the operation of the High School Facility.

If the Series 2018 Bonds are to be redeemed in whole as a result of the occurrence of any of the events described above, the Institution shall deliver to the Issuer and the Trustee a certificate of an Authorized Representative of the Institution stating that, as a result of the occurrence of the event giving rise to such redemption, the Institution has discontinued, or at the earliest practicable date will discontinue, its operation of the High School Facility for its intended purposes.

*Mandatory Redemption from Certain Other Amounts.* The Series 2018 Bonds shall be redeemed at any time in whole or in part by lot prior to maturity in the event and to the extent: (i) excess title insurance or property insurance proceeds or condemnation awards shall remain after the application thereof pursuant to the Loan Agreement and the Indenture, or (ii) excess proceeds shall remain after the release or substitution of property with respect to the High School Facility, in each case at a Redemption Price equal to one hundred percent (100%) of the principal amount of the Series 2018 Bonds to be redeemed, together with interest accrued thereon to the date of redemption.

*Mandatory Redemption upon Failure to Operate the High School Facility for the Approved Project Operations, Material Violation of Material Legal Requirements, False Representation or Failure to Maintain Liability Insurance.* The Series 2018 Bonds are subject to mandatory redemption prior to maturity, at the option of the Issuer, as a whole only, in the event (i) the Issuer shall determine that (w) the Institution is operating the High School Facility or any portion thereof, or is allowing the High School Facility or any portion thereof to be operated, not for the Approved Project Operations, (x) the Institution, any Principal of the Institution or any Person that directly or indirectly Controls, is Controlled by or is under common Control with the Institution has committed a material violation of a material Legal



Requirement, (y) any Conduct Representation is false, misleading or incorrect in any material respect at any date, as if made on such date, or (z) a Required Disclosure Statement delivered to the Issuer under any Project Document is not acceptable to the Issuer acting in its sole discretion, or (ii) the Institution shall fail to obtain or maintain the liability insurance with respect to the High School Facility required under the Loan Agreement, and, in the case of clause (i) or (ii) above, the Institution shall fail to cure any such default or failure within the applicable time periods set forth in the Loan Agreement following the receipt by the Institution of written notice of such default or failure from the Issuer and a demand by the Issuer on the Institution to cure the same. Any such redemption shall be made upon notice or waiver of notice to the Bondholders as provided in the Indenture, at the Redemption Price of one hundred percent (100%) of the unpaid principal amount of the Series 2018 Bonds, together with interest accrued thereon to the date of redemption.

*Mandatory Taxability Redemption.* Upon the occurrence of a Determination of Taxability, the Series 2018 Bonds shall be redeemed prior to maturity on any date within one hundred twenty (120) days following such Determination of Taxability, at a Redemption Price equal to one hundred percent (100%) of the principal amount thereof, together with accrued interest to the date of redemption (such accrued interest shall be at the Taxable Rate from the occurrence of the Event of Taxability to the date of redemption). The Series 2018 Bonds shall be redeemed in whole unless redemption of a portion of the Series 2018 Bonds Outstanding would have the result that interest payable on the Series 2018 Bonds remaining Outstanding after such redemption would not be includable in the gross income of any Holder of a Series 2018 Bond. In such event, the Series 2018 Bonds shall be redeemed in such amount as is deemed necessary in the opinion of Nationally Recognized Bond Counsel to accomplish that result.

*Purchase in Lieu of Optional Redemption.* In lieu of calling the Series 2018 Bonds for optional redemption, the Series 2018 Bonds shall be subject to mandatory tender for purchase at the direction of the Issuer, upon the direction of the Institution, in whole or in part (and, if in part, in such manner as determined by the Institution) on any date on or after June 1, 20\_\_, at a Purchase Price equal to the applicable Redemption Price for any optional redemption of such Series 2018 Bonds as provided in the Indenture, plus accrued interest to the purchase date. Purchases of tendered Series 2018 Bonds may be made without regard to any provision of the Indenture relating to the selection of Series 2018 Bonds in a partial optional redemption. The Series 2018 Bonds purchased pursuant to any mandatory tender(s) are not required to be cancelled, and if not so cancelled (subject to the Loan Agreement), shall, prior to any resale by or on behalf of the Institution, not be deemed Outstanding in connection with any subsequent partial optional redemption solely for purposes of those provisions of the Indenture relating to the selection of the Series 2018 Bonds in a partial redemption.

Purchases in lieu of an optional redemption shall be permitted, with the consent of the Issuer, upon the delivery to the Issuer and the Trustee of (i) an opinion of Nationally Recognized Bond Counsel addressed to the Issuer and the Trustee substantially to the effect that (A) such purchases in lieu of optional redemption comply with the provisions of the Indenture and (B) neither such purchases in lieu of an optional redemption nor any transaction directly related thereto will adversely affect the exclusion from gross income of interest on the Series 2018 Bonds for purposes of federal income taxation, and (ii) such other opinions, certificates or documentation as the Issuer may require.

SO LONG AS CEDE & CO. IS THE REGISTERED OWNER OF THE SERIES 2018 BONDS, ALL PAYMENTS OF PRINCIPAL OR REDEMPTION PRICE OF, SINKING FUND INSTALLMENTS FOR, AND INTEREST ON THE SERIES 2018 BONDS WILL BE MADE DIRECTLY TO DTC. DISBURSEMENT OF SUCH PAYMENTS TO DIRECT PARTICIPANTS WILL BE THE RESPONSIBILITY OF DTC, AND DISBURSEMENT OF SUCH PAYMENTS TO BENEFICIAL OWNERS WILL BE THE RESPONSIBILITY OF THE DIRECT PARTICIPANTS AND

INDIRECT PARTICIPANTS. SEE “APPENDIX L – BOOK-ENTRY ONLY SYSTEM” IN THIS OFFICIAL STATEMENT.

*Notice of Redemption.* When redemption of any Series 2018 Bonds is requested or required pursuant to the Indenture, notice of redemption of any Series 2018 Bonds will be given by the Trustee in the name of the Issuer. Notice of any redemption of Series 2018 Bonds will be (i) mailed by first class mail postage prepaid, not less than thirty (30) nor more than sixty (60) days prior to the redemption date to the respective holders thereof at the last addresses appearing on the registration books, but any defect in such notice shall not affect the validity of the proceedings for the redemption of such Series of Series 2018 Bonds with respect to which proper mailing was effected, and (ii) sent to the national information service that disseminates redemption notices. Each notice of redemption will contain all of the following information: (a) the date of mailing of such notice; (b) the name of the Series 2018 Bonds and the date of the original issue of such Series 2018 Bonds; (c) the redemption date; (d) the Redemption Price; (e) the dates of maturity of the Series 2018 Bonds to be redeemed; (f) (if less than all of the Series 2018 Bonds of any maturity are to be redeemed) the distinctive numbers of the Series 2018 Bonds of each maturity to be redeemed; (g) (in the case of Series 2018 Bonds redeemed in part only) the interest rates and the respective portions of the principal amount of the Series 2018 Bonds of each maturity to be redeemed; (h) the CUSIP number, if any, and Series 2018 Bond numbers of each maturity of Series 2018 Bonds; (i) the place or places where amounts due upon redemption will be payable including the name, address and telephone number of a contract person at the Trustee; and (j) notice that further interest on such Series 2018 Bonds, if any, will not accrue from and after the designated redemption date.

*Effect of Notice.* Any notice mailed as provided in the Indenture shall be conclusively presumed to have been duly given, whether or not the registered owner receives the notice. If any Series 2018 Bond shall not be presented for payment of the Redemption Price within sixty (60) days of the redemption date, the Trustee shall mail a second notice of redemption to such Holder by first class mail, postage prepaid. Any amounts held by the Trustee due to non-presentation of Series 2018 Bonds for payments on or after any redemption date shall be retained by the Trustee for a period of at least one year after the final maturity date of such Series 2018 Bonds.

If notice of redemption shall have been given in the manner provided in the Indenture and as described above, the Series 2018 Bonds called for redemption shall become due and payable on the redemption date, provided, however, that with respect to any optional redemption of the Series 2018 Bonds, such notice shall state that such redemption shall be conditional upon the receipt by the Trustee on or prior to the date fixed for such redemption of moneys sufficient to pay the principal of, redemption premium, if any, and interest on the Series 2018 Bonds to be redeemed, and that if such moneys shall not have been so received said notice shall be of no force and effect and the Issuer shall not be required to redeem the Series 2018 Bonds. In the event that such notice of optional redemption contains such a condition and such moneys are not so received, the redemption shall not be made and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received. If a notice of optional redemption shall be unconditional, or if the conditions of a conditional notice of optional redemption shall have been satisfied, then upon presentation and surrender of the Series 2018 Bonds so called for redemption at the place or places of payment, such Series 2018 Bonds shall be redeemed.

So long as DTC is effecting book entry transfers of the Series 2018 Bonds, the Trustee shall provide the notices specified above only to DTC. It is expected that DTC shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the Beneficial Owners. Any failure on the part of DTC or a Participant, or failure on the part of a nominee of a Beneficial Owner of a Series 2018 Bond (having been mailed notice from the Trustee, DTC, a Participant or otherwise) to

notify the Beneficial Owner of the Series 2018 Bond so affected, shall not affect the validity of the redemption of such Series 2018 Bond.

*Payment of Redeemed Series 2018 Bonds.* Notice having been given in the manner provided in the Indenture and as described above, the Series 2018 Bonds or portions thereof so called for redemption shall become due and payable on the redemption dates so designated at the Redemption Price, plus interest accrued and unpaid to the redemption date. If, on the redemption date, moneys for the redemption of all the Series 2018 Bonds or portions thereof to be redeemed, together with interest to the redemption date, shall be held by the Paying Agent so as to be available therefor on said date and if notice of redemption shall have been given as aforesaid, then, from and after the redemption date, (i) interest on the Series 2018 Bonds or portions thereof so called for redemption shall cease to accrue and become payable, (ii) the Series 2018 Bonds or portions thereof so called for redemption shall cease to be entitled to any lien, benefit or security under the Indenture, and (iii) the Holders of the Series 2018 Bonds or portions thereof so called for redemption shall have no rights in respect thereof, except to receive payment of the Redemption Price together with interest accrued to the redemption date. If said moneys shall not be so available on the redemption date, such Series 2018 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.

*Selection of Series 2018 Bonds for Redemption.* In the event of redemption of less than all the Outstanding Series 2018 Bonds of the same Series and maturity, the particular Series 2018 Bonds or portions thereof to be redeemed shall be selected by the Trustee in such manner as the Trustee in its discretion may deem fair, except that (i) the Series 2018 Bonds to be redeemed from Sinking Fund Installments shall be redeemed by lot, and (ii) to the extent practicable, the Trustee shall select the Series 2018 Bonds for redemption such that no Series 2018 Bond shall be of a denomination of less than the Authorized Denomination for such Series 2018 Bonds. In the event of redemption of less than all the Outstanding Series 2018 Bonds of the same Series stated to mature on different dates, the principal amount of such Bonds to be redeemed shall be applied in inverse order of maturity of the Outstanding Series 2018 Bonds to be redeemed and by lot within a maturity. The portion of the Series 2018 Bonds to be redeemed in part shall be in the principal amount of the minimum Authorized Denomination thereof or some integral multiple thereof and, in selecting Series 2018 Bonds for redemption, the Trustee shall treat each such Series 2018 Bond as representing that number of Series 2018 Bonds which is obtained by dividing the principal amount of such registered Series 2018 Bond by the minimum Authorized Denomination thereof (referred to below as a "unit") then issuable rounded down to the integral multiple of such minimum Authorized Denomination. If it is determined that one or more, but not all, of the units of principal amount represented by any such Series 2018 Bond is to be called for redemption, then, upon notice of intention to redeem such unit or units, the Holder of such Series 2018 Bond shall forthwith surrender such Series 2018 Bond to the Trustee for (a) payment to such Holder of the Redemption Price of the unit or units of principal amount called for redemption and (b) delivery to such Holder of a new Series 2018 Bond or Series 2018 Bonds in the aggregate unpaid principal amount of the unredeemed balance of the principal amount of such Series 2018 Bond. New Series 2018 Bonds of a maturity representing the unredeemed balance of the principal amount of such Series 2018 Bond shall be issued to the registered Holder thereof, without charge therefor. If the Holder of any such Series 2018 Bond of a denomination greater than a unit shall fail to present such Series 2018 Bond to the Trustee for payment and exchange as aforesaid, such Series 2018 Bond shall, nevertheless, become due and payable on the date fixed for redemption to the extent of the unit or units of principal amount called for redemption (and to that extent only).

## SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2018 BONDS

### Special Limited Revenue Obligations

THE SERIES 2018 BONDS ARE SPECIAL LIMITED REVENUE OBLIGATIONS OF THE ISSUER, PAYABLE AS TO PRINCIPAL, REDEMPTION PRICE AND INTEREST, SOLELY FROM THE TRUST ESTATE AND CERTAIN FUNDS AND ACCOUNTS ESTABLISHED UNDER THE INDENTURE. NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY, SHALL BE OBLIGATED TO PAY THE PRINCIPAL OR THE REDEMPTION PRICE OF, OR INTEREST ON, THE SERIES 2018 BONDS. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY, IS PLEDGED TO SUCH PAYMENT OF THE SERIES 2018 BONDS. THE SERIES 2018 BONDS WILL NOT BE PAYABLE OUT OF ANY FUNDS OF THE ISSUER OTHER THAN THOSE PLEDGED THEREFOR PURSUANT TO THE INDENTURE. THE SERIES 2018 BONDS WILL NOT GIVE RISE TO A PECUNIARY LIABILITY OR CHARGE AGAINST THE CREDIT OR TAXING POWERS OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY. NO RECOURSE WILL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OR THE REDEMPTION PRICE OF, OR INTEREST ON, THE SERIES 2018 BONDS AGAINST ANY MEMBER, OFFICER, DIRECTOR, EMPLOYEE OR AGENT OF THE ISSUER. THE ISSUER HAS NO TAXING POWER.

### General

Under the Loan Agreement, the Issuer agrees to issue the Series 2018 Bonds and to lend the proceeds thereof to the Institution to finance the Project, and the Institution is obligated unconditionally to repay the loan in amounts sufficient, together with available funds held under the Indenture, to provide for the timely payment of the principal of, premium, if any, and interest on the Series 2018 Bonds when due (whether by maturity, mandatory sinking fund redemption or acceleration) and to perform certain other obligations set forth therein. Among other things, the Institution will covenant not to grant any liens (other than the lien effected by the Loan Agreement and Permitted Encumbrances) on all or any portion of the High School Facility. The obligation of the Institution to make Loan Payments under the Loan Agreement sufficient to pay the Series 2018 Bonds is an absolute and unconditional obligation of the Institution; provided, however, that the ability of the Institution to generate additional revenues is limited in the event payments of Rent by the School are insufficient for the Institution to make Loan Payments. Under the Loan Agreement, Loan Payment Dates are the tenth (10th) day of each January, March, May, July, September, and November. Revenues of the High School Facility and the K-8 Facility will be pledged to the payment of debt service on the Series 2018 Bonds. See "APPENDIX G – SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT" in this Official Statement.

Pursuant to the terms of the Mortgage, the Institution will grant to the Issuer a mortgage lien on and security interest in the High School Facility, subject to Permitted Encumbrances. *The K-8 Facility will not be subject to the lien of the Mortgage.* The liens and security interests created by the Indenture and the Mortgage are for the equal and ratable benefit of the Series 2018 Bonds. The Loan Agreement and the Mortgage contain the general liability insurance and property insurance requirements for the Institution. See "RISK FACTORS" in this Official Statement for a discussion of certain limitations on the enforceability of the security for the Series 2018 Bonds.

### High School Facility Lease

Payments of Rent due from the School to the Institution under the High School Facility Lease will be in amounts anticipated to be sufficient to make Loan Payments under the Loan Agreement. The

obligation of the School to make payments of Rent commences in October 2018. The terms of the High School Facility Lease require that the School pay all amounts of Rent directly to the Institution's bank account that is subject to the terms of the Account Control Agreement. Pursuant to the Assignment of Lease, the Institution will assign its interest in the High School Facility Lease to the Trustee as additional security for the Series 2018 Bonds. *The mortgage lien provided by the Mortgage is only against the High School Facility and the K-8 Facility will not be subject to the lien of the Mortgage.* See "APPENDIX I — SUMMARY OF CERTAIN PROVISIONS OF THE HIGH SCHOOL FACILITY LEASE" in this Official Statement. Pursuant to the Assignment of Lease, the Institution will assign its interest in the High School Facility Lease to the Trustee as additional security for the Series 2018 Bonds.

The rights of the School under the K-8 Facility Lease have not been assigned by the School to the Trustee and the Trustee does not have any security interest or mortgage lien on the K-8 Facility.

### **Special Covenants of the School; Additional Indebtedness**

As used in the Covenant Agreement and in this section:

(A) "Cash on Hand" means the sum of cash, cash equivalents, liquid investments and unrestricted marketable securities (valued at the lower of cost or market value) of the School. Cash on Hand specifically does not include amounts held by the Trustee;

(B) "Days Cash on Hand" means (a) Cash on Hand of the School, as shown on the financial statements for each Fiscal Year divided by (b) the quotient of Operating Expenses, as shown on the financial statements of the School for such Fiscal Year, divided by 365;

(C) "Gross Revenues" means all funds, money, grants, or other distributions received by the School from the State or other revenues sources of any kind whatsoever, but such amount does not include donations that have been restricted by the donor;

(D) "Indebtedness" means (a) all the indebtedness of the obligor for borrowed money which has been incurred in connection with the acquisition of assets and (b) the capitalized value of the liability under any lease of real or personal property which is properly capitalized on the statement of assets, liabilities and fund balances of the obligor in accordance with generally accepted accounting principles;

(E) "Long-Term Indebtedness" means all Indebtedness the final maturity of which (taking into account any extensions available at the sole option of the School) is greater than one year after the initial incurrence thereof;

(F) "Majority Bondholder" shall mean any registered owner of, or owners who together own, greater than 50% of the aggregate Outstanding principal amount of the Series 2018 Bonds;

(G) "Net Income Available for Debt Service" means, for any period of determination thereof, the aggregate Gross Revenues of the School for such period minus the total Operating Expenses for such period but excluding (a) any profits or losses which would be regarded as extraordinary items under generally accepted accounting principles, (b) gain or loss in the extinguishment of Indebtedness, (c) proceeds of the Series 2018 Bonds and any other Indebtedness permitted by the Loan Agreement, and (d) proceeds of insurance policies, other than policies for business interruption insurance, maintained by or for the benefit of the School, the proceeds of any sale, transfer or other disposition of the High School Facility or any other of the School's assets by the School, and any condemnation or any other damage award received by or owing to the School, plus amounts that have been deducted for payments under the

High School Facility Lease with respect to principal and interest on the Series 2018 Bonds and deposits to the Repair and Replacement Fund; and

(H) “Operating Expenses” means all fees and expenses incurred in the general operation of the School as determined in accordance with generally accepted accounting principles, including but not limited to items such as: (a) salaries, wages, benefits, payroll taxes, and other expenses for teachers and staff employed by the School, (b) the cost of material and supplies used for current operations of the School, (c) the cost of vehicles owned or leased by the School, (d) the cost of equipment leases and service contracts, (e) taxes upon the operations of the School not otherwise mentioned in the Covenant Agreement, (f) School administrative and legal expenses, (g) costs and expenses incurred by the School with respect to the High School Facility, including maintenance, repair expenses, and utility expenses, (h) miscellaneous operating expenses, (i) advertising costs, (j) charges for the accumulation of appropriate reserves for current expenses not annually recurrent, but which are such as may reasonably be expected to be incurred in accordance with generally accepted accounting principles, all in such amounts as reasonably determined by the School; provided however, “Operating Expenses” shall not include (w) depreciation and amortization expenses; (x) other non-cash expenses; (x) those expenses which are actually paid from any revenues of the School which are not Gross Revenues; (y) those expenses which are actually paid from any proceeds of Long-Term Indebtedness; (y) one-time expenses; and (z) expenditures for capitalized assets.

*Covenants of the School.*

*Minimum 60 Days Cash on Hand.* Maintain unrestricted Cash on Hand in its operation fund such that on each testing date the amount on deposit in such fund shall be equal to or greater than 60 Days Cash on Hand. The School’s Cash on Hand shall be tested annually as of each Fiscal Year, commencing June 30, 2019. The School will provide the Trustee with a certification no later than two weeks after the completion of the School’s audit for each Fiscal Year that the operating reserve fund balance required above has been met. Amounts on deposit in such operating fund may be used to pay Operating Expenses or may be used for any other lawful purpose. The foregoing is subject to the qualification that if applicable state or federal laws or regulations, or the rules and regulations of agencies having jurisdiction (including, without limitation, changes in state or federal funding schedules), shall not permit or enable the School to maintain such level of Cash on Hand, then the School shall, in conformity with the then prevailing laws, rules or regulations, maintain its Cash on Hand equal to the maximum permissible level.

*Minimum Coverage.* In addition to the Days Cash on Hand covenant described above, the School shall also comply with either of the following covenants: (a) commencing with the Fiscal Year ending June 30, 2019, and each Fiscal Year thereafter, maintain Net Income Available for Debt Service in each Fiscal Year that will be at least 100% of the Principal and Interest Requirements on Long-Term Indebtedness during such Fiscal Year if the unrestricted Cash on Hand in its operation fund is at least 90 Days Cash on Hand; or (b) commencing with the Fiscal Year ending June 30, 2019 and each Fiscal Year thereafter, maintain Net Income Available for Debt Service in each Fiscal Year that will be at least 110% of the Principal and Interest Requirements on Long-Term Indebtedness during such Fiscal Year if the unrestricted Cash on Hand in its operation fund is less than 90 Days Cash on Hand.

*Budgeting for Compliance.* If the School maintains at least ninety (90) Days Cash on Hand as measured on the last day of each Fiscal Year, then the School will budget and set expenses and will operate its High School Facility, subject to applicable requirements or restrictions imposed by law, such that the School’s Net Income Available for Debt Service for the Fiscal Year ending June 30, 2019, and each Fiscal Year thereafter, will be at least 100% of the Principal and Interest Requirements on Long-Term Indebtedness during such Fiscal Year. If the School has not maintained at least ninety (90) Days Cash on Hand as measured on the last day of each Fiscal Year, then the School will budget and set

expenses and will operate the School, subject to applicable requirements or restrictions imposed by law, such that the School's Net Income Available for Debt Service for the Fiscal Year ending June 30, 2019, and each Fiscal Year thereafter, will be at least 110% of the Principal and Interest Requirements on Long-Term Indebtedness during such Fiscal Year.

*Consultant Required at Direction of Majority.* If the Cash on Hand at the end of any Fiscal Year is below the required amount, as provided above under "*Minimum 60 Days Cash on Hand*," then, upon the written direction of the Majority Bondholder, the School will promptly employ an Independent Consultant, selected by or acceptable to the Majority Bondholder, to review and analyze the operations and administration of the School, inspect the High School Facility, and submit to the School and Trustee written reports, and make such recommendations as to the operation and administration of the School as such Independent Consultant deems appropriate, including any recommendation as to a revision of the methods of operation thereof. The School agrees to consider any recommendations by the Independent Consultant and, to the fullest extent practicable, to adopt and carry out such recommendations.

So long as the School is otherwise in full compliance with its obligations under the Covenant Agreement, including following, to the fullest extent practicable, the recommendations of the Independent Consultant, it shall not constitute an Event of Default if the Cash on Hand at the end of any Fiscal Year is less than the required amount of Cash on Hand, as provided above under "*Minimum 60 Days Cash on Hand*". If requested, the School shall provide the Trustee with a written certification that the School is, to the fullest extent practicable, in compliance with the recommendations of the Independent Consultant and the Trustee shall be fully protected in relying on such written certification.

If the Net Income Available for Debt Service for any Fiscal Year ending on or after June 30, 2019, is less than 110% of the Principal and Interest Requirements on Long-Term Indebtedness during such Fiscal Year, then upon written direction of the Majority Bondholder, the School will promptly employ an Independent Consultant to review and analyze the operations and administration of the School, inspect the High School Facility, and submit to the School and Trustee written reports, and make such recommendations as to the operation and administration of the School as such Independent Consultant deems appropriate, including any recommendation as to a revision of the methods of operation thereof. The School agrees to consider any recommendations by the Independent Consultant and, to the fullest extent practicable, to adopt and carry out such recommendations.

So long as the School is otherwise in full compliance with its obligations under the Covenant Agreement, including following, to the fullest extent practicable, the recommendations of the Independent Consultant, it shall not constitute an Event of Default if the Net Income Available for Debt Service for any Fiscal Year ending on or after June 30, 2019, is less than 110% of the Principal and Interest Requirements on Long-Term Indebtedness for such Fiscal Year (as evidenced by the School's audited financial statements for such Fiscal Year).

If the Net Income Available for Debt Service for any Fiscal Year ending June 30, 2019, is less than 100% of the Principal and Interest Requirements on Long-Term Indebtedness during such Fiscal Year (as evidenced by the School's audited financial statements for such Fiscal Year), then upon written direction of the Majority Bondholder, the School will promptly employ an Independent Consultant selected by or acceptable to the Majority Bondholder to review and analyze the operations and administration of the School, inspect the High School Facility, and submit to the School and Trustee written reports, and make such recommendations as to the operation and administration of the School's charter school as such Independent Consultant deems appropriate, including any recommendation as to a revision of the methods of operation thereof. The School agrees to consider any recommendations by the Independent Consultant and, to the fullest extent practicable, to adopt and carry out such recommendations.

Notwithstanding the immediately preceding paragraphs, regardless of whether the School has retained an Independent Consultant, if at the end of the Fiscal Year ending June 30, 2019 or any subsequent Fiscal Year, the Net Income Available for Debt Service as of the end of such Fiscal Year is less than 100% of the Principal and Interest Requirements on Long-Term Indebtedness for such Fiscal Year (as evidenced by the School's audited financial statements for such Fiscal Year), then the Trustee shall give notice thereof to EMMA and the Majority Bondholder may either (y) direct the Trustee to declare an Event of Default or (z) direct the Trustee to exercise one or more of the remedies permitted under the Loan Agreement and the Indenture. In the absence of Majority Bondholder direction, the Trustee may take the action described in clauses (y) and (z) of the preceding sentence.

*Additional Indebtedness of the School*

The School covenants in the Covenant Agreement that it will not incur any indebtedness unless it (a) receives the prior written consent of the Majority Bondholder or (b) satisfies certain requirements described in the Loan Agreement and Covenant Agreement.

*Short-Term Indebtedness.* The School may incur Short-Term Indebtedness in an amount that does not exceed 10% of the Gross Revenues of the School in any fiscal year based upon the School's audited financial statements for the prior Fiscal Year. Any Short-Term Indebtedness outstanding as of the execution of the Covenant Agreement and any future extension of such Short-Term Indebtedness must comply with such limitations. Short-Term Indebtedness incurred by the School shall not be secured by any security interest in or lien against the High School Facility.

*Long-Term Indebtedness.* Pursuant to the Covenant Agreement, the School may incur Long-Term Indebtedness upon the satisfaction of certain requirements, including furnishing to the Trustee: (i) an opinion or report of an independent certified public accountant selected by the School to the effect that the Net Income Available for Debt Service for the Fiscal Year immediately preceding the date on which such Long-Term Indebtedness is to be incurred for which audited financial statements are available, plus Eliminated Expenses, totals at least 120% of maximum Principal and Interest Requirements on Long-Term Indebtedness payable in any Fiscal Year, and (ii) a certificate of the School Representative (as defined in the Covenant Agreement), verified by an independent certified public accountant selected by the School, to the effect that Net Income Available for Debt Service for the next Fiscal Year beginning after the Fiscal Year in which any improvements being financed by such proposed Long-Term Indebtedness are to be placed in service, or, if no improvements are to be financed thereby, beginning with the first Fiscal Year after the Fiscal Year in which the proposed Long-Term Indebtedness is to be incurred, will be at least 120% of the maximum Principal and Interest Requirements on Long-Term Indebtedness (including such requirements for the proposed Long-Term Indebtedness but excluding such requirements for any then outstanding Long-Term Indebtedness or Bonds to be refinanced by the proposed Long-Term Indebtedness) for each Fiscal Year beginning with the second Fiscal Year after the Fiscal Year in which any improvements being financed by such proposed Long-Term Indebtedness are to be placed in service, or, if no improvements are to be financed thereby, beginning with the first Fiscal Year after the Fiscal Year in which the proposed Long-Term Indebtedness is to be incurred, but before the final stated maturity of all then Outstanding Bonds.

Notwithstanding the requirements of the prior paragraph, the School may incur Long-Term Indebtedness: (A) if and to the extent necessary to provide additional funds (1) if the aggregate principal amount of such Long-Term Indebtedness incurred in a Fiscal Year does not exceed 5% of Gross Revenue or (2) for payment of the cost of any improvements or alterations for which any Long-Term Indebtedness shall have been incurred at one time or from time to time under this clause (A); or (B) for refinancing the principal amount of any outstanding Long-Term Indebtedness provided the Principal and Interest



Requirements on Long-Term Indebtedness (including such requirements for the proposed Long-Term Indebtedness but excluding such requirements for the Long-Term Indebtedness to be refinanced thereby) for each Fiscal Year after the Fiscal Year in which the proposed Long-Term Indebtedness is to be incurred but before the final stated maturity of all then Outstanding Bonds will not exceed the amount of Principal and Interest Requirements on Long-Term Indebtedness that would have been required for each such Fiscal Year had such proposed Long-Term Indebtedness not been incurred.

*Purchase Money Indebtedness.* The School may also incur Long-Term Indebtedness without regard to the limitations described above under “*Long-Term Indebtedness*” if: (i) such Long-Term Indebtedness is secured solely by a security interest in personal property financed with such Long-Term Indebtedness; (ii) the aggregate payments required to be made by the School in each Fiscal Year with respect to all Long-Term Indebtedness incurred pursuant to this paragraph does not exceed five percent (5%) of the Gross Revenues of the School, as reported in the most recent audited financial statements of the School, determined as of the date such Long-Term Indebtedness; (iii) such Long-Term Indebtedness amortizes within a 60 month period of the incurrence thereof; and (iv) the School certifies that the incurrence of such Long-Term Indebtedness will not cause it to be in violation of the operating covenants of the School.

#### *Additional Indebtedness of the Institution*

The Loan Agreement prohibits the Institution from incurring any additional indebtedness other than Additional Bonds issued pursuant to the Indenture. For a description of the requirements for the issuance of Additional Bonds, see “APPENDIX H – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE OF TRUST” in this Official Statement.

#### **The Indenture**

The Series 2018 Bonds are to be issued pursuant to the Indenture and will be equally and ratably secured thereby. As security for the Bonds, the Issuer has pledged and assigned to the Trustee the Trust Estate, which includes: (i) all right, title and interest of the Issuer in and to the Loan Agreement, including all loan payments, revenues and receipts payable or receivable thereunder (other than the Issuer’s Reserved Rights; (ii) all right, title and interest of the Issuer in and to the Promissory Note; and (iii) all moneys and securities from time to time held by the Trustee under the Indenture (other than the Rebate Fund). The Indenture provides that all Series 2018 Bonds issued thereunder shall be special limited revenue obligations of the Issuer, payable solely from and secured solely by the Trust Estate. Pursuant to the Mortgage, the Institution will grant a mortgage lien on and security interest in the High School Facility to the Trustee and the Issuer, and the Issuer will assign its interest in the Mortgage to the Trustee. The K-8 Facility *will not* be subject to the lien of the Mortgage. In the Loan Agreement, the Institution will covenant not to further encumber the High School Facility other than for certain Permitted Encumbrances without the prior written consent of the Issuer and the Trustee. See “APPENDIX H - SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE OF TRUST” in this Official Statement.

Under the Indenture, there shall be deposited in the Revenue Fund as and when received, all Loan Payments and other amounts required to be paid by the Institution to the Trustee.

*Flow of Funds.* Amounts in the Revenue Fund shall be transferred by the Trustee on each Loan Payment Date commencing on the January 10, 2019 Loan Payment Date, to the following Funds and Accounts in the following manner and in the order of priority indicated, provided that in the event funds in on any Loan Payment Date are insufficient to make any one or more of such transfers, any and all of

such deficiencies will be remedied prior to making any transfers to any subordinated funds (based on the following order of priority) on any future Loan Payment Date:

*First*, to the Bond Fund:

(1) For deposit into the subaccounts of the Interest Account of the Bond Fund, an amount equal to one-third (1/3) (or such other pro-rated amount, adjusted as necessary) of the amount of interest that will become due on the Bonds on the next Interest Payment Date, including default interest (after taking into account any amounts on deposit in the Interest Account of the Bond Fund, and as shall be available to pay interest on the Bonds on such next succeeding Interest Payment Date);

(2) commencing on the January 10, 2019 Loan Payment Date as shall precede the first principal payment date (other than such principal as shall become due as a mandatory Sinking Fund Installment payment) by six (6) Loan Payment Dates, for deposit into the subaccounts of the Principal Account of the Bond Fund, an amount equal to at least one sixth (1/6) (or such other pro-rated amount, adjusted as necessary) of the amount of the principal of the Bonds Outstanding becoming due (other than by reason of mandatory Sinking Fund Installments); and

(3) commencing on the January 10, 2019 Loan Payment Date as shall precede the first Sinking Fund Installment payment date by six (6) Loan Payment Dates, for deposit into the subaccounts of the Sinking Fund Installment Account of the Bond Fund, an amount equal to at least one sixth (1/6) (or such other pro-rated amount, adjusted as necessary) of the amount of the next Sinking Fund Installment to become due on the Bonds.

*Second*, an amount equal to replenish any deficiencies in the Debt Service Reserve Fund, if any;

*Third*, to the Rebate Fund to pay any amounts required to be rebated to the Federal government pursuant to the Indenture or the Tax Regulatory Agreement;

*Fourth*, to the Expense Fund to pay one-sixth (1/6) (or such other pro-rated amount, adjusted as necessary) of the annual fee of the Issuer, the Ratings Agency and the Trustee;

*Fifth*, to the Repair and Replacement Reserve Fund one-sixth (1/6) (or such other pro-rated amount, adjusted as necessary) of the amount equal to the Repair and Replacement Fund Deposit; and

*Sixth*, all remaining funds shall be paid to the Institution and used for any authorized purpose.

### **Acceleration**

Upon the occurrence of certain events, payment of the principal of and accrued interest on the Series 2018 Bonds may be accelerated under the Indenture. See “RISK FACTORS”; “APPENDIX G – SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT – Events of Default” and “- Remedies on Default”; and “APPENDIX H – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE OF TRUST – Events of Default; Acceleration of Due Date” and “– Enforcement of Remedies” in this Official Statement.

## **Debt Service Reserve Fund**

On the date of issuance of the Series 2018 Bonds, proceeds of the Series 2018 Bonds in an amount equal to the Reserve Fund Requirement (initially \$566,750\*), will be deposited in the Debt Service Reserve Fund created under the Indenture and held by the Trustee. Thereafter, unless needed to maintain the amount in the Debt Service Reserve Fund at the Reserve Fund Requirement, investment income on amounts in the Debt Service Reserve Fund will be deposited in the Bond Fund.

If on any Interest Payment Date or redemption date on the Bonds the amount in the applicable subaccount of the Interest Account of the Bond Fund (after taking into account amounts available to be transferred to such subaccount of the Interest Account from the Project Fund) shall be less than the amount of interest then due and payable on the Bonds of the related Series, or if on any principal payment date on the Bonds the amount in the applicable subaccount of the Principal Account shall be less than the amount of principal of the Bonds of the related Series then due and payable, or if on any Sinking Fund Installment payment date for the Bonds the amount in the applicable subaccount of the Sinking Fund Installment Account of the Bond Fund shall be less than the amount of the Sinking Fund Installment then due and payable on the Bonds of the related Series, in each case, after giving effect to all payments received by the Trustee in immediately available funds by 10:00 a.m. (New York City time) on such date from or on behalf of the Institution or the Issuer on account of such interest, principal or Sinking Fund Installment, the Trustee forthwith shall transfer moneys from the Debt Service Reserve Fund for the respective series of Initial Bonds pro rata and, first, to such subaccount of the Interest Account, second to such subaccount of the Principal Account, and third, to such Sinking Fund Installment Account, all to the extent necessary to make good any such deficiency.

The Trustee will give to the Institution on or prior to each Loan Payment Date on which the Institution is obligated pursuant to the Loan Agreement to pay to the Trustee amounts in respect of any deficiency in the accounts of the Debt Service Reserve Fund, telephonic notice (to be promptly confirmed in writing) specifying any such deficiency in the Debt Service Reserve Fund. The failure of the Trustee to deliver such notice or any defect in such notice shall not relieve the Issuer from any of its obligations hereunder or any other obligor from any of its obligations under any of the Security Documents.

## **Defeasance**

Upon certain terms and conditions specified in the Indenture, including provision for the payment of such Series 2018 Bonds, the Series 2018 Bonds or portions thereof will be deemed to be paid and the security provided in the Indenture and the Mortgage may be discharged prior to maturity or redemption of the Series 2018 Bonds. In that case, the Series 2018 Bonds will be secured solely by the cash and securities deposited with the Trustee for such purpose. See "APPENDIX H – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE OF TRUST" in this Official Statement.

## **Mortgage**

Pursuant to the Mortgage, to be executed by the Institution in favor of the Issuer and Trustee, as beneficiaries, and assigned by the Issuer to the Trustee, the payment of the principal of, premium, if any, and interest on the Series 2018 Bonds will be secured by a mortgage lien on and security interest in the High School Facility, subject to certain Permitted Encumbrances (as defined in the Indenture). The K-8 Facility *will not* be subject to the lien of the Mortgage. Under the Mortgage, the Institution also will assign all leases and rents with respect to the High School Facility to the Issuer and the Trustee as further security for the Series 2018 Bonds. The Mortgage also contains the property and casualty insurance requirements for the High School Facility.

## **Subordination of Management Fees**

Pursuant to the terms of an Assignment and Subordination of Management Agreement, dated as of October 1, 2018 (the “Subordination Agreement”), from the School and the Institution to the Trustee and acknowledged by the School, the Institution and the Manager have agreed to subordinate the payment of the Manager’s fees under the terms of the Management Agreement to payment of the Rent payments required under the High School Facility Lease. In addition, under the terms of the Subordination Agreement, the School cannot pay the Manager its fees under the Management Agreement if, as a result of such payment, the School would not be in compliance with its minimum Days Cash on Hand requirement under the Covenant Agreement at the end of a fiscal year.

## **RISK FACTORS**

No person should purchase any Series 2018 Bonds without carefully reviewing the following information, which summarizes some, but not all, factors that should be carefully considered before such purchase.

### **Nature of Special, Limited Obligations**

THE SERIES 2018 BONDS ARE SPECIAL LIMITED REVENUE OBLIGATIONS OF THE ISSUER, PAYABLE AS TO PRINCIPAL, REDEMPTION PRICE AND INTEREST, SOLELY FROM THE TRUST ESTATE AND CERTAIN FUNDS AND ACCOUNTS ESTABLISHED UNDER THE INDENTURE. NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY, SHALL BE OBLIGATED TO PAY THE PRINCIPAL OR REDEMPTION PRICE OF, OR INTEREST ON, THE SERIES 2018 BONDS. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY, IS PLEDGED TO SUCH PAYMENT OF THE SERIES 2018 BONDS. THE SERIES 2018 BONDS WILL NOT BE PAYABLE OUT OF ANY FUNDS OF THE ISSUER OTHER THAN THOSE PLEDGED THEREFOR PURSUANT TO THE INDENTURE. THE SERIES 2018 BONDS WILL NOT GIVE RISE TO A PECUNIARY LIABILITY OR CHARGE AGAINST THE CREDIT OR TAXING POWERS OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY. NO RECOURSE WILL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE OF, OR INTEREST ON, THE SERIES 2018 BONDS AGAINST ANY MEMBER, OFFICER, DIRECTOR, EMPLOYEE OR AGENT OF THE ISSUER. THE ISSUER HAS NO TAXING POWER.

### **Dependence on Institution’s Ability to Pay Loan Payments; Ability of School to Pay Payments of Rent**

Payment of principal of, premium, if any, and interest on, the Series 2018 Bonds is intended to be made from Loan Payments made by the Institution under the Loan Agreement, except to the extent payment is intended to be made from other amounts held under the Indenture such as Series 2018 Bond proceeds or investment earnings. The Institution has no significant assets or business other than the assets and business related to the High School Facility. The ability of the Institution to make Loan Payments will depend on the Institution’s ability to generate revenues sufficient to pay the Loan Payments, which will primarily depend on the ability of the School to make payments under the High School Facility Lease. See “APPENDIX A – BRONX LIGHTHOUSE CHARTER SCHOOL” and “APPENDIX C – BUDGET PROJECTION” in this Official Statement.

The School's general revenues are a combination of state payments provided under several State and federal programs, including the Education Aid Payments. See "CHARTER SCHOOL FUNDING IN THE STATE OF NEW YORK" in this Official Statement. Prior enrollment history of the School is no guaranty of future enrollment and revenues. See "APPENDIX A – BRONX LIGHTHOUSE CHARTER SCHOOL" and "APPENDIX C – BUDGET PROJECTION" in this Official Statement.

The amounts and the timing of future revenues of the School cannot be determined with assurance. Prior revenues and expenditures of the School are no guaranty as to future revenue and expenditures of the School. Any event that would cause a delay, reduction or elimination of Education Aid Payments would have a material adverse effect on the ability of the School to pay Rent under the High School Facility Lease and therefore on the ability of the Institution to make payments under the Loan Agreement representing debt service on the Series 2018 Bonds.

### **No Taxing Authority; Dependence on Education Aid Payments**

The Institution and the School do not possess any taxing authority and the School is substantially dependent upon the State to continue to provide funding for public charter schools. The obligation of the State under the Charter and State law to fund the School is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. In the event the State were to withhold the payment of money from the School for any reason, even a reason that is ultimately determined to be invalid or unlawful, it is likely that the School would be forced to cease operations.

### **Failure of New York City Department of Education to Make Education Aid Payments to the School**

The regulations adopted by the New York State Commissioner of Education (the "Commissioner") provide that a charter school shall notify the Commissioner in the event that a school district (the NYC DOE on behalf of the New York City Community School District 12 with respect to the School) fails to make a required bi-monthly Education Aid Payment to a charter school such as the School. Such notice shall be given subsequent to the date a bi-monthly payment is due, but in no event later than May 31 of the school year in which such payments are due. Upon receipt of such notice, the Commissioner must certify to the State Comptroller (the "Comptroller") the amount of the unpaid obligation of the school district, which said amount shall be deducted from any Education Aid Payment due to such school district (the NYC DOE on behalf of the New York City Community School District 12 with respect to the School) and instead will be paid directly by the Comptroller to the School. There can be no assurance of the timing of receipt of any such amounts so paid by the Comptroller.

### **Delay in or Termination or Reduction of Education Aid Payments**

Even though New York State is obligated under its Constitution to provide for the maintenance and support of a system of free common schools, it is not obligated either to continue to authorize the operation of charter schools or to continue its current system of Education Aid Payments. Any change in the Charter Schools Act or in the provisions of the New York State Education Law relating to the appropriation of Education Aid Payments or failure by the State Legislature to appropriate funds sufficient to fund the operation of charter schools could have a material adverse effect on the ability of the School to make the payments of Rent required under the High School Facility Lease.

Although State law prescribes a detailed process applicable to the adoption by the State of its annual budget, the annual budgetary process has resulted in recent years in the adoption of annual 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 budgets or as to the availability of funds for public education purposes while the annual budget is pending. In addition, the State has had

well publicized budget issues and deficits and such State budgetary pressures could continue and cause revisions to the funding of charter schools in the State.

### **Budget Projection**

The Budget Projection (the “Budget Projection”) prepared by the School and contained in “APPENDIX C – BUDGET PROJECTION” is based upon certain assumptions made by the School. No assurance can be given that the results described in the Budget Projection will be achieved. The School does not intend to issue an additional Budget Projection and, accordingly, there are risks inherent in using the Budget Projection in the future as the Budget Projection becomes outdated. The Budget Projection is only for fiscal years ending June 30, 2019 through June 30, 2023, and does not cover the entire period during which the Series 2018 Bonds may be outstanding. See “APPENDIX C – BUDGET PROJECTION” in this Official Statement.

*No guaranty can be made that the Budget Projection will correspond with the results actually achieved in the future by the School because there is no assurance that actual events will correspond with the assumptions made by the School. For example, the Budget Projection makes certain assumptions as to continued demand for educational facilities such as the High School Facility and future enrollment at the School. Actual operating results of the School may be affected by many factors, including, but not limited to, increased costs, lower than anticipated enrollment, reduced State funding, changes in demographic trends, and local and general economic conditions. The Budget Projection, which appears in “APPENDIX C — BUDGET PROJECTION” in this Official Statement, should be read in its entirety.*

### **Termination, Revocation, or Nonrenewal of the Charter**

The Charter may be terminated by the Board of Regents or the Authorizer for the grounds set forth in the Charter Schools Act. The Charter also provides that it may be terminated and revoked by mutual agreement of the parties. For more information regarding conditions under which the Charter may be revoked, the revocation procedure, and other information regarding the Charter and the Charter Schools Act, see “CHARTER SCHOOL FUNDING IN THE STATE OF NEW YORK,” “APPENDIX A – BRONX LIGHTHOUSE CHARTER SCHOOL – The Charter Contract,” and “APPENDIX B – SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW” in this Official Statement.

While the School believes that it is in good standing with the Authorizer and is in material compliance with the Charter, no assurance can be given that the School will be able to maintain such good standing in the future. In addition, even though the School does not anticipate any non-renewal (the Charter has previously been renewed multiple times) or revocation of its Charter, there can be no assurance that the Authorizer or the Board of Regents will not revoke the Charter in the future or choose not to renew the Charter when it ends. The current Charter has a term through June 30, 2019 and the School will commence the process for renewal of the Charter in September 2018.

### **No Pledge of Revenues by the School**

Under New York law, the School may not legally assign or pledge any interest in public education aid payable to the School pursuant to the Charter Schools Act to secure its obligations under the High School Facility Lease.

## **Factors Associated with Education**

There are a number of factors affecting schools in general, including the School, that could have an adverse effect on the School's financial position and its ability to make the payments required under the High School Facility Lease and therefore on the ability of the Institution to make Loan Payments under the Loan Agreement. These factors include, but are not limited to (i) the ability to attract a sufficient number of students; (ii) future legislation and regulations affecting charter schools and the educational system in general; (iii) 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; (iv) increased costs of attracting and retaining or a decreased availability of a sufficient number of teachers, including as related to any unionization of the School's work force with consequent impact on wage scales and operating costs of the School; (v) cost and availability of insurance for charter schools in the State; and (vi) changes in existing statutes pertaining to the powers of the School and legislation or regulations which may affect program funding. The School cannot assess or predict the ultimate effect of these factors on its operations or the financial results of operations.

## **Competition for Students**

The School competes for students primarily within the geographic area of New York City Community School District No. 12 (the "12<sup>th</sup> District") and other surrounding districts, and with other public schools and charter schools within the Bronx, New York area. Currently, there are nine (9) public and private schools within approximately a mile and a half of the School. There are currently nine (9) other charter schools located within approximately five (5) miles of the School. In the view of the School, these schools are representative of the schools with which the School competes for students. See "APPENDIX A – BRONX LIGHTHOUSE CHARTER SCHOOL – BLCS - Service Area" and "- Competing Schools" in this Official Statement. No assurance can be given that the School will attract and retain the number of students that are needed to produce revenue necessary to pay the principal of and interest on the Series 2018 Bonds, or that additional schools will not be created in or near the School's service area.

## **Nature of the K-8 Facility Lease**

The term of the K-8 Facility Lease, as amended or supplemented, is currently through September 30, 2026. Under the terms of the K-8 Facility Lease, the School pays annual rent of only \$1, plus the cost of funding an annual deposit to a capital reserve and other standard costs associated with a commercial real estate lease. The School has occupied the K-8 Facility under the terms of the K-8 Facility Lease since September 2006. Under the terms of the K-8 Facility Lease, the School has a renewal option (provided that there is no event of default has occurred or is continuing), at any time that is 180 days prior to the end of the initial term of the K-8 Facility Lease, to extend the term of the K-8 Facility Lease for one additional 10 year period. This means that the outside date of the K-8 Facility Lease term is September 30, 2036. The term of the K-8 Facility Lease ends prior to the final maturity date of the Series 2018 Bonds. The option to extend the initial term of the K-8 Facility Lease must be exercised in writing by the School and if the School provides such renewal notice in writing, then the term of the K-8 Facility Lease will be automatically renewed and extended to September 30, 2036. No assurance can be given that the School will be able to renew the term of the K-8 Facility Lease after September 30, 2036 or that the School will be able to find a comparable replacement facility for the K-8 Facility. In addition, the K-8 Facility is immediately adjacent to the location of the High School Facility and, if the School is unable to extend the term of the K-8 Facility Lease, there is no guarantee that the School would be able to obtain space at a comparable costs (\$1 a year) or in a comparable location (immediately adjacent to the High School Facility).

The rights of the School under the K-8 Facility Lease have not been assigned by the School to the Trustee and the Trustee does not have any security interest or mortgage lien on the K-8 Facility.

### **Foreclosure Delays and Deficiency**

Should Loan Payments be insufficient to pay the principal of and interest on the Series 2018 Bonds, the Trustee may seek to foreclose on or sell the High School Facility securing the Series 2018 Bonds. However, no assurance can be given that the value of the High School Facility at the time of such foreclosure or sale would be sufficient to meet all remaining principal and interest payments on the Series 2018 Bonds. In addition, the time necessary to institute and complete such proceedings could substantially delay receipt of funds from a foreclosure or sale. There could also be delays in regaining possession of the High School Facility from the Institution in the event of any default or dispute under the Loan Agreement.

### **Effect of Federal Bankruptcy Laws on Security for the Series 2018 Bonds**

Bankruptcy proceedings and equity principles may delay or otherwise adversely affect the enforcement of Bondholders' rights in the property granted as security for the Series 2018 Bonds. Furthermore, if the security for the Series 2018 Bonds is inadequate for payment in full of the Series 2018 Bonds, bankruptcy proceedings and equity principles may also limit any attempt by the Trustee to seek payment from other property of the Institution, if any. See "ENFORCEABILITY OF OBLIGATIONS" in this Official Statement. Also, federal bankruptcy law permits adoption of a reorganization plan, even though it has not been accepted by the holders of a majority in the aggregate principal amount of the Series 2018 Bonds, if the Bondholders are provided with the benefit of their original lien or the "indubitable equivalent." In addition, if the 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 Mortgage that make bankruptcy and related proceedings by the Institution an event of default thereunder.

### **Key Personnel**

The School's creation, curriculum, educational philosophy, and day-to-day operations reflect the vision and commitment of the individuals who serve on the School's Board of Trustees and as the School's administrators (the "Key Personnel"). The loss of any Key Personnel could adversely affect the School's operations, its ability to attract and retain students and ultimately its financial results. For more information regarding the School's Key Personnel, see "APPENDIX A – BRONX LIGHTHOUSE CHARTER SCHOOL – BLCS – BLCS Governance and Administration" in this Official Statement.

### **Management of the School**

The School contracts with the Manager for the management and operation of the School. Generally, charter school management companies assist charter schools in their crucial management functions including: recruiting and evaluating staff; human resources and payroll; budgeting and fiscal management and reporting; and other administrative functions. In the event that the Management Agreement is terminated in the future, the effect on the School cannot be determined in advance because the School would need to contract with another management company for operation and management of the School, or assume such management itself. See "APPENDIX A – BRONX LIGHTHOUSE CHARTER SCHOOL – LIGHTHOUSE ACADEMIES, INC." in this Official Statement.



### **Additional Indebtedness**

In the Covenant Agreement, the School will covenant that it will only incur Long-Term Indebtedness, Short-Term Indebtedness, or Purchase Money Indebtedness in accordance with the restrictions imposed by the Covenant Agreement. The Loan Agreement prohibits the Institution from incurring any additional indebtedness other than Additional Bonds issued pursuant to the Indenture. No assurance can be given that the Issuer will not issue Additional Bonds for the benefit of the Institution or the School will not incur Additional Indebtedness in the future. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2018 BONDS – Special Covenants of the School; Additional Indebtedness” and “APPENDIX H - SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE OF TRUST” in this Official Statement.

### **Forward-Looking Statements**

This Official Statement contains certain statements that are “forward-looking” statements within the meaning of Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, as amended. All statements other than statements of historical facts included in this Official Statement, including without limitation statements that use terminology such as “estimate,” “plan,” “budget,” “expect,” “intend,” “anticipate,” “believe,” “may,” “will,” “continue,” and similar expressions, are forward-looking statements. These forward-looking statements include, among other things, the discussions related to the School’s operations and expectations regarding student enrollment, future operations, revenues, capital resources, and expenditures for capital projects. Although the Institution and the School believe 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 also could be incorrect. All phases of the operations of the Institution and the School involve risks and uncertainties, many of which are outside the control of the Institution and the School and any one of which, or a combination of which, could materially affect the results of the Institution’s or the School’s operations and whether the forward-looking statements ultimately prove to be correct. Factors that could cause actual results to differ from those expected include, but are not limited to, general economic conditions such as inflation and interest rates, both nationally and in New York where the High School Facility is located; the willingness of the State to fund charter school operations at present or increased levels; competitive conditions within the School’s market, including the acceptance of the education services offered by the School; lower enrollments than projected; unanticipated expenses; the capabilities of the School’s management; changes in government regulation of the education industry; future claims for accidents at the High School Facility and the extent of insurance coverage for such claims; and other risks discussed in this Official Statement. THE BUDGET PROJECTION CONTAINED IN APPENDIX C ATTACHED TO THIS OFFICIAL STATEMENT IS NOT A HISTORICAL STATEMENT OF FINANCIAL PERFORMANCE OF THE SCHOOL, BUT IS A FORWARD LOOKING FORECAST OF FUTURE, PROJECTED FINANCIAL PERFORMANCE OF THE SCHOOL.

No representation or assurance can be given that the School will realize revenues in an amount sufficient to make the required payments under the High School Facility Lease or, therefore, that the Institution will realize revenues in amounts sufficient to make the required payments under the Loan Agreement. No market study or demand analysis has been prepared for the School to analyze the existing or future demand for the School’s charter school educational services. The realization of future Revenues is dependent upon, among other things, the matters described in the foregoing paragraphs and future changes in economic and other conditions that are unpredictable and cannot be determined at this time. The Underwriter makes no representation as to the accuracy of the projections contained herein or as to the assumptions on which the projections are based.

## **Property Tax Exemption**

Under present State law and rulings, property used for charter school purposes is exempt from property taxes levied by political subdivisions of the State so long as such property is used for the exempt purpose of the School. Currently the K-8 Facility and the High School Facility are exempt from property taxes. After acquiring the High School Facility, the Institution must file an application for exemption from real property taxes based on the fact that it is a charitable organization using the property in connection with its charitable purposes. Assuming such exemption is granted, such property tax exemption will be retroactive to the date the Institution acquired the High School Facility. Therefore, it is anticipated that the High School Facility will remain exempt from property taxes. Nevertheless, such laws, regulations and rulings are subject to change, and no assurance can be given that any future change in exempt status would not have a material adverse effect on the Institution and the School. If the Institution or the School is required to pay property taxes with respect to the K-8 Facility and the High School Facility in the future, it would have a negative impact on the cashflow of the Institution and School. The School has assumed for purposes of the Budget Projection that the Institution and School will be exempt from property taxes with respect to both the K-8 Facility and the High School Facility; however, no assurance can be given that such exemption will be granted.

## **Tax-Exempt Status of the School**

The School is a public charter school and a New York nonprofit education corporation. The School has been determined by the Internal Revenue Service to be an organization described in Section 501(c)(3) of the Code. Under present federal law, regulations and rulings, the income and revenue of nonprofit, 501(c)(3) qualified exempt organizations are exempt from federal income tax, except for any unrelated business income as defined in the Code, and their revenues are exempt from the State sales tax except for certain services. If the School fails to meet the requirements necessary to preserve its status as a nonprofit education corporation and a tax-exempt charitable organization under Section 501(c)(3) of the Code, the School could experience expenses which are greater than those projected in "APPENDIX C – BUDGET PROJECTION" and revenues which are lower than those projected in "APPENDIX C – BUDGET PROJECTION," which would adversely affect the School's ability in the future to pay the amount due under the High School Facility Lease. In addition, if the School were to lose its tax-exempt status, the tax-exempt status of the Series 2018 Bonds also would be adversely affected. The School will covenant in the High School Facility Lease that it will not take any actions or fail to take any actions, the result of which would adversely affect the School's status as a nonprofit corporation and its status as a tax-exempt charitable organization under Section 501(c)(3) of the Code.

## **IRS Compliance Program**

The Internal Revenue Service has an active program of conducting examinations of tax-exempt bonds through its Tax-Exempt and Government Entities Division (the "TE/GE Division"). Bond Counsel will render an opinion with respect to the tax-exempt status of interest on the Series 2018 Bonds, as described under the caption "TAX MATTERS" in this Official Statement. However, neither the Institution nor the School has sought and neither is expected to seek, a ruling from the Internal Revenue Service with respect to the tax-exempt status of the Series 2018 Bonds. No assurance can be given that the Internal Revenue Service will not examine the Series 2018 Bonds. If the Internal Revenue Service examines the Series 2018 Bonds, such examination may have an adverse impact on the marketability and price of the Series 2018 Bonds. See "TAX MATTERS" in this Official Statement.

### **Tax-Exempt Status of the Series 2018 Bonds**

The tax-exempt status of the interest on the Series 2018 Bonds is conditioned upon the School and the Institution complying with the requirements of the Code and applicable Treasury Regulations as they relate to the Series 2018 Bonds. Failure of the Institution and the School to comply with the terms and conditions of the Loan Agreement, the Tax Regulatory Agreement, the Indenture, the High School Facility Lease and other documents as described herein may result in the loss of the tax-exempt status of the interest or premium on the Series 2018 Bonds retroactive to the date of issuance of the Series 2018 Bonds. If interest on the Series 2018 Bonds should become includable in gross income for purposes of federal income taxation, the market for and value of the Series 2018 Bonds would be adversely affected. See "TAX MATTERS" in this Official Statement.

