

LOAN AGREEMENT  
(S \_\_\_\_\_ SERIES 2005)

DATED AS OF \_\_\_\_\_, 2005

BETWEEN

TENNESSEE STATE SCHOOL BOND AUTHORITY

AND

THE METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY, TENNESSEE

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## LOAN AGREEMENT

This Loan Agreement is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2005, by and between the TENNESSEE STATE SCHOOL BOND AUTHORITY (the "Authority"), and THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE (the "Borrower").

### WITNESSETH:

WHEREAS, the Authority is a corporate governmental agency and an instrumentality of the State of Tennessee, organized and existing pursuant to the Tennessee State School Bond Authority Act, Sections 49-3-1201 *et seq.*, Tennessee Code Annotated, as amended (the "Act"), and is authorized to issue its bonds or notes to make loans to any county, metropolitan government, incorporated city or town, or special school district in the State (each a "Local Government") for qualified zone academy projects as defined in the Act, including buildings, structures, improvements, and equipment for schools;

WHEREAS, it has heretofore been determined by the governing body of the Borrower to be in the best interest of the Borrower to finance the renovation, repair and equipping of Glenclyff High School, Maplewood High School, Pearl Cohn High School, Stratford High School, Whites Creek High School, Antioch Middle School, Bailey Middle School, Bellevue Middle School, Brick Church Middle School, Cameron Middle School, Dalewood Middle School, Donelson Middle School, Dupont Hadley Middle School, Dupont Tyler Middle School, Ewing Park Middle School, Goodlettsville Middle School, H.G. Hill Middle School, Head Middle School, J.T. Moore Middle School, Jerre Baxter Middle School, Joelton Middle School, John Early Middle School, Litton Middle School, Martha Vaught Middle School, McKissick Middle School, McMurray Middle School, Neely's Bend Middle School, Rose Park Middle School, Two Rivers Middle School, W.A. Bass Middle School, West End Middle School, Wharton Middle School and Wright Middle School (collectively, the "Projects"); and

WHEREAS, under Tennessee law, the Borrower is authorized to enter into a loan agreement with the Authority to finance the Projects; and

WHEREAS, the Borrower has obtained a written commitment from one or more private entities to provide a "qualified contribution" as such term is defined in Section 1397E of the Internal Revenue Code of 1986, as amended, with respect to each Qualified Zone Academy, having a present value of not less than ten percent (10%) of the proceeds of the loan authorized herein allocable to such Academy Project (as defined herein); and

WHEREAS, the Department of Education has recommended to the Authority that the Borrower be approved to obtain a loan from the Authority for the Projects; and

WHEREAS, the Borrower has determined that it is necessary and desirable to borrow sufficient funds to accomplish the purposes set forth above; and

WHEREAS, the Authority has determined to lend money to the Borrower for the purposes set forth above on the terms and conditions set forth herein; and

WHEREAS, to obtain funds for such purposes the Authority will issue and sell its Qualified Zone Academy Bonds, Series 2005 (the "Series 2005 Bonds"), to be secured by and to contain such terms and provisions as are set forth in that certain resolution adopted by the Authority on September 9, 1999, as supplemented by the Fifth Supplemental Resolution adopted by the Authority on \_\_\_\_\_, 2005 and the 2005 Series Certificate dated \_\_\_\_\_, 2005, and deposit the proceeds from the sale of the Series 2005 Bonds with the Authority to be disbursed in the manner and for the purposes set forth in the Resolution, all as more fully provided therein.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, the Authority and the Borrower agree as follows:

## ARTICLE I

### Definitions

Section 1.01. Defined Terms. In addition to the words, terms and phrases elsewhere defined in this Loan Agreement or in the Resolution, the following words, terms and phrases as used in this Loan Agreement shall have the following respective meanings:

"Academy Project" means with respect to each Qualified Zone Academy, the portion of the Projects described herein identified to such Qualified Zone Academy.

"Act" means the Tennessee State School Bond Authority Act, Sections 49-3-1201 et seq, Tennessee Code Annotated, as amended from time to time.

"Additional Payment" means the amount described in Section 3.04(b)(ii).

"Administrative Expenses" means the Authority's expenses of carrying out and administering its powers, duties and functions in connection with the Loan Agreement, the Projects and the Resolution, and shall include without limiting the generality of the foregoing: administrative expenses, legal, accounting and consultant's services and expenses, the fees and expenses of the Trustee, Paying Agent and Registrar, and any other expenses required or permitted to be paid by the Authority under the provisions of the Act, the Loan Agreement and the Resolution or otherwise required to be made by the Borrower pursuant to Section 3.02 hereof.

"Administrative Expenses Account" means the Administrative Expenses Account of the Series 2005 Bond Account of the Bond Fund.

"Authority" means the Tennessee State School Bond Authority, the corporate governmental agency and instrumentality created by the Act, or any body, agency or instrumentality of the State which shall hereafter succeed to the powers, duties and functions of the Authority.

"Authorized Authority Representative" means any member of the Authority and any other officers or employee of the Authority authorized by law, by resolution of the Authority or by a certificate of a Secretary of the Authority to perform the act or sign the document in question.

"Authorized Borrower Representative" means the Mayor, the Director of Schools of the Borrower or his designee as evidenced by a certificate of the Director of Schools, and any such other Person from time to time authorized to act in behalf of a Borrower pursuant to the Charter, or ordinance or resolution of the governing body of such Borrower, a copy of which is filed with the Secretary of the Authority, to perform such act or execute such document on behalf of the Borrower pursuant to a certificate signed by any of the above and giving the name and specimen signature of the Person or Persons so designated.

"Bond Fund" means the fund established under Section 6.02 of the Resolution.

"Bonds" means the Authority's Qualified Zone Academy Bonds issued pursuant to the Resolution, as supplemented by any Supplemental Resolution.

"Borrower" means The Metropolitan Government of Nashville and Davidson County, Tennessee.

"Borrower Account" means the account in the Loan Fund designated for the Borrower pursuant to Section 6.03 of the Resolution in which the proceeds of the Loan to the Borrower are deposited.

"Borrower Loan Repayment Sub-Account" means that portion of the Loan Repayment Account created within the 2005 Series Bond Account for the Borrower in accordance with the Resolution as described in Section 3.04(b) hereof.

"Borrower Request", "Borrower Order" and "Borrower Consent" means, respectively, a written request, order or consent signed by an Authorized Borrower Representative and delivered to the Authority.

"Borrower Reserve Sub-Account" means that portion of the Loan Repayment Account created within the 2005 Series Bond Account for the Borrower in accordance with Section 3.04(a) hereof.

"Business Day" means any day other than (a) a Saturday or Sunday, (b) a day on which banking institutions located in the State or in any of the cities where the principal United States office of the Trustee, the Paying Agent or the Registrar are required or authorized by law or executive order to close, or (c) a day on which the New York Stock Exchange is closed.

"Closing Date" means the date of issuance and delivery of the Series 2005 Bonds.

"Code" means the Internal Revenue Code of 1986, as amended, including applicable regulations and revenue rulings thereunder. Reference herein to sections of the Code are to the

sections thereof as they exist on the date of execution of this Loan Agreement, but include any successor provisions thereof to the extent applicable to the Series 2005 Bonds.

"Cost" or "Cost of the Projects" means:

(a) The cost of improving, equipping, repairing or refinancing the Projects, or any combination of such purposes, demolishing structures on the Project sites, and acquiring sites or estates therein and easements necessary or convenient for the Projects;

(b) The cost of labor, materials, machinery and equipment as payable to contractors, builders and materialmen in connection with the Projects;

(c) Governmental charges levied or assessed during equipping of the Projects or upon any property acquired therefor, and premiums on insurance in connection with the Projects during construction;

(d) Fees and expenses of architects and engineers for estimates, surveys and other preliminary investigations, environmental tests, soil borings, appraisals, preparation of plans, drawings and specifications and supervision of the Projects properly chargeable to the Projects, as well as for the performance of all other duties of architects and engineers in relation to the construction and installation of the Projects;

(e) Expenses of administration, supervision and inspection properly chargeable to the Projects, including the fees of the Borrower relating to the design, construction and equipping of the Projects and all other items of expense, not elsewhere specified herein incident to the construction, installation and placing in operation of the Projects;

(f) Fees and expenses incurred in connection with the issuance, sale, execution, delivery and administration of the Series 2005 Bonds and this Loan Agreement, including but not limited to, fees and expenses of the Authority and its counsel, Bond Counsel, the Trustee, if any, Paying Agent or Registrar and its counsel, the Borrower's counsel, printing costs, rating fees and discount; and

(g) Any other cost of the Projects permitted to be financed pursuant to the Act and the Code.

