
TAX COMPLIANCE AGREEMENT

Dated as of April 1, 2022

Among

SANDY CITY, UTAH,
as Issuer

WATERFORD SCHOOL, LLC, the sole member of which is
WATERFORD SCHOOL HOLDING CORPORATION,
as Borrower

And

ZIONS BANCORPORATION, N.A. dba ZIONS FIRST NATIONAL BANK,
as Lender

[\$Principal Amount A]
SCHOOL FACILITY REFUNDING BONDS
(WATERFORD SCHOOL, LLC)
SERIES 2022A

[\$Principal Amount B]
SCHOOL FACILITY REVENUE BONDS
(WATERFORD SCHOOL, LLC)
SERIES 2022B

TAX COMPLIANCE AGREEMENT

TABLE OF CONTENTS

	<u>Page</u>
Parties.....	1
Recitals.....	1

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms	2
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ARTICLE II

GENERAL REPRESENTATIONS AND COVENANTS

Section 2.1. Representations and Covenants of the Issuer	9
Section 2.2. Representations and Covenants of the Borrower	10
Section 2.3. Representations and Covenants of the Lender	14
Section 2.4. Survival of Representations and Covenants	14

ARTICLE III

ARBITRAGE CERTIFICATIONS AND COVENANTS

Section 3.1. General	15
Section 3.2. Reasonable Expectations	15
Section 3.3. Purposes of the Financing	15
Section 3.4. Funds and Accounts	15
Section 3.5. Amount and Use of Bond Proceeds and Other Money	15
Section 3.6. Multipurpose Issue	15
Section 3.7. No Refunding	Error! Bookmark not defined.
Section 3.8. Project Completion.....	Error! Bookmark not defined.
Section 3.9. Loan Agreement/Sinking Funds.....	16
Section 3.10. Reserve, Replacement and Pledged Funds	16
Section 3.11. Purpose Investment Yield.....	16
Section 3.12. Purchase Price and Yield on Bond	16
Section 3.13. Miscellaneous Arbitrage Matters	17
Section 3.14. Conclusion.....	17

ARTICLE IV

POST-ISSUANCE TAX REQUIREMENTS, POLICIES AND PROCEDURES

Section 4.1. General	17
Section 4.2. Record Keeping, Use of Bond Proceeds and Use of Financed Facilities	18
Section 4.3. Investment Yield Restriction.....	19
Section 4.4. Procedures for Establishing Fair Market Value	19

Section 4.5.	Exemption of Certain Gross Proceeds from the Rebate Requirement.....	22
Section 4.6.	Computation and Payment of Arbitrage Rebate.....	23
Section 4.7.	Tax Audits	24

ARTICLE V

MISCELLANEOUS PROVISIONS

Section 5.1.	Term of Tax Agreement	25
Section 5.2.	Amendments.....	25
Section 5.3.	Opinion of Bond Counsel.....	25
Section 5.4.	Reliance	25
Section 5.5.	Severability.....	26
Section 5.6.	Benefit of Agreement	26
Section 5.7.	Default, Breach and Enforcement	26
Section 5.8.	Execution in Counterparts	26
Section 5.9.	Governing Law.....	26
Section 5.10.	Electronic Transactions	26

Signatures	S-1
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Exhibit A Certificate of Approval

Exhibit B IRS Form 8038; Attachment to Form 8038; Proof of Filing and Receipt of Form 8038

Exhibit C 501(c)(3) Determination Letter

Exhibit D Resolution of Official Intent – New Money Portion

Exhibit E Description of Property Comprising the Project and Financed Property; Final Written Allocation for the Original Obligations; and List of Reimbursed Expenditures

Exhibit F Sample Annual Compliance Checklist

Exhibit G Sample Final Written Allocation

Exhibit H Debt Service Schedule and Proof of Bond Yield

Exhibit I Issuer’s Tax Compliance Procedure

Exhibit J Borrower’s Tax Compliance Procedure

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TAX COMPLIANCE AGREEMENT

THIS TAX COMPLIANCE AGREEMENT (the “Tax Agreement”), entered into as of April 1, 2022, among **SANDY CITY, UTAH**, a body politic and corporate duly organized and existing under the laws of the State of Utah (the “Issuer”), **WATERFORD SCHOOL, LLC**, a Utah limited liability company, the sole member of which is **WATERFORD SCHOOL HOLDING CORPORATION**, a nonprofit corporation organized and existing under the laws of the State of Utah (collectively, the “Borrower”) and **ZIONS BANCORPORATION, N.A. dba ZIONS FIRST NATIONAL BANK**, duly organized and existing under the laws of the United States of America, as Lender (the “Lender”);

RECITALS

1. This Tax Agreement is being executed and delivered in connection with the issuance by the Issuer of its \$[Principal Amount A] principal amount of School Facility Refunding Bonds (Waterford School, LLC), Series 2022A (the “Series 2022A Bonds”) and \$[Principal Amount B] principal amount of School Facility Refunding Bonds (Waterford School, LLC), Series 2022B (the “Series 2022B Bonds”) and together with the Series 2022A Bonds, the “Bonds”), under a Loan Agreement dated the date of this Tax Agreement (the “Loan Agreement”) among the Issuer, the Borrower and the Lender, for the purpose issuing the Bonds and making a loan of the proceeds of such Bonds to the Borrower for the purposes described in the Loan Agreement and this Tax Agreement.

2. The Internal Revenue Code of 1986, as amended (the “Code”), and the applicable regulations and rulings issued by the U.S. Treasury Department (the “Regulations”), impose certain limitations on the uses and investment of the Bond proceeds and of certain other money relating to the Bond and set forth the conditions under which interest on the Bond will be excluded from gross income for federal income tax purposes.

3. The Issuer, the Borrower and the Lender are entering into this Tax Agreement in order to set forth certain representations, facts, expectations, terms and conditions relating to the use and investment of the Bond proceeds and of certain other related money, in order to establish and maintain the exclusion of interest on the Bond from gross income for federal income tax purposes, and to provide guidance for complying with the arbitrage rebate provisions of Code § 148(f).

4. The Issuer adopted a [Tax-Exempt Financing Compliance Policy and Procedure on March __, 2022] (the “Issuer Tax Compliance Procedure”) (a copy of which is attached as **Exhibit I**), and the Borrower adopted its Tax-Exempt Bond Compliance Procedure on March __, 2022 (the “Borrower Tax Compliance Procedure”) (a copy of which is attached as **Exhibit J**), each for the purpose of setting out general procedures that the Issuer and the Borrower will use to continuously monitor and comply with the federal income tax requirements set out in the Code and the Regulations that relate to tax-exempt bonds.

5. This Tax Agreement is entered into as required by the Issuer Tax Compliance Procedure and the Borrower Tax Compliance Procedure to set out specific tax compliance procedures applicable to the Bonds.

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, covenants and agreements set forth in this Tax Agreement, the Issuer, the Borrower and the Lender represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. Except as otherwise provided in this Tax Agreement or unless the context otherwise requires, capitalized words and terms used in this Tax Agreement have the same meanings as set forth in the Loan Agreement, and certain other words and phrases have the meanings assigned in Code § 148 and the Regulations. In addition, the following words and terms used in this Tax Agreement have the following meanings:

“Adjusted Gross Proceeds” means the Gross Proceeds of the New Money Portion or the Refunding Portion, as applicable, reduced by amounts (a) in a bona fide debt service fund or a reasonably required reserve or replacement fund, (b) that as of the Issue Date are not expected to be Gross Proceeds, but which arise after the end of the applicable spending period, and (c) representing grant repayments or sale or investment proceeds of any purpose investment.

“Annual Compliance Checklist” means a checklist for the Project designed to measure compliance with the requirements of this Tax Agreement, the Issuer Tax Compliance Procedure and the Borrower Tax Compliance Procedure after the Issue Date as further described in **Section 4.2** and substantially in the form attached as **Exhibit F**.

“Available Construction Proceeds” means the sale proceeds of the New Money Portion, increased by investment earnings on the sale proceeds, earnings on amounts in a reasonably required reserve or replacement fund allocable to the New Money Portion but not funded from the New Money Portion, and earnings on such earnings, reduced by sale proceeds (a) in a reasonably required reserve or replacement fund, and (b) used to pay issuance costs of the New Money Portion. But Available Construction Proceeds do not include investment earnings on amounts in a reasonably required reserve or replacement fund after the earlier of (1) the date 2 years after the Issue Date, or (2) the date construction of the Financed Property is substantially completed. If the Issuer has elected under Code § 148(f)(4)(C)(vi)(IV) to rebate earnings on a reasonably required reserve or replacement fund, then Available Construction Proceeds do not include any earnings on such account.

“Bona Fide Debt Service Fund” means a fund, which may include Bond proceeds, that is (a) used primarily to achieve a proper matching of revenues with principal and interest payments on the Bond within each Bond Year, and (b) depleted at least once each Bond Year, except for a reasonable carryover amount not to exceed the greater of (1) the earnings on the fund for the immediately preceding Bond Year, or (2) one-twelfth of the principal and interest payments on the Bond for the immediately preceding Bond Year.

“Bonds” means, collectively, the Series 2022A Bonds and the Series 2022B Bonds.

“Bond Counsel” means Gilmore & Bell, P.C., or other firm of nationally recognized bond counsel acceptable to the Issuer and the Borrower.

“Bond Year” means each 1-year period (or shorter period for the first Bond Year) ending _____, or another 1-year period selected by the Borrower.

“Borrower” means Waterford School, LLC, a Utah limited liability company, the sole member of which is Waterford School Holding Corporation, a Utah nonprofit corporation, and its

successors and assigns and any surviving, resulting or transferee corporation as provided in the Loan Agreement.

“Borrower Bond Compliance Officer” means the Borrower’s [Borrower Bond Compliance Officer] or other person named in the Borrower Tax Compliance Procedure.

“Borrower Tax Compliance Procedure” means the Borrower’s Tax-Exempt Financing Compliance Procedure dated March __, 2022.

“Code” means the Internal Revenue Code of 1986, as amended.

“Computation Date” means each date on which arbitrage rebate and yield reduction amounts for the Bonds are computed. The Borrower may treat any date as a Computation Date, subject to the following limits:

- (a) the first rebate installment payment must be made for a Computation Date not later than 5 years after the Issue Date;
- (b) each subsequent rebate installment payment must be made for a Computation Date not later than 5 years after the previous Computation Date for which an installment payment was made; and
- (c) the date the last Bond is discharged is the final Computation Date.

The Borrower selects April 1, 2027 as the first Computation Date but reserves the right to select a different date consistent with the Regulations.

