

*September 9, 2024*

# **M E M O R A N D U M**

To: City of White House Industrial Development Board  
Gerald Herman, City Administrator  
Valerie Webb, City Attorney

From: Derek Watson, City Recorder

Re: Meeting of the Industrial Development Board

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Notice is hereby given that the Industrial Development Board of the City of White House, Tennessee, will meet on Monday September 16<sup>th</sup>, 2024, to consider two (2) easements from White House Utility District for the CAST Development (Tate Ornamental) property located at 418 Industrial Drive. Also, the Board will consider adopting a resolution approving issuance of revenue bonds in the maximum principal amount of \$5,400,000 to finance the acquisition, construction, and equipping of an approximately 15,000 square feet retail store and donation center to be located at 517 Highway TN-76, White House, TN 37188 to be owned and operated by Goodwill Industries of Middle Tennessee, Inc. and authorizing the execution and delivery of all documents and certificates and approving all matters necessary in connection therewith, including approving a Bond Purchase Agreement, a Loan Agreement, Debt Management Policy and Tax-Exempt Bond Policy and such other documents and certificates as shall be deemed necessary or desirable in connection therewith.

The meeting will take place at 5:00 pm at the Billy S. Hobbs Municipal Center located at 105-D College Street.

If you have any questions or are unable to attend, please contact me at 615-672-4350, option 4.

CITY OF WHITE HOUSE  
Industrial Development Board Agenda  
September 16, 2024  
5:00 p.m.

1. Call to Order
2. Roll Call
3. Adoption of the Agenda
4. Approval of Minutes of the July 8, 2024, Industrial Development Board Meeting
5. Public Comment
6. Public Hearing
  - A. **Resolution 24-02:** A resolution of the Industrial Development Board approving the issuance of a revenue bond and related documents to finance a project to be owned and operated by Goodwill Industries of Middle Tennessee, Inc.
7. New Business
  - A. To approve or reject two (2) utility easements from White House Utility District for CAST Development located at 418 Industrial Drive.
  - B. To approve or reject Resolution 24-02 with execution of all related documents and certificates including a Bond Purchase Agreement, Loan Agreement, Debt Management Policy, and such other documents and certificates as shall be deemed necessary or desirable in connection with Goodwill Industries of Middle Tennessee, Inc located at 517 Hwy 76.
8. Other Business
9. Adjournment

CITY OF WHITE HOUSE  
Industrial Development Board  
Minutes  
July 8, 2024  
5:30 p.m.

1. Call to Order

Meeting was called to order at 5:00 pm by Mr. John Wilkinson.

2. Roll Call

Ken Duley - Absent; Gary Faust - Present; Brian Goedde, II- Absent; Tim Murphy - Absent; Mark Reid – Present; John Wilkinson – Present; John Wilson – Present; **Quorum - Present**

3. Adoption of the Agenda

Motion was made by Mr. Reid, second by Mr. Wilson. A voice vote was called for with all members voting aye. **Agenda was adopted.**

4. Approval of Minutes of the March 5, 2024, Industrial Development Board Meeting

Motion was made by Mr. Reid, second by Mr. Faust. A voice vote was called for with all members voting aye. **March 5, 2024 minutes were approved.**

5. Public Comment

No one signed up to speak.

6. Public Hearing

- A. **Resolution 24-01:** A resolution of the Industrial Development Board to induce Goodwill Industries of Middle Tennessee, Inc. to construct a retail store and donation center to authorize the issuer to take such other action as may be necessary to facilitate the financing of the same through the issuance of a bond.

No one spoke for or against.

7. New Business

- A. **Resolution 24-01:** A resolution of the Industrial Development Board to induce Goodwill Industries of Middle Tennessee, Inc. to construct a retail store and donation center to authorize the issuer to take such other action as may be necessary to facilitate the financing of the same through the issuance of a bond.

Motion was made by Mr. Faust, second by Mr. Reid to discuss. After discussion, motion made by Mr. Reid, second by Mr. Faust to approve. A voice vote was called for with all members voting aye. **Motion to approve Resolution 24-01 was approved.**

8. Other Business

- A. None

9. Adjournment

Meeting was adjourned at 5:53 pm

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John D. Wilkinson, Secretary

This document is exempt from recordation tax because the grantee is a municipality. See Tennessee Code Annotated § 67-4-409(f).

Prepared by: The White House Utility District of Robertson and Sumner Counties, Tennessee  
P.O. Box 608  
White House, TN 37188

### EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2024, by THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF WHITE HOUSE, TENNESSEE, a Tennessee public, nonprofit corporation ("Grantor") in favor of THE WHITE HOUSE UTILITY DISTRICT OF ROBERTSON AND SUMNER COUNTIES, TENNESSEE, a Tennessee non-profit corporation ("Grantee").

#### WITNESSETH:

WHEREAS, Grantor is the owner of the real estate located in Robertson County, Tennessee and conveyed to Grantor by Book 2141, Page 33 in the register's office of Robertson County, Tennessee (the "Grantor Property");

WHEREAS, the parties have agreed that Grantor shall grant to Grantee utility easements over, under and upon the portion of the Grantor Property described on Exhibit A and Exhibit B attached hereto (the "Easement Area");

THEREFORE, in consideration of the conveyance of such property interests, Grantee hereby agrees to pay to the Grantors the sum of Ten Dollars (\$10.00), the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Grant of Easements. Grantor does hereby sell, grant and convey unto Grantee perpetual non-exclusive easements over, under, and upon the Easement Area for the installation, repair, operation, maintenance and replacement of utility lines, and related equipment and improvements. In no event shall Grantor construct buildings or other improvements upon the Easement Area; however, the foregoing shall not prevent Grantor from landscaping such Easement Area or installing a driveway across such Easement Area, so long as the same does not unreasonably interfere with Grantee's use of the Easement Area. If Grantor's landscaping or driveway does unreasonably interfere with Grantee's use of the Easement Area, as judged by Grantee in its sole discretion, Grantee shall have the right to alter, remove, cut or relocate any trees, bushes, landscaping, driveway, or other improvements located on said Easement Area. Any use of the Easement Area by Grantor shall not interfere with Grantee's use permitted herein. After making any necessary excavations and improvements to the Easement Area at any time after the execution of this Agreement, Grantee shall, within a reasonable time, restore the surface of the Easement Area to substantially the same condition as before such excavations and improvements; however, at no time shall Grantee have the obligation to plant trees, bushes, shrubbery, sod or the like.

2. Beneficial Use. Grantor and Grantee hereby agree that the easements granted herein shall run with the land, and are for the benefit and use of Grantee and its successors and assigns, and shall at all times bind Grantor and any and all subsequent owners of any interest in the Grantor Property, together with any of their successors and assigns.

3. Miscellaneous. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Tennessee. This Agreement shall constitute the entire agreement between the parties hereto. Any prior understanding(s) or representation(s) of any kind not evidenced hereby or by a subsequent written modification hereof, shall not be binding upon either party hereto. Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in a writing signed by each party hereto.

IN WITNESS WHEREOF, Grantors and Grantee have caused this Agreement to be executed by themselves and/or their duly authorized representative(s) as of the date first written above for the purposes contained herein.

**GRANTOR:**

**GRANTEE:**

**THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF WHITE HOUSE, TENNESSEE, a Tennessee public, nonprofit corporation**

**THE WHITE HOUSE UTILITY DISTRICT OF ROBERTSON AND SUMNER COUNTIES, TENNESSEE, a Tennessee non-profit corporation**

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

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

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

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

STATE OF TENNESSEE  
COUNTY OF \_\_\_\_\_

Personally appeared before me, the undersigned, a Notary Public, \_\_\_\_\_, with whom I am personally acquainted, and who acknowledged that he/she executed the within instrument for the purposes therein contained, and who further acknowledged that he/she is the \_\_\_\_\_ of THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF WHITE HOUSE, TENNESSEE, a Tennessee public, nonprofit corporation and is authorized by the corporation to execute this instrument on behalf of the corporation.

WITNESS my hand, at office, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

STATE OF TENNESSEE  
COUNTY OF ROBERTSON

Personally appeared before me, the undersigned, a Notary Public, Pat Harrell, with whom I am personally acquainted, and who acknowledged that he/she executed the within instrument for the purposes therein contained, and who further acknowledged that he/she is the District Engineer of THE WHITE HOUSE UTILITY DISTRICT OF ROBERTSON AND SUMNER COUNTIES, TENNESSEE, a non-profit corporation, and is authorized by the corporation to execute this instrument on behalf of the non-profit corporation.

WITNESS my hand, at office, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**Exhibit 'A'**  
**WHUD Water Main and Equipment Easement**  
**Surveyor's Description**  
**The Industrial Development Board of**  
**the City of White House Tennessee**  
**Industrial Drive**  
**White House, TN. 37188**

July 18, 2024

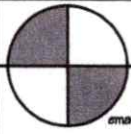
The following paragraph describes a Water Main and Equipment Easement in the 11<sup>th</sup> Civil District of Robertson County, Tennessee, said easement being a portion of Tract 1 which was conveyed to **The Industrial Development Board of the City of White House, Tennessee, by CAST Development**, in a deed of record which is recorded in Record Book 2141, Page 33, Register's Office for Robertson County, Tennessee, (RORCT).

**20' WHUD Water Main Easement – 600 S.F.**

**Beginning** at a point in the southerly boundary of a tract of land identified as Proposed Tract 2 on the construction plans, said point being located from an iron pin (old), in the easterly margin of Industrial Drive, the northwest corner of a tract of land which belongs to Richard B. Feldman, having a deed reference in Record Book 1055, Page 542, RORCT,  
N 05°12'29" E, 50.04 feet;  
thence, S 87°00'42" E, 36.60 feet, **to the point of beginning**, the northwest corner of this easement and continuing, as follows:  
S 87°00'42" E, 20.00 feet to a point in the southerly boundary of said tract of land referred to as Proposed Tract 2;  
thence with a new line, as follows:  
S 02°59'18" W, 30.00 feet to a point in the northerly boundary of a 20' WHUD Water Main Easement, having a deed reference in Record Book 1854, Page 895, RORCT;  
thence, N 87°00'42" W, 20.00 feet to a point in the northerly boundary of said 20' WHUD Water Main Easement;  
thence with a new line, N 02°59'18" E, 30.00 feet, to the point of beginning, containing **600 square feet**, as surveyed by Steven E. Artz, Tennessee License No. 1708, d/b/a, Steven E. Artz & Associates, Inc., 4800 Highway 431 North, Springfield, Tennessee 37172, dated June 17, 2024.

The above described easement may be found on Tax Map 95, part of Parcel 68, in the Tax Assessor's Office for Robertson County, Tennessee.

File:Steve\240145CASTWVE



**Steven E. Artz and Associates, Inc.**  
 Land Surveyors  
 P.O. Box 925 Springfield, TN, 37172  
 email: artz.steve@gmail.com (615) 382-0481



**Legend**

- P.O.C. Point of Commencement
- P.D.B. Point of Beginning
- IP(O) Iron Pin (Old)
- © Meander Point
- L1 Refer to Line Table Shown Hereon for Data
- C1 Refer to Curve Table Shown Hereon for Data

**Deed North**



I hereby certify that this General Property Survey is a Calibrated Survey and the Ratio of Precision of the Unadjusted Survey is 1:10000+ and that this survey meets the current Tennessee Minimum Standards of Practice.

**Easement Survey for White House Utility District - Exhibit B**  
 "Proposed WHUD Water Main and Equipment Easement"

**The Industrial Development Board of the City of White House Tennessee**  
 11th Civil District  
 Robertson County, Tennessee

No. 240145  
 Date 7/18/24  
 By SEA

CAD File No. 240145\$MKT  
 Coord File No. 050141E

- Surveyor's Notes:**
1. No Title Report was furnished to this surveyor at the time of this survey, therefore, the survey shown hereon is subject to any and all findings an accurate Title Report may reveal.
  2. This survey was made using the latest recorded deeds and physical evidence found in the field.
  3. The survey shown hereon was made in accordance with Chapter 0820-3-.07, Standards of Practice

**Deed Reference:**

Record Book 2141, Page 33 RORCT  
 Map 95, part of Parcel 68 TAORCT

**The Industrial Development Board of the City of White House Tennessee**

RB. 2141, PG. 33 RORCT  
 Map 95, Parcel 68 TAORCT

20' WHUD Water Main Easement  
 RB. 1854, PG. 895 RORCT

50'x40' WHUD Equipment/Vault Easement

Proposed 8" RPDP in Hot Box

Proposed 1" Domestic RPDP in Hot Box

Proposed 8" Fire Meter in Vault

Proposed Domestic Meter

Industrial Drive  
 (60' Right-of-Way width)

**The Industrial Development Board of the City of White House Tennessee**

RB. 2141, PG. 33 RORCT  
 Map 95, Parcel 68 TAORCT

IP(N)

L1

L2

L3

L4

20' WHUD Water Main Easement - 600 SF.

Proposed 8" Water Main

20' WHUD Water Main Easement  
 RB. 1854, PG. 895 RORCT

16'

16'

P.O.C.  
 IP(O)

**Richard B. Feldman**  
 RB. 1095, PG. 542 RORCT  
 Map 95, Parcel 68.01 TAORCT

Approximately 295' to the intersection of Industrial Drive and Center Drive

**CALL BEFORE YOU DIG**



IT IS THE CONTRACTOR'S RESPONSIBILITY TO CONTACT UTILITY COMPANIES PRIOR TO ANY EXCAVATION. THE LOCATION OF UTILITIES SHOULD BE RECHECKED PRIOR TO ANY EXCAVATION AND THE LOCATION OF ALL UNRECORDED UTILITIES IS UNKNOWN.

**Line Table**

NUMBER	DIRECTION	DISTANCE
L1	S 87° 00' 42" E	36.60
L2	S 87° 00' 42" E	20.00
L3	S 02° 59' 18" W	30.00
L4	N 87° 00' 42" W	20.00
L5	N 02° 59' 18" E	30.00

**Curve Table**

NUMBER	DELTA ANGLE	RADIUS	TANGENT	ARC LENGTH	CHORD DIRECTION	CHORD LENGTH
C1	01° 38' 47"	1741.27	25.02	50.04	N 05° 12' 29" E	50.04

This document is exempt from recordation tax because the grantee is a municipality. See Tennessee Code Annotated § 67-4-409(f).

Prepared by: The White House Utility District of Robertson and Sumner Counties, Tennessee  
P.O. Box 608  
White House, TN 37188

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#### WITNESSETH:

WHEREAS, Grantor is the owner of the real estate located in Robertson County, Tennessee and conveyed to Grantor by Book 2141, Page 33 in the register's office of Robertson County, Tennessee (the "Grantor Property");

WHEREAS, the parties have agreed that Grantor shall grant to Grantee utility easements over, under and upon the portion of the Grantor Property described on Exhibit A and Exhibit B attached hereto (the "Easement Area");

THEREFORE, in consideration of the conveyance of such property interests, Grantee hereby agrees to pay to the Grantors the sum of Ten Dollars (\$10.00), the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Grant of Easements. Grantor does hereby sell, grant and convey unto Grantee perpetual non-exclusive easements over, under, and upon the Easement Area for the installation, repair, operation, maintenance and replacement of utility lines, and related equipment and improvements. In no event shall Grantor construct buildings or other improvements upon the Easement Area; however, the foregoing shall not prevent Grantor from landscaping such Easement Area or installing a driveway across such Easement Area, so long as the same does not unreasonably interfere with Grantee's use of the Easement Area. If Grantor's landscaping or driveway does unreasonably interfere with Grantee's use of the Easement Area, as judged by Grantee in its sole discretion, Grantee shall have the right to alter, remove, cut or relocate any trees, bushes, landscaping, driveway, or other improvements located on said Easement Area. Any use of the Easement Area by Grantor shall not interfere with Grantee's use permitted herein. After making any necessary excavations and improvements to the Easement Area at any time after the execution of this Agreement, Grantee shall, within a reasonable time, restore the surface of the Easement Area to substantially the same condition as before such excavations and improvements; however, at no time shall Grantee have the obligation to plant trees, bushes, shrubbery, sod or the like.

2. Beneficial Use. Grantor and Grantee hereby agree that the easements granted herein shall run with the land, and are for the benefit and use of Grantee and its successors and assigns, and shall at all times bind Grantor and any and all subsequent owners of any interest in the Grantor Property, together with any of their successors and assigns.

3. Miscellaneous. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Tennessee. This Agreement shall constitute the entire agreement between the parties hereto. Any prior understanding(s) or representation(s) of any kind not evidenced hereby or by a subsequent written modification hereof, shall not be binding upon either party hereto. Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in a writing signed by each party hereto.

IN WITNESS WHEREOF, Grantors and Grantee have caused this Agreement to be executed by themselves and/or their duly authorized representative(s) as of the date first written above for the purposes contained herein.

**GRANTOR:**

**GRANTEE:**

**THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF WHITE HOUSE, TENNESSEE, a Tennessee public, nonprofit corporation**

**THE WHITE HOUSE UTILITY DISTRICT OF ROBERTSON AND SUMNER COUNTIES, TENNESSEE, a Tennessee non-profit corporation**

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

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

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

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



STATE OF TENNESSEE  
COUNTY OF \_\_\_\_\_

Personally appeared before me, the undersigned, a Notary Public, \_\_\_\_\_, with whom I am personally acquainted, and who acknowledged that he/she executed the within instrument for the purposes therein contained, and who further acknowledged that he/she is the \_\_\_\_\_ of THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF WHITE HOUSE, TENNESSEE, a Tennessee public, nonprofit corporation and is authorized by the corporation to execute this instrument on behalf of the corporation.

WITNESS my hand, at office, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

STATE OF TENNESSEE  
COUNTY OF ROBERTSON

Personally appeared before me, the undersigned, a Notary Public, Pat Harrell, with whom I am personally acquainted, and who acknowledged that he/she executed the within instrument for the purposes therein contained, and who further acknowledged that he/she is the District Engineer of THE WHITE HOUSE UTILITY DISTRICT OF ROBERTSON AND SUMNER COUNTIES, TENNESSEE, a non-profit corporation, and is authorized by the corporation to execute this instrument on behalf of the non-profit corporation.

WITNESS my hand, at office, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**Exhibit 'A'**  
**WHUD Water Main and Equipment Easement**  
**Surveyor's Description**  
**The Industrial Development Board of**  
**the City of White House Tennessee**  
**Industrial Drive**  
**White House, TN. 37188**

July 18, 2024

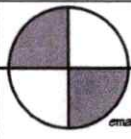
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**30' x 40' WHUD Equipment/ Vault Easement – 1,600 S.F.**

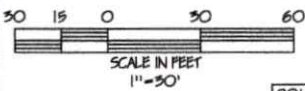
**Beginning** at a point in the northerly boundary of a tract of land identified as Proposed Tract 1 on the construction plans, said point being located from an iron pin (old), in the easterly margin of Industrial Drive, the northwest corner of a tract of land which belongs to Richard B. Feldman, having a deed reference in Record Book 1055, Page 542, RORCT, the southwest corner of said tract of land which belongs to The Industrial Development Board of the City of White House, Tennessee,  
N 05°12'29" E, 50.04 feet;  
thence, S 87°00'42" E, 36.60 feet, **to the point of beginning**, the southwest corner of this easement and with a new line, as follows:  
N 02°59'18" E, 60.00 feet;  
S 87°00'42" E, 30.00 feet;  
thence, S 02°59'18" W, 40.00 feet;  
thence, N 87°00'42" W, 10.00 feet;  
thence, S 02°59'18" W, 20.00 feet, to a point in said northerly boundary of said tract of land referred to as Proposed Tract 1;  
thence, N 87°00'42" W, 20.00 feet, to the point of beginning, containing **1,600 square feet**, as surveyed by Steven E. Artz, Tennessee License No. 1708, d/b/a, Steven E. Artz & Associates, Inc., 4800 Highway 431 North, Springfield, Tennessee 37172, dated May 15, 2024.

The above described easement may be found on Tax Map 95, part of the current Parcel 68, in the Tax Assessor's Office for Robertson County, Tennessee.

File: Steve\240145CASTWVE



**Steven E. Artz and Associates, Inc.**  
 Land Surveyors  
 P.O. Box 923 Springfield, TN 37172  
 email: artz.steve@gmail.com (615) 382-0481



**Deed Reference:**  
 Record Book 2141, Page 33 RORCT  
 Map 95, part of Parcel 69 TAORCT



I hereby certify that this General Property Survey is a Category 1 Survey and the Ratio of Precision of the Unadjusted Survey is 1:10000+ and that this survey meets the current Tennessee Minimum Standards of Practice.

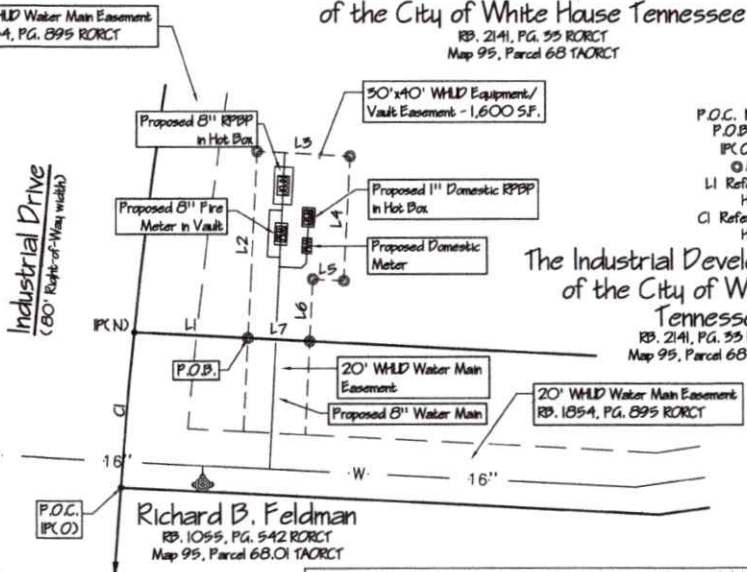
**Easement Survey for White House Utility District - Exhibit B**  
 "Proposed WHUD Water Main and Equipment Easement"

**The Industrial Development Board of the City of White House Tennessee**  
 11th Civil District  
 Robertson County, Tennessee

No. 240145  
 Date 7/18/24  
 By SEA  
 CAD File No. 240145E5MT  
 Coord File No. 050141E

- Surveyor's Notes:**
- No Title Report was furnished to this surveyor at the time of this survey, therefore, the survey shown hereon is subject to any and all findings an accurate Title Report may reveal.
  - This survey was made using the latest recorded deeds and physical evidence found in the field.
  - The survey shown hereon was made in accordance with Chapter 0520-3-.07, Standards of Practice as adopted by the State of Tennessee Board of Examiners for Land Surveyors.