### **Resale of Series 2018 Bonds/Lack of Secondary Market**

There is no guarantee that a secondary trading market will develop for the Series 2018 Bonds. Consequently, prospective bond purchasers should be prepared to hold their Series 2018 Bonds to maturity or prior redemption.

### **Changes in Law; Annual Appropriation; Inadequate Education Aid Payments**

Future changes to the Charter Schools Act by the State Legislature could be adverse to the financial interests of the School and the Institution and could adversely affect the security and sources of payment for the Series 2018 Bonds. There can be no assurance given that the State Legislature will not in the future amend the Charter Schools Act in a manner which is adverse to the interests of the registered owners of the Series 2018 Bonds.

Like in many states, lawsuits are occasionally filed in New York challenging the State's system of funding public schools. The outcome of any such public school funding cases in the State in the future cannot be known.

New York may experience downturns in its economy and tax revenues in the future. The provisions of the Charter Schools Act are subject to amendment by the State Legislature, including the reduction of State funding, which could adversely affect the School. STATE BUDGET CONSIDERATIONS MAY ALSO ADVERSELY AFFECT APPROPRIATIONS FOR CHARTER SCHOOL FUNDING.

### **Damage or Destruction**

The Loan Agreement, the Mortgage and the High School Facility Lease require that the High School Facility be insured against certain risks. There can be no assurance that the amount of insurance required to be obtained with respect to the High School Facility will be adequate or that the cause of any damage or destruction to the High School Facility will be as a result of a risk which is insured. Further, there can be no assurance of the ongoing creditworthiness of the insurance companies from which the Institution and School obtain insurance policies. The Institution and School believe that the risks associated with its properties and its operations are adequately provided for through the insurance policies it maintains. The Institution and the School will provide property insurance on the High School Facility through a standard commercial insurance policy. In addition, in the event that the K-8 Facility is damaged or destroyed, no assurance can be given that the School would be able to find a similar replacement school facility at a comparable cost (\$1 a year) or in a comparable location (immediately adjacent to the High School Facility).

## **Environmental Risks**

The High School Facility is subject to various federal, State and local laws and regulations relating to human health and safety and the environment. In general, these laws and regulations could require the owner of the High School Facility to implement mitigation to reduce the environmental impacts of the High School Facility or to remediate adverse environmental conditions on or relating to the High School Facility, regardless of whether arising from preexisting conditions or arising because of the activities conducted in connection with the ownership and operation of the High School Facility. Moreover, these laws and regulations can and often do change through legislative, judicial, or regulatory activities.

## **Environmental Regulations and Permitting**

Federal, state, and local environmental and health and safety laws, regulations, and standards regulate the High School Facility. Conditions or mitigation as required by these laws and regulations can be imposed either through permitting or by audit, any of which could result in increased costs to the School. While the School believes that it is in material compliance with applicable environmental laws for the High School Facility, there is no assurance that the School, in operation of both the K-8 Facility and the High School Facility as currently contemplated, is now or will always be in compliance with these regulations. In addition, the costs incurred by the Institution with respect to compliance with human health and safety and environmental laws and regulations could adversely affect its financial condition and its ability to own and operate the High School Facility.

## **Hazardous Materials**

Hazardous materials laws, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), impose joint and several liability, without regard to fault, for investigation and clean-up costs on persons who have disposed of or released hazardous substances into the environment and on current and former owners and operators of real property. In this case, the Institution will own the High School Facility and lease it to the School and the High School Facility will serve to secure the Series 2018 Bonds pursuant to the Mortgage which is granted to the Issuer and assigned to the Trustee. In addition, the School leases the K-8 Facility from the NYC DOE. The K-8 Facility location will not serve as collateral for the Series 2018 Bonds and the Trustee does not have a mortgage lien on the K-8 Facility.

In connection with the issuance of the Series 2018 Bonds, a Phase I Environmental Site Assessment (the "Phase I") for the site of the K-8 Facility and the High School Facility was performed. The Phase I, dated July 26, 2018 and revised September 12, 2018, was conducted by American Environmental Assessment & Solutions, Inc. of Brooklyn, New York ("American Environmental"). The Phase I identified Recognized Environmental Conditions ("RECs") at the K-8 Facility site, and Controlled RECs and Historical RECs at the High School Facility site. The Phase I does not recommend further investigation with respect to the High School Facility site, but recommends additional investigation be conducted at the K-8 Facility site.

*K-8 Facility.* The Phase I identified as RECs on the site of the K-8 Facility the possible presence of an underground storage tank and prior usage of the site for industrial purposes (auto repair, a paint shop and as a motor vehicle service garage). The information on which these findings were based predated the redevelopment of the site in 2004-2005. Historical insurance maps of the site indicated these activities, but provided no details. More recent records indicate that a spill of petroleum was reported to the New York State Department of Environmental Conservation (NYSDEC) in August 2005. A subsequent report, from October 2005, indicates that petroleum contaminated soil originating with an

underground storage tank removal was fully removed (evidenced by post-excavation sampling finding no evidence of residual contamination). Neither the School nor American Environmental has located any other reports or documentation of any contamination existing on the K-8 Facility site, or of any other remediation activities.

*High School Facility.* The Phase I identified “Controlled” RECs (“CREC”) and “Historical” RECs (“HREC”) with respect to the High School Facility site. The HRECs originated from conditions on the High School Facility site that were similar to those reported for the K-8 Facility, including petroleum spills and staining and usage of the site for manufacturing and auto repair services. A Phase II Environmental Site Assessment prepared in May 2010 for the site of the High School Facility identified semi-volatile organic compounds (SVOCs), and metals at levels exceeding regulatory levels. These conditions were addressed in a Remedial Action Plan dated August 9, 2010. An underground storage tank was identified at the High School Facility during excavation of the site of the High School Facility on July 20, 2011 with a spill closure report dated in January 2012. These conditions are HRECs (“historical”) because the remediation of these conditions complied with applicable legal requirements at the time.

The Phase I also identified a possible CREC based on the installation of a technology to prevent exposure to potentially contaminated soil vapors. Following the discovery of the underground storage tank and the removal of soil in relation to that underground tank, a vapor barrier was installed beneath the concrete slab foundation during construction of the High School Facility. The intent of this vapor barrier is to prevent possible intrusion of soil or groundwater contaminants into the interior of the High School Facility. This condition is described as a CREC (“controlled” REC) on the basis that any residual soil vapor impacts would be controlled by the vapor barrier.

*Current Site Conditions.* The location of the underground storage tank and soil removal at the K-8 Facility site is beneath the existing building. While documentation of the removal of the underground storage tank has not been located, at the time of construction of improvements on that site prior to occupancy by the School, all of the contaminated soil was removed down to the bedrock and the post-excavation testing related to the soil removal did not detect any contaminants of concern. The development of the High School Facility location also included environmental investigations and remediation designed to remove contaminants and prevent any post-construction exposure at the High School Facility.

The School and the Institution do not believe that any of the reported conditions is likely to require further action by the School or the Institution. Both parcels are leased to the School for its use, and the RECs, CRECs and HRECs identified in the Phase I pre-dated the School’s occupancy of either site. For both Facilities, there is documentation of the identification and remediation of conditions discovered during site redevelopment. The High School Facility parcel serving as security for the Series 2018 Bonds is controlled, and the K-8 Facility parcel that was identified in the Phase I as having RECS is property not pledged to the bondholders or even part of the Series 2018 Bond transaction. BLCS is evaluating the recommendations of American Environmental for further investigation of the K-8 Facility site, but any such investigation would require the consent of or participation by NYC DOE, as the owner, and such consent or participation may not be forthcoming.

### **Limited Nature of Appraisal**

In July 2018, the School ordered an as-built appraisal (the “Appraisal”) with respect to the High School Facility. The Appraisal was completed by Rosin & Associates (the “Appraiser”) on August 6, 2018. In the Appraisal, the Appraiser determined that, as of July 31, 2018, based on its valuation analysis the values for the High School Facility were:

<u>High School Facility</u>	<u>Value as of July 31, 2018</u>
Cost Approach	\$12,450,000
Income Approach	12,180,000
Sales Comparison Approach	12,920,000
Final “As Is” Value Estimate	12,920,000

A copy of the Appraisal is on file with the School and available for review.

The value of the High School Facility as indicated in the Appraisal is only the opinion of the Appraiser as of July 31, 2018. The actual value of the High School Facility in the future will vary from conclusions in the Appraisal, which variance may be material and adverse. In the event of a foreclosure of the High School Facility, the value of the High School Facility on such land cannot be determined and may be substantially less than the value indicated in the Appraisal. The High School Facility like other such buildings, will require ongoing capital repairs and improvements to maintain its value and, although the School intends to maintain the High School Facility in good condition, no assurance can be given that the School will have sufficient revenue to be able to maintain a regular capital improvements program for the High School Facility in the future.

#### **Maintenance of Credit Rating**

Moody’s Investors Service (the “Rating Agency”) has assigned a rating of “Baa3” to the Series 2018 Bonds. Certain information was supplied by the Institution and the School to the Rating Agency to be considered in evaluating the Series 2018 Bonds, including information regarding State and federal funding sources and the operations of the School, which are subject to change. See “BOND RATING” in this Official Statement. Such rating expresses only the views of the Rating Agency. There is no assurance that such rating will continue for any given period of time or will not be revised or withdrawn entirely by the Rating Agency if, in its judgment, circumstances so warrant. Any such downward revision in or withdrawal of such rating, may have an adverse effect on the market price of the Series 2018 Bonds. See “BOND RATING” in this Official Statement.

#### **Enforcement of Remedies**

The remedies available to the Trustee or the registered owners of the Series 2018 Bonds upon an Event of Default under the Indenture or the Loan Agreement are in many respects dependent upon judicial actions which are often subject to discretion and delay. Under existing constitutional and statutory law and judicial decisions, the remedies provided in the Indenture and the Loan Agreement may not be readily available or may be limited. The various legal opinions to be delivered concurrently with the delivery of the Series 2018 Bonds will be qualified as to the enforceability of the various legal instruments by limitations imposed by the valid exercise of the sovereign powers of the State and the constitutional powers of the United States of America, bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors generally.

#### **Failure to Provide Ongoing Disclosure**

The Institution and the School will enter into the Continuing Disclosure Agreement pursuant to Rule 15c2-12, promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the “Rule”). Neither the Institution nor the School has previously been subject to a continuing disclosure undertaking under Rule 15c2-12. Failure by the Institution or the School to comply with the Continuing Disclosure Agreement and the Rule may adversely affect the liquidity of the

Series 2018 Bonds and their market price in the secondary market. See “CONTINUING DISCLOSURE” and “APPENDIX K – FORM OF CONTINUING DISCLOSURE AGREEMENT” in this Official Statement.

### **Private School Vouchers**

Various proposals offering private school vouchers to families to assist with the cost of private schools have been considered by the State Legislature and will likely be introduced again in the future.

### **Redemption Prior to Maturity**

The Series 2018 Bonds are subject to redemption at the option of the Institution and in the event of certain occurrences. See “THE SERIES 2018 BONDS – Redemption of Series 2018 Bonds” in this Official Statement.

### **Summary**

The foregoing is intended only as a summary of certain risk factors attendant to an investment in the Series 2018 Bonds. In order for potential investors to identify risk factors and make an informed decision, potential investors should be thoroughly familiar with this entire Official Statement including the appendices hereto.

## **AUDITED FINANCIAL STATEMENTS OF THE SCHOOL**

The audited financial statements of the School as of and for the fiscal year ended June 30, 2017 (including June 30, 2016 comparative information) (the “Audited Financial Statements”), are included in APPENDIX D to this Official Statement. These are the most recent audited financial statements available for the School. The Audited Financial Statements were audited by Marks Paneth LLP, independent auditors (“Marks Paneth”), as stated in their report thereon. Marks Paneth has not been engaged to perform and has not performed, since the date of its reports included in APPENDIX D to this Official Statement, any procedures on the financial statements addressed in those reports. The School has not sought Marks Paneth’s consent to include the Audited Financial Statements in this Official Statement. In addition, Marks Paneth has not performed any procedures relating to this Official Statement or the financial information of the School included herein. The School has engaged Desire & Company CPAs to act as auditor for the School’s fiscal year that ended June 30, 2018. See “APPENDIX D – AUDITED FINANCIAL STATEMENTS OF THE SCHOOL FOR THE FISCAL YEAR ENDED JUNE 30, 2017 (INCLUDING JUNE 30, 2016 COMPARATIVE INFORMATION)” in this Official Statement.

The summarized comparative information for 2015 included in APPENDIX A was derived from the School’s 2016 audited financial statements, which are not included in this Official Statement.

## **UNAUDITED FINANCIAL STATEMENTS OF THE SCHOOL**

APPENDIX E to this Official Statement contains the unaudited statement of financial position and statement of activities of the School for the fiscal year ended June 30, 2018. The unaudited financial statements contained in APPENDIX E have not been reviewed, audited, or examined by any independent accounting firm. *Marks Paneth and Desire & Company CPAs have not performed any procedures relating to the School’s unaudited financial statements.* See “APPENDIX E – UNAUDITED

FINANCIAL STATEMENTS OF THE SCHOOL FOR THE FISCAL YEAR ENDED JUNE 30, 2018” in this Official Statement.

## THE BUDGET PROJECTION

The School has prepared the Budget Projection and related assumptions included in APPENDIX C to this Official Statement. The Budget Projection is based on the assumptions made by management of the School as to, among other things, future enrollment levels, future costs and future revenues. The Budget Projection is for the five fiscal years of the School ending June 30, 2019 through June 30, 2023. **The Budget Projection (including the notes thereto) should be read in its entirety.**

The Budget Projection is based on various assumptions that represent only the beliefs of the School’s management as to the most probable future events and are subject to material uncertainties. No assurances can be given that the School will, in fact, be able to generate sufficient revenue and attain the enrollment levels as stated in the Budget Projection, and variations from the Budget Projection for each of such matters should be expected to occur. Accordingly, the operations and financial condition of the School in the future will inevitably vary from those set forth in the Budget Projection, and such variance may be material and adverse. See “RISK FACTORS – Budget Projection” in this Official Statement.

The School has not assumed any responsibility to update the Budget Projection or to provide any financial forecasts or projections in the future. The Underwriter and the Issuer have made no independent inquiry as to the assumptions on which the Budget Projection is based and assume no responsibility therefor.

*Marks Paneth and Desire & Company CPAs have not performed any procedures relating to the School’s Budget Projection.*

## TAX MATTERS

### Federal Income Taxes

The Code imposes certain requirements that must be met subsequent to the issuance and delivery of the Series 2018 Bonds for interest thereon to be and remain excluded from gross income for federal income tax purposes. Noncompliance with such requirements could cause the interest on the Series 2018 Bonds to be included in gross income for federal income tax purposes retroactive to the date of issue of the Series 2018 Bonds. Pursuant to the Indenture, the Loan Agreement and the Tax Certificate for the Series 2018 Bonds, the Issuer and the Institution have covenanted to comply with the applicable requirements of the Code in order to maintain the exclusion of the interest on the Series 2018 Bonds from gross income for federal income tax purposes pursuant to Section 103 of the Code. In addition, the Issuer and the Institution have made certain representations and certifications in the Indenture, the Loan Agreement and the Tax Certificate. Bond Counsel will also rely on the opinions of counsel to the Institution as to all matters concerning the status of the Institution as an organization described in Section 501(c)(3) of the Code and exempt from federal income tax under Section 501(a) of the Code. Bond Counsel will not independently verify the accuracy of those representations and certifications or that opinion.

In the opinion of Nixon Peabody LLP, Bond Counsel, under existing law and assuming compliance with the aforementioned covenants, and the accuracy of certain representations and certifications made by the Issuer and the Institution described above, interest on the Series 2018 Bonds is



excluded from gross income for federal income tax purposes under Section 103 of the Code. Bond Counsel is also of the opinion that such interest is not treated as a preference item in calculating the alternative minimum tax imposed on individuals and corporations under the Code. However, it is noted that solely for taxable years beginning before January 1, 2018, interest on the Series 2018 Bonds is included in the adjusted current earnings of certain corporations for purposes of computing the alternative minimum tax imposed on such corporations under the Code.

### **State Taxes**

Bond Counsel is also of the opinion that interest on the Series 2018 Bonds is exempt from personal income taxation imposed by the State of New York or any political subdivision thereof, including The City of New York, assuming compliance with the tax covenants and the accuracy of the representations and certifications described under the heading "Federal Income Taxes." Bond Counsel expresses no opinion as to other New York State or local tax consequences arising with respect to the Series 2018 Bonds nor as to the taxability of the Series 2018 Bonds or the income therefrom under the laws of any jurisdiction other than the State of New York.

### **Original Issue Discount**

Bond Counsel is further of the opinion that the excess of the principal amount of a maturity of the Series 2018 Bonds over its issue price (i.e., the first price at which price a substantial amount of such maturity of the Series 2018 Bonds was sold to the public, excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) (each, a "Discount Bond" and collectively the "Discount Bonds") constitutes original issue discount which is excluded from gross income for federal income tax purposes to the same extent as interest on the Series 2018 Bonds. Further, such original issue discount accrues actuarially on a constant interest rate basis over the term of each Discount Bond and the basis of each Discount Bond acquired at such issue price by an initial purchaser thereof will be increased by the amount of such accrued original issue discount. The accrual of original issue discount may be taken into account as an increase in the amount of tax-exempt income for purposes of determining various other tax consequences of owning the Discount Bonds, even though there will not be a corresponding cash payment. Owners of the Discount Bonds are advised that they should consult with their own advisors with respect to the state and local tax consequences of owning such Discount Bonds.

### **Original Issue Premium**

Series 2018 Bonds sold at prices in excess of their principal amounts are "Premium Bonds". An initial purchaser with an initial adjusted basis in a Premium Bond in excess of its principal amount will have amortizable bond premium which is not deductible from gross income for federal income tax purposes. The amount of amortizable bond premium for a taxable year is determined actuarially on a constant interest rate basis over the term of each Premium Bond based on the purchaser's yield to maturity (or, in the case of Premium Bonds callable prior to their maturity, over the period to the call date, based on the purchaser's yield to the call date and giving effect to any call premium). For purposes of determining gain or loss on the sale or other disposition of a Premium Bond, an initial purchaser who acquires such obligation with an amortizable bond premium is required to decrease such purchaser's adjusted basis in such Premium Bond annually by the amount of amortizable bond premium for the taxable year. The amortization of bond premium may be taken into account as a reduction in the amount of tax-exempt income for purposes of determining various other tax consequences of owning such Series 2018 Bonds. Owners of the Premium Bonds are advised that they should consult with their own advisors with respect to the state and local tax consequences of owning such Premium Bonds.

## **Ancillary Tax Matters**

Ownership of the Series 2018 Bonds may result in other federal tax consequences to certain taxpayers, including, without limitation, certain S corporations, foreign corporations with branches in the United States, property and casualty insurance companies, individuals receiving Social Security or Railroad Retirement benefits, and individuals seeking to claim the earned income credit. Ownership of the Series 2018 Bonds may also result in other federal tax consequences to taxpayers who may be deemed to have incurred or continued indebtedness to purchase or to carry the Series 2018 Bonds. Prospective investors are advised to consult their own tax advisors regarding these rules.

Interest paid on tax-exempt obligations such as the Series 2018 Bonds is subject to information reporting to the Internal Revenue Service (the “IRS”) in a manner similar to interest paid on taxable obligations. In addition, interest on the Series 2018 Bonds may be subject to backup withholding if such interest is paid to a registered owner that (a) fails to provide certain identifying information (such as the registered owner’s taxpayer identification number) in the manner required by the IRS, or (b) has been identified by the IRS as being subject to backup withholding.

Bond Counsel is not rendering any opinion as to any federal tax matters other than those described in the opinion attached as Appendix J to this Official Statement. Prospective investors, particularly those who may be subject to special rules described above, are advised to consult their own tax advisors regarding the federal tax consequences of owning and disposing of the Series 2018 Bonds, as well as any tax consequences arising under the laws of any state or other taxing jurisdiction.

## **Changes in Law and Post Issuance Events**

Legislative or administrative actions and court decisions, at either the federal or state level, could have an adverse impact on the potential benefits of the exclusion from gross income of the interest on the Series 2018 Bonds and for federal or state income tax purposes, and thus on the value or marketability of the Series 2018 Bonds. This could result 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), repeal of the exclusion of the interest on the Series 2018 Bonds from gross income for federal or state income tax purposes, or otherwise. It is not possible to predict whether any legislative or administrative actions or court decisions having an adverse impact on the federal or state income tax treatment of Holders of the Series 2018 Bonds may occur. Prospective purchasers of the Series 2018 Bonds should consult their own tax advisers regarding the impact of any change in law on the Series 2018 Bonds.

Bond Counsel has not undertaken to advise in the future whether any events after the date of issuance and delivery of the Series 2018 Bonds may affect the tax status of interest on the Series 2018 Bonds. Bond Counsel expresses no opinion as to any federal, state or local tax law consequences with respect to the Series 2018 Bonds, or the interest thereon, if any action is taken with respect to the Series 2018 Bonds or the proceeds thereof upon the advice or approval of other counsel.

The form of the approving opinion of Bond Counsel is attached to this Official Statement as APPENDIX J – “FORM OF BOND COUNSEL OPINION.”

## **ENFORCEABILITY OF OBLIGATIONS**

On the date of delivery of the Series 2018 Bonds, Nixon Peabody LLP, New York, New York, Bond Counsel, will deliver its opinion, dated the date of delivery, that the Series 2018 Bonds, the Loan Agreement, the Bond Purchase Agreement, and the Indenture are valid and legally binding obligations on

the Issuer. Orrick, Herrington & Sutcliffe LLP, New York, New York, as special counsel to the Institution, will deliver its opinion that the various documents to which the Institution is a party are valid and legally binding agreements of the Institution, each enforceable in accordance with its respective terms. Orrick, Herrington & Sutcliffe LLP, New York, New York, as special counsel to the School, will deliver its opinion that the various documents to which the School is a party are valid and legally binding agreements of the School, each enforceable in accordance with its respective terms. Paparone Law LLC, as special counsel for the Trustee, will deliver its opinion that the various documents to which the Trustee is a party are valid and legally binding agreements of the Trustee, each enforceable in accordance with its respective terms. The foregoing opinions will be generally qualified to the extent that the enforceability of the respective instruments may be limited by laws, decisions and equitable principles affecting remedies and by bankruptcy or insolvency or other laws, decisions and equitable principles affecting creditors' rights generally.

While the Series 2018 Bonds are secured or payable pursuant to the Indenture, the Loan Agreement, the Mortgage, the Assignment of Lease, the High School Facility Lease, and the Covenant Agreement, the practical realization of payment from any security will depend upon the exercise of various remedies specified in the respective instruments. These and other remedies are dependent in many respects upon judicial action, which is subject to discretion and delay. Accordingly, the remedies specified in the above documents may not be readily available or may be limited.

## **LEGAL MATTERS**

Certain legal matters incident to the issuance and sale of the Series 2018 Bonds and with regard to the tax-exempt status of interest on the Series 2018 Bonds under existing laws are subject to the legal opinion of Nixon Peabody LLP, New York, New York, as Bond Counsel. Certain legal matters will be passed upon for the Issuer by its General Counsel, for the Institution and the School by their special counsel, Orrick, Herrington & Sutcliffe LLP, New York, New York, and for the Trustee by its special counsel Paparone Law LLC, New York, New York. Barnes & Thornburg LLP, Minneapolis, Minnesota, represents the Underwriter in this transaction.

## **CONTINUING DISCLOSURE**

The Rule imposes continuing disclosure obligations on the issuers of certain state and municipal securities to permit participating underwriters to offer and sell the issuer's securities. In order to comply with the requirements of the Rule, the Institution and the School have entered into a Continuing Disclosure Agreement, dated as of October 1, 2018, between the Institution, the School, and the Trustee, as dissemination agent. Neither the Institution nor the School has been subject to any prior continuing disclosure undertakings under Rule 15c2-12. See "APPENDIX K – FORM OF CONTINUING DISCLOSURE AGREEMENT" in this Official Statement.

The Issuer does not have any obligation with respect to the Continuing Disclosure Agreement because the Issuer is not an "obligated party" under the terms of Rule 15c2-12. The Issuer will not monitor the compliance by the Institution or the School with the terms of the Continuing Disclosure Agreement.

## **BOND RATING**

Moody's Investors Service ("Moody's" or the "Rating Agency"), has assigned its municipal bond rating of "Baa3" to the Series 2018 Bonds. Such rating expresses only the views of Moody's. Any explanation of the significance of such rating may only be obtained from Moody's. The Institution and the School furnished to Moody's certain information and material concerning the Series 2018 Bonds, the Institution, and the School. Generally, rating agencies such as Moody's base their ratings on such information and materials and on investigations, studies and assumptions made by the rating agencies themselves. There is no assurance that the credit rating mentioned above will remain in effect for any given period of time or that the rating might not be lowered or withdrawn entirely by Moody's, if, in the judgment of Moody's, circumstances so warrant. The Underwriter has undertaken no responsibility either to bring to the attention of the holders of the Series 2018 Bonds any proposed change in or withdrawal of any rating or to oppose any such proposed revision or withdrawal. Any such downward change in or withdrawal of any rating might have an adverse effect on the market price or marketability of the Series 2018 Bonds.

## **RELATIONSHIPS AMONG THE PARTIES**

In connection with the issuance of the Series 2018 Bonds, the Issuer, the Institution, the School and the Underwriter are being represented by the attorneys or law firms identified above under the heading "LEGAL MATTERS." In other transactions not related to the Series 2018 Bonds, each of these attorneys or law firms may have acted as bond counsel or represented the Issuer, the Institution, the School, or the Underwriter or their affiliates, in capacities different from those described under "LEGAL MATTERS," and there will be no limitations imposed as a result of the issuance of the Series 2018 Bonds on the ability of any of these firms or attorneys to act as bond counsel or represent any of these parties in any future transactions. Potential purchasers of the Series 2018 Bonds should not assume that the Issuer, the Institution, the School, and the Underwriter or their respective counsel or Bond Counsel have not previously engaged in or will not after the issuance of the Series 2018 Bonds engage in, other transactions with each other or with any affiliates of any of them, and no assurances can be given that there are or will be no past or future relationship or transactions between or among any of these parties or these attorneys or law firms.

## **LITIGATION**

### **The Issuer**

There is no pending litigation of which the Issuer has notice restraining or enjoining the issuance or delivery of the Series 2018 Bonds or questioning or affecting the validity of the Series 2018 Bonds or the proceedings and authority under which the Series 2018 Bonds are to be issued or the validity or enforceability of the Indenture, the Loan Agreement, the Bond Purchase Agreement, and the Mortgage. Neither the creation, organization or existence of the Issuer, nor the title of the present directors or other officials of the Issuer to their respective offices, is, to the best knowledge of the Issuer, being contested.

### **The Institution**

No litigation, investigations or proceedings are now pending or, to the best knowledge of the Institution, are any threatened against the Institution which would have a materially adverse effect on the financial condition or operations of the Institution or in any manner challenge or adversely affect the corporate existence or power of the Institution to enter into and carry out the transactions described in or

contemplated by, or the execution, delivery, validity or performance by the Institution under the Loan Agreement, the Mortgage, the Assignment of Lease, the High School Facility Lease, the Continuing Disclosure Agreement, the Tax Regulatory Agreement, the Account Control Agreement, or the Bond Purchase Agreement, as appropriate.

### **The School**

In connection with the issuance of the Series 2018 Bonds, the School has represented that there is no litigation pending, seeking to restrain or enjoin the issuance or delivery of the Series 2018 Bonds or questioning or affecting the legality of the Series 2018 Bonds or the proceedings and authority under which the Series 2018 Bonds are to be issued. There is no litigation pending which in any manner questions the undertaking of the financing by the School or the validity or enforceability of the Bond Purchase Agreement, the Tax Regulatory Agreement, the Continuing Disclosure Agreement, the High School Facility Lease, or the Covenant Agreement.

Other than the item below, the School is not aware of any pending or threatened litigation that would have a material financial or operational impact on the School.

**Marcia White v. Lighthouse Academies, Inc., Bronx Lighthouse Charter School and Travis Brown (individually) (the “White lawsuit”).** The White lawsuit was filed with the Bronx County Clerk on August 6, 2018 and is in its initial stages. Babchik and Young LLP has been appointed to represent BLCS and Travis Brown, and Ford Harrison LLP has been appointed to represent the Manager. The law firms are parties to a joint defense agreement, dated as of August 27, 2018. Ms. White was hired as a middle school teacher in August 2015. Ms. White claims that she was sexually harassed by certain students at BLCS. Ms. White further alleges that she was wrongfully terminated on March 12, 2018, in violation of her human rights, as a direct result of her complaints that BLCS condoned the alleged sexual harassment. Ms. White’s claim consists of three causes of action. The first cause of action is against BLCS and the Manager for gender discrimination in violation of Chapter 1, Title 8, Section 8-107(1)(a) of the Administrative Code of the City of New York and seeks compensatory damages in an amount of \$2,000,000 and punitive damages in an amount \$3,000,000. The second cause of action is against BLCS and the Manager claiming retaliation in violation of Chapter 1, Title 8, Section 8-107(7) of the Administrative Code of The City of New York and seeks compensatory damages in an amount of \$2,000,000 and punitive damages in an amount \$3,000,000. The third cause of action is against Travis Brown, the principal of BLCS, for aiding and abetting in the alleged discrimination and retaliation by BLCS and the Manager in violation of Chapter 1, Title 8, Section 8-107(6) of the Administrative Code of The City of New York and seeks compensatory damages in an amount of \$2,000,000 and punitive damages in an amount \$3,000,000. Counsel for BLCS and Travis Brown believes that all claims for compensatory damages on the part of BLCS and Travis Brown (less a deductible of \$10,000) will be covered by BLCS’s employment practices liability insurance issued by the Philadelphia Indemnity Insurance Company. Such counsel also believes that the punitive damage claims are excessive and are unlikely to be awarded in the amounts sought. While it is not possible to predict ultimate outcomes, both BLCS and the Manager believe that they have meritorious defenses and will vigorously defend each of the causes of action described in the paragraph above. Any possible punitive damages will not be covered by liability insurance.

### **UNDERWRITING**

The Series 2018 Bonds will be purchased by Piper Jaffray & Co., Minneapolis, Minnesota (the “Underwriter”). The Underwriter has agreed to purchase the Series 2018 Bonds, for a purchase price of \$ \_\_\_\_\_, which amount represents the principal amount of the Series 2018 Bonds (\$ \_\_\_\_\_),

less the Underwriter's discount of \$\_\_\_\_\_, [plus/less] a net original issue [premium/discount] of \$\_\_\_\_\_. The Underwriter is purchasing the Series 2018 Bonds pursuant to the terms of a Bond Purchase Agreement (the "Bond Purchase Agreement") between the Issuer, the Institution, the School, and the Underwriter. The Bond Purchase Agreement also provides that the Institution will pay miscellaneous out-of-pocket expenses of the Underwriter. The Bond Purchase Agreement provides that the Underwriter will purchase all Series 2018 Bonds if any are purchased, and that the obligation to make such purchase is subject to certain terms and conditions set forth in the Bond Purchase Agreement, the approval of certain legal matters by counsel, and certain other conditions. Expenses associated with the issuance of the Series 2018 Bonds are being paid by the Institution from proceeds of the Series 2018 Bonds. The right of the Underwriter to receive compensation in connection with the Series 2018 Bonds is contingent upon the actual sale and delivery of the Series 2018 Bonds. The initial offering prices set forth on the inside front cover hereof may be changed from time to time by the Underwriter. The Underwriter reserves the right to join with dealers and other investment banking firms in offering the Series 2018 Bonds to the public. The Institution has agreed under the Bond Purchase Agreement to indemnify the Underwriter and the Issuer against certain liabilities, including certain liabilities under federal and state securities laws.

### **THE TRUSTEE**

The Issuer has appointed The Bank of New York Mellon to serve as Trustee. The Trustee is a banking corporation organized and existing under the laws of the State of New York, having all of the powers of a bank, including fiduciary powers, and is a member of the Federal Deposit Insurance Corporation and the Federal Reserve System. The Trustee is to carry out those duties assignable to it under the Indenture. Except for the contents of this section, the Trustee has not reviewed or participated in the preparation of this Official Statement and assumes no responsibility for the nature, contents, accuracy, fairness or completeness of the information set forth in this Official Statement or for the recitals contained in the Indenture or the Series 2018 Bonds, or for the validity, sufficiency, or legal effect of any of such documents.

Furthermore, the Trustee has no oversight responsibility, and is not accountable, for the use or application by the Issuer of any of the Series 2018 Bonds authenticated or delivered pursuant to the Indenture or for the use or application of the proceeds of such Series 2018 Bonds by the Institution. The Trustee has not evaluated the risks, benefits, or propriety of any investment in the Series 2018 Bonds and makes no representation, and has reached no conclusions, regarding the value or condition of any assets or revenues pledged or assigned as security for the Series 2018 Bonds, or the investment quality of the Series 2018 Bonds, about all of which the Trustee expresses no opinion and expressly disclaims the expertise to evaluate.

The mailing address of the Trustee is 240 Greenwich Street, Floor 7W, New York, New York, Attention: Corporate Trust Administration. Additional information about the Trustee may be found at its website at <http://www.bnymellon.com>. The Bank of New York Mellon website is not incorporated into this Official Statement by such reference and is not a part hereof.

### **FINANCIAL ADVISOR**

Urban Futures Incorporated, Tustin, California ("Urban Futures") has been retained by the School to act as financial advisor to the School in connection with the issuance of the Series 2018 Bonds. Urban Futures has advised the School in such capacity, but is not obligated and has not undertaken to make an independent verification or to assume responsibility for the accuracy or completeness of the information

contained in this Official Statement. The fees paid to Urban Futures for services rendered in connection with the issuance of the Series 2018 Bonds are contingent upon the actual sale and delivery of the Series 2018 Bonds.

## **MISCELLANEOUS**

The foregoing does not purport to be comprehensive or definitive, and all references to any document herein are qualified in their entirety by reference to each such document. All references to the Series 2018 Bonds are qualified in their entirety by reference to the forms thereof and the information with respect thereto included in the aforesaid documents. Copies of these documents are available for inspection during the period of the offering at the offices of the Underwriter in Minneapolis, Minnesota and thereafter at the principal corporate trust office of the Trustee. In addition to certain information provided herein, all information contained in Appendices A, B, C, D, and E, along with information regarding the Forecast and projected debt service coverage under the caption "SUMMARY INFORMATION," has been provided by the Institution or the School or been derived from information provided by the Institution or the School. The Underwriter makes no representations or warranties as to the accuracy or completeness of the information in any of the Appendices.

### **No Registration of the Series 2018 Bonds**

Registration or qualification of the offer and sale of the Series 2018 Bonds (as distinguished from registration of the ownership of the Series 2018 Bonds) is not required under the Securities Act. THE INSTITUTION ASSUMES NO RESPONSIBILITY FOR QUALIFICATION OR REGISTRATION OF THE SERIES 2018 BONDS FOR SALE UNDER THE SECURITIES LAWS OF ANY JURISDICTION IN WHICH THE SERIES 2018 BONDS MAY BE SOLD, ASSIGNED, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED.

### **Interest of Certain Persons Named in this Official Statement**

The fees to be paid to counsel to the Institution and the School, counsel to the Underwriter, the Trustee, counsel to the Trustee, Urban Futures, and the Underwriter are contingent upon the sale and delivery of the Series 2018 Bonds.

### **Official Statement Certification**

The Institution, the School and the Issuer have authorized and approved the use and distribution of this Official Statement. The Issuer has not reviewed or approved any matters herein and assumes no responsibility for the accuracy or completeness of the information herein except for the information under the caption "THE ISSUER" and "LITIGATION – The Issuer" in this Official Statement.

The preparation of this Official Statement and its distribution has been authorized by the Institution and the School. This Official Statement is not to be construed as an agreement or contract between the Institution or the School and any purchaser, owner or holder of any Series 2018 Bond.

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**APPENDIX A**

**BRONX LIGHTHOUSE CHARTER SCHOOL**

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APPENDIX A

BRONX LIGHTHOUSE CHARTER SCHOOL

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## APPENDIX A

### BRONX LIGHTHOUSE CHARTER SCHOOL

#### INTRODUCTION

##### General

*BLCS* Bronx Lighthouse Charter School (“BLCS” or the “School”) is a charter school located within the boundaries of New York City Community School District 12 (the “12th District”) in the Bronx, New York, currently offering kindergarten through twelfth grades. Incorporated in the State of New York (the “State”) in 2004, BLCS is organized pursuant to Article 56 of New York Education Law (the “Charter Schools Act”) as a not-for-profit education corporation. BLCS received a 501(c)(3) determination letter dated January 12, 2005 from the Internal Revenue Service (the “IRS”). BLCS will not be a borrower under or a party to the Loan Agreement or the Promissory Note and will not be obligated to make payments under the Loan Agreement or pay debt service on the Series 2018 Bonds. However, BLCS will lease the High School Facility (as defined below) from the Institution (as defined below) under the terms of the Lease (as defined below) and amounts payable by BLCS to the Institution under the Lease are scheduled to be sufficient to pay all scheduled debt service on the Series 2018 Bonds.

In addition to the High School Facility, the BLCS also leases from the New York City Department of Education (the “NYC DOE”), a three-story school building located immediately adjacent to the High School Facility at 1001 Intervale Avenue, Bronx, New York (the “K-8 Facility”), for use as a public charter school serving students in kindergarten through eighth grade. BLCS leases the K-8 Facility from the NYC DOE under the terms of a Ground Lease, dated as of December 1, 2005 (as amended or supplemented from time to time, the “K-8 Facility Lease”), from the NYC DOE, as successor to Civic Builders, Inc., and BLCS. See “RISK FACTORS – Nature of K-8 Facility Lease” in this Official Statement for more information on the K-8 Facility Lease.

*The Institution.* 1005 Intervale Avenue LLC (the “Institution”) was formed in April 2018 as a New York limited liability company whose initial sole member is BLCS. The Institution was formed for the sole purpose of furthering the educational and charitable purposes of BLCS. The Institution will use proceeds of the Series 2018 Bonds to purchase the High School Facility and will lease the High School Facility back to BLCS. See “PLAN OF FINANCE” and “THE INSTITUTION” in this Official Statement. It is anticipated that BLCS’s interest as sole member of the Institution will be transferred in the future to the Support Corporation (as defined below).

*Support Corporation.* Bronx Support Corporation (the “Support Corporation”) was formed in May 2018 as a New York not-for-profit corporation organized for the sole purpose of supporting BLCS. The bylaws of the Support Corporation provide that BLCS has the right to appoint all directors of the Support Corporation. It is anticipated that BLCS’s interest as sole member of the Institution will be transferred to the Support Corporation upon determination by the IRS that the Support Corporation is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”). The Support Corporation has applied to the IRS for such determination but has not yet received it. After such transfer, the Support Corporation will be the sole member of the Institution. The Support Corporation will not be a borrower under or a party to the Loan Agreement or the Promissory Note and will not be obligated to make payments under the Loan Agreement or pay debt service on the Series 2018 Bonds.

##### The Charter Contract

BLCS operates pursuant to its Charter (as defined in “THE SCHOOL” in this Official Statement) authorized by the Chancellor of the City School District of the City of New York (the “Authorizer”) and approved by the Board of Regents of the University of the State of New York, for and on behalf of the State Education Department (the “Board of Regents”). The Charter provides for the education of students in grades K-12 and governs such matters as operation of BLCS, personnel, finance and management, reports and oversight. Pursuant to the Charter Schools Act, the term of a charter cannot exceed five years and therefore must be renewed periodically. The Authorizer recommends full-term renewals in cases where a school has clearly and consistently demonstrated high academic performance, a compliant environment that supports the health, safety and well-being of all students, operational stability and financial viability and the Authorizer recommends short-term renewals, with or without

conditions, in cases where a school has demonstrated mixed academic results or uncertain organizational or financial viability.

The initial Charter contract between BLCS and the Authorizer was approved by the Board of Regents on May 18, 2004 for a full five-year term. The Authorizer also recommended a full five-year renewal of the Charter contract in 2009. In 2014, due to leadership instability and poor scholar progress, particularly in English Language Arts and Math testing during the 2010-11 and 2011-12 academic years, the Authorizer recommended a short-term renewal of two years, without conditions. In connection with such renewal, at the Authorizer's request, BLCS established a corrective action plan in 2014 identifying goals and action steps designed to evaluate and address leadership and staff turnover; communication norms; school culture, including leadership and staff collaboration and parent engagement; oversight roles and responsibilities and accountability procedures; and clarification of the relationship between BLCS and the Manager (as defined herein). In 2016, due to only partial demonstration of academic success during the preceding term, the Authorizer recommended a shorter-term three-year renewal, without conditions, and no longer required a corrective action plan to be in place. Each such renewal of the Charter contract was approved by the Board of Regents. Concurrently with its approval of the initial Charter and subsequent renewals, the Board of Regents granted and extended the School's incorporation document (known as a provisional charter) for a parallel term. The Charter is currently in effect through June 30, 2019 and BLCS will send the renewal application to the Authorizer on October 1, 2018. The School and the Authorizer have scheduled the Authorizer's in-person school based visits (two days of classroom visits, interviews, Board interviews, public hearing, etc.) on November 1 and 2, 2018.

#### **Annual Authorizer Review**

The Authorizer conducts annual reviews of the School and did so in the 2017-2018 school year. However, the Authorizer does not provide a formal report for the School. This evaluation is conducted by the Authorizer to determine progress on overall student achievement at BLCS and to measure the contractual goals of BLCS under the Charter of BLCS' performance according to the State's accountability system.

#### **Enrollment Generally**

BLCS began operations for grades K-2 at the start of the 2004 school year and serves as Lighthouse Academies' flagship school. BLCS began operating in temporary space on Fox Street in the Bronx where it operated until moving in 2006 to the K-8 Facility at 1001 Intervale Avenue. In August of 2012, as BLCS continued to add a grade each year, BLCS opened its doors to its 9th grade scholars at its new facility at 1005 Intervale Avenue. As of the 2014-15 school year, BLCS has students enrolled in grades K-12. See "BLCS – Enrollment" below in this APPENDIX A.

#### **Mission, Vision and Educational Philosophy**

***Mission:** We prepare our scholars for college through a rigorous arts-infused program.*

***Vision:** All scholars will be taught by a highly effective teacher in a nurturing environment and will achieve at high levels. Each scholar will develop the knowledge, skills and values necessary for responsible citizenship and life-long learning. The impact of our collective efforts will fundamentally change public education*

***Educational Philosophy:** At BLCS we believe in empowering the hearts and minds of all scholars by encouraging: creative problem solving, intellectual curiosity, self-reflection, cooperative learning and optimistic resilience. We believe when rigorous curricular, pedagogical, artistic and data driven practices are aligned across all classrooms scholars will be motivated, engaged and successful learners. Our scholars will be engaged and transformative global citizens.*

### Use of Scholar Achievement Data

BLCS uses data in a network wide systematic process to impact large and small-scale instructional decisions and resource allocation. The ongoing collection of scholar achievement data through formal and informal assessments in all subjects is used by teachers and administrative staff to drive the instructional program at BLCS as follows:

- 1) Assessment data is tracked and regularly monitored by teachers to allow them to tailor instruction to the needs of the class and of individual scholars.
- 2) Teachers use assessment data to create flexible instructional groupings based on the needs of the scholar.
- 3) Ongoing assessments allow teachers to provide continuous feedback to scholars and permit administrative staff to provide continuous feedback to teachers.
- 4) Assessment data permits the school leadership team to evaluate the effectiveness of the curriculum content and delivery and of resource allocation in helping scholars to meet the state standards and grade level expectations.

### LIGHTHOUSE ACADEMIES, INC.

#### General

The operations of BLCS are managed by Lighthouse Academies, Inc. (the “Manager”) pursuant to an Management Service Agreement (the “Management Contract”). The Manager is a Delaware nonstock, not for profit corporation and an exempt organization under Section 501(c)(3) of the Code, which provides charter school management services to charter schools located in three states serving approximately 5,500 scholars. The table below shows the schools managed by the Manager.

School Name	State	Enrollment (as of August 2018)	Grades Served
Bronx Lighthouse Charter School	New York	650	K-12
Metropolitan Lighthouse Charter School	New York	470	K-10
Indiana Lighthouse Charter School South	Indiana	450	K-6
Indiana Lighthouse Charter School East	Indiana	300	7-11
Indiana Lighthouse College Prep Academy South	Indiana	400	7-12
Gary Lighthouse Lower	Indiana	381	K-3
Gary Lighthouse Middle	Indiana	487	4-8
Gary Lighthouse High School	Indiana	568	9-12
Lighthouse East Chicago	Indiana	500	K-8
Capital City	Arkansas	233	K-6
Jacksonville Lighthouse	Arkansas	382	K-6
JL CSCPA	Arkansas	313	7-12
Flightline	Arkansas	136	5-8
Pine Bluff	Arkansas	269	K-8
Total Enrollment		5,539	

#### The Management Agreement

In accordance with the terms and conditions of the Management Contract, the Manager is entitled to receive 4.5% of total revenues received by BLCS in return for providing BLCS with all oversight and administrative services necessary for operating BLCS in accordance with the Charter, including day-to-day management of BLCS. Pursuant to the Assignment and Subordination of Management Contract, the management fee owed to the Manager

by BLCS will be subordinate to the obligation of BLCS to make lease payments under the Lease. The term of the Management Contract is consistent with the term of the Charter (currently through June 30, 2019) unless terminated or cancelled earlier in accordance with its terms.

The Manager provides support to BLCS in the following areas:

- Financial Oversight and Budgeting Support
- Human Resources
- Recruitment
- Professional Support and Collaboration
- Leadership Development and Support
- Operational and Academic Supports
- Technology
- Marketing

Teachers and the staff members are employed directly by the School. However, the Manager has hiring and termination authority with respect to teachers and other staff members at the School.

### **Manager Key Personnel**

Certain information regarding key personnel of the Manager is set forth below.

***Khori Whittaker - President and Chief Executive Officer.*** Mr. Whittaker is the President and Chief Executive Officer of the Manager. Mr. Whittaker started his career as a fifth grade teacher in Long Beach, California through the Teach for America movement. Mr. Whittaker was an early employee at InsideTrack, Inc. working to improve college access and completion for scholars across the country. Mr. Whittaker led recruiting at InsideTrack during a critical growth phase and led InsideTrack's Community College Impact Initiative team, successfully launching unique scholar coaching and train-the-trainer programs in two states and ten college campuses. Mr. Whittaker also served as Assistant Director for Undergraduate Admission at Stanford University. Prior to joining the Manager, Mr. Whittaker launched and led the grassroots and community engagement team at the Foundation for Florida's Future. Mr. Whittaker serves on the board of directors of Global Glimpse, Inc. and the advisory board of the Drug Free America Foundation. Mr. Whittaker earned a B.A. in Economics from Princeton University and a M.A. in Political Science from California State University, Long Beach.

***Jerome Ballard - Chief Operating Officer.*** Mr. Ballard is the Chief Operating Officer of the Manager. Prior to joining the Manager, Mr. Ballard was the Founder and President of Perfect People Solutions, a full service human resources consulting practice that focused on operational excellence and leadership development. Mr. Ballard started his professional career as a lawyer and has spent over 20 years in the human resources profession. Mr. Ballard has held senior human resources roles for a number of Fortune 500 companies, including Whirlpool, Michelin and PepsiCo. Mr. Ballard received his undergraduate degree in History and Political Science from Mount St. Mary College in Newburgh, New York and his law degree from the University of Miami, in Coral Gables, Florida.

***Lynise Harris - Chief of Staff.*** Ms. Harris is the first in her immediate family to complete a college degree, after which she began her career as a human resources professional. After time in the United States Peace Corps, Ms. Harris became a certified executive coach. Since 2002 her focus has been to help professionals and scholars to develop and reach goals and gain personal and academic success. This includes helping several higher learning institutions in Hawaii, Alabama and Florida to develop an academic coaching program. Ms. Harris partners with the Manager's College Preparatory Academies' Directors of College Transition or College and Career Advising to ensure scholars have a successful plan for entering and completing college. Ms. Harris has a B.A. in Communications from Texas State University and an M.S. in Leadership Coaching Psychology from Capella University.

***Sarah Gallagher - Chief Schools Officer.*** In this role, Ms. Gallagher is responsible for crafting a strong vision of college preparatory instruction for all grade levels and content areas at Lighthouse Academies. Ms. Gallagher also ensures that schools have the appropriate curricula, assessments, and leadership

training in order to make this vision a reality for BLCS scholars. Ms. Gallagher has coached over 100 teachers and school leaders, and draws upon her research on student motivation and achievement to ensure that students are actively engaged in rigorous and targeted instruction daily. Ms. Gallagher earned her B.A. at the University of Notre Dame and completed an M.Ed. at Providence College in secondary education and an M.S. in developmental psychology at the University of Michigan.

***Courtney Russell - Director, Regional Operations for New York and Executive Director for BLCS and MetLCS.*** Ms. Russell serves as the Manager's Director, Regional Operations for New York and as the Manager's Executive Director for BLCS and MetLCS. Ms. Russell served as a classroom teacher through Teach for America in Atlanta between 2004 and 2009. Ms. Russell went on to join Lighthouse Academies and served as the Founding Principal for BLCS from 2010 - 2016. Ms. Russell earned a B.A. from Muhlenberg College in Communications, a M.A. in Educational Leadership from Teachers College, Columbia University, and an Ed.S. in Instructional Technology from the University of Georgia.

***Mansoor Mustafa - Director of Facilities.*** Prior to his role as the Director of Facilities, Mr. Mustafa served as the Corporate Controller for the Manager. His previous history includes serving as Director of Finance for Albany Charter School Network, an association of charter schools in the New York State Capital District; Controller for a privately held hospitality management organization; and Senior Financial Analyst for Disney Publishing, located in White Plains, New York. Mr. Mustafa holds a B.A. in Accounting from York University.

***Mary Beth Rousseau, CPA - Controller.*** Ms. Rousseau began her career in public accounting as a staff accountant, working at a mid-size public accounting firm located in central Florida. Ms. Rousseau completed her degrees and later earned her Certified Public Accountant license in November 2014. Ms. Rousseau joined the Manager in May 2016 as the controller for the New York and Chicago regions. Ms. Rousseau earned a BS in Accounting and a MS in Accountancy from Liberty University. Ms. Rousseau is a member of AICPA and FICPA.

#### **Academic and Development Philosophy**

The Manager's goal is to transform thousands of scholars' lives, moving them toward college and lifelong success. The Manager looks to achieve this with a three-pronged approach: Rigorous Academics, Social Development and Arts Infusion.

**Rigorous Academics.** The Manager has extended the school year for its schools to operate a calendar of 190 school days and has extended the school day to eight hours.

The Manager uses a variety of assessments and data tools to inform instruction, identify areas of growth and increase scholar achievement throughout the network. The main sources of data are interim assessments based on Common Core standards, state assessments, NWEA Measures of Academic Progress ("MAP")/Primary Grades Assessment ("PGA") and curricular assessments aligned with State and Common Core standards.

To accommodate different learning styles, classroom instruction includes a mix of whole-class, small group and individual work.

**Social Development.** The Manager believes that attention to social/emotional and soft skills development is as important as the academic curriculum. The Manager aims to support scholars in their capacity to engage collaboratively, be disciplined in their academic and personal pursuits and contribute in meaningful ways to their community.

Some of the key social development goals for scholars in schools managed by the Manager are listed below:

- (i) Active community membership demonstrated by their ability to identify and make positive contributions to the many different kinds of communities of which they are a part.

(ii) Critical thinking as demonstrated by their ability to problem solve, make decisions and consider multiple strategies and perspectives when answering questions, approaching challenges and interacting with others.

(iii) Effective communication demonstrated by their ability to read, speak, listen and write with clarity, accuracy, authenticity, and conviction across various domains.

(iv) Self-direction and self-management demonstrated by their ability to take initiative with their learning and work; ask and answer questions; and understand that they are ultimately responsible for their future.

Through the social curriculum, the Manager aims to support scholars in being successful academically, acquiring the skills necessary to work collaboratively with others, as well as building self-management skills that help prepare them for college. All teachers and school leaders participate in targeted and ongoing professional development regarding social development.

Arts Infusion. The Manager’s teachers strive to infuse art activities and techniques into the instruction of all core subjects. The Manager believes that an arts-infused school is a place where the arts permeate school culture.

Restorative Practices. The Manager attempts to prepare scholars to achieve academically, to persevere through personal and political injustices, to solve problems collaboratively, and to self-regulate and self-manage. The Manager believes that scholars need to learn the skills and values of compromise, restitution, mediation, and the importance of relationship.

The Manager helps its schools with:

(i) collecting data to allow teachers, scholars, families, and leaders to fully understand the impact of current practices on scholar learning and social development;

(ii) creating a restorative vision. The Manager works with teams to create a realistic and unified vision of restorative practices and help create a rollout plan for implementation;

(iii) driving commitment to restorative practices. The Manager works with leadership teams and or scholar groups to empower local champions to establish a strong foundation for restorative practices; and

(iv) revising policies and procedures.

## THE PLAN OF FINANCE AND THE HIGH SCHOOL FACILITY

### The Plan of Finance

*Use of Proceeds of the Series 2018 Bonds.* Proceeds of the Series 2018 Bonds will be used by the Institution, along with available funds, for the purposes of funding: (i) the acquisition and equipping of an existing approximately 25,837 square foot 5-story building on an approximately 9,059 square foot parcel of land (0.21 acres) located at 1005 Intervale Avenue, Bronx, New York (the “High School Facility”); (ii) a debt service reserve fund; and (iii) the costs of issuing the Series 2018 Bonds.

*High School Facility Lease.* The Institution and BLCS will enter into a Lease (the “High School Facility Lease”) pursuant to which BLCS will lease the High School Facility from the Institution and BLCS will conduct charter school operations for grades 9-12 at the High School Facility. The initial term of the High School Facility Lease is equal to the term of the Series 2018 Bonds, with BLCS having the right to extend the Lease term for two additional five year periods. See “THE PROJECT AND PLAN OF FINANCE” and “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2018 BONDS — High School Facility Lease” in this Official Statement for

further description of the Project and the High School Facility Lease. See also “APPENDIX I – SUMMARY OF CERTAIN PROVISIONS OF THE HIGH SCHOOL FACILITY LEASE” in this Official Statement.

### The High School Facility Acquisition

On June 2, 2011, BLCS entered into a lease agreement (the “Current Lease”) with BLCS Property Holding Company, Inc. (the “Seller”) for the High School Facility. Construction of the High School Facility was completed in August 2012 and BLCS has occupied and operated grades 9-12 of its charter school at the High School Facility since the start of the 2012-2013 school year. The Institution and the Seller will enter into a Sale Agreement pursuant to which the Institution will agree to purchase, and the Seller will agree to sell, the High School Facility at a purchase price of \$10,442,072.79\* based on the anticipated closing date. The purchase price of the High School Facility is equal to the pay-off amount of the outstanding New Market Tax Credit debt that was incurred by the Seller to purchase the property and is not based upon the appraised value of the High School Facility.

### Limited Nature of Appraisal

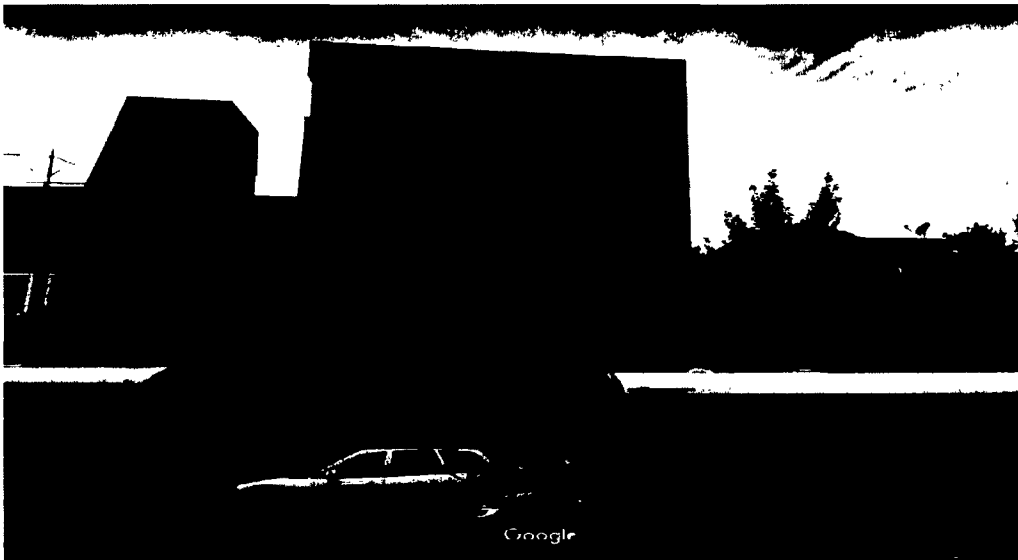
In July 2018, the School ordered an as-built appraisal (the “Appraisal”) with respect to the High School Facility. The Appraisal was completed by Rosin & Associates (the “Appraiser”) on August 6, 2018. In the Appraisal, the Appraiser determined that based on its valuation analysis, as of July 31, 2018, the following values for the High School Facility were:

<u>High School Facility</u>	<u>Value as of July 31, 2018</u>
Cost Approach	\$12,450,000
Income Approach	12,180,000
Sales Comparison Approach	12,920,000
Final “As Is” Value Estimate	12,920,000

The estimated par amount of the Series 2018 Bonds is approximately 67% of the Final “As-Is” Valuation Estimate of the Appraisal. See also “RISK FACTORS – Limited Nature of Appraisal” in this Official Statement.

### Pictures of the High School Facility

Below and on the next page are pictures of the High School Facility located at 1005 Intervale Avenue and the adjacent K-8 Facility located at 1001 Intervale Avenue, which houses grades K-8.



Source: Google Maps



Below is a picture of both the K-8 Facility and the High School Facility from above. The K-8 Facility is on the left and the High School Facility is on the right.



Source: Google Maps.

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## BLCS

### BLCS Governance and Administration

The Board of Trustees. BLCS is governed by a Board of Trustees (the “Board”). Under BLCS’s Bylaws, the Board consists of not less than five nor more than eleven trustees. Currently, there are ten trustees who are elected to two-year terms. Trustees may be re-elected for three additional terms of service. After a person has not served on the Board for a period of at least six consecutive months, such person is again eligible for election to the Board.