“Costs of Issuance” means, generally, any cost or expense incurred on account of and in connection with the borrowing including, (i) underwriters’ spread (whether realized directly or derived through purchase of the Bond at a discount below the price at which they are expected to be sold to the public); (ii) counsel fees (including bond counsel, underwriters’ counsel, Issuer’s counsel, company counsel in the case of borrowings such as those for exempt facilities, as well as any other specialized counsel fees incurred in connection with the borrowing); (iii) financial advisor fees incurred in connection with the borrowing; (iv) rating agency fees; (v) trustee fees incurred in connection with the borrowing; (vi) paying agent and certifying and authenticating agent fees related to issuance of the Bond; (vii) accountant fees (e.g., accountant verifications in the case of advance refundings) related to issuance of the Bond; (viii) printing costs (for the Bond and of preliminary and final offering materials); (ix) costs incurred in connection with the required public approval process (e.g., publication costs for public notices generally and costs of the public hearing or voter referendum); and (x) costs of engineering and feasibility studies necessary to the issuance of the Bond (as opposed to such studies related to completion of the Financed Property, but not to the financing). However, Costs of Issuance do not include fees and expenses directly related to the cost of credit enhancement for the Bond to the extent such fees or expenses may be included as a qualified guaranty in the calculation of the Yield on the Bond.

“Lender” means Zions Bancorporation, N.A. dba Zions First National Bank, and its successor or successors and any other corporation or association which at any time may be substituted in its place at the time serving as Lender under the Loan Agreement.

“Final Written Allocation” means the written allocation of expenditures of proceeds of the Original Obligations as set forth on **Exhibit E**, and the Final Written Allocation of expenditures prepared by the Borrower Bond Compliance Officer in accordance with the Issuer Tax Compliance Procedure, the Borrower Tax Compliance Procedure, and **Section 4.2(b)** of this Tax Agreement.

“Financed Property” means the portion of the Project financed or refinanced with the proceeds of the Original Obligations and the Bond as described on **Exhibit E**.

“Gross Proceeds” means (a) sale proceeds (any amounts actually or constructively received by the Issuer from the sale of the Bond, including amounts used to pay underwriting discount or fees, but excluding pre-issuance accrued interest), (b) Investment proceeds (any amounts received from investing sale proceeds or other Investment proceeds), (c) any amounts held in a sinking fund for the Bond, (d) any amounts held in a pledged fund or reserve fund for the Bond, and (e) any other replacement proceeds. Specifically, Gross Proceeds includes (but is not limited to) amounts held in the Project Fund.

“Guaranteed Investment Contract” is any Investment with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate, including any agreement to supply Investments on 2 or more future dates (*e.g.*, a forward supply contract).

“Investment” means any security, obligation, annuity contract or other investment-type property that is purchased directly with, or otherwise allocated to, Gross Proceeds. This term does not include a tax-exempt bond, except for “specified private activity Bond” as defined in Code § 57(a)(5)(C), but it does include the investment element of most interest rate caps.

“IRS” means the United States Internal Revenue Service.

“Issue Date” means April [___], 2021.

“Issuer” means Sandy City, Utah and its successors and assigns, or any body, agency or instrumentality of the State of Utah succeeding to or charged with the powers, duties and functions of the Issuer.

“Issuer Bond Compliance Officer” means the Issuer’s [_____] or other person named in the Issuer Tax Compliance Procedure.

“Issuer Tax Compliance Procedure” means the Issuer’s [Tax-Exempt Financing Compliance Policy and Procedure, dated March __, 2022], a copy of which is attached as **Exhibit I**.

“Loan” means the loan of the Bond proceeds made by the Issuer to the Borrower under the Loan Agreement, as further evidenced by the Deed of Trust, the Series 2022A Promissory Note and the Series 2022B Promissory Note.

“Loan Agreement” means the Loan Agreement, dated the date of this Tax Agreement, among the Issuer, the Borrower and the Lender as from time to time supplemented and amended in accordance with the provisions of the Loan Agreement.

“Management Agreement” means any management, service, or incentive payment contract with an entity that provides services involving all or a portion of any function of the Financed Property (as defined in Regulations § 1.141-3(b)), such as a contract to manage all of the Financed Property or a portion

of the Financed Property. Contracts for services that are solely incidental to the primary function of the Financed Property (for example, contracts for janitorial, office equipment repair, billing, or similar services) are not treated as Management Agreements.

“Measurement Period” means, with respect to the New Money Portion each item of property financed as part of the Financed Property, the period beginning on the later of (i) the Issue Date or (ii) the date the property is placed in service and ending on the earlier of (A) the final maturity date of the Bonds or (B) the end of the expected economic useful life of the property. For each item of property financed as part of the Financed Property with proceeds of the Original Obligations, “measurement period” means the period beginning on the later of (a) the issue date of the Original Obligations or (b) the date the property was placed in service and ending on the earlier of (1) the final maturity date of the Bonds or (2) the end of the expected economic useful life of the property.

“Minor Portion” means the lesser of \$100,000 or 5% of the sale proceeds of the Bonds.

“Net Proceeds” means, when used in reference to the Bonds, sale proceeds (excluding pre-issuance accrued interest), less an allocable share of any proceeds deposited in a reasonably required reserve or replacement fund, plus an allocable share of all Investment earnings on such sale proceeds.

“New Money Portion” means the sale proceeds of the Bonds allocable to the New Money Project together with the remaining Gross Proceeds of the Bonds not allocable to the Refunding Portion.

“New Money Project” means the acquisition, construction, furnishing, equipping and improvement of an approximately 38,000 square foot science building and other improvements to the Borrower’s main educational campus located at approximately 1590 East 9400 South in Sandy City, Utah, as further described on **Exhibit E**. In addition, the New Money Project includes capitalized interest paid on the New Money Portion from Bond proceeds and other funds of the Borrower.

“Non-Qualified Use” means use of Bond proceeds or the Financed Property (1) in a trade or business carried on by any Non-Qualified User, (2) in any activity of a Tax-Exempt Organization which constitutes an “unrelated trade or business,” determined by applying Code § 513(a), or (3) to pay Costs of Issuance. The rules set out in Regulations § 1.141-3 as modified by § 1.145-2 determines whether Bond proceeds or the Financed Property is “used” in a trade or business.

“Non-Qualified User” means any person or entity other than a Qualified User.

“Official Intent Date” means February 15, 2022 as described in **Section 2.2(e)**.

“Opinion of Bond Counsel” means a written opinion of Bond Counsel to the effect that the proposed action or proposed failure to act will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

“Original Obligations” means the Issuer’s Series 1999AB Bonds, Series 2003 Bonds, and Series 2010B Bonds, which were the first issues of qualified 501(c)(3) bonds that financed or refinanced a portion of the Financed Property.

“Post-Issuance Tax Requirements” means those requirements related to the use of proceeds of the Bonds, the use of the Financed Property and the investment of Gross Proceeds after the Issue Date of the Bonds.

“Project” means, collectively, the New Money Project and the Refunded Project.

“Project Fund” means the bank account established under the Loan Agreement, which will hold Bond proceeds separately from other funds of the Borrower and will be used to pay costs of the Project.

“Qualified Basic Research Agreement” means any Research or Clinical Testing Agreement that (1) involves only “basic research” and (2) meets the “qualified license requirement.” A Research or Clinical Testing Agreement involves “basic research” if the research conducted pursuant to the Research or Clinical Testing Agreement is an investigation for the advancement of scientific knowledge and the subject of the Research or Clinical Testing Agreement has no specific commercial objective. the sponsor must pay a competitive price for its use), and the price paid by the licensee for use of any license or other product derived from the Research or Clinical Testing Agreement is determined at the time the invention or other resulting technology is available for use or (2) the Borrower determines the research to be performed and the manner in which it is to be performed under the Research or Clinical Testing Agreement, title to any patent or other product incidentally resulting from the Research or Clinical Testing Agreement lies exclusively with the Borrower and any sponsor or sponsors of the research are entitled to no more than a nonexclusive, royalty-free license to use any product developed as a result of work done pursuant to the Research or Clinical Testing Agreement. For purposes of the foregoing, a “license” includes rights granted to the United States under the Bayh-Dole Act (35 U.S.C. § 200 et seq.) and the “qualified license requirement” is met with respect to such a license so long as the Borrower determines the research to be performed and the manner in which it is to be performed under the Research or Clinical Testing Agreement.

“Qualified Clinical Testing Agreement” means any Research or Clinical Testing Agreement that is not a Qualified Basic Research Agreement that (1) the performance of which is related to the Borrower's exempt purposes and not an unrelated trade or business use of the Financed Property by the Borrower and (2) does not give any Non-Qualified User exclusive or priority rights to use all or any portion of the Financed Property.

“Qualified Equity” means funds that are not derived from proceeds of a tax-exempt financing that are spent on the Project at any time during the period beginning not earlier than the later of (a) 60 days prior to the Official Intent Date or (b) three years prior to the Issue Date and ending not later than the date the Project is capable of and actually used at substantially its designed level. Qualified Equity excludes an ownership interest in real property or tangible personal property.

“Qualified Use Agreement” means an agreement or arrangement that does not constitute an unrelated trade or business use by the Borrower and which is described in one of the following paragraphs:

(1) A lease or other short-term use by members of the general public who occupy the Financed Property on a short-term basis in the ordinary course of the Borrower's tax-exempt purposes.

(2) Agreements with Qualified Users or Non-Qualified Users to use all or a portion of the Financed Property for a period up to 200 days pursuant to an arrangement whereby (a) the use of the Financed Property under the same or similar arrangements is predominantly by natural persons who are not engaged in a trade or business and (b) the compensation for the use is determined based on generally applicable, fair market value rates that are in effect at the time the agreement is entered into or renewed. Any Qualified User or Non-Qualified User using all or any portion of the Financed Property under this type of arrangement may have a right of first refusal to renew the agreement at rates generally in effect at the time of the renewal.

(3) Agreements with Qualified Users or Non-Qualified Users to use all or a portion of the Financed Property for a period up to 100 days pursuant to arrangements whereby (a) the use of the property by the person would be general public use but for the fact that generally applicable and uniformly applied rates are not reasonably available to natural persons not engaged in a trade or business, (b) the compensation for the use under the arrangement is determined based on applicable, fair market value rates that are in effect at the time the agreement is entered into or renewed, and (c) the Financed Property was not constructed for a principal purpose of providing the property for use by that Qualified User or Non-Qualified User. Any Qualified User or Non-Qualified User using all or any portion of the Financed Property under this type of arrangement may have a right of first refusal to renew the agreement at rates generally in effect at the time of the renewal.

(4) Agreements with Qualified Users or Non-Qualified Users to use all or a portion of the Financed Property for a period up to 50 days pursuant to a negotiated arm's-length arrangement at fair market value so long as the Financed Property was not constructed for a principal purpose of providing the property for use by that person.

“Qualified User” means a Tax-Exempt Organization or a State, territory, possession of the United States, the District of Columbia, or any political subdivision thereof, or any instrumentality of such entity, but it does not include the United States or any agency or instrumentality of the United States.