**The Industrial Development Board of the City of White House Tennessee**  
 RB. 2141, PG. 33 RORCT  
 Map 95, Parcel 68 TAORCT



- Legend**
- P.O.C. Point of Commencement
  - P.O.B. Point of Beginning
  - IP(O) Iron Pin (Old)
  - ⊙ Mound Point
  - L1 Refer to line Table Shown Hereon for Data
  - C1 Refer to Curve Table Shown Hereon for Data

**The Industrial Development Board of the City of White House Tennessee**  
 RB. 2141, PG. 33 RORCT  
 Map 95, Parcel 68 TAORCT

**CALL BEFORE YOU DIG**

IT IS THE CONTRACTOR'S RESPONSIBILITY TO DETERMINE UTILITY LOCATIONS PRIOR TO ANY CONSTRUCTION. THE LOCATION OF UTILITIES SHOULD BE VERIFIED BY THE CONTRACTOR USING THE SERVICES OF A REGISTERED PROFESSIONAL ENGINEER OR SURVEYOR. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE LOCATION OF ALL UNDERGROUND UTILITIES.

Line Table		
NUMBER	DIRECTION	DISTANCE
L1	S 87° 00' 42" E	36.60
L2	N 02° 59' 18" E	60.00
L3	S 87° 00' 42" E	30.00
L4	S 02° 59' 18" W	40.00
L5	N 87° 00' 42" W	10.00
L6	S 02° 59' 18" W	20.00
L7	N 87° 00' 42" W	20.00

Curve Table						
NUMBER	DELTA ANGLE	RADIUS	TANGENT	ARC LENGTH	CHORD DIRECTION	CHORD LENGTH
C1	01° 38' 47"	1741.27	25.02	50.04	N 05° 12' 29" E	50.04

Approximately 295' to the intersection of Industrial Drive and Center Drive

**RESOLUTION 24-02  
OF THE BOARD OF DIRECTORS OF THE INDUSTRIAL  
DEVELOPMENT BOARD OF THE CITY OF WHITE HOUSE, TENNESSEE  
APPROVING THE ISSUANCE OF A REVENUE BOND AND RELATED DOCUMENTS TO FINANCE A  
PROJECT TO BE OWNED AND OPERATED BY GOODWILL INDUSTRIES OF MIDDLE TENNESSEE,  
INC.**

WHEREAS, The Industrial Development Board of the City of White House, Tennessee (the "Issuer") is a public corporation organized under and pursuant to the provisions of Sections 7-53-101, et seq., Tennessee Code Annotated, as amended (the "Act"); and

WHEREAS, Goodwill Industries of Middle Tennessee, Inc. (the "Borrower") has requested that the Issuer issue its revenue bonds as described herein and loan the proceeds thereof to assist the Borrower in connection with certain of its financing needs as described herein; and

WHEREAS, the Borrower proposes that the Borrower, the Issuer and Pinnacle Bank, a Tennessee State bank (the "Purchaser") enter into a Bond Purchase Agreement (the "Bond Purchase Agreement") under which the Issuer will issue and sell its Revenue Bond (Goodwill Industries of Middle Tennessee, Inc.) Series 2024 in the principal amount not exceeding \$5,400,000 (the "Bond") to the Purchaser for a purchase price equal to the par amount of the Bond; and

WHEREAS, pursuant to the Loan Agreement (the "Loan Agreement") proposed to be entered into by and among the Issuer, the Borrower and the Purchaser, the Issuer will loan the proceeds of the sale of the Bond to the Borrower for the following purposes:

- (i) to finance the acquisition, construction, equipping of an approximately 15,000 square foot retail store and donation center to be located at 517 Highway 76, White House, Tennessee 37188 to be owned and operated by Borrower in furtherance of its non profit purposes; and
- (ii) to pay certain costs of issuance of the Bond; and

WHEREAS, to evidence its obligations under the Loan Agreement, the Borrower will execute its Goodwill Industries of Middle Tennessee, Inc. Note, Series 2024 (the "Note"), which will be endorsed by the Issuer to the Purchaser as security for the Bond; and

WHEREAS, the Bond will be payable solely from payments made by the Borrower under the Note and the Bond Purchase and Loan Agreement; and

WHEREAS, the officers of the Issuer have caused to be presented to this meeting the following documents which the Issuer proposes to accept and/or to execute and deliver, as applicable:

1. the form of the Bond Purchase Agreement;
2. the form of the Loan Agreement;
3. the form Note to be delivered to the Issuer and endorsed to the Purchaser; and
4. the form of the Bond; and;

WHEREAS, it appears that each of the instruments above referred to which is now before this meeting is in appropriate form and is an appropriate instrument to be accepted or executed and delivered by the Issuer for the purposes intended.

NOW, THEREFORE, BE, AND IT IS HEREBY RESOLVED, by the Board of Directors of The Industrial Development Board of the City of White House, Tennessee as follows:

RESOLVED, That the form, terms and provisions of the Bond Purchase Agreement which is before this meeting be and they are hereby approved and the Chairman or Vice Chairman of the Issuer, or either of them, be and they are each hereby authorized, empowered and directed to execute, acknowledge and deliver, and the Secretary or the Assistant Secretary, or either of them, to attest (if requested) the Bond Purchase Agreement in the name and on behalf of the Issuer; that said instrument is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall be approved by the officers of the Issuer executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein; and that from and after the execution and delivery of said instrument the officers of the Issuer are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of said instrument as executed; and, further,

RESOLVED, That the form, terms and provisions of the Loan Agreement which is before this meeting be and they are hereby approved and the Chairman or Vice Chairman of the Issuer, or either of them, be and they are each hereby authorized, empowered and directed to execute, acknowledge and deliver, and the Secretary or the Assistant Secretary, or either of them, to attest (if requested) the Loan Agreement in the name and on behalf of the Issuer; that said instrument is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall be approved by the officers of the Issuer executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein; and that from and after the execution and delivery of said instrument the officers of the Issuer are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of said instrument as executed; and, further,

RESOLVED, That the form, terms and provisions of the Note which is before this meeting be and is hereby approved, and the Chairman or Vice Chairman of the Issuer be and they are hereby authorized, empowered and directed to accept delivery of said instrument on behalf of the Issuer, and the Chairman or Vice Chairman of the Issuer, or either of them, be and they are hereby authorized, empowered and directed to endorse and the Secretary or the Assistant Secretary, or either of them, to attest (if requested) the Note to the Purchaser, in substantially the form now before this meeting and hereby approved, or with such changes therein as shall be approved by the officers of the Issuer executing the endorsement of the Note, their execution of such endorsement to constitute conclusive evidence of their approval of any and all such changes or revisions; and, further,

RESOLVED, That the form, terms and provisions of the Bond which is before this meeting be and is hereby approved and the Chairman or the Vice Chairman of the Issuer, or either of them, be and they are each hereby authorized, empowered and directed to execute and acknowledge the Bond in the name and on behalf of the Issuer, and the Secretary or the Assistant Secretary, or either of them, to attest (if requested), and thereupon to deliver the Bond to the Purchaser upon payment therefor as provided in the Bond Purchase and Loan Agreement; that the Bond is to be in substantially the forms now before this meeting and hereby approved, or with such changes therein as shall be approved by the officers of the Issuer executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of Bond now before this meeting; and, further,

RESOLVED, That the instruments herein authorized shall be dated as of the date the initial payment is received for the Bond or such other date as shall be approved by the officers executing such instruments; and, further,

RESOLVED, That the Bond, and the interest payable thereon, are limited obligations of the Issuer, and shall not be deemed to constitute a general debt or liability of the Issuer, but shall be payable solely from such special sources and funds provided therefor in accordance with the provisions thereof and the provisions of the Bond Purchase Agreement and Loan Agreement; and, further,

RESOLVED, That neither the State of Tennessee nor any political subdivision thereof, shall be liable for the payment of the principal of, or the interest on, the Bond, or for the performance of any pledge, mortgage, obligation, agreement, or certification, of any kind whatsoever of the Issuer, and neither the Bond

nor any of the pledges, mortgages, agreements, obligations, or certifications of the Issuer shall be construed to constitute an indebtedness of the State of Tennessee or any political subdivision thereof, within the meaning of any constitutional or statutory provisions whatsoever; and, further,

RESOLVED, That no recourse under, or upon, any statement, obligation, covenant, agreement, or certification, contained in any of the foregoing documents or in any other document or certification whatsoever, or under any judgment obtained against the Issuer or by the enforcement of any assessment or by any legal or equitable proceeding or by virtue of any constitution or statute or otherwise, or under any circumstances, under or independent of the foregoing documents or any other document or certification, whatsoever, shall be had against any incorporator, member, director, or officer, as such, past, present, or future, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for, or to, the Issuer, or any receiver thereof, or from, or to, the owner of the Bond, for any sum that may be due and unpaid by the upon the Bond or the interest payable thereon; 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, as such, to respond by reason of any act or omission on his or her part or otherwise for, directly or indirectly, the payment for, or to, the Issuer or any receiver thereof, or for, or to, the owner of the Bond, of the principal of, or the premium, if any, or interest on, the Bond, shall be deemed to have been waived and released as a condition of, and consideration for, the execution of the aforesaid documents and the issuance of the Bond; and, further,

RESOLVED, That the Chairman or the Vice Chairman of the Issuer, or either of them, or such other person as may be designated by the Issuer, be and they are hereby authorized, empowered and directed upon delivery of the Bond to file, or cause to be filed, any report required under applicable federal or State law; and, further,

RESOLVED, That in connection with the issuance of the Bond, the Issuer does hereby determine that it is expedient and appropriate to adopt a debt management policy and a policy with respect to its tax exempt debt and the forms of the Debt Management Policy and the Tax-Exempt Policy in the forms attached hereto as Exhibits A and Exhibit B, respectively, are hereby approved;

RESOLVED, That the officers of the Issuer are hereby authorized to execute, deliver and file such additional documents, certificates and instruments, including, without limitation, federal tax compliance agreements and financing statements to evidence security interests created under the Bond Purchase Agreement and Loan Agreement, and to take all such further actions, from time to time, as they may consider necessary or desirable in connection with the issuance and sale of the Bond; and, further,

RESOLVED, That all acts of any of the officers of the Issuer which are in conformity with the purposes and intent of this resolution and in furtherance of the issuance and sale of the Bond, including without limitation, the execution and delivery of other documents in connection therewith, shall be and the same hereby are in all respects, approved and confirmed.

The foregoing Resolution was approved and adopted by the Board of Directors of The Industrial Development Board of the City of White House, Tennessee on \_\_\_\_\_, 2024.

**THE INDUSTRIAL DEVELOPMENT BOARD OF THE  
CITY OF WHITE HOUSE, TENNESSEE**

By: \_\_\_\_\_  
Title: Chairman

ATTEST:

By: \_\_\_\_\_  
Title: Secretary

EXHIBIT A  
DEBT MANAGEMENT POLICY



## DEBT MANAGEMENT POLICY

### Transparency

The Industrial Development Board of the City of White House, Tennessee (the “Issuer”) shall comply with the Tennessee Open Meetings Act, providing adequate public notice of meetings and specifying on the agenda of a meeting when matters related to debt issuance will be considered. Additionally, in the interest of transparency, all costs if required as provided below (including interest, issuance, continuing, and one-time) of issuing debt shall be disclosed to the citizens in a timely manner.

Within the time frame permitted by the State Form CT-0253, the debt service schedule and a completed State Form CT-0253 shall be available at the office of the Issuer’s counsel for inspection and review by members of the Board.

### Professional Services

The Issuer requires all professionals engaged to assist in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by the Issuer. This includes “soft” costs or compensations in lieu of direct payments.

1. **Counsel** — Except as provided below, the Issuer will enter into an engagement letter agreement with each lawyer or law firm representing the Issuer in a debt transaction. No engagement letter is required for any lawyer who serves as its regular counsel regarding industrial development board matters generally or for new debt issuance.
2. **Bond Counsel** — If Bond Counsel is contracted by the Issuer and serves to assist the Issuer in such debt issue, Bond Counsel’s compensation shall be disclosed in an engagement letter with the Issuer. If Bond Counsel is presenting the purchaser of the debt, no engagement letter is required with the Issuer, provided the Issuer has no responsibility for payment of the compensation of Bond Counsel.
3. **Financial Advisor** — If the Issuer chooses to engage a financial advisor, the financial advisor for each debt transaction will be contracted by the Issuer and will serve and assist the Issuer on financial matters related to such debt transaction. The Issuer shall approve the written agreement, if any, between the Issuer and the financial advisor with respect to a debt transaction. The financial advisor shall not be permitted to bid on or underwrite an issue for which it is or has been providing advisory services.
4. **Underwriter** – If there is an underwriter for a debt issue, the underwriter must clearly identify itself to the Issuer in writing (e.g., in a response to a request for proposals or in its promotional materials) as an underwriter and not as a financial advisor from the earliest stages of its relationship with the Issuer with respect to that issue. The underwriter must clarify its primary role as a purchaser of securities in an arm’s-length commercial transaction and must disclose that it has

financial and other interests that differ from those of the Issuer. The underwriter in a publicly offered, negotiated sale shall be required to provide pricing information both as to interest rates and as to the proposed underwriter's discount to the Issuer in advance of the pricing of the debt.

### **Potential Conflicts of Interest**

Professionals involved in a debt transaction hired or compensated by the Issuer shall be required to disclose existing client and business relationships and among the professionals to a transaction that might reasonably be construed to constitute a conflict (including but not limited to any relationship or compensation arrangement with any financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the Issuer to appreciate the significance of the relationships.

Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct.

### **Debt Administration**

#### **A. Planning for Sale**

1. In considering the adoption of any debt resolution, the Issuer shall consider the purpose of the financing, the proposed structure of the financing, the proposed method of sale for the financing, and members of the proposed financing team.
2. In the case of a proposed refunding, proposed use of credit enhancement, or proposed use of variable rate debt, bond counsel will present to the Board the rationale for using the proposed debt structure, an estimate of the expected savings associated with the transaction (if applicable) and a discussion of the potential risks associated with the proposed structure.
3. If required by Rule 15c2-12, Bond Counsel, financial advisor (if applicable), along with other members of the financing team will prepare a Preliminary Official Statement describing the transaction and the security for the debt that is fully compliant with all legal requirements.

#### **B. Post Sale**

1. The Issuer will maintain for review by the Board and the public a debt service schedule and the CT-0253 Form related to the debt issue.
2. The Issuer will require, as long as required by State law, the submission to its representative of information as to the outstanding amount of debt

issued by the Issuer on an annual basis until the debt is no longer outstanding and notice of any event of default under any financing agreement pursuant to which the debt was issued and to which the Issuer is a party, in the time frames provided under applicable State law.

3. If required by Rule 15c2-12, the bond counsel, financial advisor (if applicable), along with other members of the financing team will prepare an Official Statement describing the transaction and the security for the debt that is fully compliant with all legal requirements.
4. Unless this Policy is modified, the Issuer shall assist in debt issuances only when the cost of such financing is borne only by parties other than the Issuer and in any event, the Issuer's credit shall not be negatively impacted by any event of default that may occur with respect to a particular debt transaction. The Issuer shall attempt to minimize any on-going administrative duties to be undertaken by the Issuer during the term of the debt. In any event neither the City of White House nor the Issuer shall pledge the full faith and credit of the City of White House or the City's revenues to support any debt transaction.

### **Review of the Policy**

The debt policy guidelines outlined herein are only intended to provide general direction regarding the future use and execution of debt. The Issuer maintains the right to modify these guidelines (except to the extent these guidelines are mandated by applicable state law or regulation) and may make exceptions to any of them at any time to the extent that the execution of such debt achieves the Issuer's goals and is in accordance with applicable law. Any exceptions to these policies shall be expressly acknowledged in the resolution authorizing the pertinent debt issue. In the event of a conflict between the terms of a debt resolution and this policy, the terms of the debt resolution shall control.

This policy will be periodically reviewed by the Issuer's Chairman, at which time such Chairman will present any recommendations for any amendments, deletions, additions, improvement or clarification to the Board for consideration.

EXHIBIT B  
TAX-EXEMPT POLICY

THE INDUSTRIAL DEVELOPMENT BOARD OF THE  
CITY OF WHITE HOUSE, TENNESSEE

MONITORING AND REMEDIATION POLICY

Policy:

The purpose of the following is to evidence that The Industrial Development Board of the City of White House, Tennessee (the "Issuer") has in effect compliance policies and procedures for tax-exempt bonds issued by Issuer to ensure that the any conduit borrower has agreed to assume all responsibility legally permitted with respect to the requirements of the Internal Revenue Code of 1986, as amended (the "Code") that must be satisfied with respect to tax-exempt bonds and other obligations ("bonds") after any bonds are issued so that interest on such obligations will be and remain tax-exempt or otherwise continue to qualify for subsidy from the U.S. Treasury.

Scope:

The Board of Directors (the "Board") determines that the following requirements shall be properly agreed to be performed by the conduit borrower under any debt issued by the Issuer as a conduit obligation and that the Issuer shall not be responsible for performing or monitoring any of the conduit borrower's activities or duties.

1. Arbitrage Yield Restriction and Rebate Requirements. The conduit borrower shall maintain or cause to be maintained records of:
  - a. Purchases of sales of investments made with bond proceeds (including amounts treated as "gross proceeds" of bonds under section 148 of the Code) and receipts of earnings on those investments;
  - b. Expenditures made with bond proceeds (including investment earnings on bond proceeds) for the governmental purposes of the bonds, such as for the costs of purchasing, constructing and/or renovating property and facilities;
  - c. Calculations that will be sufficient to demonstrate to the Internal Revenue Service ("IRS") upon an audit of a bond issue that, where applicable, the available spending exception to the arbitrage rebate requirement has been complied with in respect of that bond issue;
  - d. Calculations that will be sufficient to demonstrate to the IRS upon an audit of a bond issue for which to exception to the arbitrage rebate requirement was applicable, that the rebate amount, if any, that was payable to the United States of America in respect of investments made with gross proceeds of that bond issue was calculated and timely paid with Form 8038-T timely filed with the IRS; and

- e. Information and records showing that investments held in yield-restricted refunding or defeasance escrows for bonds, and investments made with unspent bond proceeds after the expiration of the applicable temporary period, were not invested in higher-yielding investments.
2. Restrictions on Private Business Use and Private Loans. The conduit borrower shall have the sole responsibility to educate and inform its employees, including any officer in charge of the use of any facility (the “users”) for which land, buildings, facilities and equipment (“property”) are financed with proceeds of tax-exempt bonds about the restrictions on private business use that apply to that property after the bonds have been issued, and of the restriction on the use of proceeds of tax-exempt bonds to make or finance any loan to any person other than a state or local government unit.
  3. Records to be Maintained for Tax-Exempt Bonds And Other Obligations Receiving Subsidy. The conduit borrower shall maintain written records (which may be in electronic form) with respect to each bond issue for as long as those bonds remain outstanding, plus four years. For this purpose, the bonds include refunding bonds that refund the original bonds and thereby refinance the property that was financed by the original bonds.

The records to be maintained are to include:

- a. The official Transcript of Proceedings for the original issuance of the bonds;
- b. Records showing how the bond proceeds were invested, as described in 1(a) above;
- c. Records showing how the bond proceeds were spent, as described in 1(b) above, including purchase contracts, construction contracts, progress payment requests, invoices, cancelled checks, payment of bond issuance costs, and records of “allocations” of bond proceeds to make reimbursement of project expenditures made before the bonds were actually issued;
- d. Information, records and calculations showing that, with respect to each bond issue, whether such issue was eligible for one of the spending exceptions to the arbitrage rebate requirement or, if not, that the rebate amount, if any, that was payable to the United States of America in respect of investments made with gross proceeds of that bond issue was calculated and timely paid with Form 8038-T timely filed with the IRS, as described in 1 (d) and (e) above; and
- e. Records showing that special use arrangements, if any, affecting bond-financed property made by nongovernmental persons, if any, are consistent with applicable restrictions on private business use of property financed with proceeds of tax-exempt bonds and restrictions on the use of proceeds of tax-exempt bonds to make or finance loans to any person other than a state or local government unit, as described in 2 above.

The basic purpose of the foregoing record retention policy is to enable the conduit borrower to demonstrate to the IRS upon an audit of any tax-exempt bond issue that the conduit borrower has fully complied with all federal tax requirements that must be satisfied after the issue date of the bonds so that interest on those bonds continues to be tax-exempt under section 103 of the Code.

4. Education Policy With Respect to Federal Tax Requirements for Tax-Exempt Bonds. It is the policy of the Issuer to require its conduit borrowers to be responsible for complying with federal law and regulations with respect to tax-exempt debt and such borrowers shall be responsible for determining the education and training on federal tax requirements for its employees applicable to tax-exempt bonds and such other obligations.
5. Remediation Policy With Respect To Non-qualified Bonds.

Promptly following the Borrower's taking any action that causes an issue to meet or exceed the private business test or the private loan financing test under Section 141 of the Code, if requested by Bond Counsel following notice from the conduit borrower, the Issuer shall determine whether it is appropriate to take any of the remedial actions permitted by Treas. Reg. § 1.141-12. Specifically, the Issuer agrees to review with Bond Counsel the remedial action rules available under Treas. Reg. § 1.141-12 to determine the feasibility of taking any remedial action that may otherwise be available to preserve the tax-exempt status of the issue.

## BOND PURCHASE AGREEMENT

**\$5,400,000**

**THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF WHITE HOUSE,  
TENNESSEE REVENUE BOND  
(GOODWILL INDUSTRIES OF MIDDLE TENNESSEE, INC.)  
SERIES 2024**

This Bond Purchase Agreement is dated as of \_\_\_\_\_, 2024, by and among The Industrial Development Board of the City of White House, Tennessee, a public, nonprofit corporation duly organized and existing under the laws of the State of Tennessee (the “**Issuer**”), Goodwill Industries of Middle Tennessee, Inc., a Tennessee nonprofit corporation (the “**Borrower**”), and Pinnacle Bank, a Tennessee bank (the “**Purchaser**”). Terms not defined herein shall have the meanings ascribed to such terms in the Loan Agreement, as defined below.

1. Background.

(a) The Issuer proposes to loan the proceeds of the sale of its Revenue Bond (Goodwill Industries of Middle Tennessee, Inc. Project) Series 2024 in the principal amount of \$5,400,000 (the “**Bond**”) to the Borrower. Such loan shall be made pursuant to a Loan Agreement to be entered into by and among the Issuer, the Borrower and the Purchaser, dated as of the date hereof (the “**Loan Agreement**”). As further evidence of such loan, the Borrower shall execute a promissory note of even date with the Bond (the “**Note**”) in the principal of \$5,400,000.

(b) The Bond is issued pursuant to a resolution adopted by the Issuer on \_\_\_\_\_ (the “**Resolution**”). The Bond will be payable solely from payments made by the Borrower under the Loan Agreement and the Note. All of the Issuer’s rights (except with respect to the Issuer’s interest in the payment of its fees and expenses, indemnification and receipt of notices) under the Note and the Loan Agreement will be assigned to the Purchaser as security for the Bond.

(c) In order to induce the Issuer and the Purchaser to enter into this Bond Purchase Agreement, the Borrower has joined in the execution of this Bond Purchase Agreement.

(d) The Issuer and the Purchaser acknowledge that the Issuer will sell the Bond to the Purchaser, and the Purchaser will purchase the Bond from the Issuer in reliance upon the representations and covenants set forth herein.

(e) The Issuer, the Borrower and the Purchaser agree that the proceeds of the sale of the Bond are to be used as provided in the Loan Agreement.