The individuals who currently serve as trustees and officers of the Board are as follows:

<u>Name</u>	<u>Position</u>	<u>Initial Start Date</u>	<u>Current Term Expiration</u>
Javier Lopez-Molina	President	05/22/2015	05/22/2019
Nikali Jones	Vice President	10/20/2016	10/20/2018
Robert Granado	Treasurer	10/20/2016	10/20/2018
Sara Madavo	Secretary	03/16/2017	03/16/2019
Vilma Caba	Trustee	05/22/2015	05/22/2019
Evelyn DeGonzalez	Trustee	11/09/2008	11/09/2018 <sup>(1)</sup>
Eric Kinsey	Trustee	01/20/2018	01/20/2020
Frantz Merine	Trustee	03/07/2018	03/07/2020
Stacy Sutherland	Trustee	01/20/2018	01/20/2020
Briar Thompson	Trustee	03/16/2017	03/16/2019

<sup>(1)</sup> Ms. DeGonzalez has served the entire term allowed by the current bylaws and will not be reappointed.

**Javier Lopez-Molina – President.** Mr. Lopez-Molina is a manager on the Enterprise Solutions Team at IQVIA, a healthcare technology business. In this role, Mr. Lopez-Molina is responsible for innovating and delivering projects to pharmaceutical clients. Prior to IQVIA, Mr. Lopez-Molina worked as a laboratory scientist at StemCentrx and Merck. Mr. Lopez-Molina has a Masters Degree in Biology from the Massachusetts Institute of Technology and an M.B.A. from Columbia Business School.

**Nikali Jones – Vice President.** Ms. Jones is the Director of Operations for Red Rabbit, an organization aimed to provide healthy lunches to school kids throughout New York. Ms. Jones is responsible for the creation and delivery of over 26,000 meals to 160 school programs in addition to being part of the executive team leading strategic decisions for continued growth. Prior to Red Rabbit, Ms. Jones was a General Manager for Hillstone Restaurant Group. Ms. Jones has a B.S. from Georgetown University in Marketing and Management, and an M.B.A. from Columbia Business School.

**Robert (Robb) Granado – Treasurer.** Mr. Granado is the Chief Operating Officer of CommonBond, a financial technology company focused on education finance and student loan solutions. In addition to overseeing the company’s operations, Mr. Granado leads the company’s student loan refinancing business, with a focus on saving college graduates on their student loans and delivering financial returns to CommonBond and its shareholders. Prior to CommonBond, Mr. Granado was founder and CEO of a small business lending platform and a management consultant focused on financial restructuring. Prior to entering the private sector, Mr. Granado was a Captain in the United States Air Force. Mr. Granado has a B.A. in Economics from the University of North Carolina at Chapel Hill and holds an M.B.A. from Columbia Business School.

**Sara Madavo – Secretary.** Ms. Madavo is a senior counsel and litigation lawyer with Foley & Lardner LLP. Ms. Madavo focuses her practice on complex commercial litigation and has represented large companies, small businesses, and individual clients across a wide range of industries, through all phases of litigation. Ms. Madavo is a member of the firm’s Business Litigation & Dispute Resolution Practice, Labor & Employment Practice, and Health Care Industry Team. Ms. Madavo received her law degree in 2010 from Harvard Law School, where she was a mediator with the Harvard Mediation Program. She earned her Bachelor of Arts degree from

Emory University in 2004. Ms. Madavo is admitted to practice in New York and before the United States District Courts for the Southern and Eastern Districts of New York.

***Vilma Caba – Trustee.*** Mrs. Caba has two children attending BLCS. Mrs. Caba is an Executive Assistant at the Hotel, Restaurant, Club Employees & Bartenders Union, Local 6, UNITE HERE. Mrs. Caba has lived in the community for over 10 years.

***Evelyn De Gonzalez – Trustee.*** Mrs. De Gonzalez has been a board member for eight years, and is the most senior person on the board. Mrs. De Gonzalez is very active in the community. Mrs. De Gonzalez's daughter has been with BLCS since 1st grade and is now a senior. Mrs. De Gonzalez runs her own business and lives in the Bronx community. Mrs. De Gonzalez has served as the Secretary of the Board in the past.

***Eric Kinsey – Trustee.*** Mr. Kinsey is a Private Client Advisor for Wilmington Trust. Mr. Kinsey is responsible for providing comprehensive wealth management advice to high-net-worth individuals and families, entrepreneurs, business owners, and foundations and endowments throughout metropolitan New York. Mr. Kinsey holds a Juris Doctorate and an M.B.A. from the University of Virginia, and a bachelor's degree in Business Administration from the University of Northern Colorado, where he graduated Magna Cum Laude and played NCAA Division I tennis.

***Frantz Merine – Trustee.*** Mr. Merine is the Chief Information Officer at Columbia Law School. Mr. Merine plays a key role in the strategic planning and stewardship of Columbia Law School's Information Technology offerings. In his role as Chief Information Officer, Mr. Merine is responsible for leading and managing a data center, wired and wireless networks, classroom technology, service desks, web development, and cyber-security. Mr. Merine has an M.B.A. from Columbia Business School. Prior to joining Columbia University, Mr. Merine was a Microsoft Certified Trainer, specializing in NT core curriculum classes, a Certified NetWare Instructor, specializing in network training, and a Certified Flight Instructor, specializing in Private Pilot Certifications and Instrument Ratings.

***Stacy Sutherland – Trustee.*** Ms. Sutherland completed a Bachelor's Degree in English and Masters in Education- Counseling. Ms. Sutherland has worked in the non-profit sector for over 20 years developing youth enrichment programming and college readiness. Ms. Sutherland transitioned to NYC Department of Education to continue empowering students and advocating for equity. Ms. Sutherland currently serves as a Program Manager supporting several NYC public schools to create partnership between school staff, families, youth, and the community to raise student achievement by ensuring that children are physically, emotionally, and socially prepared to learn.

***Briar Thompson – Trustee.*** Ms. Thompson is a Project Leader in the Boston Consulting Group's New York office. Ms. Thompson is a member of the North America Education Practice Leadership Team, and is a core member of BCG's Public Sector and Social Impact practice areas. Ms. Thompson focuses primarily on education projects, supporting a range of government, non-profit and private sector clients across North America, Europe and the Middle East. Ms. Thompson earned two masters degrees as a Rhodes Scholar at the University of Oxford; a Master of Public Policy and a Master of Science in Refugee and Forced Migration Studies. Ms. Thompson also holds a Bachelor of Communication Studies from the University of Waikato (New Zealand). Before completing her graduate studies, Ms. Thompson worked in public relations for a university in New Zealand. She has also held teaching assistant roles in Spain, Jamaica, and New Zealand, and volunteered in refugee resettlement in New Zealand.

**Administration.** The individuals who currently hold administrative positions at BLCS are as follows:

**Travis Brown - BLCS K-12 Principal.** Mr. Brown started his career teaching high school mathematics in the Bronx as a member of the New York City Teaching Fellows program. Mr. Brown then became the founding principal of a district middle school in Harlem through the New Leaders for New School program. Mr. Brown then went on to open an alternative charter high school in the Brownsville section of Brooklyn serving over-aged scholars. Most recently, Mr. Brown served as an instructional coach for Turnaround for Children. Mr. Brown earned a M.A. in Mathematics Education from The City College of New York, and a B.B.A. in Computer Information Science from Temple University. Mr. Brown has served as the principal of the K-8 portion of BLCS

since August 2015 and was recently hired as the principal for grades 9-12. The prior principal for grades 9-12 resigned in July 2018 due to personal health considerations, but provided assistance and cooperation as Mr. Brown added responsibilities for grades 9-12.

**Estefany Angeles - Director of College and Career Advising.** Ms. Angeles is the Director of College and Career Advising at BLCS. Ms. Angeles is a Washington Heights native born to immigrant parents from the Dominican Republic. Prior to joining BLCS, Ms. Angeles worked as a Program Manager for a college readiness and persistence program serving Yonkers Public Schools. Through this experience, Ms. Angeles helped coach students through high school graduation and prepare for college success. Ms. Angeles started her career as a Teach for America corps member teaching high school math in Miami, Florida, and Harlem, New York. Ms. Angeles holds her Master’s Degree in Secondary Education from Johns Hopkins School of Education and her Bachelor’s degree from the University of Rochester in English and Economics.

**Maria Dorsey – Manager, Operations.** Ms. Dorsey is the Operations Manager for BLCS. Ms. Dorsey began her career in Operations, as a Payroll Specialist in the construction industry. After receiving her B.S. in Business Accounting and her M.B.A. in Human Resource Management, Ms. Dorsey continued her career as an Operations and Human Resource Manager in the heavy construction, utility and audio-visual industries. Ms. Dorsey was originally hired in September of 2014 to work with the Manager. In July of 2017, Ms. Dorsey was hired by BLCS as the Director of Operations. Last year, Ms. Dorsey had also assisted Metropolitan Lighthouse Charter School as needed in the areas of Operations, Payroll and Human Resource Management.

**Teachers and Staff**

BLCS currently employs 50 full-time teachers and 23 staff members (including operations and administration). BLCS also employs three full-time Content Coaches (one for grades K-2, one for Math and one for English Language Arts), and a full-time Associate Director of Talent Acquisition responsible for leading the recruitment and retention process and a full time Associate Director of Data Management and Analytics responsible for ensuring all teachers have the training and support they need to implement the programs as described in the Charter and to address all Common Core State Standards.

Each class has a maximum of 27 scholars per class and BLCS’s current scholar to teacher ratio is approximately 13:1. The following table shows the level of experience for teachers and associate teachers and the scholar-teacher ratio for the current and previous four school years.

**BLCS Teacher and Associate Teacher Experience**

	<u>2014-2015</u>	<u>2015-2016</u>	<u>2016-2017</u>	<u>2017-2018</u>	<u>2018-2019</u>
0-5 Years Experience	29	34	43	29	37
6-10 Years Experience	9	9	10	11	26
Over 10 Years Experience	4	5	5	10	8
Total	42	48	58	50	71
Scholar – Teacher Ratio	12:1	13:1	14:1	13:1	14:1

The following table shows teacher and associate teacher turnover rates for the current and previous four school years.

**BLCS Teacher and Associate Teacher Turnover Rate**

<u>2014-2015</u>	<u>2015-2016</u>	<u>2016-2017</u>	<u>2017-2018</u>	<u>2018-2019</u>
4%	8%	8%	10%	19%

**Ongoing Professional Development**

Professional development goals and potential sessions are planned for the year over the summer and captured in a Year Long Professional Development Plan. In addition to weekly professional development, ongoing opportunities for professional development happen throughout the school year in the following ways:

- Teacher Professional Growth Plan Weekly grade team meetings
- Weekly collaboration via Friday Professional Development opportunities
- Individual observations and coaching
- Collaboration with colleagues at the school and across the Lighthouse Network
- Professional development opportunities with school-based Arts Partners.

Volunteers. Volunteers play an important role at BLCS, supporting the school in a wide range of areas. Most volunteers are parents of current scholars, and engage in activities such as working in classrooms on tasks such as grading papers and preparing materials for instruction, participating in field trips, and helping out with main office tasks such as filing paperwork and answering phones.

**Charter Contract for BLCS**

General. New York Education Law, specifically Article 56, the New York Charter Schools Act of 1998, as amended (the “Charter Schools Act”), provides for the authorization 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: (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.

Annual Reports. As part of BLCS’s charter, both the NYC DOE, as well as the New York State Education Department (“NYSED”) require annual accountability plan progress reports (each, an “Annual Report”) to ensure that BLCS is in compliance with the terms of the Charter. An Annual Report is submitted each August (and again on November 1, when updated data such as state test results becomes available). The Annual Report provides information about BLCS’s academic and fiscal standing, as well as operational information (i.e. scholar and teacher retention, percentage of scholars who are Economically Disadvantaged, are classified as Special Education, and/or are English Language Learners, testing data, etc.). This information is analyzed by representatives from the Authorizer, as well as the State. Additionally representatives from the NYC DOE conduct a compliance visit at BLCS at least once every charter term. BLCS also submits a wide variety of compliance related items (fingerprint clearance, fire and bus drill dates, etc.) as required by the NYC DOE’s compliance calendar published annually.

Charter Renewal. Under the terms of the Charter Schools Act, charters may be renewed, upon application for renewal, for a term of up to five years. In connection with charter renewal, the Charter Schools Act requires applicants such as BLCS to submit:

- (i) A report of progress in achieving the educational objectives set forth in the charter.

- (ii) 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.
- (iii) Copies of each of the Annual Reports of the charter school required by the Charter and the Charter Schools Act, including charter school report cards and certified financial statements.
- (iv) Indications of parent and student satisfaction.

In the case of BLCS, the Charter also requires that a renewal application contain such other material and information as is required by NYC DOE.

The Charter Schools Act requires that charter renewal applications be submitted to the charter entity, which in the case of BLCS is the Authorizer, no later than six months prior to the expiration of a charter: provided, however, that the charter entity may waive the deadline for good cause shown. BLCS's Charter provides that no later than the first of November in the year prior to expiration of the Charter, BLCS may provide the Authorizer with an application to renew the Charter in accordance with the Charter Schools Act. BLCS's Charter states that if the Authorizer does not approve a renewal application, the parties to the Charter shall fulfill their respective obligations through the full term of the Charter. BLCS expects to file its next five-year charter renewal application by November 1, 2018.

Charter Revocation. A charter may be terminated by the charter entity or the Board of Regents upon any of the following statutory grounds:

- (i) If the charter school's outcome on student assessment measures adopted by the Board of Regents falls below the level that would allow the Commissioner of Education to revoke the registration of another public school, and student achievement on such measures has not shown improvement over the preceding three school years;
- (ii) Serious violations of law;
- (iii) Material and substantial violation of the charter, including fiscal mismanagement;
- (iv) If the New York Public Employment Relations Board makes a determination that the charter school demonstrates a practice and pattern of egregious and intentional violations of subdivision one of § 209-A of the New York Civil Service Law involving interference with or discrimination against employee rights under Article 14 of the New York Civil Service Law; or
- (v) 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 other than as described in this paragraph (v), 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.

In addition to the statutory revocation provisions, BLCS's Charter provides that it may be terminated and revoked by mutual agreement of the parties.

The Charter Schools Act provides that notice of intent to revoke a charter must 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 must include a statement of reasons for the proposed revocation. The charter school must be given at least 30 days to correct the problems associated with the proposed revocation. Prior to revocation of the charter, a charter school

must be provided an opportunity to be heard, consistent with the requirements of due process. Upon the termination of a charter, the charter school is required to proceed with dissolution pursuant to the procedures of the charter and direction of the authorizing entity and the Board of Regents.

In addition, the charter entity or the Board of Regents may place a charter school falling within the provisions of (i) through (v) 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.

### **School Year and School Day Length**

Scholars at BLCS have a longer school year than required by the State of New York. Scholars are in school for 190 classroom days. The school day at BLCS starts at 7:30 a.m. and ends at 4:00 p.m. (except on Wednesday) with the building being open for afterschool programs until 6:00 p.m. By being open for a longer period of time during the day, the parents of BLCS scholars are able to have their scholars arrive early or (if not utilizing BLCS transportation) drop them off early and use school resources. On Wednesdays, classes begin at 8:00 a.m. and end at 1:00 p.m. BLCS staff engage in cycles of collaborative and individual data analysis and instructional planning, as well as targeted professional development modules from 2:00 p.m. to 5:30 p.m. each Friday.

### **Transportation**

BLCS currently has four yellow school buses for scholars. BLCS receives 180 days of free yellow bus service through the NYC DOE. Since the BLCS school year is 190 days in length, the additional 10 days are paid for by BLCS. Scholars come to BLCS from a variety of neighborhoods throughout the Bronx. Scholars living more than five miles away and those that are in 7<sup>th</sup> grade and above receive a MetroCard. Scholars less than one mile away walk to school. A matron, along with the bus driver, ensures transportation to and from school on a daily basis for scholars with IEPs.

### **Curriculum**

BLCS's math curriculum for all grades is Eureka Math. English Language Arts ("ELA") curriculum for grades K-2 is Core Knowledge Language Arts (CKLA). ELA curriculum for grades 3-8 is Expeditionary Learning and Engage New York ("engage<sup>ny</sup>") for grades 9-12.

engage<sup>ny</sup> was created and is currently maintained by the New York State Education Department ("NYSED") to support the implementation of key curriculum aspects of the New York State Board of Regents Reform Agenda. The NYSED worked with various partners to develop curriculum materials for grades Pre-K to 12 in both mathematics and ELA and these materials are the basis for engage<sup>ny</sup>.

*Math* BLCS's math curriculum is based on engage<sup>ny</sup> which is an Eureka model for math intended to meet the New York State Standards. Curriculum modules in mathematics are marked by in-depth focus on fewer topics and integrate rigorous classroom reasoning, extended classroom time devoted to practice and reflection through extensive problem sets, and high expectations for mastery. The time required to complete a curriculum module will depend on the scope and difficulty of the mathematical content that is the focus of the module (first priority cluster area for a given grade level). For example, the curriculum module relating to grade 3 multiplication and division introduces initial ideas of multiplication and division in a brief period at the start of the year, continues to develop strategies and problem solving throughout the year, and includes materials to be used throughout the year for helping scholars reach fluency by the end of the year with single-digit multiplication and related division.

*ELA K-2.* BLCS's language arts for grades K-2 is based on engage<sup>ny</sup>. The Core Knowledge Language Arts Listening and Learning Strand is designed to help scholars build the background knowledge and vocabulary critical to listening and reading comprehension. The decoding skills needed for future independent reading are taught separately in the Core Knowledge Language Arts Skills Strand. The teaching of the two strands, however, need not be correlated, i.e., teachers may provide instruction and practice in a given unit of the Skills Strand as needed, while moving on to new topics and anthologies in the Listening and Learning Strand.

*ELA 3 and up.* BLCS's language arts for grades 3 and up and is based on EL Education Language Arts Curriculum. The curriculum offers either two or three hours of literacy instruction per day, depending on the grade level. At the heart of the curriculum, at all grade levels, are the hour-long module lessons. Each grade level includes four modules, which span a full school year. The four modules allow scholars to build content knowledge based on a topic related to science, social studies, or literature.

*Science.* Science instruction at BLCS includes lab work, exploration, and mastery of specific concepts. To teach the core content topics and scientific method, kindergarten through 5<sup>th</sup> grade classrooms use science kits created by researchers at the University of California, Berkeley, known as the Full Option Science System (FOSS). FOSS kits provide all materials and instructions a teacher needs to conduct demonstrations and labs in the regular classroom. Teachers use FOSS' inquiry-based approach to teach the Common Core State Standards in Literacy in Science in upper grades. The FOSS kits provide the basis for the curriculum through 8th grade. In high school, scholars take Biology and Chemistry and have opportunities to participate in Advanced Placement for these subjects prior to graduation.

*Social Studies.* As scholars at BLCS work toward the Common Core State Standards for Literacy, Math, and in History/Social Studies in upper grades, they use a wide array of monographs, textbooks, stories, videos, web sites, maps, pictures, and other historical sources to study cultures, geography, and social sciences. In the Upper Academy, social studies units are designed using Understanding by Design (UbD) framework and are rooted in state social studies standards and core curriculum.

A variety of primary and secondary sources will be utilized in grades 3-12, including but not limited to Joy Hakim's History of US series and Pearson's World Studies series. Scholars will participate in both active, authentic assignments and performance tasks, as well as traditional, pen-and-paper tests; both types of assignments have an important role. For example, while covering a unit on the early civilizations of the Americas, scholars may create multi-media presentations on the predominant art forms of each civilization they study.

*Arts.* At BLCS arts infusion is evident in every content area. Arts infusion is reflected in the pedagogical techniques of the teachers, the assignments scholars do, and the ways in which feedback on skill and technique is delivered and received across the curriculum.

In addition to the infusion of arts into all core subject matters, all scholars are required to take classes in visual arts taught by an art teacher, who also serves as an arts-infusion specialist to support teachers. Scholars focus on developing skills in painting, drawing, sculpture and other media, developing art literacy (analysis, history, appreciation, etc.) and understanding the cultural, historical and personal context of artistic creation. Scholars have opportunities to share their work with the school community as well as the larger community through school displays, town hall meetings and gallery showings.

The arts-infused program coupled with explicit instruction in the arts aim to build scholars' cultural competency by providing scholars with a solid background of the significance of the arts in our culture and the culture of others. The program aims to provide opportunities for scholars to create and apply their knowledge in ways which promote critical and higher level thinking.

*Physical Education and Health.* The school mixes non-competitive games with content and activities promoting healthy practices in Physical Education and Health at all grade levels. BLCS uses the SPARK program to teach physical education. Teachers in their homerooms work with scholars during morning meeting and at other times throughout the day to incorporate the focus on movement and health into the school day.

### **English Language Learners**

BLCS serves scholars with limited English proficiency (English Language Learners, or ELLs) using structured English language immersion so they achieve proficiency in the English language as quickly as possible. BLCS complies with all applicable laws including Title VI of the federal Civil Rights Act of 1964 (as amended) and the federal Equal Educational Opportunities Act of 1974.



BLCS works to ensure that ELLs are not excluded from curricular and extracurricular activities based on an inability to speak or understand the language of instruction. Parents whose English proficiency is limited receive notices and information from the school in their native language to the extent possible to encourage participation in the school by all members of the BLCS community. School events, such as monthly parent nights and parent teacher conferences, regularly include staff-based interpreters who help promote the lines of communication between staff and parents. Parental outreach may also be conducted through home visit by a school official and an interpreter. Additionally, the school has a number of staff members who speak Spanish.

**Response to Intervention and Special Education**

BLCS employs an intervention team which includes special education teachers, Title I teachers, and English Language Learner teachers. To the maximum extent allowed by each scholar’s IEP and all applicable federal laws, including the Individuals with Disabilities Act and its reauthorizations, BLCS will educate scholars with disabilities in the least restrictive environment, with their non-disabled peers. Special classes, separate schooling, or other removal of scholars with disabilities from the regular educational environment will occur only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

**Technology**

Scholars at all grade levels at BLCS learn about technology as a key part of their learning within the classroom. As scholars are immersed in the core content, they use technology to communicate, collaborate, explore and research. Explicit instruction is provided by the classroom teacher to ensure that scholars understand how to identify, use, and maintain technological components. Technology is investigated as both a tool for productivity and a force that shapes the global community over time.

**Enrollment**

The table on the next page shows actual BLCS scholar enrollment numbers by grade level for the current and four prior school years. The enrollment numbers for the 2018-2019 school year are as of September 12, 2018.

**Historical Enrollment by Grade Level**

<b>Grade</b>	<b>2015-2016</b>	<b>2016-2017</b>	<b>2017-2018</b>	<b>2018-2019*</b>
K	47	48	50	49
1	47	43	53	52
2	49	46	52	52
3	46	47	48	55
4	48	47	45	51
5	48	48	43	47
6	47	48	39	45
7	43	46	46	44
8	66	43	37	41
9	55	26	63	74
10	68	70	68	78
11	58	89	51	38
12	36	69	54	55
<b>TOTAL</b>	<b>658</b>	<b>670</b>	<b>649</b>	<b>681</b>

*\*As of September 12, 2018.  
Source: NYSED*

The following table shows projected BLCS scholar enrollment numbers by grade level for the five upcoming school years.

<b>Projected Enrollment by Grade Level</b>				
<b>Grade</b>	<b>2019-2020</b>	<b>2020-2021</b>	<b>2021-2022</b>	<b>2022-2023</b>
K	48	48	48	48
1	48	48	48	48
2	48	48	48	48
3	48	48	48	48
4	48	48	48	48
5	48	48	48	48
6	48	48	48	48
7	48	48	48	48
8	48	48	48	48
9	60	60	60	60
10	60	60	60	60
11	60	60	60	60
12	60	60	60	60
<b>Total Enrollment</b>	<b>672</b>	<b>672</b>	<b>672</b>	<b>672</b>

Source: BLCS records.

### Scholar Retention

Listed below is the historical enrollment retention for the current and prior six years.

<b>Retention Rate by School Year</b>					
<b>Prior Year Grade</b>	<b>2014-2015</b>	<b>2015-2016</b>	<b>2016-2017</b>	<b>2017-2018</b>	<b>2018-2019</b>
K	89%	79%	83%	90%	85%
1	94	87	98	80	89
2	92	92	86	86	94
3	94	81	87	94	92
4	85	92	92	92	92
5	96	94	94	96	91
6	94	87	87	96	82
7	89	85	86	92	82
8	94	86	94	88	84
9	90	85	72	91	78
10	94	86	91	87	92
11	93	87	91	89	93
<b>TOTAL</b>	<b>92%</b>	<b>87%</b>	<b>88%</b>	<b>90%</b>	<b>88%</b>

Source: BLCS records.

### Lottery Admission Process

Under the Charter Schools Act, admission into charter schools is determined by a lottery process. BLCS's annual application submission process begins in mid-January and continues through April 1. Applications may be submitted electronically or in hard copy. Downloadable applications are available in English and Spanish. The online application may also be translated into other languages. The lottery takes place in mid-April. For the 2018-2019 school year, there were a total of 889 applications for grades K-12; however, there are currently 0 openings for new scholars. Applicants who have siblings already attending BLCS and those residing in the 12th District are given preference for vacancies on a first-come, first-served basis. Once the list of sibling applicants and 12th District applicants has been exhausted, any remaining spaces are filled through the lottery process.

**Wait List by Grade as of September 12, 2018**

**Current 2018-2019 Waitlist**

<u>Grade</u>	<u>Waitlisted Scholars</u>
K	122
1	83
2	78
3	65
4	61
5	71
6	120
7	64
8	62
9	5
10	2
11	22
12	10
<b>Total</b>	<b>765</b>

The 2018-2019 school year began on August 27, 2018 for scholars in grades K-8 and on September 5, 2018 for scholars in grades 9-12. Listed below is the 2014-2015 through 2017-2018 historical waitlist information:

**Historical Waitlist Information**

<u>School Year</u>	<u>Waitlisted scholars</u>
2014-2015	1354
2015-2016	776
2016-2017	670
2017-2018	550

BLCS does not have a defined cut-off date to accept additional scholars. Vacancies are generally filled immediately from the wait list according to the lottery process; however, BLCS takes into consideration the timing of the acceptance of new scholars during the school year as it may affect the potential success of said scholars.

**Academic Achievement Indicators**

*Assessments.* BLCS scholars are given several assessments every academic school year. These include:

1. Fountas and Pinnell (F&P) (3 times per year);
2. NYS ELA (Grades 3-8), Math (Grades 3-8), and Science (Grades 4 and 8);
3. NWEA Tests (Grades K-8) (3 times per year); and
4. Interim Assessments (3 times per year).

*State Testing Performance.* The following is a summary of scholar performance at BLCS for the past five school years in ELA and Regents NEWA testing. Performance on State assessments is reported in terms of mean scores and percentages of tested scholars scoring at or above Level 2, 3 and 4. Level 3 is the “meets proficiency” standard which means scholars demonstrate an understanding of the subject and the knowledge and skills expected at their grade level.

### Historical ELA State Examination Proficiency by Grade

	<u>BLCS</u> <u>2013-14</u>	<u>12th District</u> <u>2013-14</u>	<u>BLCS</u> <u>2014-15</u>	<u>12th District</u> <u>2014-15</u>	<u>BLCS</u> <u>2015-16</u>	<u>12th District</u> <u>2015-16</u>	<u>BLCS</u> <u>2016-17</u>	<u>12th District</u> <u>2016-17</u>	<u>BLCS</u> <u>2017-18</u>	<u>12th District</u> <u>2017-2018</u>
Grade 3	13%	13%	21%	12%	27%	18%	27%	23%	26%	28%
Grade 4	10%	13%	6%	14%	27%	17%	29%	19%	35%	27%
Grade 5	11%	10%	6%	10%	17%	14%	43%	13%	14%	16%
Grade 6	3%	8%	17%	12%	17%	13%	15%	14%	39%	21%
Grade 7	18%	10%	14%	9%	32%	17%	28%	20%	30%	19%
Grade 8	13%	12%	37%	14%	45%	19%	69%	29%	57%	31%

### Historical Math State Examination Proficiency by Grade

	<u>BLCS</u> <u>2013-14</u>	<u>12th District</u> <u>2013-14</u>	<u>BLCS</u> <u>2014-15</u>	<u>12th District</u> <u>2014-15</u>	<u>BLCS</u> <u>2015-16</u>	<u>12th District</u> <u>2015-16</u>	<u>BLCS</u> <u>2016-17</u>	<u>12th District</u> <u>2016-17</u>	<u>BLCS</u> <u>2017-18</u>	<u>12th District</u> <u>2017-2018</u>
Grade 3	44%	15%	32%	16%	36%	15%	67%	22%	54%	26%
Grade 4	7%	18%	27%	16%	42%	16%	22%	13%	61%	21%
Grade 5	24%	15%	13%	15%	10%	14%	32%	13%	27%	15%
Grade 6	25%	13%	40%	15%	2%	14%	26%	12%	44%	13%
Grade 7	9%	12%	26%	13%	23%	16%	11%	11%	37%	13%
Grade 8	0	13%	23%	12%	15%	12%	21%	10%	32%	19%

### Historical ELA / Math State Examination Data in School Year

	MATH		ELA	
	<u>BLCS</u>	<u>12th District</u>	<u>BLCS</u>	<u>12th District</u>
2012-2013	22%	11%	15%	11%
2013-2014	19%	14%	11%	14%
2014-2015	27%	14%	18%	14%
2015-2016	21%	15%	28%	16%
2016-2017	30%	14%	35%	20%

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**BLCS Regents Passing Rates - All Students – Single Sitting**

	<b>BLCS Regents Pass Rates (Total Passing/Total Testing)</b>					
	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16<sup>1</sup></b>	<b>2016-17<sup>1</sup></b>	<b>2017-18<sup>1</sup></b>
Comprehensive ELA	NA	79%	82%	NA	NA	NA
CC ELA <sup>2</sup>	NA	NA <sup>1</sup>	73%	72%	58%	65%
Integrated Algebra	95%	90%	77%	NA	NA	NA
CC Algebra <sup>2</sup>	NA	NA	63%	81%	76%	37%
Living Environment	93%	91%	88%	86%	74%	73%
Global Studies	71%	71%	76%	58%	37%	34% <sup>3</sup>
US History	96%	100%	92%	94%	60%	76%
Chemistry	48%	0%	91%	81%	53%	3%
Earth Science	89%	20%	88%	34%	65%	29%
Physics	NA	50%	64%	69%	47%	15%
Geometry (2005 Standard)	88%	69%	55%	NA	NA	NA
Geometry – Common Core	NA	NA	NA	3%	16%	71%
Algebra 2 & Trigonometry	NA	56%	70%	71%	NA	NA
Algebra 2 – Common Core	NA	NA	NA	NA	11%	44%
LOTE - Spanish	NA	88%	100%	81%	92%	82%
LOTE - French	NA	NA	88%	NA	67%	33%

<sup>1</sup>June testing only

<sup>2</sup>BLCS administered CC ELA and CC Algebra exams in the 2013-14 school year, but as this data was not recorded separately from pass rates in Common Core ELA and Integrated Algebra exams, exact pass rates could not be determined.

<sup>3</sup>Global Studies Transition Exam

College Readiness is an important benchmark and one of BLCS’s charter goals is that at least 75% of graduating seniors will score at or above such benchmark in math and ELA. This is something we targeted this year and the goal has been met in both subjects.

**College Readiness Regents Benchmarks by Cohort – Updated June 28, 2018**

The table below shows results for all graduating classes thus far as well as current progress of all enrolled students. Note that many students do not take the ELA or all math exams in their first few years of high school

	<b>Number of Students</b>	<b>Number CR in ELA</b>	<b>% CR in ELA</b>	<b>Number CR in Math</b>	<b>% CR in Math</b>
Class of 2016	29	22	75.9%	15	51.7%
Class of 2017	66	60	90.9%	38	57.6%
Class of 2018 (June Graduates)	42	36	85.7%	33	78.5%
Class of 2018 (Cohort 2014)	54	42	77.8%	40	74.1%
Class of 2019 (Cohort 2015)	57	42	73.7%	49	86.0%
Class of 2020 (Cohort 2016)	64	38	59.4%	41	64.1%
Class of 2021 (Cohort 2017)	47	18	38.3%	21	44.7%

## SAT

The SAT is a national college admissions examination that consists of subject area tests in: Reading, Writing and Language, and Mathematics along with an optional Essay test. SAT results are widely accepted by four-year colleges and universities in the United States. Students may take the SAT in any grade. The overall average number of BLCS senior students taking the SAT test in 2017 was 97% and in 2018 was 97%. BLCS has traditionally had a limited number of scholars take the ACT exam so those scores are not shown in the table below.

### Average SAT Score

	<u>BLCS</u>	<u>New York</u>	<u>National</u>
2017-2018	1,024	1,051	1,052
2016-2017	1,023	1,060	1,060
2015-2016	1,245*	1,467	1,484
2014-2015	1,320*	1,472	1,490

\* This is based on the previous grading scale out of 2400.

Source: BLCS, College Board, IES NCES

## College Matriculation

Students from BLCS matriculate to a variety of post-secondary institutions. Students have been offered scholarships for academic study at institutions such as College of Holy Cross, Georgetown University and Wells College. Graduating schools have been admitted to colleges and universities such as those listed on the next page.

### College and Universities

BLCS Graduates have matriculated to the following colleges in the past three years:

<u>Class of 2016</u>	<u>Class of 2017</u>	<u>Class of 2018</u>
Baldwin Wallace University	Boston College	Brown University
Clark Atlanta	Clark University	College of Holy Cross
Clark University	Colgate University	CUNY Bronx Community College
CUNY College of Staten Island	College of Holy Cross	CUNY Borough of Manhattan Community College
CUNY York College	CUNY Baruch College	CUNY City College
Emory & Henry	CUNY Bronx Community College	CUNY City Tech
College of Holy Cross	CUNY Brooklyn College	CUNY College of Staten Island
Howard University	CUNY City Tech	CUNY Hunter College
Iona College	CUNY John Jay College	CUNY Lehman College
SUNY Albany	CUNY Lehman College	CUNY Medgar Evers
SUNY Alfred State	Delaware State University	CUNY Queens College
SUNY Buffalo State	DePauw University	CUNY York College
SUNY Morrisville	Fordham University	Georgetown University
SUNY New Paltz	Mercy College	Middlebury College
SUNY New Purchase	New York University	New York Institute of Technology
SUNY University of Buffalo	Pomona College	New York University
Utica College	Quinnipiac College	Suffolk College
	SUNY Albany	SUNY Albany
	SUNY Alfred State	SUNY Alfred State
	SUNY Binghamton	SUNY Binghamton
	SUNY Geneseo	SUNY Brockport
	SUNY Morrisville	SUNY Geneseo
	SUNY New Paltz	SUNY Morrisville
	SUNY Plattsburg	SUNY Old Westbury
	SUNY University of Buffalo	SUNY Potsdam
	The Citadel Military College	SUNY Purchase
	Wells College	SUNY University of Buffalo
	Wellesley College	Ursinus College
		Wells College

Source: BLCS

## Service Area

BLCS is located in New York City, Bronx County. According to U.S. Census data, Bronx County had a population of 1,455,720 in 2016. BLCS's scholars primarily reside in Bronx County. BLCS is housed in a residential neighborhood geographically located in the South Bronx. The neighborhood is part of Bronx Community Board 2. It is delimited by the Bronx River on the east, Westchester Avenue, East 167 Street and East 169 Street on the north, Prospect Avenue and East 149 Street to the west, and the East River on the south. Zip codes include 10455, 10459 and 10474.

The Bronx has a land area of 42 square miles (109 km), making it the fourth-largest in land area of the five boroughs, the fourth most populated, and the third-highest in density of population. The Bronx contains one of the five poorest Congressional Districts in the U.S., the 16th, but it also includes the affluent and middle to upper class Riverdale, Schuylerville and Country Club neighborhoods.

In the 2014-2015, 2015-2016 and 2016-2017 school years, 85%, 85% and 91.8%, respectively, of BLCS scholars qualified for the Federal free and reduced price lunch program. 16% of current BLCS scholars are English language learners.

The table on the following page shows racial demographic information for the scholars enrolled at BLCS as of September 1, 2016 (the most recent available). For comparison, the racial demographics of Bronx County and the State, as presented in the U.S. Department of Commerce's 2010 Census, are also included.

	<b>BLCS</b>	<b>12th District</b>	<b>State</b>
African American	33.0%	24.7%	17.0%
Asian	1.2	2.8	9.0
Hispanic	64.7	69.6	26.0
White	0.3	1.4	44.0
Other	0.8	1.5	4.0
Economically Disadvantaged	90.4	90.7	55.0
English Language Learners	7.2	19.6	9.0
Disabilities	16.8	22.0	17.0

*Source: NYSED*

## Competing Schools

The schools listed in the tables on the next page are representative of the public, private and charter schools which compete with BLCS for students. These lists are current as of August, 2018 and are not all-inclusive. BLCS is not aware of any plans for the opening of additional schools in its service area; however, other charter schools, public schools or private schools may be created in or near BLCS's service area.

**Public and Private Schools**

<u>School</u>	<u>Address</u>	<u>Distance (miles)</u>	<u>Grades Offered</u>
PS 11: High Bridge	1257 Ogden Ave, Bronx, NY 10452	.5	K-5
PS 73: Joseph Dellacava	1020 Anderson Ave, Bronx, NY 10452	.3	PK-5
PS 114x: Luis Lloréns Torres Schools	1155 Cromwell Ave, Bronx, NY 10452	.5	K-5
PS 126: Dr. Marjorie Dunbar	175 W 166th St, Bronx, NY 10452	.1	PK-5
PS 199: William Shakespeare	1449 Shakespeare Ave, Bronx, NY 10452	.9	PK-5
PS/IS 128: Rafael Hernandez Dual Language Magnet School	1220 Gerard Ave, Bronx, NY 10452	1.0	K-8
IS 361: The Highbridge Green School	200 W 167th St, Bronx, NY 10452	.3	6-8
Bronx School for Law Government and Justice	244 E 163rd St, Bronx, NY 10451	1.3	6-12
Sacred Heart School	1248 Nelson Ave, Bronx, NY 10452	.5	PK-8

**Charter Schools**

<u>School</u>	<u>New York City Community School District</u>	<u>Distance (miles)</u>	<u>Grades Offered</u>	<u>Authorizer</u>
Success Academy Charter School-Bronx 4	8	4.4	K-4	State University of NY
Boys Preparatory Charter School of New York	8	4.1	K-4	State University of NY
Icahn Charter School 7	8	2.2	K-7	State University of NY
Bronx Academy of Promise Charter School	9	1.0	K-8	NYC DOE
Rosalyn Yalow Charter	9	.9	K-3	NYSED
Success Academy Charter School-Bronx 2	9	1.7	K-4	State University of NY
Success Academy Charter School-Bronx 3	9	1.6	K-5	State University of NY
Bronx Charter School for the Arts	9	4.7	K-5	NYSED
Charter High School for Law and Social Justice	10	2.0	9-11	NYSED

**Budgeting of Funds and Reports**

The NY Region Controller for the Manager prepares and presents monthly financial reporting to the BLCS Board which includes a Statement of Financial Position and a Statement of Activities for the current period and year-to-date prepared as an actual versus budget on a GAAP basis. The NY Region Controller also prepares all required annual and quarterly financial reporting to the State and the NYC DOE. Required reporting to the NYC DOE includes quarterly financials consisting of a Statement of Financial Position, Statement of Activities prepared as a budget versus actual, a Statement of Cash Flows, and an Annual Budget. Required reporting to the State includes an annual budget presented as a breakdown between program and supporting services prepared on a GAAP basis, and an annual budget and expenditure reports for federal grants including Title IA and Title IIA.



Pursuant to the Management Contract with the Manager, on or before June 30 of each year, the Manager and BLCS will mutually agree on an annual budget for the following fiscal year. The budgeting process involves the administration personnel of the school along with the Director of Regional Operations and the NY Region Controller of the Manager. The budget allocates general funds received from the NYC DOE, special education funds received from the NYC DOE and federal funds from the IDEA grant, and Title I and Title II federal grant funds.

#### **Annual Financial Audit**

BLCS is required to have an annual audit conducted by an outside independent accounting firm. Financial audits are conducted in accordance with generally accepted auditing standards. Upon completion, audits are reviewed by the Controller of the Manager and the Board's Finance Committee before being submitted to the full Board for review. BLCS and the Manager have separate combined financial reports and do not share consolidated financial statements. Marks Paneth LLP has been BLCS's auditor since 2007. Marks Paneth has not been engaged to perform and has not performed, since the date of its reports included in APPENDIX D to this Official Statement, any procedures on the financial statements addressed in those reports. In addition, Marks Paneth has not performed any procedures relating to this Official Statement or the financial information of the School included herein. The School has engaged Desire & Company CPAs to act as auditor for the School's fiscal year that ended June 30, 2018.

The audited financial statements of BLCS for the fiscal year ended June 30, 2017 are included in "APPENDIX D - AUDITED FINANCIAL STATEMENTS OF THE SCHOOL FOR THE FISCAL YEAR ENDED JUNE 30, 2017 (INCLUDING JUNE 30, 2016 COMPARATIVE INFORMATION)" and unaudited financial statements of BLCS for the fiscal year ended June 30, 2018 are included in "APPENDIX E – UNAUDITED FINANCIAL STATEMENTS OF THE SCHOOL FOR THE FISCAL YEAR ENDED JUNE 30, 2018."

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## Historical Financial Data

The following financial data presents selected historical financial data of BLCS, as shown in BLCS's audited financial statements for the stated years. The data titled "Balance Sheet Metrics" and "Proforma Available for Debt Service" were prepared by BLCS and are not included in BLCS's audited financial statements. The information below is for the fiscal years ended June 30, 2017, 2016, and 2015. The information on the tables below has been derived from the audited financial statements of BLCS.

### Bronx Lighthouse Charter School

	<u>Fiscal Year 2015</u>	<u>Fiscal Year 2016</u>	<u>Fiscal Year 2017</u>
<b>ASSETS</b>			
Cash	\$5,428,948	\$5,669,373	\$6,995,749
Receivables	393,960	457,547	143,962
Prepaid expenses	41,453	141,955	54,149
Security Deposits	45,685	45,685	28,850
Fixed assets	330,394	235,562	175,430
<b>TOTAL ASSETS</b>	<u>\$6,240,440</u>	<u>\$6,550,122</u>	<u>\$7,398,140</u>
<b>LIABILITIES</b>			
Account payable & accrued expenses	\$191,253	\$228,857	\$174,441
Accrued payroll & payroll taxes	529,324	348,999	698,850
Accrued compensated absences	109,413	110,821	88,451
Due to NYC	36,552	-	129,526
Capital leases	185,462	44,129	-
<b>Total Liabilities</b>	<u>\$1,052,004</u>	<u>\$732,806</u>	<u>\$1,091,268</u>
<b>NET ASSETS</b>			
Unrestricted	\$5,188,436	\$5,817,316	\$6,306,872
<b>Total Net Assets</b>	<u>5,188,436</u>	<u>5,817,316</u>	<u>6,306,872</u>
<b>TOTAL LIABILITIES AND NET ASSETS</b>	<u>\$6,240,440</u>	<u>\$6,550,122</u>	<u>\$7,398,140</u>
<b>Balance Sheet Metrics</b>			
Cash	\$ 5,428,948	\$ 5,669,373	\$ 6,995,749
Less Restricted Cash	<u>(1,916,093)</u>	<u>(2,418,154)</u>	<u>(2,920,213)</u>
Proforma Cash & Cash Equivalents	\$ 3,512,855	\$ 3,251,219	\$ 4,075,536
Days Cash on Hand	123	114	141
Cash to Proforma Debt	41%	38%	47%

Source: BLCS.

**Bronx Lighthouse Charter School**

	<u>Fiscal Year 2015</u>	<u>Fiscal Year 2016</u>	<u>Fiscal Year 2017</u>
<b>Revenue &amp; Support:</b>			
Student enrollment fees	\$9,962,306	\$10,022,746	\$10,052,829
Federal grants	471,852	513,387	424,898
Public Support	52,204	29,752	27,095
Interest	9,330	9,388	10,866
In-kind contributions	636,025	640,476	642,101
Other	<u>32,284</u>	<u>21,993</u>	<u>59,827</u>
Total Revenue & Support	\$11,164,001	\$11,237,742	\$11,217,616
<b>Expenses:</b>			
Program expenses	\$ 9,236,984	\$ 9,099,160	\$ 9,436,625
Supporting services	<u>1,456,426</u>	<u>1,509,702</u>	<u>1,291,435</u>
Total Expenses	\$10,693,410	\$10,608,862	\$10,728,060
Change in Unrestricted Net Assets	\$470,591	\$628,880	\$489,556
Net Assets - Beginning	<u>\$4,717,845</u>	<u>\$5,188,436</u>	<u>\$5,817,316</u>
Net Assets - Ending	<u><u>\$5,188,436</u></u>	<u><u>\$5,817,316</u></u>	<u><u>\$6,306,872</u></u>
<b>Proforma Available for Debt Service:</b>			
Change in Net Assets	\$470,591	\$628,880	\$489,556
Plus: Depreciation & Amort	238,426	179,288	169,260
Plus: Lease	<u>672,783</u>	<u>646,148</u>	<u>658,116</u>
Proforma Net Income Available for Debt Service	1,381,800	1,454,316	1,316,932
Series 2018 A&B Maximum Annual D/S	<u>565,000</u>	<u>565,000</u>	<u>565,000</u>
Proforma MADS Coverage	2.45	2.57	2.33
Operating Cashflow Margin	12.38%	12.94%	11.74%

Source: BLCS

**Employee Benefit Plan**

BLCS participates in the Manager's 401(k) plan for employees who are at least 21 years old and have completed ninety (90) days of service. The plan includes a safe harbor employer matching provision. The employer must match employee contributions dollar for dollar, not to exceed 4% of compensation. Safe harbor contributions are immediately vested with the participants. At June 30, 2018 and 2017, BLCS had a safe harbor matching employer contribution liability of \$4,516 and \$5,358, respectively. For the years ended June 30, 2018 and 2017, employer contributions totaled \$91,724 and \$99,670, respectively.

**Insurance**

BLCS and the Institution will maintain standard insurance coverages including coverages required in the Mortgage, the Loan Agreement and the Covenant Agreement.

**Litigation**

Other than the item below, the School is not aware of any pending or threatened litigation that would have a material financial or operational impact on the School.

**Marcia White v. Lighthouse Academies, Inc., Bronx Lighthouse Charter School and Travis Brown (individually) (the "White lawsuit").** The White lawsuit was filed with the Bronx County Clerk on August 6, 2018

and is in its initial stages. Babchik and Young LLP has been appointed to represent BLCS and Travis Brown, and Ford Harrison LLP has been appointed to represent the Manager. The law firms are parties to a joint defense agreement, dated as of August 27, 2018. Ms. White was hired as a middle school teacher in August 2015. Ms. White claims that she was sexually harassed by certain students at BLCS. Ms. White further alleges that she was wrongfully terminated on March 12, 2018, in violation of her human rights, as a direct result of her complaints that BLCS condoned the alleged sexual harassment. Ms. White's claim consists of three causes of action. The first cause of action is against BLCS and the Manager for gender discrimination in violation of Chapter 1, Title 8, Section 8-107(1)(a) of the Administrative Code of the City of New York and seeks compensatory damages in an amount of \$2,000,000 and punitive damages in an amount \$3,000,000. The second cause of action is against BLCS and the Manager claiming retaliation in violation of Chapter 1, Title 8, Section 8-107(7) of the Administrative Code of The City of New York and seeks compensatory damages in an amount of \$2,000,000 and punitive damages in an amount \$3,000,000. The third cause of action is against Travis Brown, the principal of BLCS, for aiding and abetting in the alleged discrimination and retaliation by BLCS and the Manager in violation of Chapter 1, Title 8, Section 8-107(6) of the Administrative Code of The City of New York and seeks compensatory damages in an amount of \$2,000,000 and punitive damages in an amount \$3,000,000. Counsel for BLCS and Travis Brown believes that all claims for compensatory damages on the part of BLCS and Travis Brown (less a deductible of \$10,000) will be covered by BLCS's employment practices liability insurance issued by the Philadelphia Indemnity Insurance Company. Such counsel also believes that the punitive damage claims are excessive and are unlikely to be awarded in the amounts sought. While it is not possible to predict ultimate outcomes, both BLCS and the Manager believe that they have meritorious defenses and will vigorously defend each of the causes of action described in the paragraph above. Any possible punitive damages will not be covered by liability insurance.

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**APPENDIX B**

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

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## APPENDIX B

### 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)**

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

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

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

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

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

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

- (a) The board of education of a school district eligible for an apportionment of aid under § 3602(4) (apportionment of public moneys to school districts employing eight or more teachers) of the New York Education



Law; provided that a board of education shall not approve an application for a school to be operated outside the school district's geographic boundaries and further provided that in a city having a population of 1,000,000 or more, the chancellor of any such city school district shall be the charter entity established by this paragraph;

(b) The Board of Trustees of the State University of New York; or

(c) The Board of Regents. The Board of Regents shall be the only entity authorized to issue a charter pursuant to the Act.

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

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

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

(a) A report of the progress of the charter school in achieving the educational objectives set forth in the charter.

(b) A detailed financial statement that discloses the cost of administration, instruction and other spending categories for the charter school that will allow a comparison of such costs to other schools, both public and private. Such statement shall be in a form prescribed by the Board of Regents.

(c) Copies of each of the annual reports of the charter school required by § 2857 of the Act, including the charter school report cards and the certified financial statements.

(d) Indications of parent and student satisfaction.

(e) The means by which the charter school will meet or exceed enrollment and retention targets as prescribed by the Board of Regents or the Board of Trustees of the State University of New York, as applicable, of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program which shall be considered by the charter entity prior to approving such charter school's application for renewal. When developing such targets, the Board of Regents and the Board of Trustees of the State University of New York shall ensure (1) that such enrollment targets are comparable to the enrollment figures of such categories of students attending the public schools within the school district, or in a city school district in a city having a population of 1,000,000 or more inhabitants, the community school district, in which the charter school is located; and (2) that such retention targets are comparable to the rate of retention of such categories of students attending the public schools within the school district, or in a city school district in a city have a population of 1,000,000 or more inhabitants, the community school district, in which the proposed charter school would be located.

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

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

(a) Upon the approval of a charter by the Board of Regents, the Board of Regents shall incorporate the charter school as an education corporation for a term not to exceed five (5) years, provided however in the case of charters issued pursuant to § 2852(9-a) of the Act the Board of Regents shall incorporate the charter school as an

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

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

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

(i) a charter school may operate in more than one building at a single site; and

(ii) a charter school which provides instruction to its students at different locations for a portion of their school day shall be deemed to be operating at a single site.

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

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

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

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

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

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

Effective until June 30, 2021:

(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. 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, 2021:

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

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

(c) A charter school may contract with the governing body of a public college or university for the use of a school building and grounds, the operation and maintenance thereof. Any such contract shall provide such services or facilities at cost. A school district shall permit any charter school granted approval to co-locate, to use such services and facilities without cost. Notwithstanding any provision of law to the contrary, any approval prior to January 1, 2014, pursuant to § 2590-g(1)(h) of New York Education Law, of a significant change in school utilization relating to the co-location of a school authorized pursuant to the Act or to allocate such school space in a district school building made prior to the implementation of the requirements of § 2590-g(1)(h) of New York Education Law shall not, on or after January 21, 2014, be altered, revised, amended, overturned or withdrawn by the board of education or the chancellor as of January 21, 2014 fail to be implemented without the consent of the charter school approved for co-location in a public school building unless such charter school is no longer authorized pursuant to the Act.

(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 General Municipal Law to the same extent such sections apply to school districts.

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

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

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

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

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

#### **Causes for Revocation or 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(i) (improper employer practices) of the Civil Service Law involving interference with or discrimination against employee rights under Article 14 (Public Employees' Fair Employment Act) of the Civil Service Law; or

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

Notice of intent to revoke a charter shall be provided to the Board of Trustees of a charter school at least thirty (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 thirty (30) days to correct the problems associated with the proposed revocation. Prior to revocation of the charter, a charter school shall be provided an opportunity to be heard, consistent with the requirements of due process. Upon the termination of a charter, the charter school shall proceed with dissolution pursuant to the procedures of the charter and direction of the charter entity and the Board of Regents.

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

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

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

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

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

(a) a charter school report card, which shall include measures of the comparative academic and fiscal performance of the school, as prescribed by the Commissioner in regulations adopted for such purpose. Such measures shall include, but not be limited to, graduation rates, dropout rates, performance of students on standardized tests, college entry rates, total spending per pupil and administrative spending per pupil. Such measures shall be presented in a format that is easily comparable to similar public schools. In addition, the charter school shall ensure that such information is easily accessible to the community including making it publicly available by transmitting it to local newspapers of general circulation and making it available for distribution at board of trustee meetings;

(b) discussion of the progress made towards achievement of the goals set forth in the charter;

(c) a certified financial statement setting forth, by appropriate categories, the revenues and expenditures for the preceding school year, including a copy of the most recent independent fiscal audit of the school and any audit conducted by the New York State Comptroller; and

(d) efforts taken by the charter school in the existing school year, and a plan for efforts to be taken in the succeeding school year, to meet or exceed enrollment and retention targets set by the Board of Regents or the Board of Trustees of the State University of New York, as applicable, of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program established pursuant to § 2851(4)(e) of the Act.

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

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

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

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

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

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

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

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

**Facilities (New York Education Law § 2853-3)**

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

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

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

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

(a-3) (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.

(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 monies provided, or to be provided, pursuant to § 2856(1) of the Act in connection with the purchase or construction, acquisition, reconstruction, rehabilitation or improvement of a school facility.

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

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

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

(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 of the civil practice law and rules. In any such appeal, the standard of review is the standard prescribed in § 7803 of the civil practice law and rules.

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

(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.

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

Effective Until June 30, 2021:

(a) The enrollment of students attending charter schools shall be included in the enrollment, attendance, 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(l)(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(l)(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(l)(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(l)(n) of the New York Education Law for the year prior to the Base Year;

(viii) for the 2020-2021 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(l)(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(l)(n) of the New York Education Law for the year prior to the Base Year.

For the purposes of this subdivision, the “supplemental basic tuition” shall be (A) for a school district for which the Charter School Basic Tuition for the current year is greater than or equal to the Charter School Basic Tuition for the 2010-2011 school year pursuant to the provisions of subparagraph (i)

of this paragraph, (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 this subdivision 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 (d) 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.

Effective June 30, 2021:

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

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

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

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

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

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

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

For the purposes of this subdivision, the “supplemental basic tuition” shall be (A) for a school district for which the Charter School Basic Tuition for the current year is greater than or equal to the Charter School Basic Tuition for the 2010-2011 school year pursuant to the provisions of subparagraph (i) of this paragraph, (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 section from State or local funds may be reduced pursuant to an agreement between the school and the charter entity set forth in the charter. Payments made pursuant to this section shall be made by the school district in six substantially equal installments each year beginning on the first business day of July and every two months thereafter. Amounts payable under this section shall be determined by the Commissioner. Amounts payable to a charter school in its first year of operation shall be based on the projections of initial-year enrollment set forth in the charter. Such projections shall be reconciled with the actual enrollment at the end of the school's first year of operation, and any necessary adjustments shall be made to payments during the school's second year of operation.

(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.

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

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

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

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

"Base Year" shall mean the school year immediately preceding the current year.

"Weighted Pupils With Disabilities" shall be computed as follows:

(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 twelve, including children in ungraded programs, as registered on the date prior to November first that is specified by the Commissioner as the enrollment reporting date for the school district or nonpublic school, as reported to the Commissioner.

“Public school district enrollment” shall mean the sum of: (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 paragraph (c) of § 4401(2) (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.

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

- (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 § 3600 (9-a) (moneys apportioned, when and how payable commencing July 1, 2007) of the New York Education Law and except Impact Aid funds received pursuant to Public Law 81-874 or §§ 2 and 6 or any law superseding such law in any such district which received aid pursuant to both such sections; provided further, however, that there shall be excluded from such federal funds or other apportionments any payments from such funds already deducted pursuant to this paragraph;

(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(2)(e) through (i) and (I) ("special services or programs" definition) of the New York Education Law or any tuition payments on behalf of pupils attending a state school under paragraph d of such subdivision;

(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 weeks of enrollment may be counted in any calendar month.

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

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

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

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

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

the student's level of service provided directly or indirectly by the charter school pursuant to § 3602(19)(b)(1)-(4) of the New York Education Law, and the student's enrollment in such charter school in the current school year.

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

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

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

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

Charter school obligations:

(a) No later than 30 days prior to the first business day of July, September, November, January, March and May, each charter school shall report to each public school district with resident pupils attending the charter school and to the department an updated estimate of the enrollment of students attending the charter school in the current school year who are residents of such public school district and any reduced amounts per pupil that shall be payable to the charter school for such students pursuant to subdivision one of § 2856 of the New York Education Law that has been established pursuant to an agreement between the charter school and the charter school entity as set forth in the charter. For each student with a disability attending such charter school, such report shall also indicate the level of special programs or services to be provided directly or indirectly to such student by the charter school and an estimated annual cost to be incurred by the charter school in providing such special programs or services.