“Reasonable Retainage” means Gross Proceeds retained by the Borrower for reasonable business purposes, such as to ensure or promote compliance with a construction contract; provided that such amount may not exceed (a) for purposes of the 18-month spending test, 5% of net sale proceeds of the New Money Portion on the date 18 months after the Issue Date, or (b) for purposes of the 2-year spending test, 5% of the Available Construction Proceeds as of the end of the 2-year spending period.

“Rebate Analyst” means Gilmore & Bell, P.C. or any successor Rebate Analyst selected pursuant to this Tax Agreement.

“Refunded Bonds” means \$_____ outstanding principal amount of the Series 2010B Bonds.

“Refunded Project” means the portion of the Project originally financed by the Original Obligations, which will be refinanced by the Refunding Portion, as described in **Exhibit E**.

“Refunding Portion” means the sale proceeds of the Bonds allocable to the Refunded Project together with the remaining Gross Proceeds of the Bonds properly allocable to the refunding of the Refunded Bonds.

“Regulations” means all regulations issued by the U.S. Treasury Department to implement the provisions of Code §§ 103 and 141 through 150 and applicable to the Bonds.

“Research or Clinical Testing Agreement” means any agreement or other contractual arrangement with a Non-Qualified User (including the United States or its agencies) pursuant to which the Borrower will perform services at or otherwise use the Financed Property, if such agreement or contract can reasonably be expected to involve (i) the advancement of scientific knowledge (including the social sciences), (ii) the development or testing of a commercial product (including but not limited to clinical drug studies required by the FDA), or (iii) the creation of patentable intellectual property.

“Series 1999A Bonds” means Salt Lake County, Utah’s \$12,000,000 original principal amount of School Facility Revenue Bonds, Series 1999A, issued on January 28, 1999 to finance new capital projects for the Borrower, which \$10,610,000 principal amount of the Series 1999A Bonds was reissued on August 7, 2003. Prior to the reissuance of the Serie 1999A Bonds, the Series 1999A Bonds and the Series 1999B Bonds were treated as a single issue.

“Series 1999B Bonds” means Salt Lake County, Utah’s \$_____ original principal amount of School Facility Revenue Bonds, Series 1999B, issued on January 28, 1999 to finance new capital projects for the Borrower. The Series 1999A Bonds and the Series 1999B Bonds were originally treated as a single issue.

“Series 2003 Bonds” means Salt Lake County, Utah’s \$5,500,000 original principal amount of School Facility Revenue Bonds, Series 2003, issued on August 7, 2003 to finance new capital projects for the Borrower and refund a portion of the Series 1999B Bonds.

“Series 2010B Bonds” means Salt Lake County, Utah’s \$4,710,000 original principal amount of School Facility Revenue Bonds, Series 2010B, issued on August 24, 2010 to (1) finance new capital projects for the Borrower, (2) refund all of the outstanding 2003 Bonds, and (3) refund all of the outstanding 1999A Bonds. The Series 2010B Bonds were issued simultaneously with Salt Lake County, Utah’s \$7,190,000 original principal amount of School Facility Revenue Bonds, Series 2010A Bonds. However, the Series 2010A Bonds are no longer outstanding.

“Series 2022A Bonds” means any bond or bonds of the \$[Principal Amount A] original principal amount of School Facility Refunding Bonds (Waterford School, LLC) Series 2022A, authenticated and delivered under the Loan Agreement.

“Series 2022B Bonds” means any bond or bonds of the \$[Principal Amount B] original principal amount of School Facility Revenue Bonds (Waterford School, LLC) Series 2022B, authenticated and delivered under the Loan Agreement.

“Tax Agreement” means this Tax Compliance Agreement as it may from time to time be amended and supplemented in accordance with its terms.

“Tax-Exempt Bond File” means documents and records for the Bonds, the Refunded Bonds, and the Original Obligations maintained by the Borrower Bond Compliance Officer pursuant to the Issuer Tax Compliance Procedure and the Borrower Tax Compliance Procedure.

“Tax-Exempt Organization” means a nonprofit organization, organized under the laws of the United States of America or any state, that is described in Code § 501(c)(3) and is exempt from federal income taxes under Code § 501(a).

“Transcript” means the Transcript of Proceedings relating to the authorization and issuance of the Bonds.

“Yield” means yield on the Bonds, computed under Regulations § 1.148-4, and yield on an Investment, computed under Regulations § 1.148-5.

ARTICLE II

GENERAL REPRESENTATIONS AND COVENANTS

Section 2.1. Representations and Covenants of the Issuer. The Issuer represents and covenants to the Borrower and the Lender as follows:

(a) *Organization and Authority.* The Issuer (1) is a public body corporate and politic duly organized and existing under the laws of the State of Utah, (2) has lawful power and authority to issue the Bonds for the purposes set forth in the Loan Agreement, to enter into, execute and deliver the Loan Agreement and this Tax Agreement and to carry out its obligations under this Tax Agreement and under such documents, and (3) by all necessary action has duly authorized the person executing this document to execute and deliver this Tax Agreement.

(b) *Tax-Exempt Status of Bonds–General Covenant.* The Issuer (to the extent within its power or direction) will not use any money on deposit in any fund or account maintained in connection with the Bonds, whether or not such money was derived from the proceeds of the sale of the Bonds or from any other source, in a manner that would cause the Bonds to be an “arbitrage bond” within the meaning of Code § 148, and will not (to the extent within its power or direction) otherwise use or permit the use of any Bond proceeds or any other funds of the Issuer, directly or indirectly, in any manner, or take or permit to be taken any other action or actions, that would cause interest on the Bonds to be included in gross income for federal income tax purposes.

(c) *Public Hearing and Approval.* In connection with the issuance of the Bonds, the Issuer held a public hearing as required under Code § 147(f) regarding the proposed issuance of the Bonds, at 5:15 p.m. on March 1, 2022, at the office of the City Council of Sandy City, Utah located at 10000 Centennial Parkway in Sandy City, Utah, after published notice of the hearing advised the public that a public hearing would be held on such date to discuss the proposed issuance of the Bonds and that interested parties would have an opportunity to express their views at that hearing. The hearing was open to the public, and those present were invited to express their views relating to the issuance of the Bonds and the proposed use of the Bond proceeds. After the public hearing, the City Council of Sandy City, Utah approved the issuance of the Bonds as required by Code § 147(f). The Certificate of Approval is attached to this Tax Agreement as **Exhibit A**, together with an affidavit of publication of the notice of the hearing.

(d) *IRS Form 8038.* Bond Counsel prepared IRS Form 8038 (Information Return for Tax-Exempt Private Activity Bond Issues) based on the representations and covenants of the Borrower and the Issuer contained in this Tax Agreement or otherwise provided by the Borrower and the Issuer. Bond Counsel signed the return as a paid preparer following completion and delivered copies to the Issuer for execution and for the Issuer’s records. The Issuer does not know of any inaccuracies in the Form 8038 included as **Exhibit B**. The Issuer agrees to timely execute and return to Bond Counsel the execution copy of Form 8038 for filing with the IRS. A copy of the “as-filed” copy along with proof of filing will be included as **Exhibit B**.

(e) *Registered Bonds.* The Loan Agreement requires that the Bonds will be issued and held in registered form within the meaning of Code § 149(a).

(f) *Issuer Reliance on Other Parties.* The expectations, representations and covenants of the Issuer concerning uses of Bond proceeds and certain other money described in this Tax Agreement and other matters are based in whole or in part upon covenants, representations and certifications of the Borrower and other parties set forth in this Tax Agreement or exhibits to this Tax Agreement. Although the

Issuer has made no independent investigation of the representations of other parties, including the Borrower, the Issuer is not aware of any facts or circumstances that would cause it to question the accuracy or reasonableness of any representation made in this Tax Agreement or exhibits to this Tax Agreement.

(g) *Bank Qualified Tax-Exempt Obligation.* The Bonds are not “qualified tax-exempt obligations” under Code § 265(b)(3).

(h) *Single Issue; No Other Issues.* The Bonds constitute a single “issue” under Regulations § 1.150-1(c). No other obligations of the Issuer (1) are being sold within 15 days of the sale of the Bonds, (2) are being sold under the same plan of financing as the Bonds, and (3) are expected to be paid from substantially the same source of funds as the Bonds (disregarding guarantees from unrelated parties, such as bond insurance).

Section 2.2. Representations and Covenants of the Borrower. The Borrower represents and covenants to the Issuer and the Lender as follows:

(a) *Organization and Authority.* The Borrower (1) is a private nonprofit corporation duly organized and validly existing under the laws of the State of Utah not operated for private or corporate profit, (2) has lawful power and authority to enter into, execute and deliver this Tax Agreement and to carry out its obligations under this Tax Agreement and (3) by all necessary corporate action, has been duly authorized to execute and deliver this Tax Agreement, acting by and through its duly authorized officers.

(b) *Tax-Exempt Status of the Borrower.* The Borrower (1) has been determined to be and is a Tax-Exempt Organization, and (2) has not declared and has not been determined to have any “unrelated business taxable income” (as defined in Code § 512) which could have a material adverse effect on its status as a Tax-Exempt Organization or which, if such income were subject to federal income taxation, could have a material adverse effect on the condition, financial or otherwise, of the Borrower. The Borrower received a letter from the IRS to the effect that it is a Tax-Exempt Organization, a copy of which is attached to this Tax Agreement as **Exhibit C**. Such letter has not been withdrawn, and no audit or investigation by the IRS of the tax-exempt status of the Borrower is presently being conducted. There has been no change or threatened change in the status of the Borrower as a Tax-Exempt Organization as of the date of this Tax Agreement. At all times during the Measurement Period, the Borrower will maintain its status as a Tax-Exempt Organization and will take no action or permit any action to be taken that could result in the alteration or loss of its status as a Tax-Exempt Organization.

(c) *Tax-Exempt Status of Bonds—General Covenant.* In order to maintain the exclusion of the interest on the Bonds from gross income for federal income tax purposes, the Borrower (1) will take whatever action, and refrain from whatever action, necessary to comply with the applicable requirements of the Code, (2) will not use or invest, or permit the use or investment of, any Bond proceeds, other money held under the Loan Agreement, or other funds of the Borrower, in a manner that would violate applicable provisions of the Code; and (3) will not use, or permit the use of, any portion of the Financed Property in a manner that would violate applicable provisions of the Code.

(d) *Qualified 501(c)(3) Bonds.*

(1) Ownership. During the Measurement Period, all of the property comprising the Financed Property has been and will be owned for federal income tax purposes by a Qualified User.