2. Purchase, Sale and Closing. On the terms and conditions set forth herein and in the Loan Agreement, the Purchaser will purchase the Bond from the Issuer and the Issuer will sell the Bond to the Purchaser. The Bond shall be dated as of the date hereof (or such other date as mutually agreed upon by the parties hereto) and shall mature and shall bear interest and be subject to redemption as set forth in the Bond and in the Loan Agreement. The price will be an amount equal to the aggregate of Advances made under Article 7 of the Loan Agreement. The Closing (the “**Closing**” or the “**Closing Date**”) will be held on \_\_\_\_\_ or such other date or time as



may be agreed on by the parties hereto. The Bond will be delivered in Nashville, Tennessee in fully registered form as Bond Number R-1 in one denomination of \$5,400,000 registered in the name of the Purchaser.

3. Issuer's Representations. The Issuer makes the following representations, all of which will survive the purchase and sale of the Bond:

(a) The Issuer is a public non-profit corporation. The Issuer is authorized by the provisions of Part 53 of Chapter 101 of Title 7 of Tennessee Code Annotated, as amended (the "**Act**") to (i) issue revenue bonds such as the Bond and to use the proceeds of the sale of the Bond for the purposes described in the Loan Agreement; (ii) enter into agreements such as the Loan Agreement and to accept the Note in order to provide for the financing and refinancing of the Project (as such term is defined in the Loan Agreement) and (iii) secure the Bond in the manner contemplated by the Loan Agreement.

(b) The Issuer has full legal right, power and authority (i) to adopt the Resolution, (ii) to enter into this Bond Purchase Agreement and the Loan Agreement, (iii) to issue, sell and deliver the Bond to the Purchaser as provided herein, and (iv) to carry out and consummate all other transactions contemplated by each of the aforesaid documents, and the Issuer has complied with applicable law, including the Act, relating to such transactions.

(c) The Issuer has duly authorized (i) the execution, delivery and due performance of this Bond Purchase Agreement, the Loan Agreement, the Bond and the Resolution and (ii) the taking of any and all such action as may be required on the part of the Issuer to carry out, give effect to and consummate the transactions contemplated by such instruments.

(d) The Resolution has been duly adopted by the Issuer, is in full force and effect and constitutes the legal, valid and binding act of the Issuer and, when executed and delivered, the Loan Agreement and this Bond Purchase Agreement, assuming due execution and delivery by the other parties thereto, will constitute legal, valid and binding obligations of the Issuer in accordance with their respective terms.

(e) When delivered to and the initial Advance is made by the Purchaser at the Closing in accordance with the provisions of this Bond Purchase Agreement, the Bond will have been duly authorized, executed, issued and delivered and will constitute a legal, valid and binding limited obligation of the Issuer in conformity with the provisions of the Act.

(f) The adoption of the Resolution, the execution and delivery of the Bond, the Loan Agreement, this Bond Purchase Agreement, and compliance with the provisions of the Resolution and of each of such instruments, will not conflict with or constitute a breach of, or default under any agreement or other instrument to which the Issuer is a party or by which it is bound, any existing law, judgment, order or decree to which the Issuer is subject or to any provision of the Act.

(g) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, or before or by any court, public board or body, pending, or to the knowledge of the Issuer threatened, nor to the best of the knowledge of the Issuer is there any basis therefor, which in any way questions the validity of the Act, the powers of the Issuer referred to in paragraph (b)

above, or the validity of any proceedings to be taken by the Issuer in connection with the issuance of the Bond, or wherein an unfavorable decision, ruling or finding could materially adversely affect the transactions contemplated by this Bond Purchase Agreement or which, in any way, could adversely affect the validity or enforceability of the Bond, the Loan Agreement, the Resolution, or this Bond Purchase Agreement.

4. Borrower's Representations. The Borrower makes the following representations, all of which will survive the purchase and sale of the Bond:

(a) The Borrower is a duly organized and existing Tennessee non-profit corporation, has full legal right, power and authority to execute and deliver this Bond Purchase Agreement, the Loan Agreement and the Note. The Borrower has full legal right, power and authority to own and operate the Project, and the Borrower has full legal right, power and authority, to take any and all such action as may be required on the part of the Borrower to carry out the transactions contemplated by this Bond Purchase Agreement, the Note and the Loan Agreement.

(b) The Borrower has duly authorized the execution and delivery of this Bond Purchase Agreement, the Loan Agreement and the Note, and the taking of all such action as may be required on its part to consummate the transactions contemplated by this Bond Purchase Agreement, the Loan Agreement and the Note.

(c) Neither the execution and delivery of this Bond Purchase Agreement and the Note by Borrower or of the Loan Agreement by the Borrower nor the consummation of the transactions contemplated therein will conflict with, or constitute on the part of the Borrower a violation of, or a breach of or default under, the organizational documents of the Borrower, any indenture, mortgage, note agreement or other agreement or instrument to which the Borrower is a party or by which the Borrower is bound, or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Borrower, or any of its activities or properties. All consents, approvals and authorizations which are required for the Borrower's execution and delivery of, consummation of the transactions contemplated by and compliance with the provisions of this Bond Purchase Agreement, the Loan Agreement and the Note have been obtained.

(d) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, or which, to the knowledge of the Borrower, is pending or threatened, against or affecting the Borrower, its legal existence or capacity, or the actions taken or contemplated to be taken by the Borrower, nor, to the knowledge of the Borrower is there any basis therefor, wherein an unfavorable decision, ruling or finding could materially adversely affect the transactions contemplated by, or which, in any way, would adversely affect the validity or enforceability of this Bond Purchase Agreement, the Loan Agreement or the Note.

(e) The Borrower is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and has received a determination letter evidencing such status, which letter has not been revoked.

5. Purchaser's Representations. The Purchaser makes the following representations:

(i) The Purchaser is an “accredited investor” as defined in Rule 501 of Regulation D, or a “qualified institutional buyer” as defined in Rule 144A, under the Securities Act of 1933, as amended (the “1933 Act”).

(ii) The Purchaser is purchasing the Bond solely for its own account in evidence of a privately negotiated loan, made in the ordinary course of the commercial lending business of the Purchaser, for the purpose of extending credit to the Issuer and the Borrower at prevailing tax-exempt interest rates.

(iii) The Purchaser has regularly acquired debt similar to the Bond for its own account and has sufficient knowledge and experience in business and financial matters in general, and in debt such as the Bond in particular, to enable the Purchaser to evaluate the merits and risks of purchase of the Bond, the credit of the Borrower, and the terms of the Bond. The Purchaser confirms it is able to bear the economic risk of acquisition and ownership of the Bond, including loss of all principal.

(iv) The Purchaser has had full and free access to all books, records, and audits, and has had satisfactory opportunity to make inquiry of the officers, of the Issuer and the Borrower, and has been provided with and has evaluated such corporate, financial and general information regarding the Issuer and the Borrower as the Purchaser deems necessary to make an informed decision with respect to the purchase of the Bond; provided, however, that this representation shall not constitute a waiver of any rights or remedies the Purchaser may have with respect to any untrue information it may have received or any material information which was withheld from review.

(v) The Purchaser understands that an official statement, prospectus, offering circular, or other comprehensive offering statement has not been provided with respect to the Bond. The Purchaser has made its own independent credit analysis and decision to purchase the Bond based an independent examination and evaluation of the transaction and the information deemed appropriate, without reliance on any other person or entity.

(vi) The Purchaser understands that the Bond: (i) is not registered under the 1933 Act and is not registered or otherwise qualified for sale under the “Blue Sky” laws and regulations of any state, (ii) is not listed on any stock or other securities exchange, and (iii) is not rated by any credit rating agency.

(vii) The Purchaser does not have a present intention to the distribution, resale, pledging, fractionalization, subdivision or other disposition of the Bond or any interest therein. The Purchaser is not participating, directly or indirectly, in any underwriting of the Bond or any interest therein. The Purchaser presently intends to hold the Bond for an indefinite period of time. Because the Purchaser has no immediate intent to trade the Bond, and as a condition to the purchase of the Bond, the Purchaser has directed the Issuer and the Borrower not to obtain a CUSIP number for the Bond or apply for eligibility of the Bond under the book-entry system of The Depository Trust Company.

(viii) Although the Purchaser has no immediate or present intention of reselling or otherwise distributing the Bond or any interest therein to any person or entity, the

Purchaser reserves the right to sell or dispose of the Bond, or any interest therein, in accordance with its own judgment and its agreements herein with respect thereto.

(ix) The Purchaser covenants and agrees that, in connection with any encumbrance, pledge, sale, transfer or other disposition of the Bond, or any interest therein, the Purchaser will comply with all applicable federal and state securities laws and all regulations and rulings promulgated thereunder, including without limitation all disclosure and registration requirements thereof.

It is specifically understood and agreed that the Issuer makes no representation, covenant or agreement as to the financial position or business condition of the Borrower and does not represent or warrant as to any statements, materials, representations or certifications furnished by the Borrower in connection with the sale of the Bond, or as to the correctness, completeness or accuracy thereof. The Issuer, furthermore, has not undertaken any independent investigation into the financial condition or capabilities of the Borrower to manage or operate the Project Facilities or the Borrower's ability to discharge its obligations under the Note, this Bond Purchase Agreement or any other obligation whatsoever.

6. Payment of Expenses. The Borrower shall pay all reasonable costs and expenses incident to the performance of its obligations under this Bond Purchase Agreement and to the sale and delivery of the Bond to the Purchaser, including but not limited to the fees and expenses of Bond Counsel and Issuer Counsel.

7. Applicable Law. This Bond Purchase Agreement shall be governed by the laws of the State of Tennessee.

8. Execution of Counterparts. This Bond Purchase Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**PINNACLE BANK**

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

Its: \_\_\_\_\_

**GOODWILL INDUSTRIES OF MIDDLE  
TENNESSEE, INC.**

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

Its: \_\_\_\_\_

**THE INDUSTRIAL DEVELOPMENT BOARD  
OF THE CITY OF WHITE HOUSE,  
TENNESSEE**

By: \_\_\_\_\_  
Chairman

ATTEST:

By: \_\_\_\_\_  
Secretary

LOAN AGREEMENT

among

THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF WHITE HOUSE, TENNESSEE

and

GOODWILL INDUSTRIES OF MIDDLE TENNESSEE, INC.

and

PINNACLE BANK

Dated as of \_\_\_\_\_, 2024

\$5,400,000

THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF WHITE HOUSE, TENNESSEE  
REVENUE BOND (GOODWILL INDUSTRIES OF MIDDLE TENNESSEE, INC.)  
SERIES 2024

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS AND RULES OF CONSTRUCTION.....	1
<b>Section 1.1</b> <b>Definitions</b> .....	1
<b>Section 1.2</b> <b>Rules of Construction</b> .....	11
ARTICLE II REPRESENTATIONS AND WARRANTIES.....	12
<b>Section 2.1</b> <b>Representations and Warranties of the Issuer</b> .....	12
<b>Section 2.2</b> <b>Representations and Warranties of Borrower</b> .....	14
<b>Section 2.3</b> <b>Representations of the Lender</b> .....	17
ARTICLE III ISSUANCE OF THE BOND .....	17
<b>Section 3.1</b> <b>Sale and Purchase of Bond</b> .....	17
<b>Section 3.2</b> <b>Conditions Precedent To Closing and Delivery of Bond</b> .....	17
<b>Section 3.3</b> <b>Bond to be Issued in Registered Form; Registration and Transfer</b> .....	18
ARTICLE IV TERMS OF THE BOND .....	19
<b>Section 4.1</b> <b>Interest Rate</b> .....	19
<b>Section 4.2</b> <b>Repayment of Principal and Interest</b> .....	20
<b>Section 4.3</b> <b>Optional Prepayment</b> .....	20
ARTICLE V LOAN OF PROCEEDS TO BORROWER; ADDITIONAL PAYMENTS .....	20
<b>Section 5.1</b> <b>Loan by the Issuer; Repayment of Loan</b> .....	20
<b>Section 5.2</b> <b>Place, Time and Application of Payments</b> .....	21
<b>Section 5.3</b> <b>No Set Off</b> .....	21
<b>Section 5.4</b> <b>Prepayments</b> .....	21
<b>Section 5.5</b> <b>Credits Against the Note</b> .....	21
<b>Section 5.6</b> <b>Interest Rate Adjustments; Additional Payments</b> .....	21
ARTICLE VI ASSIGNMENT OF CERTAIN ISSUER RIGHTS.....	23
<b>Section 6.1</b> <b>Assignment of Loan Agreement and Note</b> .....	23
<b>Section 6.2</b> <b>Certain Rights of the Lender</b> .....	24
<b>Section 6.3</b> <b>No Further Assignment</b> .....	24
<b>Section 6.4</b> <b>Application of Funds</b> .....	24
ARTICLE VII ADVANCE OF PROCEEDS TO THE BORROWER.....	25
<b>Section 7.1</b> <b>General</b> .....	25
<b>Section 7.2</b> <b>Closing Date Advance of Proceeds</b> .....	25
<b>Section 7.3</b> <b>Additional Advances of Proceeds</b> .....	25
<b>Section 7.4</b> <b>Notice, Frequency and Place of Disbursement</b> .....	26
<b>Section 7.5</b> <b>Disbursements to Contractor</b> .....	26
ARTICLE VIII BORROWER'S COVENANTS.....	26
<b>Section 8.1</b> <b>Affirmative Covenants</b> .....	26
<b>Section 8.2</b> <b>Negative Covenants</b> .....	31
<b>Section 8.3</b> <b>Financial Covenants</b> .....	33
ARTICLE IX EVENTS OF DEFAULT .....	34
<b>Section 9.1</b> <b>Events of Default</b> .....	34
<b>Section 9.2</b> <b>Remedies of Holder</b> .....	35
<b>Section 9.3</b> <b>Payments After Default; No Waiver</b> .....	35
<b>Section 9.4</b> <b>No Remedy Exclusive</b> .....	35
<b>Section 9.5</b> <b>Enforcement of Reserved Rights</b> .....	36
ARTICLE X LIMITATION OF LIABILITY; INDEMNIFICATION.....	36
<b>Section 10.1</b> <b>Limitation of Issuer's Liability</b> .....	36
<b>Section 10.2</b> <b>Indemnification by Borrower</b> .....	36
<b>Section 10.3</b> <b>Issuer Not Liable</b> .....	37

ARTICLE XI MISCELLANEOUS.....	38
<b>Section 11.1 Assignment and Participation .....</b>	<b>38</b>
<b>Section 11.2 Benefit of Agreement.....</b>	<b>38</b>
<b>Section 11.3 Notices.....</b>	<b>38</b>
<b>Section 11.4 Amendments .....</b>	<b>39</b>
<b>Section 11.5 [Indemnity.....</b>	<b>39</b>
<b>Section 11.6 No Third Party Beneficiary .....</b>	<b>39</b>
<b>Section 11.7 Miscellaneous.....</b>	<b>39</b>
<b>Section 11.8 References to the Bond Ineffective After Bond Paid.....</b>	<b>40</b>
<b>Section 11.9 No Implied Waiver .....</b>	<b>40</b>
<b>Section 11.10 Interest and Loan Charges Not to Exceed Highest Lawful Rate .....</b>	<b>40</b>
<b>Section 11.11 Issuer Representative.....</b>	<b>40</b>
<b>Section 11.12 Borrower Representative.....</b>	<b>41</b>
<b>Section 11.13 Service, Waiver of Jury Trial.....</b>	<b>41</b>
<b>Section 11.14 Privately Negotiated Loan .....</b>	<b>41</b>
<b>Section 11.15 Role of Lender .....</b>	<b>41</b>
<b>Section 11.16 [Special Reporting Covenant.....</b>	<b>42</b>

Exhibits:

- A. Form of Bond
- B. Form of Requisition
- C. Form of Note
- D. Covenant Compliance Report
- E. Special Reporting Covenant Report



**THIS LOAN AGREEMENT** dated as of \_\_\_\_\_, 2024 (the “Agreement”), among THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF WHITE HOUSE, TENNESSEE, a public, nonprofit corporation duly organized and existing under the laws of the State of Tennessee (the “Issuer”), PINNACLE BANK, a Tennessee bank, as initial holder of the Bond described herein (the “Lender”), and GOODWILL INDUSTRIES OF MIDDLE TENNESSEE, INC., a Tennessee nonprofit corporation (the “Borrower”).

W I T N E S S E T H:

**WHEREAS**, the Issuer is a public, nonprofit corporation authorized under Tennessee Code Annotated Sections 7-53-101, et seq., as amended (the “Act”), to issue bonds for the purposes authorized by the Act; and

**WHEREAS**, the Issuer proposes to issue and sell to the Lender, with the approval of the Borrower, its Revenue Bond (Goodwill Industries of Middle Tennessee, Inc.) Series 2024, in the principal amount of \$5,400,000 (the “Bond”); and

**WHEREAS**, the proceeds of the sale of the Bond will be loaned by the Issuer to the Borrower for the following purposes:

- (i) to finance the Project (as hereinafter defined); and
- (ii) to pay certain fees and expenses relating to the issuance and sale of the Bond; and

**WHEREAS**, the Borrower agrees to repay such loan from the Issuer on the terms and conditions hereinafter set forth; and

**WHEREAS**, simultaneously with the issuance of the Bond, to evidence its obligations hereunder and to make payments sufficient to pay the Bond, the Borrower will execute and deliver to the Issuer a promissory note (the “Note”), which the Issuer will endorse to the Lender as security for the Bond; and

**WHEREAS**, the Issuer will assign the Note to the Lender as security for the Bond; and

**WHEREAS**, the Issuer, the Borrower and the Lender desire to enter into this Agreement to set forth the terms and conditions with respect to such financing;

**NOW, THEREFORE**, the parties hereto agree as follows:

**ARTICLE I  
DEFINITIONS AND RULES OF CONSTRUCTION**

**Section 1.1 Definitions.** In addition to other terms defined elsewhere in this Agreement, the following terms shall have the following meanings in this Agreement unless the context otherwise requires:

“Act” shall have the meaning given to such term in the recitals hereof.

“Advance” means each advance made by the Lender during the Draw Period of a portion of the principal amount on the Closing Date and thereafter during the Draw Period, of up to the balance of the principal amount of the Bond pursuant to the terms hereof.

“Affiliate” means any other Person controlling or controlled by or under common control with Borrower. For purposes of this definition, “control,” when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise.

“Agreement” means this Loan Agreement, including any amendments or supplements hereto.

“Architect” means \_\_\_\_\_ or other architect selected by Borrower with written notice to Lender.

“Available Tenor” means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (x) if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to the Agreement or (y) otherwise, any payment period for interest calculated with reference to such Benchmark (or component thereof) that is or may be used for determining any frequency of making payments of interest calculated with reference to such Benchmark, in each case, as of such date.

“Benchmark” means, initially, the Term SOFR Reference Rate; provided that if a Benchmark Transition Event has occurred with respect to the Term SOFR Reference Rate or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to the provisions hereof related to Benchmark Replacement setting.

“Benchmark Replacement” means with respect to any Benchmark Transition Event, the sum of: (a) the alternate benchmark rate that has been selected by the Lender giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for Dollar-denominated syndicated credit facilities and (b) the related Benchmark Replacement Adjustment.

“Benchmark Replacement Adjustment” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Lender giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for Dollar-denominated syndicated credit facilities.

“Benchmark Replacement Date” means the earliest to occur of the following events with respect to the then-current Benchmark:

(a) in the case of clause (a) or (b) of the definition of “Benchmark Transition Event”, the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or

(b) in the case of clause (c) of the definition of “Benchmark Transition Event”, the first date on which such Benchmark (or the published component used in the calculation

thereof) has been determined and announced by or on behalf of the administrator of such Benchmark (or such component thereof) or the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be non-representative or non-compliant with or non-aligned with the International Organization of Securities Commissions (IOSCO) Principles for Financial Benchmarks; provided that such non-representativeness, non-compliance or non-alignment will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (a) or (b) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

“Benchmark Transition Event” means the occurrence of one or more of the following events with respect to the then-current Benchmark:

(a) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component) that states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(c) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) or the regulatory supervisor for the administrator of such Benchmark (or such component thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are not, or as of a specified future date will not be, representative or in compliance with or aligned with the International Organization of Securities Commissions (IOSCO) Principles for Financial Benchmarks.

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

“Benchmark Transition Start Date” means, in the case of a Benchmark Transition Event, the earlier of (a) the applicable Benchmark Replacement Date (b) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90<sup>th</sup> day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication) and (c) if requested by Holder, an opinion of Bond Counsel that the occurrence of the Benchmark Transition Event shall not adversely affect the tax-exempt status of the Bond.

“Bond” means the Revenue Bond (Goodwill Industries of Middle Tennessee, Inc.) Series 2024 of the Issuer in the form of Exhibit A attached hereto, issued pursuant to this Agreement.

“Bond Counsel” means Holland & Knight LLP, or any other firm nationally recognized on the subject of municipal bonds acceptable to the Holder.

“Bond Purchase Agreement” means the Bond Purchase Agreement, of even date herewith, by and among the Issuer, the Borrower and the Lender.

“Borrower” means Goodwill Industries of Middle Tennessee, Inc., a Tennessee nonprofit corporation.

“Borrower Representative” means the Chief Executive Officer and the Chief Financial Officer of the Borrower, or either of them, or any one or more of the persons at the time designated to act on behalf of the Borrower by written certificate furnished to the Holder containing the specimen signature of such person and signed on behalf of the Borrower by a Borrower Representative.

“Business Day” means any day that is not a Saturday, Sunday or other day that is a legal holiday under the laws of the State of New York or is a day on which banking institutions in such state are authorized or required by law to close.

“Capitalized Lease” means any lease of property by Borrower, as lessee, that would be capitalized on a balance sheet of Borrower prepared in accordance with GAAP.

“Change in Law” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in law, rule regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority provided that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or, pursuant to the accord commonly referred to as “Basel III” or the United States or foreign regulatory authorities, shall in each case be deemed a “Change in Law,” regardless of the date enacted, adopted or issued.

“Closing Date” means \_\_\_\_\_, 2024, which is the date of delivery of the initial Advance as payment for the Bond.

“Code” means the Internal Revenue Code of 1986, as amended, including applicable regulations and revenue rulings thereunder.

“Conforming Changes” means, with respect to either the use or administration of Term SOFR or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Business Day,” the definition of “U.S. Government Securities Business Day,” the definition of “Interest Rate Determination Date” or any similar or analogous definition (or the addition of a concept of an “interest period”), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, and other technical, administrative or operational matters) that the Lender decides may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and administration thereof by the Lender in a manner substantially consistent with market practice (or, if the Lender decides that adoption of any portion of such market practice is not administratively feasible or if the Lender determines that no market practice for the administration of any such rate exists, in such other manner of administration as the Lender decides is reasonably necessary in connection with the administration of this Agreement and the other Loan documents).

“Controlled Group” means all members of a controlled group of corporations and all trades or businesses (whether or not incorporated under common control) which, together with the Borrower are treated as a single employer under Section 414 of the Code.

“Date of Taxability” means the earliest date as of which interest on the Bond shall have been determined to be includable in the gross income of any Holder or prior Holder as a result of a Determination of Taxability.

“Default” means the occurrence of the event which with the passage of time or notice or both would constitute an “Event of Default” under Article XI hereof.

“Default Rate” means a rate per annum equal to the Highest Lawful Rate.