(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 C**  
**BUDGET PROJECTION**

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**APPENDIX C**  
**BUDGET PROJECTION**

	<b>FY2018</b>	<b>FY2019</b>	<b>FY2020</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
<b>Balance Sheet</b>						
<b>Assets</b>						
Cash	4,372,937	4,305,557	4,523,379	4,758,828	4,987,742	5,202,950
Sinking Fund	2,744,602	-	-	-	-	-
Receivables	668,901	501,675	451,508	406,357	365,721	329,149
Prepaid expenses	91,944	87,347	82,979	78,830	74,889	71,145
Security Deposits	10,075	10,075	10,075	10,075	10,075	10,075
Fixed assets - net	262,180	488,479	466,455	442,928	416,552	374,168
<b>Total Assets</b>	<b>8,150,639</b>	<b>5,393,133</b>	<b>5,534,396</b>	<b>5,697,018</b>	<b>5,854,979</b>	<b>5,987,486</b>
<b>Liabilities</b>						
Accounts payable and accrued expenses	438,686	267,124	258,678	263,576	268,370	273,669
Accrued payroll and payroll taxes	770,581	895,323	897,165	914,851	932,890	951,290
Accrued compensated absences	121,452	88,445	88,445	88,445	88,445	88,445
<b>Total Liabilities</b>	<b>1,330,719</b>	<b>1,250,891</b>	<b>1,244,288</b>	<b>1,266,872</b>	<b>1,289,705</b>	<b>1,313,404</b>
<b>Net Assets</b>						
Unrestricted	6,819,920	4,142,241	4,290,109	4,430,146	4,565,274	4,674,082
Restricted	-	-	-	-	-	-
<b>Total Net Assets</b>	<b>6,819,920</b>	<b>4,142,241</b>	<b>4,290,109</b>	<b>4,430,146</b>	<b>4,565,274</b>	<b>4,674,082</b>
<b>Total Liabilities and Net Assets</b>	<b>8,150,639</b>	<b>5,393,133</b>	<b>5,534,396</b>	<b>5,697,018</b>	<b>5,854,979</b>	<b>5,987,486</b>
Cash	4,372,937	4,305,557	4,523,379	4,758,828	4,987,742	5,202,950
Cash & Cash Equivalents	4,372,937	4,305,557	4,523,379	4,758,828	4,987,742	5,202,950
<b>Days Cash on Hand</b>	<b>147</b>	<b>136</b>	<b>143</b>	<b>148</b>	<b>152</b>	<b>155</b>



	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023
Assumed Enrollment	645	667	670	670	670	670
<b>Income Statement</b>						
<b>Revenue &amp; Support</b>						
Student Enrollment Fees	10,608,302	11,248,276	11,188,104	11,397,320	11,610,720	11,828,389
Federal Grants	578,969	589,000	606,670	624,870	643,616	662,925
Public Support	71,454	28,867	29,733	30,625	31,544	32,490
Interest	11,615	10,000	10,300	10,609	10,927	11,255
Other	189,286	23,000	23,000	23,000	23,000	23,000
In-kind contributions	637,746	633,000	634,200	635,430	636,691	637,983
<b>Total Revenue &amp; Support</b>	<b>12,097,373</b>	<b>12,532,143</b>	<b>12,492,007</b>	<b>12,721,854</b>	<b>12,956,498</b>	<b>13,196,041</b>
<b>Expenses</b>						
<b>Program Expenses</b>						
Salaries	5,337,539	6,201,584	6,214,345	6,336,846	6,461,798	6,589,249
Payroll taxes and fringe benefits	1,007,544	1,202,629	1,222,246	1,259,383	1,297,457	1,336,494
<b>Total Salaries and Related Costs</b>	<b>6,345,082</b>	<b>7,404,213</b>	<b>7,436,591</b>	<b>7,596,229</b>	<b>7,759,255</b>	<b>7,925,742</b>
Professional fees and consultants	69,256	66,174	62,822	64,005	65,223	66,477
Management Fees	298,921	320,386	319,262	325,426	331,719	338,143
Contracted services - other	156,556	151,755	152,948	157,446	162,078	166,847
Supplies and equipment purchases	435,432	423,678	410,227	420,756	431,564	442,661
Advertising	-	-	-	-	-	-
Food	159	-	-	-	-	-
Insurance	160,974	130,722	133,336	136,003	138,723	141,497
Library	21,301	20,000	15,000	15,450	15,914	16,391
Repairs and maintenance	291,327	237,205	241,949	246,788	251,724	256,758
Printing	56,869	58,000	59,740	61,532	63,378	65,280
Staff development and recruitment	396,834	151,000	151,000	151,000	151,000	151,000
Telecommunications	79,082	70,477	71,886	73,324	74,791	76,286
Field trips and other activities	257,578	194,500	100,450	101,559	99,690	100,844
Utilities	175,006	174,981	180,230	185,637	191,206	196,943
Rent	658,116	599,411	632,700	633,200	632,000	635,600

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023
Assumed Enrollment	645	667	670	670	670	670
<b>Income Statement</b>						
In-kind contribution - facility	497,250	497,250	497,250	497,250	497,250	497,250
In-kind contribution - textbooks	52,746	48,000	49,200	50,430	51,691	52,983
Other	130,835	137,900	142,037	145,477	149,004	152,620
Building Acquisition	11,961	2,848,063	-	-	-	-
Depreciation and amortization	83,655	160,435	172,024	173,527	176,376	192,384
Total Other Expenses	3,833,857	6,289,936	3,392,062	3,438,810	3,483,330	3,549,964
<b>Total Program Expenses</b>	10,178,940	13,694,149	10,828,653	11,035,039	11,242,586	11,475,707
<b>Supporting Services</b>						
Salaries	609,228	707,850	709,307	723,289	737,551	752,098
Payroll taxes and fringe benefits	118,204	141,091	143,393	147,749	152,216	156,796
Total Salaries and Related Costs	727,432	848,941	852,699	871,038	889,767	908,894
Professional fees and consultants	84,646	80,879	76,783	78,228	79,717	81,250
Management fees	199,280	213,590	212,841	216,950	221,146	225,428
Contracted services - other	104,369	101,169	101,964	104,963	108,050	111,230
Supplies and equipment purchases	76,842	74,768	72,394	74,252	76,159	78,118
Advertising	-	-	-	-	-	-
Insurance	28,816	23,401	23,869	24,346	24,833	25,330
Repairs and maintenance	51,411	41,860	42,697	43,551	44,422	45,311
Telecommunications	13,955	12,436	12,685	12,939	13,198	13,462
Utilities	30,883	30,878	31,805	32,759	33,742	34,754
In-kind contribution - facility	87,750	87,750	87,750	87,750	87,750	87,750
Total Other Expenses	677,953	666,732	662,787	675,738	689,017	702,632
<b>Total Supporting Services</b>	1,405,385	1,515,673	1,515,487	1,546,777	1,578,784	1,611,526
<b>Total Expenses</b>	11,584,324	15,209,822	12,344,139	12,581,816	12,821,370	13,087,233
<b>Change in Unrestricted Net Assets</b>	513,048	(2,677,679)	147,867	140,037	135,128	108,809

	<b>FY2018</b>	<b>FY2019</b>	<b>FY2020</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
Assumed Enrollment	<b>645</b>	<b>667</b>	<b>670</b>	<b>670</b>	<b>670</b>	<b>670</b>
<b>Income Statement</b>						
Net Assets - Beginning	6,306,872	6,819,920	4,142,241	4,290,109	4,430,146	4,565,274
Net Assets - Ending	6,819,920	4,142,241	4,290,109	4,430,146	4,565,274	4,674,082
<b>Debt Service Coverage</b>						
Change in Net Assets	513,048	(2,677,679)	147,867	140,037	135,128	108,809
Plus: Sinking Fund	-	2,848,063	-	-	-	-
Plus: Depreciation	83,655	160,435	172,024	173,527	176,376	192,384
Plus: Lease Component - Debt Service	639,340	522,438	563,950	564,450	563,250	566,850
Plus: Lease Component - R&R Deposits	-	-	50,000	50,000	50,000	50,000
Plus: Management Fee	498,202	533,976	532,103	542,377	552,865	563,571
<b>Net Income Available for Debt Service</b>	<b>1,734,245</b>	<b>1,387,233</b>	<b>1,465,944</b>	<b>1,470,391</b>	<b>1,477,618</b>	<b>1,481,614</b>
<b>Debt Service</b>	<b>639,340</b>	<b>522,438</b>	<b>563,950</b>	<b>564,450</b>	<b>563,250</b>	<b>566,850</b>
<b>Debt Service Coverage Ratio</b>	<b>2.71</b>	<b>2.66</b>	<b>2.60</b>	<b>2.60</b>	<b>2.62</b>	<b>2.61</b>

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**APPENDIX D**

**AUDITED FINANCIAL STATEMENTS OF THE  
SCHOOL FOR THE FISCAL YEAR ENDED JUNE 30,  
2017 (INCLUDING JUNE 30, 2016 COMPARATIVE  
INFORMATION)**

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**BRONX LIGHTHOUSE CHARTER SCHOOL, INC.  
AND AFFILIATE**

**Consolidated Financial Statements**  
(Together with Independent Auditors' Report)

**Years Ended June 30, 2017 and 2016**

**M R K S P N E T H**

ACCOUNTANTS & ADVISORS

**BRONX LIGHTHOUSE CHARTER SCHOOL, INC. AND AFFILIATE  
CONSOLIDATED FINANCIAL STATEMENTS**

**(Together with Independent Auditors' Report)**

**YEARS ENDED JUNE 30, 2017 AND 2016**

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**M A R K S P A N E T H**

## INDEPENDENT AUDITORS' REPORT

The Board of Trustees  
Bronx Lighthouse Charter School, Inc  
and Affiliate  
Bronx, New York

### Report on the Financial Statements

We have audited the accompanying consolidated financial statements of Bronx Lighthouse Charter School, Inc. and Affiliate (collectively, the "School") which comprise the consolidated statements of financial position as of June 30, 2017 and 2016, and the related consolidated statements of activities, functional expenses and cash flows for the years then ended, and the related notes to the financial statements.

### Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; this includes 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.

### Auditors' Responsibility

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits 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. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements 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 the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

- 1 -



## Opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the School as of June 30, 2017 and 2016, and the changes in their net assets and their cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

## Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated October 31, 2017, on our consideration of the School's internal control over financial reporting and on our tests of their 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 on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the School's internal control over financial reporting and compliance.

## Other Matter

Our audits were conducted for the purpose of forming an opinion on the consolidated financial statements as a whole. The supplementary information on pages 17-20 is presented for purposes of additional analysis and is not a required part of the consolidated 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 consolidated financial statements. The information has been subjected to the auditing procedures applied in the audit of the consolidated financial statements, and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the consolidated financial statements or to the consolidated 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 consolidated financial statements as a whole.



Purchase, New York  
October 31, 2017

**M A R K S P A N E T H**  
ACCOUNTANTS & ADVISORS

**BRONX LIGHTHOUSE CHARTER SCHOOL, INC. AND AFFILIATE  
CONSOLIDATED STATEMENTS OF FINANCIAL POSITION  
AS OF JUNE 30, 2017 AND 2016**

	<u>2017</u>	<u>2016</u>
<b>ASSETS</b>		
Cash (including restricted cash of \$2,920,213 and \$2,418,154, respectively)(Notes 3 and 12)	\$ 7,116,585	\$ 5,783,681
Receivables (Note 4)	143,962	457,547
Prepaid expenses	49,746	137,552
Security deposits	28,850	45,685
Land	2,231,880	2,231,880
Fixed assets - net (Notes 2E and 5)	<u>11,596,377</u>	<u>11,989,911</u>
<b>TOTAL ASSETS</b>	<u><u>\$ 21,167,400</u></u>	<u><u>\$ 20,646,256</u></u>
<b>LIABILITIES</b>		
Accounts payable and accrued expenses	\$ 174,441	\$ 230,361
Accrued payroll and payroll taxes	698,850	348,999
Accrued compensated absences	88,451	110,821
Due to NYC - Department of Education	129,526	-
Capital leases (Note 6)	-	44,129
Loans payable (Note 7)	<u>13,340,000</u>	<u>13,340,000</u>
<b>TOTAL LIABILITIES</b>	<u>14,431,268</u>	<u>14,074,310</u>
<b>COMMITMENTS AND CONTINGENCIES</b>		
<b>NET ASSETS (Note 2C)</b>		
Unrestricted-Board Designated for Facility	937,940	937,940
Unrestricted	<u>5,798,192</u>	<u>5,634,006</u>
<b>TOTAL UNRESTRICTED NET ASSETS</b>	<u>6,736,132</u>	<u>6,571,946</u>
<b>TOTAL LIABILITIES AND NET ASSETS</b>	<u><u>\$ 21,167,400</u></u>	<u><u>\$ 20,646,256</u></u>

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

**BRONX LIGHTHOUSE CHARTER SCHOOL, INC. AND AFFILIATE  
CONSOLIDATED STATEMENTS OF ACTIVITIES  
FOR THE YEARS ENDED JUNE 30, 2017 AND 2016**

	<u>2017</u>	<u>2016</u>
<b>REVENUE AND SUPPORT:</b>		
Student enrollment fees (Note 2F)	\$ 10,052,829	\$ 10,022,746
Federal grants	424,898	513,387
Public support	27,095	29,752
Interest	10,888	9,388
Other	72,557	21,993
In-kind contributions (Note 11)	<u>642,101</u>	<u>640,476</u>
 Total revenue and support	 <u>11,230,368</u>	 <u>11,237,742</u>
 <b>EXPENSES:</b>		
Program services:		
Educational services	8,778,509	8,441,044
BLCS property holding company	996,238	990,157
Total program expenses	<u>9,774,747</u>	<u>9,431,201</u>
Supporting services:		
Management and general	1,291,435	1,509,702
Total supporting services	<u>1,291,435</u>	<u>1,509,702</u>
 Total expenses	 <u>11,066,182</u>	 <u>10,940,903</u>
 <b>CHANGE IN UNRESTRICTED NET ASSETS</b>	 164,186	 296,839
 NET ASSETS - Beginning of Year	 <u>6,571,946</u>	 <u>6,275,107</u>
 NET ASSETS - End of Year	 <u>\$ 6,736,132</u>	 <u>\$ 6,571,946</u>

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

**BRONX LIGHTHOUSE CHARTER SCHOOL, INC. AND AFFILIATE  
CONSOLIDATED STATEMENT OF FUNCTIONAL EXPENSES  
FOR THE YEAR ENDED JUNE 30, 2017**

	PROGRAM SERVICES			SUPPORTING SERVICES	TOTALS
	EDUCATIONAL SERVICES	BLCS PROPERTY HOLDING COMPANY	TOTAL PROGRAM SERVICES	MANAGEMENT AND GENERAL	
Salaries	\$ 5,065,962	\$ -	\$ 5,065,962	\$ 578,230	\$ 5,644,192
Payroll taxes and fringe benefits	960,459	-	960,459	112,680	1,073,139
<b>Total Salaries and Related Costs</b>	<b>6,026,421</b>	<b>-</b>	<b>6,026,421</b>	<b>690,910</b>	<b>6,717,331</b>
Professional fees and consultants	67,607	21,377	88,984	82,631	171,615
Management fees (Notes 9 and 13)	288,695	-	288,695	192,463	481,158
Contracted services - other	112,218	-	112,218	74,811	187,029
Supplies and equipment purchases (Note 2E)	303,882	-	303,882	53,627	357,509
Advertising	699	-	699	-	699
Food	20,163	-	20,163	-	20,163
Insurance	142,621	2,054	144,675	25,531	170,206
Library	31,914	-	31,914	-	31,914
Repairs and maintenance	254,771	-	254,771	44,960	299,731
Printing	57,823	-	57,823	-	57,823
Staff development and recruitment	143,603	-	143,603	-	143,603
Telecommunications	44,078	-	44,078	7,778	51,856
Field trips and other activities	176,664	-	176,664	-	176,664
Utilities	175,523	-	175,523	30,974	206,497
In-kind contribution - facility (Note 11)	497,250	-	497,250	87,750	585,000
In-kind contribution - textbooks (Note 11)	57,101	-	57,101	-	57,101
Other	201,408	69	201,477	-	201,477
Interest	6,808	639,340	646,148	-	646,148
Depreciation and amortization (Note 2C)	169,260	333,398	502,658	-	502,658
<b>Total Other Expenses</b>	<b>2,752,088</b>	<b>996,238</b>	<b>3,748,326</b>	<b>600,525</b>	<b>4,348,851</b>
<b>Total Operating Expenses</b>	<b>\$ 8,778,509</b>	<b>\$ 996,238</b>	<b>\$ 9,774,747</b>	<b>\$ 1,291,435</b>	<b>\$ 11,066,182</b>

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

**BRONX LIGHTHOUSE CHARTER SCHOOL, INC. AND AFFILIATE**  
**CONSOLIDATED STATEMENT OF FUNCTIONAL EXPENSES**  
**FOR THE YEAR ENDED JUNE 30, 2016**

	PROGRAM SERVICES			SUPPORTING SERVICES	TOTALS
	EDUCATIONAL SERVICES	BLCS PROPERTY HOLDING COMPANY	TOTAL PROGRAM SERVICES	MANAGEMENT AND GENERAL	
Salaries	\$ 4,836,906	\$ -	\$ 4,836,906	\$ 507,741	\$ 5,344,647
Payroll taxes and fringe benefits	1,319,785	-	1,319,785	109,017	1,428,802
<b>Total Salaries and Related Costs</b>	<b>6,156,691</b>	<b>-</b>	<b>6,156,691</b>	<b>616,758</b>	<b>6,773,449</b>
Professional fees and consultants	69,553	8,700	78,253	78,866	157,119
Management fees (Notes 9 and 13)	-	-	-	275,000	275,000
Contracted services - other	99,753	-	99,753	88,971	188,724
Supplies and equipment purchases (Note 2E)	390,037	-	390,037	68,053	458,090
Advertising	-	-	-	322	322
Food	26,908	-	26,908	-	26,908
Insurance	-	-	-	171,367	171,367
Library	29,849	-	29,849	-	29,849
Repairs and maintenance	293,227	-	293,227	32,581	325,808
Printing	57,479	-	57,479	-	57,479
Staff development and recruitment	128,779	-	128,779	-	128,779
Telecommunications	33,268	-	33,268	3,696	36,964
Field trips and other activities	100,745	-	100,745	-	100,745
Utilities	208,688	-	208,688	23,188	231,876
In-kind contribution - facility (Note 11)	526,500	-	526,500	58,500	585,000
In-kind contribution - textbooks (Note 11)	55,476	-	55,476	-	55,476
Other	77,690	5,797	83,487	92,399	175,886
Interest	7,113	641,091	648,204	-	648,204
Depreciation and amortization (Note 2E)	179,288	334,569	513,857	-	513,857
<b>Total Other Expenses</b>	<b>2,284,353</b>	<b>990,157</b>	<b>3,274,510</b>	<b>892,943</b>	<b>4,167,453</b>
<b>Total Operating Expenses</b>	<b>\$ 8,441,044</b>	<b>\$ 990,157</b>	<b>\$ 9,431,201</b>	<b>\$ 1,509,702</b>	<b>\$ 10,940,903</b>

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

**BRONX LIGHTHOUSE CHARTER SCHOOL, INC. AND AFFILIATE  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
FOR THE YEARS ENDED JUNE 30, 2017 AND 2016**

	<u>2017</u>	<u>2016</u>
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		
Change in net assets	\$ 164,186	\$ 296,839
Adjustments to reconcile change in net assets to net cash provided by operating activities:		
Depreciation and amortization	502,658	513,857
Changes in:		
Receivables	313,585	(63,587)
Prepaid expenses	87,806	(95,199)
Security deposit	16,836	-
Accounts payable and accrued expenses	(55,920)	39,108
Accrued payroll and payroll taxes	349,851	(180,325)
Accrued compensated absences	(22,370)	1,408
Due to NYC - Department of Education	129,526	-
Deferred revenue	-	(36,552)
	<u>1,486,158</u>	<u>475,549</u>
Net cash provided by operating activities		
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>		
Purchase of fixed assets	<u>(109,125)</u>	<u>(84,455)</u>
Net cash used in investing activities	<u>(109,125)</u>	<u>(84,455)</u>
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>		
Payment of capital leases	<u>(44,129)</u>	<u>(141,333)</u>
Net cash used in financing activities	<u>(44,129)</u>	<u>(141,333)</u>
<b>NET INCREASE IN CASH</b>	1,332,904	249,761
CASH, Beginning of Year	<u>5,783,681</u>	<u>5,533,920</u>
CASH, End of Year	<u>\$ 7,116,585</u>	<u>\$ 5,783,681</u>
<b><u>SUPPLEMENTAL DATA:</u></b>		
Interest paid	<u>\$ 646,148</u>	<u>\$ 648,204</u>

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

**BRONX LIGHTHOUSE CHARTER SCHOOL, INC. AND AFFILIATE**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**JUNE 30, 2017 AND 2016**

**NOTE 1 – ORGANIZATION AND PURPOSE**

Bronx Lighthouse Charter School, Inc., a New York not-for-profit education corporation, together with its wholly owned subsidiary, BLCS Property Holding Company, Inc. ("BPHC" or "Affiliate") (collectively, the "School"), offers education services in classes from kindergarten through grade eleven in the Bronx, New York. The School is a public charter school incorporated on May 18, 2004, pursuant to the New York Charter School Act of 1998. In March 2014, the School was granted a second charter renewal through June 30, 2019 by the Chancellor of the City of New York on behalf of the New York State Education Department. The School's major source of revenue is provided by the New York City Department of Education (NYC DOE).

The School qualifies as tax-exempt organization under Section 501(c) (3) of the Internal Revenue Code, and accordingly, is not subject to federal and state income taxes.

The School is the sole owner of BPHC, a Delaware not-for-profit corporation, which was incorporated on March 16, 2011, for the purpose of holding real estate to be used by the School's college preparatory academy.

**NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

A) ***Basis of Accounting*** - The accompanying consolidated financial statements have been prepared on the accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America.

B) ***Principles of Consolidation*** - The consolidated financial statements reflect the accounts and operations of the School and its wholly owned subsidiary. All intercompany balances and transactions have been eliminated in the consolidated financial statements.

C) ***Financial Statement Presentation*** - The School reports its financial position and operating activities according to three classes of net assets: unrestricted net assets, temporarily restricted net assets, and permanently restricted net assets. The classification of net assets and related support, revenue and expenses is based on the presence or absence of donor-imposed restrictions.

These classifications are defined as follows:

**Permanently Restricted** - net assets, generally of an endowment nature, resulting from contributions and other inflows of assets whose use by the recipient is limited by donor-imposed stipulation that neither expire by passage of time nor can be fulfilled or otherwise removed by actions of the recipient. The School has no permanently restricted net assets.

**Temporarily Restricted** - net assets resulting from contributions and other inflows of assets whose use by the recipient is limited by donor-imposed stipulations that either expire by passage of time or can be fulfilled and removed by actions taken pursuant to those stipulations. When stipulations terminate or are fulfilled, the amounts involved are reclassified to unrestricted net assets and reported in the statement of activities as net assets released from restrictions. The School has no temporarily restricted net assets.

**Unrestricted** - unexpended net assets that are neither permanently nor temporarily restricted by donor-imposed stipulations.

**BRONX LIGHTHOUSE CHARTER SCHOOL, INC. AND AFFILIATE**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**JUNE 30, 2017 AND 2016**

**NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

D) ***Use of Estimates*** - The preparation of financial statements in conformity 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 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.

E) ***Fixed Assets*** - Fixed assets such as furniture and equipment are carried at cost less accumulated depreciation, which is provided on the straight-line method over the estimated useful lives of the respective assets (3 – 7 years). Building and building improvements are depreciated over 39 years. Leasehold improvements are capitalized at cost and amortized over the lesser of the term of the lease or the estimated useful life of the improvement. It is the School's policy to capitalize property, plant and equipment and leasehold improvements in excess of \$1,000 on a per unit basis. Expenditures for repairs and maintenance are expensed as incurred.

F) ***Revenue*** - The School is reimbursed by the NYC DOE based on the approved per pupil operating expenses 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 operating expenses and the full time equivalent student enrollment of the School. The School is also the recipient of awards from other governmental entities. The awards are subject to compliance requirements and financial audits by the funding source. The accompanying consolidated financial statements make no provision for possible disallowances.

Student enrollment fees received for future years are deferred to the applicable year and are shown as deferred revenue on the statements of financial position.

In-kind contributions are reflected as contributions at their fair value at the date of the donation and are reported as unrestricted support unless explicit donor stipulations specify how donated assets must be used.

G) ***Tax Status*** - The School believes it has no uncertain tax positions as of June 30, 2017 and 2016 in accordance with Accounting Standards Codification ("ASC") Topic 740, "Income Taxes," which provides standards for establishing and classifying any tax provisions for uncertain tax positions.

H) ***Functional Allocation of Expenses*** - The direct costs of providing educational programs and other activities have been summarized on a functional basis in the statement of activities. In addition, certain indirect costs have been allocated among the programs.

I) ***Reclassifications*** - Certain line items in the June 30, 2016 financial statements have been reclassified to conform to the June 30, 2017 presentation.



**BRONX LIGHTHOUSE CHARTER SCHOOL, INC. AND AFFILIATE  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
JUNE 30, 2017 AND 2016**

**NOTE 3 – RESTRICTED CASH**

Restricted cash consists of the following:

	2017	2016
A) Facility reserve	\$ 490,853	\$ 489,874
B) Sinking fund	2,243,140	1,742,093
C) NYC DOE contingency	70,302	70,288
D) Lease reserve	115,918	115,899
Totals	\$ 2,920,213	\$ 2,418,154

- A) The School has created a facility reserve for future major repairs and replacement to the building. As of June 30, 2017 and 2016, the balance in the facility replacement reserve was \$490,853 and \$489,874, respectively.
- B) The School set up a new cash account as required by the facility financing covenants (the "sinking fund") that will be used to pay off future debt. As of June 30, 2017 and 2016, the sinking fund was \$2,243,140 and \$1,742,093, respectively.
- C) At the request of the New York City Department of Education (NYC DOE), the School established a dissolution escrow as a contingency fund for dissolution expenses. As of June 30, 2017 and 2016, the balance in the dissolution reserve was \$70,302 and \$70,288, respectively.
- D) The School is required to deposit \$1,089 per month into a contingency fund to serve as a reserve for its lease payments. As of June 30, 2017 and 2016, the balance in the lease reserve was \$115,917 and \$115,899, respectively.

**NOTE 4 – RECEIVABLES**

Receivables consist of the following:

	2017	2016
NYC - Department of Education	\$ 13,127	\$ 125,962
State Education Department	118,833	298,677
Other	12,002	32,908
	\$ 143,962	\$ 457,547

**BRONX LIGHTHOUSE CHARTER SCHOOL, INC. AND AFFILIATE  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
JUNE 30, 2017 AND 2016**

**NOTE 5 – FIXED ASSETS**

Fixed assets consist of the following:

	<u>2017</u>	<u>2016</u>
Furniture and equipment	\$ 1,099,643	\$ 990,518
Capital lease – equipment	550,824	550,824
Building and building improvements	<u>13,002,531</u>	<u>13,002,531</u>
	14,652,998	14,543,873
Less: accumulated depreciation/amortization	<u>(3,056,621)</u>	<u>(2,553,962)</u>
Net book value	<u>\$11,596,377</u>	<u>\$11,989,911</u>

**NOTE 6 – CAPITAL LEASES PAYABLE**

During 2012, the School acquired various equipment totaling \$550,824 under multiple capital lease agreements. Accumulated depreciation in the consolidated statements of financial position includes \$540,805 and \$479,088 related to the equipment as of June 30, 2017 and 2016, respectively. Amortization of the asset included in depreciation and amortization expenses amounted to \$61,717 and \$89,206 for the years ended June 30, 2017 and 2016, respectively. The leases call for forty-eight to sixty monthly payments with an interest rate varying from 7.5% to 8.4%. As of June 30, 2017, and 2016, the outstanding balance was \$0 and \$44,129, respectively. Interest expense for the years ended June 30, 2017 and 2016 was \$6,808 and \$7,113, respectively.

**NOTE 7 – LOANS PAYABLE**

In June 2011, BPHC entered into certain loan arrangements with a lender of funds, which were derived from the Federal New Markets Tax Credit (NMTC) program. In connection with this transaction, the School made a contribution of \$1,604,585 to BPHC, and BPHC entered into three loan arrangements with LIIF SUB-CDE VI, LLC (the NMTC lender) for the aggregate amount of \$13,340,000. The proceeds of the loans were used for the development of a charter school facility that serves students from grades 9 through 12. The loans are secured by all of the assets of the School.

The loans are also subject to certain financial covenants. The loans are summarized as follows:

	<u>2017</u>	<u>2016</u>
(A) LIIF CDE Loan 1	\$ 7,299,880	\$ 7,299,880
(B) LIIF CDE Loan 2	3,128,520	3,128,520
(C) LIIF CDE Loan 3	<u>2,911,600</u>	<u>2,911,600</u>
Totals	<u>\$ 13,340,000</u>	<u>\$ 13,340,000</u>

**BRONX LIGHTHOUSE CHARTER SCHOOL, INC. AND AFFILIATE**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**JUNE 30, 2017 AND 2016**

**NOTE 7 – LOANS PAYABLE (continued)**

- A) The loan is for a principal amount of \$7,299,880 at an interest rate of 4.72%. The loan calls for interest only payments starting on August 1, 2011 through its maturity date. The note matures on July 15, 2018. At the maturity date, a balloon payment is due for the principal amount of \$7,299,880. The minimum annual commitments are as follows:

<u>For the Years Ending June 30,</u>	<u>Amount</u>
2018	\$ -
2019	7,299,880
Total	<u>\$ 7,299,880</u>

- B) The loan is for a principal amount of \$3,128,520 at an interest rate of 4.72%. The loan calls for interest only payments starting on August 1, 2011 through its maturity date. The note matures on July 15, 2018. At the maturity date, a balloon payment is due for the principal amount of \$3,128,520. The minimum annual commitments are as follows:

<u>For the Years Ending June 30,</u>	<u>Amount</u>
2018	\$ -
2019	3,128,520
Total	<u>\$ 3,128,520</u>

- C) The loan is for a principal amount of \$2,911,600 at an interest rate of 4.72%. The loan calls for interest only payments starting on August 1, 2011 through July 1, 2018. After July 1, 2018, principal and interest payments are due on a monthly basis through July 16, 2041. The future principal payments due after July 2018 are \$2,911,600. The minimum annual commitments are as follows:

<u>For the Years Ending June 30,</u>	<u>Amount</u>
2018	\$ -
2019	62,733
2020	62,733
2021	62,733
2022	62,733
Thereafter	2,660,668
Total	<u>\$ 2,911,600</u>

**BRONX LIGHTHOUSE CHARTER SCHOOL, INC. AND AFFILIATE  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
JUNE 30, 2017 AND 2016**

**NOTE 8 – LINE OF CREDIT**

The School has an available line of credit for \$400,000 with a financial institution. The line of credit is payable upon demand with an interest rate determined at the bank's prime rate. There was no outstanding balance as of June 30, 2017 and 2016.

**NOTE 9 – MANAGEMENT FEES**

The School contracted the management of certain academic and business operations to Lighthouse Academies, Inc. For the year ended June 30, 2016, the contract called for a base management fee plus a bonus provision, subject to the School meeting certain milestones. In 2017, the Contract was renewed and stated that Lighthouse Academies is entitled to compensation for its services in the amount of 4.5% of revenues. The management fee for the years ending June 30, 2017 and 2016 was \$481,158 and \$275,000, respectively.

**NOTE 10 – RETIREMENT PLAN**

The School has a 401(k) Plan for employees who are at least 21 years old and have completed one month of service. Effective July 1, 2010, the School amended its plan to require safe harbor employer matching contributions dollar for dollar of employee contributions not to exceed 4% of compensation. Safe harbor contributions are immediately vested with the participants. At June 30, 2017 and 2016, the School had a safe harbor matching employer contribution of \$99,670 and \$113,051, respectively. For the years ended June 30, 2017 and 2016, the School did not make a discretionary contribution. Employer profit sharing contributions made to the plan are fully vested in three years.

**NOTE 11 – IN-KIND CONTRIBUTIONS**

The NYC DOE donates space to the School for the purpose set forth in the School's Charter. The agreement commenced on July 1, 2005 and terminates in one year or upon the expiration/termination of the School's charter or upon expiration/termination of the lease in the event that the School is located in a leased premise, whichever is earlier. The agreement may be extended by a written agreement signed by the parties. The agreement was renewed for 2017. The annual fee for the use of the dedicated space is \$1. The fair market value for the use of the space for the years ended June 30, 2017 and 2016 was \$585,000 for each year.

The School also received donated textbooks and other technology related donations throughout the year. The fair market value for these donations was \$57,101 in 2017 and \$55,476 in 2016.

**BRONX LIGHTHOUSE CHARTER SCHOOL, INC. AND AFFILIATE**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**JUNE 30, 2017 AND 2016**

**NOTE 12 – CONCENTRATION OF CREDIT RISK**

Financial instruments that potentially subjects the School to a concentration of credit risk includes cash accounts with banks that exceed the Federal Deposit Insurance Corporation (“FDIC”) insurance limits. Interest and noninterest-bearing accounts are insured up to \$250,000 per depositor.

During the fiscal year ended June 30, 2017 and 2016, the School did from time to time exceeded the FDIC insurance limits. Management believes that these financial institutions have strong credit ratings and that credit risk to these accounts is minimal.

Concentration of risk also exists between the School and the New York City Department of Education. For the years ended June 30, 2017 and 2016, the School received 89% and 89%, respectively of its funding from the New York City Department of Education in the form of student enrollment fees.

**NOTE 13 – SUBSEQUENT EVENTS**

Management has evaluated, for potential recognition and disclosure, events and transactions that occurred subsequent to the date of the consolidated statement of financial position through October 31, 2017, the date the financial statements were available to be issued

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**MARKS PANETH**

**INDEPENDENT AUDITORS' 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**

The Board of Trustees  
Bronx Lighthouse Charter School, Inc. and Affiliate  
Bronx, New York

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the consolidated financial statements of Bronx Lighthouse Charter School, Inc. and Affiliate (collectively, the "School"), which comprise the consolidated statements of financial position as of June 30, 2017 and 2016, and the related consolidated statements of activities, functional expenses, and cash flows for the years then ended, and the related notes to the consolidated financial statements, and have issued our report thereon dated October 31, 2017.

**Internal Control Over Financial Reporting**

In planning and performing our audits of the consolidated financial statements, we considered the School's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the consolidated financial statements, but not for the purpose of expressing an opinion on the effectiveness of the School's internal control. Accordingly, we do not express an opinion on the effectiveness of the School's 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. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

### **Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the School's financial statements are free of 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 determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audits and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*

### **Purpose of This Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the 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



Purchase, New York  
October 31, 2017

**M A R K S P A N E T H**  
A C C O U N T I N G & A D V I S O R S

## **SUPPLEMENTARY INFORMATION**



**BRONX LIGHTHOUSE CHARTER SCHOOL, INC. AND AFFILIATE  
CONSOLIDATING STATEMENT OF FINANCIAL POSITION  
JUNE 30, 2017**

	<b>BRONX LIGHTHOUSE CHARTER SCHOOL</b>	<b>BLCS PROPERTY HOLDING COMPANY, INC.</b>	<b>PRE- CONSOLIDATED TOTAL</b>	<b>CONSOLIDATING ELIMINATIONS</b>	<b>CONSOLIDATED TOTAL</b>
<b>ASSETS</b>					
Cash (including restricted cash) (Notes 3 and 12)	\$ 6,995,749	\$ 120,836	\$ 7,116,585	\$ -	\$ 7,116,585
Receivables (Note 4)	143,962	-	143,962	-	143,962
Prepaid expenses	54,149	900	55,049	(5,303)	49,746
Security deposits	28,850	-	28,850	-	28,850
Land	-	2,231,880	2,231,880	-	2,231,880
Fixed assets - net (Notes 2E and 5)	175,430	11,420,947	11,596,377	-	11,596,377
<b>TOTAL ASSETS</b>	<b>\$ 7,398,140</b>	<b>\$ 13,774,563</b>	<b>\$ 21,172,703</b>	<b>\$ (5,303)</b>	<b>\$ 21,167,400</b>
<b>LIABILITIES</b>					
Accounts payable and accrued expenses	\$ 174,441	\$ 5,303	\$ 179,744	\$ (5,303)	174,441
Accrued payroll and payroll taxes	698,850	-	698,850	-	698,850
Accrued compensated absences	88,451	-	88,451	-	88,451
Capital Leases Payable (Note 6)	-	-	-	-	-
Due to Funder	129,526	-	129,526	-	129,526
Loans payable (Note 7)	-	13,340,000	13,340,000	-	13,340,000
<b>TOTAL LIABILITIES</b>	<b>1,091,268</b>	<b>13,345,303</b>	<b>14,436,571</b>	<b>(5,303)</b>	<b>14,431,268</b>
<b>NET ASSETS (Note 2C)</b>					
Unrestricted	6,306,872	429,260	6,736,132	-	6,736,132
<b>TOTAL NET ASSETS</b>	<b>6,306,872</b>	<b>429,260</b>	<b>6,736,132</b>	<b>-</b>	<b>6,736,132</b>
<b>TOTAL LIABILITIES AND NET ASSETS</b>	<b>\$ 7,398,140</b>	<b>\$ 13,774,563</b>	<b>\$ 21,172,703</b>	<b>\$ (5,303)</b>	<b>\$ 21,167,400</b>

The accompanying notes are an integral part of these financial statements

**BRONX LIGHTHOUSE CHARTER SCHOOL, INC. AND AFFILIATE**  
**CONSOLIDATING STATEMENT OF FINANCIAL POSITION**  
**JUNE 30, 2016**

	<b>BRONX LIGHTHOUSE CHARTER SCHOOL</b>	<b>BLCS PROPERTY HOLDING COMPANY, INC.</b>	<b>PRE- CONSOLIDATED TOTAL</b>	<b>CONSOLIDATING ELIMINATIONS</b>	<b>CONSOLIDATED TOTAL</b>
<b>ASSETS</b>					
Cash (including restricted cash) (Notes 3 and 12)	\$ 5,669,373	\$ 114,308	\$ 5,783,681	\$ -	\$ 5,783,681
Receivables (Note 4)	457,547	-	457,547	-	457,547
Prepaid expenses	141,955	900	142,855	(5,303)	137,552
Security deposits	45,685	-	45,685	-	45,685
Land	-	2,231,880	2,231,880	-	2,231,880
Fixed assets - net (Notes 2E and 5)	235,562	11,754,349	11,989,911	-	11,989,911
	<u>235,562</u>	<u>11,754,349</u>	<u>11,989,911</u>	<u>-</u>	<u>11,989,911</u>
<b>TOTAL ASSETS</b>	<b>\$ 6,550,122</b>	<b>\$ 14,101,437</b>	<b>\$ 20,651,559</b>	<b>\$ (5,303)</b>	<b>\$ 20,646,256</b>
<b>LIABILITIES</b>					
Accounts payable and accrued expenses	\$ 228,857	\$ 6,807	\$ 235,664	\$ (5,303)	\$ 230,361
Accrued payroll and payroll taxes	348,999	-	348,999	-	348,999
Accrued compensated absences	110,821	-	110,821	-	110,821
Capital Leases Payable (Note 6)	44,129	-	44,129	-	44,129
Loans payable (Note 7)	-	13,340,000	13,340,000	-	13,340,000
	<u>-</u>	<u>13,340,000</u>	<u>13,340,000</u>	<u>-</u>	<u>13,340,000</u>
<b>TOTAL LIABILITIES</b>	<b>732,806</b>	<b>13,346,807</b>	<b>14,079,613</b>	<b>(5,303)</b>	<b>14,074,310</b>
<b>Unrestricted</b>					
<b>NET ASSETS (Note 2C)</b>					
Unrestricted	5,817,316	754,630	6,571,946	-	6,571,946
	<u>5,817,316</u>	<u>754,630</u>	<u>6,571,946</u>	<u>-</u>	<u>6,571,946</u>
<b>TOTAL NET ASSETS</b>	<b>5,817,316</b>	<b>754,630</b>	<b>6,571,946</b>	<b>-</b>	<b>6,571,946</b>
<b>TOTAL LIABILITIES AND NET ASSETS</b>	<b>\$ 6,550,122</b>	<b>\$ 14,101,437</b>	<b>\$ 20,651,559</b>	<b>\$ (5,303)</b>	<b>\$ 20,646,256</b>

The accompanying notes are an integral part of these financial statements

**BRONX LIGHTHOUSE CHARTER SCHOOL, INC. AND AFFILIATE  
CONSOLIDATING STATEMENT OF ACTIVITIES  
FOR THE YEAR ENDED  
JUNE 30, 2017**

	<b>BRONX LIGHTHOUSE CHARTER SCHOOL</b>	<b>BLCS PROPERTY HOLDING COMPANY, INC.</b>	<b>PRE- CONSOLIDATED TOTAL</b>	<b>CONSOLIDATING ELIMINATIONS</b>	<b>CONSOLIDATED TOTAL</b>
<b>REVENUE AND SUPPORT:</b>					
Student enrollment fees (Note 2F)	\$ 10,052,829	\$ -	\$ 10,052,829	\$ -	\$ 10,052,829
Federal grants	424,898	-	424,898	-	424,898
Public support	27,095	-	27,095	-	27,095
Interest	10,866	22	10,888	-	10,888
Other	59,827	12,730	72,557	-	72,557
Rental income from BLCS	-	658,116	658,116	(658,116)	-
In-kind contributions (Note 11)	642,101	-	642,101	-	642,101
<b>Total revenue and support</b>	<b>11,217,616</b>	<b>670,868</b>	<b>11,888,484</b>	<b>(658,116)</b>	<b>11,230,368</b>
<b>EXPENSES:</b>					
<b>Program services:</b>					
Educational Services	9,436,625	-	9,436,625	(658,116)	8,778,509
BLCS Property Holding Company	-	996,238	996,238	-	996,238
<b>Total program expenses</b>	<b>9,436,625</b>	<b>996,238</b>	<b>10,432,863</b>	<b>(658,116)</b>	<b>9,774,747</b>
<b>Supporting services</b>					
Management and general	1,291,435	-	1,291,435	-	1,291,435
<b>Total supporting services</b>	<b>1,291,435</b>	<b>-</b>	<b>1,291,435</b>	<b>-</b>	<b>1,291,435</b>
<b>Total expenses</b>	<b>10,728,060</b>	<b>996,238</b>	<b>11,724,298</b>	<b>(658,116)</b>	<b>11,066,182</b>
<b>CHANGE IN NET ASSETS</b>	<b>489,556</b>	<b>(325,370)</b>	<b>164,186</b>	<b>-</b>	<b>164,186</b>
<b>NET ASSETS - Beginning of Year</b>	<b>5,817,316</b>	<b>754,630</b>	<b>6,571,946</b>	<b>-</b>	<b>6,571,946</b>
<b>NET ASSETS - End of Year</b>	<b>\$ 6,306,872</b>	<b>\$ 429,260</b>	<b>\$ 6,736,132</b>	<b>\$ -</b>	<b>\$ 6,736,132</b>

The accompanying notes are an integral part of these financial statements

**BRONX LIGHTHOUSE CHARTER SCHOOL, INC. AND AFFILIATE  
CONSOLIDATING STATEMENT OF ACTIVITIES  
FOR THE YEAR ENDED JUNE 30, 2016**

	<b>BRONX LIGHTHOUSE CHARTER SCHOOL</b>	<b>BRONX PROPERTY HOLDING COMPANY, INC.</b>	<b>PRE- CONSOLIDATED TOTAL</b>	<b>CONSOLIDATING ELIMINATIONS</b>	<b>CONSOLIDATED TOTAL</b>
<b>REVENUE AND SUPPORT:</b>					
Student enrollment fees (Note 2F)	\$ 10,022,746	\$ -	\$ 10,022,746	\$ -	\$ 10,022,746
Federal grants	513,387	-	513,387	-	513,387
Public support	29,752	-	29,752	-	29,752
Interest	9,388	-	9,388	-	9,388
Other	21,993	-	21,993	-	21,993
Rental income from BLCS	-	658,116	658,116	(658,116)	-
In-kind contributions (Note 11)	640,476	-	640,476	-	640,476
<b>Total revenue and support</b>	<b>11,237,742</b>	<b>658,116</b>	<b>11,895,858</b>	<b>(658,116)</b>	<b>11,237,742</b>
<b>EXPENSES:</b>					
Program services					
Educational Services	9,099,160	-	9,099,160	(658,116)	8,441,044
BLCS Property Holding Company	-	990,157	990,157	-	990,157
Total program expenses	<u>9,099,160</u>	<u>990,157</u>	<u>10,089,317</u>	<u>(658,116)</u>	<u>9,431,201</u>
Supporting services					
Management and general	1,509,702	-	1,509,702	-	1,509,702
Total supporting services	<u>1,509,702</u>	<u>-</u>	<u>1,509,702</u>	<u>-</u>	<u>1,509,702</u>
<b>Total expenses</b>	<b>10,608,862</b>	<b>990,157</b>	<b>11,599,019</b>	<b>(658,116)</b>	<b>10,940,903</b>
<b>CHANGE IN NET ASSETS</b>	<b>628,880</b>	<b>(332,041)</b>	<b>296,839</b>	<b>-</b>	<b>296,839</b>
<b>NET ASSETS - Beginning of Year</b>	<b>5,188,436</b>	<b>1,086,671</b>	<b>6,275,107</b>	<b>-</b>	<b>6,275,107</b>
<b>NET ASSETS - End of Year</b>	<b><u>\$ 5,817,316</u></b>	<b><u>\$ 754,630</u></b>	<b><u>\$ 6,571,946</u></b>	<b><u>\$ -</u></b>	<b><u>\$ 6,571,946</u></b>

The accompanying notes are an integral part of these financial statements

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**APPENDIX E**

**UNAUDITED FINANCIAL STATEMENTS**  
**OF THE SCHOOL FOR THE FISCAL YEAR ENDED**  
**JUNE 30, 2018**

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APPENDIX E

**Bronx Lighthouse Charter School  
Statement of Financial Position - Unaudited  
Fiscal Year Ending June 30, 2018**

	<u>FY2018</u>
<b>Assets</b>	
Cash	\$ 4,372,937
Sinking Fund	2,744,602
Receivables	668,901
Prepaid expenses	91,944
Security Deposits	10,075
Fixed assets - net	262,180
<b>Total Assets</b>	<b><u>8,150,639</u></b>
<b>Liabilities</b>	
Accounts payable and accrued expenses	438,686
Accrued payroll and payroll taxes	770,581
Accrued compensated absences	121,452
<b>Total Liabilities</b>	<b><u>1,330,719</u></b>
<b>Net Assets</b>	
Unrestricted	6,819,920
Restricted	-
<b>Total Net Assets</b>	<b><u>6,819,920</u></b>
<b>Total Liabilities and Net Assets</b>	<b><u>\$ 8,150,639</u></b>



**Bronx Lighthouse Charter School  
Statement of Activities - Unaudited  
Fiscal Year Ending June 30, 2018**

	<b>FY2018</b>
<b>Revenue &amp; Support</b>	
Student Enrollment Fees	\$ 10,608,302
Federal Grants	578,969
Public Support	71,454
Interest	11,615
Other	189,286
In-kind contributions	637,746
<b>Total Revenue &amp; Support</b>	<b>12,097,373</b>
<b>Expenses</b>	
<b>Program Expenses</b>	
Salaries	5,337,539
Payroll taxes and fringe benefits	1,007,544
Total Salaries and Related Costs	6,345,082
Professional fees and consultants	69,256
Management Fees	298,921
Contracted services - other	156,556
Supplies and equipment purchases	435,432
Advertising	-
Food	159
Insurance	160,974
Library	21,301
Repairs and maintenance	291,327
Printing	56,869
Staff development and recruitment	396,834
Telecommunications	79,082
Field trips and other activities	257,578
Utilities	175,006
Rent	658,116
In-kind contribution - facility	497,250
In-kind contribution - textbooks	52,746
Other	130,835
Building Acquisition	11,961
Depreciation and amortization	83,655
Total Other Expenses	3,833,857
<b>Total Program Expenses</b>	<b>10,178,940</b>

**Bronx Lighthouse Charter School  
Statement of Activities - Unaudited  
Fiscal Year Ending June 30, 2018**

	<b>FY2018</b>
<b>Supporting Services</b>	
Salaries	609,228
Payroll taxes and fringe benefits	118,204
Total Salaries and Related Costs	727,432
Professional fees and consultants	84,646
Management fees	199,280
Contracted services - other	104,369
Supplies and equipment purchases	76,842
Advertising	-
Insurance	28,816
Repairs and maintenance	51,411
Telecommunications	13,955
Utilities	30,883
In-kind contribution - facility	87,750
Total Other Expenses	677,953
<b>Total Supporting Services</b>	<b>1,405,385</b>
<b>Total Expenses</b>	<b>\$ 11,584,324</b>
<b>Change in Unrestricted Net Assets</b>	<b>513,048</b>
Net Assets - Beginning	6,306,872
Net Assets - Ending	<b>\$ 6,819,920</b>

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**APPENDIX F**  
**CERTAIN DEFINITIONS**

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## APPENDIX F

### CERTAIN DEFINITIONS

*The following are definitions of certain terms, unless the context shall otherwise require, used in the Indenture, the Loan Agreement or this Preliminary Offering Statement.*

**Account Control Agreement** means the initial Account Control Agreement, dated as of October 1, 2018, between the Depository Bank, the Trustee, and the Institution, as the same may be amended or supplemented from time to time or any successor Account Control Agreement entered into by a successor Depository Bank, the Trustee, and the Institution.

**Additional Bonds** shall mean one or more Series of additional bonds issued, executed, authenticated and delivered under the Indenture.

**Additional Improvements** shall mean such alterations of or additions to the Facility Realty or any part thereof.

**Affiliate** means, with respect to a given Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such given Person.

**Annual Administrative Fee** shall mean that annual administrative fee established from time to time by the Issuer's Board of Directors as generally applicable to Entities receiving or that have received financial assistance from the Issuer (subject to such exceptions from such general applicability as may be established by the Issuer's Board of Directors).

**Approved Facility** shall mean the Facility as owned by the Institution and occupied, used and operated by the School substantially for the Approved Project Operations, including such other activities as may be substantially related to or substantially in support of such operations, all to be effected in accordance with the Loan Agreement.

**Approved Project Operations** shall mean the facility located at 1005 Intervale Avenue, Bronx, New York 10459, for use by the Institution and the School in the providing of educational services for students from grades 9 through 12.

**Asserted Cure** has the meaning specified in the Loan Agreement.

**Asserted LW Violation** has the meaning specified in the Loan Agreement.

**Assignment of Mortgage** shall mean the Assignment of Mortgage and Security Agreement relating to the Facility, dated as of the Closing Date, from the Issuer to the Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

**Authorized Denomination** shall mean, \$5,000 or any integral multiple of \$5,000 in excess thereof.

**Authorized Principal Amount** shall mean, in the case of the Initial Bonds, \$\_\_\_\_\_.

**Authorized Representative** shall mean, (i) in the case of the Issuer, the Chairperson, Vice Chairperson, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary, Executive Director, Deputy Executive Director or General Counsel, or any other officer or employee of the Issuer who is authorized to perform specific acts or to discharge specific duties, and (ii) in the case of the Institution, a person named in Exhibit C - "Authorized Representative" to the Loan Agreement or any other officer or employee of the Institution who is authorized to perform specific duties under the Loan Agreement or under any other Project Document and of whom another Authorized Representative of the Institution has given written notice to the Issuer and the Trustee; provided, however, that in each case for which a certification or other statement of fact or condition is required to be submitted by an Authorized Representative to any Person pursuant to the terms of the Loan Agreement or any other Project

Document, such certificate or statement shall be executed only by an Authorized Representative in a position to know or to obtain knowledge of the facts or conditions that are the subject of such certificate or statement.

**Beneficial Owner** shall mean, whenever used with respect to an Initial Bond, the Person in whose name such Initial Bond is recorded as the Beneficial Owner of such Initial Bond by the respective systems of DTC and each of the Participants of DTC. If at any time the Initial Bonds are not held in the Book-Entry System, Beneficial Owner shall mean “Holder” for purposes of the Security Documents.

**Benefits** shall have the meaning set forth in the Loan Agreement.

**Bond Fund** shall mean the special trust fund so designated, established pursuant to the Indenture.

**Bondholder, Holder of Bonds, Holder or holder** shall mean any Person who shall be the registered owner of any Bond or Bonds.

**Bond Purchase Agreement** means the Bond Purchase Agreement, dated October \_\_, 2018, between the Issuer, the Institution, the School and the Underwriter.

**Bond Registrar** shall mean the Trustee acting as registrar as provided in the Indenture.

**Bond Resolution** shall mean the resolution of the Issuer adopted on June 12, 2018, authorizing the issuance of the Initial Bonds.

**Bonds** shall mean the Initial Bonds and any Additional Bonds.

**Business Day** shall mean any day that shall not be:

a Saturday, Sunday, or legal holiday;

a day on which banking institutions in the City are authorized by law or executive order to close; or

a day on which the New York Stock Exchange or the payment system of the Federal Reserve System is closed.

**Business Incentive Rate** shall mean the discount energy transportation and delivery rate provided through the Business Incentive Rate program co-administered by NYCEDC and Consolidated Edison Company of New York, Inc.

**Certificate** shall mean an ACORD certificate evidencing insurance.

**CGL** shall mean commercial general liability insurance.

**City** shall mean The City of New York, New York.

**Claims** shall mean demands, penalties, fines, liabilities, lawsuits, actions, proceedings, settlements, costs and expenses, including attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses.

**Closing Date** shall mean October \_\_, 2018, the date of the initial issuance and delivery of the Initial Bonds, and for any Additional Bonds, the date of the initial issuance and delivery of the Additional Bonds.

**CM** shall mean a construction manager providing construction management services in connection with any Construction.

**Code** shall mean the Internal Revenue Code of 1986, as amended, including the regulations thereunder. All references to Sections of the Code or regulations thereunder shall be deemed to include any such Sections or regulations as they may hereafter be renumbered in any subsequent amendments to the Code or such regulations.

**Completed Improvements Square Footage** shall mean approximately 62,000 square feet, the square footage of the Improvements upon completion of the Project Work.

**Completion Deadline** shall mean the Closing Date.

**Comptroller** shall mean the Comptroller of The City of New York or his or her designee.

**Computation Date** shall have the meaning assigned to that term in the Tax Regulatory Agreement.

**Computation Period** shall have the meaning assigned to that term in the Tax Regulatory Agreement.

**Concessionaire** shall mean a Person that has been granted the right by Institution, an Affiliate of Institution or any tenant, subtenant, leaseholder or subleaseholder of Institution or of an Affiliate of Institution to operate at the Facility Realty for the primary purpose of selling goods or services to natural persons at the Facility Realty.

**Conduct Representation** shall mean any representation by the Institution under the Loan Agreement, or by any other Person in any Required Disclosure Statement delivered to the Issuer.

**Construction** shall mean any construction, reconstruction, restoration, renovation, alteration and/or repair on, in, at or about the Facility Realty, including the Project Work or any other construction, reconstruction, restoration, alteration and/or repair required under the Loan Agreement in connection with the Facility.

**Contractor(s)** means, individually or collectively, a contractor or subcontractor providing materials and/or labor and/or other services in connection with any Construction, but not including a GC, CM or any architect or engineer providing professional services.

**Control or Controls**, including the related terms “controlled by” and “under common control with”, shall mean the power to direct the management and policies of a Person (x) through the ownership, directly or indirectly, of not less than a majority of its voting securities, (y) through the right to designate or elect not less than a majority of the members of its board of directors or trustees or other Governing Body, or (z) by contract or otherwise.

**Costs of Issuance** shall mean issuance costs with respect to the Initial Bonds described in Section 147(g) of the Code and any regulations thereunder, including but not limited to the following: Underwriter’s spread or fee; counsel fees (including bond counsel, counsel to the Underwriter, Trustee’s counsel, Issuer’s counsel, Institution’s counsel, as well as any other specialized counsel fees incurred in connection with the borrowing); financial advisor fees of any financial advisor to the Issuer or the Institution incurred in connection with the issuance of the Initial Bonds; engineering and feasibility study costs; guarantee fees (other than Qualified Guarantee Fees, as defined in the Tax Regulatory Agreement); Rating Agency fees; Trustee and Paying Agent fees; accountant fees and other expenses related to issuance of the Initial Bonds; printing costs for the Initial Bonds and for the preliminary and final offering documents relating to the Initial Bonds; public approval and process costs; fees and expenses of the Issuer incurred in connection with the issuance of the Initial Bonds; and Blue Sky fees and expenses; and similar costs.

**Covenant Agreement** means the Covenant Agreement, dated as of October 1, 2018, between the School and the Trustee, as the same may be amended or supplemented from time to time.

**Covered Counterparty** means a Covered Employer whose Specified Contract is directly with Institution or one of its Affiliates to lease, occupy, operate or perform work at the Facility Realty.

**Covered Employer** means any of the following Persons: (a) Institution, (b) a Site Affiliate, (c) a tenant, subtenant, leaseholder or subleaseholder of Institution or of an Affiliate of Institution that leases any portion of the



Facility Realty (or an Affiliate of any such tenant, subtenant, leaseholder or subleaseholder if such Affiliate has one or more direct Site Employees), (d) a Concessionaire that operates on any portion of the Facility Realty, and (e) a Person that contracts or subcontracts with any Covered Employer described in clauses (a), (b), (c) or (d) above to perform work for a period of more than ninety days on any portion of the Facility Realty, including temporary services or staffing agencies, food service contractors, and other on-site service contractors; provided, however, that the term "Covered Employer" shall not include (i) a Person of the type described in Section 6-134(d)(2), (3), (4) or (5) of the New York City Administrative Code, (ii) a Person that has annual consolidated gross revenues that are less than the Small Business Cap unless the revenues of the Person are included in the consolidated gross revenues of a Person having annual consolidated gross revenues that are more than the Small Business Cap, in each case calculated based on the fiscal year preceding the fiscal year in which the determination is being made, and in each case calculated in accordance with generally accepted accounting principles, (iii) any otherwise covered Person operating on any portion of the Facility Realty if residential units comprise more than 75% of the total Facility Realty area and all of the residential units are subject to rent regulation, (iv) any otherwise covered Person that the Issuer has determined (in its sole and absolute discretion) in writing to be exempt on the basis that it works significantly with a Qualified Workforce Program, (v) a Person whose Site Employees all are paid wages determined pursuant to a collective bargaining or labor agreement, (vi) if Institution is a "covered developer" under and as defined in the Prevailing Wage Law, a Person that is a "building services contractor" (as defined in the LW Law) so long as such Person is paying its "building service employees" (as defined in the Prevailing Wage Law) no less than the applicable "prevailing wage" (as defined in the Prevailing Wage Law), or (vii) a Person exempted by a Deputy Mayor of The City of New York in accordance with the Mayor's Executive Order No. 7 dated September 30, 2014.