(2) Non-Qualified Use Limitation. During the Measurement Period, the amount of Bond proceeds used in a Non-Qualified Use will not exceed 5% of the Net Proceeds of the Bonds. The Borrower understands that, for purposes of this paragraph, use of the Financed Property is treated as the use of Bond proceeds. [As of the Issue Date, except for any Costs of Issuance financed with the Net Proceeds, the Borrower does not expect that any Bond proceeds or any portion of the Financed Property will be used in a Non-Qualified Use during the Measurement Period.]

(3) Management Agreements. [As of the Issue Date, the Borrower has entered into the following Management and Service Agreements for use of the Project: [Name of Agreements] Current and complete copies of these agreements have been made available to Bond Counsel prior to the Issue Date. Bond Counsel has determined that these agreements do not result in Non-Qualified Use.] [As of the Issue Date, the Borrower has not entered into any Management Agreements for any portion of the Project with Non-Qualified Users during the Measurement Period.] During the Measurement Period, the Borrower has not and will not enter into or renew any Management Agreement for any portion of the Project with any Non-Qualified User without first obtaining and delivering to the Issuer an Opinion of Bond Counsel.

(4) Leases. [As of the Issue Date, the Borrower has entered into the following lease agreement: [Name of Lease Agreements]] [As of the Issue Date, the Borrower has not entered into any leases of any portion of the Project other than Qualified Use Agreements during the Measurement Period.] During the Measurement Period, the Borrower has not and will not enter into or renew any lease or similar agreement or arrangement for any portion of the Project other than a Qualified Use Agreement without first obtaining and delivering to the Issuer an Opinion of Bond Counsel.

(5) Research or Clinical Testing Agreements. [As of the Issue Date, the Borrower has not entered into any Research or Clinical Testing Agreement other than Qualified Basic Research Agreements or Qualified Clinical Testing Agreements for any portion of the Project during the Measurement Period.] During the Measurement Period, the Borrower has not and will not enter into any Research or Clinical Testing Agreements other than Qualified Basic Research Agreements or Qualified Clinical Testing Agreements for any portion of the Project without first obtaining and delivering to the Issuer an Opinion of Bond Counsel.

(6) Unrelated Trade or Business Activity. [As of the Issue Date, the Borrower has used the following portion of the Project in an unrelated trade or business activity as determined by applying Code § 513(a): [Description of unrelated trade or business activity]] [As of the Issue Date, the Borrower has not used any portion of the Project in a Non-Qualified Use as a result of unrelated trade or business activity determined by applying Code § 513(a) during the Measurement Period.] During the Measurement Period, the Borrower has not and will not use any portion of the Project in an unrelated trade or business activity without obtaining and delivering to the Issuer an Opinion of Bond Counsel.

(7) General Allocation and Accounting. As shown on **Exhibit E**, the Borrower expects to finance the costs of the New Money Project with proceeds of the New Money Portion, and to the extent necessary, with other funds of the Borrower. The Borrower will account for the expenditure of the proceeds of the New Money Portion and other funds of the Borrower for the New Money Project as described in **Section 4.2**. For purposes of the covenants related to the use of the Financed Property portion of the New Money Project, any Non-Qualified Use shall be treated

as first allocated entirely to the portion of the New Money Project financed with other funds of the Borrower.

(e) *Expenditure of Bond Proceeds and Use of Bond Proceeds for Pre-Issuance Expenditures.*

(1) Expenditure of Bond Proceeds – New Money Portion. The Borrower will evidence each allocation of the proceeds of the New Money Portion and other funds of the Borrower for the New Money Project to an expenditure in writing. No allocation will be made more than 18 months following the later of (i) the date of the expenditure or (ii) the date the New Money Project is placed in service.

(2) Declaration of Official Intent – New Money Portion. On the Official Intent Date, the Borrower adopted a resolution declaring the Borrower’s intent to borrow the proceeds of tax-exempt bonds to finance costs of the New Money Project for the Borrower, and to reimburse the Borrower for expenditures made for the New Money Project prior to the issuance of the Bonds. A copy of the resolution is attached to this Tax Agreement as **Exhibit D**.

(3) Reimbursement Expenditures – New Money Portion. As of the Issue Date, the Borrower will allocate \$ _____ of the proceeds of the Bonds to expenditures paid by the Borrower prior to the Issue Date and this amount should be shown on line 45 of Form 8038-G. A list of expenditures to be reimbursed is included as part of **Exhibit E**. The Borrower will evidence each allocation of the Bond proceeds to an expenditure in writing. No portion of the Net Proceeds of the Bonds will be used to reimburse an expenditure paid by the Borrower more than 60 days prior to the date the resolution was adopted. No reimbursement allocation will be made for an expenditure made more than 3 years prior to the date of the reimbursement allocation. In addition, no reimbursement allocation will be made more than 18 months following the later of (i) the date of the expenditure or (ii) the date the New Money Project is placed in service (except as otherwise permitted under Regulations § 1.150-2).

(1) Declaration of Official Intent – Refunded Project. For the Refunding Portion of the Bonds, the Borrower did not allocate any proceeds of the Original Obligations to reimburse an expenditure it previously made unless the allocation met the requirements of Regulations §1.150-2 (or previous provisions of the Regulations) applicable to the Original Obligations. Copies of the resolutions applicable to the Refunded Project are included in the transcripts for the Original Obligations.

(f) *\$150 Million Limitation; Qualified Hospital Bonds; Limit on Non-Hospital Bonds.* At least 95% of the New Money Portion will be used to finance, refinance or reimburse capital expenditures incurred after August 5, 1997. [In addition, at least 95% of the Refund Portion was used to finance, refinance or reimburse capital expenditures incurred after August 5, 1997.] The name and tax identification number of each “beneficiary” of the Financed Property is listed as an attachment to IRS Form 8038 (part of **Exhibit B** to this Tax Agreement). A Qualified User is considered to be a “beneficiary” of the Financed Property if it owns or leases any portion of the Financed Property, has contractual rights to use the Financed Property similar to an owner or a tenant, or has a contractual right to purchase more than 10% of the output of the Financed Property.

(g) *Limit on Maturity of Bonds.* A list of the assets included as part of the Project and a computation of their “average reasonably expected economic life” is attached to this Tax Agreement as **Exhibit E**. Based on this computation, the “average maturity” of the Bonds as computed by Bond Counsel and shown on **Exhibit H**, does not exceed 120% of the average reasonably expected economic life of the

Financed Property. For the purpose of Code § 147(b), the “average reasonably expected economic life” of the Refunded Project was determined as follows: the average economic life of that portion of the Financed Property as of the issue date of the Original Obligations was first multiplied by 120%, then reduced by the number of years elapsed from the issue date of the Original Obligations to the Issue Date.

(h) *Prohibited Facilities.* No portion of the Bond proceeds or the Original Obligations has been or will be used to provide any airplane, skybox, or other private luxury box, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises, as such terms are used in Code § 147(e).

(i) *Limit on Costs of Issuance.* Not more than 2% of the sale proceeds of the Bonds will be used to pay Costs of Issuance.

(j) *Registered Bonds.* The Bonds will be issued and held in registered form within the meaning of Code § 149(a).

(k) *Bonds Not Federally Guaranteed.* The Borrower will not take any action or permit any action to be taken which would cause the Bonds to be “federally guaranteed” within the meaning of Code § 149(b).

(l) *Reports to IRS; Form 8038.* The Borrower will instruct and assist the Issuer in filing all appropriate returns, reports and attachments to income tax returns required by the Code, including without limitation the Information Return for Tax-Exempt Private Activity Bond Issues (Form 8038). The information contained in Parts II through VI of IRS Form 8038 attached as **Exhibit B** was provided to the Issuer and Bond Counsel by the Borrower, and such information is true, complete and correct as of the Issue Date. The Borrower specifically confirms the accuracy of the following information for the New Money Portion:

Type of Property Financed by Nonrefunding Proceeds	Amount
Land	\$
Buildings and Structures	
Equipment with Recovery Period of More Than 5 Years	
Equipment with Recovery Period of 5 Years or Less	
Other –	
Total -- (Should Equal Line 30 on Form 8038)	\$

**North American Industry Classification System (NAICS) of
Property Financed by Non-Refunding Proceeds**

Classification Number	Amount of Non Refunding Proceeds
	\$
Total-- (Should Equal Line 30 on Form 8038)	\$

(m) *Hedge Bonds.* The Borrower expects that (1) at least 85% of the net sale proceeds of the New Money Portion (the sale proceeds of the New Money Portion less any sale proceeds invested in a reserve fund) will be used to carry out the governmental purpose of the New Money Portion within 3 years after the Issue Date, and (2) not more than 50% of the proceeds of the New Money Portion will be invested in investments having a substantially guaranteed yield for 4 years or more. At least 85% of the net sale

proceeds of the Original Obligations (the sale proceeds of the Original Obligations less any sale proceeds invested in a reserve fund) were used to carry out the governmental purpose of the Original Obligations within 3 years after the issue date of such obligations, and not more than 50% of the proceeds of the Original Obligations was invested in investments having a substantially guaranteed yield for 4 years or more.

(n) *Arbitrage Certifications.* The facts, estimates and expectations recited in **Article III** of this Tax Agreement are true and accurate as of the Issue Date; and the Borrower believes that the estimates and expectations recited in such Article are reasonable as of the Issue Date. The Issuer, the Lender and Gilmore & Bell, P.C., Bond Counsel, may rely on such statements and expectations. The Borrower does not expect that the Bond proceeds will be used in a manner that would cause the Bonds to be an “arbitrage bond” within the meaning of Code § 148; and to the best of the Borrower’s knowledge and belief, there are no other facts, estimates or circumstances that would materially change such expectations.

(o) *Interest Rate Swap.* As of the Issue Date, the Borrower has not entered into an interest rate swap agreement or any other similar arrangement designed to modify its interest rate risk with respect to the Bonds or the Refunded Bonds. The Borrower will not enter into any such arrangement in the future without obtaining and delivering to the Issuer an Opinion of Bond Counsel.

(p) *Guaranteed Investment Contract.* As of the Issue Date, the Borrower does not expect to enter into a Guaranteed Investment Contract for any Gross Proceeds of the Bonds. The Borrower will be responsible for complying with **Section 4.4(d)** if a Guaranteed Investment Contract is used for the investment of Gross Proceeds at a later date.

(q) *Bank Qualified Tax-Exempt Obligation.* The Bonds are not “qualified tax-exempt obligations” under Code § 265(b)(3).

Section 2.3. Representations and Covenants of the Lender. The Lender represents and covenants to the Issuer and the Borrower as follows:

(a) The Lender will comply with the provisions of this Tax Agreement that apply to it as Lender and any written letter or Opinion of Bond Counsel, specifically referencing the Bonds and received by the Lender, that sets forth any action necessary to comply with any statute, regulation or ruling that may apply to it as Lender and relating to reporting requirements or other requirements necessary to preserve the exclusion of the interest on the Bonds from gross income for federal income tax purposes.