“Determination of Taxability” means and shall be deemed to have occurred on the first to occur of the following:

(a) on that date when the Borrower provides notice to the Issuer and the Holder that an Event of Taxability has occurred or when Borrower otherwise files any statement, supplemental statement or other tax schedule, return or document which discloses that an Event of Taxability shall have occurred;

(b) on the date when the Issuer or the Borrower shall be advised in writing by the Commissioner or any District Director of Internal Revenue (or any other government official or agent exercising the same or a substantially similar function from time to time) that, based upon filings of the Issuer or the Borrower, or upon any review or audit of the Issuer or the Borrower or upon any other ground whatsoever, an Event of Taxability shall have occurred; or

(c) on that date when the Issuer or the Borrower shall receive notice from any Holder or prior Holder that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed as includable in the gross income of such Holder or any prior Holder the interest on the Bond paid to such Holder or prior Holder due to the occurrence of an Event of Taxability;

provided, however, that no Determination of Taxability shall occur under clauses (b) or (c) above unless the Issuer and the Borrower have been afforded the opportunity, at Borrower’s expense, to contest any such assessment; and provided further that no Determination of Taxability shall occur until such contest, if made,

has been finally determined; and provided further that upon demand from the Holder or any prior Holder, the Borrower shall immediately reimburse such Holder or prior Holder for any payments such Holder (or any prior Holder) shall be obligated to make as a result of the Determination of Taxability during any such contest.

“Disbursement(s)” means on the Closing Date the payment of cost of issuance and reimbursement of Borrower of its authorized capital costs incurred prior to the Closing Date pursuant to its valid reimbursement resolution and subsequent to the Closing Date, the advances of the balances of the Loan into the Project Fund established pursuant to the terms hereof.

“Dodd-Frank Act” means the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, as enacted by the United States Congress, and signed into law on July 21, 2010, and all statutes, rules, guidelines or directives promulgated thereunder.

“Dollars” means the lawful money of the United States of America.

“Draw Period” means the period commencing on the Closing Date and ending two Business Days prior to the [first anniversary] date thereof.<sup>1</sup>

“Draw Request” means the written request delivered by Borrower to the Lender during the Draw Period, in the form attached hereto as Exhibit B, in connection with the request for a Disbursement hereunder, as described in Article VII herein.

“Eminent Domain” means the taking of title to, or the temporary use of, the Premises or any part thereof pursuant to eminent domain or condemnation proceedings, or any voluntary conveyance of any part of the Premises during the pendency of, or as a result of a threat of, such proceedings.

“Environmental Laws” means all federal, state, regional, county or local laws, statutes, rules, regulations or ordinances, now or hereafter in effect, relating to the generation, recycling, use, reuse, sale, storage, handling, transport, treatment, emission, discharge or disposal of Hazardous Materials, including the Comprehensive Environmental Response Compensation Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §9601 et seq. (“CERCLA”), the Resource Conservation and Recovery Act of 1976, as amended by the Solid and Hazardous Waste Amendments of 1984, 42 U.S.C. §6901 et seq. (“RCRA”), the Toxic Substances Control Act, 15 U.S.C. §2601 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. §1801, et seq., the Clean Air Act, 42 U.S.C. §7401 et seq., the Clean Water Act of 1977, 33 U.S.C. §1251 et seq., and any state, regional, county or local statute, law, rule, regulation or ordinance now or hereafter in effect that relates to the protection of public health or safety from exposure to Hazardous Materials, to the discharge, emission or disposal of Hazardous Materials in or to air, water, land or groundwater, to the withdrawal or use of groundwater, to the use, handling or disposal of asbestos, polychlorinated biphenyls, petroleum, petroleum derivatives or by-products, other petroleum hydrocarbons or urea formaldehyde, to the treatment, storage, disposal or management of Hazardous Materials, to exposure to Hazardous Materials or to the transportation, storage, disposal, management or release of gaseous or liquid substances, and any regulation, order, injunction, judgment, or legally enforceable declaration, notice or demand issued thereunder.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“Event of Bankruptcy” means any event described in Section 9.1(f) and (g) hereof.

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<sup>1</sup> NTD: Subject to review.

“Event of Default” means the occurrence of any of the events set forth in Section 9.1 hereof.

“Event of Taxability” means a change in law or fact or the interpretation thereof, or the occurrence or existence of any fact, event or circumstance (including, without limitation, the taking of any action by the Issuer or the Borrower, or the failure to take any action by the Issuer or the Borrower, or the making by the Issuer or the Borrower of any misrepresentation herein or in any certificate required to be given in connection with the issuance, sale or delivery of the Bond) which has the effect of causing interest paid or payable on the Bond to become includable, in whole or in part, in the gross income of the Holder or any prior Holder for federal income tax purposes.

“Fiscal Year” means, with respect to the Borrower, the twelve (12) month period ending on December 31 of each year or such other annual fiscal accounting period for the Borrower as may be established in the future by its governing body with written notice to the Holder.

“Foundation” means The Goodwill Foundation of Middle Tennessee, an organization established by Borrower to support Borrower’s operations and charitable purposes.

“GAAP” means generally accepted accounting principles from time to time in effect in the United States of America. In the event that any Accounting Change (as defined below) shall occur and such change results in a change in the method of calculation of financial covenants, standards or terms in this Agreement, then the Borrower and the Lender agree to enter into negotiations in order to amend such provisions of this Agreement so as to reflect equitably such Accounting Changes with the desired result that the criteria for evaluating the Borrower’s financial condition shall be the same after such Accounting Changes as if such Accounting Changes had not been made. Until such time as such an amendment shall have been executed and delivered by the Borrower and the Lender, all financial covenants, standards and terms in this Agreement shall continue to be calculated or construed as if such Accounting Changes had not occurred. “Accounting Change” refers to a change in accounting principles required by the promulgation of any rule, regulation, pronouncement or opinion by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants or, if applicable, the Securities and Exchange Commission.

“Governmental Authority” means all agencies, authorities, bodies, boards, commissions, courts, instrumentalities, legislatures and offices of any nature whatsoever for any government unit or political subdivision, whether foreign, federal, state, county, district, municipal or otherwise, and whether now or hereafter in existence.

“Hazardous Materials” means gasoline, motor oil, fuel oil, waste oil, other petroleum or petroleum-based products, asbestos, polychlorinated biphenyls, medical and infectious wastes and any chemical, material or substance to which exposure is prohibited, limited or regulated by any federal, state, county, local or regional authority or which, even if not so regulated, is known to pose a hazard to health and safety, including but not limited to substances and materials defined or designated as “hazardous substances”, “hazardous wastes”, “pollutants”, “contaminants”, “hazardous materials” or “toxic substances” under any Environmental Law.

“Highest Lawful Rate” means the maximum nonusurious interest rate, if any, that at any time or from time to time may be contracted for, taken, reserved, charged or received on debts outstanding hereunder, as the case may be, under the laws applicable to the Issuer or the Borrower, as applicable, that presently are in effect or, to the extent allowed by law, under such applicable laws that hereafter may be in effect and that allow a higher maximum nonusurious interest rate than applicable laws now allow.

“Holder” means the Lender or any future registered owner of the Bond as permitted hereunder.

“Indebtedness” means with respect to the Borrower at any date, without duplication, (i) all obligations of the Borrower for borrowed money, (ii) all obligations of the Borrower evidenced by bonds, debentures, notes or other similar instrument, (iii) all obligations of the Borrower to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (iv) all obligations of the Borrower as lessee under Capitalized Leases, (v) all obligations of the Borrower to purchase securities (or other property) that arise out of or in connection with the sale of the same or substantially similar securities or property, (vi) all deferred obligations of the Borrower to reimburse any bank or other Person in respect of amounts paid under a letter of credit or similar instrument, (vii) all Indebtedness of others secured by a Lien on any asset of the Borrower, whether or not such Indebtedness is assumed by the Borrower and (viii) all Indebtedness of others guaranteed by the Borrower.

“Interest Period”: means a period of 30 days.

“Interest Rate Determination Date” means, initially the date of the Bond and thereafter, the first (1<sup>st</sup>) day of each month following the date of the Bond or, at Lender’s option while a Benchmark Replacement is in effect, such other dates as are determined by Lender to be appropriate to reflect the tenor of the Benchmark Replacement.

“Issuer” means The Industrial Development Board of the City of White House, Tennessee, a public, nonprofit corporation of the State of Tennessee, and its successors and assigns.

“Issuer Representative” means the Chairman and Vice Chairman of the Issuer, or either of them, or with respect to the reporting requirements of Section 11.16 hereof, the Recorder of the City of White House, Tennessee or any one of the persons at the time designated to act on behalf of the Issuer by written certificate furnished to the Lender containing the specimen signatures of such persons and signed on behalf of the Issuer by its Chairman or Vice Chairman.

“Issuer Resolution” means the resolution of the Issuer adopted on \_\_\_\_\_, 2024 authorizing the execution of this Agreement and the issuance of the Bond.

“Lender” means Pinnacle Bank, a Tennessee bank, or any successor or assignee, as the Holder of the Bond.

“Lien” means, as to any asset, (1) any lien, charge, claim, mortgage, security interest, pledge, hypothecation or other encumbrance of any kind with respect to such asset, (2) any interest of a vendor or lessor under any conditional sale agreement, Capitalized Lease or other title retention agreement relating to such asset, (3) any reservation, exception, encroachment, easement, right-of-way, covenant, condition, restriction, lease or other title exception affecting such asset, or (4) any assignment, deposit, preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and the filing of any financing statement under the UCC or comparable law of any jurisdiction).

“Loan” means the loan of the proceeds of the Note and the Bond as described herein up to the maximum aggregate principal amount of \$5,400,000.

“Local Government” means the City of White House, Tennessee.



“Material Adverse Effect” means, with respect to any event, act, condition or occurrence of whatever nature (including any adverse determination in any litigation, arbitration, or governmental investigation or proceeding), whether singularly or in conjunction with any other event or events, act or acts, condition or conditions, occurrence or occurrences whether or not related, a material adverse change in, or a material adverse effect on, (a) the business, results of operations, financial condition, assets, liabilities or prospects of the Borrower, taken as a whole; provided, that the liability incurred under this subsection (a) is in excess of \$500,000 (such amount being determined by reducing the amount of such liability by the amount of insurance proceeds available to pay such liability); (b) the ability of the Borrower taken as a whole to perform any of its obligations under the Operative Documents; (c) the rights and remedies of the Lender under any of the Operative Documents; or (d) the legality, validity or enforceability of any of the Operative Documents.

“Material Contracts” means each indenture, mortgage, agreement or other instrument or contract (written or oral) to which the Borrower is a party or by which any of its assets are bound (including, without limitation, any employment or executive compensation agreement, collective bargaining agreement, agreement relating to an obligation, agreement for the construction, acquisition or disposition of real or personal property, agreement for the purchasing or furnishing of services, operating lease, joint venture agreement, agreement relating to the acquisition or disposition of an Affiliate or agreement of merger or consolidation) which (i) evidences, secures or governs any outstanding obligation of the Borrower, and (ii) if canceled, breached or not renewed by any party thereto, would have a Material Adverse Effect on the business operations, assets, condition (financial or otherwise) or prospects of the Borrower.

“Maturity Date” means \_\_\_\_\_, 2039.

“Negative Pledge Agreement” means the Negative Pledge Agreement of even date herewith executed by the Borrower in favor of the Lender with respect to the Premises.

“Net Proceeds” when used with respect to any insurance proceeds or award resulting from, or other amount received in connection with, Eminent Domain, means the gross proceeds from such proceeds, award or other amount, less all expenses (including attorneys’ fees) incurred in the realization thereof.

“Note” means the promissory note of the Borrower, in the form attached hereto as Exhibit C, issued in favor of the Issuer and assigned to the Lender pursuant to this Agreement as security for the Bond.

“Operative Documents” means this Agreement, the Bond Purchase Agreement, the Bond, the Negative Pledge Agreement, and the Note.

“Payment of the Bond” means payment in full of the Bond and the making in full of all other payments due and payable pursuant to this Agreement at the time of such payment.

“Periodic Term SOFR Determination Day” has the meaning specified in the definition of “Term SOFR”.

“Person” means an individual, partnership, corporation, limited liability company, trust, unincorporated organization, association, joint venture, joint stock company, or a government or agency or political subdivision thereof.

“Plan” means, with respect to the Borrower at any time, an employee pension benefit plan which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code and either (i) is maintained by a member of the Controlled Group for employees of a member of the Controlled Group of which the Borrower is a part, or (ii) is maintained pursuant to a collective bargaining

agreement or any other arrangement under which more than one employer makes contributions and to which a member of the Controlled Group of which the Borrower is a part is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions.

“Plans and Specifications” means the Plans and Specifications prepared by the Architect in connection with the Project as the same may be modified from time to time with notice to Lender.

“Premises” means the real property and all improvements thereon owned by Borrower in Sumner County, Tennessee located at 517 Highway 76, White House, Tennessee 37188.

“Project” means acquisition, construction and equipping of an approximately 15,000 square foot retail store and donation center to be located at 517 Highway 76, White House, Tennessee 37188 to expand employment opportunities for individuals with disabilities and those who have trouble finding and keeping jobs in furtherance of Borrower’s mission of promoting of the health, welfare and safety of the citizens of the State.

“Project Fund” means that certain construction account of Borrower, established and maintained with the Lender, into which the Lender shall deposit the proceeds of the Loan on behalf of the Issuer.

“Reportable Event” shall have the meaning assigned to such term in Title IV of ERISA and the regulations thereunder.

“Reserved Rights” means the rights of the Issuer to (i) receive notices specified hereunder, (ii) receive certain information required hereunder and inspect the books and records of Borrower and the Project, (iii) indemnification and limitations on the liability of the Issuer and its directors, officers, employees, etc. and (iv) reimbursement of certain fees and expenses specified hereunder.

“Restoration Work” shall have the meaning given to such term in Section 8.1(k) hereof.

“Relevant Governmental Body” means the Federal Reserve Board or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board or the Federal Reserve Bank of New York, or any successor thereto.

“SOFR” means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

“SOFR Administrator” means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

“State” means the State of Tennessee.

“Subsidiary” means, with respect to the Borrower, any corporation, partnership, joint venture, limited liability company, association or other entity the accounts of which would be consolidated with those of the Borrower in its consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, partnership, joint venture, limited liability company, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power, or in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise controlled, by the Borrower or one or more subsidiaries of the Borrower or by the Borrower and one or more subsidiaries of the Borrower.

“Tax Certificate” means the Tax Exemption Certificate and Agreement dated the Closing Date and executed by the Borrower and the Issuer in connection with the issuance of the Bond.

“Tax-Exempt Rate” shall mean the variable rate of interest per annum equal to 79% of the sum of (A) the Term SOFR rate on the applicable Interest Rate Determination Date for the applicable Interest Period, plus (B) 155 basis points, which rate shall be subject to adjustment monthly based on any change in the Term SOFR rate as determined on each Interest Rate Determination Date.

“Taxable Rate” means, upon a Determination of Taxability, the interest rate per annum that shall provide the Lender with the same after tax yield that the Lender would have otherwise received had the Determination of Taxability not occurred, taking into account the increased taxable income of the Lender as a result of such Determination of Taxability.

“Term SOFR” means, for any day on or after the then most recent Interest Rate Determination Date, the Term SOFR Reference Rate for a tenor of one month determined on the day (such day, the “Periodic Term SOFR Determination Day”) that is two (2) U.S. Government Securities Business Days prior to such Interest Rate Determination Date, as such rate is published by the Term SOFR Administrator on such Periodic Term SOFR Determination Day; provided, however, that if as of 5:00 p.m. (New York City time) on any Periodic Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Periodic Term SOFR Determination Day.

“Term SOFR Administrator” means CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by the Lender in its reasonable discretion).

“Term SOFR Reference Rate” means the forward-looking term rate based on SOFR.

“Unadjusted Benchmark Replacement” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

“U.S. Government Securities Business Day” means any day except for (a) a Saturday, (b) a Sunday or (c) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

## **Section 1.2 Rules of Construction.**

(a) In this Agreement, unless otherwise indicated, (i) defined terms may be used in the singular or the plural and the use of any gender includes all genders, (ii) the words “hereof,” “herein,” “hereto,” “hereby” and “hereunder” refer to this entire Agreement, (iii) all references to particular Articles or Sections are references to the Articles or Sections of this Agreement, (iv) the terms “agree” and “agreements” contained herein are intended to include and mean “covenant” and “covenants,” (v) the term “including” shall mean “including, but not limited to,” (vi) the table of contents, captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Agreement, (vii) any

capitalized terms used herein and not otherwise defined shall have the meaning given such terms in the other Operative Documents, (viii) all references herein to the Code or any particular provision or section thereof shall be deemed to refer to any successor, or successor provision or section, thereof, as the case may be and (ix) the terms “best knowledge” or “knowledge” shall mean the actual knowledge (and shall not include constructive knowledge) of the officers of the Borrower involved in the negotiation of the Operative Documents and the closing of the loan transaction contemplated therein.

(b) All accounting terms used herein without definition shall be interpreted in accordance with GAAP, and except as otherwise expressly provided herein, all determinations herein required shall be made in accordance with GAAP.

(c) References to any time of the day in this Agreement shall refer to the time in effect in Nashville, Tennessee on such day.

## **ARTICLE II REPRESENTATIONS AND WARRANTIES**

**Section 2.1 Representations and Warranties of the Issuer.** The Issuer hereby represents and warrants to, and agrees with, the Borrower and the Lender as follows (all of which shall survive the execution and delivery of this Agreement and the issuance of the Bond):

(a) The Issuer is a public, nonprofit corporation of the State organized and existing under the Act. The Issuer is authorized to issue bonds in accordance with the laws of the State, including the Act.

(b) The Issuer has the power to loan the Borrower the proceeds from the sale of the Bond pursuant to the provisions of this Agreement to finance the Project, such loan being in furtherance of the purposes for which the Issuer was organized.

(c) The Issuer has the power to enter into this Agreement and to carry out its obligations hereunder, to issue the Bond to finance the Project and to assign the Note without recourse to the Lender; by proper action has duly authorized the execution and delivery of this Agreement, the performance of its obligations hereunder and the issuance of the Bond; and, simultaneously with the execution and delivery of this Agreement, has duly executed and delivered and issued the Bond.

(d) The Project constitutes a “project” within the meaning of the Act, and the Issuer hereby finds that the financing of the Project will serve the purposes of the Act.

(e) So long as the Bond is outstanding, the Issuer will not issue or sell any other bonds, notes or other obligations the principal, premium, if any, or interest of which may be payable in whole or in part from the payments by the Borrower pursuant to this Agreement or the Note.

(f) To the best of the Issuer’s knowledge, the execution and delivery by the Issuer of this Agreement and the Bond and compliance with the terms and conditions hereof and thereof will not conflict with or result in the violation of or constitute a default under (i) the Act or any existing law, rule or regulation applicable to it, (ii) any indenture, mortgage, deed of trust, lien, lease, contract, note, order, judgment, decree or other agreement, instrument or restriction of any kind to which the Issuer or any of its assets is subject, or (iii) the by-laws or any other rules or procedures of the Issuer.

(g) To the best of the Issuer's knowledge, no further approval, consent or withholding of objection on the part of any Federal, state or local regulatory body, is required in connection with (1) the execution, issuance, sale and delivery of the Bond by the Issuer, (2) the execution or delivery of or compliance by the Issuer with the terms and conditions of this Agreement, or (3) the assignment by the Issuer of its rights under this Agreement and the Note. To the best of Issuer's knowledge, the consummation by the Issuer of the transactions set forth in the manner and under the terms and conditions as provided herein will comply with all applicable state, local or Federal laws and any rules and regulations promulgated thereunder by any regulatory authority or agency.

(h) To the best of Issuer's knowledge, no litigation, inquiry or investigation of any kind in or by any judicial or administrative court or agency is pending or threatened against the Issuer with respect to (1) the organization and existence of the Issuer, (2) its authority to execute or deliver this Agreement or the Bond, (3) the validity or enforceability of this Agreement or the Bond, or the transactions contemplated hereby or thereby, (4) the title of any officer of the Issuer who executed this Agreement or the Bond, or (5) any authority or proceedings related to the execution and delivery of this Agreement or the Bond, on behalf of the Issuer, and no such authority or proceedings have been repealed, revoked, rescinded or amended but are in full force and effect.

(i) All requirements and conditions specified in the Act, the bylaws or other organizational documents of the Issuer and all other laws and regulations applicable to the adoption of the Issuer Resolution, the execution, delivery and issuance of the Bond and the execution and delivery of the other Operative Documents to which the Issuer is a party, have been fulfilled.

(j) The Issuer shall take all action and do all things which it is authorized by law to take and do in order to perform and observe all covenants and agreements on its part to be performed and observed under the Bond and the other Operative Documents to which it is a party and in order to provide for and to assure payment of the Bond and the interest thereon when due, but solely in accordance with and subject to the limitations contained in the Bond and the other Operative Documents to which it is a party.

(k) Without the prior written consent of the Holder and the Borrower, the Issuer shall not alter, amend or repeal the Issuer Resolution, or agree to any alteration or amendment of this Agreement, or take any action impairing any authority, right or benefit given or conferred by the Issuer Resolution or the Operative Documents.

(l) The Bond and the other Operative Documents to which the Issuer is a party are legal, valid and binding obligations of the Issuer.

All of the above representations and warranties shall survive the execution and delivery of this Agreement and the issuance of the Bond.

THE ISSUER MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE PREMISES OR THE CONDITION THEREOF, OR THAT THE PREMISES ARE SUITABLE FOR THE PURPOSES OR NEEDS OF BORROWER. THE ISSUER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, THAT BORROWER WILL HAVE QUIET AND PEACEFUL POSSESSION OF THE PREMISES. THE ISSUER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION OR WORKMANSHIP OF ANY PART OF THE PREMISES OR THEIR SUITABILITY FOR THE BORROWER'S PURPOSES.

**Section 2.2 Representations and Warranties of Borrower.** The Borrower makes the following representations as the basis for its undertakings hereunder (all of which shall survive the execution and delivery of this Agreement and the issuance of the Bond):

(a) The Borrower is a nonprofit corporation duly organized and validly existing under the laws of the State. (1) the Borrower is an organization described in Section 501(c)(3) of the Code, (2) the Borrower is not a “private foundation” as defined in Section 509(a) of the Code, (3) the Borrower has received a determination letter from the Internal Revenue Service to the effect that it is a tax-exempt organization, (4) the Borrower is in full compliance with all terms, conditions, and limitations, if any, contained in such determination letter, (5) such status as a tax-exempt organization has not been adversely modified, limited, or revoked, (6) the facts and circumstances which formed the basis for the status of the Borrower, as represented to the Internal Revenue Service in the Borrower’s application for a determination letter, either substantially exist for the Borrower or differ only in a manner consistent with the requirements of Section 501(c)(3) of the Code, and (7) the operation of the Project does not constitute an unrelated trade or business within the meaning of Section 513(a) of the Code. To the best of its knowledge, the Borrower has conducted its operations and filed all required reports with the Internal Revenue Service to maintain such status.

