**NEW ISSUE—FULL BOOK-ENTRY NOT RATED**

*In the opinion of Stradling Yocca Carlson & Rauth, a Professional Corporation, San Francisco, California (“Bond Counsel”), under existing statutes, regulations, rulings and judicial decisions, interest on the Bonds is not excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”). In the further opinion of Bond Counsel, interest on the Bonds is exempt from State of California personal income tax. See “TAX MATTERS” herein with respect to tax consequences relating to the Bonds.*

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| --- |
| $\_\_\_\_\_\_\_\_\_  California Enterprise Development Authority  CHARTER SCHOOL REVENUE BONDS  (ENCORE EDUCATION CORPORATION)  SERIES 2022 (TAXABLE) |

|  |  |  |
| --- | --- | --- |
| **Interest Rates:** | **8.00% (through June 30, 2026)** | **CUSIP No.: \_\_\_\_\_\_\_\_[[1]](#footnote-1)** |
|  | **10.00% (July 1, 2026 through June 30, 2028)** |  |
|  | **12.00% (July 1, 2028 through maturity)** |  |

**Dated: Date of Delivery Due: June 1, 2030**

*This cover page contains information for general reference only. It is not intended as a summary of these issues. Investors must read the entire Private Placement Memorandum to obtain information essential to making an informed investment decision.*

The California Enterprise Development Authority Charter School Revenue Bonds (Encore Education Corporation) Series 2022 (Taxable), in the aggregate principal amount of $\_\_\_\_\_\_\_\_\_ (the “Bonds”) will be issued by the California Enterprise Development Authority (the “Authority”) pursuant to an Indenture, dated as of May 1, 2022 (the “Bond Indenture”), by and between the Authority and UMB Bank, N.A., as trustee (the “Trustee”). The Authority will loan the proceeds of the Bonds to Western Encore Properties Incorporated (the “Corporation”), a California nonprofit public benefit corporation, pursuant to a Loan Agreement, dated as of May 1, 2022 (the “Loan Agreement”), by and between the Authority and the Corporation, and accepted and acknowledged by 16955 Lemon Street LLC (the “Landlord”), a limited liability company the sole member of which is the Corporation. The Bonds and the interest thereon are payable solely out of certain revenues and income received by the Authority or the Trustee pursuant to the Loan Agreement and Obligation No. 2 relating to the Bonds (“Obligation No. 2”) issued by the Corporation in an amount equal to the aggregate principal amount of the Bonds pursuant to a Master Indenture of Trust, dated as of November 1, 2016 (the “Master Indenture”), as supplemented by a Supplemental Master Indenture for Obligation No. 2, dated as of May 1, 2022 (the “Supplemental Master Indenture”), by and among the Corporation, as representative of the Obligated Group, the Landlord, as the Member of the Obligated Group, and UMB Bank, N.A., as successor master trustee thereunder (the “Master Trustee”).

The Bonds will be used to (i) finance working capital of the Corporation; (ii) fund a debt service reserve account for the Bonds; and (iii) pay the costs of issuance of the Bonds. The Corporation will advance the net proceeds of the Bonds to Encore Education Corporation (“Encore”), a California nonprofit corporation, pursuant to an Amended and Restated Lease Agreement, dated as of May 1, 2022, between the Landlord and Encore (the “Lease”). Pursuant to the Lease, the Landlord will lease charter school facilities located at 16955 Lemon Street, Hesperia, California (the “Facility”) to Encore. Encore will make payments of Rent under the Lease from revenues derived solely from Encore Jr./Sr. High School for the Performing and Visual Arts (the “School”), a public charter school operated by Encore, or any other charter school operated by Encore in the Facility.

The Bonds are limited obligations of the Authority payable solely from Receipts and Revenues of the Authority from the Loan Agreement and Obligation No. 2 received under the Bond Indenture (including amounts payable under the Lease) and other amounts held in the funds established by the Bond Indenture and payments to be made pursuant to Obligation No. 2. The obligations of the Corporation under the Loan Agreement are payable from the Receipts and Revenues of the Authority from the Loan Agreement and Obligation No. 2 required to be deposited with the Trustee pursuant to the Bond Indenture. The Bonds will never be payable out of any funds of the Authority except from the limited sources referenced above.

Interest on the Bonds will be payable semiannually on each June 1 and December 1, commencing December 1, 2022. The Bonds are being issued as fully registered bonds and initially will be registered in the name of Cede & Co., as nominee for The Depository Trust Company (“DTC”). DTC will act as securities depository for the Bonds. Purchases of beneficial interests in the Bonds will be made in book-entry-only form (without physical certificates) in initial minimum denominations of $250,000 and any integral multiple of $5,000 in excess thereof. For so long as DTC or its nominee, Cede & Co., is the registered owner of the Bonds, (i) payments of the principal of and premium, if any, and interest on such Bonds will be made directly to Cede & Co. for payment to DTC participants for subsequent disbursement to the beneficial owners and (ii) all notices, including any notice of redemption will be mailed only to Cede & Co. See “APPENDIX I – BOOK-ENTRY SYSTEM” herein.

**The Bonds are subject to optional, mandatory and extraordinary redemption prior to maturity as described under “THE BONDS – Redemption” herein. The Bonds are subject to optional tender on any date on or after June 1, 2026. See “THE BONDS – Optional Tender” herein. The Corporation’s failure to purchase such tendered Bonds will constitute an Event of Default under the Bond Indenture.**

THE PURCHASE AND HOLDING OF THE BONDS INVOLVE RISKS THAT MAY NOT BE APPROPRIATE FOR CERTAIN INVESTORS. THE BONDS ARE TO BE OFFERED AND SOLD (INCLUDING IN SECONDARY MARKET TRANSACTIONS) ONLY TO “QUALIFIED INSTITUTIONAL BUYERS” (AS DEFINED HEREIN). IN ADDITION, EACH INITIAL PURCHASER OF THE BONDS WILL BE REQUIRED TO SUBMIT AN INVESTOR LETTER TO THE AUTHORITY AND THE TRUSTEE IN THE FORM ATTACHED HERETO AS APPENDIX K. See “NOTICE TO INVESTORS” and “TRANSFER RESTRICTIONS” HEREIN.

THE BONDS ARE SPECIAL, LIMITED OBLIGATIONS OF THE AUTHORITY AS PROVIDED IN THE ACT (AS DEFINED HEREIN), PAYABLE SOLELY FROM REVENUES AND OTHER ASSETS PLEDGED UNDER THE BOND INDENTURE. THE BONDS DO NOT CONSTITUTE A DEBT OR LIABILITY OF THE STATE OF CALIFORNIA OR OF ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE AUTHORITY AS SET FORTH IN THE BOND INDENTURE). NEITHER THE AUTHORITY, ITS MEMBERS, THE STATE OF CALIFORNIA, NOR ANY OF ITS POLITICAL SUBDIVISIONS SHALL BE DIRECTLY, INDIRECTLY, CONTINGENTLY OR MORALLY OBLIGATED TO USE ANY OTHER MONEYS OR ASSETS TO PAY ALL OR ANY PORTION OF THE DEBT SERVICE DUE ON THE BONDS, TO LEVY OR TO PLEDGE ANY FORM OF TAXATION WHATEVER THEREFOR OR TO MAKE ANY APPROPRIATION FOR THEIR PAYMENT. THE BONDS ARE NOT A PLEDGE OF THE FAITH AND CREDIT OF THE AUTHORITY, ITS MEMBERS, THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS, NOR DO THEY CONSTITUTE INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION. THE AUTHORITY HAS NO TAXING POWER. THE AUTHORITY SHALL NOT BE LIABLE FOR PAYMENT OF THE PRINCIPAL OF, PREMIUM OR INTEREST ON THE BONDS OR ANY OTHER COSTS, EXPENSES, LOSSES, DAMAGES, CLAIMS OR ACTIONS OF ANY CONCEIVABLE KIND ON ANY CONCEIVABLE THEORY, UNDER OR BY REASON OF OR IN CONNECTION WITH THE BOND INDENTURE, THE BONDS OR ANY OTHER DOCUMENTS, EXCEPT ONLY TO THE EXTENT AMOUNTS ARE RECEIVED FOR THE PAYMENT THEREOF FROM THE CORPORATION UNDER THE LOAN AGREEMENT. NONE OF THE AUTHORITY, ANY AUTHORITY MEMBER, ANY PERSON EXECUTING THE BONDS OR ANY OFFICIAL DIRECTOR, MEMBER, OFFICER, AGENT, OR EMPLOYEE OF THE STATE, THE AUTHORITY, ANY PUBLIC AGENCY THEREOF OR ANY MEMBER THEREOF IS LIABLE PERSONALLY ON THE BONDS OR IN RESPECT OF ANY UNDERTAKINGS BY THE AUTHORITY UNDER THE BOND DOCUMENTS OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE ISSUANCE OF THE BONDS.

The Bonds are offered when, as and if issued by the Authority, subject to prior sale, modification or withdrawal of the offer without notice, and subject to the approval of legality by Stradling Yocca Carlson & Rauth, a Professional Corporation, Bond Counsel to the Authority, the approval of certain matters for the Authority by Kutak Rock LLP and the approval of certain matters for the Corporation and Encore, and relating to the School, by Musick, Peeler & Garrett LLP. It is expected that the Bonds in definitive form will be available for delivery through the facilities of The Depository Trust Company in New York, New York, on or about May \_\_, 2022, subject to the satisfaction of certain conditions.

Dated:  May \_\_, 2022

This Private Placement Memorandum does not constitute an offer to sell the Bonds or the solicitation of an offer to buy, nor shall there be any sale of the Bonds by any person in any state or other jurisdiction to any person to whom it is unlawful to make such offer, solicitation or sale in such state or jurisdiction. No dealer, salesperson or any other person has been authorized to give any information or to make any representation other than those contained herein in connection with the offering of the Bonds, and, if given or made, such information or representation must not be relied upon.

The Authority has not reviewed or approved any information herein except information relating to the Authority under the captions “THE AUTHORITY” and “ABSENCE OF MATERIAL LITIGATION – The Authority,” which has been obtained from the Authority. All other information set forth herein has been obtained from the Corporation, Encore and other sources that are believed to be reliable. The adequacy, accuracy or completeness of such information is not guaranteed by, and is not to be construed as a representation of, the Authority or the Placement Agent. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Private Placement Memorandum, nor any sale made hereunder, shall under any circumstances create any implication that there has been no change in the affairs of the Authority, The Depository Trust Company, the Corporation or Encore since the date hereof.

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**CAUTIONARY STATEMENTS REGARDING FORWARD-LOOKING**

**STATEMENTS IN THIS PRIVATE PLACEMENT MEMORANDUM**

Certain statements included or incorporated by reference in this Private Placement Memorandum constitute “forward-looking statements.” Such statements generally are identifiable by the terminology used such as “plan,” “expect,” “estimate,” “budget” or other similar words. Such forward-looking statements include but are not limited to certain statements contained in the information under the headings “CERTAIN RISK FACTORS” and “APPENDIX A – CERTAIN INFORMATION REGARDING EDUCATION, THE SCHOOL, THE CORPORATION AND THE OBLIGATED GROUP” in this Private Placement Memorandum. The achievement of certain results or other expectations contained in such forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause actual results, performance or achievements described to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. Neither the Corporation nor Encore plans to issue any updates or revisions to those forward-looking statements if or when its expectations or events, conditions or circumstances on which such statements are based occur.

**NOTICE TO INVESTORS**

The Bonds are to be offered and sold (including in secondary market transactions) only to Qualified Institutional Buyers (as defined herein). The Bond Indenture under which the Bonds will be issued contains provisions limiting transfers of the Bonds and beneficial ownership interests in the Bonds only to Qualified Institutional Buyers. In addition, the face of each Bond will contain a legend indicating that it is subject to transfer restrictions as set forth in the Bond Indenture and each initial purchaser of the Bonds will be required to execute and deliver to the Authority and the Trustee an investor letter in the form attached hereto as Appendix K.

Each purchaser of any Bond or ownership interest therein (including in secondary market transactions) will be deemed to have acknowledged, represented, warranted, and agreed with and to the Authority, the Corporation, the Placement Agent and the Trustee as follows:

1. That the Bonds are payable solely from certain revenues derived by the Authority under the Loan Agreement from payments of Base Rent under the Lease, and from certain funds and accounts established and maintained pursuant to the Bond Indenture;

2. That it is a Qualified Institutional Buyer and that it is purchasing the Bonds for its own account and not with a view to, or for offer or sale in connection with any distribution thereof in violation of the Securities Act of 1933, as amended (the “Securities Act”) or other applicable securities laws;

3. That the Bonds (a) have not been registered under the Securities Act and are not registered or otherwise qualified for sale under the “blue sky” laws and regulations of any state, (b) will not be listed on any stock or other securities exchange, and (c) may not be readily marketable;

4. That the Authority has not reviewed or approved any information in this Private Placement Memorandum except information relating to the Authority under the captions “THE AUTHORITY” and “ABSENCE OF MATERIAL LITIGATION – The Authority,” which has been obtained from the Authority;

5. That the Bonds and beneficial ownership interests therein may only be transferred to Qualified Institutional Buyers; and

6. That the Authority, the Corporation, Encore, the Trustee, the Placement Agent and others will rely upon the truth and accuracy of the foregoing acknowledgments, representations and agreements.

See “TRANSFER RESTRICTIONS” herein.

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| $\_\_\_\_\_\_\_\_\_  CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY  CHARTER SCHOOL REVENUE BONDS  (ENCORE EDUCATION CORPORATION)  SERIES 2022 (TAXABLE) |

# INTRODUCTION

## General

This Private Placement Memorandum, including the cover page, the inside cover page, and Appendices hereto (the “Private Placement Memorandum”), is provided to furnish information with respect to the sale and delivery by the California Enterprise Development Authority (the “Authority”) of its Charter School Revenue Bonds (Encore Education Corporation) Series 2022 (Taxable), in the aggregate principal amount of $\_\_\_\_\_\_\_\_\_ (the “Bonds”).

## The Bonds

The Bonds will be issued pursuant to an Indenture, dated as of May 1, 2022 (the “Bond Indenture”), by and between the Authority and UMB Trust, N.A., as trustee (the “Trustee”). The Bonds will bear interest on June 1 and December 1 of each year, commencing December 1, 2022 (each such date, an “Interest Payment Date”) and will be subject to optional, mandatory and extraordinary redemption prior to maturity as set forth under “THE BONDS – Redemption” herein. The proceeds of the Bonds will be loaned to Western Encore Properties Incorporated (the “Corporation”), a California nonprofit public benefit corporation, pursuant to a Loan Agreement, dated as of May 1, 2022 (the “Loan Agreement”), by and among the Authority and the Corporation, and accepted and acknowledged by 16955 Lemon Street LLC (the “Landlord”), a California limited liability company, the sole member of which is the Corporation.