(b) The Lender, acting on behalf of the Borrower and the Issuer, will retain records related to the investment and expenditure of Gross Proceeds held in the Project Fund by the Lender and any records provided to the Lender by the Issuer or Borrower related to the Post-Issuance Tax Requirements in accordance with **Section 4.2(a)** of this Tax Agreement. The Lender will retain these records until three years following the final maturity of (1) the Bonds or (2) any obligation issued to refund the Bonds; provided, however, if the Lender is not retained to serve as Lender for any obligation issued to refund the Bonds (a “Refunding Obligation”), then the Lender may satisfy its record retention duties under this **Section 2.3(c)** by providing copies of all records in its possession related to the Bonds to the Lender, bond trustee, or other party agreed upon by the Borrower and the Issuer for the Refunding Obligation.

Section 2.4. Survival of Representations and Covenants. All representations, covenants and certifications of the Issuer, the Borrower and the Lender contained in this Tax Agreement or in any certificate or other instrument delivered by the Issuer, the Borrower or the Lender under this Tax Agreement, will survive the execution and delivery of such documents and the issuance of the Bonds, as representations of facts existing as of the date of execution and delivery of the instruments containing such representations.

The foregoing covenants of this Section will remain in full force and effect notwithstanding the defeasance of the Bonds.

ARTICLE III

ARBITRAGE CERTIFICATIONS AND COVENANTS

Section 3.1. General. The purpose of this **Article III** is to certify, under Regulations § 1.148-2(b), the Issuer's expectations as to the sources, uses and investment of Bond proceeds and other money, in order to support the Issuer's conclusion that the Bonds are not arbitrage Bonds. The person executing this Tax Agreement on behalf of the Issuer is an officer of the Issuer responsible for issuing the Bonds.

Section 3.2. Reasonable Expectations. The facts, estimates and expectations set forth in this **Article III** are based upon the Issuer's understanding of the documents and certificates that comprise the Transcript and the representations, covenants and certifications of the parties thereto. To the Issuer's knowledge, the facts and estimates set forth in this Tax Agreement are accurate, and the expectations of the Issuer set forth in this Tax Agreement are reasonable. The Issuer has no knowledge that would cause it to believe that the representations, warranties and certifications described in this Tax Agreement are unreasonable or inaccurate or may not be relied upon.

Section 3.3. Purposes of the Financing. The Bonds are being issued for the purpose of making a loan to the Borrower to provide funds to (a) finance costs of the New Money Project, (b) refund the Refunded Bonds, and (c) pay certain Costs of Issuance. The purpose of the refunding of the Refunded Bonds is to achieve interest cost savings for the Borrower through early redemption of the Refunded Bonds and provide an orderly plan of finance.

Section 3.4. Funds and Accounts. The Project Fund has been established in the custody of the Lender under the Loan Agreement.

Section 3.5. Amount and Use of Bond Proceeds and Other Money.

(a) *Amount of Bond Proceeds.* The total proceeds to be received by the Issuer from the sale of the Bonds will be \$[Principal Amount of AB].

(b) *Use of Bond Proceeds and Other Money.*

(1) \$_____ of Bond proceeds will be used to pay Costs of Issuance on the Issue Date.

(2) \$_____ of Bond proceeds will be deposited in the Project Fund and will be used to pay costs of the New Money Project.

(3) \$_____ of Bond proceeds will transferred to the purchaser of the Series 2010B Bonds and used to pay principal of and interest on the Refunded Bonds on the Issue Date.

Section 3.6. Multipurpose Issue. [Reserved]

Section 3.7. Current Refunding.

(a) *Proceeds Used for Current Refunding.* Proceeds of the Bonds will be used to pay principal of and interest on the Refunded Bonds on the Issue Date.

(b) *Transferred Proceeds.* As of the Issue Date, there are no unspent proceeds of the Series 2010B Bonds. Therefore, there will be no transferred proceeds of the Bonds as determined in accordance Regulations § 1.148-9(b).

Section 3.8. New Money Portion. The Borrower has incurred, or will incur within 6 months after the Issue Date, a substantial binding obligation to a third party to spend at least 5% of the Net Proceeds of the New Money Portion on the New Money Project. The completion of the New Money Project and the allocation of the Net Proceeds of the New Money Portion to expenditures will proceed with due diligence. At least 85% of the net sale proceeds of the New Money Portion will be allocated to expenditures on the New Money Project within 3 years after the Issue Date.

Section 3.9. Loan Agreement/Sinking Funds. Neither the Issuer nor the Borrower has established or expects to establish any sinking fund or other similar fund that is expected to be used to pay principal of or interest on the Bonds.

Section 3.10. Reserve, Replacement and Pledged Funds.

(a) *Debt Service Reserve Fund.* No reserve or replacement fund has been established for the Bonds.

(b) *No Other Replacement or Pledged Funds.* None of the Bond proceeds will be used as a substitute for other funds that were intended or earmarked to pay costs of the Financed Property or refinanced the Refunded Bonds, and that have been or will be used to acquire higher yielding Investments.

Section 3.11. Purpose Investment Yield. The proceeds of the Bonds are being made available to the Borrower under the Loan Agreement. The Yield on the loan will not exceed the Yield on the Bonds by more than 1/8%, as permitted by Regulations § 1.148-2(d)(2)(i). In determining such loan yield, “qualified administrative costs” of the loan paid by the Borrower are taken into account to increase payments for, and reduce receipts from, the loan, as permitted by Regulations § 1.148-5(e)(3). “Qualified administrative costs” are (a) costs or expenses paid, directly or indirectly, to purchase, carry, sell or retire the loan, and (b) costs of issuing, carrying or repaying the Bonds, and the underwriting fees; but fees paid to the Issuer are not qualified administrative costs.

Section 3.12. Issue Price and Yield on Bonds.

(a) *Issue Price.* Based on the Lender’s certifications in the Lender’s Receipt for Bonds, the Issuer and the Borrower hereby elect to establish the issue price of the Bonds pursuant to Regulations § 1.148-1(f)(2)(i) (relating to the so-called “private placement rule”). Therefore, the aggregate issue price of the Bonds for such purpose is \$[Principal Amount of AB].

(b) *Bond Yield.* Based on the issue price, the Yield on the Bonds is _____%, as computed by Bond Counsel and shown on **Exhibit H**. The Issuer and the Borrower will apply to the Bonds Regulations § 1.148-4(b)(3)(i) (relating to the treatment of certain bonds subject to optional early redemption – so-called “yield-to-call bonds”). Neither the issuer nor the Borrower has entered into an interest rate swap agreement with respect to any portion of the proceeds of the Bonds.

Section 3.13. Miscellaneous Arbitrage Matters.

(a) *Expected Use.* The Issuer expects the Borrower to use the Financed Property for activities which do not constitute a Non-Qualified Use.

(b) *No Abusive Arbitrage Device.* The Bonds are not and will not be part of a transaction or series of transactions that has the effect of (1) enabling the Issuer or the Borrower to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage, and (2) overburdening the tax-exempt market.

(c) *No Over-Issuance.* The sale proceeds of the Bonds, together with expected Investment earnings thereon and other money contributed by the Borrower do not exceed the cost of the governmental purpose of the Bonds as described above.

Section 3.14. Conclusion. On the basis of the facts, estimates and circumstances set forth in this Tax Agreement, the Issuer does not expect that the Bond proceeds will be used in a manner that would cause the Bonds to be an “arbitrage bond” within the meaning of Code § 148 and the Regulations.

ARTICLE IV

POST-ISSUANCE TAX REQUIREMENTS, POLICIES AND PROCEDURES

Section 4.1. General.

(a) *Purpose of Article.* The purpose of this **Article IV** is to supplement the Issuer Tax Compliance Procedure and to set out specific policies and procedures governing compliance with the federal income tax requirements that apply after the Bonds are issued. The Issuer and the Borrower recognize that interest on the Bonds will remain excludable from gross income only if the Post-Issuance Tax Requirements are followed after the Issue Date. The Issuer and the Borrower further acknowledge that written evidence substantiating compliance with the Post-Issuance Tax Requirements must be retained in order to permit the Bonds to be refinanced with tax-exempt obligations and substantiate the position that interest on the Bonds is exempt from gross income in the event of an audit of the Bonds by the IRS.

(b) *Written Policies and Procedures of the Issuer.* The Issuer intends for the Issuer Tax Compliance Procedure, as supplemented by this Tax Agreement, to be its primary written policies and procedures for monitoring compliance with the Post-Issuance Tax Requirements for the Bonds and to supplement any other formal policies and procedures related to tax compliance that the Issuer has established. The provisions of this Tax Agreement are intended to be consistent with the Issuer Tax Compliance Procedure. In the event of any inconsistency between the Issuer Tax Compliance Procedure and this Tax Agreement, the terms of this Tax Agreement will govern. A copy of the Issuer Tax Compliance Procedure is attached to this Tax Certificate as **Exhibit I**.

(c) *Borrower Responsible for Post-Issuance Tax Requirements.* The Issuer Tax Compliance Procedure contemplates that the Borrower and the Borrower’s Bond Compliance Officer will follow the Issuer Tax Compliance Procedure. The Issuer and the Borrower acknowledge that the investment and expenditure of Bond proceeds is within the control of the Borrower, and that substantially all of the property financed or refinanced by the Bonds is controlled by the Borrower. For these reasons, the Issuer and the Issuer Bond Compliance Officer are relying on the Borrower and the Borrower Bond Compliance Officer to carry out the Post-Issuance Tax Requirements as set out in this Tax Agreement and the Issuer Tax

Compliance Procedure. The Borrower agrees to undertake these obligations and the obligations imposed on it with respect to the Bonds by the Issuer Tax Compliance Procedure and has adopted the Borrower Tax Compliance Procedure, attached as **Exhibit J**, to assist the Borrower in carrying out the Post-Issuance Tax Requirements. The Issuer and the Issuer Bond Compliance Officer will cooperate with the Borrower when necessary to enable the Borrower to fulfill its Post-Issuance Tax Requirements. Subject to this **Section 4.1(c), 4.1(d) and 4.1(e)**, this cooperation includes, but is not limited to, signing Form 8038-T in connection with the payment of arbitrage rebate or Yield reduction payments, participating in any federal income tax audit of the Bonds or related proceedings under a voluntary compliance agreement procedure (VCAP) or a remedial action procedure pursuant to Regulations §§ 1.141-12 and 1.145-2.

(d) *Opinion of Bond Counsel.* Prior to taking any action requested by the Borrower for the purpose of carrying out the Post-Issuance Tax Requirements, the Issuer is entitled to seek and receive an Opinion of Bond Counsel acceptable to the Issuer.