(b) The Borrower has the power to enter into the Operative Documents to which it is a party and perform its obligations thereunder, and by proper action has duly authorized the execution and delivery of the Operative Documents to which it is a party and the performance of its obligations thereunder. When executed and delivered, the Operative Documents to which the Borrower is a party will be the valid and binding obligations or agreements of the Borrower, enforceable in accordance with their respective terms.

(c) The Project constitutes a building for use by a nonprofit domestic corporation whose purpose is the promoting of the health, welfare and safety of the citizens of the State.

(d) There is no litigation at law or in equity or any proceeding before any governmental agency or arbitral body involving the Borrower pending or, to the knowledge of the Borrower, threatened which has not been disclosed to the Lender in which any judgment or order would have a Material Adverse Effect upon the business or assets of the Borrower, or that would materially affect its authority to do business, the validity of the Operative Documents or the performance of its obligations thereunder. The Borrower is not in default with respect to any judgment, order, writ, injunction, decree, demand, rule or regulation of any court, governmental authority or arbitration board or tribunal.

(e) The Borrower is in compliance in all material respects with all requirements and conditions of all Material Contracts and related documents, and no event has occurred and is continuing under the provisions of any Material Contract that with the lapse of time or the giving of notice, or both, would constitute an event of default by the Borrower thereunder.

(f) The execution and delivery of the Operative Documents to which it is a party and the performance by the Borrower of its obligations thereunder do not and will not conflict with, or constitute a breach or result in a violation of, the articles of incorporation or bylaws of the Borrower, or to the best of its knowledge, any agreement or other instrument to which the Borrower is a party or by which it is bound or any constitutional or statutory provision or order, rule, regulation, decree or ordinance of any court, government or governmental agency having jurisdiction over the Borrower or any of its property.

(g) To the best of its knowledge, the Borrower has obtained all consents, approvals, authorizations and orders of any governmental or regulatory authority that (1) are required to be obtained by the Borrower as a condition precedent to the issuance of the Note or the execution and delivery of the Operative Documents, (2) are required for the performance by the Borrower of its obligations thereunder or in connection with the Tax Certificate or (3) are required for the acquisition, construction and equipping of the Project, or, if such permits are not yet obtainable, has no reason to believe it will not be able to obtain such permits when required.

(h) The most recent audited consolidated financial statements of the Borrower and the Foundation, copies of which have been furnished to the Lender, accurately reflect the consolidated financial condition of the Borrower and the Foundation and their results of operations for the periods provided in such audited financial statements. There has been no change which would reasonably be expected to have a Material Adverse Effect on the financial condition of the Borrower and the Foundation since the date of the most recent of such financial statements.

(i) The Borrower is in compliance in all material respects with all Environmental Laws to which it is subject and will continue to maintain such compliance.

(j) The Borrower has filed all federal, state and local tax returns which are required to be filed by it and has paid or caused to be paid all taxes as shown on such returns or on any assessment received by it, to the extent that such taxes have become due, and no controversy in respect of additional taxes, state or federal, of the Borrower is pending or, to the knowledge of the Borrower, threatened which has not heretofore been disclosed in writing to the Lender and which, if adversely determined, would have a Material Adverse Effect on the financial condition or operations of the Borrower.

(k) No representation or warranty of the Borrower set forth in the Operative Documents nor any information (financial or otherwise) furnished by or on behalf of the Borrower in connection with the negotiation of the sale of the Bond contains any untrue statement of a material fact or omits a material fact necessary to make the statements contained therein not misleading.

(l) (i) the Premises are properly zoned for the intended use for the Project, and (ii) the use and operation of the Project complies with the uses permitted by applicable zoning regulations.

(m) The Borrower has not taken any action and will not take or omit to take any action which would impair the exclusion of interest on the Bond from federal income taxation.

(n) All of the representations, warranties and covenants of the Borrower contained in the Tax Certificate are hereby reaffirmed and incorporated herein by this reference.

(o) The Borrower (a) is not an “investment company” or “controlled” by an “investment company”, as such terms are defined in, or subject to regulation under, the Investment Company Act of 1940, as amended, and (b) is not otherwise subject to any other regulatory scheme limiting its ability to incur debt or requiring any approval or consent from, or registration or filing with, any Governmental Authority in connection therewith.

(p) No proceeds of the Bond will be used directly or indirectly for “purchasing” or “carrying” any “margin stock” with the respective meanings of each of such terms under Regulation U as now and from time to time hereafter in effect or for any purpose that violates the

provisions of the applicable margin regulations promulgated under the Securities Exchange Act of 1934. The Borrower is not engaged in the business of extending credit for the purpose of purchasing or carrying “margin stock”.

(q) The Borrower has all material licenses, accreditations, registrations, permits, and approvals which are needed or required by law to conduct its operations as presently conducted. Upon the request of the Holder, the Borrower will deliver to the Holder an accurate list and summary description of all such licenses, accreditations, registrations, permits and approvals held by the Borrower relating to its operations.

(r) To the knowledge of Borrower, the operations of Borrower are in compliance in all material respects with all material statutes, rules, regulations and requirements of the governmental authorities having jurisdiction over the Borrower and its operations.

(s) The Borrower knows of no reason why the Borrower will not be able to maintain after the date hereof all material licenses, permits, approvals, registrations, contracts, consents, franchises, qualifications, and other authorizations necessary or appropriate to conduct the business of the Borrower in all material respects as now conducted and presently planned to be conducted.

(t) To the knowledge of the Borrower, there is no threatened employee strike, work stoppage or labor dispute with any labor organization pertaining to its operations. To the knowledge of the Borrower, no labor organization claims to represent any persons who are employed by the Borrower. There are no unfair labor practice charges pending against the Borrower at the National Labor Relations Board. The Borrower is in compliance in all material respects with all federal and state laws respecting employment and employment practices, terms and conditions of employment, and wages and hours. The Borrower has complied in all material respects with all requirements of the Immigration and Reform and Control Act of 1986.

(u) The Borrower is in compliance in all material respects with ERISA to the extent applicable to it and has received no notice to the contrary from the PBGC or any other Governmental Authority. No condition exists or event or transaction has occurred with respect to any Plan that could reasonably be expected to result in the incurrence by the Borrower of any material liability, fine or penalty.

(v) The Borrower does not have any Subsidiaries; and does not have any affiliates other than the Foundation which Borrower established in 2023 to support Borrower’s education training and employment services.

(w) The Borrower (i) is not a person whose property or interest in property is blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)), (ii) does not engage in any dealings or transactions prohibited by Section 2 of such executive order, or is otherwise associated with any such person in any manner violative of Section 2, or (iii) is not a person on the list of Specially Designated Nationals and Blocked Persons or subject to the limitations or prohibitions under any other U.S. Department of Treasury’s Office of Foreign Assets Control regulation or executive order.



(x) The Borrower is in compliance, in all material respects, with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, and (ii) the Uniting And Strengthening America By Providing Appropriate Tools Required To Intercept And Obstruct Terrorism (USA Patriot Act of 2001). No part of the proceeds of the Bond will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

(y) The Borrower does not have any Indebtedness other than: (i) as reflected in the consolidated audited financial statements of the Borrower and the Foundation for the period ending December 31, 2023, (ii) Indebtedness disclosed on an interim unaudited financial statement of Borrower delivered to Lender prior to the Closing, or (iii) liabilities incurred in the ordinary course of Borrower's business since the date of an interim financial statement provided to Lender. None of the Indebtedness is secured other than as reflected in such audited financial statements or interim unaudited financial statements.

### **Section 2.3 Representations of the Lender.**

The Lender is purchasing the Bond for its own account, and not with a view to or in connection with any distribution, and the Lender does not intend to resell the Bond or any portion of the Bond, except as permitted by law and subject to applicable securities laws and regulations thereunder.

## **ARTICLE III ISSUANCE OF THE BOND**

**Section 3.1 Sale and Purchase of Bond.** In reliance upon the representations, warranties and agreements herein contained, and subject to the conditions herein set forth (a) the Issuer agrees to issue and sell the Bond to the Lender for a maximum purchase price of \$5,400,000, such amount to be paid through and shall be equal to the aggregate amount of Advances of proceeds to the Borrower subject to the conditions set out in Article VII hereof; (b) the Issuer also agrees to lend the Borrower the proceeds of the Bond, to enter into this Agreement and to pledge the Note, endorsed without recourse to the order of the Lender; (c) the Lender agrees to purchase the Bond from the Issuer; and (d) the Borrower agrees to enter into this Agreement, the Note and the other Operative Documents to which it is a party, and to consent to the pledge of the Note, endorsed without recourse by the Issuer, to the order of the Lender as security for the Bond.

**Section 3.2 Conditions Precedent To Closing and Delivery of Bond.** The Issuer shall issue and sell the Bond, and the Lender shall accept delivery of the Bond, only upon delivery to the Lender, in form and substance satisfactory to the Lender, of the following:

- (a) Executed copies of the Operative Documents and the Tax Certificate;
- (b) Evidence of the due authorization, execution and delivery of the Operative Documents by the parties thereto;
- (c) Original policies or certificates, as determined by and satisfactory to the Lender, with respect to the insurance required hereunder;

(d) Evidence of the completion and arrangements for filing of Internal Revenue Service Form 8038 with respect to the issuance of the Bond;

(e) A favorable opinion of counsel for the Borrower as to such matters as the Lender may reasonably request;

(f) A favorable opinion of counsel for the Issuer as to such matters as the Lender may reasonably request;

(g) A favorable opinion of Bond Counsel as to such matters as the Lender may reasonably request, including that interest on the Bond will be excluded from gross income for Federal and State income tax purposes;

(h) A certificate of the Borrower certifying that after giving effect to the financing described in this Agreement, (x) no Default or Event of Default exists, (y) all representations and warranties of Borrower set forth in the Operative Documents are true and correct in all material respects and (z) since the date of the financial statements of Borrower delivered at Closing pursuant to this Agreement, there shall have been no change which has had or could reasonably be expected to have a Material Adverse Effect, and having as attachments true and correct copies of its resolution authorizing the financing described in this Agreement, its articles of incorporation, bylaws, Internal Revenue Service determination letter regarding its status under Section 501(c)(3) of the Code and a Certificate of Existence issued by the Secretary of State of the State;

(i) A certificate of the Issuer having as attachments true and correct copies of its articles of incorporation, bylaws and a Certificate of Existence issued by the Secretary of State of the State;

(j) A copy of the Title Policy obtained by the Borrower in connection with its purchase of the Premises reflecting no Liens thereon and otherwise acceptable to Lender plus a title report of recent date with respect to the Premises reflecting no Liens thereon and otherwise acceptable to Lender;

(k) Project Budget;

(l) Project Timeline; and

(m) Such other documentation, certificates and opinions as may be reasonably required by the Lender or Bond Counsel.

### **Section 3.3 Bond to be Issued in Registered Form; Registration and Transfer.**

(a) The Bond shall be issuable as a fully registered Bond without coupons. The Bond shall be substantially in the form attached hereto as Exhibit A, with such appropriate variations, omissions and insertions as are permitted or required by this Agreement, and may have endorsed thereon such legends or text as maybe necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirements of law with respect thereto.

(b) The Lender is hereby appointed as the registrar for the Bond (the "Bond Registrar") and as such shall keep books for the registration and for the registration of transfer of the Bond as provided in this Agreement (the "Bond Registration Books"). The transfer of the Bond may be

registered upon the Bond Registration Books only upon surrender thereof to the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon such registration of transfer, the Issuer shall execute and deliver at the earliest practicable time in exchange for such Bond a new Bond registered in the name of the transferee, in an aggregate principal amount equal to the principal amount of such Bond and maturing in the same principal installments and bearing interest at the same rate.

(c) The Bond surrendered in any exchange or registration of transfer shall forthwith be cancelled by the Bond Registrar. The Bond Registrar shall not be required to make any registration of transfer of the Bond during the fifteen (15) days immediately preceding an interest payment date on the Bond or, in the case of any proposed redemption of the Bond, after any such Bond or any portion thereof has been called for redemption.

(d) The person in whose name the Bond shall be registered upon the Bond Registration Books shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of and interest on such Bond shall be made only to the registered owner thereof or his registered assigns. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

(e) Upon any registration of transfer of the Bond or of any interest therein, the transferee or any subsequent transferee, if the transfer to it in all respects complies with the requirements of this Section, and if it is duly registered as owner as herein provided, shall be deemed the Holder for purposes of this Agreement and shall succeed to the rights and be bound by the obligations of the Lender hereunder, including without limitation the provisions of this Section relating to transfer of the Bond. Immediately upon any registration of transfer of the Bond or of any interest therein, the new Holder shall give written notice of such transfer to the Borrower.

(f) Principal and interest shall be payable to the Holder of record on the principal or interest payment date for such payment.

(g) The Lender shall serve as Bond Registrar as long as the Lender holds the Bond. If the Lender transfers the Bond, the transferee shall agree to act as Bond Registrar as a condition of such transfer.

#### **ARTICLE IV TERMS OF THE BOND**

##### **Section 4.1 Interest Rate.**

(a) Tax Exempt Rate. Interest shall accrue on the outstanding principal amount of the Bond, and shall be calculated at a variable rate equal to the Tax-Exempt Rate and calculated on the basis of actual number of days lapsed for a year consisting 360 days and using the interest calculation rule of actual/360.

(b) Taxable Rate. Notwithstanding the foregoing, upon the occurrence of a Determination of Taxability, then, from and after the Date of Taxability, the interest rate used to calculate interest on the Bond shall be the Taxable Rate. The Holder shall determine the Taxable Rate upon the occurrence of a Determination of Taxability and such determination of the Taxable Rate (absent manifest error) shall be conclusive and binding upon the Issuer, the Borrower and the Holder.

(c) Default Rate. Notwithstanding the foregoing, from and after the occurrence of an Event of Default, until such time as the Event of Default has been remedied or otherwise waived by the Holder, the Bond shall bear interest at the Default Rate. To the extent permitted by law, interest shall accrue on any overdue payment of interest or principal at the Default Rate.

(d) Maximum Rate. Anything herein to the contrary notwithstanding, in no event will the Bond or the Note bear interest at a rate in excess of the Highest Lawful Rate.

#### **Section 4.2 Repayment of Principal and Interest.**

(a) Commencing \_\_\_\_\_ 1, 2024 and continuing on the first calendar day of each month thereafter, accrued interest on the outstanding principal amount of the Bond shall be due and payable to the Lender monthly in arrears.

(b) Commencing \_\_\_\_\_ 1, 2025 and continuing on the first calendar day of each month thereafter, principal payments on the Bond shall be due and payable to the Lender in an amount sufficient to fully amortize the outstanding principal thereof in 168 substantially equal monthly payments.

(c) The entire outstanding principal balance of the Bond plus all accrued and unpaid interest shall be due and payable in full on the Maturity Date.

#### **Section 4.3 Optional Prepayment.**

(a) The Bond is subject to prepayment, in whole or in part, without penalty, at any time, at the option of the Borrower, at a price of par plus accrued interest. The Borrower is hereby granted, and shall have the option to prepay, at any time, the unpaid principal of the Note in whole or in part at the same price and on the same conditions as prepayment of the Bond.

(b) To exercise the redemption and prepayment option granted in this Section, the Borrower shall give written notice to the Issuer and the Holder which shall specify therein (i) the date of the intended prepayment of the Note and the Bond, which shall not be less than 15 nor more than 60 days from the date the notice is mailed and (ii) the principal amount of the Bond and the Note to be prepaid.

(c) Any partial prepayment of the Bond and the Note shall be applied to unpaid installments of principal in inverse order of maturity.

### **ARTICLE V LOAN OF PROCEEDS TO BORROWER; ADDITIONAL PAYMENTS**

#### **Section 5.1 Loan by the Issuer; Repayment of Loan.**

(a) The Issuer agrees, upon the terms and conditions contained in this Agreement, to lend to the Borrower, in one or more Advances during the Draw Period, the proceeds received by the Issuer from the sale of the Bond. Such loan shall be a non-revolving loan; amounts paid may not be reborrowed. Advances shall be made by the Lender to or on behalf of the Borrower as provided in Article VII hereof.

(b) Concurrent with the issuance of the Bond, to evidence its obligations to repay the Bond, the Borrower shall deliver the Note to the Issuer for assignment to the Lender as security for the Payment of the Bond. The Issuer hereby assigns the Note to the Lender without recourse and shall also execute the form of assignment affixed to the Note.

**Section 5.2 Place, Time and Application of Payments.**

(a) The Borrower shall make all payments required hereunder and under the Bond, for the account of the Issuer, as and when the same become due and shall promptly pay to the Holder all other amounts necessary to pay principal of and interest on the Bond, including any other payments required by the Bond, as and when the same become due (whether at maturity, by acceleration or otherwise), on the dates and in the amounts set forth herein and in the Bond.

(b) All payments by the Borrower to the Holder shall be made in lawful currency of the United States of America and in immediately available funds to the Holder at such place or by such method as shall be specified by the Holder by notice to the Borrower; provided, nothing herein shall be construed to require payment of any amount in advance of the due date thereof.

(c) Any amount at any time paid to the Holder as the payment of principal of or interest on the Bond as the same become due shall be credited against the Borrower's obligation hereunder and under the Note as of the date such payment is received (but subject to collection of any instrument, draft, check or order for payment received by the Holder).

(d) All amounts payable by the Borrower to the Holder hereunder which are due on a day which is not a Business Day shall be payable on the next succeeding Business Day, and any interest payable thereon shall be payable for such extended time at the specified rate.

**Section 5.3 No Set Off.** The obligation of the Borrower to make the payments required by the Note shall be absolute and unconditional. The Borrower will pay without abatement, diminution or deduction (whether for taxes or otherwise) all such amounts regardless of any cause or circumstance whatsoever including, without limitation, any defense, set off, recoupment or counterclaim that the Borrower may have or assert against the Issuer, the Lender, any Holder or any other Person.

**Section 5.4 Prepayments.** The Borrower shall have the option to prepay the Note, in whole or in part, as set forth in Section 4.3 hereof.

**Section 5.5 Credits Against the Note.** To the extent that principal of or interest on the Bond shall be paid, there shall be credited against the unpaid principal of or interest on the Note, as the case may be, an amount equal to the principal of or interest on the Bond so paid. If the principal of and interest on and other amounts payable under the Bond shall have been paid sufficiently that Payment of the Bond shall have occurred, then the Note, *ipso facto*, shall be deemed to have been paid in full, the Borrower's obligations thereon shall be discharged (with the exception of the obligation of the Borrower to make certain payments which may subsequently arise as a result of a Determination of Taxability which shall survive notwithstanding Payment of the Bond) and the Note shall be cancelled and surrendered to the Borrower.

**Section 5.6 Interest Rate Adjustments; Additional Payments.**

(a) Determination of Taxability.

(i) In the event of a Determination of Taxability, and within thirty (30) days of demand of the Holder or any prior Holder, the Borrower shall pay to such Holder or

prior Holder an amount by which (i) the interest which would have accrued on the Bond at the Taxable Rate during the period beginning on the Date of Taxability and ending on the earlier to occur of the date of conversion to the Taxable Rate or the date of payment in full and retirement of the Bond, exceeds (ii) the interest actually paid on the Bond for such period; and all interest, penalties, additions to federal income tax, costs, expenses, attorneys' fees, and other losses which shall have been paid or are payable by the Holder as a result of the failure to include interest on the Bond in the gross income of the Holder for federal income tax purposes.

(ii) The Holder shall, if requested by the Borrower, have an attorney in fact, qualified to practice before the Internal Revenue Service, designated by the Borrower for the purpose of appealing or challenging any Event of Taxability; provided, however, the Borrower provides indemnity reasonably satisfactory to the Holder to indemnify it against any additional tax liability, penalties or interest that may result from any such appeal. All reasonable legal fees, costs and expenses of such appeal shall be paid by the Borrower. In the event a final judgment or order shall have been entered within 180 days of the Event of Taxability finding, as a final determination, that no Event of Taxability has indeed occurred, the Holder shall reimburse to the Borrower all supplemental interest that has been paid on the Bond, and no additional supplemental interest shall be payable unless and until an Event of Taxability shall subsequently occur. Notwithstanding anything in this subsection to the contrary, the right of the Borrower to challenge any Event of Taxability shall terminate if no such final judgment or order shall have been entered within 180 days after the occurrence of the Event of Taxability, unless the Holder shall otherwise agree, and after the expiration of such 180 day period without the entry of a final judgment or order, the Bond shall immediately bear interest at the Taxable Rate and Borrower shall be required to pay to the Holder the amount specified in Section 5.6(a)(i) hereof.

(iii) The obligation of the Borrower contained in this Section with respect to the payment of amounts required to be paid in the event of a Determination of Taxability shall survive the termination of this Agreement and the payment in full of the Note or the Bond.

(iv) The Lender shall, upon written request, provide the Borrower and the Issuer with a written statement explaining the calculation of the Taxable Rate, which statement shall, in the absence of manifest error, be conclusive and binding on the Borrower and the Issuer.

(b) Reserved.

(c) Late Fee. The Borrower also agrees to pay the Holder a late fee on any payments past due for fifteen (15) or more days in an amount equal to two percent (2%) of the amount of payment past due. When any payment is past due for fifteen (15) or more days, subsequent payments shall first be applied to past due balances. This provision for late charges shall not be deemed to extend the time for payment or be a "grace period" or "cure period" that gives the Issuer or the Borrower a right to cure such default. Imposition of late charges is not contingent upon the giving of any notice or lapse of any cure period.

(d) Change in Law.

(i) If any Change in Law shall either (i) impose, modify or deem applicable any reserve, special deposit or similar requirement against the Bond or (ii) impose on the

Holder any other condition relating, directly or indirectly, to this Agreement, and the result of any event referred to in the preceding clause (i) or (ii) shall be to increase the cost to the Holder of owning the Bond (including, without limitation, any such change that results in the Bond becoming subject to the federal alternative minimum tax), then, within thirty (30) days of demand by the Holder, the Borrower hereby agrees to pay to the Holder, from time to time as specified by the Holder, such additional amounts to compensate the Holder for such increased cost.

(ii) If the Holder shall have determined that any Change in Law regarding capital adequacy, or compliance by the Holder with any request or directive regarding capital adequacy (whether or not having the force of law) of any Governmental Authority, has or would have the effect of reducing the rate of return on the Holder's capital with respect to the Bond or as a consequence of its ownership of the Bond, to a level below that which the Holder could have achieved but for such Change in Law or compliance (taking into consideration the Holder's policies with respect to capital adequacy) by an amount deemed by the Holder to be material, then from time to time, within thirty (30) days of demand by the Holder, the Borrower hereby agrees to pay the Holder such additional amount or amounts as will compensate the Holder for such reduction. Notwithstanding any other provision hereof, the Bond and the Note may, at the option of the Borrower, immediately be prepaid at par, plus accrued interest, plus such additional amount as shall be required to make Lender whole as a result of the Change in Law, following Lender's demand for additional payment.