"Default Share" means, for purposes hereof, a fraction, the numerator of which shall be the original principal amount of the Loan, less the aggregate amount from the Borrower Loan Repayment Sub-Account applied to payment or redemption of the Series 2005 Bonds, and the denominator of which shall be the outstanding principal amount of the Series 2005 Bonds on the date of determination.

"Event of Default" means any event defined in Section 5.01 hereof.

"Forward Delivery Agreement" initially means that agreement between the Authority and \_\_\_\_\_, and its successors or assigns, pursuant to which the Authority will

invest certain funds held in the Loan Repayment Account of the Series 2005 Bond Account, and upon termination of the initial Forward Delivery Agreement, means any other investment agreement for investment of funds in the Borrower Loan Repayment Sub-Account entered into by the Authority.

"Forward Delivery Agreement Payments" means any and all payments due from the Authority under the Forward Delivery Agreement, including payments required to be made as a result of any event of default thereunder; provided, however, it shall not include any amounts required to be paid by the Authority to purchase Qualified Securities (as defined in the Forward Delivery Agreement).

"Forward Delivery Agreement Receipts" means any and all payments due to the Authority under the Forward Delivery Agreement required to be made as a result of any event of default thereunder.

"Investment Credit" means the amount so designated as set forth on Exhibit C as such amount may be adjusted from time to time.

"Investment Income" means, with respect to the applicable period of determination, all amounts received by the Authority during such period in connection with the Authority's investment of amounts in the applicable Fund or Account subject to such determination, established under the Resolution in connection with the Series 2005 Bonds, excluding the principal portion of any such investments and any Forward Delivery Agreement Receipts.

"Investment Losses" means, with respect to the applicable period of determination, all losses of principal incurred during such period in connection with the Authority's investment of amounts in the applicable Fund or Account subject to such determination, established under the Resolution in connection with the Series 2005 Bonds, excluding Forward Delivery Agreement Payments.

"Investment Obligations" means and includes any instruments, securities, certificates, obligations and the like if and to the extent the same are at the time permitted and legal for investment of the Authority's funds pursuant to the Act or in accordance with any other law, regulation, guideline or policy, in effect from time to time, applicable to the Authority with respect to investments.

"Loan" means the loan made by the Authority to the Borrower pursuant to this Loan Agreement as described in Section 2.02 hereof.

"Loan Agreement" means this Loan Agreement as it now exists and as it may hereafter be amended.

"Loan Fund" means the fund established under Section 6.03 of the Resolution.

"Loan Repayments" means the payments of principal of the Loan, Administrative Expenses and any and all other amounts payable by the Borrower hereunder, including



Additional Payments, Investment Losses, Forward Delivery Agreement Payments, and Redemption Premium or such Borrower's Proportionate Share of the foregoing, when applicable.

"Loan Repayment Date" means: (i) with respect to that portion of Loan Repayments attributable to principal on the Series 2005 Bonds, the \_\_\_\_ day of \_\_\_\_\_, 200\_\_ through 20\_\_\_, inclusive, or if such day is not a Business Day, then on the next preceding Business Day, any date on which payment is demanded by the Authority, and to the extent not paid, then at Maturity; (ii) with respect to that portion of Loan Repayments consisting of Administrative Expenses, the \_\_\_\_ day of \_\_\_\_\_, 200\_\_ through 20\_\_\_, inclusive, or if such day is not a Business Day, then on the next preceding Business Day, at any time on demand of the Authority, and at Maturity; and with respect to all other Loan Repayments, at any time on demand by the Authority.

"Local Government" means any county, metropolitan government, incorporated city or town, or special school district in the State.

"Mandatory Prepayment Price" means the amount determined pursuant to the provisions of Section 6.02 hereof required to be paid by the Borrower in partial prepayment of its Loan pursuant to Sections 2.05 and 3.04 hereof.

"Maturity" means \_\_\_\_\_, 20\_\_\_, the Maturity Date of the Series 2005 Bonds.

"Optional Prepayment Price" means the amount determined pursuant to the provisions of Section 6.03 hereof payable by the Borrower in order to prepay any portion of its Loan Repayments.

"Outstanding", when used with respect to the Series 2005 Bonds or any Series of Bonds issued pursuant to the Resolution, means as of any date, all Series 2005 Bonds or other Series of Bonds, respectively, theretofore authenticated and delivered under the Resolution, except:

- (a) any Bonds cancelled at or prior to such date;
- (b) any Bonds (or portions of Bonds) the principal or Redemption Price, if any, which shall have been paid in accordance with the terms hereof;
- (c) any Bonds in lieu or in substitution for which other Bonds shall have been authenticated and delivered pursuant to the Resolution; and
- (d) Bonds deemed to have been paid as provided in the Resolution.

"Outstanding Loan Principal Amount" means that amount necessary to repay the original principal amount of the Loan at the time of determination.

"Paying Agent" means any Paying Agent for the Series 2005 Bonds, its successors and any other Person which may at the time be substituted in its place, pursuant to the Resolution.

"Person" means any individual, corporation, partnership, limited partnership joint venture, association, joint-stock company, trust, unincorporated association, limited liability corporation or partnership, or government or any agency or subdivision thereof, or other legal entity or group of entities.

"Pledged Revenues" means with respect to the Series 2005 Bonds (i) all payments made or required to be made by the Borrower pursuant to this Loan Agreement; (ii) funds held under the Resolution with respect to the Series 2005 Bonds and the earnings thereon (subject to the application thereof to the purposes and on the conditions set forth in the Resolution); and (iii) Unobligated State-Shared Taxes at such time as such taxes have been withheld pursuant to law and the Loan Agreement and which have become property of the Authority.

"Prepayment Date" means the date on which the Borrower is required to deposit the Optional Prepayment Price with the Paying Agent or Trustee pursuant to Section 6.01 hereof, which day may be any Business Day.

"Prior Lien Obligations" means the following: (i) Sewer State Revolving Fund Loans as follows: Loan #93-060, dated June 18, 1993, in the original principal amount of \$4,229,000; Loan #93-062, dated June 18, 1993, in the original principal amount of \$9,729,000; Loan #94-073, dated November 19, 1993, in the original principal amount of \$25,000,000; Loan #96-085, dated December 18, 1995, in the original principal amount of \$1,500,000; Loan #96-086, dated December 18, 1995, in the original principal amount of \$5,000,000; Loan #96-087, dated December 18, 1995, in the original principal amount of \$3,500,000; Loan #96-096, dated July 10, 1996, in the original principal amount of \$15,000,000; Loan #03-169, in the original principal amount of \$120,000,000; (ii) Health Loans between the City and the Tennessee Local Development Authority as follows: Loan #384-100K, dated May 20, 1986, in the original principal amount of \$3,543,632; Loan #384-100N, dated May 19, 1987, in the original principal amount of \$1,771,816; Loan #493-93-1, dated February 14, 1994, in the original principal amount of \$13,149,175; Loan #493-94-2, dated November 3, 1994, in the original principal amount of \$1,771,816; Loan #493-94-5, dated November 3, 1994, in the original principal amount of \$1,506,044; Loan #493-94-6, dated November 3, 1994, in the original principal amount of \$5,906,054; Loan #493-95-1, dated March 27, 1995, in the original principal amount of \$14,174,529; Loan #493-97-1, dated August 18, 1997, in the original principal amount of \$4,596,214; Loan #493-97-4, dated March 25, 1998, in the original principal amount of \$10,147,545; Loan #493-98-3, dated January 28, 1999, in the original principal amount of \$7,401,700; Loan #493-98-4, dated January 28, 1999, in the original principal amount of \$4,178,380; Loan #493-99-1, dated February 25, 2000, in the original principal amount of \$4,134,238; Loan #493-99-2, dated February 25, 2000, in the original principal amount of \$5,906,054; Loan #493-01-1, dated December 18, 2001, in the original principal amount of \$4,134,238; Loan #493-01-2, dated December 18, 2001, in the original principal amount of \$9,815,861; (iii) General Obligation Health Loans as follows: Loan #384-01, , dated March 16, 1997, in the original principal amount of \$198,818; Loan #493, dated August 18, 1976, in the original principal amount of \$466,139; Loan 384-06, dated January 18, 1978, in the original principal amount of \$7,965,853; Loan #384-09, dated December 17, 1979, in the original principal amount of \$1,870,785; and (iv) Local Development Authority Loans in the principal amount of \$8,524,544 and \$53,949,457.