The Bonds and the interest thereon are payable solely out of certain revenues and income received by the Authority or the Trustee pursuant to the Loan Agreement and Obligation No. 2 relating to the Bonds (“Obligation No. 2”) issued by the Corporation in an amount equal to the aggregate principal amount of the Bonds pursuant to a Master Indenture of Trust, dated as of November 1, 2016 (as supplemented from time to time, the “Master Indenture”), as supplemented by a Supplemental Master Indenture for Obligation No. 1, dated as of November 1, 2016 (the “Supplemental Master Indenture No. 1”), and as further supplemented and amended by a Supplemental Master Indenture for Obligation No. 2, dated as of May 1, 2022 (the “Supplemental Master Indenture No. 2”) by and among the Corporation, as representative of the Obligated Group, the Landlord (as defined herein), as Members of the Obligated Group, and UMB Trust, N.A., as successor master trustee thereunder (the “Master Trustee”). See “THE BONDS” herein. Although the Corporation serves as the representative of the Obligated Group, it is not a Member of the Obligated Group.

The Bonds will be issued in initial minimum denominations of $250,000 and any integral multiple of $5,000 in excess thereof and in fully registered form only and, when issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company (“DTC”), and beneficial ownership interests in the Bonds are to be sold (including secondary market transactions) only to Qualified Institutional Buyers. Pursuant to the Bond Indenture, “Qualified Institutional Buyer” means a “qualified institutional buyer” as defined in Rule 144A promulgated under the Securities Act. The Bond Indenture and the Bonds contain provisions limiting transfers of the Bonds and beneficial ownership interests in the Bonds to Qualified Institutional Buyers. In addition, each initial purchaser of the Bonds must execute an investor letter in the form of “APPENDIX K – FORM OF INVESTOR LETTER” in connection with its purchase of the Bonds. Each Bond will contain a legend indicating that such Bond is subject to the transfer restrictions set forth in the Bond Indenture. See “TRANSFER RESTRICTIONS” and “CERTAIN RISK FACTORS – Purchases and Transfers of Bonds Restricted to Qualified Institutional Buyers” herein.

## Authority for Issuance

The Bonds will be issued by the Authority pursuant to Title 1, Division 7, Chapter 5 of the California Government Code, a resolution of the Authority adopted on April 28, 2022, and the Bond Indenture. See “THE AUTHORITY” herein.

## Use of Proceeds

The proceeds of the Bonds will be used to (i) finance working capital of the Corporation, (ii) fund a debt service reserve account for the Bonds and (iii) pay the costs of issuance of the Bonds.

The Corporation will advance proceeds of the Bonds to Encore Education Corporation (“Encore”), a California nonprofit public benefit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, pursuant to an Amended and Restated Lease Agreement (the “Lease”) by and between Encore, as lessee, and the Landlord, as lessor. Pursuant to the Lease, Encore leases a charter school facility located at 16955 Lemon Street in Hesperia, California (the “Facility”). For information regarding Encore and the Facility, see “APPENDIX A – CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOL, THE CORPORATION AND THE OBLIGATED GROUP” attached hereto.

**THE CORPORATION, ENCORE, AND THE SCHOOL MAY NOT CHARGE TUITION AND HAVE NO TAXING AUTHORITY.**

## Security for the Bonds

The Bonds and the interest thereon are payable solely out of certain revenues and income received by the Authority or the Trustee pursuant to the Loan Agreement and Obligation No. 2 issued by the Corporation in an amount equal to the aggregate principal amount of the Bonds pursuant to the Master Indenture, as supplemented by the First Supplemental Master Indenture and the Second Supplemental Master Indenture, by and among the Corporation, as representative of the Obligated Group, the Landlord, as the Member of the Obligated Group (the “Member”), and the Master Trustee.

Pursuant to and to the extent described in the Bond Indenture, the Authority assigns to the Trustee certain of the Authority’s rights under the Loan Agreement, including the right to receive payments thereunder, but excluding the Reserved Rights of the Authority. Payment of Educational Management Fees (as defined herein) to Encore from the revenues of the School will be subordinated to the obligation to pay Rent under the Lease. See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS” and “THE LEASE – Payment of Rent” herein. In addition, pursuant to the Mortgage (as defined herein), the Landlord has granted to the Master Trustee a first priority lien on the Facility. See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS” herein.

***Limited Obligations.*** The Bonds are limited obligations of the Authority. The Authority is not obligated to advance any moneys derived from any source other than Payments (as defined below) and other assets pledged under the Bond Indenture, whether for the payment of the principal or redemption price of or interest on the Bonds. See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS” herein.

***Other Obligations; Prior Bonds.*** Obligation No. 2 is payable on a senior basis to Obligation No. 1, dated as of November 1, 2016, in the aggregate principal amount of $17,440,000, issued pursuant to the Master Indenture, as supplemented by the First Supplemental Master Indenture. Obligation No. 1 was issued in connection with the California School Finance Authority Charter School Revenue Bonds (Encore Education Obligated Group) Series 2016A and Series 2016B (Taxable) (collectively, the “Prior Bonds”), of which an aggregate principal amount of $15,305,000 is currently outstanding, issued by the California School Finance Authority (the “Prior Issuer”) pursuant to an Indenture, dated as of November 1, 2016, by and between the Prior Issuer and UMB Bank, N.A., as successor trustee thereunder (the “Prior Trustee”). The proceeds of the Prior Bonds were loaned to the Corporation pursuant to a Loan Agreement, dated as of November 1, 2016 (the “Prior Loan Agreement”), by and between the Prior Issuer and the Corporation.

The Corporation’s obligations under the Prior Loan Agreement are secured by an intercept of State apportionments with respect to and on behalf of the School, whereby the State Controller’s Office makes apportionments to the Prior Trustee, in amounts sufficient to repay the Prior Bonds and related costs (the “Prior Intercept”). Under the laws of the State of California (the “State”), no party, including the Corporation, Encore or any of their respective creditors (including the Master Trustee or the Trustee for the Bonds) will have any claim to the money apportioned or to be apportioned to the Prior Trustee by the State Controller pursuant to the Prior Intercept.

Although Obligation No. 2 is senior to Obligation No. 1 under the Master Indenture, and payment of Base Rent under the Lease relating to the Bonds is payable senior to that related to the Prior Bonds, the Prior Intercept is functionally senior in position to the County Intercept relating to the Bonds with regard to State apportionment funding, as the Prior Intercept directs State apportionments to be sent directly by the State Controller’s Office to the Prior Trustee before remaining amounts are remitted by the State to San Bernardino County Office of Education (“SBCOE”) and available to fund the County Intercept (defined herein) related to the Bonds. See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS – The Loan Agreement” and “CERTAIN RISK FACTORS – Additional Indebtedness and Additional Obligated Group School Indebtedness” herein.

***County Intercept; Intercreditor and Collateral Agency Agreement.*** Encore, the Corporation, the Master Trustee and the Prior Trustee will enter into an Intercreditor and Collateral Agency Agreement, along with UMB Bank, N.A., in its role as collateral agent thereunder (the “Collateral Agent”), dated as of May 1, 2022, concurrently with the issuance of the Bonds (the “Intercreditor Agreement”), pursuant to which the parties thereto agree that (i) the Master Trustee does not have any claim to any moneys intercepted or anticipated to be apportioned to the Prior Trustee pursuant to the Prior Intercept, (ii) the Trustee and the Landlord (and the Master Trustee, as assignee thereof) have a first priority interest, lien and security interest in the Gross School Revenues (as defined herein), net of the funds subject to the Prior Intercept, to secure Encore’s obligations under the Lease, the Landlord’s obligations under Obligation No. 2 and the Corporation’s obligations under the Loan Agreement, senior to any interest, lien and security interest in the Gross School Revenues of the Prior Trustee, and (iii) the Corporation, Trustee, Prior Trustee, Encore and Master Trustee, in their respective roles, will notify the other parties to the Intercreditor Agreement of any default in connection with the Lease, the Indenture, Prior Indenture or the Master Indenture.

A depository account in the name of Encore, for the benefit of the Master Trustee, the Trustee and the Prior Trustee, will be established and held by the Collateral Agent pursuant to the Intercreditor Agreement (the “Custody Account”). In connection with the issuance of the Bonds, Encore will give direction to SBCOE to send all apportionments payable to Encore relating to the School, net of funds received by the Prior Trustee pursuant to the Prior Intercept, to the Collateral Agent for deposit in the Custody Account. Such funds will be available to the Master Trustee and the Trustee for satisfaction of any obligations of Encore under the Lease or of the Landlord under the Master Indenture, and to the extent not owed to such parties, then released promptly to Encore for deposit in its bank account. See “THE LEASE – Intercreditor Agreement” and “CERTAIN RISK FACTORS – Additional Indebtedness and Additional Obligated Group School Indebtedness” herein.

***Obligated Group and Related Parties.*** The Corporation is a California nonprofit public benefit corporation organized and operated exclusively for charitable purposes. The Corporation was formed by Encore in 2015 as a support organization for the various charter schools that have been or will be formed by, and receive administrative services from, Encore. The Corporation’s primary purpose is to finance, develop, lease and maintain certain school facilities for the exclusive use by Encore.

The Corporation is the sole member of the Landlord, which was organized in 2016. In connection with the issuance of the Prior Bonds, the Master Trustee and the Corporation, as representative of the Obligated Group, entered into the Master Indenture, and Supplemental Master Indenture No. 1 with the Landlord, as the initial Member of the Obligated Group. In connection with the issuance of the Bonds, the Corporation will enter into Supplemental Master Indenture No. 2. The Landlord is currently the only Member of the Obligated Group.

The Landlord has a fee simple interest in the Facility (as defined herein), and currently leases the Facility to Encore pursuant to that certain Lease dated as of November 1, 2016 by and between the Landlord and Encore. In connection with the issuance of the Bonds, such Lease will be replaced by that certain Amended and Restated Lease Agreement, dated as of May 1, 2022, between the Landlord and Encore (the “Lease”). Encore is not a party to the Master Indenture and is obligated solely as lessee under the Lease.

See “APPENDIX A – CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOL, THE CORPORATION AND THE OBLIGATED GROUP” attached hereto.

***Payment of Required Payments; Priority of Obligation No. 2.*** Under the Master Indenture, each Member jointly and severally covenants and agrees (a) to pay or cause to be paid promptly all Required Payments at the place, on the dates and in the manner provided in the Master Indenture, in any Related Supplement and in said Obligations, and (b) to faithfully observe and perform all of the conditions, covenants and requirements of the Master Indenture, any Related Supplement and any Obligation. **Notwithstanding the foregoing, each Member jointly and severally covenants and agrees that, to the extent Required Payments are due with respect to Obligation No. 2 and any other Obligation on the same date, except to the extent any such Required Payment is paid pursuant to an Intercept, each Member will pay amounts due in respect of Obligation No. 2 before paying amounts due in respect of any other Obligation.**

Although additional members may be added to the Obligated Group in connection with future projects and financings, the Corporation, the Landlord and Encore make no assurances that additional members will be added to the Obligated Group. See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS – The Master Indenture” herein.

## Redemption and Optional Tender

The Bonds will be subject to extraordinary optional redemption, optional redemption, extraordinary mandatory redemption, and mandatory sinking fund redemption as described below under “THE BONDS – Redemption.”

The Bonds will be subject to optional tender as described below under the heading “THE BONDS – Optional Tender.”

## Certain Risk Factors

The Bonds may not be a suitable investment for all investors. Prospective purchasers of the Bonds should read this entire Private Placement Memorandum, including the appendices and the information under the section “CERTAIN RISK FACTORS” before making an investment in the Bonds.

## Miscellaneous

This Private Placement Memorandum contains brief descriptions of, among other things, the Bonds, the Bond Indenture, the Loan Agreement, the Lease, the Master Indenture, the Supplemental Master Indenture, Obligation No. 2, the Corporation, Encore, and the School. All references in this Private Placement Memorandum to documents are qualified in their entirety by reference to such documents, and references to the Bonds are qualified in their entirety by reference to the form of the Bonds included in the Bond Indenture. Encore maintains a website providing additional information about itself and its operations. The information on such website is not included as part of, or incorporated by any reference in, this Private Placement Memorandum. Any capitalized terms in this Private Placement Memorandum that are not defined herein will have such meaning as given to them in the Bond Indenture.

# THE AUTHORITY

The Authority is a joint exercise of powers authority organized and operating under the provisions of Article 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, as amended (the “Act”) and a Joint Exercise of Powers Agreement, dated June 1, 2006 (the “Joint Powers Agreement”), among the cities of Eureka, Lancaster and Selma and other public agencies who have and may subsequently become associate members of the Authority and is authorized by the Act to issue bonds, notes or other evidences of indebtedness, or certificates of participation in leases or other agreements, or enter into loan agreements to, among other things, finance or refinance facilities owned and/or leased and operated by organizations described in Section 501(c)(3) of the Code.

The Authority may sell and deliver obligations other than the Bonds. These obligations will be secured by instruments separate and apart from the Bond Indenture, and the holders of such other obligations of the Authority will have no claim on the security for the Bonds. Likewise, the Holders of the Bonds will have no claim on the security for such other obligations that may be issued by the Authority.

Neither the Authority nor its independent contractors has furnished, reviewed, investigated or verified the information contained in this Private Placement Memorandum other than the information contained in this section and in the section entitled “ABSENCE OF MATERIAL LITIGATION – The Authority” herein. The Authority does not and will not in the future monitor the financial condition of the Corporation, the Landlord or Encore or otherwise monitor payment of the Bonds or compliance with the documents relating thereto.

THE BONDS ARE SPECIAL, LIMITED OBLIGATIONS OF THE AUTHORITY AS PROVIDED IN THE ACT, PAYABLE SOLELY FROM REVENUES AND OTHER ASSETS PLEDGED UNDER THE BOND INDENTURE. THE BONDS DO NOT CONSTITUTE A DEBT OR LIABILITY OF THE STATE OF CALIFORNIA OR OF ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE AUTHORITY AS SET FORTH IN THE BOND INDENTURE). NEITHER THE AUTHORITY, ITS MEMBERS, THE STATE OF CALIFORNIA, NOR ANY OF ITS POLITICAL SUBDIVISIONS SHALL BE DIRECTLY, INDIRECTLY, CONTINGENTLY OR MORALLY OBLIGATED TO USE ANY OTHER MONEYS OR ASSETS TO PAY ALL OR ANY PORTION OF THE DEBT SERVICE DUE ON THE BONDS, TO LEVY OR TO PLEDGE ANY FORM OF TAXATION WHATEVER THEREFOR OR TO MAKE ANY APPROPRIATION FOR THEIR PAYMENT. THE BONDS ARE NOT A PLEDGE OF THE FAITH AND CREDIT OF THE AUTHORITY, ITS MEMBERS, THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS, NOR DO THEY CONSTITUTE INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION. THE AUTHORITY HAS NO TAXING POWER. THE AUTHORITY SHALL NOT BE LIABLE FOR PAYMENT OF THE PRINCIPAL OF, PREMIUM OR INTEREST ON THE BONDS OR ANY OTHER COSTS, EXPENSES, LOSSES, DAMAGES, CLAIMS OR ACTIONS OF ANY CONCEIVABLE KIND ON ANY CONCEIVABLE THEORY, UNDER OR BY REASON OF OR IN CONNECTION WITH THE BOND INDENTURE, THE BONDS OR ANY OTHER DOCUMENTS, EXCEPT ONLY TO THE EXTENT AMOUNTS ARE RECEIVED FOR THE PAYMENT THEREOF FROM THE CORPORATION UNDER THE LOAN AGREEMENT. NONE OF THE AUTHORITY, ANY AUTHORITY MEMBER, ANY PERSON EXECUTING THE BONDS OR ANY OFFICIAL, DIRECTOR, MEMBER, OFFICER, AGENT, OR EMPLOYEE OF THE STATE, THE AUTHORITY, ANY PUBLIC AGENCY THEREOF OR ANY MEMBER THEREOF IS LIABLE PERSONALLY ON THE BONDS OR IN RESPECT OF ANY UNDERTAKINGS BY THE AUTHORITY UNDER THE BOND DOCUMENTS OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE ISSUANCE OF THE BONDS.