The Holder will demand any additional amount under subsection (i) or (ii) of this Section 5.6(d) by delivering to Borrower a certificate setting forth (i) a description of the Change in Law resulting in the increased cost, (ii) the amount necessary to compensate Holder for such Change in Law, and (iii) the Holder's calculations supporting the determination of the additional payment required. In addition, the Holder shall provide to the Borrower such other information with respect to the Change in Law and the calculation of the amount demanded from the Borrower as the Borrower shall reasonably request. The certificate of the Holder claiming compensation under this Section shall be conclusive absent manifest error. In determining any such amount, the Holder may use any reasonable averaging and attribution methods. Notwithstanding the foregoing, (i) the Holder will not claim costs or losses for any period that is (1) prior to the effective date of the Change in Law except to the extent the Change in Law has retroactive application or (2) more than twelve (12) months prior to the date of the delivery of the certificate to the Borrower contemplated in this paragraph and (ii) any claim by the Holder for costs or losses due to a Change in Law shall be made on a basis substantially consistent with claims made by the Holder with respect to borrowers similarly situated, as determined by the Holder in good faith.

## ARTICLE VI ASSIGNMENT OF CERTAIN ISSUER RIGHTS

**Section 6.1 Assignment of Loan Agreement and Note.** In order to provide security for the payment of principal of and interest on the Bond and all amounts now or hereafter payable under this Agreement, the Issuer hereby pledges, assigns, transfers and sets over to the Holder all of the Issuer's right, title and interest (including beneficial interest) in and to this Agreement and the Note, including, but not limited to, all payments of principal and interest due and to become due from the Borrower under the Note and this Agreement, whether made at their respective due dates or as prepayments permitted or required by this Agreement, together with full power and authority, in the name of the Issuer or otherwise, to demand, receive, enforce, collect or receipt for any or all of the foregoing, to endorse or execute any checks or other instruments or orders, to file any claims and to take any action which the Holder may deem necessary or advisable in connection therewith, and the Issuer hereby irrevocably appoints the Holder attorney in fact of

the Issuer for such purposes, which appointment is coupled with an interest and is irrevocable; provided, however, that the Issuer shall continue to have, together with the Holder, all Reserved Rights.

**Section 6.2 Certain Rights of the Lender.**

(a) The Lender or any subsequent Holder may take or release other security, may release any party primarily or secondarily liable for any indebtedness secured hereby, may grant extensions, renewals or indulgences with respect to such indebtedness, and may apply any other security therefor held by it to the satisfaction of such indebtedness without prejudice to any of its rights hereunder. Nothing herein contained and no act done or omitted by the Holder pursuant to the powers and rights granted it herein shall be deemed to be a waiver by the Holder of its rights and remedies under the Bond or this Agreement. The right of the Holder to collect such indebtedness and to enforce any other security therefor held by it may be exercised by the Holder either prior to, simultaneously with, or subsequent to any action taken by it hereunder.

(b) Neither the assignment of the Issuer's right hereunder nor any action or inaction on the part of the Lender or any subsequent Holder shall, without Lender's or any subsequent Holder's written consent, constitute an assumption on its part of any obligation of any other person under this Agreement or the Note, nor shall the Lender or any subsequent Holder have any obligation to make any payment to be made by the Issuer hereunder or under the Note or the Bond, or to present or file any claim, or to take any other action to collect or enforce the payment of any amounts which have been assigned to the Lender or any subsequent Holder or to which it may be entitled under this assignment at any time or times. No action or inaction on the part of the Issuer shall adversely affect or limit in any way the rights of the Lender or any subsequent Holder under this assignment or under this Agreement or the Note.

**Section 6.3 No Further Assignment.** Except as set forth in this Article, the Issuer agrees that during the term of this Agreement it will not sell, assign, transfer or convey any of its interest in this Agreement or the Note.

**Section 6.4 Application of Funds.**

(a) If no Event of Default shall have occurred, the Borrower and the Issuer agree that all funds assigned hereunder shall be paid and applied as follows:

(i) each payment to be made pursuant to the Note shall be paid by the Borrower directly to the Holder on or before the due date of such payment under this Agreement, and shall be applied in accordance with the terms hereof and of the Bond;

(ii) all amounts prepaid by the Borrower pursuant to Section 4.3 hereof shall be paid to the Holder and applied to the redemption of the Bond as provided in the Bond; and

(iii) all other funds assigned hereunder shall be applied as provided in this Agreement and the Bond.

(b) If any "Event of Default" under this Agreement shall have occurred, all funds covered by this Agreement shall be paid to the Holder who shall hold all funds received and shall apply the same in the manner specified in Section 9.3 of this Agreement and in the Bond.



**ARTICLE VII**  
**ADVANCE OF PROCEEDS TO THE BORROWER**

**Section 7.1 General.** The Lender will purchase the Bond and extend the Loan to the Borrower, on behalf of the Issuer, by making the initial Advance on the Closing Date in accordance with Section 7.2 (if any). In addition Lender hereby commits to advance, subject to the terms and conditions of this Agreement, an amount equal to the balance of the Loan during the Draw Period to or on behalf of the Borrower. Subject to such terms and conditions, Lender agrees to make (on behalf of the Issuer) Disbursements to Borrower from the Project Fund in accordance with the procedures set forth in this Article VII.

**Section 7.2 Closing Date Advance of Proceeds.** The Lender will make an Advance in the amount of \$ \_\_\_\_\_ to the Borrower on the Closing Date to be applied as follows:

(a) \$ \_\_\_\_\_ will be advanced to the Borrower to be used to pay legal and fiscal fees and expenses incurred in connection with the authorization and issuance of the Bond, the preparation of this Agreement and all other documents in connection therewith; and

(b) \$ \_\_\_\_\_ will be advanced to the Borrower to pay or reimburse Borrower for costs previously incurred for the Project.

Any amounts to be disbursed pursuant to this Section 7.2 shall be subject to receipt of invoices and such other documentation as Lender may require to approve the same.

**Section 7.3 Additional Advances of Proceeds** Pursuant to this Section 7.3, the Lender shall make Advances from time to time until the expiration of the Draw Period into the Project Fund, on a non-revolving line of credit basis, in an amount not exceeding the par amount of the Bond, in accordance with Draw Requests submitted by the Borrower and approved by the Lender.

(a) Draw Requests.

(i) At least ten (10) Business Days before the requested date of each Advance of the Bond (other than the initial Advance which shall be made on the Closing Date in accordance with the Closing Statement), the Borrower shall deliver a Draw Request to the Lender, together with such information (such as invoices and statements of accounts, etc.) as the Lender may reasonably require to assure that amounts requisitioned are to be used to reimburse the Borrower for costs previously paid by the Borrower for the Project or to pay costs incurred by the Borrower for the Project which are due and owing, together with an AIA Application for Payment Form G702 and G703 and such schedules, affidavits, releases, waivers, statements, invoices, bills and other documents, certificates and information satisfactory to Lender as Lender shall request supporting such use of funds.

(ii) The Lender shall, upon the satisfaction, as determined by Lender in its good faith business judgment, of all applicable conditions of this Agreement and the other Operative Documents, be required to make the requested Advance to the Borrower on a Business Day within ten (10) Business Days after receipt of such Draw Request and supporting materials.

(b) Notice, Frequency and Place of Advance. Unless otherwise requested by the Borrower and agreed to by the Lender: (i) Advances shall be made no more frequently than monthly, and (ii) all disbursements shall be made by Lender into the Project Fund.

(c) **Advances Do Not Constitute a Waiver.** No Advance shall constitute a waiver of any of the conditions precedent to the Lender's obligations to make further Advances nor, in the event the Borrower is unable to satisfy any such conditions, shall any such waiver have the effect of precluding the Lender from thereafter declaring such inability to be an Event of Default.

(d) **Draw Request Constitutes Certification.** Each Draw Request, and the Borrower's acceptance of any Advance, shall be deemed to ratify and confirm, as of the date of the requisition and the Advance, respectively, that (i) all representations and warranties of the Borrower herein remain true and correct in all material respects unless they specifically relate to an earlier date; (ii) there is no uncured Event of Default existing hereunder; (iii) all conditions to the Advance are satisfied; (iv) the AIA Document G702 and G703 forms (or other similar forms approved by Lender in its good faith business judgment) executed by the general contractor, together with all schedules, affidavits, releases, waivers, statements, invoices, bills, and other documents, certificates and information submitted for the requisition are complete and correct, and in all respects what they purport and appear to be for the amount and period applicable to the requisition; (v) all Advances previously made to Borrower were disbursed, and the proceeds of the Advance requested in the Draw Request will be disbursed, for the payment of costs and expenses specified in the Draw Request and for no other purpose; (vi) after the Advance, all obligations for work and other costs heretofore incurred by Borrower in connection with the construction of the Project and which are due and payable will be fully paid and satisfied; (vii) funds in the Project Fund, plus the undisbursed Bond proceeds available hereunder, plus the portions of the total cost of the Project to be paid by the Borrower from its funds, is or will be sufficient to pay the unpaid total cost of the Project; and (viii) that there has been no Material Adverse Effect since the date of the last Advance.

**Section 7.4 Notice, Frequency and Place of Disbursement.** Unless otherwise requested by the Borrower and agreed to by the Lender: (a) disbursements shall be made no more frequently than monthly, (b) all disbursements shall be made at the payment office of the Lender into the Project Fund in immediately available funds following notice to Lender and provision of acceptable documentation as provided in Section 7.3 hereof.

**Section 7.5 Disbursements to Contractor.** During the continuance of an Event of Default (but only during such continuance), the Lender may, at its option, make Disbursements directly to any contractor, or subcontractor, or any party furnishing labor or materials in connection with the Project for the account of Borrower, and the sums so paid or advanced shall, for the purposes of this Agreement, be deemed to have been advanced to Borrower pursuant to the provisions hereof. The execution of this Agreement by Borrower hereby constitutes an authorization to make Disbursements as set forth in this Section.

## **ARTICLE VIII BORROWER'S COVENANTS**

**Section 8.1 Affirmative Covenants.** So long as any of the Borrower's obligations hereunder or under the Operative Documents (except any indemnification and other obligations of the Borrower under the Operative Documents which survive the payment in full of the Loan) are unpaid or remain outstanding, the Borrower will comply with the following affirmative covenants, unless the Holder shall otherwise consent in writing:

(a) **Use of Proceeds.** The Borrower will use the proceeds of the Bond solely for the purposes described in this Agreement.

(b) Existence; Conduct of Business; 501(c)(3) Status. The Borrower will do or cause to be done all things necessary to preserve, renew and maintain in full force and effect its legal existence and good standing in the State and its respective rights, accreditations, licenses, permits, privileges, franchises, patents, copyrights, trademarks and trade names material to the conduct of its business and will continue to engage in the same business as presently conducted or such other businesses that are reasonably related thereto. The Borrower shall maintain its status at all times as an organization described in Section 501(c)(3) of the Code that is not a private foundation within the meaning of Section 509(a) of the Code. The Borrower will cause the operations of the Foundation to be conducted exclusively for the benefit of the Borrower and not as a “private foundation” as defined in Section 509(a) of the Code.

(c) Financial and Other Reports. The Borrower will furnish to the Holder and, if the Issuer requests, to the Issuer, the following:

(i) as soon as available and in any event within 120 days after the end of each fiscal year, consolidated financial statements of the Borrower, including, but not limited to, a statement of activities, statement of cash flows and statement of financial position, as of the end of Borrower’s fiscal year, audited by a certified public accountant, which financial statements shall set forth in comparative form the figures from the previous fiscal year, all in reasonable detail;

(ii) as soon as available and in any event within 60 days after the end of each calendar quarter (including the fourth quarter of the year), with unaudited financial statements of Borrower;

(iii) within 120 days after the end of each fiscal year, a certification of the chief executive officer or the chief financial officer of the Borrower that the Borrower is in compliance with the financial covenant set forth in Section 8.3 hereof, together with calculations in the form attached hereto as **Exhibit D**, on a calendar annual basis, showing evidence thereof;

(iv) on or before the earlier of (a) 60 days after the end of each fiscal year of the Borrower and (b) 60 days after the adoption, the Borrower’s annual and capital budgets, and any amendments thereto promptly upon adoption thereof;

(v) notice of the filing, commencement of, or any material development in, any action, suit or proceeding, or of any investigation by, or before, any arbitrator or Governmental Authority against or, to the knowledge of the Borrower, affecting the Borrower which, if adversely determined, could reasonably be expected to result in a Material Adverse Effect, promptly after the Borrower obtains knowledge thereof;

(vi) written notice of the occurrence of any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect, promptly after the Borrower obtains knowledge of such development;

(vii) written notification not later than five (5) Business Days after the Borrower actually knows of the loss by the Borrower of any accreditation or any license held by the Borrower the loss of which could reasonably be expected to result in a Material Adverse Effect;

(viii) from time to time, such additional information regarding the financial position, results of operations, business, or prospects, proposed or approved capital plans or major programmatic changes of the Borrower that have been approved by the Borrower as the Holder may reasonably request.

(d) Compliance with Other Agreements. The Borrower shall comply in all material respects with, or cause to be complied with in all material respects, all requirements and conditions of all Material Contracts and related documents, and insurance policies which relate to the Borrower and the Project.

(e) Inspection. The Borrower will, at any reasonable time and from time to time and upon reasonable prior notice and during normal business hours, permit the Holder and the agents or representatives of the Holder to examine and copy and make abstracts from the records and books of account of, and visit the properties of, the Borrower, and to discuss the affairs, finances and accounts of the Borrower with its management and its accountants. The Holder's inspection rights in this subsection are subject to applicable federal and state privacy laws and regulations, including laws and regulations relating to the privacy of medical records.

(f) Reportable Event under ERISA. Borrower shall provide to the Lender as soon as possible, and in any event within 30 days after Borrower or any of its Affiliates knows or has reason to know of the occurrence of any Reportable Event with respect to any Plan, a statement of a Borrower Representative describing such Reportable Event and the action, if any, which Borrower or such Affiliate proposes to take with respect thereto.

(g) Payment of Expenses. The Borrower will pay (1) the reasonable fees and expenses of the Issuer, counsel to the Issuer, the Holder, counsel to the Holder and Bond Counsel and all other costs, fees and expenses incidental to the financing hereunder, the issuance of the Bond and the costs of producing the documents referred to herein, and the fees of any Construction Consultant engaged or employed by Lender in connection with or in aid of the performance of Lender's functions under this Agreement, (2) all taxes of any kind whatsoever lawfully assessed, levied or imposed with respect to the filings or recordings pursuant to the Operative Documents and the transactions contemplated by this Agreement, and (3) all costs of administration, amendment or enforcement of any of the Operative Documents.

(h) Compliance with Laws. The Borrower shall observe and comply with all applicable laws, statutes, codes, acts, ordinances, regulations, permits, licenses and requirements of all any Governmental Authority applicable to its business and properties.

(i) Books and Records. The Borrower will keep proper books of record and account in which full, true and correct entries shall be made of all dealings and transactions in relation to its business and activities to the extent necessary to prepare the financial statements of the Borrower in conformity with GAAP.

(j) Insurance. The Borrower will maintain or cause to be maintained, with financially sound and reputable insurers, property insurance, public liability insurance, third party property damage insurance with respect to liabilities, losses or damage in respect of the assets, properties and businesses of the Borrower as may customarily be carried or maintained under similar circumstances by entities engaged in similar businesses. At the request of the Lender, Borrower will deliver forthwith a certificate executed by a duly authorized officer of Borrower, specifying the details of such insurance in effect. On the Closing Date and upon request during the term of this Agreement, the Holder shall be provided with evidence that Borrower has satisfied all of the

Holder's insurance requirements, including, without limitation, (i) a copy of Borrower's liability insurance policy for the Project evidencing insurance in an amount and with a company satisfactory to the Holder, naming the Holder as an additional insured, and (ii) evidence of builder's risk insurance on the ACORD 27 form, in form, substance and with coverages which are satisfactory to the Holder in an amount which adequately covers the replacement costs of all improvements to the Project, all materials used in connection therewith, and soft cost coverage acceptable to the Holder. All insurance shall be issued by companies authorized to transact business in Tennessee, having a minimum Best Rating of A-XI or better, and shall be otherwise consistent with industry norms. The Holder shall be named as mortgagee/loss payee on such insurance. The Holder shall also be provided with evidence that premiums for such insurance have been paid for the one-year period commencing on the Closing Date and for each one-year period thereafter.

(k) Damage or Destruction.

(i) If the Premises or any part thereof is damaged or destroyed by fire or other casualty, the Borrower shall, as promptly as practicable, repair, rebuild, restore or replace the property damaged or destroyed (herein referred to as the "Restoration Work"). If the Net Proceeds from insurance on the Premises available to pay the costs of such Restoration Work are not sufficient for such purpose, the Borrower shall complete the Restoration Work at its own expense.

(ii) Such Net Proceeds shall be payable to the Borrower and shall be applied by the Borrower to pay the costs of the Restoration Work.

(iii) If an Event of Default shall have occurred and be continuing (and not have been waived), then all Net Proceeds of insurance may be retained and applied by the Lender toward payment of all or part of the Bond and other obligations hereunder in such order as Lender may determine. Any excess proceeds after completion of the Restoration Work shall be paid to or at the direction the Borrower.

(l) Condemnation Awards. The Net Proceeds of any Condemnation Award shall be paid to Lender and shall be applied as provided in Section 8.1(k)(ii) or (iii), as applicable, with respect to the amount of such Net Proceeds. No such application shall cure or waive any default of the Borrower.

(m) Payment of Obligations. The Borrower will pay and discharge at or before maturity, all of its obligations and liabilities (including without limitation all tax liabilities and claims that could result in a statutory Lien) before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) the Borrower has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (c) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect.

(n) Compliance with Tax Certificate; Event of Taxability. The Borrower will comply with the covenants, requirements and agreements set forth in the Tax Certificate. The Borrower will give the Issuer and the Holder prompt written notice of any determination by the Borrower that an Event of Taxability has occurred.

(o) Environmental Matters. The Borrower will:

(i) Cause the Premises to remain free of all Hazardous Materials other than those maintained therein or thereon in material compliance with Environmental Laws. The Borrower will not cause or permit the Premises to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials except in material compliance with Environmental Laws.

(ii) Notify the Lender promptly if it receives any notice or obtains knowledge of any potential liability under any Environmental Law that would reasonably be expected to have a Material Adverse Effect.

(iii) In the event that Hazardous Materials unrelated to the Borrower's operations are discovered on or are brought onto the Premises, cause such Hazardous Materials to be removed and disposed of promptly to the extent such action is required pursuant to an enforceable order or directive of a governmental agency with jurisdiction over the Premises or to the extent necessary to avoid the Premises or the Borrower becoming subject to liability under any Environmental Law that would reasonably be expected to have a Material Adverse Effect.

(iv) Obtain any material permits, approvals, registrations or certificates (collectively "Environmental Permits") necessary under any applicable Environmental Law and will keep such Environmental Permits current and comply in all material respects with the requirements of all Environmental Permits and Environmental Laws in all jurisdictions in which Borrower operates, now or in the future, and will comply, in all material respects with all Environmental Laws that in the future become applicable to the Borrower or the business.

(v) Not place, or allow to be placed, any underground or aboveground storage tanks on the Premises except in compliance with applicable Environmental Laws.

(vi) Indemnify and hold the Lender and its officers, directors, agents, employees, affiliates and representatives harmless from and against any and all claims, demands, damages, losses, liens, liabilities, penalties, fines, lawsuits, actions, orders, judgments, investigations, regulatory proceedings and other proceedings, and all costs and expenses (including, but not limited to, attorney's and consultant's fees and expenses) (collectively, "Liabilities"), incurred in connection therewith, arising directly or indirectly from or out of, or in any way connected with (1) the presence or alleged presence of any Hazardous Materials or underground storage tanks in, on or under the Premises; (2) any cleanup, removal and/or remedial proceeding, investigation, order or other action undertaken or required pursuant to any Environmental Law; (3) any violation or alleged violation of any Environmental Law relating to the Premises or the use of the Premises, whether attributable to events occurring before or after the acquisition of the Premises by the Borrower; (4) any inaccuracy of the certifications, representations and warranties contained herein; or (5) any default by the Borrower in the performance or observance of the covenants and agreements of the Borrower contained herein. This indemnity shall survive the termination of this Agreement.

(p) Compliance with Legal Requirements. Borrower shall cause all construction to be performed in a good and workmanlike manner and in accordance with all legal requirements, ordinances and restrictions affecting the Premises. Borrower shall correct and require to be replaced any material or work that is defective, unworkmanlike, or not in substantial compliance with any legal requirement, ordinance or restriction.

**Section 8.2 Negative Covenants.** So long as any of the Borrower's obligations hereunder or under the Operative Documents (except any indemnification and other obligations of the Borrower under the Operative Documents which survive the payment in full of the Loan) are unpaid or remain outstanding, the Borrower will comply with the following negative covenants, unless the Holder shall otherwise consent in writing:

(a) Amendment to Organizational Documents. The Borrower will not amend, modify or waive any of its rights under its articles of incorporation, bylaws, or other organizational documents without prior written notice to Lender; provided that Borrower shall not amend, modify or waive any of its rights under its articles of incorporation, bylaws, or other organizational documents that could cause an Event of Taxability.

(b) Reserved.

(c) Liens and Agreements Restricting Liens. The Borrower (1) will not incur, create, assume or suffer to exist any Lien of any nature whatsoever on the Premises or the property described in the Negative Pledge Agreement other than:

(i) Liens securing the payment of taxes;

(ii) Deposits under workmen's compensation, unemployment insurance and Social Security laws, or to secure the performance of bids, tenders, contracts (other than for the repayment of borrowed money) or leases or to secure statutory obligations or surety or appeal bonds, or to secure indemnity, performance or other similar bonds in the ordinary course of business;

(iii) Liens imposed by law, such as carriers', warehousemen's or mechanics' liens, incurred in good faith in the ordinary course of business, and any Lien arising out of a judgment or award with respect to which an appeal is being prosecuted in good faith, a stay of execution pending such appeal having been secured;

(iv) Liens of customs and revenue authorities to secure payments of custom duties in connection with the importation of goods;

(v) Easements, rights-of-way, restrictions and other similar encumbrances that, in the aggregate, do not materially interfere with the occupation, use and enjoyment by the Borrower of the property or assets encumbered thereby in the normal course of its business or materially impair the value of the property subject thereto or which are otherwise shown on the Title Policy referenced in Section 3.2(j);

(vi) Liens, deposits or pledges to secure the performance of bids, tenders, contracts (other than contracts for the payment of money), leases (permitted under the terms of this Agreement), public or statutory obligations, surety, stay, appeal, indemnity, performance or other similar bonds, or other similar obligations arising in the ordinary course of business;

(vii) Liens in favor of the Lender or its affiliates; and

(viii) Existing Liens relating to existing Indebtedness;

and (2) will not enter into or become a party to any agreement with any person that in any way restricts or limits the ability of the Borrower to create, incur, assume or suffer to exist any Lien upon or with respect to the Premises.

(d) ERISA Restrictions. The Borrower will not:

(i) terminate, or permit any Affiliate to terminate, any Plan so as to result in any material (in the opinion of the Holder) liability of Borrower to the PBGC,

(ii) permit to exist any occurrence of any Reportable Event (as defined in Title IV of ERISA), or any other event or condition, which presents a material (in the opinion of the Holder) risk of such a termination by the PBGC of any Plan, or

(iii) institute any Plan.

(e) Accounting Changes. The Borrower will not make any significant change in accounting treatment or reporting practices (except as required by GAAP), or change the Fiscal year of the Borrower without providing written notice to Lender.