"Projects" means the renovation, repair and equipping of Glencliff High School, Maplewood High School, Pearl Cohn High School, Stratford High School, Whites Creek High School, Antioch Middle School, Bailey Middle School, Bellevue Middle School, Brick Church Middle School, Cameron Middle School, Dalewood Middle School, Donelson Middle School, Dupont Hadley Middle School, Dupont Tyler Middle School, Ewing Park Middle School, Goodlettsville Middle School, H.G. Hill Middle School, Head Middle School, J.T. Moore Middle School, Jerre Baxter Middle School, Joelton Middle School, John Early Middle School, Litton Middle School, Martha Vaught Middle School, McKissick Middle School, McMurray Middle School, Neely's Bend Middle School, Rose Park Middle School, Two Rivers Middle School, W.A. Bass Middle School, West End Middle School, Wharton Middle School and Wright Middle School.

"Proportionate Share" means, (x) with respect to Forward Delivery Agreement Payments and Forward Delivery Agreement Receipts, at the time of determination (1) if such payment or receipt is directly attributable to the actions of the Borrower (including the Borrower's failure to act when otherwise required to act hereunder) 100% of such expense or payment, and (2) in all other instances, a fraction, the numerator of which is the aggregate of all amounts invested in the Forward Delivery Agreement from the Borrower's Loan Repayment Sub-Account and the denominator of which is the aggregate of all amounts invested from all Series 2005 Borrowers' Loan Repayment Sub-Accounts in the Forward Delivery Agreement; (y) with respect to Investment Income and Investment Losses in the Loan Repayment Account of the Series 2005 Bond Account for such period of determination, a fraction, the numerator of which is the aggregate of all amounts in the Borrower's Loan Repayment Sub-Account and the denominator of which is all amounts invested from the Series 2005 Borrowers' Loan Repayment Sub-Accounts; (z) with respect to Investment Income and Investment Losses in the Borrower's Reserve Sub-Account for such period of determination, a fraction, the numerator of which is the amount on deposit in the Borrower's Reserve Sub-Account and the denominator of which is the amount on deposit in all Series 2005 Borrowers' Reserve Sub-Accounts; and (xx) with respect to the allocation of Administrative Expenses and/or any Redemption Premium, (1) if such payment is directly attributable to the actions of the Borrower (including the Borrower's action or failure to act when otherwise required to act hereunder), one hundred percent (100%) of such expense, and (2) if such payment is attributable to the general administration of the Series 2005 Bonds and the Authority's obligations in connection therewith, a fraction the numerator of which is the principal amount of the Loan made under this Agreement and the denominator of which is the principal amount of the Series 2005 Bonds, and (3) if such payment is attributable to the general administration of all Series of Bonds and the Authority's obligations in connection therewith, a fraction the numerator of which is the Outstanding Loan Principal Amount and the denominator of which is an amount equal to all Series of Bonds which are Outstanding.

"Qualified Zone Academy" has the meaning set forth in Section 1397E of the Code, as amended, and shall include any public school or academic program within a public school which is established by and operated under the supervision of an eligible local education agency to provide education or training below the post-secondary level and such public school is located in an empowerment zone or enterprise community or there is a reasonable expectation as of the date of execution of the Loan Agreement that at least 35% of the students attending such school

or participating in such program will be eligible for free or reduced cost lunches under the school lunch program established under the National School Lunch Act which shall include the Projects.

"Redeemed Amount" means the principal portion of Series 2005 Bonds redeemed from the Mandatory Prepayment Price.

"Redemption Date" means that date any portion of the Series 2005 Bonds are required to be redeemed.

"Redemption Premium" means the amount required to be paid to the holders of the Series 2005 Bonds upon early redemption of the Series 2005 Bonds as described in the Resolution, as supplemented by the 2005 Series Certificate.

"Registrar" means the registrar for the Series 2005 Bonds and its successor or successors and any other Person which may at any time be substituted in its place pursuant to the Resolution.

"Reserve Amount" means an amount equal to the 2005 Investment Credit, as set forth on Exhibit C, and all earnings thereon.

"Resolution" means the Qualified Zone Academy First Program Bond Resolution adopted by the Authority on September 9, 1999, as supplemented by the Fifth Supplemental Resolution adopted by the Authority on \_\_\_\_\_, 2005, including the 2005 Series Certificate, dated as of \_\_\_\_\_, 2005 and as from time to time amended or supplemented by Supplemental Resolutions in accordance with the terms and provisions thereof.

"Series" or "Series of Bonds" or "Bonds of a Series" means all Bonds authorized by Supplemental Resolution designated as being of the same series initially delivered as part of a simultaneous transaction evidencing a borrowing authorized by the Resolution to fund one or more Loans made under one or more related Loan Agreements under the Resolution, and any Bonds thereafter authenticated and delivered in lieu thereof or in exchange therefor.

"Series 2005 Bonds" means the Qualified Zone Academy Bonds, Series 2005, of the Authority from time to time Outstanding under the Resolution.

"Series 2005 Borrowers' Loan Repayment Sub-Account" means all Loan Repayment Sub-Accounts in the Loan Repayment Account of the Series 2005 Bond Account of the Bond Fund relating to the Series 2005 Bonds.

"Series 2005 Borrowers' Reserve Sub-Account" means all Reserve Sub-Accounts in the Loan Repayment Account of the Series 2005 Bond Account of the Bond Fund relating to the Series 2005 Bonds.

"State" means the State of Tennessee.

"State-Shared Taxes" means taxes imposed and collected by the State pursuant to law and appropriated and allocated by law to a Local Government, whether appropriated or allocated for a particular purpose or for the general use of such Local Government, as identified by resolution of the Tennessee Local Development Authority and as established by Section 4-31-102, Tennessee Code Annotated, as amended from time to time.

"Trustee" means the bank, trust company or national banking association appointed pursuant to Section 8.01 of the Resolution to act as trustee under the Resolution, and its successor or successors and any other bank, trust company or national banking association at any time substituted in its place pursuant to the Resolution.

"Unobligated State-Shared Taxes" means State-Shared Taxes which have not been pledged or applied to any other prior indebtedness.

Section 1.02. Interpretation. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. The words "Bond", "holder", and "person" shall include the plural as well as the singular number unless the context shall otherwise indicate. The word "person" shall include corporations, associations, natural persons and public bodies unless the context shall otherwise indicate.

Any certificate or opinion made or given by an Authorized Authority Representative or an Authorized Borrower Representative may be based, insofar as it relates to legal matters, upon a certificate or opinion of or representations by counsel, unless such officer knows that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should have known that the same were erroneous. Any certificate or opinion made or given by counsel may be based (insofar as it relates to factual matters, information with respect to which is in the possession of the Authority or a Borrower), upon the certificate or opinion of or representations by an officer or officers or officials of the Authority or the Borrower, unless such counsel knows that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should have known that the same were erroneous.

## ARTICLE II

### The Series 2005 Bonds and the Loan

Section 2.01. Issuance of the Series 2005 Bonds. In order to obtain funds to lend to the Borrower to assist in financing the Projects and pay costs of issuance in connection with the Series 2005 Bonds and the Loan Agreement as provided in Section 2.02 hereof, the Authority agrees to issue and deliver its Series 2005 Bonds. The Series 2005 Bonds shall not bear interest. The proceeds received from the sale of the Series 2005 Bonds shall be deposited with the Authority in an amount equal to the costs of issuance of the Series 2005 Bonds in the Administrative Expenses Account of the Series Bond Account and the portion of the proceeds of the Series 2005 Bonds allocable to the Borrower shall be deposited in the Borrower Account of the Loan Fund pursuant to Section 6.03 of the Resolution.