# THE BONDS

*The following is a summary of certain provisions of the Bonds. Reference is made to the Bonds for the complete text thereof and to the Bond Indenture for all of the provisions relating to the Bonds. The discussion herein is qualified by such reference.*

## General

The Bonds are being issued pursuant to the Bond Indenture in the aggregate principal amount set forth on the cover of this Private Placement Memorandum. The Bonds will initially be delivered as registered Bonds in minimum denominations of $250,000 and any integral multiple of $5,000 in excess thereof (“Authorized Denominations”), and will be transferable and exchangeable only as set forth in the Bond Indenture and as described herein. See “TRANSFER RESTRICTIONS” herein. The Bonds will be dated the date of issuance and will bear interest at the rates set forth on the inside cover page hereof from their dated date. Interest on the Bonds will be calculated on the basis of a 360-day year of twelve 30-day months and will be payable in arrears on each Interest Payment Date. The Bonds will mature in the amounts and in each of the years as set forth on the inside cover page hereof.

The Bonds, when issued, will be registered in the name of Cede & Co., as nominee of DTC, and will be evidenced by one Bond for each maturity of a Series in the total aggregate principal amount of the Bonds of such maturity. Registered ownership of the Bonds, or any portion thereof, may not thereafter be transferred except as set forth in the Bond Indenture. So long as Cede & Co. is the registered owner of the Bonds, as nominee of DTC, references herein to the Bondholders, holders or registered owners will mean Cede & Co. as aforesaid and will not mean the “beneficial owners” of the Bonds.

The principal and redemption price of and interest on the Bonds will be payable in lawful money of the United States of America upon surrender at the principal corporate trust office of the Trustee. The interest on any Bond will be payable to the person whose name appears on the registration books of the Trustee as the registered owner thereof as of the close of business on the fifteenth day of the calendar month immediately preceding the Interest Payment Date (the “Record Date”), such interest to be paid by check mailed by first class mail, postage prepaid, on the Interest Payment Date, to the registered owner at his or her address as it appears on such registration books. Notwithstanding the foregoing, however, any Holder of all the Bonds and any Holder of $1,000,000 or more in an aggregate principal amount of the Bonds will be entitled to receive payments of interest on the Bonds held by it by wire transfer of immediately available funds to such bank or trust company located within the United States of America as such Holder will designate in writing to the Trustee by the first Record Date for such payment. So long as Cede & Co. is the registered owner of the Bonds, principal of and interest on the Bonds are payable in same day funds by the Trustee to Cede & Co., as nominee for DTC.

Any interest not punctually paid or duly provided for will thereafter cease to be payable to the Bondholder on such Record Date and will be paid to the person in whose name the Bond is registered at the close of business on the date established by the Trustee pursuant to the Bond Indenture as a record date for the payment of defaulted interest on the Bonds (the “Special Record Date”). The Special Record Date will be fixed by the Trustee, notice thereof being given to the Bondholders not less than 10 days prior to such Special Record Date.

## Book-Entry Only System

DTC will act as securities depository for the Bonds. The Bonds will be issued as fully registered securities without coupons in Authorized Denominations. The Bonds will be registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully registered Bond certificate will be issued for each maturity of a Series of Bonds set forth on the inside cover of this Private Placement Memorandum, and will be delivered through the facilities of DTC. For additional information regarding DTC and its book-entry only system, see “APPENDIX I – BOOK-ENTRY SYSTEM” herein.

## Transfer of Bonds

So long as the Bonds are subject to a system of book-entry only transfers, beneficial ownership interests in the Bonds may not be purchased by, or transferred to, any person except a Qualified Institutional Buyer. During any period of time when the Bonds are not subject to a system of book-entry only transfers, any Bond may be transferred upon the books kept by the Trustee, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of any such Bond for cancellation, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee. The Trustee will conclusively rely upon such written instrument of transfer as evidence that the transferee is a Qualified Institutional Buyer, as defined in the Bond Indenture. Whenever any Bond or Bonds shall be surrendered for transfer, the Authority will execute and the Trustee will authenticate and deliver a new Bond or Bonds, of the same series and maturity and for a like aggregate principal amount of Authorized Denominations. The Trustee will require the Holder requesting such transfer to pay any tax or other governmental charge required to be paid with respect to such transfer. No registration of transfers of Bonds shall be required to be made during the period established by the Trustee for selection of Bonds for redemption and after a Bond has been selected for redemption. The Bonds are subject to certain transfer restrictions under the Bond Indenture, as described herein under “TRANSFER RESTRICTIONS.”

## Exchange of Bonds

Bonds may be exchanged at the principal corporate trust office of the Trustee for a like aggregate principal amount of the Bonds of the same series and maturity of other Authorized Denominations. The Trustee will require the payment by the Holder requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange, and there will be no other charge to any Holder for any such exchange.

## Redemption

***Optional Redemption.*** The Bonds are subject to redemption prior to their stated maturities, at the option of the Corporation, in whole or in part on any date at a redemption equal to 100% of the principal amount of the Bonds called for redemption, plus accrued interest to the date fixed for redemption, without premium.

***Extraordinary Optional Redemption from Insurance and Condemnation Proceeds.*** The Bonds are subject to redemption prior to their respective stated maturities, at the option of the Corporation, as a whole or in part on any date from moneys required to be transferred from the Insurance and Condemnation Proceeds Fund to the Special Redemption Account at a redemption price equal to the principal amount thereof together with interest accrued thereon to the date fixed for redemption, without premium.

***Extraordinary Mandatory Redemption Due to Change of Use.*** The Bonds are subject to redemption prior to their stated maturity, as a whole on any date from Loan prepayments made by the Corporation in connection with the cessation of operation of Encore at the Facility, at a redemption price equal to the principal amount thereof together with interest accrued thereon to the date fixed for redemption, without premium.

***Extraordinary Mandatory Redemption from One-Time Funds Received by Encore.*** The Bonds are subject to redemption prior to their respective stated maturities, as a whole or in part on any date, from any unrestricted one-time moneys received by Encore and transferred to the Trustee pursuant to the Lease, at a redemption price equal to the principal amount thereof together with interest accrued thereon to the date fixed for redemption, without premium.

***Extraordinary Mandatory Redemption from Encore Cash On Hand.*** The Bonds are subject to redemption prior to their respective stated maturities, as a whole or in part, on the 30th day following the end of each fiscal quarter of Encore, from any cash available to Encore in excess of the amount necessary to satisfy the Consolidated Days Cash on Hand covenant of the Lease as of the last day of the preceding fiscal quarter, as certified to the Trustee by the Corporation and Encore, at a redemption price equal to the principal amount of the Bonds subject to redemption together with interest accrued thereon to the date fixed for redemption, without premium.

***Mandatory Sinking Fund Redemption.*** The Bonds are subject to redemption prior to their stated maturity date in part, by lot, from Mandatory Sinking Account Payments established pursuant to the Bond Indenture on June 1, 20\_\_ and on each June 1 thereafter, to and including June 1, 20\_\_, at a redemption price equal to the principal amount thereof, plus accrued interest to the redemption date, in the years and amounts as follows:

|  |  |
| --- | --- |
| **Term Bonds Maturing** | |
| June 1, 20\_\_ | |
|  | Principal |
| Mandatory Redemption Date | Amount |
| June 1, 20\_\_ |  |
| June 1, 20\_\_ |  |
| June 1, 20\_\_ |  |
| June 1, 20\_\_ |  |
| June 1, 20\_\_ |  |
| June 1, 20\_\_ |  |
| June 1, 20\_\_ |  |
| June 1, 20\_\_ |  |
| June 1, 20\_\_ |  |
| June 1, 20\_\_ † |  |

\_\_\_\_\_\_\_\_\_\_

† Maturity Date.

In the event of Extraordinary Mandatory Redemption, Extraordinary Optional Redemption, Optional Redemption or Optional Tender of any Bonds subject to Mandatory Sinking Fund Redemption, the Corporation shall provide the Bond Trustee with a revised sinking fund schedule giving effect to the optional redemption so completed.

***Notice of Redemption.*** In connection with the redemption of Bonds (other than mandatory sinking fund redemption) the Corporation will give written notice of redemption to the Trustee not less than 35 days prior to the redemption date (or such shorter notice as may be acceptable to the Trustee). Notice of redemption of any Bonds will be given by the Trustee in accordance with the written request of the Corporation. Notice of any redemption of Bonds will be given electronically while registered to Cede & Co. and otherwise mailed postage prepaid not less than 30 nor more than 60 days prior to the redemption date by first class mail to the respective Holders thereof at the addresses appearing on the Bond registration books described in the Bond Indenture. Each notice of redemption will contain all of the following information: (a) the date of such notice; (b) the name of the Bonds and the date of issue of the Bonds; (c) the redemption date; (d) the redemption price; (e) the dates of maturity of the Bonds to be redeemed; (f) (if less than all of the Bonds of any maturity are to be redeemed) the distinctive numbers of the Bonds of each maturity to be redeemed; (g) (in the case of Bonds redeemed in part only) the respective portions of the principal amount of the Bonds of each maturity to be redeemed; (h) the CUSIP number, if any, of each maturity of Bonds to be redeemed; (i) a statement that such Bonds must be surrendered by the Holders at the principal corporate trust office of the Trustee, or at such other place or places designated by the Trustee; (j) a statement that such redemption is conditioned upon receipt by the Trustee, on or prior to the redemption date, of moneys sufficient to pay the redemption price or upon the happening of such other event as shall be specified therein, and if such moneys shall not have been so received or such event shall have (or have not) occurred, as the case may be, said notice shall be rescinded and the notice cancelled; (k) a statement that any such redemption notice can be rescinded as provided in the Bond Indenture; and (l) notice that further interest on such Bonds, if any, will not accrue from and after the designated redemption date.

Such redemption notices may state that no representation is made as to the accuracy or correctness of the CUSIP numbers provided therein or on the Bonds.

Any notice of optional redemption may state that such redemption shall be conditioned (“Conditional Notice”) upon the receipt by the Trustee on or prior to the date fixed for such redemption of moneys sufficient to pay the principal of, premium, if any, and interest on such Bonds to be redeemed or upon the occurrence of such other event or condition as is set forth in such Conditional Notice, and that, if such moneys are not so received, or if such other event or condition has occurred or failed to occur (as the case may be), said notice will be of no force and effect and the redemption of the Bonds specified in the notice will no longer be required. The Trustee will within a reasonable time thereafter give notice, in the manner in which the original Conditional Notice was given, of the cancellation of such redemption.

***Effect of Notice.*** A certificate of the Trustee or the Corporation that notice of call and redemption has been given to Holders as provided in the Bond Indenture will be conclusive as against all parties. The actual receipt by the Holder of any Bond or any other party of notice of redemption will not be a condition precedent to redemption, and failure to receive such notice, or any defect in the notice given, will not affect the validity of the proceedings for the redemption of such Bonds or the cessation of interest, if any, on the date fixed for redemption.

When notice of redemption has been given substantially as provided for in the Bond Indenture, and when the redemption price of the Bonds called for redemption is set aside for the purpose as described in the Bond Indenture, the Bonds designated for redemption will become due and payable on the specified redemption date and interest, if any, will cease to accrue thereon as of the redemption date, and upon presentation and surrender of such Bonds at the place specified in the notice of redemption, such Bonds will be redeemed and paid at the redemption price thereof out of the money provided therefor. The Holders of such Bonds so called for redemption after such redemption date will look for the payment of such Bonds and the redemption premium thereon, if any, only to the redemption fund established for such purpose. All Bonds redeemed will be cancelled forthwith by the Trustee and will not be reissued.

***Right to Rescind Notice.*** In the event that the Corporation has cured the conditions that caused the Bonds to be subject to extraordinary redemption, the Corporation may rescind any extraordinary redemption and notice thereof on any date prior to the date fixed for redemption by causing written notice of the rescission to be given to the Holders of the Bonds so called for redemption, with a copy to the Trustee. Notice of rescission of redemption will be given in the same manner in which notice of redemption was originally given. The actual receipt by the Holder of any Bond of notice of such rescission will not be a condition precedent to rescission, and failure to receive such notice or any defect in such notice will not affect the validity of the rescission.

***Funds for Redemption.*** Prior to or on the redemption date of any Bonds there will be available in the Redemption Fund, or held in trust for such purpose as provided by law, monies for the purpose and sufficient to redeem, at the premiums payable as in the notice provided, the Bonds designated in said notice of redemption. Such monies so set aside in the Redemption Fund or in the escrow fund established for such purpose will be applied on or after the redemption date solely for payment of principal of and premium, if any, on the Bonds to be redeemed upon presentation and surrender of such Bonds, provided that all monies in the Redemption Fund will be used for the purposes established and permitted by law. Any interest due on or prior to the redemption date will be paid from the Redemption Fund, unless otherwise provided for to be paid from an escrow fund established for such purpose. If, after all of the Bonds have been redeemed and cancelled or paid and cancelled, there are monies remaining in the Redemption Fund or otherwise held in trust for the payment of redemption price of the Bonds, said monies will be held in or returned or transferred to the Redemption Fund for payment of any Outstanding Bonds of the Corporation payable from said fund; provided, however, that if said monies are part of the proceeds of refunding bonds of the Corporation, said monies will be transferred to the fund created for the payment of principal of and interest on such Bonds. If no such refunding bonds of the Corporation are at such time Outstanding, said monies will be transferred to the general fund of the Corporation as provided and permitted by law.

***Selection of Bonds for Redemption.*** When any redemption is made pursuant to any of the provisions of the Bond Indenture and less than all of the Outstanding Bonds are to be redeemed, the Trustee shall select the Bonds to be redeemed from the Outstanding Bonds not previously called for redemption, by lot within a maturity. In no event will Bonds be redeemed in amounts other than whole multiples of Authorized Denominations. For purposes of redeeming Bonds in denominations greater than minimum Authorized Denominations, the Trustee will assign to such Bonds a distinctive number for each such principal amount and, in selecting Bonds for redemption by lot, will treat such amounts as separate Bonds.

“Outstanding” under the Bond Indenture means all Bonds theretofore, or thereupon being, authenticated and delivered to the Trustee under the Bond Indenture except: (a) Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation; (b) Bonds with respect to which all liability of the Authority has been discharged in accordance with the Bond Indenture; and (c) Bonds for the transfer or exchange of which, or in lieu of or in substitution for which other Bonds have been authenticated and delivered by the Trustee pursuant to the Bond Indenture.