(f) Consolidation, Merger, Sale, Conveyance or Leases. The Borrower covenants that it will not merge or consolidate with, or sell, assign, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to, any Person, or acquire all or substantially all of the assets or the business of any Person or create any subsidiaries without the prior written consent of Lender which consent shall not be unreasonably withheld. The Borrower covenants that it will not lease the Premises as a whole nor shall it lease the Premises in part unless prior to entering into a lease for a portion of the Premises, the Holder receives confirmation from Bond Counsel that such proposed lease shall not adversely affect the tax-exempt status of the Bond.

(g) Sale of Assets. The Borrower will not sell, lease, assign, transfer or otherwise dispose of any of its now owned or hereafter acquired assets (including shares of stock, receivables and leasehold interests), except: (i) the sale of inventory in the ordinary course of business for cash or on open account or on terms of payment ordinarily extended to its customers; (ii) the sale or other disposition of surplus, obsolete or worn-out assets no longer used or useful in the conduct of its business; (iii) the sale or exchange of equipment if the purpose of such sale or exchange is to acquire replacement items of similar or upgraded equipment. Notwithstanding the foregoing, the sale by Borrower of all or substantially all of its assets shall be governed by Section 8.2(f) rather than this section; and (iv) transfers of financial assets to the Foundation so long as any such transfers will not cause the Borrower to fail to satisfy its financial covenants with Lender or otherwise cause an Event of Default hereunder.

(h) Guaranties. The Borrower will not assume, guarantee, endorse or otherwise be or become directly or contingently responsible or liable (including an agreement to purchase any obligation, stock, assets, goods or services, or to supply or advance any funds, assets, goods or services, or to maintain or cause such Person to maintain a minimum working capital or net worth, or otherwise to assure the creditors of any Person against loss) for obligations of any Person, except



guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business.

(i) Interest Rate Swaps. The Borrower will not enter into any interest rate swap agreements, interest rate cap agreements, interest rate collar agreements, interest rate insurance and other agreements or arrangements designed to provide protection against fluctuations in interest rates with any Person other than Lender.

(j) No Sectarian Use of Premises. The Borrower will not use the Premises or any part thereof for sectarian instruction or as place of religious worship or in connection with any part of the program of a school or department of divinity for any religious denomination or the training of ministers, priests, rabbis or other similar persons in the field of religion.

(k) Subsidiaries or Affiliates. Without the consent of Lender which shall not be unreasonably withheld, the Borrower will not acquire or create a Subsidiary or create or affiliate with any organization other than the Foundation.

**Section 8.3 Financial Covenants.** So long as any of the Borrower's obligations hereunder or under the Operative Documents (except any indemnification and other obligations of the Borrower under the Operative Documents which survive the payment in full of the Loan) are unpaid or remain outstanding, the Borrower will comply with the following financial covenants, unless the Holder shall otherwise consent in writing:

Fixed Charge Coverage Ratio.

(i) The Borrower will maintain a Fixed Charge Coverage Ratio of not less than 1.25 to 1.00, which such ratio will be tested annually based financial statements delivered to the Holder as required in Section 8.1(c)(1).

(ii) For purposes of this covenant, "Fixed Charge Coverage Ratio" shall mean the ratio of Funds Available for Debt Service to Fixed Charges.

(iii) For purposes of this covenant, the following terms shall have the following definitions:

"Fixed Charges" shall mean the prior year current portion of long term debt plus interest and rent expense for the immediately preceding Fiscal Year, excluding the Foundation's and any other affiliate of Borrower.

"Funds Available for Debt Service" shall mean (A) the increase (or decrease) in unrestricted net assets, plus (B) depreciation, amortization, interest and rent expense, plus or minus (C) unrealized gain/loss on investments, plus or minus (D) gain or loss on the sale of assets, excluding in the case of (A) through (D) above the Foundation's and any other affiliate of Borrower.

## ARTICLE IX EVENTS OF DEFAULT

**Section 9.1 Events of Default.** The term “Event of Default” shall mean any one or more of the following events:

(a) The failure by the Borrower to pay any payment of principal of or interest on the Bond or the Note, and such defaults shall continue for five (5) days after notice from Lender to Borrower;

(b) The occurrence of an event of default under any other Operative Document, and the same shall remain unremedied for a period of thirty (30) days after written notice, specifying such event of default and requesting that it be remedied, is given to the Borrower by the Holder;

(c) Any representation or warranty of the Borrower contained in this Agreement, in any other Operative Document, in the Tax Certificate or in any other document, instrument or certificate delivered pursuant hereto or in connection with the issuance and sale of the Bond shall have been false, misleading or incomplete in any material respect on the date as of which made;

(d) Failure by the Borrower to observe and perform any covenant, condition or agreement on the part of the Borrower under this Agreement (other than a covenant, condition or agreement that is specifically dealt with elsewhere in this Section) for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Borrower by the Holder;

(e) The Borrower shall (1) fail to pay any indebtedness for borrowed money (other than its obligations hereunder or under the Bond or the Note), or any interest or premium thereon, within five (5) days of the due date thereof (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), including any such indebtedness or obligation now or hereafter owed to the Holder, or (2) fail to perform or observe any term, covenant or condition on its part to be performed or observed under any agreement or instrument relating to any such indebtedness, within thirty (30) days of when required to be performed or observed, if the effect of such failure under (1) or (2) is to allow the holder of such indebtedness for borrowed money to accelerate the maturity of such indebtedness and any such indebtedness shall be declared to be due and payable, or required to be prepaid (other than by a regularly scheduled required prepayment), prior to the stated maturity thereof, so long as the aggregate principal amount of such indebtedness that would then become due or payable would equal or exceed \$250,000;

(f) The Borrower shall (i) commence a voluntary case or other proceeding or file any petition seeking liquidation, reorganization or other relief under any federal, state or foreign bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a custodian, trustee, receiver, liquidator or other similar official of it or any substantial part of its property, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (i) of this Section, (iii) apply for or consent to the appointment of a custodian, trustee, receiver, liquidator or other similar official for the Borrower or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, or (vi) take any action for the purpose of effecting any of the foregoing;

(g) An involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Borrower or its debts,

or any substantial part of its assets, under any federal, state or foreign bankruptcy, insolvency or other similar law now or hereafter in effect or (ii) the appointment of a custodian, trustee, receiver, liquidator or other similar official for the Borrower or for a substantial part of its assets, and in any such case, such proceeding or petition shall remain undismissed for a period of 180 days or an order or decree approving or ordering any of the foregoing shall be entered;

(h) One or more judgments, decrees or orders for the payment of money in excess of \$250,000 (such amount being determined by reducing the amount of such judgment, decree or order by the amount of insurance proceeds used to pay such judgment, decree or order), in the aggregate shall be rendered against the Borrower and such judgment(s), decree(s) or order(s) shall continue unsatisfied and in effect for a period of sixty (60) consecutive days without being vacated, discharged, satisfied or stayed or bonded pending appeal; or

(i) Any of the Operative Documents shall cease to be in full force and effect, or shall be declared null and void, or the validity or enforceability thereof shall be contested by the Borrower, or the Borrower shall deny it has any further liability or obligation under any of the Operative Documents.

**Section 9.2 Remedies of Holder.** Whenever any Event of Default referred to in Section 9.1 hereof shall have happened and shall not have been waived or remedied within the cure period provided above, if any, the Holder may take any one or more of the following remedial steps:

(a) By written notice declare all installments of principal repayable pursuant to the Note and the Bond for the remainder of the term thereof to be immediately due and payable, whereupon the same, together with accrued interest thereon as provided for in the Note and the Bond, shall become immediately due and payable without further presentment, demand, protest or any other notice whatsoever, all of which are hereby expressly waived by the Borrower; provided, however, that upon the occurrence of any event described in Section 9.1(f) or (g) the Note and the Bond shall become immediately due without demand or acceleration.

(b) Take whatever other action at law or in equity may appear necessary or desirable to collect the amounts payable pursuant to the Note and the Bond then due and thereafter to become due, or to enforce the performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement or under any of the other Operative Documents.

In the enforcement of the remedies provided in this Section, the Holder may treat all reasonable expenses of enforcement, including, without limitation, legal, accounting and advertising fees and expenses, as additional amounts payable by the Borrower then due and owing and the Borrower agrees to pay such additional amounts upon demand, the amount of such legal fees to be without regard to any statutory presumption.

**Section 9.3 Payments After Default; No Waiver.** Any amounts collected pursuant to action taken under Section 9.2 hereof shall be paid to the Holder and applied to the payment of, first, any costs, expenses and fees incurred by the Holder as a result of taking such action; second, any overdue interest on the Bond; third, any overdue principal of the Bond; fourth, the outstanding principal balance of the Bond; and fifth, if payment of the Bond shall have been made, all remaining moneys shall be paid as required by law.

**Section 9.4 No Remedy Exclusive.** No remedy herein conferred upon or reserved to the Holder is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing

upon default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

**Section 9.5 Enforcement of Reserved Rights.** Notwithstanding anything in this Agreement to the contrary, the Issuer shall have the right to independently enforce the Reserved Rights and shall not be required to obtain the consent of the Lender, any Holder, or any other person or entity in order to enforce any of the Reserved Rights.

## ARTICLE X LIMITATION OF LIABILITY; INDEMNIFICATION

**Section 10.1 Limitation of Issuer's Liability.** No covenant, agreement or obligation contained in any Operative Document shall be deemed to be a covenant, agreement or obligation of any past, present or future director, officer, employee or agent of the Issuer in his individual capacity, and neither the directors of the Issuer nor any officer, employee or agent thereof executing any Operative Document shall be liable personally on such Operative Document or be subject to any personal liability or accountability by reason of the issuance thereof. No director, officer, employee or agent of the Issuer shall incur any personal liability with respect to any other action taken by him pursuant to the Operative Documents or the Act or any of the transactions contemplated thereby provided he acts in good faith.

THE BOND SHALL NOT BE DEEMED TO CONSTITUTE A DEBT OR LIABILITY OF THE STATE OF TENNESSEE OR OF ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE LOCAL GOVERNMENT OR THE ISSUER, OR A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OF TENNESSEE OR OF ANY SUCH POLITICAL SUBDIVISION, INCLUDING THE LOCAL GOVERNMENT OR THE ISSUER, BUT SHALL BE PAYABLE SOLELY FROM THE FUNDS HEREIN PROVIDED THEREFOR FROM REVENUES. NEITHER THE STATE OF TENNESSEE, THE LOCAL GOVERNMENT NOR THE ISSUER SHALL BE OBLIGATED TO PAY THE SAME OR THE INTEREST THEREON EXCEPT FROM REVENUES AND RECEIPTS DERIVED BY ISSUER PURSUANT TO THIS AGREEMENT OR FROM PAYMENTS ON THE NOTE AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF TENNESSEE OR OF ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE BOND. THE ISSUANCE OF THE BOND SHALL NOT DIRECTLY, INDIRECTLY OR CONTINGENTLY OBLIGATE THE STATE OF TENNESSEE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE LOCAL GOVERNMENT OR THE ISSUER, TO LEVY OR TO PLEDGE ANY FORM OF TAXATION WHATEVER THEREFOR OR TO MAKE ANY APPROPRIATION FOR ITS PAYMENT. THE ISSUER HAS NO TAXING POWER.

**Section 10.2 Indemnification by Borrower.** The Borrower shall and hereby does indemnify and hold harmless the Issuer, the Bond Registrar, the Holder and the Local Government and all officers, directors, agents and employees thereof (each an "Indemnified Party" and, collectively, the "Indemnified Parties") of and from all losses, costs, damages, expenses and liabilities of whatever nature, including but not limited to reasonable attorneys' fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments (collectively referred to hereinafter as "Losses"), to the extent arising out of or related to one or more Claims, as hereinafter defined, excluding any such Losses or Claims that arise out of an act of gross negligence or willful misconduct of any such Indemnified Parties. The word "Claims" as used herein shall mean all claims, lawsuits, causes of action and other legal actions and proceedings of whatsoever nature including but not limited to claims, lawsuits, causes of action and other legal actions and proceedings involving bodily or personal injury or death of any person or damage to any property (including but not limited to persons employed by any of the Indemnified Parties and any other person) brought against any of the Indemnified Parties or to which any of the Indemnified Parties is a party, to the extent arising out of or relating to (1) the transfer, sale, operation, use, occupancy, maintenance or ownership of the

Premises or any part thereof or (2) the execution, delivery or performance of this Agreement, any Operative Document or any other related instruments or documents, and the issuance of the Bond. The obligations of the Borrower under this Section shall survive termination of this Agreement and apply to all Losses and Claims that result from, arise out of, or are related to any event, occurrence, condition or relationship prior to termination of this Agreement, whether such Losses and Claims are asserted prior to termination of this Agreement or thereafter.

Each Indemnified Party shall reimburse the Borrower for payments made by the Borrower pursuant to this Section to the extent of any proceeds, net of all expenses of collection, actually received by such Indemnified Party from any insurance covering such Claims with respect to the Losses sustained. The Indemnified Parties shall have the duty to claim any such insurance proceeds and shall assign their respective rights to such proceeds, to the extent of such required reimbursement, to the Borrower.

In case any Claim shall be brought against any Indemnified Party in respect of which indemnity may be sought against the Borrower, then such Indemnified Party shall promptly notify the Borrower in writing of such Claim. Failure to notify the Borrower of such Claim shall not relieve the Borrower from any liability that the Borrower may have other than pursuant to this Section and shall relieve the Borrower from liability the Borrower may have under this Section only to the extent that such failure materially prejudices the Borrower. The Borrower shall have the right to assume the investigation and defense of such Claim, including the employment of counsel, which counsel shall be satisfactory to the Indemnified Parties, and shall pay all expenses of the investigation and defense of such Claim. If any action, suit or proceeding is brought against any Indemnified Party for any loss or damage for which the Borrower is required to provide indemnification under this Section, such Indemnified Party shall promptly notify the Borrower and the Borrower shall have the sole right and duty to assume, and shall assume, the defense thereof, with full power to litigate, compromise or settle the same in its sole discretion. Notwithstanding the foregoing, in the event the Indemnified Party is the Holder or the Issuer, in the event the Holder or the Issuer reasonably believes there are defenses available to it that are not being pursued, the Holder or the Issuer (as the case may be) may, in its sole discretion, hire independent counsel to pursue its own defense, and the Borrower shall be liable for the cost of such counsel. The Borrower shall not be liable for Losses resulting from settlement of Claims against an Indemnified Party unless the Borrower consents to that settlement. The obligations of the Borrower under this Section shall survive any termination of this Agreement.

**Section 10.3 Issuer Not Liable.** To the extent permitted by law, no recourse shall be had for the enforcement of any obligation, promise or agreement of the Issuer contained herein or in the other Operative Documents to which the Issuer is a party or for any claim based hereon or thereon or otherwise in respect hereof or thereof against any director, member, officer, agent, attorney or employee, as such, in his/her individual capacity, past, present or future, of the Issuer or the Local Government or of any successor entity, either directly or through the Issuer or any successor entity whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise. No personal liability whatsoever shall attach to, or be incurred by, any director, officer, agent, attorney or employee as such, past, present or future, of the Issuer or the Local Government or any successor entity, either directly or through the Issuer or any successor entity, under or by reason of any of the obligations, promises or agreements entered into by the Issuer and the Borrower and Lender, as applicable, whether herein contained or to be implied herefrom as being supplemental hereto; and all personal liability of that character against every such director, officer, agent, attorney and employee is, by the execution of this Agreement and as a condition of, and as part of the consideration for, the execution of this Agreement, expressly waived and released.

Notwithstanding any other provision of this Agreement, none of the Issuer nor the Local Government shall be liable to the Borrower or the Holder or any other person for any failure of the Issuer to take action under this Agreement unless the Issuer (a) is requested in writing by an appropriate person to

take such action, (b) is assured of payment of, or reimbursement for, any reasonable expenses in such action, and (c) is afforded, under the existing circumstances, a reasonable period to take such action. In acting under this Agreement, or in refraining from acting under this Agreement, the Issuer may conclusively rely on the advice of its counsel.

## **ARTICLE XI MISCELLANEOUS**

### **Section 11.1 Assignment and Participation.**

(a) Except with the prior written consent of the Holder, and other than the assignment by the Issuer to the Holder hereunder or under the Note, the rights of the Borrower under this Agreement shall not be assigned and the duties and obligations of the Borrower under this Agreement shall not be delegated.

(b) Upon prior written notice to the Borrower, the Holder shall have the right to transfer and/or assign its rights and interest hereunder and under the Operative Documents to any person or entity in its sole and absolute discretion. The Holder covenants and agrees that, in connection with any encumbrance, pledge, sale, transfer or other disposition of the Bond, or any interest therein, the Holder will comply with all applicable federal and state securities laws and all regulations and rulings promulgated thereunder, including without limitation all disclosure and registration requirements thereof.

(c) Upon prior written notice to the Borrower, the Holder may participate portions of its obligations under this Agreement and the other Operative Documents and the obligations of Borrower under this Agreement and the other Operative Documents (collectively, the "Participated Obligations") to financial institutions ("Participants"). The Borrower and the Issuer acknowledge and agree that upon any participation the Participants will become owners of a pro rata portion of the Participated Obligations.

**Section 11.2 Benefit of Agreement.** The Borrower intends that the representations, warranties and covenants made by the Borrower in this Agreement shall be for the equal benefit of the Issuer and the Holder hereunder.

**Section 11.3 Notices.** Except as may otherwise be provided in the applicable Operative Document, all demands, notices, approvals, consents, requests and other communications hereunder and under the other Operative Documents shall be in writing and shall be deemed to have been given when delivered in person or by overnight courier or mailed by first class registered or certified mail, postage prepaid, or sent by electronic means which produces evidence of transmission, and shall be deemed to have been given on the date evidenced by the electronic transmission, addressed:

(a) if to the Borrower, at Goodwill Industries of Middle Tennessee, Inc., Attention: Chief Executive Officer; 937 Herman Street, Nashville, Tennessee 37208;

(b) if to the Issuer, at The Industrial Development Board of the City of White House, Tennessee, c/o Valerie Webb Esq., 3037 US-31W, White House, Tennessee 37188;

(c) if to the Lender, at Pinnacle Bank, 150 Third Avenue South, Suite 900 Nashville, TN 37201, Attention: Tammy Johnston, and

(d) if to any Holder other than the Lender, as shall be specified in writing by such Holder to the Issuer and the Borrower.

A duplicate copy of each notice, approval, consent, request or other communication given under any Operative Document by either the Issuer or the Borrower to the other shall also be given to the Lender or any subsequent Holder. The Issuer, the Borrower and the Lender or any subsequent Holder may, by notice given hereunder, designate any further or different addresses to which subsequent notices, approvals, consents, requests, or other communications shall be sent or persons to whose attention the same shall be directed.

**Section 11.4 Amendments.** This Agreement, the Bond and the Note may not be terminated, modified or amended, and the Borrower will not take or omit to take any action, the taking or omission of which might result in any alteration or impairment of this Agreement, the Bond or the Note, without the prior written consent of the Holder. Any consent provided for in this Agreement which may be given by the Issuer shall not be valid unless approved in writing by the Holder and no offer made by the Borrower under any Operative Document shall be deemed accepted or rejected by the Issuer without such approval. In connection with any such amendment requested by the Borrower, the Holder may require the Borrower to deliver, at the Borrower's expense, an opinion of Bond Counsel to the effect that such amendment will not adversely affect the exclusion of interest on the Bond from gross income for Federal income tax purposes. Notwithstanding the foregoing, the provisions of this Agreement (other than the provisions which affect the rights of the Issuer to indemnification, payment of expenses or notice) may be amended in writing signed only by the Borrower and the Holder, without the need for the consent of the Issuer provided that in connection with such amendment at the Holder's request, the Holder and the Issuer shall receive an opinion of nationally recognized bond counsel that such amendment will not adversely affect the exclusion of interest on the Bond for federal income tax purposes.

**Section 11.5 Indemnity.** All conditions of the Lender's obligations hereunder, including the obligations to make Disbursements, are imposed solely and exclusively for the benefit of the Issuer, the Lender and the Borrower. Neither the Lender nor the Issuer makes any representations or assumes any obligations to third parties concerning the quality of the construction of the Premises or the absence of defects therefrom. The Borrower hereby indemnifies the Lender and the Issuer from any liability, claims or losses resulting from the making of the Loan and disbursement of the proceeds of the Loan from the Project Fund or from the condition of the Premises, whether related to the quality of construction or otherwise, and whether arising during or after the term of this Agreement. The foregoing provision shall survive the term of this Agreement and the repayment of the Loan and shall continue in full force and effect so long as the possibility of such liabilities or claims exists under the applicable statute of limitation.

**Section 11.6 No Third Party Beneficiary.** It is specifically agreed between the parties to this Agreement that it is not intended by any of the provisions of any part of this Agreement to make the public or any member thereof, other than as may be expressly provided herein, a third party beneficiary hereunder.

**Section 11.7 Miscellaneous.**

(a) The Holder shall furnish to the Issuer upon written request (1) a statement of the amount of principal of the Bond outstanding and unpaid as of the date of such request and (2) such information as may be necessary to complete the annual audit of the Issuer as required by the Act or any other law, now or hereafter in effect.

(b) This Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties hereto and the subsequent holders of the Bond and their respective successors and

assigns. The representations, covenants and agreements contained herein shall continue notwithstanding the delivery of the Bond to the Lender.

(c) If any provision of this Agreement shall be held invalid by any court of competent jurisdiction, such holding shall not invalidate any other provision hereof.

(d) This Agreement shall be governed by the applicable laws of the State of Tennessee.

(e) The Operative Documents express the entire understanding among the parties and none of such instruments may be modified except in writing signed by the parties. No Operative Document may be modified before Payment of the Bond without the consent of the Holder.

(f) This Agreement may be executed in several counterparts, each of which shall be an original, and all of which together shall constitute but one and the same instrument.

(g) The Issuer and the Borrower shall each notify the other and the Holder within five Business Days after either of them receives notice that an Event of Bankruptcy has occurred with respect to the Borrower or the Issuer, or after either of them becomes aware that an Event of Default (as defined in Article IX) has occurred.

**Section 11.8 References to the Bond Ineffective After Bond Paid.** Upon Payment of the Bond, all references in this Agreement to the Bond shall be ineffective and the Issuer and Holder of the Bond shall not thereafter have any rights hereunder, excepting those that shall have theretofore vested and the right to receive payments pursuant to Section 5.6(a) hereof as a result of a Determination of Taxability and the rights to the computation, reporting and payment of any rebate amounts and other payments under the Tax Certificate.

**Section 11.9 No Implied Waiver.** In the event any agreement contained in the Note or this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach thereunder or hereunder. Neither any failure nor any delay on the part of the Lender or any subsequent Holder to exercise any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, power or privilege.