(e) *Payment of Costs of Post-Issuance Tax Requirements and Indemnifications.* The Issuer is not required to incur any cost in connection with any action taken related to the Post-Issuance Tax Requirements, it being the intent of the parties that all costs of the Post-Issuance Tax Requirements will be paid by, or immediately reimbursed by, the Borrower. With respect to all actions requested of the Issuer by the Borrower involving Post-Issuance Tax Requirements, the Issuer is entitled to recover from the Borrower all legal and other fees and expenses incurred and has all rights of indemnification against the Borrower generally contained in the Loan Agreement.

Section 4.2. Record Keeping; Use of Bond Proceeds and Use of Financed Facilities.

(a) *Record Keeping.* The Borrower Bond Compliance Officer will maintain the Tax-Exempt Bond File for the Bonds in accordance with the Issuer Tax Compliance Procedure and the Borrower Tax Compliance Procedure. Unless otherwise specifically instructed in a written Opinion of Bond Counsel or to the extent otherwise provided in this Tax Agreement, the Borrower Bond Compliance Officer shall retain records related to the Post-Issuance Tax Requirements until 3 years following the final maturity of (i) the Bonds or (ii) any obligation issued to refund the Bonds. Any records maintained electronically must comply with Section 4.01 of Revenue Procedure 97-22, which generally provides that an electronic storage system must (1) ensure an accurate and complete transfer of the hardcopy records which indexes, stores, preserves, retrieves and reproduces the electronic records, (2) include reasonable controls to ensure integrity, accuracy and reliability of the electronic storage system and to prevent unauthorized alteration or deterioration of electronic records, (3) exhibit a high degree of legibility and readability both electronically and in hardcopy, (4) provide support for other books and records of the Borrower and (5) not be subject to any agreement that would limit the ability of the IRS to access and use the electronic storage system on the Borrower's premises. If requested, the Borrower will provide the Issuer with a complete copy of the Tax-Exempt Bond File.

(b) *Accounting and Allocation of Bond Proceeds to Expenditures.* The Borrower Bond Compliance Officer will account for the investment and expenditure of proceeds of the New Money Portion in the level of detail required by the Issuer Tax Compliance Procedure and the Borrower Tax Compliance Procedure. The Borrower Bond Compliance Officer will supplement the expected allocation of the New Money Portion to expenditures with a Final Written Allocation as required by the Borrower Tax Compliance Procedure and the Issuer Tax Compliance Procedure. A sample form of Final Written Allocation is attached as **Exhibit G**. Proceeds of the Refunding Portion will be used as described in **Sections 3.5 and 3.7**. The Borrower Bond Compliance Officer will maintain accounting records showing the investment and expenditure of this money as part of the Tax-Exempt Bond File. The Borrower has prepared written substantiation records of the allocation of proceeds the Original Obligations to the Refunded Project. This

allocation is summarized on **Exhibit E** and is intended to constitute the Final Written Allocation for the Original Obligations.

(c) *Annual Compliance Checklist.* Attached as **Exhibit F** is a form of Annual Compliance Checklist for the Bonds. The Borrower Bond Compliance Officer will prepare and complete an Annual Compliance Checklist for the Project at least annually in accordance with the Issuer Tax Compliance Procedure and the Borrower Tax Compliance Procedure. The Borrower Bond Compliance Officer will refer any responses indicating a violation of the terms of this Tax Agreement to legal counsel to the Borrower or Bond Counsel, and, if recommended by counsel, will follow the procedures referred to in Issuer Tax Compliance Procedure and the Borrower Tax Compliance Procedure to correct the non-compliance.

(d) *Opinions of Bond Counsel.* The Borrower Bond Compliance Officer is responsible for obtaining and delivering to the Issuer any advice or Opinion of Bond Counsel required under the provisions of this Tax Agreement, including any advice or Opinion of Bond Counsel required by this Tax Agreement or the Annual Compliance Checklist.

Section 4.3. Investment Yield Restriction. Except as described below, Gross Proceeds must not be invested at a Yield greater than the Yield on the Bonds:

(a) *Project Fund.* Bond proceeds deposited in the Project Fund and investment earnings on such proceeds may be invested without Yield restriction for up to 3 years following the Issue Date. If any unspent proceeds remain in the Project Fund after 3 years, such amounts may continue to be invested without yield restriction so long as the Borrower pays to the IRS all yield reduction payments in accordance with Regulations § 1.148-5(c). These payments are required whether or not the Bonds are exempt from the arbitrage rebate requirements of Code § 148.

(b) *Minor Portion.* In addition to the amounts described above, Gross Proceeds not exceeding the Minor Portion may be invested without yield restriction.

Section 4.4. Procedures for Establishing Fair Market Value.

(a) *General.* No Investment may be acquired with Gross Proceeds for an amount (including transaction costs) in excess of the fair market value of such Investment, or sold or otherwise disposed of for an amount (including transaction costs) less than the fair market value of the Investment. The fair market value of any Investment is the price a willing buyer would pay to a willing seller to acquire the Investment in a bona fide, arm's-length transaction. Fair market value will be determined in accordance with Regulations § 1.148-5.

(b) *Established Securities Market.* Except for Investments purchased for a yield-restricted defeasance escrow, if an Investment is purchased or sold in an arm's-length transaction on an established securities market (within the meaning of Code § 1273), the purchase or sale price constitutes the fair market value. Where there is no established securities market for an Investment, market value must be established using one of the paragraphs below. The fair market value of Investments purchased for a Yield-restricted defeasance escrow must be determined in a bona fide solicitation for bids that complies with Regulations § 1.148-5.

(c) *Certificates of Deposit.* The purchase price of a certificate of deposit (a "CD") is treated as its fair market value on the purchase date if (1) the CD has a fixed interest rate, a fixed payment schedule, and a substantial penalty for early withdrawal, (2) the Yield on the CD is not less than the Yield on

reasonably comparable direct obligations of the United States, and (3) the Yield is not less than the highest Yield published or posted by the CD issuer to be currently available on reasonably comparable CDs offered to the public.

(d) *Guaranteed Investment Contracts.* The Issuer and the Borrower are applying Regulations § 1.148-5(d)(6)(iii)(A) as amended by the Proposed Regulations (relating to electronic bidding of Guaranteed Investment Contracts) to the Bonds. The purchase price of a Guaranteed Investment Contract is treated as its fair market value on the purchase date if all of the following requirements are met:

(1) Bona Fide Solicitation for Bids. The Borrower or the Lender makes a bona fide solicitation for the Guaranteed Investment Contract, using the following procedures:

(A) The bid specifications are in writing and are timely forwarded to potential providers, or are made available on an internet website or other similar electronic media that is regularly used to post bid specifications to potential bidders. A writing includes a hard copy, a fax, or an electronic e-mail copy.

(B) The bid specifications include all “material” terms of the bid. A term is material if it may directly or indirectly affect the yield or the cost of the Guaranteed Investment Contract.

(C) The bid specifications include a statement notifying potential providers that submission of a bid is a representation (i) that the potential provider did not consult with any other potential provider about its bid, (ii) that the bid was determined without regard to any other formal or informal agreement that the potential provider has with the Issuer, the Borrower, the Lender, or any other person (whether or not in connection with the bond issue), and (iii) that the bid is not being submitted solely as a courtesy to the Issuer, the Borrower, the Lender, or any other person, for purposes of satisfying the requirements of the Regulations.

(D) The terms of the bid specifications are “commercially reasonable.” A term is commercially reasonable if there is a legitimate business purpose for the term other than to increase the purchase price or reduce the yield of the Guaranteed Investment Contract.

(E) The terms of the solicitation take into account the Borrower’s reasonably expected deposit and draw-down schedule for the amounts to be invested.

(F) All potential providers have an equal opportunity to bid. If the bidding process affords any opportunity for a potential provider to review other bids before providing a bid, then providers have an equal opportunity to bid only if all potential providers have an equal opportunity to review other bids. Thus, no potential provider may be given an opportunity to review other bids that is not equally given to all potential providers (that is no exclusive “last look”).

(G) At least 3 “reasonably competitive providers” are solicited for bids. A reasonably competitive provider is a provider that has an established industry reputation as a competitive provider of the type of investments being purchased.

(2) Bids Received. The bids received by the Borrower or Lender must meet all of the following requirements:

(A) The Borrower or Lender receives at least 3 bids from providers that were solicited as described above and that do not have a “material financial interest” in the issue. For this purpose, (i) a lead underwriter in a negotiated underwriting transaction is deemed to have a material financial interest in the issue until 15 days after the issue date of the issue, (ii) any entity acting as a financial advisor with respect to the purchase of the Guaranteed Investment Contract at the time the bid specifications are forwarded to potential providers has a material financial interest in the issue, and (iii) a provider that is a related party to a provider that has a material financial interest in the issue is deemed to have a material financial interest in the issue.

(B) At least 1 of the 3 bids received is from a reasonably competitive provider, as defined above.

(C) If the Borrower or Lender uses an agent or broker to conduct the bidding process, the agent or broker did not bid to provide the Guaranteed Investment Contract.

(3) Winning Bid. The winning bid is the highest yielding bona fide bid (determined net of any broker’s fees).

(4) Fees Paid. The obligor on the Guaranteed Investment Contract certifies the administrative costs that it pays (or expects to pay, if any) to third parties in connection with supplying the Guaranteed Investment Contract.

(5) Records. The Borrower and the Lender retain the following records with the bond documents until 3 years after the last outstanding Bond is redeemed:

(A) A copy of the Guaranteed Investment Contract.

(B) The receipt or other record of the amount actually paid by the Borrower or Lender for the Guaranteed Investment Contract, including a record of any administrative costs paid by the Borrower or Lender, and the certification as to fees paid, described in paragraph (d)(4) above.

(C) For each bid that is submitted, the name of the person and entity submitting the bid, the time and date of the bid, and the bid results.

(D) The bid solicitation form and, if the terms of the Guaranteed Investment Contract deviated from the bid solicitation form or a submitted bid is modified, a brief statement explaining the deviation and stating the purpose for the deviation.

(e) *Other Investments*. If an Investment is not described above, the fair market value may be established through a competitive bidding process, as follows:

(1) at least 3 bids on the Investment must be received from persons with no financial interest in the Bonds (*e.g.*, as underwriters or brokers); and

(2) the Yield on the Investment must be equal to or greater than the Yield offered under the highest bid.

Section 4.5. Exemption of Certain Gross Proceeds from the Rebate Requirement.

(a) *General.* A portion of the Gross Proceeds of the Bonds may be exempt from rebate pursuant to one or more of the following exceptions. The exceptions typically will not apply with respect to all Gross Proceeds of the Bonds and will not otherwise affect the application of the Investment limitations described in **Section 4.3**. Unless specifically noted, the obligation to compute, and if necessary, to pay rebate as set forth in **Section 4.6** applies even if a portion of the Gross Proceeds of the Bonds are exempt from the rebate requirement. To the extent all or a portion of the Bonds are exempt from rebate the Rebate Analyst may account for such fact in connection with its preparation of a rebate report described in **Section 4.6**.