***Purchase in Lieu of Redemption.*** The Corporation shall have the option to cause the Bonds to be purchased in lieu of any scheduled redemption pursuant to the Bond Indenture. Such option may be exercised by delivery to the Trustee on or prior to the Business Day preceding the scheduled redemption date of a written notice of the Corporation, specifying that the Bonds shall not be redeemed, but instead shall be purchased by the Corporation. Upon delivery of such notice, the Bonds shall not be redeemed but shall instead be subject to purchase by the Corporation at the applicable redemption price, which shall be payable on the date that would have been the redemption date. The principal amount of Bonds so purchased in lieu of redemption shall be applied as a credit to the next Mandatory Sinking Account Payment for the applicable series of Bonds.

## Optional Tender

Each Bondholder has the right to tender (each, an “Optional Tender”) its Bond to the Trustee for purchase in whole or in party on any day on or after June 1, 2026 (any such date referred to as an “Optional Tender Date”), at a purchase price equal to the principal amount thereof together with interest accrued thereon to the date fixed for redemption, without premium (the “Purchase Price”). In order to exercise such option, the Bondholder must deliver written notice to the Trustee at least 120 days prior to the proposed Optional Tender Date.

Not later than the Business Day after receipt of any notice of Optional Tender, the Trustee shall deliver notice to the Corporation specifying (i) the principal amount of the Bonds for which a notice of Optional Tender has been given and (ii) the proposed Optional Tender Date.

The Corporation shall, no later than five (5) days prior to the Optional Tender Date, pay to the Trustee for deposit in the Revenue Fund an amount equal to the Purchase Price. Failure of the Corporation to pay to the Trustee an amount equal to the Purchase Price by such date shall constitute an Event of Default under the Bond Indenture. If the Bondholder properly exercised the option to have its Bonds purchased as prescribed above, on the Optional Tender Date, the Trustee shall pay to the Bondholder an amount equal to the Purchase Price.

## Defeasance

***Discharge of Bond Indenture.*** Bonds may be paid in any of the following ways, provided that the Corporation also pays or causes to be paid any other sums payable under the Bond Indenture: (a) by paying or causing to be paid the principal of and interest on the Bonds Outstanding as and when the same become due and payable; (b) by depositing with the Trustee, in trust, at or before maturity, money or securities in the necessary amount to pay or redeem Bonds Outstanding; or (c) by delivering to the Trustee, for cancellation by it, all Bonds Outstanding. If the Bonds are paid in part in accordance with the Bond Indenture as a result of a partial prepayment of the Loan pursuant to the Loan Agreement and the related Extraordinary Optional Redemption of a portion of the Bonds as described herein, the Mortgage may be released on the related portion of the Facility as permitted by the Loan Agreement and in accordance with instructions from the Corporation.

If all Bonds then Outstanding are paid or caused to be paid as provided above and all other sums payable under the Bond Indenture are also paid or caused to be paid, and if the Corporation has paid any all Additional Payments and indemnification owed to the Authority and any other fees and expenses payable to the Authority under the Loan Agreement, then and in that case, at the election of the Corporation, and notwithstanding that any Bonds have not been surrendered for payment, the Bond Indenture and the pledge of Payments made under the Bond Indenture and all covenants, agreements and other obligations of the Authority under the Bond Indenture will cease, terminate, become void and be completely discharged and satisfied, except as provided in the Bond Indenture. In such event, upon request of the Corporation, the Trustee will cause an accounting for such period or periods as may be requested by the Corporation to be prepared and filed with the Corporation and will execute and deliver to the Corporation all such instruments as may be necessary or desirable to evidence such discharge and satisfaction, and the Trustee will pay over, transfer, assign or deliver to the Corporation all moneys or securities or other property held by it pursuant to the Bond Indenture which are not required for the payment of Bonds not theretofore surrendered for such payment and which are not required for the payment of fees and expenses of the Trustee.

***Discharge of Liability on Bonds.*** Upon the deposit with the Trustee, in trust, at or before maturity, of money or securities in the necessary amount to pay any Outstanding Bond, whether upon or prior to its maturity, then all liability of the Authority in respect of such Bond will cease, terminate and be completely discharged, except only that thereafter the Holder thereof will be entitled to payment of the principal of and interest on such Bond by the Authority, and the Authority will remain liable for such payment but only out of the money or securities deposited with the Trustee as aforesaid for its payment; provided further, however, that the provisions of “ – Payment of Bonds after Discharge of Bond Indenture” hereinafter will apply in all events.

The Authority or Corporation may at any time surrender to the Trustee for cancellation by it any Bonds previously issued and delivered, which the Authority or Corporation may have acquired in any manner whatsoever, and such Bonds, upon such surrender and cancellation, will be deemed to be paid and retired.

***Deposit of Money or Securities with Trustee.*** Whenever in the Bond Indenture it is provided or permitted that there be deposited with or held in trust by the Trustee money or securities in the amount necessary to pay any Bonds, such amount (which may include money or securities held by the Trustee in the funds established pursuant to the Bond Indenture) will be equal (taking into account income which will accrue from the investment thereof on the date of deposit of such funds but without taking into account any income from the subsequent reinvestment thereof) to the principal amount of such Bonds and all unpaid interest thereon to maturity, and will be: (a) lawful money of the United States of America; or (b) noncallable bonds, bills and bonds issued by the Department of the Treasury (including without limitation (1) obligations issued or held in book-entry form on the books of the Department of the Treasury and (2) the interest component of Resolution Funding Corporation strips for which separation of principal and interest is made by request to the Federal Reserve Bank of New York in book-entry form), United States Treasury Obligations State and Local Government Series and Zero Coupon United States Treasury Bonds; provided, in each case, that the Trustee will have been irrevocably instructed (by the terms of the Bond Indenture or by request of the Authority or the Corporation) to apply such money to the payment of such principal of and interest on such Bonds and provided, further, that the Authority and the Trustee will have received (i) an Opinion of Bond Counsel to the effect that such deposit will not cause interest on the Tax Exempt Bonds to be included in the gross income of the holder thereof for federal income tax purposes and that the Bonds to be discharged are no longer Outstanding; and (ii) a verification report of a firm of certified public accountants or other financial services firm acceptable to the Authority verifying that the money or securities so deposited or held together with earnings thereon will be sufficient to make all payments of principal of and interest on the Bonds to be discharged to and including their maturity date.

***Payment of Bonds after Discharge of Bond Indenture.*** Notwithstanding any provision of the Bond Indenture, and subject to applicable escheat laws, any moneys held by the Trustee in trust for the payment of the principal of or interest on any Bonds and remaining unclaimed for one year after the principal of all the Outstanding Bonds has become due and payable (whether at maturity or by declaration as provided in the Bond Indenture), if such moneys were so held at such date, or two years after the date of deposit of such moneys if deposited after said date when all of the Bonds became due and payable, will be repaid to the Corporation free from the trusts created by the Bond Indenture, and all liability of the Trustee with respect to such moneys will thereupon cease; provided, however, that before the repayment of such moneys to the Corporation as aforesaid, the Trustee may (at the cost of the Corporation) first mail to the holders of Bonds which have not yet been paid, at the addresses shown on the registration books maintained by the Trustee, a notice, in such form as may be deemed appropriate by the Trustee, with respect to the Bonds so payable and not presented and with respect to the provisions relating to the repayment to the Corporation of the moneys held for the payment thereof.

# TRANSFER RESTRICTIONS

The Bonds are to be offered and sold (including in secondary market transactions) only to Qualified Institutional Buyers. The foregoing limitation will cease to apply (without notice to or consent of any Bondholder) upon and after receipt by the Trustee from the Corporation of a rating letter by Fitch, S&P or Moody’s indicating that the Bonds are rated “A-” or “A3,” as applicable, or better. The Trustee will as soon as practicable, but in no event more than ten calendar days after receipt by the Trustee of such information, notify each Bondholder that (i) the restrictions set forth in the Bond Indenture requiring that the Beneficial Owners of the Bonds be Qualified Institutional Buyers will be of no further force or effect and (ii) the Authorized Denominations of the Bonds will be $5,000 and any multiple in excess thereof. Pursuant to the Bond Indenture, “Qualified Institutional Buyer” means a “qualified institutional buyer” as defined in Rule 144A promulgated under the Securities Act.

In addition, the face of each Bond will contain a legend indicating that it is subject to transfer restrictions as set forth in the Bond Indenture. See “CERTAIN RISK FACTORS – Purchases and Transfers of Bonds Restricted to Qualified Institutional Buyers” herein. Each initial purchaser of the Bonds will be required to execute and deliver to the Authority and the Trustee an investor letter in the form attached hereto as Appendix K.

# ESTIMATED SOURCES AND USES OF FUNDS

The following table sets forth the estimated sources and uses of funds related to the Bonds.

|  |  |
| --- | --- |
| Sources: |  |
|  |  |
| Bond Principal |  |
| **Total Sources:** |  |
|  |  |
| Uses: |  |
|  |  |
| Working Capital Fund |  |
| Reserve Account |  |
| Costs of Issuance(1) |  |
| **Total Uses** |  |

—————————

(1) Includes legal, printing, placement agent and other professional fees and other miscellaneous costs of issuance.

# THE FACILITY

Proceeds of the Prior Bonds were used by the Corporation to finance the acquisition and improvement of charter school facilities located on a site of approximately 13.69 acres at 16955 Lemon Street in the City of Hesperia, California (the “Facility”). The Facility was originally developed as a youth rehabilitation facility in 2004, with four L-shaped dormitory buildings, a gymnasium, a fully equipped commercial kitchen, and various administrative offices. The L-shaped dormitory buildings are each one-story stucco buildings. The other original facilities are housed in two additional one-story stucco buildings. The total square footage of the six one-story buildings (not including portable structures) is approximately 65,541 square feet.

The Facility also includes nineteen portable classrooms, portable restrooms, a portable office building, a tent building of approximately 9,408 sq. ft., an outdoor stage for performances, an outdoor basketball court and a parking lot. In total, the Facility (including portable structures and the tent building) comprises structures providing approximately 98,949 sq. ft. of space and provides for approximately 200 parking spaces.

***Environmental Inspection.*** Champlain Global Inc./Smith Roberts (“Champlain Global”) performed a Phase I Environmental Site Assessment of the Facility. In that connection, Champlain Global prepared a report dated January 25, 2016 (the “Phase I Report”). The Phase I Report states its purpose was to assess (1) the likelihood of contamination of the subject site as a result of either past or present land-use practices; and (2) the potential for future environmental contamination that may occur as a result of current conditions or operations and maintenance activities at either the subject site or properties adjoining the subject site, thereby identifying real or potential environmental or economic impact to the subject site.

Champlain Global’s assessment consisted of a reconnaissance of the subject property, drive-by observation of adjoining properties, acquisition and review of a current One-Mile Radius Regulatory Map Report, review of readily available information on file at selected governmental agencies, review of readily available maps and aerial photographs, interviews with persons reportedly knowledgeable of existing and prior uses of the subject property, and preparation of a written report summarizing Champlain Global’s findings. The Phase I Report is subject to a number of limitations and disclaimers.

The Phase I Report did not identify any Recognized Environmental Conditions at the subject site and did not recommend any further investigation. The term “Recognized Environmental Condition” means the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release or the material threat of a release of hazardous substances or petroleum products into structures on the property or into the ground, groundwater or surface water of the property.

The Phase I Report speaks only as of its date, and Champlain Global has not been asked to perform any additional assessment since the time of the assessments described in the Phase I Report. Further, the Phase I Report is subject to the limitations specified in such report. Costs incurred by the Corporation, the Landlord or Encore with respect to environmental remediation or liability could adversely affect their respective financial conditions. See “CERTAIN RISK FACTORS – Limitations on Value of the Facility and on Remedies Under the Mortgage” herein.

## Appraisal

***General.*** Curtis-Rosenthal, Inc. (the “Appraiser”), appraised the site and the buildings comprising the Facility. In connection therewith, the Appraiser prepared an appraisal for Encore (the “Appraisal”) which assumed an effective date of value of May 12, 2016. The Appraisal employed two different approaches: (i) the cost approach, based on a summation of the estimated value of the land, as if vacant, and the reproduction of replacement cost of the improvements; and (ii) the sales comparison approach, based on the prices paid for similar properties.

***Appraisal Amount.*** The Appraisal estimates that the market value of the fee simple interest in the subject property, permanent improvements, portable buildings and tent structure constituting the Facility, as of May 12, 2016, was $11,500,000. The Appraisal estimates that, as of May 12, 2016, (a) the valuation by cost approach of the Facility was $11,600,000, and the (b) valuation by the sales comparison approach was $11,400,000.

***Limitations.*** The value of the Facility as estimated in the Appraisal represents only the opinion of the Appraiser and is only as of the effective date. The Appraiser has not been engaged to update or revise the estimates contained in the Appraisal since its effective date. See “CERTAIN RISK FACTORS – Limitations of Appraisal” herein.

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# DEBT SERVICE SCHEDULE

The annual debt service payment requirements of the Bonds and the Prior Bonds are set forth in the table below.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| ***Period Ending June 1*** | ***The Bonds(1)*** | | ***Prior Bonds*** | ***Total Bonds Debt Service*** |
| ***Principal*** | ***Interest*** |
|  |  |  |  |  |
| 2022 |  |  | $980,250 |  |
| 2023 |  |  | 979,500 |  |
| 2024 |  |  | 983,250 |  |
| 2025 |  |  | 981,250 |  |
| 2026 |  |  | 983,750 |  |
| 2027 |  |  | 980,500 |  |
| 2028 |  |  | 981,750 |  |
| 2029 |  |  | 982,250 |  |
| 2030 |  |  | 982,000 |  |
| 2031 | -- | -- | 981,000 |  |
| 2032 | -- | -- | 979,250 |  |
| 2033 | -- | -- | 981,750 |  |
| 2034 | -- | -- | 983,250 |  |
| 2035 | -- | -- | 983,750 |  |
| 2036 | -- | -- | 983,250 |  |
| 2037 | -- | -- | 981,750 |  |
| 2038 | -- | -- | 979,250 |  |
| 2039 | -- | -- | 980,750 |  |
| 2040 | -- | -- | 981,000 |  |
| 2041 | -- | -- | 980,000 |  |
| 2042 | -- | -- | 982,750 |  |
| 2043 | -- | -- | 984,000 |  |
| 2044 | -- | -- | 983,750 |  |
| 2045 | -- | -- | 982,000 |  |
| 2046 | -- | -- | 978,750 |  |
| 2047 | -- | -- | 979,000 |  |
| 2048 | -- | -- | 982,500 |  |
| 2049 | -- | -- | 979,000 |  |
| 2050 | -- | -- | 983,750 |  |
| 2051 | -- | -- | 981,250 |  |
| 2052 | -- | -- | 981,750 |  |
| Totals |  |  | $30,428,000 |  |

1. Figures may not sum to totals due to rounding.

# SECURITY AND SOURCES OF PAYMENT FOR THE BONDS

## Limited Obligations of the Authority

The Bonds and interest thereon constitute special, limited obligations of the Authority and are payable solely from certain revenues received under the Bond Indenture and from certain funds and accounts established and maintained under the Bond Indenture. The Authority is not obligated to advance any moneys derived from any source other than the Payments (as defined below) and other assets pledged under the Bond Indenture, whether for the payment of the principal or redemption price or interest with respect to the Bonds.