**Section 11.10 Interest and Loan Charges Not to Exceed Highest Lawful Rate.** Anything in this Agreement or the Operative Documents to the contrary notwithstanding, in no event whatsoever, whether by reason of advancement of proceeds of the Bond, acceleration of the maturity of the unpaid balance hereunder or under the Bond or otherwise, shall the interest and loan charges agreed to be paid to the Holder for the use of the money advanced or to be advanced hereunder exceed the Highest Lawful Rate in effect from time to time. It is understood and agreed by the parties that, if for any reason whatsoever the interest or loan charges paid or contracted to be paid by Borrower hereunder or in respect of the Bond shall exceed the Highest Lawful Rate, then, *ipso facto*, the obligation to pay such interest and/or loan charges shall be reduced to the Highest Lawful Rate in effect from time to time, and any amounts collected by the Holder that exceed the Highest Lawful Rate shall be applied to the reduction of the principal balance of the Bond, if permitted under applicable law or if not refunded to Borrower so that at no time shall the interest or loan charges paid or payable in respect of this Agreement exceed the Highest Lawful Rate.

**Section 11.11 Issuer Representative.** Whenever under the provisions of this Agreement the approval of the Issuer is required or the Issuer is required to take some action at the request of the Borrower or the Lender or any subsequent Holder, such approval shall be made or such action shall be taken by the Issuer



Representative; and the Borrower, the Lender and any subsequent Holder shall be authorized to rely on any such approval or action.

**Section 11.12 Borrower Representative.** Whenever under the provisions of this Agreement the approval of the Borrower is required or the Borrower is required to take some action at the request of the Issuer or the Lender or any subsequent Holder, such approval shall be made or such action shall be taken by the Borrower Representative; and the Issuer, the Lender and any subsequent Holder shall be authorized to act on any such approval or action.

**Section 11.13 Service, Waiver of Jury Trial.**

(a) Service of process in any action shall be duly served if mailed by registered mail, postage prepaid, to Borrower and Issuer each at its address described in Section 11.3 or if served by any other means permitted by applicable law.

(b) The Borrower, and the Issuer to the extent permitted by law, each hereby (i) covenants and agrees not to elect a trial by jury of any issue triable of right by a jury, and (ii) waives any right to trial by jury fully to the extent that any such right shall now or hereafter exist. This waiver of right to trial by jury is separately given, knowingly and voluntarily, by Borrower and Issuer, and this waiver is intended to encompass individually each instance and each issue as to which the right to a jury trial would otherwise accrue. Holder is hereby authorized and requested to submit this Agreement for resolution, so as to serve as conclusive evidence of such waiver of the right to jury trial by Borrower and Issuer. Further, Borrower and Issuer each hereby certifies that no representative or agent of Holder (including Holder's counsel) has represented, expressly or otherwise, to Borrower or Issuer that Holder shall not seek to enforce this waiver of right to jury trial provision.

(c) The waivers made pursuant to this Section shall be irrevocable and unmodifiable, whether in writing or orally, and shall be applicable to any subsequent amendments, renewals, supplements or modifications of this Agreement. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

**Section 11.14 Privately Negotiated Loan.** The Borrower and the Issuer each acknowledges and agrees that the Lender is purchasing the Bond as evidence of a privately negotiated loan and in that connection the Bond shall not be (i) assigned a separate rating by any municipal securities rating agency, (ii) registered with The Depository Trust Company or any other securities depository, (iii) issued pursuant to any type of offering document or official statement, or (iv) assigned a CUSIP number by Standard & Poor's CUSIP Service.

**Section 11.15 Role of Lender.** The Lender and its representatives are not registered municipal advisors and do not provide advice to municipal entities or obligated persons with respect to municipal financial products or the issuance of municipal securities (including regarding the structure, timing, terms and similar matters concerning municipal financial products or municipal securities issuances) or engage in the solicitation of municipal entities or obligated persons for the provision by non-affiliated persons of municipal advisory services and/or investment advisory services. With respect to this Agreement and any other information, materials or communications provided by the Lender: (a) the Lender and its representatives are not recommending an action to any municipal entity or obligated person; (b) the Lender and its representatives are not acting as an advisor to any municipal entity or obligated person and do not owe a fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to any municipal entity or obligated person with respect to this Agreement, information, materials or communications; (c) the Lender and its representatives are acting for their own interests; and (d) the Issuer and the Borrower have been informed that the Issuer and the Borrower should discuss this Agreement and any such other information, materials or communications with any and all internal and external advisors and experts that

the Issuer and the Borrower, respectively, deem appropriate before acting on this Agreement or any such other information, materials or communications.

**Section 11.16 Special Reporting Covenant.** The Lender, as Holder of the Bond, covenants to provide the Issuer Representative (i) within 100 days of the end of each fiscal year, an update to the information included as part of **Exhibit E**, to the extent it has knowledge of any such change, and (ii) within 15 days of any Event of Default under this Agreement, the occurrence of such Event of Default, to enable the Issuer to complete its reporting requirements under Tennessee Code Annotated Section 7-53-304(b).<sup>2</sup>

*(signature page follows)*

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<sup>2</sup> NTD: To discuss the reasoning behind this addition.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their respective names, all as of the date first above written.

**THE INDUSTRIAL DEVELOPMENT BOARD OF  
THE CITY OF WHITE HOUSE, TENNESSEE**

ATTEST:

By: \_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Chairman

**GOODWILL INDUSTRIES OF MIDDLE  
TENNESSEE, INC.**

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

**PINNACLE BANK**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**  
**FORM OF BOND**

THE PRINCIPAL OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THIS BOND IS A LIMITED OBLIGATION OF THE ISSUER PAYABLE SOLELY FROM THE SOURCES PLEDGED FOR ITS BENEFIT. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE ISSUER, THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF WHITE HOUSE, TENNESSEE OR THE STATE OF TENNESSEE OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF IS PLEDGED FOR THE PAYMENT OF THE PRINCIPAL OF, REDEMPTION PREMIUM, IF ANY, OR INTEREST ON THIS BOND.

No. R 1

\$5,400,000

UNITED STATES OF AMERICA  
STATE OF TENNESSEE

THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF WHITE HOUSE, TENNESSEE  
REVENUE BOND (GOODWILL INDUSTRIES OF MIDDLE TENNESSEE, INC.)  
SERIES 2024

Dated \_\_\_\_\_, 2024

THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF WHITE HOUSE, TENNESSEE, a public, nonprofit corporation duly organized and existing under the Constitution and laws of the State of Tennessee (the “Issuer”), for value received, hereby promises to pay the principal amount of \$5,400,000, or so much as may be advanced hereunder, solely from the sources and on the dates as hereinafter provided, to PINNACLE BANK, a Tennessee bank (the “Lender”) or registered assigns, with a final payment of all unpaid amounts on \_\_\_\_\_, 2039 (the “Maturity Date”). Payment of the final installment of principal shall be made only upon the presentation and surrender hereof to Pinnacle Bank in Nashville, Tennessee, or its successor, as bond registrar (the “Bond Registrar”) pursuant to the Loan Agreement dated as of \_\_\_\_\_, 2024 (the “Agreement”) among the Issuer, the Lender and GOODWILL INDUSTRIES OF MIDDLE TENNESSEE, INC. (the “Borrower”). Capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Agreement.

The Lender will fund the purchase of the Bond by making an initial Advance on the Closing Date in an amount specified in Section 7.2 of the Agreement and committing to making subsequent Advances, subject to the provisions of Article VII of the Agreement, in the aggregate amount equal to the balance of the maximum principal amount of the Bond less the initial Advance.

The Issuer promises to pay, but solely from such sources, interest on the outstanding principal amount of this Bond from the date of this Bond until the principal amount hereof is paid in full, on the dates and at the rates provided in the Agreement. The Issuer shall make principal and interest payments as provided in the Agreement.

Notwithstanding the foregoing, from and after the occurrence of an Event of Default, until such time as the Event of Default has been remedied or otherwise waived by the Holder, this Bond shall bear interest at the Default Rate.

Anything herein to the contrary notwithstanding, in no event will this Bond or the Note bear interest at a rate in excess of the Highest Lawful Rate.

All payments of principal of and interest on this Bond shall be made to the Holder at its address as it appears on the Bond registration book of the Bond Registrar in lawful money of the United States of America.

This Bond is issued pursuant to the Act, as amended, and the Agreement for the purposes set forth in the Agreement. Pursuant to the Agreement, the Issuer has loaned the proceeds of this Bond to the Borrower, and the Borrower, to evidence repayment of the loan, has issued its promissory note dated the date hereof (the "Note").

This Bond is secured by (a) an assignment to the Holder by the Issuer of all of its rights in the Agreement, excluding Reserved Rights; and (b) the assignment by the Issuer without recourse and pledge and delivery of the Note to the Holder. Reference is hereby made to the Agreement, the Note and to all amendments thereto for a description of the provisions, among others, with respect to the nature and extent of such security, the rights, duties and obligations of the Issuer, the Borrower and the Holder of this Bond.

Executed copies of the Agreement and the Note are on file in the office of the Issuer. Reference is hereby made to such documents for the provisions, among others, with respect to the custody and application of the proceeds of this Bond, the collection and disposition of revenues, a description of the funds charged with and pledged to the payment of the principal of and interest on this Bond, the nature and extent of the security, the terms and conditions under which this Bond is or may be issued, the system of registration of this Bond, the rights, duties and obligations of the Issuer and the rights of the Holder of this Bond, and, by the acceptance of this Bond, the Holder hereof assents to all of the provisions of such documents.

This Bond is a limited obligation of the Issuer, the principal of and interest on which is payable solely from the revenues derived from the Agreement and the Note, which revenues have been pledged and assigned to secure the payment thereof. The Issuer shall not be obligated to pay the principal of or interest on this Bond except from such revenues pledged and assigned therefor. Neither the faith and credit nor the taxing power of the State of Tennessee, the Local Government or any political subdivision or agency thereof, including the Issuer, is pledged to the payment of the principal of or interest on this Bond, and this Bond shall not be deemed to constitute a debt of the State of Tennessee, the Local Government or any political subdivision or agency thereof. The Issuer has no taxing power.

Pursuant to the Agreement, the Lender is hereby appointed to act as the initial Bond Registrar. The transfer of this Bond may be registered by the Holder hereof in person or by his attorney or legal representative at the principal office of the Bond Registrar, or its successors and assigns, but only in the manner and subject to the limitations and conditions provided in the Agreement. Upon any such registration of transfer, the Bond Registrar shall execute and deliver in exchange for this Bond a new registered bond or bonds without coupons, registered in the name of the transferee or transferees, in denominations authorized by the Agreement and in the aggregate principal amount equal to the remaining outstanding principal amount of this Bond, of the same maturity of principal installments and bearing interest at the same rate.

This Bond may be redeemed in whole or in part at any time at the option of the Borrower as provided in the Agreement in such amounts as the Note is prepaid by the Borrower. Any redemption in part shall be applied to reduce the principal installments of this Bond as provided in the Agreement.

In certain events, on the conditions, in the manner and with the effect set forth in the Agreement, the unpaid principal of this Bond may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon.

All acts, conditions and things required to exist, happen and be performed precedent to the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law, and the issuance of this Bond, together with all other obligations of the Issuer, does not exceed or violate any constitutional or statutory limitations.

IN WITNESS WHEREOF, THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF WHITE HOUSE, TENNESSEE has caused this Bond to be signed and attested by the manual or facsimile signature of its duly authorized officers as of the date first above written.

THE INDUSTRIAL DEVELOPMENT BOARD OF  
THE CITY OF WHITE HOUSE, TENNESSEE

ATTEST:

By: \_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Chairman

**EXHIBIT B**

DRAW REQUEST

Goodwill Industries of Middle Tennessee, Inc.  
2024 Bond — Draw Request

DRAW REQUEST NO. \_\_\_\_\_

Amount Requested by this Draw Request: \$ \_\_\_\_\_  
(amount to be deposited to Project Fund account # \_\_\_\_\_)

Total Advances to Date (including this Draw Request): \$ \_\_\_\_\_

1. This Draw Request is submitted by GOODWILL INDUSTRIES OF MIDDLE TENNESSEE, INC. (the “Borrower”) to PINNACLE BANK (the “Lender”) pursuant to the Loan Agreement dated as of \_\_\_\_\_, 2024 (the “Loan Agreement”) among The Industrial Development Board of the City of White House, Tennessee (the “Issuer”) as a request for Advance by the Lender of Bond proceeds as described in the Loan Agreement. All capitalized terms herein shall have the meanings assigned to them in the Loan Agreement.

2. Each obligation for which an Advance is hereby requested is described in reasonable detail in Schedule A hereto together with the name and address of the person, firm or corporation to whom payment is due.

3. The bills, invoices or statements of account for each obligation referenced in Schedule A hereto are provided with this Draw Request.

4. The Borrower hereby certifies that:

a. each obligation mentioned in Schedule A hereto has been properly incurred, is a proper charge against the Bond and has not been the basis of any previous Advance;

b. no event has occurred and no condition exists under the Loan Agreement, which will result, either immediately or with the passage of time, or the giving of notice or both, in the occurrence or existence of any event of default under the Loan Agreement or any other instrument or document pertaining thereto;

c. all representations and warranties made by the Borrower in the Loan Agreement are true in all material respects, as if made on the date hereof;

d. all necessary permits and approvals required for that portion of the Project for which such withdrawal is to be made have been issued and are in full force and effect; and

e. the Advance and use of the Bond proceeds for the purpose intended will not cause any of the representations or certifications contained in the Tax Certificate to be untrue.

This \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

GOODWILL INDUSTRIES OF MIDDLE TENNESSEE, INC.

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



SCHEDULE A TO DRAW REQUEST NO. \_\_\_\_\_

**EXHIBIT C**

FORM OF NOTE

AFTER THE ENDORSEMENT AND PLEDGE OF THIS NOTE AS HEREON PROVIDED, THIS NOTE MAY NOT BE ASSIGNED, PLEDGED, ENDORSED OR OTHERWISE TRANSFERRED EXCEPT TO A SUCCESSOR OR ASSIGNEE OF THE PURCHASER REFERRED TO IN THE LOAN AGREEMENT REFERRED TO HEREIN.

PROMISSORY NOTE

\_\_\_\_\_, 2024

\$5,400,000

FOR VALUE RECEIVED, the undersigned, GOODWILL INDUSTRIES OF MIDDLE TENNESSEE, INC., a Tennessee nonprofit corporation (“Borrower”), promises to pay to the order of THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF WHITE HOUSE, TENNESSEE (the “Issuer”), a Tennessee public nonprofit corporation (the “Issuer”), at the office of PINNACLE BANK, a Tennessee bank, Nashville, Tennessee (the “Purchaser”), or at such other place as the holder of this Note (“Holder”) may from time to time designate in writing, the principal sum of \$5,400,000, or so much as may be advance hereunder, plus interest on the outstanding principal balance hereof from the date hereof as provided below.

Reference is made to the Loan Agreement dated as of \_\_\_\_\_, 2024 (the “Loan Agreement”) among the Borrower, the Issuer and the Purchaser, for a more complete statement of the provisions thereof and of the rights of the Issuer, the Borrower and the Purchaser. Terms used herein in capitalized form and not otherwise defined herein have the meanings ascribed thereto in the Loan Agreement. This Note is subject to all terms and conditions of the Loan Agreement.

The principal amount hereof, or any portion thereof, shall only be advanced by the Issuer upon satisfaction of the conditions set forth in the Loan Agreement.

This Note has been pledged and assigned to the Purchaser and its successors and assigns as the holder of the Issuer’s Revenue Bond (Goodwill Industries of Middle Tennessee, Inc.) Series 2024 (the “Bond”). This Note is the “Note” referred to in the Loan Agreement and is entitled to the benefits and is subject to the conditions thereof.

The Borrower promises to pay interest on the outstanding principal amount of this Note at the interest rates equal to the interest rates borne by the Bond and to make principal and interest payments hereunder in the same amounts and on the same dates as principal and interest payments are required to be made on the Bond.

Each payment of principal and interest on this Note will be sufficient to enable the Issuer to pay when due the total amount of principal of (whether at maturity, upon acceleration or otherwise) and interest on the Bond. To the extent that principal of or interest on the Bond shall be paid, there shall be credited against unpaid principal of or interest on this Note, as the case may be, an amount equal to the principal of or interest on such Bond so paid. The principal of and interest on this Note are payable in immediately available funds of any coin or currency of the United States of America which on the respective dates of payment thereof shall be legal tender for the payment of public and private debts.

In addition, the Borrower agrees to pay in immediately available funds all other amounts at the time the Issuer may be required to pay the same pursuant to the Bond or the Loan Agreement.

The obligation of the Borrower to make the payments required hereunder shall be absolute and unconditional without any defense, recoupment or right of set off by reason of any default by the Issuer under the Loan Agreement for any other reason.

The Borrower may at its option, and may under certain circumstances be required to, prepay all or part of the unpaid principal of this Note upon the terms provided in the Loan Agreement and the Bond.

All payments hereunder shall be payable in lawful money of the United States of America representing legal tender in payment of all debts and dues, public and private, at the time of payment.

In the event of (i) default in the payment of principal or interest when due hereunder or (ii) default under or in the performance of or compliance with any other of the obligations, agreements, terms or conditions contained in this Note, the Loan Agreement, or any other Operative Documents, subject to notice and cure periods, if any, provided for in the Loan Agreement, then, in such event, the balance of the principal sum of the indebtedness evidenced hereby, with all arrearages of interest thereon, and any other sums advanced hereunder or under any other document evidencing, guaranteeing or securing the indebtedness evidenced hereby, shall, at the option of the Holder of this Note, become and be due and payable immediately, without notice, anything contained herein to the contrary notwithstanding, time being of the essence of this contract. From and after the date of default, interest will accrue at the Default Rate.

The undersigned and any and all endorsers, sureties, guarantors, or other parties, hereby severally waive demand, notice, presentment, and protest.

In the event this Note is placed in the hands of an attorney for collection or for enforcement or protection of the security, the Borrower agrees to pay reasonable attorney's fees and all court and other costs.

The failure of the Holder hereof to exercise any option to accelerate the indebtedness hereunder in the event of any default as above provided, or any forbearance, indulgence, or other delay by such Holder in the exercise of any such option, shall not constitute a waiver of the right to exercise such option prior to the curing of any such default or in the event of any subsequent default, whether similar or dissimilar to any prior default.

The Borrower consents to any extension of time of payment hereof, release of all or any part of the security for the payment hereof, or release of any party liable for this obligation. Any such extension or release may be made without notice to Borrower and without discharging its liability.

No provision in this Note shall require the payment or permit the collection of interest in excess of the Highest Lawful Rate. If any excess of interest in such respect is herein provided for, or shall be adjudicated to be so provided for herein, the provisions of this paragraph shall govern, and the undersigned shall not be obligated to pay the amount of such interest to the extent that it is in excess of the amount permitted by law. In the event the Holder shall collect moneys which are deemed to constitute interest which would otherwise increase the effective interest rate on this note to a rate in excess of that permitted to be charged by applicable law, then *ipso facto*, the obligation to pay such interest and/or loan charges shall be reduced to the Highest Lawful Rate in effect from time to time, and any amounts collected by the Holder that exceed the Highest Lawful Rate shall be applied to the reduction of the principal balance of the Bonds, if permitted under applicable law or if not refunded to Borrower so that at no time shall the interest or loan charges paid or payable in respect of this Agreement exceed the Highest Lawful Rate.

This Note shall be construed according to the laws of the State of Tennessee.

Any notice to the Borrower made pursuant to, or in accordance with, this Note shall be effective when delivered by personal service or when placed in the United States mails, registered or certified mail, postage prepaid, return receipt requested, addressed to the locations provided in the Loan Agreement.

IN WITNESS WHEREOF, GOODWILL INDUSTRIES OF MIDDLE TENNESSEE, INC. has caused this Note to be duly executed by its authorized representative as of the date first above written.

GOODWILL INDUSTRIES OF MIDDLE  
TENNESSEE, INC.

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

Pay to the order of PINNACLE BANK as Holder of the herein referenced Bond, without recourse against the undersigned.

THE INDUSTRIAL DEVELOPMENT BOARD OF  
THE CITY OF WHITE HOUSE, TENNESSEE

By: \_\_\_\_\_  
Chairman

**EXHIBIT D**

FORM OF COVENANT COMPLIANCE REPORT

This Certificate is given pursuant to Section 8.3 of that certain Loan Agreement dated \_\_\_\_\_, 2024 (the “Agreement”) among Goodwill Industries of Middle Tennessee, Inc. (the “Borrower”), The Industrial Development Board of the City of White House, Tennessee (the “Issuer”) and Pinnacle Bank (the “Lender”).

I, the undersigned, hereby certify that to the best of my knowledge no Event of Default (as defined in the Agreement) has occurred and is continuing, and provided below is information demonstrating compliance with the financial covenants contained in Section 8.3 of the Agreement.

**Fixed Charge Coverage Ratio**

\_\_\_\_\_ Funds Available for Debt Service (as defined in Section 8.3 of the Agreement)

*divided by*

\_\_\_\_\_ Fixed Charges (as defined in Section 8.3 of the Agreement)

*equals*

\_\_\_\_\_ **FIXED CHARGE COVERAGE RATIO**

YES or NO (*circle one*)

**COMPLIANCE (Required not less than 1.25 to 1.00)**

GOODWILL INDUSTRIES OF MIDDLE  
TENNESSEE, INC.

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

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

**EXHIBIT E**

SPECIAL REPORTING COVENANT REPORT

I. Required Information

A. IDB information to provide:

1. Name of IDB as listed in the certificate of incorporation:

The Industrial Development Board of the City of White House, Tennessee

2. County or Counties in which the IDB is located:

Sumner and Robertson Counties, Tennessee

3. List of the current IDB Board Members and the Authorized Representative, including their name, title, company/government, email address, and phone number:

4. As applicable, identify the IDB Counsel and Financial Advisor, including their name, title, company, email address, and phone number:

IDB Counsel is Valerie Webb, 3037 US-31W, White House, TN 37188  
[vwebb@vwebblaw.com](mailto:vwebb@vwebblaw.com) phone: 615 581 0804.

B. Listing of Currently-Outstanding Debt – For each issue of debt, provide:

1. The name of the debt and date it was issued:

\$5,400,000 Revenue Bond (Goodwill Industries Of Middle Tennessee, Inc.) Series 2024 issued on \_\_\_\_, 2024.

2. The date of the final maturity or final principal payment on the debt: \_\_\_\_, 2039:

3. The original dollar amount of the debt:

\$5,400,000

4. The name of the project financed or a description of the purpose for the debt, indicating whether the debt is a direct debt of the IDB, a Conduit Debt Obligation, or a Tax Increment Financing Bond. (Do not include Non-debt (PILOT/Leasehold.):

The Project consist of Goodwill’s approximately 15,000 square foot retail store and donation center to be located at 517 Highway 76, White House, Tennessee 37188. The debt is a Conduit Debt Obligation.

5. If the Report on Debt Obligation was filed with the Division of Local Government Finance:

The Report on Debt Obligation was filed with the Division of Local Government Finance on \_\_\_\_, 2024.

II. Additional Information for Each Issue of Debt

A. The dollar amount of the principal outstanding as of the end of fiscal year:

B. The federal tax status (taxable or tax-exempt):

Tax-exempt

C. The type of issuance (publicly sold, direct placement, or loan):

Private Placement

D. As applicable, the name and contact information for the trustee, paying agent, or debt holder:

Pinnacle Bank is debt holder. The address of debt holder is Pinnacle Bank, 150 Third Avenue South, Suite 900 Nashville, TN 37201, Attention: Tammy Johnston.