(b) *Applicable Spending Exceptions.*

(1) The Borrower and (based solely on the expectations of the Borrower) the Issuer expect that at least 75% of the Available Construction Proceeds will be used for construction or rehabilitation expenditures for property owned by the Borrower.

(2) The following optional rebate spending exceptions can apply to the New Money Portion and the Refunding Portion:

(i) New Money Portion:

(A) 6-month spending exception (Code § 148(f)(4)(B) and Regulations § 1.148-7(c)).

(B) 18-month spending exception (Regulations § 1.148-7(d)).

(C) 2-year spending exception (Code § 148(f)(4)(C) and Regulations § 1.148-7(e)).

(ii) Refunding Portion: 6-month spending exception (Code § 148(f)(4)(B) and Regulations § 1.148-7(c)).

(c) *Special Elections Made with Respect to Spending Exception Elections.* No special elections are being made in connection with the application of the spending exceptions.

(d) *Documenting Application of Spending Exception.* At any time prior to the first Computation Date, the Borrower may engage the Rebate Analyst to determine whether one or more spending exceptions has been satisfied, and the extent to which the Borrower must continue to comply with **Section 4.6**.

(e) *General Requirements for Spending Exception.* The following general requirements apply in determining whether a spending exception is met.

(1) Using Adjusted Gross Proceeds or Available Construction Proceeds to pay principal of any Bonds is not taken into account as an expenditure for purposes of meeting any of the spending tests.

(2) The 6-month spending exception generally is met if all Adjusted Gross Proceeds of the New Money Portion or the Refunding Portion, as applicable, are spent within 6 months following the Issue Date. The test may still be satisfied even if up to 5% of the sale proceeds remain at the end of the initial 6-month period, so long as this amount is spent within 1 year of the Issue Date.

(3) The 18-month spending exception generally is met if all Adjusted Gross Proceeds of the New Money Portion are spent in accordance with the following schedule:

Time Period After the Issue Date	Minimum Percentage of Adjusted Gross Proceeds Spent
6 months	15%
12 months	60%
18 months (Final)	100%

(4) The 2-year spending exception generally is met if all Available Construction Proceeds are spent in accordance with the following schedule:

Time Period After the Issue Date	Minimum Percentage of Available Construction Proceeds Spent
6 months	10%
12 months	45%
18 months	75%
24 months (Final)	100%

(5) For purposes of applying the 18-month and 2-year spending exceptions only, the failure to satisfy the **final** spending requirement is disregarded if the Borrower uses due diligence to complete the New Money Project and the failure does not exceed the lesser of 3% of the aggregate issue price the New Money Portion or \$250,000. **No such exception applies for any other spending period.**

(6) For purposes of applying the 18-month and 2-year spending exceptions only, the Bonds meet the applicable spending test even if, at the end of the **final** spending period, proceeds not exceeding a Reasonable Retainage remain unspent, so long as such Reasonable Retainage is spent within 30 months after the Issue Date in the case of the 18-month spending exception or 3 years after the Issue Date in the case of the 2-year spending exception.

(7) Spending exceptions may be applied separately to the New Money Portion and the Refunding Portion.

Section 4.6. Computation and Payment of Arbitrage Rebate.

(a) *Computation of Rebate Amount.* The Lender will provide the Rebate Analyst Investment reports relating to each fund held by the Lender that contains Gross Proceeds of the Bonds at such times as reports are provided to the Borrower, and not later than 10 days following each Computation Date. The Borrower will provide the Rebate Analyst with copies of Investment reports for any funds containing Gross Proceeds that are held by a party other than the Lender annually as of the end of each Bond Year and not later than 10 days following each Computation Date. Each Investment report provided to the Rebate Analyst will contain a record of each Investment, including (1) purchase date, (2) purchase price, (3) information establishing the fair market value on the date such Investment was allocated to the Bonds, (4)

any accrued interest paid, (5) face amount, (6) coupon rate, (7) frequency of interest payments, (8) disposition price, (9) any accrued interest received, and (10) disposition date. Such records may be supplied in electronic form. The Rebate Analyst will compute rebate following each Computation Date and deliver a written report to the Lender, the Borrower and the Issuer together with an opinion or certificate of the Rebate Analyst stating that arbitrage rebate was determined in accordance with the Regulations. Each report and opinion will be provided not later than 45 days following the Computation Date to which it relates. In performing its duties, the Rebate Analyst may rely, in its discretion, on the correctness of financial analysis reports prepared by other professionals.

(b) *Rebate Payments.* Within 60 days after each Computation Date, the Lender must pay (but solely from money provided by the Borrower) to the United States the rebate amount then due, determined in accordance with the Regulations. Each payment must be (1) accompanied by IRS Form 8038-T and such other forms, documents or certificates as may be required by the Regulations, and (2) mailed or delivered to the IRS at the address shown below, or to such other location as the IRS may direct:

Internal Revenue Service Center
Ogden, UT 84201

(c) *Successor Rebate Analyst.* If the firm acting as the Rebate Analyst resigns or becomes incapable of acting for any reason, or if either the Borrower or the Issuer desire that a different firm act as the Rebate Analyst, then the Borrower (so long as no event of default hereunder or under the Loan Agreement has occurred and is continuing), with the written consent of the Issuer (which consent will not be unreasonably withheld) or the Issuer, by an instrument or concurrent instruments in writing delivered to the Lender, the firm then serving as the Rebate Analyst and any other party to this Tax Agreement, will name a successor Rebate Analyst. In each case the successor Rebate Analyst must be a firm of nationally recognized bond counsel or a firm of independent certified public accountants and such firm must expressly agree to undertake the responsibilities assigned to the Rebate Analyst hereunder. In the event the firm acting as the Rebate Analyst resigns or becomes incapable of acting for any reason and neither the Issuer nor the Borrower appoints a qualified successor Rebate Analyst within 30 days following a request to appoint a successor Rebate Analyst, then the Lender will appoint a firm to act as the successor Rebate Analyst.

(d) *Filing Requirements.* The Issuer (if requested in writing by the Borrower), the Borrower and the Lender will file or cause to be filed with the IRS such reports or other documents as are required by the Code in accordance with an Opinion of Bond Counsel addressed and delivered to such parties.

(e) *Survival after Defeasance.* Notwithstanding anything in the Loan Agreement to the contrary, the obligation to pay arbitrage rebate to the United States will survive the payment or defeasance of the Bonds.

Section 4.7. Tax Audits. The Issuer and the Borrower acknowledge that the IRS has a routine tax audit program in place and that the cost of professional representation and compliance with requests for records and other information that are a part of such an audit can be substantial, even if no violation of tax laws are found. The Issuer and the Borrower also recognize that under current administrative procedures the IRS must direct audit inquiries to the Issuer, even though the Borrower has the primary responsibility for maintaining the exclusion of interest on the Bonds from gross income for federal income tax purposes. Upon receipt of notice of the commencement of any audit of the Bonds, the Borrower or the Issuer will notify the other promptly. Throughout the term of the audit and any subsequent proceedings, the Issuer and the Borrower will provide copies to one another of any correspondence received from or transmitted to the IRS by the other. The Issuer may hire its own legal counsel to represent its interests in connection with the audit or in any further proceeding that results from the audit. At the request of the Issuer, the Borrower will

hire separate legal counsel to represent the Borrower's interests in the audit. The Borrower, upon written request of the Issuer, will assume responsibility for responding to information and document requests made by the auditor that are within the knowledge or possession of the Borrower. Promptly on demand by the Issuer in writing, the Borrower will pay costs incurred by the Issuer in connection with the audit or any legal or administrative proceeding resulting from the audit (including the Issuer's reasonable attorney's fees and expenses). So long as the Borrower shall not be in default under the terms of the Loan Agreement neither the Issuer nor the Borrower shall have the right to represent or otherwise bind the other party in connection with any settlement related to the tax-exempt status of the Bonds. Nothing contained in this section is intended to limit the rights of the Issuer to recovery under the Loan Agreement or any other agreement or certificate executed in connection with the issuance of the Bonds.

ARTICLE V

MISCELLANEOUS PROVISIONS

Section 5.1. Term of Tax Agreement. This Tax Agreement will be effective concurrently with the issuance and delivery of the Bonds and will continue in force and effect until the principal of, redemption premium, if any, and interest on all Bonds have been fully paid and the Bonds are cancelled; provided that, the provisions of **Article IV** of this Tax Agreement regarding payment of arbitrage rebate and all related penalties and interest will remain in effect until all such amounts are paid to the United States and the provisions in **Section 4.2** relating to record keeping shall continue in force for the period described therein for records to be retained.

Section 5.2. Amendments. This Tax Agreement may be amended from time to time by the parties to this Tax Agreement without notice to or the consent of the Bond owner, but only if such amendment is in writing and is accompanied by an Opinion of Bond Counsel to the effect that, under then existing law, assuming compliance with this Tax Agreement as so amended and the Loan Agreement, such amendment will not cause the Bonds to be arbitrage bonds under Code § 148 or otherwise cause interest on the Bonds to be included in gross income for federal income tax purposes. No such amendment will become effective until the Issuer, the Borrower and the Lender receive an Opinion of Bond Counsel, addressed to the Issuer, the Borrower and the Lender, that such amendment will not adversely affect the exclusion of the interest on the Bonds from gross income for federal income tax purposes.

Section 5.3. Opinion of Bond Counsel. The Issuer, the Borrower and the Lender may deviate from the provisions of this Tax Agreement if furnished with an Opinion of Bond Counsel to the effect that the proposed deviation will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes. The Issuer (to the extent within its power or direction), the Borrower and the Lender further agree to comply with any further or different instructions provided in an Opinion of Bond Counsel to the effect that the further or different instructions need to be complied with in order to maintain the validity of the Bonds or the exclusion from gross income of interest on the Bonds.

Section 5.4. Reliance. In delivering this Tax Agreement the Issuer and the Lender are making only those certifications, representations and agreements as are specifically attributed to them in this Tax Agreement. The balance of the certifications, representations and agreements contained in this Tax Agreement, except those made by the Purchaser in the Purchaser's Receipt for the Bonds, are those of the Borrower, and the Issuer and the Lender are relying on the Borrower with respect to them. Neither the Issuer nor the Lender is not aware of any facts or circumstances which would cause it to question the accuracy of the facts, circumstances, estimates or expectations of the Borrower or the Purchaser and, to the best of its knowledge, those facts, circumstances, estimates and expectations are reasonable.

Section 5.5. Severability. If any provision in this Tax Agreement or in the Bonds is determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not be affected or impaired.