THE BONDS ARE SPECIAL, LIMITED OBLIGATIONS OF THE AUTHORITY AS PROVIDED IN THE ACT, PAYABLE SOLELY FROM REVENUES AND OTHER ASSETS PLEDGED UNDER THE BOND INDENTURE. THE BONDS DO NOT CONSTITUTE A DEBT OR LIABILITY OF THE STATE OF CALIFORNIA OR OF ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE AUTHORITY AS SET FORTH IN THE BOND INDENTURE). NEITHER THE AUTHORITY, ITS MEMBERS, THE STATE OF CALIFORNIA, NOR ANY OF ITS POLITICAL SUBDIVISIONS SHALL BE DIRECTLY, INDIRECTLY, CONTINGENTLY OR MORALLY OBLIGATED TO USE ANY OTHER MONEYS OR ASSETS TO PAY ALL OR ANY PORTION OF THE DEBT SERVICE DUE ON THE BONDS, TO LEVY OR TO PLEDGE ANY FORM OF TAXATION WHATEVER THEREFOR OR TO MAKE ANY APPROPRIATION FOR THEIR PAYMENT. THE BONDS ARE NOT A PLEDGE OF THE FAITH AND CREDIT OF THE AUTHORITY, ITS MEMBERS, THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS, NOR DO THEY CONSTITUTE INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION. THE AUTHORITY HAS NO TAXING POWER. THE AUTHORITY SHALL NOT BE LIABLE FOR PAYMENT OF THE PRINCIPAL OF, PREMIUM OR INTEREST ON THE BONDS OR ANY OTHER COSTS, EXPENSES, LOSSES, DAMAGES, CLAIMS OR ACTIONS OF ANY CONCEIVABLE KIND ON ANY CONCEIVABLE THEORY, UNDER OR BY REASON OF OR IN CONNECTION WITH THE BOND INDENTURE, THE BONDS OR ANY OTHER DOCUMENTS, EXCEPT ONLY TO THE EXTENT AMOUNTS ARE RECEIVED FOR THE PAYMENT THEREOF FROM THE CORPORATION UNDER   
THE LOAN AGREEMENT. NONE OF THE AUTHORITY, ANY AUTHORITY MEMBER, ANY PERSON EXECUTING THE BONDS OR ANY DIRECTOR, OFFICER, OR EMPLOYEE OF THE STATE, THE AUTHORITY, ANY PUBLIC AGENCY THEREOF OR ANY MEMBER THEREOF IS LIABLE PERSONALLY ON THE BONDS OR IN RESPECT OF ANY UNDERTAKINGS BY THE AUTHORITY UNDER THE BOND DOCUMENTS OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE ISSUANCE OF THE BONDS.

## Bond Indenture

***Pledge of Payments and Other Amounts.*** The Authority has executed and delivered the Bond Indenture and has pledged to secure the payment of the principal of and interest on the Bonds in accordance with the terms of the Bond Indenture, all of the Payments and any other amounts held in any fund or account established pursuant to the Bond Indenture. Said pledge will constitute a lien on and security interest in such assets and will attach and be valid and binding from and after delivery of the Bonds, without any physical delivery thereof or further act.

“Payments,” under the Bond Indenture, means (i) all moneys, if any, received by the Trustee directly from, or on behalf of, the Corporation, pursuant to the Loan Agreement (excluding Additional Payments not directed to be deposited into any fund or account created and held under the Bond Indenture) or Obligation No. 2, and (ii) all income derived from the investment of any money in any fund or account established pursuant to the Bond Indenture. See “APPENDIX E – FORM OF BOND INDENTURE” attached hereto.

***Assignment of Payments and Other Amounts, Loan Agreement, Lease, and Mortgage***. The Authority assigns to the Trustee, for the benefit of the Holders from time to time of the Bonds, (i) all of the Payments and other amounts pledged under “ – Pledge of Payments and Other Amounts” above, (ii) all of the right, title and interest of the Authority in, to and under the Loan Agreement (except for the right to receive any Administrative Fees and Expenses payable to the Authority, any right to be indemnified, held harmless or defended and rights to inspection and to receive notices, certificates and opinions, express rights to give approvals, consents, or waivers, and the obligation of the Corporation to make deposits pursuant to the Tax Certificate) and Obligation No. 2. The Authority will also cause Obligation No. 2 to be registered in the name of the Trustee.

The Trustee will be entitled to and will receive all of the Payments, and any such Payments collected or received by the Authority will be deemed to be held, and to have been collected or received, by the Authority as the agent of the Trustee and will forthwith be paid by the Authority to the Trustee. The Trustee will be entitled to and will (subject to the provisions of the Bond Indenture) take all steps, actions and proceedings following any event of default under the Loan Agreement or Obligation No. 2 reasonably necessary in its judgment to enforce, either jointly with the Authority or separately, all of the rights of the Authority assigned to the Trustee and all of the obligations of the Corporation under the Loan Agreement and Obligation No. 2.

***Revenue Fund.*** The Trustee will establish, maintain and hold in trust a special fund designated as the “Revenue Fund.” All Payments will be promptly deposited by the Trustee upon receipt thereof into the Revenue Fund, and will be held in trust for the benefit of the Holders from time to time of the Bonds but will nevertheless be disbursed, allocated and applied solely for the uses and purposes set forth in the Bond Indenture. The Trustee will establish within the Revenue Fund an Interest Account and a Principal Account for the payment of debt service on the Bonds.

Interest Account. All amounts in the Interest Account will be used and withdrawn by the Trustee solely for the purpose of paying interest on the Bonds as it becomes due and payable (including accrued interest on any Bonds purchased or redeemed prior to maturity pursuant to the Bond Indenture).

Principal Account. All amounts in the Principal Account will be used and withdrawn by the Trustee solely for the purpose of paying the principal or Mandatory Sinking Account Payments of the Bonds, as provided in the Bond Indenture.

The Trustee will establish and maintain within the Principal Account a separate subaccount for the Bonds, designated as the “\_\_\_\_ Sinking Account,” inserting therein the series and maturity (if more than one such account is established) for each Term Bond. On or before June 1 in each year, the Trustee will transfer the amount deposited in the Principal Account on and prior to that date pursuant to the Bond Indenture, as described in “ – Allocation of Revenues” below, from the Principal Account to the Sinking Account for the purpose of making a Mandatory Sinking Account Payment (if such deposit is required in such month). With respect to the Sinking Account, on each Mandatory Sinking Account Payment date established for the Sinking Account, the Trustee will transfer the amount deposited in the Principal Account pursuant to the Bond Indenture for the purpose of applying the Mandatory Sinking Account Payment required on that date to the redemption (or payment at maturity, as the case may be) of Bonds, upon the notice and in the manner provided in the Bond Indenture; provided that, at any time prior to giving such notice of such redemption, the Trustee will apply such moneys to the purchase of Bonds at public or private sale, as and when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Interest Account) as the Corporation may direct, in writing, except that the purchase price (excluding accrued interest) will not exceed the par amount of such Bonds. If, during the twelve-month period immediately preceding said Mandatory Sinking Account Payment date, the Trustee has purchased Bonds with moneys in the Sinking Account, or, during said period and prior to giving said notice of redemption, the Corporation has deposited Bonds with the Trustee, or Bonds were at any time purchased or redeemed by the Trustee from the Redemption Fund and allocable to said Mandatory Sinking Account Payment, such Bonds so purchased or deposited or redeemed will be applied, to the extent of the full principal amount thereof, to reduce said Mandatory Sinking Account Payment. All Bonds purchased or deposited pursuant to the provisions of the Bond Indenture summarized in this paragraph will be delivered to the Trustee and cancelled. Any amounts remaining in the Sinking Account when all of the Bonds are no longer Outstanding will be withdrawn by the Trustee and transferred to the Revenue Fund. All Bonds purchased from the Sinking Account or deposited by the Corporation with the Trustee will be allocated first to the next succeeding Mandatory Sinking Account Payment, then to the remaining Mandatory Sinking Account Payments as the Corporation directs.

The Term Bonds, which are Bonds payable on or before their specified maturity dates from Mandatory Sinking Account Payments, will be redeemed (or paid at maturity, as the case may be) by application of Mandatory Sinking Account Payments as set forth in “THE BONDS – Redemption – Mandatory Sinking Fund Redemption.”

Reserve Account. Under the Bond Indenture, the Trustee will establish the Reserve Account within the Revenue Fund. All amounts in the Reserve Account will be used and withdrawn by the Trustee solely for the purpose of making up any deficiency in the Interest Account or the Principal Account, or (together with any other funds available) for the payment or redemption of all Outstanding Bonds.

Amounts on deposit in the Reserve Account will be valued by the Trustee at their fair market value each June 1 and December 1 and on the date of any Special Mandatory Redemption, and the Trustee will notify the Borrower of the results of such valuation. If the amount on deposit in the Reserve Account on the first Business Day following such valuation is less than one-hundred percent (100%) of the Reserve Account Requirement (as defined below), the Corporation has agreed in the Loan Agreement to make the deposits to the Reserve Account required by the Bond Indenture. If the amount on deposit in the Reserve Account on the first Business Day following such valuation is greater than the Reserve Account Requirement, then any excess will be withdrawn from the Reserve Account and transferred to the Revenue Fund.

The term “Reserve Account Requirement” means as of any date of calculation, an amount which shall be equal to maximum annual Debt Service with respect to the Bonds Outstanding.

See “APPENDIX E – FORM OF BOND INDENTURE” attached hereto.

***Allocation of Revenues.*** Promptly upon receipt, the Trustee will deposit the Payments to the Revenue Fund. On or before the 25th day of each month, commencing [May] 25, 2022, the Trustee will transfer from the Revenue Fund and deposit into the following respective accounts (each of which the Trustee will establish and maintain within the Revenue Fund) the following amounts, in the following order of priority, the requirements of each such account or fund (including the making up of any deficiencies in any such account resulting from lack of Payments sufficient to make any earlier required deposit) at the time of deposit to be satisfied before any transfer is made to any account or fund subsequent in priority:

(1) To the Interest Account, one-sixth of the aggregate amount of interest becoming due and payable during the next succeeding Interest Payment Date on all Bonds then Outstanding, until the balance in said account is equal to said aggregate amount of interest; provided that from the date of delivery of the Bonds until the first Interest Payment Date with respect to the Bonds (if less than 6 months), transfers to the Interest Account shall be sufficient on a monthly pro rata basis to pay the interest becoming due and payable on said Interest Payment Date;

(2) To the Principal Account, one-twelfth of the aggregate amount of principal of the Bonds becoming due, to redeem or pay on the next Principal Payment Date, in each case until the balance in said Principal Account is equal to said aggregate amount of such principal and Mandatory Sinking Account Payments; provided that from the date of delivery of the Bonds until the first Principal Payment Date with respect to the Bonds (if less than 12 months), transfers to the Principal Account shall be sufficient on a monthly pro rata basis to pay the principal becoming due and payable on said Principal Payment Date;

(3) To the Reserve Account, (a) the greater of (i) the amount designated for deposit to the Reserve Account in a written direction of the Corporation, and (ii) one-twelfth (1/12) of the aggregate amount of each prior withdrawal from the Reserve Account for the purpose of making up a deficiency in the Interest Account or Principal Account (until deposits on account of such withdrawal are sufficient to fully restore the amount withdrawn), provided that no deposit need be made into the Reserve Account if the balance in said account is at least equal to the Reserve Account Requirement, and (b) in the event the balance in said account shall be less than the Reserve Account Requirement due to valuation of the Eligible Securities deposited therein in accordance with the Bond Indenture, the amount necessary to increase the balance in said account to an amount at least equal to the Reserve Account Requirement (until deposits on account of such valuation deficiency are sufficient to increase the balance in said account to said amount); and

(4) To the Administration Fund, an amount equal to one-twelfth of the annual Administrative Fees and Expenses.

Any moneys remaining in the Revenue Fund after the foregoing transfers will be transferred on June 1 of each year, commencing June 1, 2022, by the Trustee to the Corporation, free and clear of the lien of the Bond Indenture.

See “APPENDIX E – FORM OF BOND INDENTURE” attached hereto.

## The Loan Agreement

The Authority and the Corporation will execute the Loan Agreement to provide for the loan by the Authority to the Corporation of proceeds from the sale of the Bonds. The Authority will assign its rights in the Loan Agreement (except for certain unassigned rights, including the right to receive any Administrative Fees and Expenses payable to the Authority, any right to be indemnified, held harmless or defended and rights to inspection and to receive notices, certificates and opinions, express rights to give approvals, consents, or waivers, and the obligation of the Corporation to make deposits pursuant to the Tax Certificate) to the Trustee and will assign Obligation No. 2 to the Trustee. Pursuant to the Loan Agreement, the Corporation will be required to make loan repayments sufficient to pay the principal, premium, if any, and interest on the Bonds when due. See “APPENDIX F – FORM OF LOAN AGREEMENT” herein.

Pursuant to the Loan Agreement, the Corporation covenants that it will instruct or cause the Landlord to cause Encore, pursuant to the Lease, to pay Rent (as defined in the Lease) directly to the Master Trustee for deposit in the Gross Revenue Fund. See “APPENDIX F – FORM OF LOAN AGREEMENT” attached hereto. Rent under the Lease is payable by Encore solely from the Gross School Revenues, as defined herein, which are derived from the operations of the School, and any other charter schools that Encore may operate in the Facility in the future. See “THE LEASE – Payment of Rent” herein. Revenues generated from any other schools whose charters are held and/or that are operated and/or managed by Encore, or assets and revenues generated from sources other than the School, are not available for payment of Rent or otherwise available to the Authority, Master Trustee, Trustee, Investors and/or Bondholders.

Encore is not a party to, and is not liable under, the Loan Agreement. See “APPENDIX F – FORM OF LOAN AGREEMENT” attached hereto.

## The Master Indenture

***Joint and Several Obligations of the Members of the Obligated Group but not the Lessee.*** Under the Master Indenture, the Corporation, as the Obligated Group Representative, may authorize the issuance, on behalf of the Members of the Obligated Group, of Obligations to evidence or secure Indebtedness or other obligations. All Members of the Obligated Group are jointly and severally liable with respect to the payments due in respect of each Obligation issued under the Master Indenture, including Obligation No. 2. The Members of the Obligated Group are required to make payment on Obligation No. 2 in amounts sufficient to pay when due the principal of and premium, if any, and interest on the Bonds.