**Section 2.02. Loan.** The Authority hereby agrees to lend and advance to the Borrower and the Borrower hereby agrees to borrow and accept from the Authority, the Loan in the principal amount of \$\_\_\_\_\_. The Authority shall disburse the proceeds of the Loan to the Borrower from amounts on deposit in the Borrower Account of the Loan Fund derived from proceeds of the Series 2005 Bonds, upon receipt of a requisition as set forth in Section 2.04 hereof.

**Section 2.03. Use of Proceeds by the Borrower.** The Borrower will use the funds loaned to it by the Authority pursuant to Section 2.02 hereof solely to pay the Costs of the Projects.

**Section 2.04. Disbursements of Loan Proceeds.** Pursuant to Section 6.03 of the Resolution, the Authority shall use the moneys in the Borrower Account of the Loan Fund solely to pay the Costs of the Projects, including the reimbursement of the Borrower for advances and payments made or costs incurred by the Borrower for or in connection with the Projects. The Authority shall disburse funds from the Borrower Account of the Loan Fund only upon receipt of a requisition, appropriately completed and signed by an Authorized Borrower Representative in the form attached hereto as Exhibit A.

**Section 2.05. Completion of the Projects.** When requesting final payment from the Borrower Account of the Loan Fund, the Borrower shall cause to be submitted to the Department of Education, in addition to the requisition required by Section 2.04 hereof, a certificate signed by an Authorized Borrower Representative in the form attached hereto as Exhibit B. Said certificate shall state that no further funds will be withdrawn from the Borrower Account of the Loan Fund to pay the Cost of the Projects. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being. All moneys shall be expended from the Borrower Account of the Loan Fund within two and one-half (2½) years of the date of this Loan Agreement unless otherwise approved by the Authority. All moneys remaining in the Borrower Account of the Loan Fund, including investment earnings thereon, may be used for other projects of the Borrower approved by the State Board of Education and the Authority upon receipt of an opinion of nationally recognized bond counsel that the additional projects do not adversely affect the qualification of the Series 2005 Bonds as "qualified zone academy bonds" within the meaning of Section 1397E of the Code or shall be deposited in the Borrower's Reserve Sub-Account and credited by the Authority to the Borrower's required deposit to the Borrower's Loan Repayment Sub-Account, in inverse order, and used to redeem Series 2005 Bonds on the Redemption Date as set forth in the Resolution. The Authority does not make any warranty, either express or implied, that the moneys which will be paid into the Borrower Account of the Loan Fund and which, under the provisions of this Loan Agreement, will be available for payment of the Costs of the Projects, will be sufficient to pay all of the Costs of the Projects.

**Section 2.06. Investment of Funds; Application of Investment Earnings.** Any moneys held by the Authority in the Borrower Account of the Loan Fund shall be invested or reinvested by the Authority in Investment Obligations and shall be retained in the Loan Fund to be used for Costs of the Projects or for partial redemption of the Series 2005 Bonds as set forth in the Resolution.

**Section 2.07. Tax Status of the Series 2005 Bonds.** It is the intention of the parties hereto that the Series 2005 Bonds be and remain “qualified zone academy bonds” within the meaning of Section 1397E of the Code, and to that end the Borrower hereby represents, warrants and agrees as follows:

(a) 95% or more of the proceeds of the Loan allocable to each Academy Projects shall be used to rehabilitate, repair or equip the Qualified Zone Academy;

(b) the Qualified Zone Academy is a public school or academic program within a public school which is established and operated by the local education agency of the Borrower to provide education and training below the post secondary level and is located in an empowerment or enterprise community or at least 35% of the students attending the school or participating in the program are eligible for free or reduced cost lunch programs under the school lunch program established under the National School Lunch Act; and

(c) the Borrower has received written commitments from private entities to make qualified contributions (as defined in Section 1397E of the Code), with respect to each Academy Project having a present value of not less than 10% of the proceeds of the Loan with respect to each Academy Project.

### ARTICLE III

#### Payment Obligations of Borrower

**Section 3.01. Loan Repayments.** The Borrower agrees to pay to the Authority all Loan Repayments on each Loan Repayment Date, in the amounts and in the manner hereinafter provided, to be deposited by the Authority to the Series 2005 Bond Account in the Bond Fund to be applied to the payment of principal of the Series 2005 Bonds, whether at Maturity or upon redemption, Administrative Expenses, Additional Payments, Investment Losses and Forward Delivery Agreement Payments.

**Section 3.02. Return of Excess Payments.** Upon payment in full of all Loan Repayments due under the Loan Agreement, any funds remaining in the Borrower’s Reserve Sub-Account or the Borrower’s Loan Repayment Sub-Account shall be returned to the Borrower.

**Section 3.03. Time and Manner of Payment.** The Borrower agrees to make each Loan Repayment directly to the Authority on or before each Loan Repayment Date in lawful money of the United States of America by wire transfer of immediately available funds. The Authority shall send a statement to the Borrower setting forth the amount of the Borrower’s Loan Repayment with respect to each Loan Repayment Date.

**Section 3.04. Amount, Allocation and Deposit of Loan Repayments.** The amount of each of the Loan Repayments to be made on each Loan Repayment Date shall be determined, allocated and deposited as set forth below:

(a) *Borrower Reserve Sub-Account.* There shall be established the Borrower Reserve Sub-Account within the Loan Repayment Account created within the Series 2005 Bond Account. The following amounts shall be deposited to or retained in the Borrower's Reserve Sub-Account for subsequent transfer to the Borrower's Loan Repayment Sub-Account when required hereunder:

(i) On each Loan Repayment Date set forth on Exhibit C, the Borrower shall pay to the Authority the related "Principal" amount set forth on Exhibit C, as such amount may be adjusted at the time of determination (the "Annual Principal Repayment"), as follows:

(A) decreased by an amount equal to the related Investment Credit set forth on Exhibit C, excluding the 2005 Investment Credit;

(B) decreased by an amount equal to the Borrower's Proportionate Share of any Investment Income in the Series 2005 Borrowers' Reserve Sub-Account (excluding Investment Income which is part of the Reserve Amount), applied as directed by an Authorized Authority Representative toward the particular Annual Principal Repayment;

(C) decreased by an amount equal to the Borrower's Proportionate Share of any Investment Income in the Administrative Expenses Account of the Series 2005 Bond Account applied as directed by an Authorized Authority Representative toward the particular Annual Principal Repayment;

(D) decreased by the Redeemed Amount in inverse order of the Loan Repayment Date;

(E) decreased by any portion of the Optional Prepayment Price as directed by the Borrower upon the consent of an Authorized Authority Representative;

(F) decreased by the Borrower's Proportionate Share of any Forward Delivery Agreement Receipt, if not reinvested or used to acquire another Forward Delivery Agreement or similar type agreement, as directed by an Authorized Authority Representative;

(G) decreased by the Reserve Amount, as directed by an Authorized Authority Representative;

(H) increased by an amount equal to the Borrower's Proportionate Share of Investment Losses in the Series 2005 Borrowers' Loan Repayment Sub-Account; and



(I) increased by an amount equal to the Borrower's Proportionate Share of Investment Losses in the Series 2005 Borrowers' Reserve Sub-Account.

(ii) earnings on the Annual Principal Repayment while on deposit in the Borrower's Reserve Sub-Account;

(iii) the Reserve Amount;

(iv) the Mandatory Prepayment Price, if any, and earnings thereon;

(v) the Optional Prepayment Price, if any, and earnings thereon;

(vi) the Borrower's Proportionate Share of any Forward Delivery Agreement Receipts;

(vii) the Borrower's Proportionate Share of Investment Income reduced by the Borrower's Proportionate Share of Investment Losses, if any, from amounts on deposit in the Borrower's Reserve Sub-Account; and

(viii) the Borrower's Proportionate Share of any Investment Income in the Administrative Expenses Account of the Series 2005 Bond Account.