**Debt Service Reserve Fund** shall mean the special trust fund so designated, established pursuant to the Indenture.

**Debt Service Reserve Fund Requirement** shall mean, with respect to the Initial Bonds, as of any particular date of computation, an amount (which amount may take the form of cash, Qualified Investments or any combination thereof) equal to:

(i) \$ \_\_\_\_\_

The Debt Service Reserve Fund Requirement for any Additional Bonds, if any, shall be set forth in the Supplemental Indenture executed and delivered in connection with the issuance of such Additional Bonds.

**Debt Service Reserve Fund Valuation Date** shall mean May 15 and November 15 of each year commencing May 15, 2018.

**Default Rate** shall mean eight percent (8%) per annum.

**Defaulted Interest** shall have the meaning specified in the Indenture.

**Defeasance Obligations** shall mean Government Obligations that are not subject to redemption prior to maturity.

**DCA** means the Department of Consumer Affairs of The City of New York, acting as the designee of the Mayor of The City of New York, or such other agency or designee that the Mayor of The City of New York may designate from time to time.

**Depository Agreement** means the Depository Agreement, dated as of October \_\_, 2018, between the Institution and the Depository Bank, as the same may be amended or supplemented from time to time.

**Depository Bank** means The Bank of New York Mellon, as depository bank for the Institution, or any successor depository bank for the Institution.

**Determination of Taxability** shall mean:

(i) the issuance of a public or private ruling or a technical advice memorandum by the Internal Revenue Service in which the Institution and or the School have participated or have been given the opportunity to participate, and which ruling or memorandum the Institution and or the School, in their discretion, does not contest or from which no further right of judicial review or appeal exists;

(ii) a determination from which no further right of appeal exists of any court of competent jurisdiction in the United States in a proceeding in which the Institution and or the School have participated or have been a party, or have been given the opportunity to participate or be a party; or

(iii) the admission in writing by the Institution or the School;

in any case, to the effect that the interest payable on the Initial Bonds (or any Additional Bonds that are issued as tax-exempt bonds) of a Holder or a former Holder thereof is includable in gross income for federal income tax purposes provided, however, that no such Determination of Taxability described in clauses (i) or (ii) hereof shall be considered to exist unless (1) the Holder or former Holder of the Initial Bond or any Additional Bonds that are issued as tax-exempt bonds involved in such proceeding (A) gives the Institution and the Trustee prompt notice of the commencement thereof and (B) (if the Institution agrees to pay all expenses in connection therewith) offers the Institution the opportunity to control the defense thereof and (2) either (A) the Institution does not agree within thirty (30) days of receipt of such offer to pay such expenses and to control such defense or (B) the Institution shall exhaust or choose not to exhaust all available proceedings for the contest, review, appeal or rehearing of such decree, judgment or action which the Institution determines to be appropriate. No Determination of Taxability described above will result from the inclusion of interest on any Series Initial Bond or any Additional Bonds that are issued as tax-exempt bonds in the computation of minimum or indirect taxes. Notwithstanding anything herein, a Determination of Taxability for the Initial Bonds shall only be declared if the Institution or School caused such Determination of Taxability to occur due to the Institution's or School's action or failure to act.

**Disclosure Agreement** means the Continuing Disclosure Agreement, dated as of October 1, 2018, between the School, the Institution, and Urban Futures, Inc., as dissemination agent, as the same may be amended or supplemented from time to time.

**DOL** shall mean the New York State Department of Labor.

**DTC** shall mean The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York, and its successors and assigns.

**Due Date** shall mean the date on which the payment, filing or delivery was due.

**Earnings Fund** shall mean the special trust fund so designated, established pursuant to the Indenture.

**Employment Information** shall mean Information released or provided to Information Recipients by DOL, or by any other governmental entity, or by any private entity, or by the Institution, or any information previously released as provided by all or any of the foregoing parties.

**Entity** shall mean any of a corporation, general partnership, limited liability company, limited liability partnership, joint stock company, trust, estate, unincorporated organization, business association, tribe, firm, joint venture, governmental authority or governmental instrumentality, but shall not include an individual.

**Environmental Audit** shall mean that certain Phase I Environmental Site Assessment dated July 26, 2018 (revised September 12, 2018), prepared by the Environmental Auditor.

**Environmental Auditor** shall mean American Environmental Assessment & Solutions, Inc.

**Estimated Project Cost** shall mean \$10,442,072.79.

**Event of Default** shall have the meaning specified in the Indenture or the Loan Agreement, respectively.

**Event of Taxability** shall mean the date specified in a Determination of Taxability as the date interest paid or payable on any Initial Bond or any Additional Bonds that are issued as tax-exempt bonds becomes includable for federal income tax purposes in the gross income of any Holder thereof as a consequence of any act, omission or event whatsoever, including any change of law, and regardless of whether the same was within or beyond the control of the Institution.

**Existing Facility Property** shall mean any fixture constituting part of the Facility Realty or any machinery, equipment or other item of personal property constituting part of the Facility Personalty.

**Expense Fund** shall mean the special trust fund so designated, established pursuant to the Indenture.

**Facility** shall mean, collectively, the Facility Personalty and the Facility Realty.

**Facility Personalty** shall mean those items of machinery, equipment and other items of personalty the acquisition and/or the installation of which is to be financed in whole or in part with the proceeds of the Bonds for installation or use at the Facility Realty as part of the Project pursuant to the Loan Agreement and described in Exhibit B to the Loan Agreement — “Description of the Facility Personalty”, together with all repairs, replacements, improvements, substitutions and renewals thereof or therefor, and all parts, additions and accessories incorporated therein or affixed thereto. Facility Personalty shall, in accordance with the provisions of the Loan Agreement, include all property substituted for or replacing items of Facility Personalty and exclude all items of Facility Personalty so substituted for or replaced, and further exclude all items of Facility Personalty removed as provided in the Loan Agreement.

**Facility Realty** shall mean, collectively, the Land and the Improvements.

**Fiscal Year** shall mean a year of 365 or 366 days, as the case may be, commencing on July 1 of each calendar year and ending on June 30 of the next calendar year, or such other fiscal year of similar length used by the Institution for accounting purposes as to which the Institution shall have given prior written notice thereof to the Issuer and the Trustee at least ninety (90) days prior to the commencement thereof.

**Fitch** shall mean Fitch, 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. “Fitch” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Trustee, by notice to the other Notice Parties.

**Fixed Date Deliverables** shall mean documents required of the Institution under the Loan Agreement by the date therein stated.

**GAAP** shall mean those generally accepted accounting principles and practices that are recognized as such by the American Institute of Certified Public Accountants or by the Financial Accounting Standards Board or through other appropriate boards or committees thereof, and that are consistently applied for all periods, after the Closing Date, so as to properly reflect the financial position of the Institution, except that any accounting principle or practice required to be changed by the Financial Accounting Standards Board (or other appropriate board or committee of the said Board) in order to continue as a generally accepted accounting principle or practice may be so changed.

**GC** shall mean any general contractor providing general contracting services in connection with any Construction.

**Governing Body** shall mean, when used with respect to any Entity, its board of directors, board of trustees or individual or group of individuals by, or under the authority of which, the powers of such Entity are exercised.

**Government Obligations** shall mean the following:

(i) direct and general obligations of, or obligations unconditionally guaranteed by, the United States of America;

(ii) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America, the payment of which is unconditionally guaranteed as a full faith and credit obligation of the United States of America for the timely payment thereof; or

(iii) securities or receipts evidencing ownership interests in obligations or specified portions (such as principal or interest) of obligations described in clauses (i) or (ii) above.

**Hazardous Materials** shall include any petroleum, flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 5101, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), and in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local environmental law, ordinance, rule, or regulation.

**Impositions** shall mean all taxes and assessments, general and specific, if any, levied and assessed upon or against the Trust Estate, the Facility Realty or any part thereof, or interest of the Institution in the Facility, or against any of the loan payments or other payments or other amounts payable under the Loan Agreement, the Promissory Note or any of the other Security Documents, or the interest of the Issuer or the Institution in any Security Document, and all water and sewer charges, special district charges, assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen, ordinary or extraordinary, under any present or future law, and charges for public or private utilities or other charges incurred in the occupancy, use, operation, maintenance or upkeep of the Facility Realty.

**Improvements** shall mean:

(i) all buildings, structures, foundations, related facilities, fixtures and other improvements of any nature whatsoever existing on the Closing Date and hereafter erected or situated on the Land;

(ii) any other buildings, structures, foundations, related facilities, fixtures and other improvements constructed or erected on the Land (including any improvements or demolitions made as part of the Project Work pursuant to the Loan Agreement); and

(iii) all replacements, improvements, additions, extensions, substitutions, restorations and repairs to any of the foregoing.

**Indemnification Commencement Date** shall mean June 12, 2018, the date on which the Issuer first adopted a resolution with respect to the Project.

**Indemnified Parties** shall mean Issuer, the Trustee, the Bond Registrar and the Paying Agents, and any director, member, officer, employee, servant, agent (excluding for this purpose the Institution, which is not obligated to indemnify its own employees, Affiliates or affiliated individuals) thereof and persons under the Issuer's control or supervision.

**Indenture** shall mean the Indenture of Trust, dated as of October 1, 2018, between the Issuer and the Trustee, as from time to time amended or supplemented by Supplemental Indentures in accordance with the Indenture.

**Independent Accountant** shall mean an independent certified public accountant or firm of independent certified public accountants selected by the Institution and approved by the Issuer and the Trustee (such approvals not to be unreasonably withheld or delayed).

**Independent Engineer** shall mean a Person (not an employee of either the Issuer or the Institution or any Affiliate of either thereof) registered and qualified to practice engineering or architecture under the laws of the State, selected by the Institution, and approved in writing by the Trustee (which approval shall not be unreasonably withheld).

**Information Recipients** shall mean to the Issuer and/or NYCEDC, and/or to the successors and assigns of either.

**Initial Annual Administrative Fee** shall mean \$1,250.

**Initial Bonds** shall mean the Issuer's \$\_\_\_\_\_ Revenue Bonds, Series 2018 (Bronx Lighthouse Charter School Project, authorized, issued, executed, authenticated and delivered on the Closing Date under the Indenture.

**Institution** shall mean 1005 Intervale Avenue LLC, a limited liability company organized and existing under the laws of the State of New York that is a disregarded entity for federal income tax purposes, having as its sole member, the Organization, and its successors and assigns; provided, however, that nothing contained in this definition shall be deemed to limit or modify the obligations of the Institution under the Loan Agreement.

**Institution Documents** shall mean the Bond Purchase Agreement, the Loan Agreement, the Mortgage, the Tax Regulatory Agreement, the Account Control Agreement, the Disclosure Agreement, the Depository Agreement, the School Lease and any other Bond Documents to which the Institution is a party, each as may be amended from time to time.

**Insured** means the Institution.

**Insurer** means any entity writing or issuing a Policy.

**Interest Account** shall mean the special trust account of the Bond Fund so designated, established pursuant to the Indenture.

**Interest Payment Date** shall mean, with respect to the Initial Bonds, June 1 and December 1 of each year, commencing June 1, 2019, and with respect to any Series of Additional Bonds, the dates set forth therefor in the Supplemental Indenture pursuant to which such Series of Additional Bonds are issued.

**IRS Determination Letter** shall mean that certain ruling letter issued by the Internal Revenue Service to the Organization confirming that the Organization is a Tax-Exempt Organization.

**ISO** shall mean the Insurance Services Office or its successor.

**ISO Form CG-0001** means the CGL form published by ISO at the Closing Date.

**Issuer** shall mean Build NYC Resource Corporation, a local development corporation created pursuant to the Not-for-Profit Corporation Law of the State at the direction of the Mayor of the City, and its successors and assigns.

**Issuer's Reserved Rights** shall mean, collectively,

- (i) the right of the Issuer in its own behalf to receive all Opinions of Counsel, reports, financial statements, certificates, insurance policies, binders or certificates, or other notices or communications required to be delivered to the Issuer under the Loan Agreement;

(ii) the right of the Issuer to grant or withhold any consents or approvals required of the Issuer under the Loan Agreement;

(iii) the right of the Issuer to enforce in its own behalf the obligation of the Institution under the Loan Agreement to complete the Project;

(iv) the right of the Issuer to enforce or otherwise exercise in its own behalf all agreements of the Institution under the Loan Agreement with respect to ensuring that the Facility shall always constitute the Approved Facility;

(v) the right of the Issuer to amend with the Institution the provisions of the Loan Agreement without the consent of the Trustee or any Bondholder;

(vi) the right of the Issuer in its own behalf (or on behalf of the appropriate taxing authorities) to enforce, receive amounts payable under or otherwise exercise its rights under the following Articles and Sections of the Loan Agreement: Article III (except for Section 3.1), Sections 4.4, 4.5 and 4.6, Article V, Article VI, Article VIII (except for Section 8.26), Article IX, Article X and Sections 11.1, 11.3 and 11.5, and Article XII (except Section 12.2); and

(vii) the right of the Issuer in its own behalf to declare a default with respect to any of the Issuer's Reserved Rights and exercise the remedies set forth under the Loan Agreement.

**Land** shall mean that certain lot, piece or parcel of land in Block 2699 and Lot 25, generally known by the street address of 1005 Intervale Avenue, Bronx, New York 10459, all as more particularly described in Exhibit A — “Description of the Land”, to the Loan Agreement together with all easements, rights and interests now or hereafter appurtenant or beneficial thereto; but excluding, however, any real property or interest therein released pursuant to the Loan Agreement.

**Land Square Footage** shall mean approximately 9,059 square feet.

**Legal Requirements** shall mean the Constitutions of the United States and the State of New York and all laws, statutes, codes, acts, ordinances, resolutions, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, certificates of occupancy, directions and requirements (including zoning, land use, planning, environmental protection, air, water and land pollution, toxic wastes, hazardous wastes, solid wastes, wetlands, health, safety, equal opportunity, minimum wage, living wage, prevailing wage, sick leave, healthcare, benefits and employment practices) of all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, including those of the City, foreseen or unforeseen, ordinary or extraordinary, that are applicable now or may be applicable at any time hereafter to (i) the Institution, (ii) the Facility or any part thereof, or (iii) any use or condition of the Facility or any part thereof.

**Letter of Representation and Indemnity Agreement** shall mean the Letter of Representation and Indemnity Agreement, dated the Closing Date, from the Institution to the Issuer, the Trustee and the Underwriter of the Initial Bonds.

**Liability** shall mean any kind for losses, damage, injury and liability.

**Liens** shall mean any lien, encumbrance or charge is filed or asserted (including any lien for the performance of any labor or services or the furnishing of materials), or any judgment, decree, order, levy or process of any court or governmental body is entered, made or issued or any claim.

**Loan** shall mean the loan made by the Issuer to the Institution pursuant to the Loan Agreement as described therein.

**Loan Agreement** shall mean the Loan Agreement, dated as of even date herewith, between the Issuer and the Institution, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and with the Indenture.

**Loan Payment Date** shall mean each January 10, March 10, May 10, July 10, September 10 and November 10.

**Loss Event** shall have the meaning specified in the Loan Agreement.

**LW** has the same meaning as the term “living wage” as defined in Section 6-134(b)(9) of the New York City Administrative Code and shall be adjusted annually in accordance therewith, except that as of April 1, 2015, the “living wage rate” component of the LW shall be eleven dollars and sixty-five cents per hour (\$11.65/hour) and the “health benefits supplement rate” component of the LW shall be one dollar and sixty-five cents per hour (\$1.65/hour). The annual adjustments to the “living wage rate” and “health benefits supplement rate” will be announced on or around January 1 of each year by the DCA and will go into effect on April 1 of such year.

**LW Agreement** means, with respect to any Covered Counterparty, an enforceable agreement in the form attached as Exhibit J in the Loan Agreement (except only with such changes as are necessary to make such Covered Counterparty the obligor thereunder).

**LW Agreement Delivery Date** means, with respect to any Covered Counterparty, the latest of (a) the effective date of such Covered Counterparty’s Specified Contract, (b) the date that such Covered Counterparty becomes a Covered Employer at the Facility Realty and (c) the Closing Date.

**LW Event of Default** means the satisfaction of the following two conditions: (a) two or more LW Violation Final Determinations shall have been imposed against Institution or its Site Affiliates in respect of the direct Site Employees of Institution or its Site Affiliates in any consecutive six year period during the LW Term and (b) the aggregate amount of Owed Monies and Owed Interest paid or payable by Institution in respect of such LW Violation Final Determinations is in excess of the LW Violation Threshold in effect as of the date of the second LW Violation Final Determination. For the avoidance of doubt, the Owed Monies and Owed Interest paid or payable by Institution in respect of the Site Employees of a Covered Counterparty that is not an Affiliate of Institution (pursuant to Section 8.30(k)(v)) shall not count for purposes of determining whether the conditions in clauses (a) and (b) of the preceding sentence have been satisfied.

**LW Law** means the Fair Wages for New Yorkers Act, constituting Section 6-134 of the New York City Administrative Code, as amended, supplemented or otherwise modified from time to time, and all rules and regulations promulgated thereunder.

**LW Term** means the period commencing on the Closing Date and ending on the later to occur of (a) the date on which Institution is no longer receiving financial assistance under this Agreement or (b) the date that is ten years after the Closing Date.

**LW Violation Final Determination** has the meaning specified in the Loan Agreement, as applicable.

**LW Violation Initial Determination** has the meaning specified in the Loan Agreement.

**LW Violation Notice** shall mean written notice will be provided to Institution for such alleged violation of any Asserted LW Violation.

**LW Violation Threshold** means \$100,000 multiplied by 1.03<sup>n</sup>, where “n” is the number of full years that have elapsed since January 1, 2015.

**Majority Holders** shall mean the Beneficial Owners of at least a majority in aggregate principal amount of the Bonds Outstanding, or, if the Bonds shall cease to be in book-entry form, the Holders of at least a majority in aggregate principal amount of the Bonds Outstanding.

**Maturity Date** shall mean June 1, 20\_\_.

**Merge** shall mean consolidation with or merger into another Entity or the permitting of one or more Entities to consolidate with or merge into the Institution.

**Moody's** shall mean 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, by notice to the other Notice Parties.

**Mortgage** shall mean that certain Mortgage and Security Agreement granted by the Institution to the Issuer and the Trustee contemporaneously herewith encumbering the Mortgaged Property and certain other property recited therein to secure the Institution's payment and performance of its obligations under the Indenture, the Issuer's interest in which is being assigned to the Trustee contemporaneously herewith.

**Mortgage Restructuring** shall mean any restructuring of the underlying indebtedness secured by the Mortgage.

**Mortgaged Property** shall have the meaning specified in the Mortgage.

**Nationally Recognized Bond Counsel** shall mean Nixon Peabody LLP or other counsel acceptable to the Issuer and the Trustee and experienced in matters relating to tax exemption of interest on bonds issued by states and their political subdivisions.

**Net Proceeds** shall mean, when used with respect to any insurance proceeds or condemnation award, compensation or damages, the gross amount of any such proceeds, award, compensation or damages less all expenses (including reasonable attorneys' fees and any extraordinary expenses of the Issuer or the Trustee) incurred in the collection thereof.

**Notice Parties** shall mean the Issuer, the Institution, the School, the Bond Registrar, the Paying Agents and the Trustee.

**Notification of Failure to Deliver** shall mean written notice by the Issuer to the Institution of failure to deliver on the Due Date the Annual Administrative Fee, a Fixed Date Deliverable and/or a Requested Document Deliverable.

**NYCDOF** shall mean the New York City Department of Finance.

**NYCEDC** shall mean New York City Economic Development Corporation, a New York not-for-profit corporation, and any successor thereof.

**NYCIDA** shall mean the New York City Industrial Development Agency, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State, duly organized and existing under the laws of the State, and any body, board, authority, agency or other governmental agency or instrumentality which shall hereafter succeed to the powers, duties, obligations and functions thereof.

**Opinion of Counsel** shall mean a written opinion of counsel for the Institution or any other Person (which counsel shall be reasonably acceptable to the Issuer and the Trustee) with respect to such matters as required under any Project Document or as the Issuer or the Trustee may otherwise reasonably require, and which shall be in form and substance reasonably acceptable to the Issuer and the Trustee.

**Organization** shall mean, initially, Bronx Lighthouse Charter School, a not-for-profit education corporation organized and existing under the laws of the State of New York and exempt from federal taxation pursuant to Section 501(c)(3) of the Code, and its successors and assigns, which is the sole member of the



Institution, and upon the satisfaction of the conditions set forth in the Loan Agreement, shall mean Bronx Support Corporation, a New York not-for-profit corporation.

**Organizational Documents** shall mean, (i) in the case of an Entity constituting a limited liability company, the articles of organization or certificate of formation, and the operating agreement of such Entity, (ii) in the case of an Entity constituting a corporation, the charter, articles of incorporation or certificate of incorporation, and the bylaws of such Entity, and (iii) in the case of an Entity constituting a general or limited partnership, the partnership agreement of such Entity.

**Outstanding**, when used with reference to a Bond or Bonds, as of any particular date, shall mean all Bonds which have been issued, executed, authenticated and delivered under the Indenture, except:

(i) Bonds cancelled by the Trustee because of payment or redemption prior to maturity or surrendered to the Trustee under the Indenture for cancellation;

(ii) any Bond (or portion of a Bond) for the payment or redemption of which, in accordance with the Indenture, there has been separately set aside and held in the Redemption Account of the Bond Fund either:

(A) moneys, and/or

(B) Defeasance Obligations in such principal amounts, of such maturities, bearing such interest and otherwise having such terms and qualifications as shall be necessary to provide moneys,

in an amount sufficient to effect payment of the principal or applicable Redemption Price of such Bond, together with accrued interest on such Bond to the payment or redemption date, which payment or redemption date shall be specified in irrevocable instructions given to the Trustee to apply such moneys and/or Defeasance Obligations to such payment on the date so specified, provided, that, if such Bond or portion thereof is to be redeemed, notice of such redemption shall have been given as provided in the Indenture or provision satisfactory to the Trustee shall have been made for the giving of such notice; and

(iii) Bonds in exchange for or in lieu of which other Bonds shall have been authenticated and delivered under the Indenture,

provided, however, that in determining whether the Holders of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under the Indenture or under any other Security Document, Bonds owned by the Institution or any Affiliate of the Institution shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded. Bonds which have been pledged in good faith may be regarded as Outstanding for such purposes if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Institution or any Affiliate of the Institution.

**Owed Interest** means the interest accruing on Owed Monies, which interest shall accrue from the relevant date(s) of underpayment to the date that the Owed Monies are paid, at a rate equal to the interest rate then in effect as prescribed by the superintendent of banks pursuant to Section 14-a of the New York State Banking Law, but in any event at a rate no less than six percent per year.

**Owed Monies** means, as the context shall require, either (a) the total deficiency of LW required to be paid by Institution or a Site Affiliate in accordance with the Loan Agreement to Institution's or its Site Affiliate's (as applicable) direct Site Employee(s) after taking into account the wages actually paid (which shall be credited towards the "living wage rate" component of the LW), and the monetary value of health benefits actually provided (which shall be credited towards the "health benefits supplement rate" component of the LW), to such direct Site

Employee(s), all as calculated on a per pay period basis; or (b) if Institution or its Site Affiliate failed to obtain a LW Agreement from a Covered Counterparty as required under the Loan Agreement, the total deficiency of LW that would have been required to be paid under such Covered Counterparty's LW Agreement to its direct Site Employee(s) after taking into account the wages actually paid (which shall be credited towards the "living wage rate" component of the LW), and the monetary value of health benefits actually provided (which shall be credited towards the "health benefits supplement rate" component of the LW), to such direct Site Employee(s), all as calculated on a per pay period basis, during the period commencing on the LW Agreement Delivery Date applicable to such Covered Counterparty and ending immediately prior to the execution and delivery by such Covered Counterparty of its LW Agreement (if applicable).

**Participants** shall mean those financial institutions for whom the Securities Depository effects book entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

**Paying Agent** shall mean any paying agent for the Bonds appointed pursuant to the Indenture (and may include the Trustee) and its successor or successors and any other corporation which may at any time be substituted in its place pursuant to the Indenture.

**Per Diem Fees** shall mean, collectively, the Per Diem Late Fee and the Per Diem Supplemental Late Fee.

**Per Diem Late Fee** shall mean that per diem late fee established from time to time by the Issuer's Board of Directors generally imposed upon Entities receiving or that have received financial assistance from the Issuer (subject to such exceptions from such general applicability as may be established by the Issuer's Board of Directors) and that have not (x) paid to the Issuer the Annual Administrative Fee on the date required under the Loan Agreement, (y) delivered to the Issuer all or any of the Fixed Date Deliverables on the respective dates required under the Loan Agreement, and/or (z) delivered to the Issuer all or any of the Requested Document Deliverables under the Loan Agreement within five (5) Business Days of the Issuer having made the request therefor.

**Per Diem Supplemental Late Fee** shall mean that supplemental per diem late fee established from time to time by the Issuer's Board of Directors generally imposed upon Entities receiving or that have received financial assistance from the Issuer (subject to such exceptions from general applicability as may be established by the Issuer's Board of Directors).

**Permitted Encumbrances** shall mean:

(i) the Mortgage, the Assignment of Mortgage, the School Lease and any other Project Document;

(ii) liens for real estate taxes, assessments, levies and other governmental charges, the payment of which is not yet due and payable;

(iii) any mechanic's, workmen's, repairmen's, materialmen's, contractors', warehousemen's, carriers', suppliers' or vendors' lien, security interest, encumbrance or charge or right in respect thereof, placed on or with respect to the Facility or any part thereof, if payment is not yet due and payable, or if such payment is being disputed pursuant to the Loan Agreement;

(iv) utility, access and other easements and rights of way, restrictions and exceptions that an Authorized Representative of the Institution certifies to the Issuer and the Trustee will not materially interfere with or impair the Institution's use and enjoyment of the Facility as provided in the Loan Agreement;

(v) such minor defects, irregularities, encumbrances, easements, rights of way and clouds on title as normally exist with respect to property similar in character to the Facility as do not, as set forth in a certificate of an Authorized Representative of the Institution delivered to the Issuer and the Trustee, either singly or in the aggregate, render title to the Facility unmarketable or

materially impair the property affected thereby for the purpose for which it was acquired or purport to impose liabilities or obligations on the Issuer;

(vi) those exceptions to title to the Mortgaged Property enumerated in the title insurance policy delivered pursuant to the Loan Agreement insuring the Trustee's mortgagee interest in the Mortgaged Property, a copy of which is on file at the offices of the Issuer and at the designated corporate trust office of the Trustee;

(vii) liens arising by reason of good faith deposits with the Institution in connection with the tenders, leases of real estate, bids or contracts (other than contracts for the payment of money), deposits by the Institution 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;

(viii) 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 the Institution to maintain self-insurance or to participate in any funds established to cover any insurance risks or in connection with workmen's compensation, unemployment insurance, old age pensions or other social security, or to share in the privileges or benefits required for companies participating in such arrangements;

(ix) any judgment lien against the Institution, so long as the finality of such judgment is being contested in good faith and execution thereon is stayed;

(x) any purchase money security interest in movable personal property, including equipment leases and financing;

(xi) liens on property due to rights of governmental entities or third party payors for recoupment of excess reimbursement paid;

(xii) a lien, restrictive declaration or performance mortgage with respect to the operation of the Facility arising by reason of a grant or other funding received by the Institution from the City, the State or any governmental agency or instrumentality;

(xiii) any lien, security interest, encumbrances or charge which exists in favor of the Trustee or to which the Trustee shall consent in writing.

**Person** shall mean an individual or any Entity.

**Policy(ies)** means, collectively or individually, the policies required to be obtained and maintained pursuant to the Loan Agreement.

**Predecessor Institution** shall have the meaning specified in the Loan Agreement.

**Prevailing Wage Law** means Section 6-130 of the New York City Administrative Code, as amended, supplemented or otherwise modified from time to time, and all rules and regulations promulgated thereunder.

**Principal Account** shall mean the special trust account of the Bond Fund so designated, established pursuant to the Indenture.

**Principals** shall mean, with respect to any Entity, the most senior three officers of such Entity, any Person with a ten percent (10%) or greater ownership interest in such Entity and any Person as shall have the power to Control such Entity, and "principal" shall mean any of such Persons.

**Project** shall mean the (1) the acquisition, renovation and equipping of an existing approximately 30,000 square foot building on an approximately 9,300 square foot parcel of land located at 1005 Intervale Avenue, Bronx, New York 10459; and (2) the payment of certain costs related to the issuance of the Initial Bonds.

**Project Application Information** shall mean the eligibility application and questionnaire submitted to the Issuer by or on behalf of the Institution, for approval by the Issuer of the Project and the providing of financial assistance by the Issuer therefor, together with all other letters, documentation, reports and financial information submitted in connection therewith.

**Project Completion Date** shall mean the Closing Date.

**Project Cost Budget** shall mean that certain budget for costs of the Project Work as set forth by the Institution in Exhibit E — “Project Cost Budget” in the Loan Agreement.

**Project Costs** shall mean:

(i) all costs of engineering and architectural services with respect to the Project, including the cost of test borings, surveys, estimates, permits, plans and specifications and for supervising demolition, construction and renovation, as well as for the performance of all other duties required by or consequent upon the proper construction of, and the making of alterations, renovations, additions and improvements in connection with, the completion of the Project;

(ii) all costs paid or incurred for labor, materials, services, supplies, machinery, equipment and other expenses and to contractors, suppliers, builders and materialmen in connection with the completion of the Project;

(iii) the interest on the Bonds during the construction and renovation of the Project;

(iv) all costs of contract bonds and of insurance that may be required or necessary during the period of Project construction and renovation;

(v) the cost of acquisition of the Facility Realty;

(vi) all costs of title insurance as provided in the Loan Agreement;

(vii) the payment of the Costs of Issuance with respect to the Initial Bonds;

(viii) the payment of the fees and expenses of the Trustee during the period of construction and renovation of the Project;

(ix) all costs which the Institution shall be required to pay, under the terms of any contract or contracts, for the completion of the Project, including any amounts required to reimburse the Institution for advances made for any item otherwise constituting a Project Cost or for any other costs incurred and for work done which are properly chargeable to the Project; and

(x) all other costs and expenses relating to the completion of the Project or the issuance of a Series of Additional Bonds.

“Project Costs” shall not include (i) fees or commissions of real estate brokers, (ii) moving expenses, or (iii) operational costs.

**Project Documents** shall mean, collectively, the Institution Documents and the Security Documents.

**Project Fee** shall mean \$ \_\_\_\_\_, representing the \$ \_\_\_\_\_ Issuer’s financing fee, less the application fee of \$5,000.

**Project Fund** shall mean the special trust fund so designated, established pursuant to the Indenture.

**Project Work** shall mean (i) the design, construction and/or renovation of the Improvements, including the acquisition of building materials and fixtures, and (ii) the acquisition, whether by title or lease, of the Facility Personalty and any work required to install same.

**Promissory Note** shall mean (i) with respect to the Initial Bonds, the Promissory Note in substantially the form of Exhibit H to the Loan Agreement, (ii) with respect to any Series of Additional Bonds, that certain Promissory Note in substantially the form of any related Exhibit to an amendment to the Loan Agreement, and (iii) with respect to the Bonds, collectively, those certain Promissory Notes described in clauses (i) and (ii) above, and shall include in each case any and all amendments thereof and supplements thereto made in conformity with the Loan Agreement and the Indenture.

**Purchase Price** shall mean an amount equal to the Redemption Price that would be applicable to the Initial Bonds being purchased pursuant to the Indenture if such Initial Bonds were being optionally redeemed pursuant to the Indenture on the date such Initial Bonds are being so purchased, plus accrued interest thereon to the date of purchase.

**Qualified Investments** shall mean, to the extent permitted by applicable law, the following:

- (i) Government Obligations;
- (ii) Commercial paper having, at the time of investment or contractual commitment to invest therein, a rating from S&P and Moody's, of A1 and P1, respectively.
- (iii) Repurchase and reverse repurchase agreements collateralized with Government Obligations, including those of the Trustee or any of its affiliates.
- (iv) Investment in money market mutual funds having a rating at time of investment in the highest investment category granted thereby from S&P or Moody's, including, without limitation any mutual fund for which the Trustee or an affiliate of the Trustee serves as investment manager, administrator, shareholder servicing agent, and/or custodian or subcustodian, notwithstanding that (i) the Trustee or an affiliate of the Trustee receives fees from funds for services rendered, (ii) the Trustee collects fees for services rendered pursuant to the Indenture which fees are separate from the fees received from such funds, and (iii) services performed for such funds and pursuant to the Indenture may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee;
- (v) Demand deposits, including interest bearing money market accounts, time deposits, trust funds, trust accounts, overnight bank deposits, interest-bearing deposits, and certificates of deposit or bankers acceptances of depository institutions, including the Trustee or any of its affiliates, rated in the AA long-term ratings category or higher by S&P or Moody's or which are fully FDIC-insured.

**Qualified Workforce Program** means a training or workforce development program that serves youth, disadvantaged populations or traditionally hard-to-employ populations and that has been determined to be a Qualified Workforce Program by the Director of the Mayor's Office of Workforce Development.

**Rating Agency** shall mean any of S&P, Moody's or Fitch and such other nationally recognized securities rating agency as shall have awarded a rating to the Initial Bonds.

**Rating Category** shall mean one of the generic rating categories of a Rating Agency without regard to any refinement or gradation of such rating by a numerical modifier or otherwise.

**Rebate Amount** shall have the meaning assigned to that term in the Tax Regulatory Agreement.

**Rebate Fund** shall mean the special trust fund so designated, established pursuant to the Indenture.

**Record Date** shall mean, with respect to any Interest Payment Date for the Initial Bonds, the close of business on the fifteenth (15<sup>th</sup>) day of the month next preceding such Interest Payment Date, or, if such day is not a Business Day, the next preceding Business Day.

**Redemption Account** shall mean the special trust account of the Bond Fund so designated, established pursuant to the Indenture.

**Redemption Date** shall mean the date fixed for redemption of Bonds subject to redemption in any notice of redemption given in accordance with the terms of the Indenture.

**Redemption Price** shall mean, with respect to any Bond or a portion thereof, the principal amount thereof to be redeemed in whole or in part, plus the applicable premium, if any, payable upon redemption thereof pursuant to such Bond or the Indenture.

**Refunding Bonds** shall have the meaning assigned to that term in the Indenture.

**Reimbursement Resolution** shall mean, as the case may be and as more particularly described in the Tax Regulatory Agreement, the resolution adopted by the Issuer on June 12, 2018 with respect to the Project and the debt financing thereof or the resolutions adopted by the Institution on May 17, 2018 and July 19, 2018 and by the School on March 15, 2018 and July 19, 2018 with respect to the Project and the debt financing thereof.

**Related Security Documents** shall mean all Security Documents other than the Indenture.

**Renewal Fund** shall mean the special trust fund so designated, established pursuant to the Indenture.

**Repair and Replacement Fund** shall mean the special trust fund so designated, established pursuant to the Indenture.

**Repair and Replacement Fund Deposit** shall mean \$50,000 each Fiscal Year commencing with the Fiscal Year Ending June 30, 2020, with a maximum deposit of \$500,000.

**Representations Letter** shall mean the Blanket Issuer Letter of Representations from the Issuer to DTC with respect to the Initial Bonds.

**Requested Document Deliverables** shall mean any of the documents as shall have been requested by the Issuer of the Institution under the Loan Agreement within five (5) Business Days of the date so requested.

**Required Disclosure Statement** shall mean that certain Required Disclosure Statement in the form of Exhibit F — “Form of Required Disclosure Statement” in the Loan Agreement.

**Responsible Officer** shall mean, with respect to the Trustee, any officer within the corporate trust office of the Trustee, including any vice-president, any assistant vice-president, any secretary, any assistant secretary, the treasurer, any assistant treasurer or other officer of the corporate trust office of the Trustee customarily performing functions similar to those performed by any of the above designated officers, who has direct responsibility for the administration of the trust granted in the Indenture, and shall also mean, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of that officer’s knowledge of and familiarity with the particular subject.

**Revenue Fund** means the special trust fund so designated, established pursuant to the Indenture.

**S&P** shall mean S&P Global Ratings, a subsidiary of McGraw Hill Financial, Inc., a corporation organized and existing under the laws of the State, its successors and assigns, and if such limited liability company shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “S&P” shall be deemed

to refer to any other nationally recognized securities rating agency designated by the Trustee, by notice to the other Notice Parties.

**School** shall mean Bronx Lighthouse Charter School, a not-for-profit education corporation organized and existing under the laws of the State of New York and exempt from federal taxation pursuant to Section 501(c)(3) of the Code, and its successors and assigns.

**School Lease** shall mean the Lease dated as of October 1, 2018, by and between the Institution and the School, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

**Securities Act** shall mean the Securities Act of 1933, as amended, together with any rules and regulations promulgated thereunder.

**Securities Depository** shall mean any securities depository 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 the Bonds, and to effect transfers of book-entry interests in the Bonds in book-entry form, and includes and means initially DTC.

**Securities Exchange Act** shall mean the Securities Exchange Act of 1934, as amended, together with any rules and regulations promulgated thereunder.

**Security Documents** shall mean, collectively, the Loan Agreement, the Promissory Note, the Account Control Agreement, the Indenture, the School Lease, the Tax Regulatory Agreement, the Mortgage, and the Assignment of Mortgage.

**Security Document Action** shall mean the modification or termination of any Security Document to which the Issuer is a party.

**Series** shall mean all of the Bonds designated as being of the same series authenticated and delivered on original issuance in a simultaneous transaction, and any Bonds thereafter authenticated and delivered in lieu thereof or in substitution therefor pursuant to the Indenture.

**Sign** shall have the meaning specified in the Loan Agreement.

**Sinking Fund Installment** shall mean an amount so designated and which is established for mandatory redemption on a date certain of the Bonds of any Series of Bonds pursuant to the Indenture. The portion of any such Sinking Fund Installment of a Series of Bonds remaining after the deduction of any amounts credited pursuant to the Indenture toward the same (or the original amount of any such Sinking Fund Installment if no such amounts shall have been credited toward the same) shall constitute the unsatisfied balance of such Sinking Fund Installment for the purpose of calculation of Sinking Fund Installments of such Series of Bonds due on a future date.

**Sinking Fund Installment Account** shall mean the special trust account of the Bond Fund so designated, which is established pursuant to the Indenture.

**SIR** means self-insured retention.

**Site Affiliates** means, collectively, all Affiliates of Institution that lease, occupy, operate or perform work at the Facility Realty and that have one or more direct Site Employees.

**Site Employee** means, with respect to any Covered Employer, any natural person who works at the Facility Realty and who is employed by, or contracted or subcontracted to work for, such Covered Employer, including all employees, independent contractors, contingent workers or contracted workers (including persons made available to work through the services of a temporary services, staffing or employment agency or similar entity) that are performing work on a full-time, part-time, temporary or seasonal basis; provided that the term "Site Employee" shall not include any natural person who works less than seventeen and a half (17.5) hours in any consecutive seven day

period at the Facility Realty unless the primary work location or home base of such person is at the Facility Realty (for the avoidance of doubt, a natural person who works at least seventeen and a half (17.5) hours in any consecutive seven day period at the Facility Realty shall thereafter constitute a Site Employee).

**Small Business Cap** means three million dollars; provided that, beginning in 2015 and each year thereafter, the Small Business Cap shall be adjusted contemporaneously with the adjustment to the “living wage rate” component of the LW using the methodology set forth in Section 6-134(b)(9) of the New York City Administrative Code.

**Special Record Date** shall have the meaning specified in the Indenture.

**Specified Contract** means, with respect to any Person, the principal written contract that makes such Person a Covered Employer hereunder.

**State** shall mean the State of New York.

**Substitute Entity** shall mean a new Entity to either be a counterparty to the Issuer under the Loan Agreement or to use all or a portion Facility.

**Successor Institution** shall have the meaning specified in the Loan Agreement.

**Supplemental Indenture** shall mean any indenture supplemental to or amendatory of the Indenture, executed and delivered by the Issuer and the Trustee in accordance with the Indenture.

**Taxable Rate** shall mean seven percent (7%) per annum.

**Tax-Exempt Organization** shall mean an Entity 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 501(a) of Code, or corresponding provisions of Federal income tax laws from time to time in effect.

**Tax Regulatory Agreement** shall mean the Tax Regulatory Agreement, dated the Closing Date, from the Issuer and the Institution to the Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and with the Indenture.

**Termination Date** shall mean such date on which the Loan Agreement may terminate pursuant to its terms.

**Transfer** shall mean liquidation, winding up or dissolution or other disposal of all or substantially all of the Institution’s property, business or assets remaining after the Closing Date, except as provided in the Loan Agreement.

**Trustee** shall mean The Bank of New York Mellon, New York, New York in its capacity as trustee under the Indenture, and its successors in such capacity and their assigns hereafter appointed in the manner provided in the Indenture.

**Trust Estate** shall mean all property, interests, revenues, funds, contracts, rights and other security granted to the Trustee under the Security Documents.

**U/E** shall mean Umbrella or Excess Liability insurance.

**Underwriter** means Piper Jaffray & Co. with respect to the Initial Bonds and with respect to any Additional Bonds the underwriter named in the applicable Supplemental Indenture.

**Yield** shall have the meaning assigned to such term in the Tax Regulatory Agreement.



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**APPENDIX G**

**SUMMARY OF CERTAIN PROVISIONS  
OF THE LOAN AGREEMENT**

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## APPENDIX G

### SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT

*The following is a summary of certain provisions of the Loan Agreement. This summary does not purport to be complete and reference is made to the Loan Agreement for the detailed provisions thereof. This summary is qualified in its entirety by such reference. Headings are not part of the Loan Agreement and are included for ease of reference only.*

#### **Loan of Proceeds.**

The Issuer agrees, upon the terms and conditions contained in the Loan Agreement and the Indenture, to loan the proceeds from the sale of the Initial Bonds to the Institution (the "Loan"). The Loan shall be made by depositing on the Closing Date the proceeds from the sale of the Initial Bonds into the Project Fund in accordance with the Indenture. Such proceeds shall be disbursed to or on behalf of the Institution as provided in the Indenture. (Section 4.1)

#### **Promissory Note.**

The Institution's obligation to repay the Loan shall be evidenced by the Loan Agreement and the Promissory Note. On the Closing Date, the Institution shall execute and deliver the Promissory Note payable to the Issuer, and the Issuer will endorse the Promissory Note to the Trustee. The Institution acknowledges that the original principal amount payable under the Promissory Note may be more or less than the original principal amount of the Loan if the Initial Bonds are sold at a discount or at a premium, respectively, and agrees that repayment of the Loan and the Promissory Note will be made in accordance with the Loan Agreement. (Section 4.2)

#### **Loan Payments; Pledge of the Loan Agreement and of the Promissory Note.**

(a) The Institution covenants to pay the Promissory Note and repay the Loan made pursuant to the Loan Agreement by making loan payments which the Issuer agrees shall be paid in immediately available funds by the Institution directly to the Trustee on each Loan Payment Date (except as provided in Section 4.3(a)(ii), (iv), (v) and (vi) described below which shall be paid on the respective due dates thereof) for deposit in the Bond Fund (except to the extent that amounts are on deposit in the Bond Fund and available therefor) in an amount equal to the sum of:

(i) with respect to interest due and payable on the Initial Bonds, an amount equal to the quotient obtained by dividing the amount of interest on the Initial Bonds Outstanding payable on the first Interest Payment Date (after taking into account any amount on deposit in the Interest Account of the Bond Fund, and as shall be available to pay interest on the Initial Bonds on the first Interest Payment Date) by the number of Loan Payment Dates between the Closing Date and the first Interest Payment Date, and thereafter in an amount equal to one-third (1/3) of the amount of interest which will become due and payable on the Initial Bonds on the next succeeding Interest Payment Date (after taking into account any amounts on deposit in the Interest Account of the Bond Fund, and as shall be available to pay interest on the Initial Bonds on such next succeeding Interest Payment Date); provided that in any event the aggregate amount so paid with respect to interest on the Initial Bonds on or before the Loan Payment Date immediately preceding an Interest Payment Date shall be an amount sufficient to pay the interest next becoming due on the Initial Bonds on such immediately succeeding Interest Payment Date;

(ii) with respect to principal due on the Initial Bonds (other than such principal amount as shall become due as a mandatory Sinking Fund Installment payment), commencing on that Loan Payment Date as shall precede the first principal payment date by six (6) Loan Payment Dates, an amount equal to one-sixth (1/6) of the amount of the principal of the Bonds Outstanding becoming due (other than by reason of mandatory Sinking Fund Installments); provided that in any event the aggregate amount so paid with respect to principal on the Initial Bonds on or before the Loan Payment Date immediately preceding a principal payment date of the Initial Bonds shall be an amount sufficient to pay the principal of the Initial Bonds Outstanding becoming due on such next succeeding principal payment date of the Initial

Bonds; provided further that in the event of the acceleration of the principal of the Initial Bonds, a loan payment in the amount of the principal amount of the Initial Bonds Outstanding (together with all interest accrued thereon to the date of payment), shall be due and payable on such date of acceleration;

(iii) with respect to Sinking Fund Installment payments due on the Initial Bonds, commencing on that Loan Payment Date as shall precede the first Sinking Fund Installment payment date by six (6) Loan Payment Dates, an amount equal to one-sixth (1/6) of the amount of the Sinking Fund Installment on the Initial Bonds; provided that in any event the aggregate amount so paid with respect to Sinking Fund Installments on the Initial Bonds on or before the Loan Payment Date immediately preceding a Sinking Fund Installment payment date of the Initial Bonds shall be an amount sufficient to pay the Sinking Fund Installment of the Initial Bonds Outstanding becoming due on such next succeeding Sinking Fund Installment payment date;

(iv) on each redemption date, with respect to the Redemption Price (other than by Sinking Fund Installments) due and payable on the Initial Bonds, whether as an optional or mandatory redemption, an amount equal to the Redemption Price together with accrued interest on the Initial Bonds being redeemed on such redemption date;

(v) with respect to interest due and payable on the Initial Bonds, the Institution shall further pay such additional amounts as set forth in the Indenture in the event of the occurrence of a Determination of Taxability with respect to the Initial Bonds or an Event of Default under the Indenture;

(vi) upon receipt by the Institution of notice from the Trustee pursuant to the Indenture that the amount on deposit in the Debt Service Reserve Fund shall be less than the Debt Service Reserve Fund Requirement, the Institution shall pay to the Trustee for deposit in the Debt Service Reserve Fund on the first day of the month immediately following the receipt by the Institution of notice of such deficiency, and on the first day of each of the five (5) succeeding months, or over such longer time period as shall be consented to in writing by the Majority Holders, an amount equal to one sixth (1/6th) of such deficiency in the Debt Service Reserve Fund; and

(vii) to the extent funds are available in the Revenue Fund, an amount equal to the Repair and Replacement Fund Deposit for deposit to the Repair and Replacement Fund.

The Issuer acknowledges that the above payments may be made by the application by the Trustee of amounts in the Revenue Fund pursuant to the Indenture, and the Institution shall receive credit under the Loan Agreement for any such transfers made by the Trustee.

(b) In the event the Institution should fail to make or cause to be made any of the payments required under the foregoing provisions described under this heading, the item or installment not so paid shall continue as an obligation of the Institution until the amount not so paid shall have been fully paid.

(c) The Institution has the option to make advance loan payments for deposit in the accounts of the Bond Fund to effect the retirement, defeasance or redemption of the Bonds in whole or in part, all in accordance with the terms of the Indenture; provided, however, that no partial redemption of the Bonds may be effected through advance loan payments under the Loan Agreement if there shall exist and be continuing an Event of Default. The Institution shall exercise its option to make such advance loan payments by delivering a written notice of an Authorized Representative of the Institution to the Trustee in accordance with the Indenture, with a copy to the Issuer, setting forth (i) the amount of the advance loan payment, (ii) the principal amount of Bonds Outstanding requested to be redeemed with such advance loan payment (which principal amount shall be in such minimum amount or integral Authorized Denomination as shall be permitted in the Indenture), and (iii) the date on which such principal amount of Bonds are to be redeemed (which date shall be not earlier than forty-five (45) days after the date of such notice). In the event the Institution shall exercise its option to make advance loan payments to effect the redemption in whole of the Bonds, and such redemption is expressly permitted under the Indenture as a result of the damage, destruction or condemnation of the Facility, or changes in law, or executive or judicial action, the Institution shall further deliver to the Issuer and the Trustee a certificate of an Authorized Representative of the Institution stating that, as a result of the occurrence of the event giving rise to such redemption, the Institution has

discontinued, or at the earliest practicable date will discontinue, its operation of the Facility for its intended purposes. Such advance loan payment shall be paid to the Trustee in legal tender, for deposit in the Redemption Account of the Bond Fund on or before the redemption date and shall be an amount which, when added to the amounts on deposit in the accounts of the Bond Fund and available therefor, will be sufficient to pay the Redemption Price of the Bonds to be redeemed, together with interest to accrue to the date of redemption and all expenses of the Issuer, the Trustee, the Bond Registrar and the Paying Agents in connection with such redemption. In the event the Bonds are to be redeemed in whole or otherwise retired, the Institution shall further pay on or before such redemption date, in legal tender, to the Issuer, the Trustee, the Bond Registrar and the Paying Agent all fees and expenses owed such party or any other party entitled thereto under the Loan Agreement or the Indenture together with (i) all other amounts due and payable under the Loan Agreement and the other Security Documents, and (ii) any amounts required to be rebated to the Federal government pursuant to the Indenture or the Tax Regulatory Agreement.

(d) At its option, to be exercised on or before the forty-fifth (45th) day next preceding the date any Bonds of a Series are to be redeemed from mandatory Sinking Fund Installments, the Institution may deliver to the Trustee Bonds of such Series which are subject to mandatory Sinking Fund Installment redemption in an aggregate principal amount not in excess of the principal amount of Bonds of such Series to be so redeemed on such date. Each such Bond so delivered shall be credited by the Trustee at one hundred percent (100%) of the principal amount thereof against the obligation of the Issuer on such Sinking Fund Installment payment date and any excess over such Sinking Fund Installment shall be credited on future Sinking Fund Installments in direct chronological order, and the principal amount of Bonds to be redeemed by operation of the mandatory Sinking Fund Installments shall be accordingly reduced.

(e) In the event Defaulted Interest (as defined in the Indenture) shall become due on any Initial Bond, the Institution shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on such Initial Bond and the date of the proposed payment (which date shall be such as will enable the Trustee to comply with the Indenture), and shall deposit with the Trustee at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment.

(f) No further loan payments need be made to the Issuer on account of the Bonds when and so long as the amount of cash and/or Defeasance Obligations on deposit in the Bond Fund is sufficient to satisfy and discharge the obligations of the Issuer under the Indenture and pay the Bonds as provided in the Indenture.

(g) Any amounts remaining in the Earnings Fund, the Rebate Fund, the Bond Fund, the Repair and Replacement Fund, the Revenue Fund, the Expense Fund, the Project Fund or the Renewal Fund, after payment in full of (i) the Bonds (in accordance with the Indenture), (ii) the fees, charges and expenses of the Issuer, the Trustee, the Bond Registrar and the Paying Agents in accordance with the Indenture, (iii) all amounts required to be rebated to the Federal government pursuant to the Tax Regulatory Agreement or the Indenture, and (iv) all amounts required to be paid under any Project Document, shall have been so paid, shall belong to and be paid to the Institution by the Trustee as overpayment of the loan payments.

(h) In the event that the Institution fails to make any loan payment required under this heading, the installment so in default shall continue as an obligation of the Institution until the amount in default shall have been fully paid.

(i) Notwithstanding anything in the foregoing to the contrary, if the amount on deposit and available in the Bond Fund is not sufficient to pay the principal of, Sinking Fund Installments for, redemption premium, if any, and interest on the applicable Series of Bonds when due (whether at maturity or by redemption or acceleration or otherwise as provided in the Indenture), the Institution shall forthwith pay the amount of such deficiency in immediately available funds to the Trustee for deposit in the Bond Fund. *(Section 4.3)*

#### **Nature of Institution's Obligation Unconditional.**

The Institution's obligation under the Loan Agreement and under the Promissory Note to pay the loan payments and all other payments provided for in the Loan Agreement and in the Promissory Note shall be absolute,

unconditional and a general obligation of the Institution, irrespective of any defense or any rights of set-off, recoupment or counterclaim or deduction and without any rights of suspension, deferment, diminution or reduction it might otherwise have against the Issuer, the Trustee or the Holder of any Bond and the obligation of the Institution shall arise whether or not the Project has been completed as provided in the Loan Agreement and whether or not any provider of a credit facility or liquidity facility with respect to the Bonds shall be honoring its obligations thereunder. The Institution will not suspend or discontinue any such payment or terminate the Loan Agreement (other than such termination as is provided for under the Loan Agreement), or suspend the performance or observance of any covenant or agreement required on the part of the Institution under the Loan Agreement, for any cause whatsoever, and the Institution waives all rights now or hereafter conferred by statute or otherwise to quit, terminate, cancel or surrender the Loan Agreement or any obligation of the Institution under the Loan Agreement except as provided in the Loan Agreement or to any abatement, suspension, deferment, diminution or reduction in the loan payments or other payments under the Loan Agreement or under the Promissory Note. *(Section 4.5)*

**Advances by the Issuer or the Trustee.**

In the event the Institution fails to make any payment or to perform or to observe any obligation required of it under the Loan Agreement, under the Promissory Note or under any other Security Document, the Issuer or the Trustee, after first notifying the Institution in writing of any such failure on its part (except that no prior notification of the Institution shall be required in the event of an emergency condition that, in the reasonable judgment of the Issuer or the Trustee, necessitates immediate action), may (but shall not be obligated to), and without waiver of any of the rights of the Issuer or the Trustee under the Loan Agreement or any other Security Document to which the Issuer or the Trustee is a party, make such payment or otherwise cure any failure by the Institution to perform and to observe its other obligations thereunder. All amounts so advanced therefor by the Issuer or the Trustee shall become an additional obligation of the Institution to the Issuer or the Trustee, as the case may be, which amounts, together with interest thereon at the rate of twelve percent (12%) per annum, compounded daily, from the date advanced, the Institution will pay upon demand therefor by the Issuer or the Trustee, as applicable. Any remedy vested in the Issuer or the Trustee in the Loan Agreement or in any other Security Document for the collection of the loan payments or other payments or other amounts due under the Loan Agreement, under the Promissory Note or under any other Security Document shall also be available to the Issuer or the Trustee for the collection of all such amounts so advanced. No advance shall be made by the Trustee except as specified in the Indenture. *(Section 4.6)*

**Damage, Destruction and Condemnation.**

In the event that the whole or part of the Facility shall be damaged or destroyed, or taken or condemned by a competent authority for any public use or purpose, or by agreement to which the Institution and those authorized to exercise such right are parties, or if the temporary use of the Facility shall be so taken by condemnation or agreement (a "Loss Event"):

(i) the Issuer shall have no obligation to rebuild, replace, repair or restore the Facility or to advance funds therefor,

(ii) there shall be no abatement, postponement or reduction in the loan payments or other amounts payable by the Institution under the Loan Agreement or the Promissory Note or any other Security Document to which it is a party, and the Institution waives, to the extent permitted by law, any provisions of law which would permit the Institution to terminate the Loan Agreement, the Promissory Note or any other Security Document, or eliminate or reduce its payments under the Loan Agreement, under the Promissory Note or under any other Security Document, and

(iii) the Institution will promptly give written notice of such Loss Event to the Issuer and the Trustee, generally describing the nature and extent thereof. *(Section 6.1)*

**Loss Proceeds.**

(a) The Issuer, the Trustee and the Institution shall cooperate and consult with each other in all matters pertaining to the settlement, compromise, arbitration or adjustment of any claim or demand on account of any Loss Event, and the settlement, compromise, arbitration or adjustment of any such claim or demand shall, as

between the Issuer and the Institution, be subject to the written approval of the Institution and the Trustee (such approvals not to be unreasonably withheld).

(b) The Net Proceeds with respect to the Facility shall be paid to the Trustee and deposited in the Renewal Fund (except as provided in the Mortgage in respect of property insurance proceeds that are less than a threshold amount). Pending the disbursement or transfer thereof, the Net Proceeds in the Renewal Fund shall be applied, and may be invested, as provided in the Indenture. The Institution shall be entitled to the Net Proceeds of any insurance proceeds or condemnation award, compensation or damages attributable to the Institution's Property (as defined in the Loan Agreement). (Section 6.2)

**Election to Rebuild or Terminate.**

(a) In the event a Loss Event shall occur, the Institution shall either:

(i) at its own cost and expense (except to the extent paid from the Net Proceeds), within one (1) year of the Loss Event, promptly and diligently rebuild, replace, repair or restore the Facility to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent value, operating efficiency and function, regardless of whether or not the Net Proceeds derived from the Loss Event shall be sufficient to pay the cost thereof, and the Institution shall not by reason of payment of any such excess costs be entitled to any reimbursement from the Issuer, the Trustee or any Bondholder, nor shall the loan payments or other amounts payable by the Institution under the Loan Agreement or the Promissory Note or any other Security Document be abated, postponed or reduced, or

(ii) to the extent that the failure of the Institution to rebuild, replace, repair or restore such portion of the Facility shall not cause the portion of the Facility affected by the Loss Event to be in an unsafe or unlawful condition, the Institution shall not be obligated to rebuild, replace, repair or restore such portion of the Facility and, to the extent it has provided an opinion of Nationally Recognized Bond Counsel to the Trustee to the effect that such action shall not affect the exclusion of the interest on any tax-exempt Bonds then Outstanding from gross income for federal income tax purposes, may retain any unexpended Net Proceeds and use such funds in accordance with the restrictions in the Tax Regulatory Agreement or direct any unexpended Net Proceeds to the Trustee to effect the redemption of the Bonds pursuant to the Indenture.

(iii) if, to the extent and upon the conditions permitted to do so under the Loan Agreement and under the Indenture, exercise its option to terminate the Loan Agreement and cause the Bonds to be redeemed in whole;

provided that if all or substantially all of the Facility shall be taken or condemned, or if the taking or condemnation renders the Facility unsuitable for use by the Institution as contemplated by the Loan Agreement, the Institution shall exercise its option to terminate the Loan Agreement.

Not later than ninety (90) days after the occurrence of a Loss Event, the Institution shall advise the Issuer and the Trustee in writing of the action to be taken by the Institution under this clause, a failure to so timely notify being deemed an election in favor of clause (a)(ii) to be exercised in accordance with the provisions of clause (a)(ii).