**Neither the Corporation nor Encore is a member of the Obligated Group. Encore is not a party to the Master Indenture and is obligated solely as lessee under the Lease, in respect of payment from the sources specified therein relating to the School, and is not responsible, party to or otherwise obligated under the Bond Indenture, the Master Indenture or the Supplemental Master Indenture to make payments directly under the Loan Agreement, Obligation No. 2 or the Bonds. The Corporation is the Obligated Group Representative and sole member of the Landlord, but is not liable under Obligation No. 2 or a source of payment or security for the Bonds. The Corporation is obligated as the borrower under the Loan Agreement, however the source of revenues for the satisfaction of the Corporation’s obligations under the Loan Agreement is limited solely to the Gross Revenues of the Obligated Group.**

Subject to the provisions of the Master Indenture permitting withdrawal from the Obligated Group, the obligation of each Member to make Required Payments is a continuing one and is to remain in effect until all Required Payments have been paid in full in accordance with the Master Indenture. All moneys from time to time received by the Obligated Group Representative or the Master Trustee to reduce liability on Obligations, whether from or on account of the Members or otherwise, will be regarded as payments in gross without any right on the part of any one or more of the Members to claim the benefit of any moneys so received until the whole of the amounts owing on Obligations has been paid or satisfied and so that in the event of any such Member’s filing bankruptcy, the Obligated Group Representative or the Master Trustee will be entitled to prove up the total indebtedness or other liability on Obligations Outstanding as to which the liability of such Member has become fixed.

Each such Obligation will be a primary obligation and will not be treated as ancillary to or collateral with any other obligation and will be independent of any other security so that the covenants and agreements of each Member under the Master Indenture will be enforceable without first having recourse to any such security or source of payment and without first taking any steps or proceedings against any other Person. The Obligated Group Representative and the Master Trustee are each empowered to enforce each covenant and agreement of the Master Indenture, and to enforce the making of Required Payments.

For a more detailed discussion of entry to or withdrawal from the Obligated Group, see “– Membership in Obligated Group” and “ – Withdrawal from Obligated Group.” All capitalized terms used and not defined herein have the meanings listed in “APPENDIX E – SUMMARY OF PRINCIPAL BOND DOCUMENTS” attached hereto.

***Gross Revenue Fund.*** The Members of the Obligated Group agree in the Master Indenture that, unless otherwise provided in a Related Supplement or if the Related Bonds issued thereunder are payable in full from funds that are subject to the Intercept, so long as any of the Obligations remain Outstanding, all of the Gross Revenues of the Obligated Group are required to be deposited as soon as practicable upon receipt in a fund designated as the “Gross Revenue Fund.” Under the Master Indenture, “Gross Revenues” means all revenues, income, receipts and money received by or on behalf of the Members from all lawfully available sources, including (a) gross revenues derived from the operation and possession of each Member’s facilities; (b) gifts, grants, bequests, donations and contributions, exclusive of any gifts, grants, bequests, donations and contributions to the extent specifically restricted by the donor to a particular purpose inconsistent with their use for the payment of Required Payments; (c) proceeds derived from (i) accounts receivable, (ii) securities and other investments, (iii) inventory and other tangible and intangible property, and (iv) contract rights and other rights and assets now or hereafter owned by each Member; and (d) rentals received from the lease of space; provided, however, that Gross Revenues does not include (1) income derived from Defeasance Obligations that are irrevocably deposited in escrow to pay the principal of or interest on any Indebtedness; (2) any gains or losses resulting from the early extinguishment of Indebtedness, the sale, exchange or other disposition of Property not in the ordinary course of business, or the reappraisal, reevaluation or write-up of assets, or any other extraordinary gains or losses; (3) net unrealized gain (losses) on investments on investments and Financial Products Agreements; (4) proceeds of borrowing; (5) condemnation proceeds; (6) insurance proceeds; and (7) income derived from, or accounts receivable for, repayment to any Member of loans made by any other Member or Members.

Subject to the provisions of the Master Indenture, the Members shall establish and maintain the Gross Revenue Fund, in one or more accounts at such banking institution or institutions as the Members shall from time to time designate in writing to the Master Trustee for such purpose (the “Depository Bank(s)”). Subject only to the provisions of the Master Indenture permitting the application thereof for the purposes and on the terms and conditions set forth therein, each Member, respectively, pledges, and to the extent permitted by law grants a security interest to the Master Trustee in, the Gross Revenue Fund and all of the Gross Revenues of the Obligated Group to secure the payment of Required Payments and the performance by the Members of their other obligations under the Master Indenture. Each Member, respectively, is required to execute and cause to be filed Uniform Commercial Code financing statements, is required to execute and cause to be sent to each Depository Bank and to the Master Trustee a notice of the security interest granted under the Master Indenture and is required to execute and deliver such other documents (including, but not limited to, control agreements and continuation statements) as may be necessary or reasonably requested by the Master Trustee in order to perfect or maintain as perfected such security interest or give public notice thereof.

Amounts in the Gross Revenue Fund, if any, may be used and withdrawn by any Member at any time for any lawful purpose, except as provided in the Master Indenture. In the event that any Member is delinquent for more than one business day in the payment of any Required Payment with respect to any Obligation issued pursuant to a Related Supplement, the Master Trustee, upon notice from the Obligated Group Representative or actual knowledge of such delinquency, will notify the Obligated Group Representative and the Depository Bank(s) of such delinquency. Unless such Required Payment or payment in respect of Ground Rent is paid, or provision for payment is duly made, in a manner satisfactory to the Master Trustee, within five days of receipt of such notice, the Master Trustee will cause the Depository Bank(s) to transfer the Gross Revenue Fund to the name and credit of the Master Trustee. The Gross Revenue Fund will, upon its creation, be held in the name and to the credit of the Master Trustee until six months after the amounts on deposit in said account are sufficient to pay in full, or have been used to pay in full, all Required Payments in default and all other Events of Default known to the Master Trustee have been made good or cured to the satisfaction of the Master Trustee or provision deemed by the Master Trustee to be adequate has been made therefor, whereupon the Gross Revenue Fund (except for the Gross Revenues required to make such payments or cure such defaults) will be returned to the name and credit of the appropriate Members.

During any period that the Gross Revenue Fund, if any, is held in the name and to the credit of the Master Trustee, the Master Trustee is required to use and withdraw amounts in said Fund from time to time:

(1) FIRST, to make Required Payments as such payments become due (whether by maturity, redemption, acceleration or otherwise), and, if such amounts are not sufficient to pay in full all such payments due on any date, then to the payment of Required Payments ratably without any discrimination or preference; and

(2) SECOND, to such other payments in the order which the Master Trustee, in its discretion, shall determine to be in the best interests of the Holders of Obligations without discrimination or preference.

During any period that the Gross Revenue Fund, if any, is held in the name and to the credit of the Master Trustee, the Members shall not be entitled to use or withdraw any of the Gross Revenues of the Obligated Group unless and to the extent that the Master Trustee at its sole discretion so directs for the payment of current or past due operating expenses of the Members; provided, however, that the Members will be entitled to use or withdraw any amounts in the Gross Revenue Fund which do not constitute Gross Revenues of the Obligated Group. Each Member agrees to execute and deliver all instruments as may be required to implement the provisions of the Master Indenture with respect to the Gross Revenue Fund. Each Member further agrees that a failure to comply with the terms of the Master Indenture with respect to the Gross Revenue Fund shall cause irreparable harm to the Holders and will entitle the Master Trustee, with or without notice, to take immediate action to compel the specific performance of the obligations of the Members as provided in the Master Indenture.

***Grant of Security Interest.*** In addition to any security interest granted (i) under any Mortgage and (ii) as described under the heading “ – Gross Revenue Fund” above, the Members grant to the Master Trustee a continuing security interest in all of its presently existing and hereafter acquired or arising Collateral (as defined in the Master Indenture) in order to secure the prompt payment and performance and observance of all of the Members’ Obligations. The Members acknowledge and affirm that such security interest in the Collateral has attached to all Collateral without further act on the part of the Master Trustee or the Members. The Members consent to the foregoing grant of a security interest in the Collateral, regardless of where located.

The Members authorize the Master Trustee to file financing statements perfecting the security interest granted in the Master Indenture in any jurisdiction, and if requested, will deliver financing statements and other documents to the Master Trustee and will take such other actions as may from time to time be requested by the Master Trustee in order to maintain a first perfected security interest in and, if applicable, control of, the Collateral for the Master Trustee. Any financing statement filed by the Master Trustee may be filed in any filing office in any jurisdiction and may (i) indicate the Collateral (1) as all assets of the Members or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the UCC, or (2) by any other description which reasonably approximates the description contained in this section of the Master Indenture, and (ii) contain any other information required by part 5 of Article 9 of the UCC for the sufficiency or filing office acceptance of any financing statement or amendment, including (1) whether the Members are an organization, the type of organization and any organization identification number issued to the Members, and (2) in the case of a financing statement filed as a fixture filing, a sufficient description of real property to which the Collateral relates. The Members also agrees to furnish any such information described in the foregoing sentence to the Master Trustee promptly upon request.

The Members will, if so requested by the Master Trustee, furnish to the Master Trustee, as often as the Master Trustee requests, statements and schedules further identifying and describing the Collateral and such other reports and information in connection with its Collateral as the Master Trustee may request, all in such reasonable detail as the Master Trustee may specify. The Members also agree to take any and all actions necessary to defend title to the Collateral against all persons and to defend the security interest of the Master Trustee in its Collateral and the priority thereof against any Lien not expressly permitted under the Master Indenture.

The Members’ exact legal name, state of organization, FEIN, if any, and charter or organizational identification number is accurately set forth in each Related Supplement. The Members’ chief executive office is located at the address set forth in the Master Indenture, and there are no other locations where any Member conducts business or Collateral is kept. The Members will not, without the prior written consent of the Master Trustee (which consent the Master Trustee shall not be obligated to provide absent the written direction of the Majority Obligation Holders), (i) change either of its names, entity types or ownership structures, (ii) reorganize or reincorporate under the laws of another jurisdiction, or (iii) change its address where Collateral is kept.

***Debt Service Coverage Ratio.*** Pursuant to the Master Indenture, each Member covenants and agrees to fix, charge and collect, or cause to be fixed, charged and collected, rental rates, fees and charges for the use of its Facilities and for the services furnished or to be furnished by the Members so that the Debt Service Coverage Ratio of the Obligated Group as a whole at the end of each Fiscal Year is not less than 1.00:1.00. If the Debt Service Coverage Ratio of the Obligated Group falls below 1.00:1.00, it will constitute an Event of Default under the Master Indenture.

“Debt Service Coverage Ratio” means for any Fiscal Year the ratio determined by dividing the Income Available for Debt Service for such Fiscal Year by the Debt Service Requirement for such Fiscal Year.

“Income Available for Debt Service” means, unless the context provides otherwise, with respect to the Members as to any period of time, the Gross Revenues less expenses of the Members relating to the operation and management of the Facilities, and less rent paid pursuant to any Ground Leases; provided that no determination thereof shall take into account: (a) any gain or loss resulting from either the early extinguishment or refinancing of Indebtedness or the sale, exchange or other disposition of capital assets not made in the ordinary course of business; (b) gifts, grants, bequests, donations and contributions, exclusive of any gifts, grants, bequests, donations and contributions to the extent specifically restricted by the donor to a particular purpose inconsistent with their use for the payment of Required Payments; (c) the net proceeds of insurance (other than business interruption insurance) and condemnation awards; (d) adjustments to the value of assets or liabilities resulting from changes in generally accepted accounting principles; (e) unrealized gains or losses that do not result in the receipt or expenditure of cash, including the extinguishment of debt; and (f) nonrecurring items which do not involve the receipt, expenditure or transfer of assets.

“Debt Service Requirement” means, for any Fiscal Year for which such determination is made, the aggregate of the scheduled payments to be made with respect to principal (or mandatory sinking fund or installment purchase price or lease rental or similar payments) and interest on Outstanding Long-Term Indebtedness of the Members during such period.

***Required Lease Covenants.*** Pursuant to the Master Indenture, each Member covenants and agrees that each Lease will contain the following provisions:

(a) Extraordinary Monthly Rent. In the event that the Lessee under a Lease receives a notice (each an “Extraordinary Monthly Rent Notice”) from either the lessor under such Lease (the “Lessor”) or the Master Trustee stating the Master Trustee has not received the payment of Rent with respect to a Related Project (as defined in the Master Indenture) on or before the date that such required payment is due, then Lessee shall pay the Extraordinary Monthly Rent to the Master Trustee within three (3) Business Days after Lessee’s receipt of such Extraordinary Monthly Rent Notice. The Lessor shall covenant in such Lease to immediately provide the Lessee with a copy of any Extraordinary Monthly Rent Notice received by Lessor pursuant to the terms of the Master Indenture.

The definition of “Base Rent” set forth under the related Lease shall include, as one component, the “Extraordinary Monthly Rent.”

Initially, the Member will be the only Member of the Obligated Group, and the lease of the Facility to Encore for operation of the School will be the only “Lease” within the meaning of the Master Indenture. Consequently, there will initially be no source for the Extraordinary Monthly Rent payments described in the preceding paragraph.

(b) Liquidity Covenant. The Lessee will calculate Consolidated Days Cash on Hand for the Obligated Group Schools as of the last day of each Fiscal Year, commencing with the Fiscal Year ending June 30, 2017, based upon its audited financial statements for such Fiscal Year and file such reports with Master Trustee. For each calculation date, the Lessee, on behalf of the Obligated Group Schools, will maintain Consolidated Days Cash on Hand as of the last day of each Fiscal Year equal to or greater than 45 days.

“*Consolidated Days Cash on Hand*” means (i) the sum of Cash and Cash Equivalents of the Obligated Group Schools, excluding the proceeds of Indebtedness, as shown on the Lessee’s audited financial statements for each Fiscal Year (“Cash on Hand”); divided by (ii) the Average Daily Expenses for Obligated Group Schools (as calculated for the most recent Fiscal Year ending before such date).

“*Average Daily Expenses for Obligated Group Schools*” means (A) cash requirements during such Fiscal Year related to or payable from revenues attributable to the schools operated by the Lessee under the Lease, which have been financed with Obligations issued under the Master Indenture (the “Obligated Group School”) (excluding from such calculation all depreciation and other non-cash items), and including within such calculation on behalf of the Obligated Group Schools in the aggregate (i) all Operating Expenses for such Fiscal Year for the Obligated Group Schools, and (ii) the maximum Base Rent payable under the Lease for the Obligated Group Schools between the Lessee and any Member of the Obligated Group for that year or any other year, and (iii) the maximum annual debt service payable by the Obligated Group Schools on all other Obligated Group School Indebtedness, divided by (B) 365.

The Lessee will provide a certificate to the Lessor and Master Trustee at the time of delivery of its annual audited financial statements for each Fiscal Year indicating whether the Lessee, on behalf of the Obligated Group Schools, has met the requirement set forth above. If the certificate indicates that such cash balance requirement has not been met, the Lessee covenants to retain an Independent Consultant, at the expense of the Lessee, on behalf of the Obligated Group Schools, within 45 days, to make recommendations to increase such balances in the then-current Fiscal Year to the required level or, if in the opinion of the Independent Consultant the attainment of such level is impracticable, to the highest level attainable in such Fiscal Year. The Independent Consultant selected and appointed by the Lessee may be rejected upon the written request of the holders of not less than a majority in aggregate principal amount of the Related Bonds then Outstanding; if so rejected, the Lessee covenants to use its best efforts to appoint a new Independent Consultant within 45 days thereof. Any Independent Consultant will be required to submit its recommendations to the Lessors and Master Trustee within 90 days after being so retained. The Lessee, on behalf of the Obligated Group Schools, agrees to implement the recommendations of the Independent Consultant, to the extent permitted by law.