(b) *Borrower Loan Repayment Sub-Account.* (i) On the \_\_\_\_\_ day of \_\_\_\_\_ in each year that the Series 2005 Bonds are Outstanding or if such day is not a Business Day, then on the next preceding Business Day, there shall be a transfer from the Borrower Reserve Sub-Account to the Borrower Loan Repayment Account an amount equal to: (A) if the initial Forward Delivery Agreement is in effect, the difference between the related "Principal" amount set forth on Exhibit C and the related Investment Credit set forth on Exhibit C for such year, plus an amount equal to the Borrower's Proportionate Share of Investment Losses in the Series 2005 Borrowers' Loan Repayment Sub-Account occurring since the last transfer to the Borrower Loan Repayment Account in order to purchase Qualified Securities (as defined in the initial Forward Delivery Agreement); or (B) if the initial Forward Delivery Agreement is terminated and any subsequent Forward Delivery Agreement is in effect, the difference between the "Principal" amount set forth in Exhibit C and the Investment Credit set forth on Exhibit C, as such Investment Credit may be adjusted by an Authorized Authority Representative, plus an amount equal to the Borrower's Proportionate Share of Investment Losses in the Series 2005 Borrowers' Loan Repayment Sub-Account occurring since the last transfer to the Borrower Loan Repayment Account in order to purchase Qualified Securities (as defined in any Forward Delivery Agreement in effect upon termination of the initial Forward Delivery Agreement); or (C) if there is no Forward Delivery Agreement, the principal amount set forth in Exhibit C.

(ii) In the event a principal amount of the Series 2005 Bonds equal to the Borrower's Default Share of the Series 2005 Bonds outstanding the day after the maturity

date of the Series 2005 Bonds is not paid on such day from payments under this Loan Agreement by the Borrower or from the Borrower's Unobligated State-Shared Taxes, the Borrower shall pay to the Authority an Additional Payment with respect to such Default Share of the then outstanding Series 2005 Bonds, such Additional Payment to be in an amount sufficient for the Authority to pay to the holders of the Series 2005 Bonds such Default Share of the then Outstanding Series 2005 Bonds, together with an amount equal to such Default Share multiplied by the applicable credit rate on the Series 2005 Bonds divided by 360 multiplied by the number of days from the date of Maturity through the date of payment of the Borrower's Default Share of such Outstanding Series 2005 Bonds, which amount shall be deposited to the Borrower's Loan Repayment Sub-Account. The Authority shall pay to the holders of the Series 2005 Bonds such Additional Payment paid by the Borrower.

(iii) The Borrower shall also pay to the Authority upon demand by the Authority (but in all events prior to the Maturity of the Series 2005 Bonds) the Borrower's Proportionate Share of any Forward Delivery Agreement Payment when due, and any such payment by the Borrower shall be deposited by the Authority to the Borrower's Loan Repayment Sub-Account to be paid pursuant to the Forward Delivery Agreement.

(iv) The Borrower shall also pay to the Authority upon demand by the Authority (but in all events prior to the Maturity of the Series 2005 Bonds) the Borrower's Proportionate Share of any Investment Losses resulting in insufficient funds to pay the Series 2005 Bonds when due, and any such payment by the Borrower shall be deposited by the Authority to the Borrower's Loan Repayment Sub-Account to be applied to the payment of the Series 2005 Bonds, whether at Maturity or on the Redemption Date.

(v) Upon demand by the Authority (but in all events prior to the Redemption Date), the Borrower shall also pay to the Authority an amount equal to the Borrower's Proportionate Share of any Redemption Premium required to be paid to the holders of the Series 2005 Bonds upon partial redemption of the Series 2005 Bonds from funds on deposit in the Borrower Account of the Loan Fund which will not be used to pay Costs of the Projects, and any such payment by the Borrower shall be deposited by the Authority to the Borrower's Loan Repayment Sub-Account to be applied to the payment of any such Redemption Premium on the Series 2005 Bonds upon redemption.

(vi) Upon demand by the Authority, the Borrower shall pay to the Authority the Mandatory Prepayment Price and the Mandatory Prepayment Price shall be transferred to the Borrower Loan Repayment Sub-Account and shall be used to redeem a portion of the Series 2005 Bonds in accordance with the Resolution and to pay any redemption premium thereon.

(c) *Administrative Expense Account of the Series 2005 Bond Account.* The Administrative Expenses portion of each of the Loan Repayments shall be paid by the Borrower in an amount equal to the Borrower's Proportionate Share of Administrative Expenses for any period commencing on the Closing Date, or the Business Day on which Administrative Expenses were last paid to and ending on the day next preceding the Loan Repayment Date and shall be deposited to the Administrative Expenses Account.

**Section 3.05. Payments Assigned.** It is understood and agreed that the rights of the Authority under this Loan Agreement (except its rights to indemnification, payment of expenses and receive notices), are assigned to the Trustee, if any, pursuant to the Resolution. The Borrower consents to such assignment. The Borrower agrees to pay to the Trustee, or at the option of the Authority, unless there shall exist an Event of Default, to the Authority or at the direction of the Authority, the State Treasurer, or a separate custodian, all amounts payable by the Borrower that are so assigned. All such assigned payments shall be deposited as provided in the Resolution.

**Section 3.06. Payments; Obligation of Borrower Unconditional.** The obligation of the Borrower to make payments hereunder and to perform and observe all other covenants, conditions and agreements hereunder shall be absolute and unconditional until payment of all Borrower obligations hereunder, irrespective of any defense or any rights of setoff, recoupment or counterclaim which the Borrower might otherwise have against the Authority or the Trustee, if any. Until payment of all Borrower obligations hereunder, the Borrower shall not suspend or discontinue any such payment hereunder or fail to observe and perform any of their other covenants, conditions and agreements hereunder for any cause, including without limitation failure of consideration, failure of title to any part or all of the Projects, or commercial frustration of purpose, or any damage to or destruction or condemnation of all or any part of the Projects, or any change in the tax or other laws of the United States of America, the State of Tennessee or any political subdivision of either, or any failure of the Authority, or the Trustee, if any, to observe and perform any covenant, condition or agreement, whether express or implied, or any duty, liability or obligation arising out of or in connection with any document in connection with the financing of the Projects. Nothing contained in this Section, however, shall be construed to release the Authority or the Trustee, if any, from the performance of any of their respective obligations hereunder or under any documents related hereto.

**Section 3.07. Pledge of Taxing Power.** The Borrower covenants that it shall provide for the annual levy and collection of a tax sufficient to pay when due the Loan Repayments payable under this Loan Agreement as and when they become due and payable. The Borrower hereby pledges its full faith and credit to such payments. The tax to be levied pursuant to this Section shall be assessed, levied, collected and paid in like manner as other taxes of the Borrower. Such tax shall not be included within any statutory or other limitation of rate or amount for the Borrower but shall be excluded therefrom and be in addition thereto and in excess thereof, notwithstanding and without regard to the prohibitions, restrictions or requirements of any other law. To the extent other moneys are not available therefor, there shall be set aside by the Borrower from the tax to be levied pursuant to this Section and the Act in a special fund an amount sufficient for the payment of the amounts under this Loan Agreement, and such fund shall be used exclusively for such purpose and shall not be used for any other purpose until the amounts payable hereunder have been paid in full. Notwithstanding the foregoing, the tax hereinabove described will not be required to be levied by the Borrower or, if levied, may be proportionately reduced to the extent of payments made from other funds of the Borrower appropriated by the governing body of the Borrower to the payment of the amounts described above from other revenues of the Borrower.

**Section 3.08. Pledge of Unobligated State-Shared Taxes.** The Borrower has pledged a portion of its State-Shared Taxes to the Prior Lien Obligations. The Borrower hereby pledges its Unobligated State-Shared Taxes in an amount equal to the maximum annual principal portions of the Loan Repayments under this Loan Agreement, which principal portion shall include an amount equal to the Borrower's Default Share of the Series 2005 Bonds outstanding the day after the maturity date of the Series 2005 Bonds.