(b) If the Institution shall elect to or shall otherwise be required to rebuild, replace, repair or restore the Facility as set forth in the Loan Agreement, the Trustee shall disburse the Net Proceeds from the Renewal Fund in the manner set forth in the Indenture to pay or reimburse the Institution, at the election of the Institution, either as such work progresses or upon the completion thereof, provided, however, the amounts so disbursed by the Trustee to the Institution shall not exceed the actual cost of such work. If the Institution shall exercise its option in clause (a)(ii), the amount of the Net Proceeds so recovered shall be transferred from the Renewal Fund and deposited in the Redemption Account of the Bond Fund, and the Institution shall thereupon pay to the Trustee for deposit in the Redemption Account of the Bond Fund an amount which, when added to any amounts then in the Bond Fund and available for that purpose, shall be sufficient to retire and redeem the Bonds in whole at the earliest possible date (including, without limitation, principal and interest to the maturity or redemption date and redemption premium, if any), and shall pay the expenses of redemption, the fees and expenses of the Issuer, the Trustee, the



Bond Registrar and the Paying Agents, together with all other amounts due under the Indenture, under the Loan Agreement and under each other Security Document, as well as any amounts required to be rebated to the Federal government pursuant to the Indenture or the Tax Regulatory Agreement and such amount so deposited shall be applied, together with such other available amounts in the Bond Fund, if applicable, to such redemption or retirement of the Bonds on said redemption or Maturity Date. *(Section 6.3)*

**Pledge and Assignment to Trustee.**

As security for the payment of the Bonds and the obligations of the Institution under the Security Documents:

(a) the Institution shall, pursuant to the Mortgage, grant to the Issuer and the Trustee, for the benefit of the Bondholders, a mortgage lien on and security interest in its fee interest in the Mortgaged Property;

(b) the Issuer shall assign its right, title and interest in the Mortgage to the Trustee pursuant to the Assignment of Mortgage; and

(c) the Issuer shall pledge and assign to the Trustee, for the benefit of the Bondholders, pursuant to the Indenture all of the Issuer's right, title and interest in the Promissory Note and all of the Issuer's right, title and interest in the Loan Agreement (except for the Issuer's Reserved Rights), including all loan payments under the Loan Agreement and under the Promissory Note, and in furtherance of such pledge, the Issuer will unconditionally assign such loan payments to the Trustee for deposit in the Bond Fund in accordance with the Indenture. *(Section 7.4)*

**Insurance.**

The Institution shall obtain and maintain for itself as primary insured the insurance required by the Loan Agreement. *(Section 8.1)*

**Indemnity.**

(a) The Institution shall at all times indemnify, defend, protect and hold the Issuer, the Trustee, the Bond Registrar and the Paying Agents, and any director, member, officer, employee, servant, agent (excluding for this purpose the Institution, which is not obligated to indemnify its own employees, Affiliates or affiliated individuals) thereof and persons under the Issuer's control or supervision (collectively, the "**Indemnified Parties**" and each an "**Indemnified Party**") harmless of, from and against any and all claims (whether in tort, contract or otherwise), taxes (of any kind and by whomsoever imposed), demands, penalties, fines, liabilities, lawsuits, actions, proceedings, settlements, costs and expenses, including attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses (collectively, "**Claims**") of any kind for losses, damage, injury and liability (collectively, "**Liability**") of every kind and nature and however caused (except, with respect to any Indemnified Party, Liability arising from the gross negligence or willful misconduct of such Indemnified Party), arising during the period commencing on the Indemnification Commencement Date, and continuing until the termination of the Loan Agreement, arising upon, about, or in any way connected with the Facility, the Project, or any of the transactions with respect thereto, including:

(i) the financing of the costs of the Facility or the Project and the marketing, offering, issuance, sale and remarketing of the Bonds for such purpose,

(ii) the planning, design, acquisition, site preparation, Project Work, construction, renovation, equipping, installation or completion of the Project or any part thereof or the effecting of any work done in or about the Facility, or any defects (whether latent or patent) in the Facility,

(iii) the maintenance, repair, replacement, restoration, rebuilding, construction, renovation, upkeep, use, occupancy, ownership, leasing, subletting or operation of the Facility or any portion thereof,

(iv) the execution and delivery by an Indemnified Party, the Institution or any other Person of, or performance by an Indemnified Party, the Institution or any other Person, as the case may be, of, any of their respective obligations under, the Loan Agreement or any other Project Document, or other document or instrument delivered in connection therewith or the enforcement of any of the terms or provisions thereof or the transactions contemplated thereby,

(v) any damage or injury to the person or property of any Person in or on the premises of the Facility,

(vi) any imposition arising from, burden imposed by, violation of, or failure to comply with any Legal Requirement, including failure to comply with the requirements of the City's zoning resolution and related regulations, or

(vii) the presence, disposal, release, or threatened release of any Hazardous Materials that are on, from, or affecting the Facility; any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials; any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Materials, and/or any violation of Legal Requirements, including demands of government authorities, or any policies or requirements of the Issuer, which are based upon or in any way related to such Hazardous Materials.

(b) The Institution releases each Indemnified Party from, and agrees that no Indemnified Party shall be liable to the Institution or its Affiliates for, any Claim or Liability arising from or incurred as a result of action taken or not taken by such Indemnified Party with respect to any of the matters set forth in clause (a) under this heading, including any Claim or Liability arising from or incurred as a result of the negligence or gross negligence of such Indemnified Party, or at the direction of the Institution with respect to any of such matters above referred to.

(c) An Indemnified Party shall promptly notify the Institution in writing of any claim or action brought against such Indemnified Party in which indemnity may be sought against the Institution as described under this heading; such notice shall be given in sufficient time to allow the Institution to defend or participate in such claim or action, but the failure to give such notice in sufficient time shall not constitute a defense under the Loan Agreement nor in any way impair the obligations of the Institution under this heading.

(d) Anything to the contrary in the Loan Agreement notwithstanding, the covenants of the Institution described under this heading shall be in addition to any and all other obligations and liabilities that the Institution may have to any Indemnified Party in any other agreement or at common law, and shall remain in full force and effect after the termination of the Loan Agreement until the later of (i) the expiration of the period stated in the applicable statute of limitations during which a claim or cause of action may be brought and (ii) payment in full or the satisfaction of such claim or cause of action and of all expenses and charges incurred by the Indemnified Party relating to the enforcement of the provisions specified in the Loan Agreement. *(Section 8.2)*

**Assignment of the Loan Agreement or Lease of Facility.**

(a) The Institution shall not at any time, except as permitted by the Loan Agreement, assign or transfer the Loan Agreement without the prior written consents of the Issuer and the Trustee (which consents may be withheld by the Issuer or the Trustee in their absolute discretion); provided further, that the following conditions must be satisfied on or prior to the date the Issuer and the Trustee consent to any such assignment or transfer:

(i) the Institution shall have delivered to the Issuer and the Trustee a certificate of an Authorized Representative to the effect that the transfer or assignment to the assignee or transferee (the "New Institution") shall not cause the Facility to cease being the Approved Facility;

(ii) the New Institution shall be liable to the Issuer for the payment of all loan and other payments and for the full performance of all of the terms, covenants and conditions of the Loan Agreement and of any other Project Document to which it shall be a party;

(iii) the New Institution shall have assumed in writing (and shall have executed and delivered to the Issuer and the Trustee such document and have agreed to keep and perform) all of the terms of the Loan Agreement and each other Project Document on the part of the New Institution to be kept and performed, shall be subject to service of process in the State, and, if a corporation, shall be qualified to do business in the State;

(iv) the New Institution shall be a not-for-profit corporation or a limited liability company constituting a Tax-Exempt Organization;

(v) such assignment or transfer shall not violate any provision of the Loan Agreement or any other Project Document;

(vi) an Opinion of Counsel shall have been delivered and addressed to the Issuer and the Trustee, to the effect that (x) such assignment or transfer shall constitute the legally valid, binding and enforceable obligation of the New Institution and shall not legally impair in any respect the obligations of the New Institution for the payment of all loan payments nor for the full performance of all of the terms, covenants and conditions of the Loan Agreement, of the Promissory Note or of any other Project Document to which the New Institution shall be a party, nor impair or limit in any respect the obligations of any other obligor under any other Project Document, and (y) the Loan Agreement and each of the other Project Documents to which the New Institution is a party constitute the legally valid, binding and enforceable obligation of the New Institution;

(vii) the New Institution shall have delivered to the Issuer the Required Disclosure Statement in form and substance satisfactory to the Issuer;

(viii) each such assignment shall contain such other provisions as the Issuer or the Trustee may reasonably require; and

(ix) an opinion of Nationally Recognized Bond Counsel shall have been delivered and addressed to the Issuer and the Trustee, to the effect that such assignment or transfer shall not affect the exclusion of the interest on any Bonds then Outstanding from gross income for federal income tax purposes.

The Institution shall furnish or cause to be furnished to the Issuer and the Trustee a copy of any such assignment or transfer in substantially final form at least thirty (30) days prior to the date of execution thereof.

(b) The Institution shall not at any time lease all or substantially all of the Facility, except pursuant to the School Lease, without the prior written consents of the Issuer and the Trustee (which consents may be withheld by the Issuer or the Trustee in their absolute discretion); nor shall the Institution lease part (*i.e.*, not constituting substantially all) of the Facility without the prior written consents of the Issuer and the Trustee (which consents shall, in such case, not be unreasonably withheld and, in the case of the Issuer, such consent to be requested by the Institution of the Issuer in the form prescribed by the Issuer, and such consent of the Issuer to take into consideration the Issuer's policies as in effect from time to time); provided further, that the following conditions must be satisfied on or prior to the date the Issuer and the Trustee consent to any such letting:

(i) the Institution shall have delivered to the Issuer and the Trustee a certificate of an Authorized Representative to the effect that the lease shall not cause the Facility to cease being the Approved Facility;

(ii) the Institution shall remain primarily liable to the Issuer for the payment of all loan and other payments and for the full performance of all of the terms, covenants and conditions of the Loan Agreement and of the Promissory Note and of any other Project Document to which it shall be a party;

(iii) any lessee in whole or substantially in whole of the Facility shall have assumed in writing (and shall have executed and delivered to the Issuer and the Trustee such document) and have agreed to keep and perform all of the terms of the Loan Agreement and each other Project Document on the part of the Institution to be kept and performed, shall be jointly and severally liable with the Institution for the performance thereof, shall be subject to service of process in the State, and, if a corporation, shall be qualified to do business in the State;

(iv) any lessee shall utilize the Facility as the Approved Facility and shall constitute a Tax-Exempt Organization;

(v) such lease shall not violate any provision of the Loan Agreement or any other Project Document;

(vi) with respect to any letting in part of the Facility, no more than an aggregate of twenty percent (20%) of the Completed Improvements Square Footage shall be leased by the Institution;

(vii) an Opinion of Counsel shall have been delivered and addressed to the Issuer and the Trustee, to the effect that such lease shall constitute the legally valid, binding and enforceable obligation of the lessee and shall not legally impair in any respect the obligations of the Institution for the payment of all loan or other payments nor for the full performance of all of the terms, covenants and conditions of the Loan Agreement, of the Promissory Note or of any other Project Document to which the Institution shall be a party, nor impair or limit in any respect the obligations of any other obligor under any other Project Document;

(viii) such lease shall in no way diminish or impair the obligation of the Institution to carry the insurance required under the Mortgage or the Loan Agreement and the Institution shall furnish written evidence satisfactory to the Issuer and the Trustee that such insurance coverage shall in no manner be diminished or impaired by reason of such assignment, transfer or lease;

(ix) any such lessee shall have delivered to the Issuer the Required Disclosure Statement in form and substance satisfactory to the Issuer;

(x) each such lease shall contain such other provisions as the Issuer or the Trustee may reasonably require; and

(xi) an opinion of Nationally Recognized Bond Counsel shall have been delivered and addressed to the Issuer and the Trustee, to the effect that such lease shall not affect the exclusion of the interest on any Bonds then Outstanding from gross income for federal income tax purposes.

The Institution shall furnish or cause to be furnished to the Issuer and the Trustee a copy of any such lease in substantially final form at least thirty (30) days prior to the date of execution thereof.

(c) Any consent by the Issuer or the Trustee to any act of assignment, transfer or lease shall be held to apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver of the duty of the Institution, or the successors or assigns of the Institution, to obtain from the Issuer and the Trustee consent to any other or subsequent assignment, transfer or lease, or as modifying or limiting the rights of the Issuer or the Trustee under the foregoing covenant by the Institution.

(d) For purposes of under this heading, any license or other right of possession or occupancy granted by the Institution with respect to the Facility shall be deemed a lease subject to the provisions described under this heading. *(Section 8.9)*

**Retention of Title to or of Interest in Facility; Grant of Easement; Release of Portions of Facility.**

(a) The Institution shall not sell, assign, encumber (other than Permitted Encumbrances), convey or otherwise dispose of its fee title to or interest in the Facility, including the Improvements, or any part of the Facility or interest therein, except as set forth in the Loan Agreement, without (i) the prior written consents of the Issuer and of the Trustee and (ii) the Institution delivering to the Trustee and the Issuer an opinion of Nationally Recognized Bond Counsel to the effect that such action pursuant to the Loan Agreement will not affect the exclusion of the interest on any Bonds then Outstanding from gross income for federal income taxes. Any purported disposition without such consents and opinion shall be void.

(b) The Institution may, with the prior written consents of the Issuer and the Trustee (such consents not to be unreasonably withheld or delayed), so long as there exists no Event of Default under the Loan Agreement, grant such rights of way or easements over, across, or under, the Facility Realty, or grant such permits or licenses in respect to the use thereof, free from the lien and security interest of the Mortgage, as shall be necessary or convenient in the opinion of the Institution for the operation or use of the Facility, or required by any utility company for its utility business, provided that, in each case, such rights of way, easements, permits or licenses shall not adversely affect the use or operation of the Facility as the Approved Facility, and provided, further, that any consideration received by the Institution from the granting of said rights-of-way, easements, permits or licenses shall be paid to the Trustee and deposited in the Redemption Account of the Bond Fund. The Issuer agrees, at the sole cost and expense of the Institution, to execute and deliver, and to cause and direct the Trustee to execute and deliver, any and all instruments necessary or appropriate to confirm and grant any such right of way or easement or any such permit or license and to release the same from the lien and security interest of the Mortgage.

(c) So long as there exists no Event of Default under the Loan Agreement, and the Institution delivers to the Trustee and the Issuer an opinion of Nationally Recognized Bond Counsel to the effect that the following action will not affect the exclusion of the interest on any Bonds then Outstanding from gross income for federal income tax purposes, the Institution may from time to time request in writing to the Issuer and the Trustee the release of and removal from the property comprising the Facility under the Loan Agreement and the lien and security interest of the Mortgage, of any unimproved part of the Land (on which none of the Improvements, including the buildings, structures, major appurtenances, fixtures or other property comprising the Facility Realty, is situated); provided that such release and removal will not adversely affect the use or operation of the Facility as the Approved Facility. Upon any such request by the Institution, the Issuer shall, at the sole cost and expense of the Institution, cause and direct the Trustee to execute and deliver any and all instruments necessary or appropriate to so release and remove such unimproved Land from the property comprising the Facility under the Loan Agreement and the lien and security interest of the Mortgage, subject to the following:

(i) any liens, easements, encumbrances and reservations to which title to said property was subject on the Closing Date;

(ii) any liens, easements and encumbrances created at the request of the Institution or to the creation or suffering of which the Institution consented;

(iii) any liens and encumbrances or reservations resulting from the failure of the Institution to perform or observe any of the agreements on its respective part contained in the Loan Agreement or any other Project Document;

(iv) Permitted Encumbrances (other than the lien of the Mortgage); and

(v) any liens for taxes or assessments not then delinquent;

provided, however, that no such release shall be effected unless the following conditions have been satisfied:

(A) the Trustee shall have received a certificate of an Independent Engineer, dated not more than sixty (60) days prior to the date of the release, stating that, in the opinion of the person signing such certificate, the unimproved Land and the release thereof so

proposed to be made is not needed for the operation of the remaining Facility, will not adversely affect the use or operation of the Facility as the Approved Facility and will not destroy the means of ingress thereto and egress therefrom;

(B) the Trustee shall have received an amount of cash for deposit in the Redemption Account of the Bond Fund equal to the greatest of (A) the original cost of the unimproved Land so released, such allocable cost to be determined by the appraisal of an independent real estate brokerage firm of recognized standing within the City, (B) the fair market value of such unimproved Land, such value to be determined by the appraisal of an independent real estate brokerage firm of recognized standing within the City, and (C) if such unimproved Land is released in connection with its sale, the amount received by the Institution upon such sale; and

(C) the Facility Realty as shall remain subject to the Mortgage shall not constitute a portion of a tax lot.

(d) No conveyance or release effected under the provisions of the Loan Agreement shall entitle the Institution to any abatement or diminution of the loan payments or other amounts payable under the Loan Agreement or any other payments required to be made by the Institution under the Loan Agreement or any other Project Document to which it shall be a party. *(Section 8.10)*

#### **Discharge of Liens.**

(a) If any lien, encumbrance or charge is filed or asserted (including any lien for the performance of any labor or services or the furnishing of materials), or any judgment, decree, order, levy or process of any court or governmental body is entered, made or issued or any claim (such liens, encumbrances, charges, judgments, decrees, orders, levies, processes and claims being collectively called "Liens"), whether or not valid, is made against the Trust Estate, the Facility or any part thereof or the interest therein of the Institution or against any of the loan payments or other amounts payable under the Loan Agreement, the Promissory Note or any of the other Security Documents, or the interest of the Issuer or the Institution in any Security Document, other than Liens for Impositions not yet payable, Permitted Encumbrances, or Liens being contested as permitted by the Loan Agreement, the Institution forthwith upon receipt of notice of the filing, assertion, entry or issuance of such Lien (regardless of the source of such notice) shall give written notice thereof to the Issuer and the Trustee and take all action (including the payment of money and/or the securing of a bond with respect to any such Lien) at its own cost and expense as may be necessary or appropriate to obtain the discharge in full of such Lien and to remove or nullify the basis therefor. Nothing contained in the Loan Agreement shall be construed as constituting the express or implied consent to or permission of the Issuer for the performance of any labor or services or the furnishing of any materials that would give rise to any Lien not permitted under the Loan Agreement.

(b) The Institution may at its sole cost and expense contest (after prior written notice to the Issuer and the Trustee), by appropriate action conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Lien, if: (i) such proceeding shall suspend the execution or enforcement of such Lien against the Trust Estate, the Facility or any part thereof or interest therein, or against any of the loan payments or other amounts payable under the Loan Agreement, the Promissory Note or any of the other Project Documents or the interest of the Issuer or the Institution in any Project Document, (ii) neither the Facility nor any part thereof or interest therein, the Trust Estate or any portion thereof, the loan payments or other amounts payable under the Loan Agreement, the Promissory Note or any of the other Security Documents or the interest of the Issuer or the Institution in any Security Document would be in any danger of being sold, forfeited or lost, (iii) none of the Institution, the Issuer or the Trustee would be in any danger of any civil or any criminal liability, other than normal accrual of interest, for failure to comply therewith, and (iv) the Institution shall have furnished such security, if any, as may be required in such proceedings or as may be reasonably requested by the Issuer or the Trustee to protect the security intended to be offered by the Security Documents. *(Section 8.11)*

**No Further Encumbrances Permitted.**

The Institution shall not create, permit or suffer to exist any mortgage, encumbrance, lien, security interest, claim or charge against (i) the Facility or any part thereof, or the interest of the Institution in the Facility, except for Permitted Encumbrances, or (ii) the Trust Estate or any portion thereof, the loan payments or other amounts payable under the Loan Agreement, the Promissory Note or any of the other Security Documents or the interest of the Issuer or the Institution in any Security Document. The Institution covenants that it shall take or cause to be taken all action, including all filing and recording, as may be necessary to ensure that there are no mortgage liens on, or security interests in, the Facility (other than Permitted Encumbrances) prior to the mortgage liens thereon, and security interests therein, granted by the Mortgage. *(Section 8.13)*

**Taxes, Assessments and Charges.**

(a) The Institution shall pay when the same shall become due all taxes and assessments, general and specific, if any, levied and assessed upon or against the Trust Estate, the Facility Realty or any part thereof, or interest of the Institution in the Facility, or against any of the loan payments or other payments or other amounts payable under the Loan Agreement, the Promissory Note or any of the other Project Documents, or the interest of the Issuer or the Institution in any Project Document, and all water and sewer charges, special district charges, assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen, ordinary or extraordinary, under any present or future law, and charges for public or private utilities or other charges incurred in the occupancy, use, operation, maintenance or upkeep of the Facility Realty, all of which are called "Impositions" in the Loan Agreement. The Institution may pay any Imposition in installments if so payable by law, whether or not interest accrues on the unpaid balance.

(b) In the event the Facility Realty is exempt from Impositions solely due to the Issuer's involvement with the Project and the Facility Realty, the Institution shall pay all Impositions to the appropriate taxing authorities equivalent to the Impositions that would have been imposed on the Facility Realty as if the Issuer had no involvement with the Project and the Facility Realty.

(c) The Institution may at its sole cost and expense contest (after prior written notice to the Issuer and the Trustee), by appropriate action conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Imposition, if (i) such proceeding shall suspend the execution or enforcement of such Imposition against the Trust Estate, the Facility or any part thereof, or interest of the Institution in the Facility, or against any of the loan payments or other amounts payable under the Loan Agreement, the Promissory Note or any of the other Project Documents, or the interest of the Issuer or the Institution in any Project Document, (ii) none of the Trust Estate, the Facility nor any part thereof or interest of the Institution in the Facility, or any of the loan payments or other amounts payable under the Loan Agreement, the Promissory Note or any of the other Project Documents, or the interest of the Issuer or the Institution in any Project Document, would be in any danger of being sold, forfeited or lost, (iii) none of the Institution, the Issuer or the Trustee would be in any danger of any civil or any criminal liability, other than normal accrual of interest, for failure to comply therewith, and (iv) the Institution shall have furnished such security, if any, as may be required in such proceedings or as may be reasonably requested by the Issuer or the Trustee to protect the security intended to be offered by the Security Documents. *(Section 8.17)*

**Compliance with Legal Requirements.**

(a) The Institution shall not occupy, use or operate the Facility, or allow the Facility or any part thereof to be occupied, used or operated, for any unlawful purpose or in violation of any certificate of occupancy affecting the Facility or for any use which may constitute a nuisance, public or private, or make void or voidable any insurance then in force with respect thereto.

(b) At its sole cost and expense, the Institution shall promptly observe and comply with all applicable Legal Requirements (including, without limitation, as applicable, the LW Law, the Prevailing Wage Law, and the Earned Sick Time Act, constituting Chapter 8 of Title 20 of the New York City Administrative Code), whether foreseen or unforeseen, ordinary or extraordinary, that shall now or at any time hereafter be binding upon or applicable to the Institution, the Facility, any occupant, user or operator of the Facility or any portion thereof, and

will observe and comply with all conditions, requirements, and schedules necessary to preserve and extend all rights, licenses, permits (including zoning variances, special exception and non conforming uses), privileges, franchises and concessions. The Institution will not, without the prior written consent of the Issuer and the Trustee (which consents shall not be unreasonably withheld or delayed), initiate, join in or consent to any private restrictive covenant, zoning ordinance or other public or private restrictions limiting or defining the uses that may be made of the Facility or any part thereof.

(c) The Institution may at its sole cost and expense contest in good faith the validity, existence or applicability of any of the matters described in clause (b) under this heading if (i) such contest shall not result in the Trust Estate, the Facility or any part thereof or interest of the Institution in the Facility, or any of the loan payments or other amounts payable under the Loan Agreement, the Promissory Note or any of the other Project Documents, or the interest of the Issuer or the Institution in any Project Document, being in any danger of being sold, forfeited or lost, (ii) such contest shall not result in the Institution, the Issuer or the Trustee being in any danger of any civil or any criminal liability for failure to comply therewith, and (iii) the Institution shall have furnished such security, if any, as may be reasonably requested by the Issuer or the Trustee to protect the security intended to be offered by the Security Documents for failure to comply therewith. *(Section 8.18)*

**Operation as Approved Facility.**

(a) The Institution will not take any action, or suffer or permit any action, if such action would cause the Facility not to be the Approved Facility.

(b) The Institution will not fail to take any action, or suffer or permit the failure to take any action, if such failure would cause the Facility not to be the Approved Facility.

(c) The Institution will permit the Trustee and its duly authorized agents, at all reasonable times upon written notice to enter upon the Facility and to examine and inspect the Facility and exercise its rights under the Loan Agreement, under the Indenture and under the other Security Documents with respect to the Facility. The Institution will further permit the Issuer, or its duly authorized agent, upon reasonable notice, at all reasonable times, to enter the Facility, but solely for the purpose of assuring that the Institution is operating the Facility, or is causing the Facility to be operated, as the Approved Facility consistent with the Approved Project Operations and with the corporate purposes of the Issuer. *(Section 8.19)*

**Restrictions on Dissolution and Merger.**

(a) The Institution covenants and agrees that at all times during the term of the Loan Agreement, it will

(i) maintain its existence as a disregarded entity of a not-for-profit corporation constituting a Tax-Exempt Organization,

(ii) continue to be subject to service of process in the State,

(iii) continue to be organized under the laws of, or qualified to do business in, the State,

(iv) not liquidate, wind up or dissolve or otherwise dispose of all or substantially all of its property, business or assets ("Transfer") remaining after the Closing Date, except as described in subsection (b) under this heading,

(v) not consolidate with or merge into another Entity or permit one or more Entities to consolidate with or merge into it ("Merge"), except as described in subsection (b) under this heading, and



(vi) not change or permit the change of any Principal of the Institution, or a change in the relative Control of the Institution of any of the existing Principals, except in each case as described in subsection (c) under this heading or elsewhere in the Loan Agreement.

(b) Notwithstanding subsection (a) under this heading, the Institution may Merge or participate in a Transfer if the following conditions are satisfied on or prior to the Merger or Transfer, as applicable:

(i) when the Institution is the surviving, resulting or transferee Entity,

(1) the Institution shall have a net worth (as determined by an Independent Accountant in accordance with GAAP) at least equal to that of the Institution immediately prior to such Merger or Transfer,

(2) the Institution shall continue to be a disregarded entity of a Tax-Exempt Organization,

(3) the Institution shall deliver to the Issuer and the Trustee an opinion of Nationally Recognized Bond Counsel to the effect that such action will not cause the interest on the Bonds to become includable in gross income for federal income tax purposes, and

(4) the Institution shall deliver to the Issuer a Required Disclosure Statement with respect to itself as surviving Entity in form and substance satisfactory to the Issuer; or

(ii) when the Institution is not the surviving, resulting or transferee Entity (the "Successor Institution"),

(1) the predecessor Institution (the "Predecessor Institution") shall not have been in default under the Loan Agreement or under any other Project Document,

(2) the Successor Institution shall be a Tax-Exempt Organization or a disregarded entity of a not-for-profit corporation constituting a Tax-Exempt Organization and shall be solvent and subject to service of process in the State and organized under the laws of the State, or under the laws of any other state of the United States and duly qualified to do business in the State,

(3) the Successor Institution shall have assumed in writing all of the obligations of the Predecessor Institution contained in the Loan Agreement and in all other Project Documents to which the Predecessor Institution shall have been a party,

(4) the Successor Institution shall have delivered to the Issuer a Required Disclosure Statement in form and substance acceptable to the Issuer acting in its sole discretion,

(5) each Principal of the Successor Institution shall have delivered to the Issuer a Required Disclosure Statement in form and substance acceptable to the Issuer acting in its sole discretion,

(6) the Successor Institution shall have delivered to the Issuer and the Trustee, in form and substance acceptable to the Issuer and the Trustee, an Opinion of Counsel to the effect that (y) the Loan Agreement and all other Project Documents to which the Predecessor Institution shall be a party constitute the legal, valid and binding obligations of the Successor Institution and each is enforceable in accordance with their respective terms to the same extent as it was enforceable against the Predecessor Institution, and (z) such action does not legally impair the security for the Holders of the Bonds afforded by the Security Documents,

(7) the Successor Institution shall have delivered to the Issuer and the Trustee, in form and substance acceptable to the Issuer and the Trustee, an opinion of an

Independent Accountant to the effect that the Successor Institution has a net worth (as determined in accordance with GAAP) after the Merger or Transfer at least equal to that of the Predecessor Institution immediately prior to such Merger or Transfer, and

(8) the Successor Institution delivers to the Issuer and the Trustee an opinion of Nationally Recognized Bond Counsel to the effect that such action will not cause the interest on the Bonds to become includable in gross income for federal income tax purposes.

(c) If there is a change in Principals of the Institution, or a change in the Control of the Institution, the Institution shall deliver to the Issuer prompt written notice thereof (including all details that would result in a change to Exhibit D to the Loan Agreement— “Principals of Institution”) to the Issuer together with a Required Disclosure Statement in form and substance acceptable to the Issuer acting in its sole discretion. (*Section 8.20*)

**Preservation of Exempt Status.**

The Institution agrees that it shall:

(a) not perform any acts, enter into any agreements, carry on or permit to be carried on at the Facility, or permit the Facility to be used in or for any trade or business, which shall adversely affect the basis for its sole member’s exemption under Section 501 of the Code;

(b) not use more than three percent (3%) of the proceeds of the Bonds or permit the same to be used, directly or indirectly, in any trade or business that constitutes an unrelated trade or business as defined in Section 513(a) of the Code or in any trade or business carried on by any Person or Persons who are not governmental units or Tax-Exempt Organizations;

(c) not directly or indirectly use the proceeds of the Bonds to make or finance loans to Persons other than governmental units or Tax-Exempt Organizations, provided that no loan shall be made to another Tax-Exempt Organization unless such organization is using the funds for a purpose that is not an unrelated trade or business for either the Institution or the borrower;

(d) not take any action or permit any circumstances within its control to arise or continue, if such action or circumstances, or its expectation on the Closing Date, would cause the Bonds to be “arbitrage bonds” under the Code or cause the interest paid by the Issuer on the Bonds to be subject to Federal income tax in the hands of the Holders thereof;

(e) use its best efforts to maintain the tax-exempt status of the Bonds; and

(f) not take any action, or fail to take any action, the result of which would cause the Institution to no longer be considered a disregarded entity for federal income tax purposes, unless such action shall result in the Institution being a Tax-Exempt Organization itself. (*Section 8.21*)

**Prohibition on Additional Indebtedness.** The Institution is prohibited from incurring any additional indebtedness other than Additional Bonds pursuant to the Indenture. (*Section 8.32*)

**Events of Default.**

Any one or more of the following events shall constitute an “Event of Default” under the Loan Agreement:

(a) Failure of the Institution to pay any loan payment that has become due and payable by the terms of the Loan Agreement which results in an Event of Default under the Indenture;

(b) Failure of the Institution to pay any amount (except as set forth in in subsection (a) under this heading) that has become due and payable or to observe and perform any covenant, condition or agreement on

its part to be performed under Sections 5.1, 8.1, 8.2, 8.3, 8.9, 8.11, 8.13, 8.17, 8.18, 8.20, 8.21, 8.22, 8.26, 8.32, 9.7, 11.2 or 11.3 or Article VI of the Loan Agreement and continuance of such failure for more than thirty (30) days after written notice of such failure has been given to the Institution specifying the nature of such failure by the Issuer or the Trustee or the Holders of more than twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding;

(c) Failure of the Institution to observe and perform any covenant, condition or agreement under the Loan Agreement on its part to be performed (except as described under this heading) and (i) continuance of such failure for more than thirty (30) days after written notice of such failure has been given to the Institution specifying the nature of same by the Issuer or the Trustee or the Holders of more than twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding, or (ii) if by reason of the nature of such failure the same can be remedied, but not within the said thirty (30) days, the Institution fails to commence and thereafter proceed with reasonable diligence after receipt of said notice to cure such failure or fails to continue with reasonable diligence its efforts to cure such failure or fails to cure such failure within sixty (60) days of delivery of said notice;

(d) The Institution shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, liquidator, custodian or trustee of itself or of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts generally become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vi) fail to controvert in a timely or appropriate manner or acquiesce in writing to, any petition filed against itself in an involuntary case under the Federal Bankruptcy Code, (vii) take any action for the purpose of effecting any of the foregoing, or (viii) be adjudicated a bankrupt or insolvent by any court;

(e) A proceeding or case shall be commenced, without the application or consent of the Institution, in any court of competent jurisdiction, seeking, (i) liquidation, reorganization, dissolution, winding-up or composition or adjustment of debts, (ii) the appointment of a trustee, receiver, liquidator, custodian or the like of the Institution or of all or any substantial part of its assets, or (iii) similar relief under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of ninety (90) days; or any order for relief against the Institution shall be entered in an involuntary case under such Bankruptcy Code; the terms "dissolution" or "liquidation" of the Institution as used above shall not be construed to prohibit any action otherwise permitted by the Loan Agreement;

(f) Any representation or warranty made by the Institution (i) in the application and related materials submitted to the Issuer or the Underwriter of the Bonds for approval of the Project or its financing, or (ii) in the Loan Agreement or in any other Project Document, or (iii) in the Letter of Representation and Indemnity Agreement dated the Closing Date and delivered to the Issuer, the Trustee and the Underwriter of the Initial Bonds, or (iv) in the Tax Regulatory Agreement, or (v) by or on behalf of the Institution or any other Person in any Required Disclosure Statement, or (vi) in any report, certificate, financial statement or other instrument furnished pursuant to the Loan Agreement or any of the foregoing, shall in any case prove to be false, misleading or incorrect in any material respect as of the date made;

(g) The commencement of proceedings to appoint a receiver or to foreclose any mortgage lien on or security interest in the Facility including the Mortgage;

(h) An "Event of Default" under the Indenture or under any other Security Document shall occur and be continuing;

(i) The occurrence of an LW Event of Default; or

(j) Failure of the Institution to pay the amount required of it under the Loan Agreement when required thereunder. (*Section 9.1*)

### **Remedies on Default.**

(a) Whenever any Event of Default described under the heading "Events of Default" shall have occurred and be continuing, the Issuer, or the Trustee where so provided, may, take any one or more of the following remedial steps:

(i) The Trustee, as and to the extent provided in the Indenture, may cause all principal installments of loan payments payable under the Loan Agreement until the Bonds are no longer Outstanding to be immediately due and payable, whereupon the same, together with the accrued interest thereon, shall become immediately due and payable; provided, however, that upon the occurrence of an Event of Default under subsections (d) or (e) under the heading "Events of Default", all principal installments of loan payments payable under subsection (a) under the heading "Loan Payments, Pledge of the Loan Agreement and the Promissory Note" until the Bonds are no longer Outstanding, 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 Holders of the Bonds or any other Person being a condition to such acceleration;

(ii) The Issuer or the Trustee may take whatever action at law or in equity as may appear necessary or desirable to collect the loan payments then due and thereafter to become due, or to enforce performance or observance of any obligations, agreements or covenants of the Institution under the Loan Agreement; and

(iii) The Trustee may take any action permitted under the Indenture with respect to an Event of Default thereunder.

(b) Upon the occurrence of a default with respect to any of the Issuer's Reserved Rights, the Issuer, without the consent of the Trustee or any other Person, may proceed to enforce the Issuer's Reserved Rights by

(i) bringing an action for damages, injunction or specific performance, and/or

(ii) taking whatever action at law or in equity as may appear necessary or desirable to collect payment of amounts due by the Institution under the Issuer's Reserved Rights or to enforce the performance or observance of any obligations, covenants or agreements of the Institution under the Issuer's Reserved Rights.

(c) No action taken pursuant to the terms described under this heading or by operation of law or otherwise shall, except as expressly provided in the Loan Agreement, relieve the Institution from the Institution's obligations under the Loan Agreement, all of which shall survive any such action. *(Section 9.2)*

### **Bankruptcy Proceedings.**

In case proceedings shall be pending for the bankruptcy or for the reorganization of the Institution under the federal bankruptcy laws or any other applicable law, or in case a receiver or trustee (other than the Trustee under the Indenture) shall have been appointed for the property of the Institution or in the case of any other similar judicial proceedings relative to the Institution or the creditors or property of the Institution, then the Trustee shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount owing and unpaid pursuant to the Loan Agreement and the Promissory Note, irrespective of whether the principal of the Bonds (and the loan payments payable pursuant to the Promissory Note and the Loan Agreement) shall have been accelerated by declaration or otherwise, and irrespective of whether the Trustee shall have made any demand for payment under the Loan Agreement, and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee allowed in such judicial proceedings relative to the Institution, the creditors or property of the Institution, and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute such amounts as provided in the Indenture after the deduction of its charges and expenses. Any receiver, assignee or

trustee in bankruptcy or reorganization is authorized to make such payments to the Trustee, and to pay to the Trustee any amount due it for compensation and expenses, including expenses and fees of counsel incurred by it up to the date of such distribution. *(Section 9.3)*

**Remedies Cumulative.**

The rights and remedies of the Issuer or the Trustee under the Loan Agreement shall be cumulative and shall not exclude any other rights and remedies of the Issuer or the Trustee allowed by law with respect to any default under the Loan Agreement. Failure by the Issuer or the Trustee to insist upon the strict performance of any of the covenants and agreements set forth in the Loan Agreement or to exercise any rights or remedies upon default by the Institution under the Loan Agreement shall not be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce by mandatory injunction, specific performance or other appropriate legal remedy the strict compliance by the Institution with all of the covenants and conditions of the Loan Agreement, or of the rights to exercise any such rights or remedies, if such default by the Institution be continued or repeated. *(Section 9.4)*

**No Additional Waiver Implied by One Waiver.**

In the event any covenant or agreement contained in the Loan Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach under the Loan Agreement. No waiver shall be binding unless it is in writing and signed by the party making such waiver. No course of dealing between the Issuer and/or the Trustee and the Institution or any delay or omission on the part of the Issuer and/or the Trustee in exercising any rights under the Loan Agreement or under the Indenture or under any other Security Document shall operate as a waiver. To the extent permitted by applicable law, the Institution waives the benefit and advantage of, and covenants not to assert against the Issuer or the Trustee, any valuation, inquisition, stay, appraisement, extension or redemption laws now existing or which may hereafter exist. *(Section 9.5)*

**Agreement to Pay Fees and Expenses of Attorneys and Other Consultants.**

In the event the Institution should default under any of the provisions of the Loan Agreement, and the Issuer or the Trustee should employ outside attorneys or other consultants or incur other expenses for the collection of loan payments or other amounts payable under the Loan Agreement or the enforcement of performance or observance of any obligation or agreement on the part of the Institution contained in the Loan Agreement or any other Security Document, the Institution agrees that it will on demand therefor pay to the Issuer or the Trustee, as the case may be, the reasonable fees and disbursements of such attorneys or other consultants and such other expenses so incurred. *(Section 9.7)*

**Termination of the Loan Agreement.**

(a) The Institution shall have the option to cause the redemption or defeasance in whole of all Outstanding Bonds in accordance with the terms set forth in the Indenture.

(b) After full payment of the Bonds or provision for the payment in full thereof having been made in accordance with the Indenture, but not later than the receipt by the Institution of ten (10) days prior written notice from the Issuer directing termination of the Loan Agreement, the Institution shall terminate the Loan Agreement by giving the Issuer notice in writing of such termination and thereupon such termination shall forthwith become effective, subject, however, to (x) the delivery of those documents referred to in the Loan Agreement, and (y) the survival of those obligations of the Institution set forth in the Loan Agreement. *(Section 10.1)*

**Mandatory Redemption of Bonds as Directed by the Issuer.**

(a) Upon the determination by the Issuer that (w) the Institution is operating the Facility or any portion thereof, or is allowing the Facility or any portion thereof to be operated, not for the Approved Project Operations in accordance with the Loan Agreement and the failure of the Institution within thirty (30) days of the

receipt by the Institution of written notice of such noncompliance from the Issuer to cure such noncompliance together with a copy of such resolution (a copy of which notice shall be sent to the Trustee), (x) the Institution, any Principal of the Institution or any Person that directly or indirectly Controls, is Controlled by or is under common Control with the Institution has committed a material violation of a material Legal Requirement and the failure of the Institution within thirty (30) days of the receipt by the Institution of written notice of such determination from the Issuer to cure such material violation (which cure, in the case of a Principal who shall have committed the material violation of a material Legal Requirement, may be effected by the removal of such Principal), (y) as set forth in the Loan Agreement, any Conduct Representation is false, misleading or incorrect in any material respect at any date, as if made on such date, or (z) a Required Disclosure Statement delivered to the Issuer under any Project Document is not acceptable to the Issuer acting in its sole discretion, the Institution covenants and agrees that it shall, no later than ten (10) days following the termination of such thirty (30) day period, pay to the Trustee advance loan payments in immediately available funds in an amount sufficient to redeem the Bonds Outstanding in whole at the Redemption Price of 100% of the aggregate principal amount of the Outstanding Bonds together with interest accrued thereon to the redemption date. The Issuer shall give prior written notice of the meeting at which the Board of Directors of the Issuer are to consider such resolution to the Institution and the Trustee, which notice shall be no less than fifteen (15) days prior to such meeting.

(b) In the event the Institution fails to obtain or maintain the liability insurance with respect to the Facility required under the Loan Agreement, and the Institution shall fail to cure such circumstance within ten (10) days of the receipt by the Institution of written notice of such noncompliance from the Issuer and a demand by the Issuer on the Institution to cure such noncompliance, upon notice or waiver of notice as provided in the Indenture, the Institution shall pay to the Trustee advance loan payments in immediately available funds in an amount sufficient to redeem the Bonds Outstanding in whole at the Redemption Price of one hundred percent (100%) of the unpaid principal amount of the Bonds, together with interest accrued thereon to the date of redemption. *(Section 11.3)*

#### **Prohibition on the Purchase of Bonds.**

Except as described under this heading, neither the Institution nor any Related Person (as defined in the Tax Regulatory Agreement) to the Institution shall purchase Bonds in an amount related to the amount of the Loan. The Institution shall have the option, at any time during the term of the Loan Agreement, to purchase Bonds for its own account, whether by direct negotiation, through a broker or dealer, or by making a tender offer to the Holders thereof. The Bonds so purchased by the Institution or by any Affiliate of the Institution shall be delivered to the Trustee for cancellation within fifteen (15) days of the date of purchase unless the Institution shall deliver to the Trustee and the Issuer an opinion of Nationally Recognized Bond Counsel to the effect that the failure to surrender such Bonds by such date will not affect the exclusion of the interest on any Bonds then Outstanding from gross income for federal income tax purposes. *(Section 11.6)*

#### **Investment of Funds.**

Any moneys held as part of the Rebate Fund, the Earnings Fund, the Project Fund, the Bond Fund, the Debt Service Reserve Fund, the Repair and Replacement Fund, the Expense Fund, the Renewal Fund, or in any special fund provided for in the Loan Agreement or in the Indenture to be invested in the same manner as in any said Fund shall, at the written request of an Authorized Representative of the Institution, be invested and reinvested by the Trustee as provided in the Indenture (but subject to the provisions of the Tax Regulatory Agreement). Neither the Issuer nor the Trustee nor any of their members, directors, officers, agents, servants or employees shall be liable for any depreciation in the value of any such investments or for any loss arising therefrom.

Interest and profit derived from such investments shall be credited and applied as provided in the Indenture, and any loss resulting from such investments shall be similarly charged. *(Section 11.7)*

#### **Amendments.**

The Loan Agreement may be amended only with the concurring written consent of the Trustee given in accordance with the provisions of the Indenture and only by a written instrument executed by the parties to the Loan Agreement. *(Section 12.3)*

**Waiver of Trial by Jury.**

The Institution expressly waives all rights to a trial by jury on any cause of action directly or indirectly involving the terms, covenants or conditions of the Loan Agreement or any matters whatsoever arising out of or in any way connected with the Loan Agreement, the Institution's obligations under the Loan Agreement, the Facility, the Project, the relationship between the Issuer and the Institution, the Institution's ownership, use or occupancy of the Facility and/or any claim for injury or damages.

The provision of the Loan Agreement relating to waiver of a jury trial shall survive the termination or expiration of the Loan Agreement. *(Section 12.13)*

**Recourse Under The Loan Agreement.**

All covenants, stipulations, promises, agreements and obligations of the Issuer contained in the Loan Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Issuer, and not of any member, director, officer, employee or agent of the Issuer or any natural person executing the Loan Agreement on behalf of the Issuer in such person's individual capacity, and no recourse shall be had for any reason whatsoever under the Loan Agreement against any member, director, officer, employee or agent of the Issuer or any natural person executing the Loan Agreement on behalf of the Issuer. No recourse shall be had for the payment of the principal of, redemption premium, if any, Sinking Fund Installments for, Purchase Price or interest on the Bonds or for any claim based thereon or under the Loan Agreement against any member, director, officer, employee or agent of the Issuer or any natural person executing the Bonds. In addition, in the performance of the agreements of the Issuer contained in the Loan Agreement, any obligation the Issuer may incur for the payment of money shall not subject the Issuer to any pecuniary or other liability or create a debt of the State or the City, and neither the State nor the City shall be liable on any obligation so incurred and any such obligation shall be payable solely out of amounts payable to the Issuer by the Institution under the Loan Agreement and under the Promissory Note. *(Section 12.14)*

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**APPENDIX H**

**SUMMARY OF CERTAIN PROVISIONS**

**OF THE INDENTURE OF TRUST**

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## APPENDIX H

### SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE OF TRUST

*complete and reference is made to the Indenture for the detailed provisions thereof. This summary is qualified in its entirety by such reference. Headings are not part of the Indenture and are included for ease of reference only.*

#### **Authorized Amounts of Bonds; Pledge Effected by the Indenture.**

(a) No Bond may be authenticated and delivered under the provisions of the Indenture except in accordance with the Indenture. Except as provided in the Indenture, the total aggregate principal amount of Bonds that may be authenticated and delivered under the Indenture is limited to the Authorized Principal Amount.

(b) The proceeds of the Bonds deposited in the Project Fund and certain of the loan payments, receipts and revenues payable under the Loan Agreement, including moneys which are required to be set apart, transferred and pledged to the Revenue Fund, the Earnings Fund, to the Bond Fund, to the Debt Service Reserve Fund, to the Renewal Fund or to certain special funds, including the investments, if any, thereof (subject to disbursements from such Funds in accordance with the provisions of the Indenture) are pledged by the Indenture for the payment of the principal, Purchase Price or Redemption Price, if any, of, Sinking Fund Installments for, and interest on, the Bonds. All such Funds shall be held by the Trustee in trust for the benefit of the Bondholders, and while held by the Trustee constitute part of the Trust Estate and be subject to the lien of the Indenture. The Rebate Fund (including amounts on deposit therein) shall not be subject to any assignment, pledge, lien or security interest in favor of the Trustee or any Bondholder or any other Person. The Bonds shall be the special limited revenue obligations of the Issuer and shall be payable by the Issuer as to the principal, Purchase Price or Redemption Price, if any, of the Bonds, Sinking Fund Installments for the Bonds, and interest on the Bonds only from the Funds, special funds and loan payments, revenues and receipts pledged therefor. The Bonds are additionally secured by a pledge and assignment of the Promissory Note and substantially all of the Issuer's right, title and interest in and to the Loan Agreement (excluding the Issuer's Reserved Rights). Pursuant to the terms of the School Lease, the Institution has directed the School to make the School's Rent payments (as defined in the School Lease) directly to Institution's bank account that is subject to the Account Control Agreement. Pursuant to the terms of an Account Control Agreement, the Institution will grant a security interest in the Institution's operating account to the Trustee and also authorize the Trustee to transfer the amounts required under this Indenture and the Loan Agreement to the Revenue Fund. Further, the Institution has granted a mortgage lien on and security interest in its fee interest in the Mortgaged Property to the Issuer and the Trustee pursuant to the Mortgage, and the Issuer has assigned its right, title and interest in the Mortgage to the Trustee pursuant to the Assignment of Mortgage.

In no event shall any obligations of the Issuer under the Indenture or the Bonds or under the Loan Agreement or under any other Security Document or related document for the payment of money create a debt of the State or the City and neither the State nor the City shall be liable on any obligation so incurred, but any such obligation shall be a special limited revenue obligation of the Issuer secured and payable solely as provided in the Indenture. *(Section 2 01)*

#### **Creation of Funds and Accounts.**

(a) The Issuer establishes and creates the following special trust Funds and Accounts comprising such Funds:

- (1) Revenue Fund
- (2) Project Fund
  - (a) Costs of Issuance Account
- (3) Bond Fund

- (a) Principal Account
- (b) Interest Account
- (c) Redemption Account
- (d) Sinking Fund Installment Account
- (4) Renewal Fund
- (5) Earnings Fund
- (6) Rebate Fund
- (7) Debt Service Reserve Fund
- (8) Repair and Replacement Fund
- (9) Expense Fund

(b) All of the Funds and Accounts created under the Indenture shall be held by the Trustee. All moneys required to be deposited with or paid to the Trustee for the credit of any Fund or Account under any provision of the Indenture and all investments made therewith shall be held by the Trustee in trust and applied only in accordance with the provisions of the Indenture, and while held by the Trustee shall constitute part of the Trust Estate (subject to the granting clauses of the Indenture), other than the Rebate Fund, and be subject to the lien of the Indenture. *(Section 5.01)*

**Payments into the Revenue Fund.**

Unless otherwise provided in the Indenture, the Trustee shall promptly deposit all amounts received from the Institution or transferred pursuant to the Indenture into the Revenue Fund. *(Section 5.02)*

**Application of Revenue Fund Moneys.**

(a) Amounts in the Revenue Fund shall be transferred by the Trustee on each Loan Payment Date commencing on the January 10, 2019 Loan Payment Date, to the following Funds and Accounts in the following manner and in the order of priority indicated, provided that in the event funds in on any Loan Payment Date are insufficient to make any one or more of such transfers, any and all of such deficiencies will be remedied prior to making any transfers to any subordinated funds (based on the following order of priority) on any future Loan Payment Date:

- (i) First, to the Bond Fund:

- (1) For deposit into the Interest Account of the Bond Fund, an amount equal (i) to one-third (1/3) (or such other pro-rated amount, adjusted as necessary) of the amount of interest that will become due on the Bonds on the next Interest Payment Date, including default interest (after taking into account any amounts on deposit in the Interest Account of the Bond Fund, and as shall be available to pay interest on the Bonds on such next succeeding Interest Payment Date);

- (2) commencing on that Loan Payment Date as shall precede the first principal payment date (other than such principal as shall become due as a mandatory Sinking Fund Installment payment) by six (6) Loan Payment Dates, for deposit the Principal Account of the Bond Fund, an amount equal to at least one sixth (1/6) (or such other pro-rated amount,

adjusted as necessary) of the amount of the principal of the Bonds Outstanding becoming due (other than by reason of mandatory Sinking Fund Installments); and

(3) commencing on that Loan Payment Date as shall precede the first Sinking Fund Installment payment date by six (6) Loan Payment Dates, for deposit into the Sinking Fund Installment Account of the Bond Fund, an amount equal to at least one sixth (1/6) (or such other pro-rated amount, adjusted as necessary) of the amount of the next Sinking Fund Installment to become due on the Bonds.

(ii) Second, an equal amount to replenish any deficiencies in the the Debt Service Reserve Fund, if any;

(iii) Third, to the Rebate Fund to pay any amounts required to be rebated to the Federal government pursuant to the Indenture or the Tax Regulatory Agreement;

(iv) Fourth, to the Expense Fund to pay one-sixth (1/6) (or such other pro-rated amount, adjusted as necessary) of the annual fee of the Issuer, the Ratings Agency and the Trustee;

(v) Fifth, to the Repair and Replacement Reserve Fund, an amount equal to the Repair and Replacement Fund Deposit; and

(vi) Sixth, all remaining funds shall be paid to the Institution and used for any authorized purpose. (*Section 5.03*)

#### **Project Fund.**

(a) There shall be deposited in the Project Fund any and all amounts required to be deposited therein pursuant to the Indenture or otherwise required to be deposited therein pursuant to the Loan Agreement, or the Indenture.

The Trustee shall apply the amounts on deposit in the Project Fund to the payment, or reimbursement to the extent the same have been paid by or on behalf of the Institution or the Issuer, of Project Costs to the extent requisitioned under subsection (b) of this heading.

(b) The Trustee is authorized to disburse from the Project Fund amounts required to pay (in whole or in part) the Project Costs and is directed to issue its checks (or, at the direction of the Institution, make wire transfers) for each disbursement from the Project Fund for the Project Costs, upon a requisition submitted to the Trustee, signed by an Authorized Representative of the Institution.

Except with respect to the initial purchase of the Facility by the Institution on the date of issuance of the Initial Bonds and the disbursement of a portion of the proceeds of the Initial Bonds on such date, the requisition from the Project Fund shall be accompanied by bills or invoices (stamped "paid" by the Person to whom payment was due or with other evidence of payment if reimbursement is to be made to the Institution), including evidence that the bill, invoice or other evidence was not incurred on a date prior to sixty (60) days prior to the date of adoption by the Issuer or the Institution of the Reimbursement Resolution for the Project. Such requisition shall be as set forth in Exhibit D of the Indenture- "Form of Requisition from the Project Fund" and shall be submitted to the Trustee. The Trustee shall disburse amounts from the Project Fund not later than five (5) Business Days following the receipt of the executed requisition and accompanying bills or invoices, except that any such requisition and accompanying bills or invoices submitted on the Closing Date shall have disbursements made by the Trustee on such Closing Date. The Trustee shall be entitled to conclusively rely on the correctness and accuracy of such requisition as well as the propriety of the signature thereon.

(c) The Trustee shall keep and maintain adequate records pertaining to the Project Fund and all disbursements therefrom and shall furnish copies of same to the Issuer or the Institution upon reasonable written request.

(d) The Trustee shall on written request furnish to the Issuer and the Institution within a reasonable time period a written statement of disbursements from the Project Fund, enumerating, among other things, item, cost, amount disbursed, date of disbursement and the person to whom payment was made, together with copies of all bills, invoices or other evidences submitted to the Trustee for such disbursement.

(e) Upon payment of all the costs and expenses incident to the completion of the Project or six (6) months from the Closing Date, whichever occurs first, any balance of such remaining amount in the Project Fund, together with any amount on deposit in the Earnings Fund derived from transfers made thereto from the Project Fund, shall, after making any such transfer to the Rebate Fund, and after depositing in the Debt Service Reserve Fund an amount equal to any deficiency therein, be deposited in the Interest Account of the Bond Fund to be applied to pay interest on the Initial Bonds at the earliest practicable date. Upon the filing of such certificate or six (6) months from the Closing Date, whichever occurs first, the balance in the Costs of Issuance Account of the Project Fund in excess of the amount, if any, stated in such certificate for the payment of any remaining Costs of Issuance shall, after depositing in the Debt Service Reserve Fund an amount equal to any deficiency therein, be deposited in the Interest Account of the Bond Fund to be applied to pay interest on the Initial Bonds at the earliest practicable date. The Trustee shall promptly notify the Institution of any amounts so deposited in the Interest Account of the Bond Fund pursuant to the Indenture.

(f) In the event the Institution shall be required to or shall elect to cause the Bonds to be redeemed in whole pursuant to the Loan Agreement, (i) the balance in the Project Fund outside of the Costs of Issuance Account, in the Earnings Fund (in excess of any amount the Trustee is directed to transfer to the Rebate Fund pursuant to the Tax Regulatory Agreement and the Indenture), shall be deposited in the Redemption Account of the Bond Fund. In the event the unpaid principal amount of the Bonds shall be accelerated upon the occurrence of an Event of Default under the Indenture, (i) the balance in the Project Fund outside of the Costs of Issuance Account, in the Earnings Fund (in excess of any amount the Trustee is directed to transfer to the Rebate Fund pursuant to the Tax Regulatory Agreement and the Indenture) and in the Debt Service Reserve Fund, pro rata, shall be deposited in the Bond Fund as provided in the Indenture, and (ii) the balance in the Costs of Issuance Account of the Project Fund and in the Debt Service Reserve Fund, pro rata, shall be deposited in the Bond Fund.

(g) Except as provided in the Indenture, all earnings on amounts held in the Project Fund shall be transferred by the Trustee and deposited in the Earnings Fund. Any transfers by the Trustee of amounts to the Rebate Fund shall first be drawn by the Trustee from the Earnings Fund prior to drawing any amounts from the Project Fund. (*Section 5.04*)

**Payments into Renewal Fund; Application of Renewal Fund.**

(a) The Net Proceeds resulting from any Loss Event with respect to the Facility, together with any other amounts so required to be deposited therein under the Loan Agreement or the Mortgage, shall be deposited in the Renewal Fund (except as otherwise provided in the Mortgage).

(b) In the event the Bonds shall be subject to redemption in whole (either by reason of such Loss Event or otherwise) pursuant to the terms thereof or the Indenture, and the Institution shall have so directed the Trustee in writing within ninety (90) days of the occurrence of such Loss Event, the Trustee shall, after making any transfer to the Rebate Fund as directed pursuant to the Tax Regulatory Agreement and the Indenture, transfer the amounts deposited in the Renewal Fund to the Redemption Account of the Bond Fund.

If, on the other hand,

(1) the Bonds shall not be subject to optional redemption in whole (whether by reason of such Loss Event or otherwise), or

(2) the Bonds shall be subject to optional redemption in whole (whether by reason of such Loss Event or otherwise) and the Institution shall have failed to take action to effect such redemption, or

(3) the Institution shall have notified the Trustee of its intent to rebuild, replace, repair and restore the Facility,

the Trustee shall apply the amounts on deposit in the Renewal Fund, after making any transfer to the Rebate Fund as directed pursuant to the Tax Regulatory Agreement and the Indenture, to such rebuilding, replacement, repair and restoration.

(c) If an Event of Default shall exist at the time of the receipt by the Trustee of the Net Proceeds in the Renewal Fund, the Trustee shall promptly request the written direction of the Majority Holders and shall thereupon apply such Net Proceeds, after making any transfer to the Rebate Fund as directed pursuant to the Tax Regulatory Agreement and the Indenture, to the rebuilding, replacement, repair and restoration of the Facility, or for deposit, on a pro rata basis, in the Redemption Account of the Bond Fund, as directed by the Majority Holders (or if no such direction shall be received within ninety (90) days after request therefor by the Trustee shall have been made, for deposit, in the Redemption Account of the Bond Fund).