No proceeds of any Indebtedness will be considered unrestricted available cash for purposes of such calculation.

In the event the Lessee, on behalf of the Obligated Group Schools, fails to have such an amount on deposit, it will not be a default or Event of Default under the Lease.

(c) Base Rent Coverage Ratio Covenant. Lessee covenants and agrees to calculate for each Fiscal Year its Base Rent Coverage Ratio for each Lease based on its audited financial statements for such Fiscal year, and to provide a copy of such calculation for such period to the applicable Lessor and the Master Trustee annually commencing with the Fiscal Year ending June 30, 2017. The Lessee also covenants to maintain its Net Operating School Revenue so that its Base Rent Coverage Ratio at the end of the each Fiscal Year is not less than 1.10 to 1.00; provide that, except as provided below, the Lessee’s failure to achieve the required Base Rent Coverage Ratio will not constitute an Event of Default under any Lease if the Lessee promptly engages an Independent Consultant to prepare a report, to be delivered to the Lessee, the Lessor and Trustee within 45 days of engagement, with recommendations for meeting the required Base Rent Coverage Ratio or, if in the opinion of the Independent Consultant the attainment of such level is impracticable, to the highest level attainable in such Fiscal Year. The Independent Consultant selected and appointed by the Lessee may be rejected upon the written request of the holders of not less than a majority in aggregate principal amount of the Related Bonds then Outstanding; if so rejected, the Lessee covenants to use its best efforts to appoint a new Independent Consultant within 45 days thereof. Any Independent Consultant will be required to submit its recommendations to the Lessors and Master Trustee within 90 days after being so retained. The Lessee, on behalf of the Obligated Group School, agrees to implement the recommendations of the Independent Consultant, to the extent permitted by law. Notwithstanding the foregoing, the Lessee’s failure to achieve a Base Rent Coverage Ratio of 1.00 to 1.00 will constitute an Event of Default under the Lease.

“*Additional Rent*” means (i) all amounts required to reimburse the lessor under a Lease, or satisfy such lessor’s obligations, for any fees, expenses, taxes, indemnities, assessments or other payments that the Borrower is obligated to pay under the terms of the Loan Agreement, including, but not limited to, such amounts as described in the Loan Agreement; and (b) any other amounts required to be paid by such lessor in order for the lessor to meet its obligations under the Bond Documents on a full and timely basis.

“*Base Rent Coverage Ratio*” means for any period of time the ratio determined by dividing (i) Net Operating School Revenue by (ii) the amount of scheduled Base Rent under the Lease plus debt service on all Indebtedness of the Lessee.

“*Gross School Revenue*” means all revenue, income, receipts and money received by or on behalf of the Lessee from all lawfully available sources attributable to its operation of the applicable Obligated Group School and to any other charter school operated by the Lessee in the property subject to the Lease, calculated in accordance with GAAP, consistently applied.

“*Indebtedness of the Lessee*” means all obligations for borrowed money, installment sales and capitalized lease obligations, incurred or assumed by a Lessee, including Guaranties, Long-Term Indebtedness, Short-Term Indebtedness or any other obligation for payments of principal and interest with respect to money borrowed or payments under leases treated as indebtedness under GAAP.

“*Net Operating School Revenue*” means the Lessee’s Gross School Revenue (defined above) minus its Operating Expenses (defined below); provided, that no determination thereof will take into account: (a) any gain or loss resulting from either the early extinguishment or refinancing of Obligated Group School Indebtedness or the sale, exchange or other disposition of capital assets not made in the ordinary course of business; (b) gifts, grants, bequests, donations or contributions, and income therefrom, to the extent specifically permanently restricted by the donor or by law to a particular purpose inconsistent with their use for the payment of Operating Expenses; (c) the net proceeds of insurance (other than business interruption insurance) and condemnation awards; (d) adjustments to the value of assets or liabilities resulting from changes in GAAP; (e) unrealized gains or losses that do not result in the receipt or expenditure of cash; and (f) nonrecurring items which involve the receipt, expenditure or transfer of assets.

“*Obligated Group School Indebtedness*” means Indebtedness (as such term is defined in the Master Indenture) related to or payable from revenues of the applicable Obligated Group School and to any other charter school operated by Encore Education in the Facility subject to the Lease.

“*Operating Expenses*” means except as provided below, all unrestricted expenses of the Lessee, attributable to operations of the applicable Obligated Group School and to any other charter school operated by the Lessee at the Facility, including maintenance, repair expenses, utility expenses, equipment lease and other rental expense (excluding the Base Rent and the Extraordinary Monthly Rent, if any, but including Additional Rent and Expenses as defined in the Lease), administrative and legal expenses, miscellaneous operating expenses, advertising and promotion costs, payroll expenses (including taxes), the cost of material and supplies used for current operations of the Lessee, the cost of vehicles, equipment leases and service contracts, taxes upon the operations of the Lessee not otherwise mentioned herein, charges for the accumulation of appropriate reserves for current expenses not annually recurrent, but which are such as may reasonably be expected to be incurred in accordance with GAAP, calculated in accordance with GAAP, consistently applied. “Operating Expenses” shall exclude, however, i) depreciation and amortization, and (ii) any expenses which are treated as extraordinary in accordance with GAAP.

(d) Enrollment Covenant. Encore shall maintain annual enrollment at the School of at least 700 students, commencing as of October 15, 2022 and tested annually as of each October 15 thereafter (the “October Count Date”), with such enrollment to be calculated in the same way as reported to the California Department of Education (“CDE”).

Commencing on or before November 1, 2022 and on or before November 1 of each year thereafter, Encore shall report to the Trustee and post to the Electronic Municipal Market Access website its enrollment for each October Count Date.

In the event the enrollment at the School is less than 700 as of any October Count Date, Encore covenants to retain an Independent Consultant, at the expense of Encore, on behalf of the Obligated Group Schools, within 45 days, to make recommendations to increase such balances in the then-current Fiscal Year to the required level or, if in the opinion of the Independent Consultant the attainment of such level is impracticable, to the highest level attainable in such Fiscal Year. The Independent Consultant selected and appointed by Encore may be rejected upon the written request of the holders of not less than a majority in aggregate principal amount of the Related Bonds then Outstanding; if so rejected, Encore covenants to use its best efforts to appoint a new Independent Consultant within 45 days thereof. Any Independent Consultant will be required to submit its recommendations to the Lessors and Master Trustee within 90 days after being so retained. Encore, on behalf of the Obligated Group Schools, agrees to implement the recommendations of the Independent Consultant, to the extent permitted by law.

Upon submission of the Independent Consultant's report, Encore is required to arrange for payment of the amount owed to the Independent Consultant and issue a written certificate to the Trustee indicating its acceptance of the recommendations of the consultant within thirty (30) days of receiving the report of the Independent Consultant. So long as Encore is otherwise in full compliance with its obligations under the Lease, including following the recommendations of the Independent Consultant, it shall not constitute an Event of Default under the Lease if the enrollment of the School is less than the required amount, so long as such enrollment is above 665 students.

***Limitations on Additional Indebtedness.*** Each Member covenants and agrees that it will not incur any Additional Indebtedness except as follows:

(a) Long-Term Indebtedness may be incurred if each Member obtains the prior written consent of the Majority Obligation Holders;

(b) Long Term Indebtedness may be incurred for the purpose of refunding any Outstanding Indebtedness, if such Long Term Indebtedness fully pays the Outstanding Obligations in full;

(c) Short Term Indebtedness may be incurred by any Member if such Member obtains the prior written consent of the Majority Obligation Holders;

(d) Indebtedness consisting of purchase money obligations with respect to any item of equipment related to the Facilities may be incurred in the aggregate principal amount of up to $50,000;

(e) Indebtedness consisting of leases which are considered operating leases under generally accepted accounting principles may be incurred with the prior written consent of the Majority Obligation Holders;

(f) Subordinated Indebtedness may be incurred with the prior written consent of the Majority Obligation Holders; or

(g) No Member shall enter into a Financial Products Agreement.

See “APPENDIX G – MASTER INDENTURE AND FORM OF SUPPLEMENTAL MASTER INDENTURE NO. 2” attached hereto.

***Insurance.*** Each Member covenants and agrees that it will keep (or cause to be kept) insurance (including builder’s all-risk insurance during any period of construction at a Facility) against loss or damage to any structure constituting any part of the Facilities by fire and lightning, with extended coverage and vandalism and malicious mischief insurance. Said extended coverage insurance shall, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance. All insurance provided pursuant to this subsection shall be in an amount equal to the greater of (i) one hundred percent (100%) of the replacement cost (without deduction for depreciation) of all buildings, structures and fixtures constituting any part of the Facilities owned by such Member, or (ii) the principal amount of the Related Bonds then outstanding under any Related Bond Indenture, and shall be subject to a deductible not to exceed $100,000 per occurrence.

Each Member covenants and agrees to procure and maintain (or caused to be procured or maintained), throughout the term of any Related Bond Indenture, business interruption insurance or rent loss insurance to cover loss, total or partial, of the use of any structures constituting any part of the Facilities as the result of any of the hazards covered by the insurance required by, in an amount sufficient to pay the Required Payments for a period of at least twelve (12) months. Proceeds of such insurance in the amount of at least twelve (12) months of Required Payments shall be deposited into the “Insurance and Condemnation Proceeds Fund” created under the Master Indenture and applied to the payment of the Required Payments, in installments as the proceeds are paid to each Member.

Each Member covenants and agrees that it will maintain (or caused to be maintained) (i) general liability insurance of no less than $1,000,000 per occurrence and (ii) worker’s compensation insurance as required by the laws of the State.

An Insurance Consultant shall review the insurance requirements of each Member with respect to the Facilities from time to time (but not less frequently than once every five years) commencing July 1, 2021. If such review indicates that any Member should increase any of the coverages required hereof, each Member shall review such recommendation with the governing body of each Member and shall increase such coverage.

Each Member hereby covenants that it will use its best efforts to apply for any grants, loans or other relief available from each state government, as applicable, or the federal government to obtain amounts necessary to rebuild any portion of the Facilities destroyed or damaged in connection with an uninsured or underinsured calamity causing destruction or damage; provided, however, that each Member shall not be required to accept such amounts if doing so would jeopardize the integrity of each Member’s programs.

See “APPENDIX G – MASTER INDENTURE AND FORM OF SUPPLEMENTAL MASTER INDENTURE NO. 2” attached hereto for information on the application of insurance proceeds.

***Amendment of Lease.*** There shall be no amendment, modification or termination of any of the Leases without the prior written consent of the Master Trustee. The Master Trustee shall give such written consent only if:

(a) the Holders of a majority in principal amount of the related Tax-Exempt Bonds then Outstanding consent in writing to such amendment, modification or termination; and

(b) the Master Trustee shall receive an Opinion of Bond Counsel substantially to the effect that such amendment, modification or termination will not, in and of itself, adversely affect any exclusion of interest on the Related Bonds that are Tax-Exempt Bonds from gross income for purposes of federal income taxation.

***Membership in Obligated Group.*** Additional Members may be added to the Obligated Group from time to time provided that prior to such addition the Master Trustee receives:

(a) a copy of a resolution of the Governing Body of the proposed new Member which authorizes the execution and delivery of a Related Supplement and compliance with the terms of the Master Indenture;

(b) a Related Supplement executed by the Obligated Group Representative, the new Member and the Master Trustee pursuant to which the proposed new Member (1) agrees to become a Member, (2) agrees to be bound by the terms and restrictions imposed by the Master Indenture and the Obligations, and (3) irrevocably appoints the Obligated Group Representative as its agent and attorney-in-fact and grants to the Obligated Group Representative full power to execute Related Supplements authorizing the issuance of Obligations and to execute and deliver Obligations;

(c) an Opinion of Counsel to the Master Trustee to the effect that (1) the proposed new Member has taken all necessary action to become a Member, and upon execution of the Related Supplement, such proposed new Member will be bound by the terms of the Master Indenture and (2) the addition of such Member will not cause the Master Indenture or any Obligations to be subject to registration under the Securities Act of 1933, as amended, or the Trust Indenture Act of 1939, as amended (or, that any such registration, if required, has occurred);

(d) an Independent Consultant’s or Accountant’s report, or an Officer’s Certificate, as appropriate, to the effect that the condition described in the Limitations on Additional Indebtedness section of the Master Indenture would be met for the incurrence of one dollar of additional Long-Term Indebtedness immediately following the addition of such new Member;

(e) an Opinion of Bond Counsel to the effect that the addition of such Member will not result in the inclusion of interest on any Related Bonds that purports to be a Tax-Exempt Bond in gross income for purposes of federal income taxation, nor cause the Master Indenture nor the Obligations issued under the Master Indenture to be subject to registration under the Securities Act of 1933, as amended or the Trust Indenture Act of 1939, as amended (or unless such registration, if required, has occurred);

(f) an Officer’s Certificate to the effect that no Member, immediately after the addition of such new Member, would be in default in the performance or observance of any covenant or condition of the Master Indenture; and

(g) a duly executed and delivered Mortgage encumbering the all Property, Plant and Equipment of such new Member, subject only to Permitted Liens.

***Withdrawal from Obligated Group.*** Any Member may withdraw from the Obligated Group, and be released from further liability or obligation under the provisions of the Master Indenture, provided that prior to such withdrawal the Master Trustee receives:

(a) an Officer’s Certificate to the effect that, immediately following withdrawal of such Member, no Member would be in default in the performance or observance of any covenant or condition of this Master Indenture;

(b) an Opinion of Bond Counsel to the effect that the withdrawal of such Member is in compliance with the conditions contained in this Section, and such withdrawal will not result in the inclusion of interest on any Related Bonds that purports to be a Tax-Exempt Bond in gross income for purposes of federal income taxation, nor cause this Master Indenture nor the Obligations issued under this Master Indenture to be subject to registration under the Securities Act of 1933, as amended, or the Trust Indenture Act of 1939, as amended (or unless such registration, if required, has occurred);

(c) an Officer’s Certificate to the effect that, to the best of such Officer’s knowledge, the withdrawal of such Member will not cause a downgrade or withdrawal of any then-current rating on the Related Bonds outstanding under the Master Indenture by the related rating agency; and

(d) prior written consent of the Majority Obligation Holders.

Upon compliance with the conditions contained in this Section the Master Trustee shall execute any documents reasonably requested by the withdrawing Member to evidence the termination of such Member’s obligations under the Master Indenture (including without limitation termination of the pledge of such Member’s Gross Revenues) under any Related Supplements and under all Obligations (including, without limitation, reconveyance of the Mortgage encumbering such Member’s Property, Plant and Equipment for the benefit of the Master Trustee).

***Limitations on Liens.*** Each Member of the Obligated Group has agreed in the Master Indenture that it will not create, assume or suffer to be created or permit the existence of any Lien upon any of its Property or Gross Revenues except for the Mortgages (as defined herein); provided that the following types of Liens are permitted: (i) a Lien that is subordinate to the Obligations or (ii) a Permitted Lien. Notwithstanding the foregoing, each Member further covenants and agrees in the Master Indenture that if such a Lien is created or assumed by any Member, it will make or cause to be made effective a provision whereby all Obligations will be secured prior to any such Indebtedness or other obligation secured by such Lien; provided, however, that notwithstanding the provisions of the Master Indenture, each Member may create, assume or suffer to exist Permitted Liens. See “APPENDIX G – MASTER INDENTURE AND FORM OF SUPPLEMENTAL MASTER INDENTURE NO. 2” attached hereto.