The Borrower hereby authorizes the Authority without further recourse to direct that any Unobligated State-Shared Taxes due to the Borrower be withheld and paid over to the Authority for credit to the Borrower's Loan Repayments at any time a Loan Repayment becomes delinquent in an amount necessary to liquidate the amount of the delinquent payment and/or to pay an amount equal to the Borrower's Default Share of the Series 2005 Bonds outstanding the day after the maturity date of the Series 2005 Bonds.

So long as this Loan Agreement remains outstanding, the Borrower agrees that it will not create, assume or incur any pledge, encumbrance, lien or charge on a parity with or prior to the lien created under this Loan Agreement on the Borrower's Unobligated State-Shared Taxes without the written consent of the Authority and the Owner and a certificate of a certified public accountant stating that the Unobligated State-Shared Taxes are at least 100% of the maximum annual principal portion of the Loan Repayments under this Loan Agreement, together with the maximum annual debt service on the obligations proposed to be issued, for the fiscal year preceding the year in which the additional lien is proposed to be created.

## ARTICLE IV

### Representations and Covenants

**Section 4.01. Representations and Covenants of the Authority.** The Authority makes the following representations and covenants as the basis for the undertakings on the part of the Borrower contained herein:

(a) The Authority is a corporate governmental agency and instrumentality of the State of Tennessee, organized and existing pursuant to the Act. The Authority is authorized to issue the Series 2005 Bonds in accordance with the Act and to use the proceeds thereof to provide funds for making the Loan.

(b) The Authority has complied with the provisions of the Act and has full power and authority to execute and deliver this Loan Agreement and to consummate the transactions contemplated hereby and to perform its obligations hereunder.

(c) The Authority is not in violation of any of the laws of the State of Tennessee which would affect its existence or its powers referred to in the preceding subsection (b).

(d) By Resolution duly adopted by the Authority and in full force and effect on the date hereof, the Authority has authorized the execution and delivery of this Loan

Agreement and the Series 2005 Bonds, the due performance of all obligations of the Authority hereunder, under the Resolution and under the Series 2005 Bonds, and the taking of any and all actions as may be required on the part of the Authority to carry out, give effect to and consummate the transactions contemplated by each of the foregoing, and the Authority will take all actions within its reasonable control to obtain all approvals necessary in connection with the foregoing that have not been obtained as of the date hereof.

(e) This Loan Agreement has been duly authorized, executed and delivered by the Authority, and upon due authorization, execution and delivery by the Borrower, will constitute a valid contractual obligation of the Authority. The Series 2005 Bonds will constitute valid and binding limited special obligations of the Authority and will be payable solely from the Pledged Revenues and any amounts otherwise available under the Resolution, and will be entitled to the benefit of the Resolution. None of the Authority (except to the foregoing extent), the State of Tennessee, or any political subdivision thereof shall be obligated, directly or (except as a Borrower from the Authority) indirectly, to pay the principal of the Series 2005 Bonds. The Authority has no taxing power.

(f) The execution and delivery by the Authority of this Loan Agreement, the Series 2005 Bonds, and the Resolution and the consummation of the transactions contemplated in each of the foregoing will not violate any resolution, mortgage, deed of trust, note, loan agreement or other contract or instrument to which the Authority is a party or by which it is bound or, to the best of the Authority's knowledge, any judgment, decree, order, statute, rule or regulation applicable to the Authority, and the Authority will take all actions within its reasonable control to obtain all consents, approvals, authorizations and orders of governmental or regulatory authorities which are required for the consummation of the transactions contemplated thereby that have not been obtained as of the date hereof.

(g) The Authority will apply or cause to be applied the proceeds of the Series 2005 Bonds in accordance with the Resolution and this Loan Agreement.

(h) There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or threatened against or affecting the Authority or, to the best knowledge of the Authority, any basis therefor, wherein an unfavorable decision, ruling, or finding would adversely affect the transactions contemplated hereby or by the Resolution or the Series 2005 Bonds or which, in any way, would adversely affect the validity of this Loan Agreement, the Series 2005 Bonds, the Resolution or any agreement or instrument to which the Authority is a party and which is used or contemplated for use in consummation of the transactions contemplated by each of the foregoing.

(i) The Authority covenants that it will not pledge the amounts derived from this Loan Agreement other than to secure the Series 2005 Bonds.

Section 4.02. Representations and Covenants of the Borrower. The Borrower makes the following representations and covenants, in addition to those elsewhere set forth herein, as the basis for the undertakings on the part of the Authority contained herein:

(a) The Borrower is a municipal corporation or political subdivision, as appropriate, within the meaning of the Act, duly created and existing under the laws of the State of Tennessee and possessing general powers of taxation, including the power to levy ad valorem taxes, and has full legal right, power and authority (i) to conduct its business and own its properties, (ii) to enter into this Loan Agreement, and (iii) to carry out and consummate all other transactions contemplated by this Loan Agreement.

(b) With respect to the authorization, execution and delivery of this Loan Agreement, the Borrower has complied and will comply with all applicable laws of the State of Tennessee.

(c) The Borrower has duly approved the execution and delivery of this Loan Agreement and has authorized the taking of any and all action as may be required on the part of the Borrower to carry out, give effect to and consummate the transactions contemplated by this Loan Agreement and the Resolution.

(d) This Loan Agreement has been duly authorized, executed and delivered by the Borrower and, assuming due authorization, execution and delivery by the Authority, will constitute a legal, valid and binding obligation of the Borrower enforceable in accordance with its terms.

(e) There is no action, suit, proceedings, inquiry on investigation, at law or in equity, before or by any court, public board or body, pending or, to the knowledge of the Borrower, threatened against the Borrower, nor is there any basis therefor, (i) affecting the creation, organization or existence of the Borrower or the title of its officers to their respective offices, (ii) seeking to prohibit, restrain or enjoin the execution or delivery of this Loan Agreement or (iii) in any way contesting or affecting the validity or enforceability of this Loan Agreement or any agreement or instrument relating to any of the foregoing or used or contemplated for use in the consummation of the transactions contemplated by any of the foregoing.

(f) The Borrower is not in any material respect in breach of or in default under any applicable law or administrative regulation of the State or the United States of America or any applicable judgement or decree or any agreement or other instrument to which the Borrower is a party or by which it or any of its properties is bound, and no event has occurred which with the passage of time, the giving of notice or both would constitute such a breach or default; and the execution and delivery of this Loan Agreement and compliance with the respective provisions thereof will not conflict with or constitute a breach of or default under any applicable law or administrative regulation of the State or of the United States of America or any applicable judgment or decree or any agreement or other instrument to which the Borrower is a party or by which it or any of its property is bound.

(g) The Borrower will not take or omit to take any action which action or omission will in any way cause the proceeds of the Series 2005 Bonds advanced to it to be applied in a manner contrary to that provided in the Resolution and this Loan Agreement.

(h) The Borrower has not taken or omitted to take, and will not take or omit to take, any action, and knows of no action that any other person, firm or corporation has taken or intends to take, which adversely affect the credit allowance on the Series 2005 Bonds for federal income tax purposes.

(i) The Borrower is not in default under any loan agreement, note, bond, mortgage or other instrument evidencing or securing indebtedness.

(j) The Borrower approves the issuance of the Series 2005 Bonds and, as of the date hereof, is not in default in the performance or observance of any of the covenants, conditions, agreements or provisions of this Loan Agreement and all warranties and representations of Borrower herein are true and correct on the date hereof.

(k) The Borrower covenants and agrees to provide annual audited financial statements to the Authority as soon as reasonably practical upon their becoming available and if not made available within one year of the end of the fiscal year, then the Borrower shall provide unaudited annual financial statements for such fiscal year within one year of the end of the fiscal year and audited financial statements for such fiscal year when they become available and, upon request, such other financial information as shall be reasonably requested to the Authority.

(l) The Borrower covenants and agrees to comply with the terms and requirements applicable to Borrower in the Resolution.