(d) The Trustee is authorized to apply the amounts in the Renewal Fund to the payment (or reimbursement to the extent the same have been paid by or on behalf of the Institution or the Issuer) of the costs required for the rebuilding, replacement, repair and restoration of the Facility upon written instructions from the Institution. The Trustee is further authorized and directed to issue its checks for each disbursement from the Renewal Fund upon a requisition submitted to the Trustee and signed by an Authorized Representative of the Institution. Each such requisition shall be accompanied by bills, invoices or other evidences or documentation (including, without limitation, a title continuation or other evidence that no mechanics or other liens have been filed) satisfactory to the Trustee. The Trustee shall be entitled to rely on such requisition. The Trustee shall keep and maintain adequate records pertaining to the Renewal Fund and all disbursements therefrom and shall furnish copies of same to the Issuer and the Institution upon reasonable written request therefor.

(e) The date of completion of the restoration of the Facility shall be evidenced to the Issuer and the Trustee by a certificate of an Authorized Representative of the Institution stating (i) the date of such completion, (ii) that all labor, services, machinery, equipment, materials and supplies used therefor and all costs and expenses in connection therewith have been paid for or arrangement for payment, reasonably satisfactory to the Trustee, has been made, (iii) that the Facility has been rebuilt, replaced, repaired or restored to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent value, operating efficiency and function, (iv) that all property constituting part of the Facility is subject to the terms of the Loan Agreement, and that all property constituting part of the Mortgaged Property is subject to the mortgage lien and security interest of the Mortgage, subject to Permitted Encumbrances, (v) the Rebate Amount applicable with respect to the Net Proceeds and the earnings thereon (with a statement as to the determination of the Rebate Amount and a direction to the Trustee of any required transfer to the Rebate Fund), and (vi) that the restored Facility is ready for occupancy, use and operation for its intended purposes. Notwithstanding the foregoing, such certificate shall state (x) 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, (y) that it is given only for the purposes of the Indenture and the Loan Agreement, and (z) that no Person other than the Issuer or the Trustee may benefit therefrom. Such certificate shall be accompanied by (i) a certificate of occupancy (either temporary or permanent, provided that if is a temporary certificate of occupancy, the Institution will proceed with due diligence to obtain a permanent 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 Facility for the purposes contemplated by the Loan Agreement; (ii) a certificate of an Authorized Representative of the Institution that all costs of rebuilding, repair, restoration and reconstruction of the Facility have been paid in full, together with releases of mechanics' liens by all contractors and materialmen who supplied work, labor, services, materials or supplies in connection with the rebuilding, repair, restoration and reconstruction of the Facility (or, to the extent that any such costs shall be the subject of a bona fide dispute, evidence to the Trustee that such costs have been appropriately bonded or that the Institution shall have posted a surety or security at least equal to the amount of such costs); and (iii) a search prepared by a title company, or other evidence satisfactory to the Trustee, indicating that there has not been filed with respect to the Facility any mechanic's, materialmen's or any other lien in connection with the rebuilding, replacement, repair and restoration of the Facility and that there exist no encumbrances other than those encumbrances consented to by the Issuer and the Trustee.

(f) All earnings on amounts on deposit in the Renewal Fund shall be transferred by the Trustee and deposited in the Earnings Fund. Any transfers by the Trustee of amounts to the Rebate Fund shall first be drawn by the Trustee from the Earnings Fund prior to drawing any amounts from the Renewal Fund.

(g) Any surplus remaining in the Renewal Fund after the completion of the rebuilding, replacement, repair and restoration of the Facility shall, after making any transfer to the Rebate Fund as directed pursuant to the Tax Regulatory Agreement and the Indenture, and after depositing, in the Debt Service Reserve Fund an amount equal to any deficiency therein, be transferred, by the Trustee to the Redemption Account of the Bond Fund. *(Section 5 05)*

**Payments into Bond Fund.**

The Trustee shall promptly deposit the following receipts into the Bond Fund:

(a) The interest accruing on any Series of Bonds from the date of original issuance thereof to the date of delivery, which shall be credited to the Interest Account of the Bond Fund and applied to the payment of interest on such Series of Bonds.

(b) Reserved.

(c) Excess or remaining amounts in the Project Fund required to be deposited (subject to any transfer required to be made to the Rebate Fund in accordance with directions received pursuant to the Tax Regulatory Agreement and the Indenture, or to the Debt Service Reserve Fund to the extent of any deficiency therein) (i) in the Redemption Account of the Bond Fund pursuant to the Indenture or the first sentence of the Indenture, which shall be kept segregated from any other moneys within such Account, or (ii) in the Bond Fund pursuant to the second sentence of the Indenture.

(d) Loan payments received by the Trustee pursuant to the Loan Agreement or transfers from the Revenue Fund pursuant to the Indenture, which shall be deposited in and credited, to the extent necessary, first to the Interest Account, second to the Principal Account, and third to the Sinking Fund Installment Account of the Bond Fund.

(e) Advance loan payments received by the Trustee pursuant to the Loan Agreement, which shall be deposited in and credited to the Redemption Account of the Bond Fund.

(f) Any amounts transferred from the Earnings Fund pursuant to the Indenture, which shall be deposited in and credited to the Interest Account of the Bond Fund.

(g) The excess amounts described in subsection (d) under the heading "Application of Bond Fund Moneys", which shall be deposited in and credited to the Interest Account of the Bond Fund.

(h) Reserved.

(i) Amounts in the Renewal Fund required by the Indenture or by the Mortgage to be deposited (subject to any transfer required to be made to the Rebate Fund in accordance with directions received pursuant to the Tax Regulatory Agreement and the Indenture or to the Debt Service Reserve Fund to the extent of any deficiency therein) to the Redemption Account of the Bond Fund pursuant to the Indenture.

(j) All other receipts when and if required by the Loan Agreement or by the Indenture or by any other Security Document to be paid into the Bond Fund, which shall be credited (except as provided in the Indenture) to the Redemption Account of the Bond Fund.

(k) Any amounts transferred from the accounts of the Debt Service Reserve Fund pursuant to the Indenture, which shall be deposited in and credited to the Interest Account, the Principal Account, the Sinking Fund Installment Account or the Redemption Account, as the case may be, of the Bond Fund. *(Section 5 06)*

**Application of Bond Fund Moneys.**

(a) The Trustee shall (i) on each Interest Payment Date pay or cause to be paid out of the Interest Account in the Bond Fund the interest due on the related Series of Bonds, and (ii) further pay out of the Interest Account of the Bond Fund any amounts required for the payment of accrued interest upon any purchase or redemption (including any mandatory Sinking Fund Installment redemption) of the Bonds.

(b) The Trustee shall on each principal payment date on the Bonds pay or cause to be paid to the respective Paying Agents therefor out of the Principal Account of the Bond Fund, the principal amount, if any, due on the Bonds (other than such as shall be due by mandatory Sinking Fund Installment redemption), upon the presentation and surrender of the requisite Bonds.

(c) There shall be paid from the Sinking Fund Installment Account of the Bond Fund to the Paying Agents on each Sinking Fund Installment payment date in immediately available funds the amounts required for the Sinking Fund Installment due and payable with respect to the Bonds which are to be redeemed from Sinking Fund Installments on such date (accrued interest on such Bonds being payable from the Interest Account of the Bond Fund). Such amounts shall be applied by the Paying Agents to the payment of such Sinking Fund Installment when due. The Trustee shall call for redemption, in the manner provided in the Indenture, Bonds for which Sinking Fund Installments are applicable in a principal amount equal to the Sinking Fund Installment then due with respect to such Bonds. Such call for redemption shall be made even though at the time of mailing of the notice of such redemption sufficient moneys therefor shall not have been deposited in the Bond Fund.

(d) Amounts in the Redemption Account of the Bond Fund shall be applied, at the written direction of the Institution, as promptly as practicable, to the purchase of Bonds at prices not exceeding the Redemption Price thereof applicable on the earliest date upon which the Bonds are next subject to optional redemption, plus accrued interest to the date of redemption. Any amount in the Redemption Account not so applied to the purchase of Bonds by forty-five (45) days prior to the next date on which the Bonds are so redeemable shall be applied to the redemption of Bonds on such redemption date. Any amounts deposited in the Redemption Account and not designated by the Institution in writing to the Trustee for payment of Interest or Principal on the Bonds and not applied within twelve (12) months of their date of deposit to the purchase or redemption of such Series of Bonds (except if held in accordance with the Indenture) shall be transferred to the Interest Account. Upon the purchase of any Bonds out of advance loan payments as provided in this subsection, or upon the redemption of any Bonds, an amount equal to the principal of such Bonds so purchased or redeemed shall be credited against the next ensuing and future Sinking Fund Installments for such Series of Bonds in chronological order of the due dates of such Sinking Fund Installments until the full principal amount of such Bonds so purchased or redeemed shall have been so credited. The portion of any such Sinking Fund Installment remaining after the deduction of such amounts so credited shall constitute and be deemed to be the amount of such Sinking Fund Installment for the purposes of any calculation thereof under the Indenture. The Bonds to be purchased or redeemed shall be selected by the Trustee in the manner provided in the Indenture. Amounts in the Redemption Account to be applied to the redemption of Bonds shall be paid to the respective Paying Agents on or before the redemption date and applied by them on such redemption date to the payment of the Redemption Price of the Bonds being redeemed plus interest on such Bonds accrued to the redemption date.

(e) In connection with purchases of Bonds out of the Bond Fund as provided under this heading, the Institution shall arrange and the Trustee shall execute such purchases (through brokers or otherwise, and with or without receiving tenders) at the written direction of the Institution. The payment of the purchase price shall be made out of the moneys deposited in the Redemption Account of the Bond Fund and the payment of accrued interest shall be made out of moneys deposited in the Interest Account of the Bond Fund.

(f) The Issuer shall receive a credit in respect of Sinking Fund Installments for any Bonds which are subject to mandatory Sinking Fund Installment redemption and which are delivered by the Issuer or the Institution to the Trustee on or before the forty-fifth (45th) day next preceding any Sinking Fund Installment payment date and for any Bonds which prior to said date have been purchased or redeemed (otherwise than through the operation of the Sinking Fund Installment Account) and cancelled by the Trustee and not theretofore applied as a credit against any Sinking Fund Installment (whether pursuant to the Indenture or otherwise). Each Bond so delivered, cancelled or previously purchased or redeemed shall be credited by the Trustee at one hundred per cent



(100%) of the principal amount thereof against the obligation of the Issuer on such Sinking Fund Installment payment date with respect to Bonds of such Series and maturity and the principal amount of such Bonds to be redeemed by operation of the Sinking Fund Installment Account on the due date of such Sinking Fund Installment shall be reduced accordingly, and any excess over such principal amount shall be credited on future Sinking Fund Installments in direct chronological order, and the principal amount of Bonds to be redeemed by application of Sinking Fund Installment payments shall be accordingly reduced.

(g) The Institution shall on or before the forty-fifth (45th) day next preceding each Sinking Fund Installment payment date furnish the Trustee with the certificate of an Authorized Representative of the Institution indicating whether or not and to what extent the provisions described under this heading are to be availed of with respect to such Sinking Fund Installment payment, stating, in the case of the credit provided for, that such credit has not theretofore been applied against any Sinking Fund Installment and confirming that immediately available cash funds for the balance of the next succeeding prescribed Sinking Fund Installment payment will be paid on or prior to the next succeeding Sinking Fund Installment payment date.

(h) Moneys in the Redemption Account of the Bond Fund which are not set aside or deposited for the redemption or purchase of Bonds shall be transferred by the Trustee to the Interest Account, to the Principal Account or to the Sinking Fund Installment Account of the Bond Fund. *(Section 5.07)*

**Payments into Earnings Fund; Application of Earnings Fund.**

(a) All investment income or earnings on amounts held in the Project Fund, the Renewal Fund, the Debt Service Reserve Fund or any other special fund (other than the Rebate Fund, the Repair and Replacement Fund or the Bond Fund) shall be deposited upon receipt by the Trustee into the Earnings Fund. The Trustee shall keep separate accounts of all amounts deposited in the Earnings Fund and by journal entry indicate the Fund source of the income or earnings.

(b) On the first Business Day following each Computation Period (as defined in the Tax Regulatory Agreement), the Trustee shall withdraw from the Earnings Fund and deposit to the Rebate Fund an amount such that the amount held in the Rebate Fund after such deposit is equal to the Rebate Amount calculated as of the last day of the Computation Period. In the event of any deficiency, the balance required shall be provided by the Institution pursuant to the Tax Regulatory Agreement. Computations of the amounts on deposit in each Fund and of the Rebate Amount shall be furnished to the Trustee by the Institution in accordance with the Tax Regulatory Agreement.

(c) The foregoing notwithstanding, the Trustee shall not be required to transfer amounts from the Earnings Fund to the Rebate Fund (and shall instead apply such amounts in the Earnings Fund as provided in the immediately following sentence), if the Institution shall deliver to the Trustee a certificate of an Authorized Representative of the Institution to the effect that (x) the applicable requirements of a spending exception to rebate has been satisfied as of the relevant semiannual period as set forth in the Tax Regulatory Agreement, (y) the proceeds of the Initial Bonds have been invested in obligations the interest on which is not included in gross income for Federal income tax purposes under Section 103 of the Code or (z) the proceeds of the Initial Bonds have been invested in obligations the Yield on which (calculated as set forth in the Tax Regulatory Agreement) does not exceed the Yield on such Initial Bonds (calculated as set forth in the Tax Regulatory Agreement). Any amounts on deposit in the Earnings Fund following the transfers to the Rebate Fund described under this heading shall be deposited in the Project Fund until the completion of the Project as provided in the Loan Agreement, and thereafter in the Interest Account of the Bond Fund. *(Section 5.08)*

**Payments into Rebate Fund; Application of Rebate Fund.**

(a) The Rebate Fund and the amounts deposited therein shall not be subject to a security interest, pledge, assignment, lien or charge in favor of the Trustee, any Bondholder or any other Person.

(b) The Trustee, upon the receipt of a certification of the Rebate Amount (as defined in the Tax Regulatory Agreement) from an Authorized Representative of the Institution, shall deposit in the Rebate Fund

within sixty (60) days following each Computation Date (as defined in the Tax Regulatory Agreement), an amount such that the amount held in the Rebate Fund after such deposit is equal to the Rebate Amount calculated as of such Computation Date. If there has been delivered to the Trustee a certification of the Rebate Amount in conjunction with the completion of the Project pursuant to the Loan Agreement or the restoration of the Facility pursuant to the Indenture, at any time during a Bond Year, the Trustee shall deposit in the Rebate Fund at that time an amount such that the amount held in the Rebate Fund after such deposit is equal to the Rebate Amount calculated at the completion of the Project or the restoration of the Facility as aforesaid. The amount deposited in the Rebate Fund pursuant to the previous sentences shall be withdrawn from the Earnings Fund. If the amount on deposit in the Rebate Fund following such deposit is less than the Rebate Amount, the Trustee shall promptly deliver a notice stating the amount of such deficiency to the Institution. It is provided in the Loan Agreement that promptly upon receipt of such notice, the Institution shall deliver the amount necessary to make up such deficiency to the Trustee for deposit in the Rebate Fund.

(c) If within sixty (60) days following any Computation Date, the amount on deposit in the Rebate Fund exceeds the Rebate Amount, the Trustee, upon the receipt of written instructions from an Authorized Representative of the Institution, shall withdraw such excess amount and deposit it in the Interest Account of the Bond Fund.

(d) The Trustee, upon the receipt of written instructions from an Authorized Representative of the Institution, shall pay to the United States, out of amounts in the Rebate Fund, (i) not less frequently than once each five (5) years after the Closing Date, an amount such that, together with prior amounts paid to the United States, the total paid to the United States is equal to 90% of the Rebate Amount with respect to the Initial Bonds as of the date of such payment and (ii) notwithstanding the provisions of the Indenture, not later than thirty (30) days after the date on which all Initial Bonds have been paid in full, 100% of the Rebate Amount as of the date of payment. *(Section 5.09)*

#### **Transfer to Rebate Fund.**

The Trustee shall have no obligation under the Indenture to transfer any amounts to the Rebate Fund unless the Trustee shall have received specific written instructions from an Authorized Representative of the Institution to make such transfer. *(Section 5.10)*

#### **Investment of Funds and Accounts.**

(a) Amounts in any Fund or Account established under the Indenture may, if and to the extent then permitted by law, be invested only in Qualified Investments provided that any Qualified Investment shall not have a maturity date greater than five (5) years from the date of the making of such investment unless such Qualified Investment may be put at par at any time at the option of the owner thereof, and provided, further, that any investment of amounts held in the Debt Service Reserve Fund shall be limited to Government Obligations. Any investment authorized in the Indenture is subject to the condition that no portion of the proceeds derived from the sale of the Initial Bonds shall be used, directly or indirectly, in such manner as to cause any Initial Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code. In particular, unexpended Initial Bond proceeds transferred from the Project Fund (or from the Earnings Fund with respect to amounts deposited therein from the Project Fund) to the Redemption Account of the Bond Fund pursuant to the Indenture may not be invested at a Yield (as defined in the Tax Regulatory Agreement) which is greater than the Yield on the Initial Bonds. Such investments shall be made by the Trustee only at the written request of an Authorized Representative of the Institution; and if such investment is to be in one or more certificates of deposit, investment agreements or guaranteed investment contracts, then such written request shall include written assurance to the effect that such investment complies with the Tax Regulatory Agreement. Any investment under the Indenture shall be made in accordance with the Tax Regulatory Agreement, and the Institution shall so certify to the Trustee with each such investment direction as referred to below. Such investments shall mature in such amounts and at such times as may be necessary to provide funds when needed to make payments from the applicable Fund. Net income or gain received and collected from such investments shall be credited and losses charged to (i) the Rebate Fund with respect to the investment of amounts held in the Rebate Fund, (ii) the Bond Fund with respect to the investment of

amounts held in the Bond Fund, (iii) the Repair and Replacement Fund with respect to the investment of amounts held in the Repair and Replacement Fund, (iv) the Expense Fund with respect to the investment of amounts held in the Expense Fund, and (v) the Earnings Fund with respect to the investment of amounts held in any other Fund.

(b) At the written request of an Authorized Representative of the Institution no sooner than ten (10) days prior to each Loan Payment Date under the Loan Agreement, the Trustee shall notify the Institution of the amount of such net investment income or gain received and collected subsequent to the last such loan payment and the amount then available in the various Accounts of the Bond Fund.

(c) Upon the written direction of an Authorized Representative of the Institution, the Trustee shall sell at the best price reasonably obtainable, or present for redemption or exchange, any obligations in which moneys shall have been invested to the extent necessary to provide cash in the respective Funds or Accounts, to make any payments required to be made therefrom, or to facilitate the transfers of moneys or securities between various Funds and Accounts as may be required from time to time pursuant to the provisions of the Indenture. The Trustee shall not be liable for losses incurred as a result of actions taken in good faith in accordance with the terms described under this heading. As soon as practicable after any such sale, redemption or exchange, the Trustee shall give notice thereof to the Issuer and the Institution.

(d) Neither the Trustee nor the Issuer shall be liable for any loss arising from, or any depreciation in the value of any obligations in which moneys of the Funds and Accounts shall be invested in accordance with the Indenture. The investments authorized by the terms described under this heading shall at all times be subject to the provisions of applicable law, as amended from time to time.

(e) In computing the amount in any Fund or Account, obligations purchased as an investment of moneys therein shall be valued at fair market value as determined by the Trustee one month prior to each Interest Payment Date.

The fair market value of Qualified Investments shall be determined as follows:

(i) as to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*), the average bid and asked prices for such investments so published on or most recently prior to such time of determination;

(ii) as to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or *The New York Times*, the average bid price at such nationally recognized government securities dealers (selected by the Trustee in its absolute discretion) at the time making a market in such investments or as quoted in the Interactive Data Service; and

(iii) as to certificates of deposit and bankers acceptances and other investments, the face amount thereof, plus accrued interest.

If more than one provision of this definition of "fair market value" shall apply at any time to any particular investment, the fair market value thereof at such time shall be determined in accordance with the provision establishing the lowest value for such investment.

(f) In the case of the Debt Service Reserve Fund, a "surplus" means the amount by which the amount on deposit therein is in excess of the Debt Service Reserve Fund Requirement. On each Debt Service Reserve Fund Valuation Date, and upon any withdrawal from the Debt Service Reserve Fund, the Trustee shall determine the amount on deposit in the Debt Service Reserve Fund. If on any such date a deficiency exists, the Trustee shall notify the Issuer, and the Institution of such deficiency and that such deficiency must be replenished by the Institution as required by the Loan Agreement. If a surplus exists, the Trustee shall notify the Issuer, and the Institution thereof and, subject to the requirements of the Tax Regulatory Agreement, shall upon written

instructions of the Institution transfer an amount equal to such surplus from amounts on deposit in the Debt Service Reserve Fund to the Interest Account of the Bond Fund.

(g) Reserved. *(Section 5.11)*

#### **Non-presentment of Bonds.**

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, and funds sufficient to pay any such Bond shall have been made available to the Trustee for the benefit of the Holder or Holders thereof, together with interest to the date on which principal is due, all liability of the Issuer to the Holder thereof for the payment of such Bond shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee to pay such funds to the Person entitled thereto or if the Person is not known to the Trustee, to hold such funds, without liability for interest thereon, for the benefit of the Holder of such Bond, who shall thereafter be restricted exclusively to such funds, for any claim of whatever nature on his part under the Indenture or on, or with respect to, such Bond. Such amounts so held shall, pending payment to the Holder of such Bond, (y) be subject to any rebate requirement as set forth in the Tax Regulatory Agreement or the Indenture, and (z) shall be uninvested, or, if invested, invested or re-invested only in Government Obligations maturing within thirty (30) days. Funds remaining with the Trustee as above and unclaimed for the earlier of two (2) years or one month less than the applicable statutory escheat period shall be paid to the Institution. After the payment of such unclaimed moneys to the Institution, the Holder of such Bond shall thereafter look only to the Institution for the payment thereof, and all obligations of the Trustee or such Paying Agent with respect to such moneys shall thereupon cease. *(Section 5.14)*

#### **Debt Service Reserve Fund.**

(a) If on any Interest Payment Date or redemption date on the Bonds the amount in the Interest Account of the Bond Fund (after taking into account amounts available to be transferred to the Interest Account from the Project Fund) shall be less than the amount of interest then due and payable on the Bonds, or if on any principal payment date on the Bonds the amount in the Principal Account shall be less than the amount of principal of the Bonds then due and payable, or if on any Sinking Fund Installment payment date for the Bonds the amount in the Sinking Fund Installment Account of the Bond Fund shall be less than the amount of the Sinking Fund Installment then due and payable on the Bonds, in each case, after giving effect to all payments received by the Trustee in immediately available funds by 10:00 a.m. (New York City time) on such date from or on behalf of the Institution or the Issuer on account of such interest, principal or Sinking Fund Installment, the Trustee forthwith shall transfer moneys from the Debt Service Reserve Fund and, first, to the Interest Account, second to the Principal Account, and third, to the Sinking Fund Installment Account, all to the extent necessary to make good any such deficiency.

(b) The Trustee shall give to the Institution on or prior to each Loan Payment Date on which the Institution is obligated pursuant to the Loan Agreement to pay to the Trustee amounts in respect of any deficiency in the accounts of the Debt Service Reserve Fund, telephonic notice (to be promptly confirmed in writing) specifying any such deficiency in the Debt Service Reserve Fund. The failure of the Trustee to deliver such notice or any defect in such notice shall not relieve the Issuer from any of its obligations under the Indenture or any other obligor from any of its obligations under any of the Security Documents. *(Section 5.15)*

#### **Account Control Agreement.**

(a) The Trustee is directed pursuant to the Indenture to enter into the Account Control Agreement.

(b) The Trustee acknowledges in the Indenture the automatic transfers to be made pursuant to the Account Control Agreement. The Trustee is directed in the Indenture to transfer such monies held pursuant to the Account Control Agreement in the amounts set forth in Exhibit 1 to the Account Control Agreement to the Revenue Fund promptly upon receipt thereof, but in no event later than two (2) Business Days after receipt. *(Section 5.17)*

**Repair and Replacement Fund.**

(a) There shall be deposited into the Repair and Replacement Fund as and when received (a) all payments by the Institution required pursuant to the Loan Agreement and all transfers received pursuant to the Indenture, (b) all other moneys deposited into the Repair and Replacement Fund pursuant to the Loan Agreement or the Indenture, and (c) all other moneys received by the Trustee when accompanied by directions not inconsistent with the Loan Agreement or the Indenture that such moneys are to be paid into the Repair and Replacement Fund. There shall also be retained in the Repair and Replacement Fund, interest and other income received on investment of moneys in the Repair and Replacement Fund to the extent provided in this summarized section.

(b) The Repair and Replacement Fund shall be in the custody of the Trustee, and, absent an Event of Default hereunder, the Trustee is hereby authorized and directed to make each disbursement authorized or required by the provisions of this summarized section and to issue its checks therefor. The Trustee shall keep and maintain adequate records pertaining to the Repair and Replacement Fund and all disbursements therefrom and shall annually file an accounting thereof with the Issuer and the Institution.

(c) Payments shall be made from the Repair and Replacement Fund upon receipt by the Trustee of a written requisition from an Authorized Representative of the Institution setting forth the amount and the payee for the purpose of paying the cost of extraordinary maintenance and replacements which may be required to keep the Facility or the K-8 Facility in sound condition, including but not limited to replacement of equipment, replacement of any roof or other structural component, exterior painting and the replacement of heating, air conditioning, plumbing and electrical equipment.

(d) Any interest or other gain realized as a result of any investments or reinvestments of moneys in the Repair and Replacement Fund shall be credited to the Repair and Replacement Fund. *(Section 5.18)*

**Expense Fund.**

(a) There shall be deposited into the Expense Fund as and when received (a) all transfers from the Revenue Fund pursuant to the Indenture, and (b) all other moneys received by the Trustee when accompanied by directions not inconsistent with the Loan Agreement or the Indenture that such moneys are to be paid into the Expense Fund. There shall also be retained in the Expense Fund, interest and other income received on investment of moneys in the Expense Fund.

(b) The Expense Fund shall be in the custody of the Trustee, and, absent an Event of Default hereunder, the Trustee is hereby authorized and directed to make each disbursement authorized or required by the provisions of this summarized section and to issue its checks therefor. The Trustee shall keep and maintain adequate records pertaining to the Expense Fund and all disbursements therefrom and shall annually file an accounting thereof with the Issuer and the Institution.

(c) Payments shall be made from the Expense Fund upon receipt by the Trustee of a written direction from an Authorized Representative of the Institution setting forth the amount and the payee for the purposes of paying the annual fees of the Issuer and the Rating Agency. The Trustee is hereby directed and authorized to debit its annual fee from the Expense Fund. *(Section 5.19)*

**Creation of Liens; Indebtedness.**

It is the intention of the Issuer and the Trustee that the Mortgage is and will continue to be a mortgage lien upon the Mortgaged Property (subject only to Permitted Encumbrances). The Issuer shall not create or suffer to be created, or incur or issue any evidences of indebtedness secured by, any lien or charge upon or pledge of the Trust Estate, except the lien, charge and pledge created by the Indenture and the other Security Documents. *(Section 7.05)*

**Issuer Tax Covenant.**

The Issuer covenants that it shall not take any action within its control, nor refrain from taking any action reasonably requested by the Institution or the Trustee, that would cause the interest on the Initial Bonds to become includable in gross income for Federal income tax purposes; provided, however, the breach of this covenant shall not result in any pecuniary liability of the Issuer and the only remedy to which the Issuer shall be subject shall be specific performance. *(Section 7.08)*

**Events of Default; Acceleration of Due Date.**

(a) Each of the following events is defined as and shall constitute an “Event of Default”:

(1) Failure in the payment of the interest on any Bond when the same shall become due and payable:

(2) Failure in the payment of the principal or redemption premium, if any, of, or Sinking Fund Installment for, any Bonds, when the same shall become due and payable, whether at the stated maturity thereof or upon proceedings for redemption thereof or otherwise, or interest accrued thereon to the date of redemption after notice of redemption therefor or otherwise;

(3) Failure of the Issuer to observe or perform any covenant, condition or agreement in the Bonds or under the Indenture on its part to be performed (except as set forth in the Indenture) continuance of such failure for more than thirty (30) days after written notice of such failure has been given to the Issuer and the Institution specifying the nature of same from the Trustee or the Holders of more than twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding, or (B) if by reason of the nature of such failure the same can be remedied, but not within the said thirty (30) days, the Issuer or the Institution fails to commence and thereafter proceed with reasonable diligence after receipt of said notice to cure such failure or fails to continue with reasonable diligence its efforts to cure such failure or fails to cure such failure within sixty (60) days of delivery of said notice; or

(4) The occurrence of an “Event of Default” under the Loan Agreement or any other Security Document.

(b) Upon the happening and continuance of any Event of Default, unless the principal of all the Bonds shall have already become due and payable, either the Trustee (by notice in writing to the Issuer and the Institution) or the Holders of over twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding (by notice in writing to the Issuer, the Institution and the Trustee) may declare the principal or Redemption Price, if any, of all the Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon such declaration the same shall become and be immediately due and payable, anything in the Indenture or in any of the Bonds contained to the contrary notwithstanding.

(c) If there shall occur an Event of Default under Section 9.1(d) or (e) of the Loan Agreement, the unpaid principal of all the Bonds (and all principal installments of loan payments under the Loan Agreement) and the interest accrued thereon shall be due and payable immediately without the necessity of any declaration or other action by the Trustee or any other Person.

(d) The right of the Trustee or of the Holders of over twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding to make any such declaration as aforesaid, however, is subject to the condition that if, at any time before such declaration, all overdue installments of principal of and interest on all of the Bonds which shall have matured by their terms and the unpaid Redemption Price of the Bonds or principal portions thereof to be redeemed has been paid by or for the account of the Issuer, and all other Events of Default have been otherwise remedied, and the reasonable and proper charges, expenses and liabilities of the Trustee, shall either be paid by or for the account of the Issuer or provision satisfactory to the Trustee shall be made for such payment and the Facility shall not have been sold or otherwise encumbered, and all defaults have been otherwise remedied as provided in the Indenture, then and in every such case any such default and its consequences shall ipso

facto be deemed to be annulled, but no such annulment shall extend to or affect any subsequent default or impair or exhaust any right or power consequent thereon.

(e) Pursuant to the Loan Agreement, the Issuer has granted to the Institution full authority for the account of the Issuer to perform any covenant or obligation the non-performance of which is alleged in any notice received by the Institution to constitute a default under the Indenture, in the name and stead of the Issuer with full power to do any and all things and acts to the same extent that the Issuer could do and perform any such things and acts with power of substitution. The Trustee agrees to accept such performance by the Institution as performance by the Issuer.

(f) Pursuant to the Account Control Agreement, upon the happening and continuance of any Event of Default, the Trustee, as Secured Party under the Account Control Agreement, shall withdraw any funds on deposit in the Accounts (as defined in the Account Control Agreement) which are required to pay, and such funds shall be applied to pay, principal, Purchase Price or Redemption Price of, Sinking Fund Installments for, and interest on the Bonds. *(Section 8.01)*

### **Enforcement of Remedies.**

(a) Upon the occurrence and continuance of any Event of Default, then and in every case the Trustee may proceed, and upon the written request of the Holders of over twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding shall proceed, to protect and enforce its rights and the rights of the Bondholders under the Bonds, the Loan Agreement, the Indenture and under any other Security Document forthwith by such suits, actions or special proceedings in equity or at law, or by proceedings in the office of any board or officer having jurisdiction, whether for the specific performance of any covenant or agreement contained in the Indenture or in any other Security Document or in aid of the execution of any power granted in the Indenture or in any other Security Document or for the enforcement of any legal or equitable rights or remedies as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce such rights or to perform any of its duties under the Indenture or under any other Security Document. In addition to any rights or remedies available to the Trustee under the Indenture or elsewhere, upon the occurrence and continuance of an Event of Default the Trustee may take such action, without notice or demand, as it deems advisable.

(b) In the enforcement of any right or remedy under the Indenture or under any other Security Document, the Trustee shall be entitled to sue for, enforce payment on and receive any or all amounts then or during any default becoming, and any time remaining, due from the Issuer, for principal, interest, Sinking Fund Installments, Redemption Price, or otherwise, under any of the provisions of the Indenture, of any other Security Document or of the Bonds, and unpaid, with interest on overdue payments at the rate or rates of interest specified in the Bonds, together with any and all costs and expenses of collection and of all proceedings under the Indenture, under any such other Security Document and under the Bonds, without prejudice to any other right or remedy of the Trustee or of the Bondholders, and to recover and enforce judgment or decree against the Issuer, but solely as provided in the Indenture and in the Bonds, for any portion of such amounts remaining unpaid, with interest, costs and expenses, and to collect (but solely from the moneys in the Bond Fund and other moneys available therefor to the extent provided in the Indenture) in any manner provided by law, the moneys adjudged or decreed to be payable. The Trustee shall file proof of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Bondholders allowed in any judicial proceedings relative to the Institution or the Issuer or their creditors or property.

(c) Regardless of the occurrence of an Event of Default, the Trustee, if requested in writing by the Holders of over twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding, and furnished with reasonable security and indemnity, shall institute and maintain such suits and proceedings as it may be advised shall be necessary or expedient to prevent any impairment of the security under the Indenture or under any other Security Document by any acts which may be unlawful or in violation of the Indenture or of such other Security Document or of any resolution authorizing any Bonds, and such suits and proceedings as the Trustee may be advised shall be necessary or expedient to preserve or protect its interests and the interests of the Bondholders; provided, that such request shall not be otherwise than in accordance with the provisions of law and of the Indenture and shall not be unduly prejudicial to the interests of the Holders of the Bonds not making such request. *(Section 8.02)*

### **Application of Revenues and Other Moneys After Default.**

(a) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of the Indenture or under any other Security Document shall, after payment of the cost and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee, be deposited in the Bond Fund and all moneys so deposited and available for payment of the Bonds shall be applied, subject to the terms of the Indenture, as follows:

(A) Unless the principal of all of the Bonds 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 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; and

Second - To the payment to the Persons entitled thereto of the unpaid principal or Redemption Price, if any, of any of the Bonds or principal installments which shall have become due (other than Bonds or principal installments called for redemption for the payment of which moneys are held pursuant to the provisions of the Indenture), in the order of their due dates, with interest on such Bonds, at the rate or rates expressed thereon, from the respective dates upon which they become due and, if the amount available shall not be sufficient to pay in full Bonds or principal installments due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the Persons entitled thereto without any discrimination or privilege.

(B) If the principal of all the Bonds shall have become or have been declared due and payable, to the payment to the Bondholders of the principal and interest (at the rate or rates expressed in the Bonds) then due and unpaid upon the Bonds and if applicable to the Redemption Price of the Bonds without preference or priority of principal over interest or of interest over principal, Sinking Fund Installments, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, 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 the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of the Indenture, then, subject to the provisions described in subsection (a)(B) of this heading which shall be applicable in the event that the principal of all the Bonds shall later become due and payable, the moneys shall be applied in accordance with the provisions of subsection (a)(A) of this heading.

(b) Whenever moneys are to be applied pursuant to the provisions of described under this heading, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date unless it 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 dates shall cease to accrue; provided, however, that if the principal or Redemption Price of the Bonds Outstanding, together with accrued interest thereon, shall have been declared to be due and payable pursuant to the Indenture, such date of declaration shall be the date from which interest shall cease to accrue. The Trustee shall give such written notice to all Bondholders 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 Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid. (*Section 8.03*)



### **Majority Holders Control Proceedings.**

Anything in the Indenture to the contrary notwithstanding, the Majority Holders shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the 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 the Indenture, or for the appointment of a receiver or any other proceedings under the Indenture; provided, that such direction shall not be otherwise than in accordance with the provisions of law and of the Indenture. *(Section 8.05)*

### **Individual Bondholder Action Restricted.**

(a) No Holder of any Bond shall have any right to institute any suit, action or proceeding at law or in equity (i) with respect to the Bonds, the Indenture or any other Security Document, (ii) for the enforcement of any provisions of the Bonds, the Indenture or of any other Security Document, (iii) for the execution of any trust under the Indenture or (iv) for any remedy under the Bonds, the Indenture or under any other Security Document, unless such Holder shall have previously given to the Trustee written notice of the occurrence of an Event of Default as provided in the Indenture, and the Holders of over twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding shall have filed a written request with the Trustee, and shall have offered it reasonable opportunity either to exercise the powers granted in the Bonds, the Indenture or in such other Security Document or by the laws of the State or to institute such action, suit or proceeding in its own name, and unless such Holders shall have offered to the Trustee adequate security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall have refused to comply with such request for a period of sixty (60) days after receipt by it of such notice, request and offer of indemnity, it being understood and intended that no one or more Holders of Bonds shall have any right in any manner whatever by his, its or their action to affect, disturb or prejudice the pledge created by the Indenture, or to enforce any right under the Indenture except in the manner provided in the Indenture; and that all proceedings at law or in equity to enforce any provision of the Bonds, the Indenture shall be instituted, had and maintained in the manner provided in the Indenture and, subject to the provisions of the Indenture, be for the equal benefit of all Holders of the Outstanding Bonds.

(b) Nothing in the Indenture, in any other Security Document or in the Bonds contained shall affect or impair the right of any Bondholder to payment of the principal or Redemption Price, if applicable, of, Sinking Fund Installments for, and interest on any Bond at and after the maturity thereof, or the obligation of the Issuer to pay the principal or Redemption Price, if applicable, of, Sinking Fund Installments for, and interest on each of the Bonds to the respective Holders thereof at the time, place, from the source and in the manner and in the Indenture and in said Bonds. *(Section 8.06)*

### **Notice of Default.**

The Trustee shall promptly mail to the Issuer, to registered Holders of Bonds and to the Institution by first class mail, postage prepaid, written notice of the occurrence of any Event of Default. The Trustee shall not, however, be subject to any liability to any Bondholder by reason of its failure to mail any notice required by this heading. *(Section 8.10)*

### **Waivers of Default.**

The Trustee shall waive any default under the Indenture and its consequences and rescind any declaration of acceleration only upon the written request of the Majority Holders; provided, however, that there shall not be waived without the consent of the Holders of all the Bonds Outstanding (a) any default in the payment of the principal of any Outstanding Bonds at the date specified therein or (b) any default in the payment when due of the interest on any such Bonds, unless, prior to such waiver, all arrears of interest, with interest (to the extent permitted by law) at the rate borne by the Bonds on overdue installments of interest in respect of which such default shall have occurred, and all arrears of payment of principal when due, as the case may be, and all expenses of the Trustee in connection with such default shall have been paid or provided for, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely to the Trustee, then and in every such case the Institution, the Issuer, the Trustee and the Bondholders shall be restored to their former positions and rights under the Indenture, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon. *(Section 8.11)*

### **Issuer Approval of Certain Remedies**

Notwithstanding any other remedy available under the Indenture or otherwise under any other Security Document or at law, upon the occurrence of an Event of Default, no such remedy (whether exercised by the Trustee or the Holders of the Bonds) shall have the effect of (x) continuing the exemption from the mortgage recording tax of the Mortgage upon any restructuring of the underlying indebtedness secured by the Mortgage (a "Mortgage Restructuring"), (y) modifying or terminating any Security Document to which the Issuer is a party (a "Security Document Action") or (z) substituting for the Institution and/or the School, as applicable, a new Entity to either be a counterparty to the Issuer under the Loan Agreement or to use all or a portion of the Facility (a "Substitute Entity"), unless, in either case, all material facts relating to either the Mortgage Restructuring, the Security Document Action and/or the Substitute Entity shall have been set forth in a writing delivered to the Issuer and (i) the Mortgage Restructuring, the Security Document Action and/or the Substitute Entity shall be approved in writing by the Issuer, such approval not to be unreasonably withheld or delayed (and which approval may, in the sole discretion of the Issuer, be subject to action by the Issuer's Board of Directors), and (ii) there shall be delivered to the Issuer and the Trustee an opinion of Nationally Recognized Bond Counsel to the effect that such Mortgage Restructuring, Security Document Action and/or Substitute Entity shall not cause the interest on any Outstanding tax-exempt Bonds to become subject to federal income taxation by reason of either such Mortgage Restructuring, Security Document Action and/or Substitute Entity. *(Section 8 12)*

### **Resignation or Removal of Trustee.**

The Trustee may resign and thereby become discharged from the trusts created under the Indenture for any reason by giving written notice by first class mail, postage prepaid, to the Issuer, to the Institution and to the Holders of all Bonds not less than sixty (60) days before such resignation is to take effect, but such resignation shall not take effect until the appointment and acceptance thereof of a successor Trustee pursuant to the Indenture.

The Trustee may be removed at any time by an instrument or concurrent instruments in writing filed with the Trustee and signed by the Issuer or the Majority Holders or their attorneys-in-fact duly authorized. Such removal shall become effective either upon the appointment and acceptance of such appointment by a successor Trustee or at the date specified in the instrument of removal. The Trustee shall promptly give notice of such filing to the Issuer and the Institution. No removal shall take effect until the appointment and acceptance thereof of a successor Trustee pursuant to the Indenture.

If the Trustee shall resign or shall be removed, such Trustee must transfer and assign to the successor Trustee, not later than the date of this acceptance by the successor Trustee of its appointment as such, or thirty (30) days from the date specified in the instrument of removal or resignation, if any, whichever shall last occur, (i) all amounts (including all investments thereof) held in any Fund or Account under the Indenture, together with a full accounting thereof, (ii) all records, files, correspondence, registration books, Bond inventory, all information relating to the Indenture and to Bond payment status (i.e., outstanding principal balances, principal payment and interest payment schedules, Sinking Fund Installment schedules, pending notices of redemption, payments made and to whom, delinquent payments, default or delinquency notices, deficiencies in any Fund or Account balance, etc.) and all such other information (in whatever form) relating to all Funds and Accounts in the possession of the Trustee being removed or resigning, and (iii) all Security Documents and other documents or agreements, including, without limitation, all Uniform Commercial Code Financing Statements, all insurance policies or certificates, letters of credit or other instruments provided to the Trustee being removed or resigning (clauses (i), (ii) and (iii), together with the Trust Estate, being collectively referred to as the "Trust Corpus"). *(Section 9 07)*

### **Successor Trustee.**

(a) If at any time the Trustee shall be dissolved or otherwise become incapable of acting or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator thereof, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, the position of Trustee shall thereupon become vacant. If the position of Trustee shall become vacant for any of the foregoing reasons or for any other reason or if the Trustee shall resign, the Institution shall cooperate with the Issuer and the Issuer shall appoint a successor Trustee and shall use its best efforts to obtain acceptance of such trust by the

successor Trustee within sixty (60) days from such vacancy or notice of resignation. Within twenty (20) days after such appointment and acceptance, the Issuer shall notify in writing the Institution and the Holders of all Bonds.

(b) In the event of any such vacancy or resignation and if a successor Trustee shall not have been appointed within sixty (60) days of such vacancy or notice of resignation, the Majority Holders, by an instrument or concurrent instruments in writing, signed by such Bondholders or their attorneys-in-fact thereunto duly authorized and filed with the Issuer, may appoint a successor Trustee which shall, immediately upon its acceptance of such trusts, and without further act, supersede the predecessor Trustee. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of the Indenture, within ninety (90) days of such vacancy or notice of resignation, the Holder of any Bond then Outstanding, the Issuer or any retiring Trustee or the Institution may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Trustee.

(c) Any Trustee appointed as described under this heading shall be a national banking association or a bank or trust company duly organized under the laws of any state of the United States authorized to exercise corporate trust powers under the laws of the State and authorized by law and its charter to perform all the duties imposed upon it by the Indenture and each other Security Document. At the time of its appointment, any successor Trustee shall (x) have a capital stock and surplus aggregating not less than \$100,000,000 and (y) have an investment grade rating of at least "Baa3" or "P-3".

(d) Any predecessor Trustee shall transfer to any successor Trustee appointed as described under this heading as a result of a vacancy in the position the Trust Corpus by a date not later than thirty (30) days from the date of the acceptance by the successor Trustee of its appointment as such. Where no vacancy in the position of the Trustee has occurred, the transfer of the Trust Corpus shall take effect in accordance with the provisions described under the heading "Resignation or Removal of Trustee".

(e) Every successor Trustee shall execute, acknowledge and deliver to its predecessor, and also to the Issuer, an instrument in writing accepting such appointment, and thereupon such successor Trustee, without any further act, deed, or conveyance, shall become fully vested with all moneys, estates, properties, rights, immunities, powers and trusts, and subject to all the duties and obligations, of its predecessor, with like effect as if originally named as such Trustee; but such predecessor shall, nevertheless, on the written request of its successor or of the Issuer, and upon payment of the compensation, expenses, charges and other disbursements of such predecessor which are due and payable pursuant to the Indenture, execute and deliver an instrument transferring to such successor Trustee all the estate, properties, rights, immunities, powers and trusts of such predecessor and the Trust Corpus; and every predecessor Trustee shall deliver all property and moneys, together with a full accounting thereof, held by it under the Indenture to its successor. Should any instrument in writing from the Issuer be required by any successor Trustee for more fully and certainly vesting in such Trustee the estate, properties, rights, immunities, powers and trusts vested or intended to be vested in the predecessor Trustee, any such instrument in writing shall, on request, be executed, acknowledged and delivered by the Issuer. Any successor Trustee shall promptly notify the Issuer and the Paying Agent of its appointment as Trustee.

(f) Any company into which the 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 Trustee may sell or transfer all or substantially all of its corporate trust business, provided such company shall be a national banking association or a bank or trust company duly organized under the laws of any state of the United States and shall be authorized by law and its charter to perform all the duties imposed upon it by the Indenture and each other Security Document shall be the successor to such Trustee without the execution or filing of any paper or the performance of any further act. *(Section 9.08)*

#### **Defeasance.**

(a) If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of all Bonds the principal or Redemption Price, if applicable, of, Sinking Fund Installments for, interest and all other amounts due or to become due thereon or in respect thereof, at the times and in the manner stipulated therein and in the Indenture, and all fees and expenses and other amounts due and payable under the Indenture and the Loan Agreement, and any other amounts required to be rebated to the Federal government pursuant to the Tax

Regulatory Agreement or the Indenture, shall be paid in full, then the pledge of any loan payments, revenues or receipts from or in connection with the Security Documents or the Facility under the Indenture and the estate and rights granted by the Indenture, and all covenants, agreements and other obligations of the Issuer to the Bondholders under the Indenture shall thereupon cease, terminate and become void and be discharged and satisfied and the Bonds shall thereupon cease to be entitled to any lien, benefit or security under the Indenture, except as to moneys or securities held by the Trustee or the Paying Agents as provided below in this subsection. At the time of such cessation, termination, discharge and satisfaction, (1) the Trustee shall cancel and discharge the lien of the Indenture and of the Mortgage and execute and deliver to the Institution all such instruments as may be appropriate to satisfy such liens and to evidence such discharge and satisfaction, and (2) the Trustee and the Paying Agents shall pay over or deliver to the Institution or on its order all moneys or securities held by them pursuant to the Indenture which are not required (i) for the payment of the principal or Redemption Price, if applicable, Sinking Fund Installments for, or interest on Bonds not theretofore surrendered for such payment or redemption, (ii) for the payment of all such other amounts due or to become due under the Security Documents, or (iii) for the payment of any amounts the Trustee has been directed to pay to the Federal government under the Tax Regulatory Agreement or the Indenture.

(b) Bonds or interest installments for the payment or redemption of which moneys (or Defeasance Obligations which shall not be subject to call or redemption or prepayment prior to maturity and the full and timely payment of the principal of and interest on which when due, together with the moneys, if any, set aside at the same time, will provide funds sufficient for such payment or redemption) shall then be set aside and held in trust by the Trustee or Paying Agents, whether at or prior to the maturity or the redemption date of such Bonds, shall be deemed to have been paid within the meaning and with the effect expressed in subsection (a) under this heading, if (i) in case any such Bonds are to be redeemed prior to the maturity thereof, all action necessary to redeem such Bonds shall have been taken and notice of such redemption shall have been duly given or provision satisfactory under the requirements of the Indenture to the Trustee shall have been made for the giving of such notice, and (ii) if the maturity or redemption date of any such Bond shall not then have arrived, (y) provision shall have been made by deposit with the Trustee or other methods satisfactory to the Trustee for the payment to the Holders of any such Bonds of the full amount to which they would be entitled by way of principal or Redemption Price, Sinking Fund Installments, and interest and all other amounts then due under the Security Documents to the date of such maturity or redemption, and (z) provision satisfactory to the Trustee shall have been made for the mailing of a notice to the Holders of such Bonds that such moneys are so available for such payment on such maturity or redemption date. *(Section 10.01)*

#### **Limitation on Modifications.**

The Indenture shall not be modified or amended in any respect except as provided in and in accordance with and subject to the provisions of the Indenture. *(Section 11.01)*

#### **Supplemental Indentures Without Bondholder's Consent.**

(a) The Issuer and the Trustee may, from time to time and at any time, enter into Supplemental Indentures without the consent of the Bondholders for any of the following purposes:

(1) To cure any formal defect, omission or ambiguity in the Indenture or in any description of property subject to the lien of the Indenture, if such action in the Opinion of Counsel is not materially adverse to the interests of the Bondholders.

(2) To grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, authority or security which may lawfully be granted or conferred and which are not contrary to or inconsistent with the Indenture as theretofore in effect.

(3) To add to the covenants and agreements of the Issuer in the Indenture other covenants and agreements to be observed by the Issuer which are not contrary to or inconsistent with the Indenture as theretofore in effect.

(4) To add to the limitations and restrictions in the Indenture other limitations and restrictions to be observed by the Issuer which are not contrary to or inconsistent with the Indenture as theretofore in effect.

(5) To confirm, as further assurance, any pledge under, and the subjection to any lien or pledge created or to be created by, the Indenture, of the properties of the Facility, or revenues or other income from or in connection with the Facility or of any other moneys, securities or funds, or to subject to the lien or pledge of the Indenture additional revenues, properties or collateral.

(6) To modify or amend such provisions of the Indenture as shall, in the opinion of Nationally Recognized Bond Counsel, be necessary to assure that the interest on the Bonds not be includable in gross income for Federal income tax purposes.

(7) To effect any other change in the Indenture which, in the judgment of the Trustee, is not to the material prejudice of the Trustee or the Bondholders.

(8) To modify, amend or supplement the Indenture or any Supplemental Indenture in such manner as to permit the qualification thereof under the Trust Indenture Act of 1939 or any similar federal statute hereafter in effect or to permit the qualification of the Bonds for sale under the securities laws of the United States of America or of any of the states of the United States of America, and, if they so determine, to add to the Indenture or any Supplemental Indenture such other terms, conditions and provisions as may be permitted by said Trust Indenture Act of 1939 or similar federal statute.

(b) Before the Issuer and the Trustee shall enter into any Supplemental Indenture pursuant to the terms described under this heading, there shall have been filed with the Trustee an opinion of Nationally Recognized Bond Counsel stating that such Supplemental Indenture is authorized or permitted by the Indenture and complies with its terms, and that upon execution it will be valid and binding upon the Issuer in accordance with its terms. *(Section 11 02)*

#### **Supplemental Indentures With Bondholders' Consent.**

(a) Subject to the terms and provisions contained in the Indenture, the Majority Holders shall have the right from time to time, to consent to and approve the entering into by the Issuer and the Trustee of any Supplemental Indenture as shall be deemed necessary or desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in the Indenture. Nothing contained in the Indenture shall permit, or be construed as permitting, (i) a change in the times, amounts or currency of payment of the principal of, Sinking Fund Installments for, redemption premium, if any, or interest on any Outstanding Bonds, a change in the terms of redemption or maturity of the principal of or the interest on any Outstanding Bonds, or a reduction in the principal amount of or the Redemption Price of any Outstanding Bond or the rate of interest thereon, or any extension of the time of payment thereof, without the consent of the Holder of such Bond, (ii) the creation of a lien upon or pledge of the Trust Estate other than the liens or pledge created by the Indenture and the other Security Documents, except as provided in the Indenture with respect to Additional Bonds, (iii) a preference or priority of any Bond or Bonds over any other Bond or Bonds, (iv) a reduction in the aggregate principal amount of Bonds required for consent to such Supplemental Indenture, or (v) a modification, amendment or deletion with respect to any of the terms described in this subsection, without, in the case of items (ii) through and including (v) of this subsection, the written consent of one hundred percent (100%) of the Holders of the Outstanding Bonds.

(b) If at any time the Issuer shall determine to enter into any Supplemental Indenture for any of the purposes described under this heading, it shall cause notice of the proposed Supplemental Indenture to be mailed, postage prepaid, to all Bondholders. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture, and shall state that a copy thereof is on file at the offices of the Trustee for inspection by all Bondholders.

(c) Within one year after the date of such notice, the Issuer and the Trustee may enter into such Supplemental Indenture in substantially the form described in such notice only if there shall have first been filed with the Trustee (i) the written consents of the Majority Holders or the Holders of not less than 100%, as the case may be, in aggregate principal amount of the Bonds then Outstanding and (ii) an opinion of Nationally Recognized Bond Counsel stating that such Supplemental Indenture (A) is authorized or permitted by the Indenture and complies with its terms, and that upon execution it will be valid and binding upon the Issuer in accordance with its terms and (B) will not cause the interest on any Bonds to become includable in gross income for federal income tax purposes. Each valid consent shall be effective only if accompanied by proof of the holding, at the date of such consent, of the Bonds with respect to which such consent is given. A certificate or certificates by the Trustee that it has examined such proof and that such proof is sufficient in accordance with the Indenture shall be conclusive that the consents have been given by the Holders of the Bonds described in such certificate or certificates. Any such consent shall be binding upon the Holder of the Bonds giving such consent and upon any subsequent Holder of such Bonds and of any Bonds 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 Bonds giving such consent or a subsequent Holder thereof by filing such revocation with the Trustee prior to the execution of such Supplemental Indenture.

(d) If the Holders of not less than the percentage of Bonds required by the terms described under this heading shall have consented to and approved the execution thereof as provided in the Indenture, no Holder of any Bond shall have any right to object to the execution of such Supplemental Indenture, 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 Issuer from executing the same or from taking any action pursuant to the provisions thereof.

(e) Upon the execution of any Supplemental Indenture pursuant to the provisions of the terms described under this heading, the Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under the Indenture of the Issuer, the Trustee and all Holders of Bonds then Outstanding shall thereafter be determined, exercised and enforced under the Indenture, subject in all respects to such modifications and amendments. *(Section 11.03)*

#### **Amendments of Related Security Documents Not Requiring Consent of the Bondholders.**

The Issuer and the Trustee may, without the consent of or notice to the Bondholders, consent (if required) to any amendment, change or modification of any of the Related Security Documents or Covenant Agreement for any of the following purposes: (i) to cure any ambiguity, inconsistency, formal defect or omission therein; (ii) to grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, authority or security which may be lawfully granted or conferred; (iii) to subject thereto additional revenues, properties or collateral; (iv) to evidence the succession of a successor Trustee or to evidence the appointment of a separate or co-Trustee or the succession of a successor separate or co-Trustee; (v) to make any change required in connection with a permitted amendment to a Related Security Document or a permitted Supplemental Indenture; (vi) to make any change necessary in connection with the issuance of Additional Bonds in accordance with the Indenture; (vii) to make any change necessary in connection with the School Lease that will not reduce the payments or reduce the term of the School Lease; and (viii) to make any other change that, in the judgment of the Trustee (which, in exercising such judgment, may conclusively rely, and shall be protected in relying, in good faith, upon an Opinion of Counsel or an opinion or report of engineers, accountants or other experts) does not materially adversely affect the Bondholders. The Trustee shall have no liability to any Bondholder or any other Person for any action taken by it in good faith pursuant to the terms described under this heading. Before the Issuer or the Trustee shall enter into or consent to any amendment, change or modification to any of the Related Security Documents, there shall be filed with the Trustee an opinion of Nationally Recognized Bond Counsel to the effect that such amendment, change or modification will not cause the interest on any of the Bonds to cease to be excluded from gross income for federal income tax purposes under the Code. *(Section 12.02)*

#### **Amendments of Related Security Documents Requiring Consent of Bondholders.**

Except as provided under the heading "Amendments of Related Security Documents Not Requiring Consent of the Bondholder", the Issuer and the Trustee shall not consent to any amendment, change or modification

of any of the Related Security Documents or Covenant Agreement, without mailing of notice and the written approval or consent of the Majority Holders given and procured as in set forth in the Indenture; provided, however, (i) the obligation of the Institution to make loan payments with respect to the Bonds under the Loan Agreement or the Promissory Note or (iii) the Tax Regulatory Agreement, without the delivery of an opinion of Nationally Recognized Bond Counsel to the effect that such amendment, change, modification, reduction or postponement will not cause the interest on any Series of Bonds to become includable in gross income for Federal income tax purposes. If at any time the Institution shall request the consent of the Trustee to any such proposed amendment, change or modification, the Trustee shall cause notice of such proposed amendment, change or modification to be mailed in the same manner as is provided in the Indenture with respect to Supplemental Indentures. Such notice 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 principal office of the Trustee for inspection by all Bondholders. The Trustee may, but shall not be obligated to, enter into any such amendment, change or modification to a Related Security Document which affects the Trustee's own rights, duties or immunities under such Related Security Document or otherwise. Before the Trustee shall enter into or consent to any amendment, change or modification to any of the Related Security Documents, there shall be filed with the Trustee an opinion of Nationally Recognized Bond Counsel to the effect that such amendment, change or modification will not cause the interest on any of the Bonds to cease to be excluded from gross income for federal income tax purposes under the Code. *(Section 12.03)*

**No Pecuniary Liability of Issuer or Members; No Debt of the State or the City.**

Every agreement, covenant and obligation of the Issuer under the Indenture is predicated upon the condition that any obligation for the payment of money incurred by the Issuer shall not create a debt of the State or the City and neither the State nor the City shall be liable on any obligation so incurred, and the Bonds shall not be payable out of any funds of the Issuer other than those pledged therefor but shall be a limited revenue obligation of the Issuer payable by the Issuer solely from the loan payments, revenues and receipts pledged to the payment thereof in the manner and to the extent in the Indenture specified and nothing in the Bonds, in the Loan Agreement, in the Indenture or in any other Security Document shall be considered as pledging any other funds or assets of the Issuer. The Issuer shall not be required under the Indenture or the Loan Agreement or any other Security Document to expend any of its funds other than (i) the proceeds of the Bonds, (ii) the loan payments, revenues and receipts and other moneys pledged to the payment of the Bonds, (iii) any income or gains therefrom, and (iv) the Net Proceeds with respect to the Facility. No provision, covenant or agreement contained in the Indenture or in the Bonds or any obligations therein imposed upon the Issuer or the breach thereof, shall constitute or give rise to or impose upon the Issuer a pecuniary liability or a charge upon its general credit.