Section 5.6. Benefit of Agreement. This Tax Agreement is binding upon the Issuer, the Borrower and the Lender and their respective successors and assigns, and inures to the benefit of the parties to this Tax Agreement and the Bond owner. Nothing in this Tax Agreement or in the Loan Agreement or the Bonds, express or implied, gives to any person, other than the parties to this Tax Agreement and their successors and assigns, and the Bond owner, any benefit or any legal or equitable right, remedy or claim under this Tax Agreement. The certifications and representations made in this Tax Agreement and the expectations presented in this Tax Agreement are intended, and may be relied upon, as a certification of an officer of the Issuer given in good faith described in Regulations § 1.148-2(b)(2). The Borrower understands that its certifications in this Tax Agreement and in its Closing Certificate will be relied upon by the Issuer in the issuance of the Bonds and execution of this Tax Agreement. The Issuer and the Borrower understand that such certifications will be relied upon by the law firm of Gilmore & Bell, P.C., in rendering its opinion as to the validity of the Bonds and the exclusion from federal gross income of the interest on the Bonds.

Section 5.7. Default, Breach and Enforcement. Any misrepresentation of a party contained herein or any breach of a covenant or agreement contained in this Tax Agreement is an event of default under this Tax Agreement. This Tax Agreement is defined as a “Bond Document” in the Loan Agreement, and remedies for an event of default under this Tax Agreement may be pursued pursuant to the terms of the Loan Agreement, or any other document which references this Tax Agreement and gives remedies for an event of default thereunder.

Section 5.8. Execution in Counterparts. This Tax Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute the same instrument.

Section 5.9. Governing Law. This Tax Agreement will be governed by and construed in accordance with the laws of the State of Utah.

Section 5.10. Electronic Transactions. The parties agree that the transaction described in this Tax Agreement may be conducted, and related documents may be stored, by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the parties to this Tax Agreement have caused this Tax Compliance Agreement to be duly executed by their duly authorized officers as of the Issue Date of the Bonds.

SANDY CITY, UTAH

By: _____
Title:

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

By: _____
Title:

WATERFORD SCHOOL, LLC

By: _____
Title:

EXHIBIT A

CERTIFICATE OF APPROVAL

EXHIBIT B

IRS FORM 8038

ATTACHMENT A TO FORM 8038:

**§[Principal Amount A]
SCHOOL FACILITY REFUNDING BONDS
(WATERFORD SCHOOL, LLC)
SERIES 2022A**

**§[Principal Amount B]
SCHOOL FACILITY REVENUE BONDS
(WATERFORD SCHOOL, LLC)
SERIES 2022B**

PART II: Type of Issue

Line 18: Non-Hospital Bond

Organization Benefiting from 501(c)(3) Non-Hospital Bonds	Employer Identification Number	Amount of These Bonds Benefiting This Organization	Amount of All Other Outstanding Non-Hospital Bonds
Waterford School, LLC			N/A

EXHIBIT C

501(c)(3) DETERMINATION LETTER

EXHIBIT D

RESOLUTION OF OFFICIAL INTENT – NEW MONEY PORTION

EXHIBIT E

**DESCRIPTION OF PROPERTY COMPRISING THE PROJECT AND FINANCED PROPERTY;
FINAL WRITTEN ALLOCATION FOR THE ORIGINAL OBLIGATIONS;
AND LIST OF REIMBURSED EXPENDITURES**

[See Spreadsheet]

EXHIBIT F

SAMPLE ANNUAL COMPLIANCE CHECKLIST

Name of tax-exempt Bond (“Bond”) financing Project:	Sandy City, Utah, School Facility Refunding Bonds (Waterford School, LLC), Series 2022
Issue Date of Bond:	April [], 2022
Placed in service date of Project:	
Name of Borrower Bond Compliance Officer:	
Period covered by request (“Annual Period”):	

Item	Question	Response
1 Ownership	Was the entire Project owned by the Borrower during the entire Annual Period?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If answer above was “No,” was an Opinion of Bond Counsel obtained prior to the transfer? If Yes, include a copy of the Opinion in the Tax-Exempt Bond File. If No, contact Bond Counsel and include description of resolution in the Tax-Exempt Bond File.	<input type="checkbox"/> Yes <input type="checkbox"/> No

2 Leases & Other Rights to Possession	During the Annual Period, was any part of the Project leased at any time pursuant to a lease or similar agreement for more than 50 days?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If answer above was “Yes,” was an Opinion of Bond Counsel obtained prior to entering into the lease or other arrangement? If Yes, include a copy of the Opinion in the Tax-Exempt Bond File. If No, contact Bond Counsel and include description of resolution in the Tax-Exempt Bond File.	<input type="checkbox"/> Yes <input type="checkbox"/> No

3 Management or Service Agreements	During the Annual Period, has the management of all or any part of the operations of the Project (e.g., cafeteria, gift shop, physical therapy, etc.) been assumed by or transferred to another entity?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If answer above was “Yes,” was an Opinion of Bond Counsel obtained prior to entering into the management agreement? If Yes, include a copy of the Opinion in the Tax-Exempt Bond File. If No, contact Bond Counsel and include description of resolution in the Tax-Exempt Bond File.	<input type="checkbox"/> Yes <input type="checkbox"/> No

Item	Question	Response
<p>4</p> <p>Research Agreements</p>	<p>During the Annual Period, has any part of the Project been use to conduct research under an agreement with a person or entity?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
	<p>If answer above was “Yes,” was an Opinion of Bond Counsel obtained prior to entering into the management agreement?</p> <p>If Yes, include a copy of the Opinion in the Tax-Exempt Bond File.</p> <p>If No, contact Bond Counsel and include description of resolution in the Tax-Exempt Bond File.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>5</p> <p>Unrelated Trade or Business</p>	<p>During the Annual Period, was any part of the Project used by the Borrower in an unrelated trade or business (regardless of whether or not the activity generated a profit)?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
	<p>If Yes, contact Bond Counsel and include description of the conclusions in the Tax-Exempt Bond File.</p>	
<p>6</p> <p>Other Use</p>	<p>Was any other agreement entered into with an individual or entity that grants special legal rights to the Project?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
	<p>If answer above was “Yes,” was an Opinion of Bond Counsel obtained prior to entering into the agreement?</p> <p>If Yes, include a copy of the Opinion in the Tax-Exempt Bond File.</p> <p>If No, contact Bond Counsel and include description of resolution in the Tax-Exempt Bond File.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>7</p> <p>Arbitrage & Rebate</p>	<p>Have all rebate and yield reduction calculations mandated in the Tax Compliance Agreement been prepared for the current year?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
	<p>If No, contact Rebate Analyst and incorporate report or include description of resolution in the Tax-Exempt Bond File.</p>	

[TO BE PROVIDED TO THE ISSUER]

Borrower Bond Compliance Officer: _____

Date Completed: _____

EXHIBIT G

SAMPLE FINAL WRITTEN ALLOCATION

**[\$[Principal Amount AB]
SANDY CITY, UTAH
SCHOOL FACILITY REFUNDING BONDS
(WATERFORD SCHOOL, LLC)
SERIES 2022**

Final Written Allocation

The undersigned is the Bond Compliance Officer of Waterford School, LLC (the “Borrower”) and in that capacity is authorized to execute federal income tax returns required to be filed by Sandy City, Utah (the “Issuer”) and to make appropriate elections and designations regarding federal income tax matters on behalf of the Borrower. This allocation of the proceeds of the bond issue referenced above (the “Bond”) is necessary for the Borrower to satisfy ongoing reporting and compliance requirements under federal income tax laws.

Purpose. This document, together with the schedules and records referred to below, is intended to memorialize allocations of Bond proceeds to expenditures for purposes of §§ 141 and 148 of the Internal Revenue Code (the “Code”). All allocations are or were previously made no later than 18 months following the date the expenditure was made by the Borrower or, if later, the date the “project” was “placed in service” (both as defined below), and no later than 60 days following the 5th anniversary of the issue date of the Bond.

Background. The Bonds were issued on April [___], 2022 (the “Issue Date”) by the Issuer. The Bonds were issued pursuant to a Loan Agreement among the Issuer, the Borrower and Zions Bancorporation, N.A. dba Zions First National Bank, the purchaser of the Bond. The Bonds were issued in order to provide funds needed (1) refund the Series 2010B Bonds, (2) [Description of New Money Project] (the “Project”), and (3) pay costs of issuing the bonds. Proceeds of the Bond were deposited to the Project Fund.

Sources Used to Fund Project Costs and Allocation of Proceeds to Project Costs. The costs of the New Money Project were paid from sale proceeds of the Bond, earnings from the investment of sale proceeds of the Bond, and to the extent necessary, other funds of the Borrower, all as shown on **Schedule 1** to this Final Written Allocation.

Identification of Financed Property. The portions of the New Money Project financed from Bond proceeds (i.e., the “Financed Property” referenced in the Tax Compliance Agreement) are listed on page 1 of **Schedule 2** to this Final Written Allocation.

Identification and Timing of Expenditures for Arbitrage Purposes. For purposes of complying with the arbitrage rules, the Borrower allocates the proceeds of the Bonds to the various expenditures described in the invoices, requisitions or other substantiation attached as **Schedule 2** to this Final Written Allocation. In each case, the cost requisitioned was either paid directly to a third party or reimbursed the Borrower for an amount it had previously paid or incurred. Amounts received from the sale of the Bonds and retained as a bank origination fee are allocated to that purpose and spent on the Issue Date. Amounts allocated to interest expense are treated as paid on the interest payment dates for the Bonds.

Placed In Service. The New Money Project was “placed in service” on the date set out on **Schedule 2** to this Final Written Allocation. For this purpose, the assets are considered to be “placed in service” as of the date on which, based on all the facts and circumstances: (1) the constructing and equipping of the asset has reached a degree of completion which would permit its operation at substantially its design level; and (2) the asset is, in fact, in operation at that level.

This allocation has been prepared based on statutes and regulations existing as of this date. The Borrower reserves the right to amend this allocation to the extent permitted by future Treasury Regulations or similar authorities.

WATERFORD SCHOOL, LLC

By: _____
Title: _____

Dated: _____

Name of Legal Counsel/Law Firm Reviewing Final Written Allocation:

Date of Review: _____

SCHEDULE 1
TO FINAL WRITTEN ALLOCATION
ALLOCATION OF SOURCES AND USES

[See Spreadsheet]

**SCHEDULE 2
TO FINAL WRITTEN ALLOCATION**

**IDENTIFICATION OF FINANCED FACILITIES
AND DETAILED LISTING OF EXPENDITURES**

[See Spreadsheet]

EXHIBIT H

DEBT SERVICE SCHEDULE AND PROOF OF BOND YIELD

EXHIBIT I

ISSUER'S TAX COMPLIANCE PROCEDURE

EXHIBIT J

BORROWER'S TAX COMPLIANCE PROCEDURE