(m) All information provided to the Authority in this Loan Agreement or in any other document or instrument with respect to the Loan, this Loan Agreement or the Projects, was at the time provided, and is now, true, correct and complete, and such information does not omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

## ARTICLE V

### Events of Default

Section 5.01. Events of Default. An Event of Default shall occur hereunder if any one or more of the following events shall happen:

(a) the payments required by Sections 3.01 through 3.02 are not paid punctually when due;

(b) default shall be made by the Borrower in the due performance of or compliance with any of the terms hereof, other than those referred to in the foregoing subdivision (a), and such default shall continue for sixty (60) days after the Authority or the Trustee shall have given the Borrower written notice of such default (or in the case of any such default which cannot with due diligence be cured within such 60-day period, if the Borrower shall fail to proceed promptly to commence curing the same and thereafter prosecute the curing of such default with due diligence, it being intended in connection with any such default not susceptible

of being cured with due diligence within the 60 days that the time to cure the same shall be extended for such period as may be reasonably necessary to complete the curing of the same with all due diligence);

(c) the Borrower shall file a voluntary petition in bankruptcy, or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, composition, readjustment, liquidation or similar relief for itself under any present or future statute, law or regulation, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Borrower or of all or any substantial part of its properties or of the Projects or shall make any general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due;

(d) a petition shall be filed against the Borrower seeking any reorganization, composition, readjustment, liquidation or similar relief under any present or future statute, law or regulation and shall remain undismissed or unstayed for an aggregate of 90 days (whether or not consecutive), or if any trustee, receiver or liquidator of the Borrower or of all or any substantial part of its properties or of the Projects shall be appointed without the consent or acquiescence of the Borrower and such appointment shall remain unvacated or unstayed for an aggregate of 90 days (whether or not consecutive); or

(e) the Borrower shall contest the validity or enforceability of any provision of this Loan Agreement.

Section 5.02. Remedies. (a) In the event the Borrower shall fail to remit the Loan Repayments when and as required under this Loan Agreement, the Commissioner of Finance and Administration of the State, upon notification by the Authority, shall deliver notice of such failure to the Borrower within 3 days by telecopier or telephone (promptly confirmed in writing). If the Borrower fails to remit such amount within 10 days of the notice by telecopier or telephone, the Commissioner shall without further authorization, withhold the Loan Repayment due from the Borrower's Unobligated State-Shared Taxes.

(b) Upon the continuing occurrence of an Event of Default not cured pursuant to subsection (a) above, (regardless of the pendency of any proceeding which has or might have the effect of preventing the Borrower from complying with the terms of this Loan Agreement), the Authority, the Trustee, as assignee of the Authority, or any other Person who has succeeded to the rights of the Authority hereunder, at any time thereafter and while such Event of Default shall continue, may, at its option, and subject to the provisions of the Resolution, take any action at law or in equity to collect amounts then due and thereafter to become due hereunder, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Loan Agreement. Any amounts collected pursuant to action taken under this Article shall be applied in accordance with the Resolution.



## ARTICLE VI

### Prepayment

**Section 6.01. Prepayment.** The Borrower shall have the right and option throughout the term hereof to prepay in whole or in part the Loan advanced hereunder at the prices and upon the terms hereinafter set forth. The Borrower shall be required to prepay a portion of its Loan from excess amounts in the Borrower Account of the Loan Fund as set forth in Section 2.05 hereof.

**Section 6.02. Mandatory Prepayment Price.** The Mandatory Prepayment Price shall be that amount that the Borrower shall prepay as of the designated Prepayment Date, consisting of unspent amounts in the Borrower's Account of the Loan Fund (which shall be used, to the extent possible, to redeem Series 2005 Bonds), plus the Borrower's Proportionate Share of any Redemption Premium for the Series 2005 Bonds.

**Section 6.03. Optional Prepayment.** The Optional Prepayment Price shall be an amount designated by the Borrower to be used to prepay any portion of its Loan. The Borrower shall give notice of its intent to prepay any portion of its Loan to the Trustee, if any, and the Authority in the manner for giving notices hereunder pursuant to Section 8.07 hereof at least forty-five (45) days prior to the Prepayment Date. The notice shall state the intent of the Borrower to prepay its Loan or a portion thereof, the amount of such prepayment, and the proposed Prepayment Date.

**Section 6.04. Partial Prepayment.** Any principal prepayment amount shall be applied in reduction of payment obligations set forth on Exhibit C as Borrower shall elect by written notice to the Authority with the consent of the Authority.

**Section 6.05. Deposit of Prepayment Amount.** The prepayment amount shall be deposited with the Treasurer, its custodian or the Trustee in immediately available funds not later than 10:00 a.m., Nashville time, on the Prepayment Date.

**Section 6.06. Discharge of Other Obligations.** Notwithstanding any other provisions hereof, this Loan Agreement shall not terminate on the date on which the Borrower shall be obligated to prepay or shall elect to prepay (whether or not any delay in the completion of such prepayment shall be the fault of Authority), nor shall the Borrower's obligations hereunder cease until the Borrower shall have paid all amounts payable hereunder (including all amounts due under Article III hereof) without set-off, counterclaim, abatement, suspension, deduction, diminution, or defense for any reason whatsoever, so long as the Series 2005 Bonds are Outstanding and unpaid, and until the Borrower shall have discharged or made provision satisfactory to Authority for the discharge of, all of its obligations under this Loan Agreement, which obligations have arisen on or after the date for prepayment, including the obligation to pay amounts due and payable on the date of the prepayment.

## ARTICLE VII

### Indemnification

**Section 7.01. Indemnification of Trustee and Authority.** The Borrower covenants and agrees, to the extent it is authorized by applicable law and without any representation as to such extent, to indemnify the Trustee, if any, and the Authority and each successor trustee and the officers, directors, employees and agents of the Trustee or any such successor trustee and the Authority (the Trustee, each successor trustee, the Authority, and such officers, directors, employees and agents being hereinafter referred to in this Section collectively as the "Indemnified Parties" and individually as an "Indemnified Party") for, and to hold each Indemnified Party harmless against, any loss, liability, tax, assessment or other governmental charge (other than taxes applicable to their compensation hereunder) or expenses incurred without negligence, willful misconduct or bad faith on the part of such Indemnified Party, arising out of or in connection with the acceptance or administration of the Resolution or the trusts thereunder and the duties of the Trustee and the Authority thereunder (but only to the extent the Resolution, its administration, required duties and trusts thereunder are applicable to Borrower, this Loan Agreement or the Series 2005 Bonds), including enforcement of this Loan Agreement and this Section thereof and also including any liability which may be incurred as a result of failure to withhold, pay or report any tax, assessment or other governmental charge, and the costs and expenses incurred by such Indemnified Party in the course of defending itself against or investigating any claim of liability in the premises. The obligations of the Borrower under this Section to compensate and indemnify the Indemnified Parties and to pay or reimburse each Indemnified Party for expenses, disbursements and advances, to the extent such obligations are authorized by applicable law and without any representation as to such extent, shall constitute an additional obligation hereunder and shall survive the satisfaction and discharge of this Loan Agreement.

## ARTICLE VIII

### Miscellaneous

**Section 8.01. Waiver of Statutory Rights.** The rights and remedies of the Authority and the Borrower under this Loan Agreement shall not be adversely affected by any laws, ordinances, or regulations, whether federal, state, county, city, municipal or otherwise, which may be enacted or become effective from and after the date of this Loan Agreement affecting or regulating or attempting to affect or regulate any amounts payable hereunder.

**Section 8.02. Non-Waiver by Authority.** No failure by Authority or by any assignee to insist upon the strict performance of any term hereof or to exercise any right, power or remedy consequent upon a breach thereof, and no acceptance of any payment hereunder, in full or in part, during the continuance of such breach, shall constitute waiver of such breach or of such term. No waiver of any breach shall affect or alter this Loan Agreement or constitute a waiver of a then existing or subsequent breach.

**Section 8.03. Remedies Cumulative.** Each right, power and remedy of Authority provided for in this Loan Agreement shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Loan Agreement, or now or hereafter existing at law or in equity or by statute or otherwise, in any jurisdiction where such rights, powers or remedies are sought to be enforced, and the exercise or beginning of the exercise by the Authority or the Trustee, if any, of any one or more of the rights, powers or remedies provided for in this Loan Agreement or now or hereafter existing at law or in equity or by statute, or otherwise shall not preclude the simultaneous or later exercise by the Authority or Trustee of any or all such other rights, powers or remedies.