All covenants, stipulations, promises, agreements and obligations of the Issuer contained in the Indenture shall be deemed to be covenants, stipulations, promises, agreements and obligations of the Issuer and not of any member, director, officer, employee or agent of the Issuer in his individual capacity, and no recourse shall be had for the payment of the principal or Redemption Price, if any, of, Sinking Fund Installments for, or interest on the Bonds or for any claim based thereon or under the Indenture against any member, director, officer, employee or agent of the Issuer or any natural person executing the Bonds. Neither the Bonds, the interest thereon, the Sinking Fund Installments therefor, nor the Redemption Price thereof shall ever constitute a debt of the State or of the City and neither the State nor the City shall be liable on any obligation so incurred, and the Bonds shall not be payable out of any funds of the Issuer other than those pledged therefor. *(Section 13 07)*

**Priority of Indenture Over Liens.**

The Indenture and the Mortgage are given in order to secure funds to pay for the Project and by reason thereof, it is intended that the Indenture and the Mortgage shall be superior to any laborers', mechanics' or materialmen's liens which may be placed upon the Facility subsequent to the recordation of the Mortgage. In compliance with Section 13 of the Lien Law, the Issuer will receive the advances secured by the Indenture and the Mortgage 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 improvements and that the Issuer will apply the same first to the payment of the costs of improvements before using any part of the total of the same for any other purpose. *(Section 13.08)*

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**APPENDIX I**

**SUMMARY OF CERTAIN PROVISIONS  
OF THE HIGH SCHOOL FACILITY LEASE**

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## APPENDIX I

### SUMMARY OF CERTAIN PROVISIONS OF THE HIGH SCHOOL FACILITY LEASE

*The following is a summary of certain provisions contained in the High School Facility Lease and is qualified in its entirety by reference to the High School Facility Lease. The definitions for all capitalized terms used herein not otherwise defined can be found in "APPENDIX F – CERTAIN DEFINITIONS" or in the Indenture, the Loan Agreement, or the High School Facility Lease, unless the context indicates otherwise.*

#### Rent

(a) **Base Rent.** The fixed annual rent (the "**Base Rent**") will be paid commencing on November 5, 2018, and thereafter in installments, in advance on the fifth day (or if such day is not a Business Day, on the next succeeding Business Day) of each January, March, May, July, September and November thereafter, during the term of the High School Facility Lease (the "**Lease Term**") as set forth in the High School Facility Lease.

(b) **Additional Rent.**

(1) The Base Rent will be net to the Institution, except as expressly provided otherwise in the High School Facility Lease, so that all impositions, insurance premiums, utility charges, maintenance, repair and replacement expenses, payments or charges under covenants, conditions and restrictions as of the date of the High School Facility Lease or thereafter of record, all expenses relating to compliance with all applicable legal requirements, capital replacements, and all other costs, fees, charges, expenses, reimbursements and obligations of every kind and nature whatsoever relating to the High School Facility (excepting only the Institution's obligations expressly set forth in the High School Facility Lease) which may arise or become due to the Institution or third parties during the Lease Term or by reason of events occurring during the Lease Term will be paid or discharged by the School, at the School's sole cost and expense (all charges payable by the School other than Base Rent, "**Additional Rent**" and together with Base Rent, "**Rent**" or "**Rents**").

(2) Together with, and in addition to, any payment of Rent or other sum(s) payable to or for the benefit of the Institution under the High School Facility Lease, the School will pay to the Institution, further as Additional Rent, a sum equal to the aggregate of any excise, sales, occupancy, franchise, privilege, rental, or transaction privilege tax on, or of any similar tax now or in the future levied, assessed, or imposed by any governmental authority upon, the Institution or the High School Facility as a result (and to the extent) of payments comprising Rent under the High School Facility Lease, or as a result of the School's use or occupancy of the High School Facility.

#### Term

(a) The Lease Term is for thirty years, ending on June 1, 2048.\*

(b) The School has two (2) extension options to extend the Lease Term for five (5) years. To exercise an option, the School must provide written notice to the Institution not less than 5 months prior to the then applicable end of the Lease Term.

#### Obligations of the School

(a) Except as required of the Institution as described below, the School will contract for and perform all maintenance, repair and cleaning of the High School Facility, including, without limitation, routine adjustments and maintenance (such as cleaning or changing filters, etc.) of mechanical systems. The

School will also replace fixtures and finishes within the High School Facility, such as floor coverings, plumbing fixtures, etc., to the extent necessary due to ordinary wear and tear.

- (b) The School will make all repairs and replacements and be responsible for the costs of all repairs and replacements to the High School Facility that are not otherwise the Institution's obligation pursuant to the High School Facility Lease, including but not limited to all interior non-structural repairs and replacements necessary to keep and maintain the High School Facility in good order and state of repair. The School will, at the School's sole cost and expense, repair or replace any damage or injury to the High School Facility or sidewalks serving the High School Facility, caused by any act or omission of the School. If the School does not do so after reasonable notice (at least 90 days) and opportunity to cure, the Institution may, at its option, make such repairs and replacements, and collect the cost thereof from the School as Additional Rent as set forth more specifically in the High School Facility Lease.
- (c) The School will obtain and maintain all necessary permits and licensing for any alterations, improvements or additions to the High School Facility made by the School, if any, pursuant to the High School Facility Lease. The School will not permit anything to be done at the High School Facility that would invalidate or prevent the procurement of any insurance policies or governmental permits, licenses or approvals that may at any time be required pursuant to the provisions of the High School Facility Lease.
- (d) The School will provide for prompt removal and disposal of all waste. The School will not permit any waste or refuse to be stored at the High School Facility except in dumpsters or waste removal containers for a reasonable period of time pending removal to a disposal site.
- (e) The School will contract for and perform all landscape maintenance and will remove snow in areas, common or otherwise, serving the High School Facility.
- (f) The School will keep the High School Facility free from any liens arising out of any work performed, materials furnished or obligations incurred by the School.
- (g) Failure of the Institution to insist, in any one or more instances, upon strict performance of any term, covenant or condition of the High School Facility Lease, or to exercise any option in the High School Facility Lease, will not be a waiver or relinquishment of such for the future. The receipt by the Institution of Rent with knowledge of the School's breach in any of the terms, covenants or conditions of the High School Facility Lease will not be deemed to have waived any provision of the High School Facility Lease unless in writing signed by the Institution.
- (h) If any default in the High School Facility Lease of the School can be cured by the expenditure of money, the Institution may, but without obligation, and without limiting any other remedies which it may have by reason of such default, cure the default after 90 days' written notice to the School, charge the cost to the School and the School will pay the same forthwith. Any amounts paid by the Institution to cure default of the School will, for purposes of the Institution's remedies, be construed as Additional Rent.
- (i) The School will promptly pay to the Institution, upon request, an amount equal to any reasonable cost incurred by the Institution in repairing the High School Facility where such repairs were made necessary by the negligence of, or misuse by, the School, its students, faculty, agents, customers, employees or invitees and the School has failed to make the necessary repairs after 90 days' written notice from the Institution to the School.

#### **Obligations of the Institution**

The Institution will keep the structural parts of the High School Facility (e.g., foundation, load-bearing walls, exterior walls (excluding glass and doors)), subfloor, building mechanical systems, roof and weatherproof exterior systems in good order, safe condition and repair, and will, if necessary, replace the boiler, chiller, heat exchanger or other building mechanical systems such as plumbing, and electrical equipment and fixtures, and will also repair or replace fixtures and finishes within the High School Facility to the extent necessary due to ordinary

wear and tear. To the extent such repairs or replacements are necessary but there is not an adequate amount of funds available to the Institution, the School will be responsible for costs associated with such repairs to or replacement of such items as a part of Additional Rent.

### **Assignment and Subleasing**

The School may not transfer, assign, sublet or mortgage its interest in the High School Facility Lease or the High School Facility without the prior written consent of the Institution, which shall not unreasonably be withheld, conditioned or delayed. Any such transfer, assignment or sublease will be on the condition that the High School Facility Lease will remain in full force and effect, subject to the performance of all terms, covenants and conditions, and the assignee or transferee will agree to be bound to perform all the terms, covenants and conditions pursuant to the High School Facility Lease. The Institution has the right to transfer and assign, in whole or in part, all of its rights and obligations under the High School Facility Lease and the High School Facility, on the condition that (i) in such event the High School Facility Lease will remain in full force and effect, subject to the performance by the School of all of the terms, covenants, and conditions on its part to be performed, (ii) that the assignee or transferee agrees to be bound to perform all the terms, covenants, and conditions pursuant to the High School Facility Lease, and (iii) that the transferee or assignee is a non-profit corporation that will be exempt from the payment of real estate taxes and is an organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

### **Subordination to Mortgage and Attornment**

The High School Facility Lease and all rights of the School as tenant under the High School Facility Lease are subject and subordinate to any superior ground lease of the High School Facility, and all renewals, extensions, modifications and replacements thereof, and to all mortgages, deeds of trust, security interests and similar encumbrances (collectively, a "Mortgage") which may now or hereafter affect the High School Facility, whether or not such Mortgage will also cover other lands and/or buildings and/or leases, to each and every advance made or thereafter to be made under such mortgages, and to all renewals, modifications, replacements and extensions of such leases and such Mortgages and all consolidations of such Mortgages, provided that such lender agree in writing that, so long as the School performs its obligations under the High School Facility Lease, the School's tenancy under the High School Facility Lease will not be disturbed.

Upon any assignment or transfer of the High School Facility Lease by the Institution, or if the High School Facility comes into custody or possession of a mortgagee or any other party whether because of mortgage foreclosure, or otherwise, subject to the rights of the School under the High School Facility Lease, the School will attorn to such assignee or other party and recognize such party as its landlord under the High School Facility Lease.

### **Default by the School and Remedies**

- (a) The Institution may treat any of the following as a breach of the High School Facility Lease:
  - (i) Default in the payment of any Rent to be paid under the High School Facility Lease, and such default continues for 5 days.
  - (ii) Default in the performance of any other covenant or condition which the School is required to observe and perform, and the default continues for 30 days after written notice from the Institution to the School of such default, or if such default is of a nature to require more than 30 days for remedy and continues beyond the time reasonably necessary to cure (and the School has not undertaken procedures to cure the default within such thirty (30) day period and has not diligently pursued such efforts to a complete cure).
  - (iii) The High School Facility Lease or the School's interest in the High School Facility Lease is taken upon execution or by other process of law directed against the School, or is taken upon or subjected to any attachments by any creditor of the School or claimant against the School and the attachment is not discharged within ten (10) Business Days after its levy.

(iv) The School files a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any state, or is dissolved, or makes an assignment for the benefit of creditors, or involuntary proceedings under any bankruptcy laws or insolvency act or for the dissolution of the School are instituted against the School or a receiver or trustee is appointed for all or substantially all of the School's property and equipment installed or placed by the School in the High School Facility and assets and the proceeding is not dismissed or the receivership or trusteeship is not vacated within 30 business days after institution or appointment.

(v) The School defaults under the School's Charter beyond applicable notice and cure periods, or the School's Charter is revoked or not renewed by the Authorizer or by any other entity that has the authority to revoke, terminate or renew the Charter, or the Charter otherwise ceases to be in full force and effect.

(vi) If the School loses its charter to operate as a public charter school.

(b) Upon the occurrence of any of the foregoing events, the Institution may have of the following remedies, in addition to any other rights and remedies provided at law or in equity:

(i) The Institution may terminate the High School Facility Lease and repossess the High School Facility and remove all persons or property therefrom using appropriate legal process, and be entitled to recover forthwith as damages a sum of money equal to the total of (a) the cost of recovering the High School Facility including reasonable attorney fees, (b) the unpaid Rent owed at the time of termination, plus interest thereon from due date at the lesser of (1) the maximum rate permitted by applicable law; or (2) 10%, (c) the balance of the Rent for the remainder of the Term of the High School Facility Lease less the rent the Institution can reasonably expect to recover by rental of the High School Facility for said period reduced to present value at a rate of 5%, and (d) any other sum of money and damages owed by the School to the Institution; or

(ii) The Institution may terminate the School's right of possession (but not the High School Facility Lease) and may repossess the High School Facility using appropriate legal process and without terminating the High School Facility Lease, in which event the Institution may, but will be under no obligation to do so, relet the High School Facility for the account of the School for such rent and upon such terms as will be satisfactory to the Institution. For the purpose of such reletting the Institution is authorized to decorate or to make any reasonable repairs, changes, alterations, or addition in or to the High School Facility that may be reasonably necessary for purposes of reletting; and (a) if the Institution fails or refuses to relet the High School Facility, or (b) if the same are relet and a sufficient sum is not realized from such reletting after paying the unpaid Rent due under the High School Facility Lease earned but unpaid at the time of reletting plus interest thereon at the lesser of (1) the maximum rate permitted by applicable law and (2) 10%, plus the cost of recovering possession including reasonable attorney fees, and all of the costs and expenses of such decorations, repairs, changes, alterations, and additions and the expense of such reletting and of the collection provided for in the High School Facility Lease to be paid; then the School will pay to the Institution as damages a sum equal to the amount of the Rent reserved in the High School Facility Lease for such period or periods, or if the High School Facility has been relet, the School will satisfy and pay any such deficiency upon demand therefor from time to time and the School agrees that the Institution may file suit to recover any sums failing due under the terms of the High School Facility Lease from time to time on one or more occasions without the Institution being obligated to wait until expiration of the Lease Term. Such reletting will not be construed as an election on the part of the Institution to terminate the High School Facility Lease unless a written notice of such intention is given to the School by the Institution. Notwithstanding any such reletting without termination, the Institution may at any time thereafter elect to terminate the High School Facility Lease for such previous breach.

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**APPENDIX J**

**FORM OF BOND COUNSEL OPINION**

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**APPENDIX J**  
**FORM OF BOND COUNSEL OPINION**

*Upon delivery of the Series 2018 Bonds, Bond Counsel to the Issuer proposes to issue its approving opinion in substantially the following form:*

October \_\_, 2018

Build NYC Resource Corporation  
New York, New York

Re: Build NYC Resource Corporation  
\$ \_\_\_\_\_ Revenue Bonds, Series 2018 (Bronx Lighthouse Charter School Project)

Ladies and Gentlemen:

We have acted as bond counsel to the Build NYC Resource Corporation (New York, New York) (the “**Issuer**”), in connection with the issuance on the date hereof by the Issuer of its Revenue Bonds, Series 2018 (Bronx Lighthouse Charter School Project), in the aggregate principal amount of \$ \_\_\_\_\_ (the “**Series 2018 Bonds**”). The Series 2018 Bonds are authorized to be issued pursuant to:

- (i) Section 1411 of the New York Not-for-Profit Corporation Law (the “**Act**”),
- (ii) the Bond Resolution duly adopted by the Issuer on June 12, 2018 (the “**Resolution**”), and
- (iii) the Indenture of Trust, dated as of October 1, 2018 (the “**Indenture**”), by and between the Issuer and The Bank of New York Mellon, as trustee for the benefit of the Owners of the Series 2018 Bonds (the “**Trustee**”).

The Series 2018 Bonds were issued to finance or refinance the costs of the completion of the acquisition, construction, renovation and equipping of a certain Facility (as defined in the Loan Agreement referenced below) (collectively, the “**Project**”).

The Issuer will loan the proceeds of the Series 2018 Bonds to 1005 Intervale Avenue LLC (the “**Institution**”), pursuant to the terms of a Loan Agreement, dated as of October 1, 2018 (the “**Loan Agreement**”), between the Issuer and the Institution. The Institution has evidenced its obligation to make loan payments to the Issuer by the issuance and delivery of a certain Promissory Note, dated October \_\_, 2018 (the “**Note**”), from the Institution to the Issuer and endorsed by the Issuer to the Trustee.

The Institution has granted a mortgage lien on and security interest in the Facility to the Issuer and the Trustee pursuant to a Mortgage and Security Agreement, dated as of October 1, 2018 (the “**Mortgage**”), from the Institution to the Issuer and the Trustee, and the Issuer has assigned to the Trustee as security for the Series 2018 Bonds, for the benefit of the Owners of the Series 2018 Bonds, all of its rights under the Mortgage pursuant to an Assignment of Mortgage and Security Agreement, dated as of even date herewith (the “**Assignment of Mortgage**”), from the Issuer to the Trustee.

The Issuer, the Institution and Bronx Lighthouse Charter School (the “**Organization**”) have entered into a Tax Regulatory Agreement, dated the date hereof (the “**Tax Regulatory Agreement**”), in which the Issuer, the



Institution and the Organization have made certain representations and covenants, established certain conditions and limitations and created certain expectations, relating to compliance with the requirements imposed by the Internal Revenue Code of 1986, as amended (the “Code”). Piper Jaffray & Co. (the “Underwriter”) has agreed to purchase the Series 2018 Bonds pursuant to the terms of a Bond Purchase Agreement, dated \_\_\_\_\_, 2018 (the “Bond Purchase Agreement”), among the Issuer, the Underwriter, the Organization and the Institution.

Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned thereto in Section 1.01 of the Indenture.

The Series 2018 Bonds are dated the date hereof, and bear interest from the date thereof pursuant to the terms of the Series 2018 Bonds. The Series 2018 Bonds are subject to prepayment or redemption prior to maturity, as a whole or in part, at such time or times, under such circumstances and in such manner as is set forth in the Series 2018 Bonds and the Indenture.

As bond counsel, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such instruments, certificates and documents (including all documents constituting the Record of Proceedings with respect to the issuance of the Series 2018 Bonds) as we have deemed necessary or appropriate for the purposes of the opinions rendered below. In such examination, we have assumed the genuineness of all signatures, the authenticity and due execution of all documents submitted to us as originals and the conformity to the original documents of all documents submitted to us as copies. As to any facts material to our opinion, without having conducted any independent investigation, we have relied upon, and assumed the accuracy and truthfulness of, the aforesaid instruments, certificates and documents.

In rendering the opinions set forth below, we have relied upon, among other things, certain representations and covenants made by the parties in this transaction including: (i) the Institution in (a) the Bond Purchase Agreement; (b) the Tax Regulatory Agreement; (c) the Loan Agreement; (d) the Letter of Representation and Indemnification, dated of even date herewith; and (e) the Bond Counsel Due Diligence Questionnaire submitted to us by the Institution, as amended and supplemented; (ii) the Organization in (a) the Bond Purchase Agreement, (b) the Tax Regulatory Agreement, (c) the Letter of Representation and Indemnification, (d) the Bond Counsel Due Diligence Questionnaire; and (iii) the Issuer in (a) the Indenture; (b) the Tax Regulatory Agreement; (c) the Loan Agreement; (d) the Assignment; (e) the Certificate of Determination, dated the date hereof; and (f) the General Certificate of the Issuer, dated the date hereof. We call your attention to the fact that there are certain requirements with which the Issuer and the Institution must comply after the date of issuance of the Series 2018 Bonds in order for the interest on the Series 2018 Bonds to remain excluded from gross income for Federal income tax purposes. Copies of the aforementioned documents are included in the Record of Proceedings.

In addition, in rendering the opinions set forth below, we have relied upon the opinions of the General Counsel of the Issuer, Meredith J. Jones, Esq., counsel to the Institution, Orrick, Herrington & Sutcliffe LLP, New York, New York and counsel to the Trustee, Paparone Law PLLC, New York, New York, all of even date herewith. Copies of the aforementioned opinions are contained in the Record of Proceedings.

Based upon and subject to the foregoing, we are of the opinion that:

1. The Issuer is a duly organized and existing corporate entity constituting a local development corporation of the State of New York.
2. The Issuer is duly authorized to issue, execute, sell and deliver the Series 2018 Bonds, for the purpose of paying the costs described above.
3. The Resolution has been duly adopted by the Issuer and is in full force and effect.
4. The Indenture, the Tax Regulatory Agreement, the Loan Agreement, the Assignment and the Bond Purchase Agreement (collectively, the “Issuer Documents”) have been duly authorized, executed and delivered by the Issuer.

5. Assuming the due authorization, execution and delivery of the Issuer Documents by the other parties thereto, the Indenture, the Loan Agreement, the Tax Regulatory Agreement, the Assignment and the Bond Purchase Agreement are and are legal, valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms.

6. The Series 2018 Bonds have been duly authorized, executed and delivered by the Issuer and are legal, valid and binding special obligations of the Issuer payable solely from the revenues derived from the Loan Agreement, enforceable against the Issuer in accordance with their respective terms.

7. The Series 2018 Bonds do not constitute a debt of the State of New York or of The City of New York and neither the State of New York nor The City of New York will be liable thereon.

8. The Code sets forth certain requirements which must be met subsequent to the issuance and delivery of the Series 2018 Bonds for interest thereon to be and remain excluded from gross income for Federal income tax purposes. Noncompliance with such requirements could cause the interest on the Series 2018 Bonds to be included in gross income for Federal income tax purposes retroactive to the date of issuance of the Series 2018 Bonds. Pursuant to the Indenture, the Loan Agreement and the Tax Regulatory Agreement, the Issuer and the Institution have covenanted to maintain the exclusion from gross income of the interest on the Series 2018 Bonds pursuant to Section 103 of the Code. In addition, the Issuer and the Institution have made certain representations and certifications in the Indenture, the Loan Agreement and the Tax Regulatory Agreement. We are also relying on the opinion of counsel to the Institution, as to all matters concerning the status of the Institution as a disregarded entity for federal income tax purposes and the Organization as an organization described in Section 501(c)(3) of the Code and exempt from Federal income tax under Section 501(a) of the Code. We have not independently verified the accuracy of those certifications and representations or that opinion.

Under existing law, assuming compliance with the tax covenants described herein and the accuracy of the aforementioned representations and certifications, interest on the Series 2018 Bonds is excluded from gross income for Federal income tax purposes under Section 103 of the Code. We are also of the opinion that such interest is not treated as a preference item in calculating the alternative minimum tax imposed under the Code.

9. Interest on the Series 2018 Bonds is exempt from personal income taxes imposed by the State of New York or any political subdivision of the State of New York (including The City of New York), assuming compliance with the tax covenants and the accuracy of the representations and certifications described in paragraph 8 herein.

10. Except as stated in paragraphs 8 and 9, we express no opinion as to any other Federal, state or local tax consequences of the ownership or disposition of the Series 2018 Bonds. Furthermore, we express no opinion as to any Federal, state or local tax law consequences with respect to the Series 2018 Bonds, or the interest thereon, if any action is taken with respect to the Series 2018 Bonds or the proceeds thereof upon the advice or approval of other counsel.

The foregoing opinions are qualified to the extent that the enforceability of the Series 2018 Bonds, the Indenture, the Loan Agreement, the Tax Regulatory Agreement, the Assignment and the Bond Purchase Agreement may be limited by bankruptcy, insolvency or other laws or enactments now or hereafter enacted by the State of New York or the United States affecting the enforcement of creditors' rights and by restrictions on the availability of equitable remedies and to the extent, if any, that enforceability of the indemnification provisions of such documents may be limited under law. We express no opinion with respect to the availability of any specific remedy provided for in any of the bond documents.

In rendering the foregoing opinions, we are not passing upon and do not assume any responsibility for the accuracy, completeness, sufficiency or fairness of any documents, information or financial data supplied by the Issuer, the Institution, or the Trustee in connection with the Series 2018 Bonds, the Indenture, the Loan Agreement, the Mortgage, the Tax Regulatory Agreement, the Assignment, the Bond Purchase Agreement and the Project, and we make no representation that we have independently verified the accuracy, completeness, sufficiency or fairness of any such documents, information or financial data.

We express no opinion with respect to the registration requirements under the Securities Act of 1933, as amended, the registration or qualification requirements under the Trust Indenture Act of 1939, as amended, the registration, qualification or other requirements of State Securities laws or the availability of exemptions therefrom.

We express no opinion as to the sufficiency of the description of the Facility Realty or the Facility Personalty contained in the Loan Agreement or as to the adequacy, perfection or priority of any security interest in any collateral securing the Series 2018 Bonds.

We express no opinion with respect to whether the Issuer and the Institution (i) have complied with environmental laws, (ii) have obtained any or all necessary governmental approvals, consents or permits, or (iii) have complied with the New York Labor Law or other applicable laws, rules, regulations, orders and zoning and building codes, all in connection with the renovation, construction, equipping, furnishing and operation of the Facility.

The opinions expressed herein may be relied upon by the addressee and may not be relied upon by any other person without our prior written consent.

Very truly yours

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**APPENDIX K**

**FORM OF CONTINUING DISCLOSURE AGREEMENT**

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**APPENDIX K**  
**FORM OF CONTINUING DISCLOSURE AGREEMENT**

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**CONTINUING DISCLOSURE AGREEMENT**

**between**

**1005 INTERVALE AVENUE LLC,  
as Institution**

**AND**

**BRONX LIGHTHOUSE CHARTER SCHOOL,  
as School**

**AND**

**URBAN FUTURES, INC.,  
as Dissemination Agent**

**Dated as of October 1, 2018**

**Relating to:**

**§ \_\_\_\_\_  
Build NYC Resource Corporation  
Revenue Bonds, Series 2018  
(Bronx Lighthouse Charter School Project)**

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This instrument drafted by:  
Barnes & Thornburg LLP (BWJ)  
225 South Sixth Street, Suite 2800  
Minneapolis, Minnesota 55402

## CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the “Disclosure Agreement”), dated as of October 1, 2018, is executed and delivered by 1005 Intervale Avenue LLC, a New York limited liability company (the “Institution”), and Bronx Lighthouse Charter School, a New York nonprofit education corporation and the sole member of the Institution (the “School”), and Urban Futures, Inc., as dissemination agent (the “Dissemination Agent”), in connection with the issuance by Build NYC Resource Corporation (the “Issuer”) of its Revenue Bonds, Series 2018 (Bronx Lighthouse Charter School Project) (the “Series 2018 Bonds”), in the original aggregate principal amount of \$ \_\_\_\_\_. The Series 2018 Bonds are being issued pursuant to an Indenture of Trust, dated as of October 1, 2018 (the “Indenture”), between the Issuer and The Bank of New York Mellon, as trustee (the “Trustee”). The proceeds of the Series 2018 Bonds are being loaned by the Issuer to the Institution pursuant to a Loan Agreement, dated as of October 1, 2018 (the “Loan Agreement”), between the Issuer and the Institution. Pursuant to the Loan Agreement, the Institution has covenanted and agreed to provide and to cause the School to provide the continuing disclosure of certain financial information and operating data and timely notices of the occurrence of certain events.

**Section 1. Purpose of Disclosure Agreement.** This Disclosure Agreement is being executed and delivered by the Institution, the School, and the Dissemination Agent for the benefit of the Registered Owners of the Series 2018 Bonds (for such purpose beneficial owners of the Series 2018 Bonds shall also be considered Registered Owners of the Series 2018 Bonds) and to assist Piper Jaffray & Co., Minneapolis, Minnesota (the “Participating Underwriter”), in complying with the Rule.

### **Section 2. Defined Terms.**

“*Annual Report*” means the financial information and operating data required to be transferred by the Institution and the School, as applicable, to the Dissemination Agent pursuant to Section 3(a)(1) 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 Series 2018 Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Series 2018 Bonds for federal income tax purposes.

“*Business Day*” has the same meaning as defined in the Indenture.

“*Covenant Agreement*” means the Covenant Agreement, dated as of October 1, 2018, between the School and the Trustee, as the same may be amended or supplemented from time to time.

“*Dissemination Agent*” means Urban Futures, Inc., as dissemination agent under this Disclosure Agreement, its successors and assigns.

“*EMMA*” means the Electronic Municipal Market Access system operated by the MSRB and the primary portal for complying with the continuing disclosure requirements of the Rule and any successor portal identified by the MSRB.

“*Events Notices*” means the notices required to be given by the Institution and the School pursuant to Section 5 of this Disclosure Agreement.

“*High School Facility*” means the approximately 25,837 square foot building comprised of five-stories on an approximately 9,059 square foot parcel of land located at 1005 Intervale Avenue, Bronx, New York that is used in the charter high school operations of the School as the same may be improved from time to time.

“*Indenture*” means the Indenture of Trust, dated as of October 1, 2018, between the Issuer and the Trustee, as the same may be amended from time to time.

“*Institution*” means 1005 Intervale Avenue LLC, a New York limited liability company, its successors and assigns, whose initial sole member is the School.

*"Institution's Audited Financial Statements"* means the Institution's annual financial statements, prepared in accordance with GAAP.

*"Institution's Disclosure Representative"* means any officer of the Institution or its designee or such other person as the Institution shall designate in writing to the Dissemination Agent from time to time.

*"Institution's Fiscal Year"* means the fiscal year of the Institution, which may be the same or different from the School's Fiscal Year.

*"Issuer"* means Build NYC Resource Corporation, its successors and assigns.

*"Official Statement"* means the Official Statement, dated September \_\_, 2018, relating to the Series 2018 Bonds.

*"Loan Agreement"* means the Loan Agreement, dated as of October 1, 2018, between the Issuer and the Institution, as the same may be amended from time to time.

*"MSRB"* means the Municipal Securities Rulemaking Board, its successors and assigns.

*"Operations Report"* means the financial information and operating data required to be transferred by the School to the Dissemination Agent pursuant to Section 3(a)(3) of this Disclosure Agreement.

*"Participating Underwriter"* means Piper Jaffray & Co., as original purchaser of the Series 2018 Bonds, its successors and assigns.

*"Quarterly Report"* means the financial information and operating data required to be transferred by the School to the Dissemination Agent pursuant to Section 3(a)(2) of this Disclosure Agreement.

*"Repository"* means EMMA.

*"Rule"* means SEC 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.

*"School"* means Bronx Lighthouse Charter School, a New York nonprofit education corporation, its successors and assigns.

*"School's Audited Financial Statements"* means the School's annual financial statements, prepared in accordance with generally accepted accounting principles ("GAAP").

*"School's Disclosure Representative"* means any officer of the School or its designee or such other person as the School shall designate in writing to the Dissemination Agent from time to time.

*"School's Fiscal Year"* means the fiscal year of the School.

*"SEC"* means the Securities and Exchange Commission, its successors and assigns.

*"Series 2018 Bonds"* means the Issuer's Revenue Bonds, Series 2018 (Bronx Lighthouse Charter School Project), in the original aggregate principal amount of \$\_\_\_\_\_.

*"Significant Bondholder"* means a Beneficial Owner of \$1,000,000 or more of the Series 2018 Bonds.

*"Trustee"* means The Bank of New York Mellon, its successors and assigns.

*"Underwriter"* means Piper Jaffray & Co., its successors and assigns.



### Section 3. Provision of Annual Reports, Quarterly Reports, and Operations Reports.

(a) (1) *Annual Reports.*

(A) *The Institution.* No later than December 31 each year, commencing December 31, 2018 for the fiscal year ended June 30, 2018, the Institution shall provide to the Repository, or shall cause the Dissemination Agent to provide to the Repository, an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement. In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Agreement; provided that the audited financial statements of the Institution may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if the audited financial statements are not available by that date, but the unaudited financial information available on such date is submitted. The Annual Report shall be provided at least annually notwithstanding a fiscal year longer than twelve (12) calendar months. The Institution may change its current fiscal year, but must notify the Issuer and the Repository or any other filing system approved by the SEC, of each such change within thirty (30) days after the later of the adoption of a new fiscal year and the end of the fiscal year that occurs before the former fiscal year would have ended.

(B) *The School.* No later than December 31 each year, commencing December 31, 2018 for the fiscal year ended June 30, 2018, the School shall provide to the Repository, or shall cause the Dissemination Agent to provide to the Repository, an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement. In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Agreement; provided that the audited financial statements of the School 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 School may change its current fiscal year, but must notify the Issuer and the Repository or any other filing system approved by the SEC, of each such change within thirty (30) days after the later of the adoption of a new fiscal year and the end of the fiscal year that occurs before the former fiscal year would have ended.

(C) At such time in the future if the Institution's financial statements are included in a consolidated schedule to the School's financial statements, the Institution and the School may submit a joint Annual Report that complies with Section 3(a)(1) and Section 4 of this Disclosure Agreement and the filing deadline shall be December 31 of each year.

(2) *Quarterly Reports.* On or before sixty (60) days after the end of each fiscal quarter (each a "Quarterly Submission Date"), commencing with the quarter ending December 31, 2018, the School shall provide to the Repository, or shall cause the Dissemination Agent to provide to the Repository, certain unaudited financial information relating to the School as specified in Section 4(b) hereof (the "Quarterly Reports"). The Quarterly Report of the School 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.

If the Institution's financial statements are included in a consolidated schedule to the School's financial statements, the Institution and the School may submit a joint Quarterly Report that complies with Section 3(a)(2) and Section 4 of this Disclosure Agreement.

(3) *Operations Reports.* Commencing in 2019, on or before August 31 of each year, the School shall provide to the Repository, or shall cause the Dissemination Agent to provide to the Repository, a copy (which may be sent electronically) of the School's adopted annual budget for the

present Fiscal Year commencing with the Fiscal Year starting July 1, 2019 and a copy of revisions, if any, to the School's annual budget as approved by its governing board.

(b) As soon as is practicable after the completion of any of the disclosure reports required by paragraph (a) (collectively referred to as the "Disclosure Reports"), the School shall provide each Disclosure Report to the Dissemination Agent, and any Significant Bondholder who requested such information in writing. The Dissemination Agent shall, at the School's cost, transmit the information contained in the Disclosure Reports in accordance with the requirements of Section 7 hereof.

(c) If the Institution or the School does not provide to the Dissemination Agent a copy of an Annual Report, or the School does not provide to the Dissemination Agent a copy of the Quarterly Report, by the applicable dates required in Section 3(a)(1) and (2) above, respectively, the Dissemination Agent shall send a notice to the Institution or the School, as applicable, the Repository, and the Participating Underwriter, in substantially the form attached as EXHIBIT C with respect to the Institution and EXHIBIT D with respect to the School. In the event that the Institution or School files the Disclosure Reports directly with the Repository on or before the dates required in Section 3(a) above, the Institution or the School shall promptly provide the Dissemination Agent with a certification, or other documentation reasonably required by the Dissemination Agent, that the filing of the Disclosure Report was made in a timely manner on or before the date required herein and such filing contained the information required by this Disclosure Agreement.

(d) The Dissemination Agent shall:

(i) determine each year prior to the date for providing the Annual Report the name and address (physical or electronic, as applicable) of the Repository; and

(ii) provided the Annual Report has been provided to the Dissemination Agent by the School, file a report with the School stating the date it was provided and that it was provided to the Repository.

#### **Section 4. Content of Annual Reports and Quarterly Reports.**

(a) *Annual Reports.* The Annual Report shall contain or include by reference the audited financial statements of the Institution and the School, respectively, for their respective prior fiscal year, prepared in accordance with GAAP as promulgated from time to time and which may be consolidated (if determined appropriate by the School and the Institution). If the Institution's or the School's, as applicable, 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 unaudited financial statements in a format similar to the Institution's or the School's audited financial statements, and the audited financial statements shall be filed in the same manner as the Annual Report when such audited financial statements become available.

To the extent not included in the audited financial statements of the Institution and the School, the Annual Report shall also include a certificate substantially in the form attached hereto as EXHIBIT A with respect to the Institution and EXHIBIT B with respect to the School that provides certain Institution or School data, demonstrates the Institution's or School's compliance with certain operating covenants contained in the Loan Agreement or the Covenant Agreement, as applicable, and provides updates to the information in the Official Statement found in certain table(s) under the heading "APPENDIX A – BRONX LIGHTHOUSE CHARTER SCHOOL." Such covenants and such tables are specified in EXHIBIT A and EXHIBIT B attached hereto. If New York reporting requirements change with respect to any of the reportable categories/tables set forth in the certificate form in EXHIBIT A hereto, then the Institution and the School shall be allowed to make corresponding adjustments in the format/information reported in such tables to comply with the changes.

(b) *Quarterly Reports* The Quarterly Report of the School shall contain unaudited financial statements of the School for such fiscal quarter consisting of at least statements of financial position (balance sheets and income statements/statement of operations) as of the end of such quarter and statements of activities for such fiscal quarter and year to date, each prepared in accordance with GAAP, as in effect from time to time (subject to year end adjustments and except such financial statements may omit footnotes that would be required by GAAP),

consistently applied, or, if and to the extent such financial statements have not been prepared in accordance with such GAAP beyond the reasonable control of the School noting the discrepancies therefrom and the effect thereof.

(c) *Annual Conference Calls.* Commencing in 2019, the School shall hold an annual conference call with Beneficial Owners by January 31 of each calendar year following issuance of the audited financial statements of the School for the immediately preceding fiscal year. Upon request of any Significant Bondholder, such conference call shall take place within three (3) Business Days of issuance of such annual financial statements. Notice of the annual conference call shall be posted to EMMA at least three (3) Business Days prior to the occurrence of the call. The Dissemination Agent shall only be required to post notice of such annual conference calls if requested to do so in writing by the School. Such conference call shall be recorded and posted to EMMA for at least a thirty (30) day period following occurrence of the conference call.

(d) Any or all of the Disclosure Reports may be incorporated by reference from other documents, including official statements, which have been submitted to the Repository. If the Disclosure Report information is changed or this Disclosure Agreement is amended in accordance with its terms, then the Institution and the School are to include in the next Disclosure Report to be delivered thereunder, to the extent necessary, an explanation of the reasons for the amendment and the effect of any change in the type of financial information or operating data provided.

**Section 5. Material Events.** The Institution and the School agree to provide or cause to be provided, in a timely manner not in excess of ten (10) Business Days, (i) to the Participating Underwriter, and (ii) to the Repository or to any other filing system approved by the SEC, notice of the occurrence of any of the following events (“Events Notice”) with respect to the Series 2018 Bonds:

- (a) Principal and interest payment delinquencies;
- (b) Non-payment related defaults, if material;
- (c) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (d) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (e) Substitution of credit or liquidity providers, or their failure to perform;
- (f) 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 security, or other material events affecting the tax status of the security;
- (g) Modifications to rights of security holders, if material;
- (h) Bond calls, if material, and tender offers;
- (i) Defeasances;
- (j) Release, substitution, or sale of property securing repayment of the securities, if material;
- (k) Rating changes;
- (l) Bankruptcy, insolvency, receivership or similar event of the obligated person;

Note to clause (l): For the purposes of the event identified in clause (l) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the School in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or government authority has assumed jurisdiction over substantially all of the assets or business of the School, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in

possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the School;

(m) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, 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; and

(n) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

Each Events Notice shall be so captioned and shall prominently state the date, title and (to the extent less than all of the Series 2018 Bonds are affected by the related material event) CUSIP numbers of the affected Series 2018 Bonds. The Institution or the School may from time to time choose to provide notice of the occurrence of certain other events, in addition to those listed above.

**Section 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.

**Section 7. Dissemination Agent.** The Institution and the School have engaged the Dissemination Agent to assist the Institution and the School in disseminating information hereunder. The Institution and the School shall send all Disclosure Reports required by Section 3 hereof, and Event Notices required by Section 5 hereof, to the Dissemination Agent. The Dissemination Agent shall, within five (5) Business Days of receipt of such Disclosure Report and within two (2) Business Days receipt of an Events Notice, forward such information to (i) the Repository and/or the MSRB or any other filing system approved by the SEC, as appropriate; (ii) the Issuer; (iii) the Participating Underwriter; and (iv) any Registered or Beneficial Owner of the Series 2018 Bonds identified in writing by the Participating Underwriter. The Institution and the School agree to pay any reasonable costs incurred by the Dissemination Agent as a result of disseminating information to any requesting Registered or Beneficial Owners of the Series 2018 Bonds. The Institution and the School 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.

**Section 8. Termination of Obligations.** Pursuant to paragraph (b)(5)(iii) of the Rule, the Institution's and the School's obligation to provide the Disclosure Reports and any Events Notices, as set forth in this Disclosure Agreement, shall terminate as to the Institution and the School, respectively, if and when the Institution and the School, as applicable, no longer remain obligated persons with respect to the Series 2018 Bonds, which shall occur upon either payment of the Series 2018 Bonds in full or the legal defeasance of the Series 2018 Bonds in accordance with the Indenture.

**Section 9. Enforceability and Remedies.** This Disclosure Agreement is intended to be for the sole benefit of the Registered Owners of the Series 2018 Bonds (for such purpose beneficial owners of the Series 2018 Bonds shall also be considered Registered Owners of the Series 2018 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 Series 2018 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 Series 2018 Bonds. The parties hereto acknowledge that this Disclosure Agreement is also enforceable on behalf of the Registered Owners of the Series 2018 Bonds by the Trustee, and the Trustee may, and upon the written direction of (i) the Registered Owners of not less than 25% of the aggregate outstanding principal amount of the Series 2018 Bonds or (ii) the Underwriter shall, proceed to protect and enforce the rights of the Registered Owners of the Series 2018 Bonds pursuant to this Disclosure Agreement; provided that in all cases the Trustee shall be entitled to the

indemnification and other provisions of the Indenture with regard to any actions. Prior to proceeding at the request or direction of the Underwriter the Trustee may require the same types of indemnification and related protections from the Underwriter to which the Trustee would otherwise be entitled under the Indenture if so requested or directed by the Registered Owners under the terms of the Indenture. Any failure by the Institution and the School to comply with the provisions of this Disclosure Agreement shall not be an Event of Default under the Loan Agreement or the Indenture.

The Registered Owners' and the Trustee's rights to enforce the provisions of this Disclosure Agreement shall be limited solely to a right, by action in mandamus or for specific performance, to compel the Institution and the School to perform the Institution's and the School's obligations under this Disclosure Agreement, and the Institution and the School, their directors, officers and employees shall incur no liability under this Disclosure Agreement by reason of any act or failure to act hereunder. Without limiting the generality of the foregoing, neither the commencement nor the successful completion of an action to compel performance under this Section 9 entitles the Trustee or any other person to attorneys' fees, financial damages of any sort or any other relief other than an order or injunction compelling performance; provided that the Trustee shall nevertheless be entitled to attorneys' fees and such other rights and amounts as provided in the Indenture.

**Section 10. Amendment.** Notwithstanding any other provision of this Disclosure Agreement, the Institution and the School and the Dissemination Agent 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 Dissemination Agent, under the following conditions:

(a) The amendment or waiver may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law or change in the identity, nature or status of the Institution and the School, 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 Series 2018 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 Series 2018 Bonds, as determined either by parties unaffiliated with the Institution and the School (which shall include the Dissemination Agent or Bond Counsel, or any other party determined by any of them to be unaffiliated), or by approving vote of Registered Owners of the Series 2018 Bonds pursuant to the terms of the Indenture at the time of the amendment or waiver.

The Institution and the School shall provide notice of each amendment or waiver to the Repository or any other filing system approved by the SEC. The initial annual financial or operating information provided by the Institution and the School 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.

**Section 11. Counterparts.** This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one instrument.

**Section 12. Choice of Law.** This Disclosure Agreement shall be governed by and construed in accordance with the laws of the State of New York, provided that to the extent this Disclosure Agreement addresses matters of federal securities laws, including the Rule, this Disclosure Agreement shall be construed in accordance with such federal securities laws and official interpretations thereof.

**Section 13. Severability.** If any portion of this Disclosure Agreement shall be held invalid or inoperative, then, so far as is reasonable and possible (i) the remainder of this Disclosure Agreement shall be considered valid and operative, and (ii) effect shall be given to the intent manifested by the portion held invalid or inoperative.

**Section 14. Other Instruments.** The Institution and the School 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.

**Section 15. Captions, Titles, and Headings.** The captions, titles, and headings used in this Disclosure Agreement are for convenience only and shall not be construed in interpreting this Disclosure Agreement.

**Section 16. Entire Agreement.** This Disclosure Agreement contains the entire understanding among the parties and supersedes any prior understandings or written or oral agreements between them respecting the subject matter of this Disclosure Agreement.

**Section 17. Dissemination Agent Compensation.** The Institution and the School shall pay to or reimburse the Dissemination Agent for its fees and expenses for the Dissemination Agent's services (including attorneys' fees) rendered in accordance with this Agreement.

**Section 18. Indemnification of Dissemination Agent.** In addition to any and all rights of the Dissemination Agent for reimbursement, indemnification and other rights pursuant to the Rule or under law or equity, the Institution and the School shall indemnify and hold harmless the Dissemination Agent and its respective officers, directors, employees and agents from and against any and all claims, damages, losses, liabilities, reasonable costs and expenses whatsoever (including attorney fees) which such indemnified party may incur by reason of or in connection with the Dissemination Agent's performance under this Disclosure Agreement and in the enforcement of its indemnification rights hereunder; provided that the Institution and the School shall not be required to indemnify the Dissemination Agent for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, caused by the misconduct or gross negligence of the Dissemination Agent in such disclosure of information hereunder. The obligations of the Institution and the School under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Series 2018 Bonds.

**Section 19. Notices.** Any notices or communications to or among any of the parties to this Disclosure Agreement may be given as follows:

- |                             |   |
|-----------------------------|---|
| To the Institution:         | 1005 Intervale Avenue LLC<br>1005 Intervale Avenue<br>Bronx, NY 10459<br>Attn: Director, Regional Operations  |
| To the School:              | Bronx Lighthouse Charter School<br>1001 Intervale Avenue<br>Bronx, NY 10459<br>Attn: Chair (with a copy to Director, Regional Operations at the same address) |
| To the Dissemination Agent: | Urban Futures, Inc.<br>17821 East 17th Street, Suite 245<br>Tustin, CA 92780<br>Attn: John Phan, Principal  |
| To the Underwriter:         | Piper Jaffray & Co.<br>800 Nicollet Mall, J12NPF<br>Minneapolis, MN 55402<br>Attn: Bruce E. Sorensen, Managing Director                                       |

Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices or communications should be sent.

**Section 20. Duties and Liabilities of Dissemination Agent.** The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement. The Dissemination Agent shall have no duty

or obligation to review or verify any information provided to them by the Institution or the School or to determine the materiality of a Listed Event and shall not be deemed to be acting in any fiduciary capacity for the Institution, the School, the Holders or any other party. The Dissemination Agent shall have no responsibility for a failure of the Institution or the School to report a Listed Event to the Dissemination Agent. Except in its role as Trustee under the Indenture, the Dissemination Agent shall have no power or authority to enforce performance of the Institution's or the School's duties and obligations thereunder and shall not be required to take any action to cause the Institution or the School to comply with its obligations hereunder. The obligations of the Institution or the School under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Series 2018 Bonds.

The fact that the Dissemination Agent of any affiliate thereof may have any fiduciary or banking relationship with the Institution or the School apart from the relationship created by this Disclosure Agreement shall not be construed to mean that the Dissemination Agent has actual knowledge of any event or condition except as may be provided by written notice from the Institution or the School. Nothing in this Disclosure Agreement shall be construed to require the Dissemination Agent to interpret or provide an opinion concerning any information disseminated hereunder. If the Dissemination Agent receives a request for an interpretation or opinion, the Dissemination Agent may refer such request to the Institution or the School, as applicable, for response.

**Section 21. Electronic Signatures.** The parties agree that the electronic signature of a party to this Disclosure Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Disclosure Agreement. For purposes hereof: (i) "electronic signature" means a manually signed original signature that is then transmitted by electronic means; and (ii) "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a portable document format ("pdf") or other replicating image attached to an electronic mail or internet message.

**URBAN FUTURES, INC.**, as Dissemination Agent

By: \_\_\_\_\_  
Its: Authorized Officer

**1005 INTERVALE AVENUE LLC**, as Institution  
By: Bronx Lighthouse Charter School, its sole Member

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

**BRONX LIGHTHOUSE CHARTER SCHOOL**, as School

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

**EXHIBIT A**

**FORM OF CERTIFICATE FOR ANNUAL FILING  
OF CERTAIN INSTITUTION OPERATING COVENANTS**

Name of Issuer: Build NYC Resource Corporation  
Name of Bond Issue: Revenue Bonds, Series 2018  
(Bronx Lighthouse Charter School Project)  
Dissemination Agent: Urban Futures, Inc.  
Name of Institution: 1005 Intervale Avenue LLC  
Name of School: Bronx Lighthouse Charter School  
Date of Issuance: October \_\_, 2018

NOTICE IS HEREBY GIVEN that the Institution is providing to the Dissemination Agent the following operational information as required under Section 4(a) of the Continuing Disclosure Agreement, dated as of October 1, 2018 (the "Disclosure Agreement"), between the Dissemination Agent, the Institution and the School. The Disclosure Agreement requires that the Institution provide this information to the Dissemination Agent by December 31 each year. Defined terms used in this certificate and not defined herein shall have the meanings granted to such terms in the Indenture of Trust, dated as of October 1, 2018 (the "Indenture"), between the Issuer and the Dissemination Agent, as trustee. The information contained below is unaudited.

As of June 30, 20\_\_, the amount on deposit in the Repair and Replacement Fund is \$\_\_\_\_\_.

This certificate is being provided by the Institution/School to the Dissemination Agent [before][after] the timeframe required by Section 3(a)(1) of the Disclosure Agreement.

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

**1005 INTERVALE AVENUE LLC, as Institution**

By: Bronx Lighthouse Charter School, its sole member

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



**EXHIBIT B**

**FORM OF CERTIFICATE FOR ANNUAL FILING  
OF CERTAIN SCHOOL OPERATING COVENANTS**

Name of Issuer: Build NYC Resource Corporation  
Name of Bond Issue: Revenue Bonds, Series 2018  
(Bronx Lighthouse Charter School Project)  
Dissemination Agent: Urban Futures, Inc.  
Name of Institution: 1005 Intervale Avenue LLC  
Name of School: Bronx Lighthouse Charter School  
Date of Issuance: October \_\_, 2018

NOTICE IS HEREBY GIVEN that the School is providing to the Dissemination Agent the following operational information as required under Section 4(a) of the Continuing Disclosure Agreement, dated as of October 1, 2018 (the "Disclosure Agreement"), between the Dissemination Agent, the Institution and the School. The Disclosure Agreement requires that the School provide this information to the Dissemination Agent by December 31 each year. Defined terms used in this certificate and not defined herein shall have the meanings granted to such terms in the Indenture of Trust, dated as of October 1, 2018 (the "Indenture"), between the Issuer and the Dissemination Agent, as trustee. The information contained below is unaudited.

1. As of June 30, 20\_\_, the School's:
  - (a) Cash on Hand was equal to \$\_\_\_\_\_.
  - (b) Days Cash on Hand was \_\_\_ days (Cash on Hand in the amount of \$\_\_\_\_\_, divided by the quotient of Operating Expenses of \$\_\_\_\_\_ for the fiscal year ended June 30, divided by 365).
  - (c) The amount of Cash on Hand required to comply with the covenant contained in the Covenant Agreement for current fiscal year is \$\_\_\_\_\_ (equal to at least [\_\_ / \_\_] Days Cash on Hand and, based on the information set forth in (b) above, the School [is/is not] in compliance with such covenant. (Commencing with the Fiscal Year ending June 30, 2019)
  - (d) The Charter School's Debt Service Coverage Ratio, including Principal and Interest Requirements on all Long-Term Indebtedness of the Company and the Charter School for fiscal year 20\_\_ was \_\_\_\_\_. (Commencing with the Fiscal Year ending June 30, 2019)
  
2. The following tables in APPENDIX A to the Official Statement are to be updated:
  - A. The table titled "Historical Enrollment by Grade Level";
  - B. The table titled "Projected Enrollment by Grade Level";
  - C. The table titled "Retention Rate by School Year";
  - D. The table titled "Waiting List by Grade";
  - E. The table titled "Historical ELA State Examination by Grade";
  - F. The table titled "Historical Math State Examination by Grade";
  - G. The table titled "Historical ELA / Math State Examination Data in Comparison to District 12";
  - H. The table titled "BLCS Regents Passing Rates – All Sudents – Single Sitting";
  - I. The table titled "College Readiness Regents Benchmarks by Cohort";
  - J. The table titled "Average SAT Score";

[Insert Tables Here]

This certificate is being provided by the School to the Dissemination Agent [by][after] December 31.

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

**BRONX LIGHTHOUSE CHARTER SCHOOL**, as School

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

**EXHIBIT C**

**NOTICE TO REPOSITORIES BY INSTITUTION OF FAILURE TO  
FILE ANNUAL REPORT**

Name of Issuer: Build NYC Resource Corporation  
Name of Bond Issue: Revenue Bonds, Series 2018  
(Bronx Lighthouse Charter School Project)  
Dissemination Agent: Urban Futures, Inc.  
Name of Institution: 1005 Intervale Avenue LLC  
Name of School: Bronx Lighthouse Charter School  
Date of Issuance: October \_\_, 2018

NOTICE IS HEREBY GIVEN that the Institution has not provided an Annual Report with respect to the above-named Series 2018 Bonds as required by the Continuing Disclosure Agreement, dated as of October 1, 2018, between the undersigned Dissemination Agent, the Institution and the School. The Institution anticipates that the Annual Report will be filed by \_\_\_\_\_.

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

**URBAN FUTURES, INC.,**  
as Dissemination Agent

By \_\_\_\_\_  
Authorized Signatory

cc: 1005 Intervale Avenue LLC  
Piper Jaffray & Co.  
Build NYC Resource Corporation

**EXHIBIT D**

**NOTICE TO REPOSITORIES OF FAILURE BY SCHOOL  
TO FILE ANNUAL OR QUARTERLY REPORT**

Name of Issuer: Build NYC Resource Corporation  
Name of Bond Issue: Revenue Bonds, Series 2018  
(Bronx Lighthouse Charter School Project)  
Dissemination Agent: Urban Futures, Inc.  
Name of Institution: 1005 Intervale Avenue LLC  
Name of School: Bronx Lighthouse Charter School  
Date of Issuance: October \_\_, 2018

NOTICE IS HEREBY GIVEN that the School has not provided an [Annual Report][Quarterly Report] with respect to the above-named Series 2018 Bonds as required by the Continuing Disclosure Agreement, dated as of October 1, 2018, between the undersigned Dissemination Agent, the School and the Institution. The School anticipates that the [Annual Report] [Quarterly Report] will be filed by \_\_\_\_\_.

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

URBAN FUTURES, INC., as Dissemination Agent

By: \_\_\_\_\_  
Authorized Signatory

cc: Bronx Lighthouse Charter School  
Piper Jaffray & Co.  
Build NYC Resource Corporation

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**APPENDIX L**

**BOOK-ENTRY ONLY SYSTEM**

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## APPENDIX L

### BOOK-ENTRY ONLY SYSTEM

*The information in this APPENDIX L concerning DTC (as defined below), Cede & Co. and the Book-Entry System has been furnished by DTC for use in disclosure documents such as this Official Statement. The Issuer and the Underwriter believe such information to be reliable, but neither the Issuer nor the Underwriter takes any responsibility for the accuracy or completeness thereof.*

The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the securities discussed in the body of this Official Statement (the “Series 2018 Bonds”). The Series 2018 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 2018 Bond certificate will be issued for each maturity of the Series 2018 Bonds, each 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, 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 the 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”). DTC has a Standard & Poor’s 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) and [www.dtc.org](http://www.dtc.org).

Purchases of the Series 2018 Bonds under the DTC system must be made by or through Direct Participants which will receive a credit for the Series 2018 Bonds on DTC’s records. The ownership interest of each actual purchaser of each Series 2018 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 2018 Bond 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 2018 Bonds, except in the event that use of the book-entry system for the Series 2018 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2018 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 2018 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 2018 Bond; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Series 2018 Bond 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. Beneficial Owners of Series 2018 Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Series 2018 Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Series 2018 Bond documents. For example, Beneficial Owners of the Series 2018 Bonds may wish to ascertain that the nominee holding the Series 2018 Bond for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of the notices be provided directly to them.

Redemption notices are required to be sent to DTC. If less than all of the Series 2018 Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to Series 2018 Bond 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 Series 2018 Bond are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and dividend payments on the Series 2018 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, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments 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.

A Beneficial Owner will give notice to elect to have its Series 2018 Bond purchased or tendered, through its Participant, to the Bond Trustee, and will effect delivery of such Series 2018 Bond by causing the Direct Participant to transfer the Participant's interest in the Series 2018 Bonds, on DTC's records, to the Bond Trustee. The requirement for physical delivery of Series 2018 Bonds in connection with an optional tender or a mandatory purchase will be deemed satisfied when the ownership rights in the Series 2018 Bond are transferred by Direct Participants on DTC's records and followed by a book-entry credit of tendered Series 2018 Bonds to the Bond Trustee's DTC account.

DTC may discontinue providing its services as depository with respect to the Series 2018 Bonds at any time by giving reasonable notice to the Issuer or the Bond Trustee. Under such circumstances, in the event that a successor depository is not obtained, Series 2018 Bond certificates are required to be printed and delivered. The Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Series 2018 Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Issuer believes to be reliable, but the Issuer takes no responsibility for the accuracy thereof.

THE INFORMATION ABOVE DISCUSSING THE BOOK-ENTRY SYSTEM HAS BEEN FURNISHED BY DTC. NO REPRESENTATION IS MADE BY THE ISSUER, THE INSTITUTION OR THE UNDERWRITER AS TO THE COMPLETENESS OR ACCURACY OF SUCH INFORMATION OR AS TO THE ABSENCE OF MATERIAL ADVERSE CHANGES IN SUCH INFORMATION SUBSEQUENT TO THE DATE HEREOF. NO ATTEMPT HAS BEEN MADE BY THE ISSUER, THE INSTITUTION OR THE UNDERWRITER TO DETERMINE WHETHER DTC IS OR WILL BE FINANCIALLY OR OTHERWISE

CAPABLE OF FULFILLING ITS OBLIGATIONS. THE ISSUER HAS NO RESPONSIBILITY OR OBLIGATION TO DTC PARTICIPANTS, INDIRECT PARTICIPANTS OR BENEFICIAL OWNERS, OR THE PERSONS FOR WHICH THEY ACT AS NOMINEES WITH RESPECT TO THE SERIES 2018 BOND, OR FOR ANY PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST PAYMENT THEREON.

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