**Section 8.04. Amendments, Changes and Modification.** Except as otherwise provided in this Loan Agreement or in the Resolution, subsequent to the issuance of the Series 2005 Bonds and prior to the payment in full of the Series 2005 Bonds, this Loan Agreement may not be effectively amended, changed, modified, altered or terminated without the concurring written consent of the Trustee, if any, and the Holder of the Series 2005 Bonds.

**Section 8.05. Applicable Law - Entire Understanding.** This Loan Agreement shall be governed exclusively by the applicable laws of the State of Tennessee. This Loan Agreement expresses the entire understanding and all agreements of the parties hereto with each other and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Loan Agreement.

**Section 8.06. Severability.** In the event that any clause or provision of this Loan Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provisions shall not affect any of the remaining provisions of such instrument.

**Section 8.07. Notices and Demands.** All notices, certificates, demands, requests, consents, approvals and other similar instruments under this Loan Agreement shall be in writing, and shall be deemed to have been properly given and received if sent by United States certified or registered mail, postage prepaid, (a) if to the Borrower, addressed to the Borrower, at 225 Polk Avenue, Suite 250, Nashville, Tennessee 37203, Attention: Director of Finance, (b) if to the Authority, addressed to the Authority, Attention: Director of Bond Finance, 1600 James K. Polk Office Building, Nashville, Tennessee 37243-0273, (c) if to the Trustee, addressed to the Trustee at \_\_\_\_\_, Nashville, Tennessee \_\_\_\_\_, Attention: Corporate Trust Department, or at such other addresses as any addressee from time to time may have designated by written notice to the other addressees named above. The Authority shall promptly forward to the Borrower copies of any notice received by it from the Trustee under the Resolution.

**Section 8.08. Headings and References.** The headings in this Loan Agreement are for the convenience of reference only and shall not define or limit the provisions thereof. All references in this Loan Agreement to particular Articles or Sections are references to Articles or Sections of this Loan Agreement, unless otherwise indicated.

**Section 8.09. Successors and Assigns.** The terms and provisions of this Loan Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

**Section 8.10. Multiple Counterparts.** This Loan Agreement may be executed in multiple counterparts, each of which shall be an original but all of which together shall constitute but one and the same instrument.

**Section 8.11. Amendments, Changes and Modifications of Resolution.** The Authority covenants and agrees that it will not, without the prior written consent of the Borrower, enter into or consent to any amendment, change or modification of the Resolution which would adversely affect the Borrower's rights under this Loan Agreement.

**Section 8.12. No Liability of Authority's and Borrower's Officers.** No recourse under or upon any obligation, covenant or agreement contained in this Loan Agreement shall be had against any incorporator, member, director or officer, as such, past, present or future, of the Authority or the Borrower, either directly or through the Authority or the Borrower. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director or officer is hereby expressly waived and released by the Borrower and the Authority against the other's incorporators, members, directors or officers as a condition of and consideration for the execution of this Loan Agreement.

**Section 8.13. Continuing Disclosure.** In the event the Series 2005 Bonds are not exempt under Section 15c2-12, the Borrower hereby covenants and agrees that it will provide such annual financial information and material event notices, if any, as required by Rule 15c2-12 of the Securities Exchange Commission for the Series 2005 Bonds. The Authorized Borrower Representative is authorized to execute an agreement for the benefit of and enforceable by the owners of the Series 2005 Bonds specifying the details of the financial information and material event notices to be provided and its obligations relating thereto. Failure of the Borrower to comply with the undertaking herein described and to be detailed in said closing agreement, shall not be a default hereunder, but any such failure shall entitle the owner or owners of any of the Series 2005 Bonds to take such actions and to initiate such proceedings as shall be necessary and appropriate to cause the Borrower to comply with its undertaking as set forth herein and in said agreement, including the remedies of mandamus and specific performance.

*Signatures on Following Page*

IN WITNESS WHEREOF, THE TENNESSEE STATE SCHOOL BOND AUTHORITY has executed this Loan Agreement by causing its name to be hereunto subscribed by two of its Authorized Officers; and THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE has executed this Loan Agreement by causing its name to be hereunto subscribed by its Mayor and Metropolitan Clerk, all being done as of the day and year first above written.

TENNESSEE STATE SCHOOL BOND AUTHORITY

(SEAL)

By: \_\_\_\_\_  
Authorized Officer

ATTEST:

\_\_\_\_\_  
Authorized Officer

THE METROPOLITAN GOVERNMENT OF  
NASHVILLE NASHVILLE AND DAVIDSON COUNTY,  
TENNESSEE

(SEAL)

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

ATTEST:

\_\_\_\_\_  
Metropolitan Clerk

APPROVED AS TO AVAILABILITY OF  
FUNDS BY:

\_\_\_\_\_  
David L. Manning  
Director of Finance

APPROVED AS TO FORM AND  
LEGALITY:

\_\_\_\_\_  
Karl Dean  
Director of Law

EXHIBIT A  
REQUISITION  
Series 2005 Bonds

REQUISITION NO. \_\_\_\_\_

The undersigned, being an Authorized Borrower Representative within the meaning of that term as set forth in a Loan Agreement (the "Loan Agreement"), dated \_\_\_\_\_, 2005, by and between the Tennessee State School Bond Authority and The Metropolitan Government of Nashville and Davidson County, Tennessee (the "Borrower"), submits this Requisition on behalf of the Borrower pursuant to Section 2.04 of the Loan Agreement, as follows:

1. Borrower hereby requests disbursement to the Borrower pursuant to the Loan Agreement of \$ \_\_\_\_\_.
2. All amounts advanced hereunder will be used to pay Cost of the Projects, as defined in the Loan Agreement.
3. The amounts requested hereunder have not been the subject of a previous request for disbursement of funds.
4. The subject of this request is a proper Costs of the Projects, as described in the Loan Agreement.
5. The amount requested should be wired to:

Bank: \_\_\_\_\_  
ABA Number: \_\_\_\_\_  
Account Name: \_\_\_\_\_  
Account Number: \_\_\_\_\_

It is understood that your duties will be discharged with respect to the disbursement requested hereunder if payment is made as provided herein.

IN WITNESS WHEREOF, the undersigned has hereunto set his (her) hand, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

THE METROPOLITAN GOVERNMENT OF NASHVILLE  
AND DAVIDSON COUNTY, TENNESSEE  
Name:

Title: \_\_\_\_\_

Funding Date: Thursday, \_\_\_\_\_, \_\_\_\_

After execution, fax the Requisition as follows:

\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
(615) \_\_\_\_\_ (Office-Confirm)  
(615) \_\_\_\_\_ (FAX)

EXHIBIT B

COMPLETION CERTIFICATE  
Series 2005 Bonds

The undersigned, being an Authorized Borrower Representative within the meaning of that Loan Agreement ("Loan Agreement"), dated \_\_\_\_\_, 2005, by and between the Tennessee State School Bond Authority and The Metropolitan Government of Nashville and Davidson County, Tennessee (the "Borrower"), submits this Completion Certificate on behalf of the Borrower pursuant to Section 2.05 of the Loan Agreement, as follows:

1. No additional advances of funds under the Loan Agreement will be requested from the Trustee, and no additional Requisitions for disbursement of funds will be presented to the Trustee;

2. The Project or Projects to be financed with the proceeds of the Loan under the Loan Agreement have been completed or sufficient funds are available to complete the Project or Projects to the satisfaction of the Borrower; and

3. The Authority and the Trustee are directed to apply any excess funds remaining in the Borrower Account of the Loan Fund under the Loan Agreement in accordance with the provisions of Section 2.05 of the Loan Agreement.

Notwithstanding the foregoing, this Certificate is given without prejudice to any rights against third parties which exist as of the date hereof or which may subsequently come into being.

IN WITNESS WHEREOF, the undersigned has hereunto set his (her) hand this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

THE METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY,  
TENNESSEE

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT C**  
**LOAN REPAYMENT SCHEDULE**

<u>Loan Repayment Date</u>	<u>Principal</u>	<u>Investment Credit*</u>
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\*Subject to adjustment in accordance with Section 3.04(b).