***Other Covenants.*** The Member of the Obligated Group has agreed to other covenants in the Master Indenture, including without limitation, limitations on guaranties; limitations on consolidation, merger, sale or conveyance; and limitations on sale, lease or other disposition of assets. For a description of these covenants see “APPENDIX C – SUMMARY OF PRINCIPAL BOND DOCUMENTS – MASTER INDENTURE –Particular Covenants of the Corporation and Each Member” attached hereto.

## Mortgage

Pursuant to the Master Indenture, and in connection with the issuance of the Prior Bonds and Obligation No. 1, the Landlord entered into a Deed of Trust with Assignment of Rents, Security Agreement and Fixture Filing, made as of November 1, 2016, relating to the Facility (the “Mortgage”) to secure the obligations of the Obligated Group under the Master Indenture.

Pursuant to the Master Indenture, the Landlords have agreed to supplement such Mortgage or to execute and deliver such other deeds of trust or mortgages as may be necessary from time to grant to the Master Trustee a first priority lien on their interest in any Property, Plant and Equipment of the Members, subject to certain permitted liens and applicable ground leases. The Mortgage also creates current and absolute assignments of the rents under the Lease in favor of the Master Trustee. See “THE LEASE” herein.

In connection with the Bonds, the Mortgaged Property consists of the Landlord’s interest in all real property and personal property that constitute the Facility at which Encore operates the School. Pursuant to the Master Indenture and in connection with the execution and delivery of the Mortgage, the Landlord has covenanted to obtain or cause to be maintained, ALTA lender’s title insurance policies on the Landlord’s interest in the Facility in an aggregate amount not less than the aggregate principal amount of the Bonds, insuring the lien of the Mortgage held by the Master Trustee, subject only to Permitted Liens, issued by a title insurance company qualified to do business in the State of California. See “APPENDIX G – MASTER INDENTURE AND FORM OF SUPPLEMENTAL MASTER INDENTURE NO. 2” attached hereto.

# THE LEASE

*The following section contains brief descriptions of the Lease. All references in this Private Placement Memorandum to the Lease are qualified in their entirety by reference to the form of Lease, attached hereto as Appendix H. See “APPENDIX H – FORM OF LEASE” attached hereto.*

## General

In connection with the Prior Bonds, the Landlord and Encore entered into a Lease Agreement, dated as of November 1, 2016, between the Landlord, as lessor, and Encore, as lessee (the “Original Lease”). The Prior Lease was previously amended by that First Amendment to Lease Agreement, dated as of September 1, 2019 (the Original Lease, as amended, the “Prior Lease”).

In connection with the issuance of the Bonds, the Prior Lease will be amended and restated by that certain Amended and Restated Lease Agreement, dated as of May 1, 2022, between the Landlord, as lessor, and Encore, as lessee (the “Lease”). The primary source of Gross Revenues for the Members of the Obligated Group are the payments of Rent received pursuant to the Lease. Under the Lease, the Landlord leases to Encore, and Encore leases from the Landlord, the Facility. The Lease has a term commencing on May 1, 2022, and expiring on June 30, 20\_\_.

## Payment of Rent

Pursuant to the Lease, Encore will make monthly payments of Rent in advance on the 20th day of each calendar month. “Rent,” as defined under the Lease, comprises the following: (i) the monthly payment of Base Rent (as defined in the Lease); (ii) Additional Rent (as defined in the Lease); (iii) Expenses (as defined in the Lease); and (iv) any other monetary obligations of Encore to the Landlord or to third parties arising under the terms of the Lease. See “APPENDIX H – FORM OF LEASE” attached hereto.

Under the Lease, in the event that Encore receives an Extraordinary Monthly Rent Notice from either the Landlord or the Master Trustee stating that the Master Trustee has not received the payment of Rent with respect to a Related Project (as defined in the Master Indenture) on or before the date that such required payment is due, then Encore is required to pay to the Master Trustee, within three Business Days after its receipt of the Extraordinary Monthly Rent Notice, the Extraordinary Monthly Rent. As used in the Lease, the “Extraordinary Monthly Rent” means the amount set forth in such Extraordinary Monthly Rent Notice, which shall be Encore’s Proportionate Share, under the Lease, of the Extraordinary Monthly Rent. As used in the Lease “Proportionate Share” means the amount required to be paid by Encore to ensure that all of the required Rent with respect to all of the Related Projects has been timely paid. There is no assurance that the amount of Extraordinary Monthly Rent will be sufficient to cover any Rent not paid by any other Related Project.

Encore has covenanted to cause all payments of Base Rent and Additional Rent under the Lease to be received by the Trustee on behalf of the Landlord in lawful money of the United States on or before the day on which such payments are due, without offset or deduction. Encore has agreed to take such action as may be necessary to include all payments of Rent due under the Lease in its annual budget, to make, as necessary, annual appropriations for all such payments and to take such action annually as will be required to provide funds in such year for such payments of Rent.

Pursuant to the Lease, Encore covenants that payment of educational management fees, if any, paid to Encore in connection with the School will be subordinate to payments of Rent under the Lease. See “— Certain Covenants of Encore under the Lease – Financial Covenants – Subordination of Collection of Educational Management Fees” below.

The source of payment for the obligations of Encore under the Lease will be limited solely and exclusively to assets and revenues derived from operations of the School operated at the Facility, and any other charter school operated by Encore therein. Revenue derived from operations of one Obligated Group School is only available to pay Rent due with respect to another Obligated Group School through the Extraordinary Monthly Rent provisions described above. No other assets or revenues of Encore will be available to satisfy its obligations under the Lease, except at the election of Encore. Accordingly, if operations of the School failed to provide sufficient revenue to provide for the payment of Rent under the Lease, excess revenues produced by operations of any other charter school operated by Encore may not be available for the payment thereof. See “CERTAIN RISK FACTORS” herein.

## Certain Covenants of Encore under the Lease

***General.*** The Lease contains various covenants (including reporting covenants), representations and warranties made by Encore to the Landlord. Covenants include:

(i) restrictions on the use of the Premises to the operation of a charter school;

(ii) compliance by Encore with applicable laws, including all environmental laws, and private restrictions;

(iii) sublease and assignment restrictions without the Landlord’s consent;

(iv) covenants to maintain insurance policy coverages required pursuant to the Lease;

(v) indemnification of the Landlord pursuant to the Lease terms;

(vi) covenant to take all reasonable actions to maintain the School’s charter;

(vii) limitations on disposition of property, plant and equipment of Encore;

(viii) covenant not to incur further indebtedness; and

(ix) covenant not to take any action or omit to take any action that, if taken or omitted, would cause Encore to lose status as an organization described under Section 501(c)(3) of the Code.

***Financial Covenants.*** The Lease contains certain financial covenants on the part of Encore, which are summarized below.

Base Rent Coverage Ratio. In accordance with the Master Indenture, the Lease contains a covenant substantially in the form of the required Base Rent Coverage Ratio provisions set forth in the Master Indenture. Under the Lease, Encore has agreed to comply with a covenant substantially in the form of the covenant set forth in the Master Indenture. See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS – The Master Indenture – Required Lease Covenants” herein.

Consolidated Days Cash on Hand. In accordance with the Master Indenture, the Lease requires Encore to calculate and report Consolidated Days Cash on Hand for the Obligated Group Schools as set forth in the Master Indenture. For each calculation date, Encore, on behalf of the Obligated Group Schools, will maintain Consolidated Days Cash on Hand as of the last day of each Fiscal Year equal to or greater than 45 days.

Limitations on Obligated Group School Indebtedness. Encore covenants that it will not incur, assume or guarantee (“incur”), any Obligated Group School Indebtedness (secured or unsecured), except Obligated Group School Indebtedness with respect to purposes specifically benefiting Encore, and except (a) if the Holders of a majority in principal amount of the Bonds then Outstanding consent in writing to such indebtedness, or (b) unsecured or secured, as permitted by the Lease, as provided below.

(a) *Nonrecourse School Indebtedness*. To the extent permitted by applicable law and if no Event of Default under the Lease, or an event that with the giving of notice or passage of time or both would constitute an Event of Default under the Lease, has occurred and is continuing, Encore may incur or assume Nonrecourse School Indebtedness (as defined below), Short-Term School Indebtedness (as defined below), and Interim Indebtedness (as defined below) to a total aggregate principal amount outstanding at any time not in excess of the greater of: (1) 25% of Operating Expenses in any Fiscal Year, or (2) the maximum amount of advance apportionment and principal apportionment due to the School in any fiscal year that is deferred at any time or subject to deferral pursuant to Section 14041.6 of the California Education Code or Sections 16325.5 and 16326 of the California Government Code, or any subsequent legislation authorizing additional deferrals of such apportionments (collectively “Maximum Deferred Apportionment”).

“Nonrecourse School Indebtedness” means all Obligated Group School Indebtedness with respect to which the obligee is prevented by applicable law or contractual arrangement from exercising recourse, or any other right or remedy exercisable by a creditor, against all or any part of the Premises or the Improvements in order to pay, satisfy or discharge all or any part of the Obligated Group School Indebtedness.

(b) *Short-Term School Indebtedness*. Encore may incur Short-Term School Indebtedness (as defined below) for working capital purposes as in its judgment is deemed expedient, provided that in no event will Encore incur Short-Term School Indebtedness, together with outstanding Nonrecourse School Indebtedness and Interim Indebtedness (defined below) in excess of (i) for any such Obligated Group School Indebtedness incurred in the Fiscal Year ending June 30, 2020, $4,000,000; (ii) for any such Obligated Group School Indebtedness incurred in the Fiscal Year ending June 30, 2021, $2,250,000; and (iii) beginning July 1, 2021, the greater of (1) 25% of Operating Expenses in any Fiscal Year, or (2) the Maximum Deferred Apportionment.

“Short-Term School Indebtedness” means all Obligated Group School Indebtedness having an original maturity less than or equal to one year and not renewable at the option of Encore for a term greater than one year from the date of original incurrence or issuance; provided however, that any Short Term Indebtedness that has been issued as revenue anticipation notes (“RANS”) will not be included or counted as Short Term Indebtedness to the extent that the RANS are secured by deferred state apportionment revenues expressly pledged and deposited in an intercept account to pay such RANS; and provided further that, notwithstanding any other provision of Encore, Encore’s 2016 Revenue Anticipation Notes, Series A are permitted thereunder as Short-Term School Indebtedness.

(c) *Interim Indebtedness*. Encore may incur Interim Indebtedness (as defined below) to finance or refinance existing capital needs as in its judgment is deemed expedient, provided that in no event will Encore incur Interim Indebtedness, together with outstanding Nonrecourse School Indebtedness and Short-Term School Indebtedness, on a combined basis, is in excess of the greater of: (1) 25% of Operating Expenses in any Fiscal Year, or (2) the Maximum Deferred Apportionment.

“Interim Indebtedness” means all Obligated Group School Indebtedness having an original maturity less than or equal to five years and not renewable at the option of Encore for a term greater than five years from the date of original incurrence or issuance.

(d) *Charter School Revolving Fund Loan Program*. Notwithstanding the foregoing limitations on Obligated Group School Indebtedness, Encore shall be permitted to obtain loans with respect to the School pursuant to the Charter School Revolving Loan Program established under California Education Code Sections 41365 through 41367 (“Charter School Start-up Loans”) and any such Charter School Start-up Loans existing with respect to any School will not be taken into account in applying the foregoing limitations on Non-Recourse Indebtedness, Short-Term School Indebtedness, and Interim Indebtedness.

Gross School Revenue Pledge. Encore pledges and, to the extent permitted by law, grants a security interest to the Landlord and the Master Trustee in all of the Gross School Revenues of Encore to secure the payment of all Rent payable under the Lease and the performance by Encore of all other obligations under the Lease. Encore shall execute and cause to be filed Uniform Commercial Code financing statements, shall execute and cause to be sent to the Landlord and to the Master Trustee a notice of the security interest granted under the Master Indenture and shall execute and deliver such other documents (including, but not limited to, control agreements and continuation statements) as may be necessary or reasonably requested by the Landlord or Master Trustee in order to perfect or maintain as perfected such security interest or give public notice thereof. Notwithstanding anything to the contrary contained in the Lease, neither the Master Trustee nor any other Person (other than Encore) shall be responsible for any initial filings of any financing statements, or the information contained therein (including the exhibits thereto), the perfection or priority of any such security interests, or the accuracy or sufficiency of any description of collateral in such initial filings or for filing any continuation statements, modifications or amendments to the initial filings required by any amendments to Article 9 of the Uniform Commercial Code. Encore authorizes the Master Trustee to file continuation statements on behalf of Encore, and such costs associated therewith shall be deemed Additional Rent under the Lease, and Landlord shall collect such amounts from Encore and pay the same over to the Master Trustee, provided that the Trustee shall have no obligation to file any continuation statements on behalf of Encore in any circumstance.

Intercompany Borrowing. The Gross School Revenues shall not fund any intercompany loans or be used to pay any lease expenses of Encore other than facilities leases benefiting the School or as otherwise permitted under the Lease.

Subordination of Collection of Educational Management Fees. So long as the Bonds remain outstanding, an educational management fee, if any, paid to Encore in connection with management services provided and related to or payable from revenues attributable to the School and to any other charter school operated by Encore in the property subject to the Lease, shall be subordinate to the payment of Rent due under the Lease.

Change in Financial Accounting Under GAAP. If any pending or future change in financial accounting under GAAP, including but not limited to a change in the treatment of leases, shall lead to a materially different result in a calculation under any financial covenant in the Lease, then such financial covenant shall calculated based on GAAP in effect as of the date of the Lease as if such change in financial accounting had never occurred.

***Financial Reporting.*** The Lease requires that Encore, as tenant thereunder, provide to the Landlord, and to the Trustee or Master Trustee upon written request, the following information:

1. If Encore is undertaking any construction at the Facility, not later than 60 days after the end of each quarter, a construction progress report with respect to any such construction until such construction is substantially complete.
2. Quarterly unaudited financial information and operating data of the School not later than 60 days after the end of each quarter.
3. Quarterly, not later than 60 days after the end of each quarter, a report of the School’s quarterly enrollment data and waitlist data by grade for the previous fiscal quarter.
4. Prior to the end of each fiscal year, a copy of the annual budget of the School for the subsequent Fiscal Year.
5. Quarterly, not later than 60 days after the end of each quarter, a year to date comparison of the revenue and expenditures in the unaudited financial statements for such quarter to the annual budget for the applicable fiscal year.
6. Quarterly, not later than 60 days after the end of each quarter, a copy of any recommendations of any Independent Consultant received in accordance with the Master Indenture pursuant to the liquidity covenant and coverage ratio covenant under the Lease described above.
7. Annually, no later than six (6) months after the close of each fiscal year, commencing with the Fiscal Year ending June 30, 2022, copies of the audited financial statements of Encore and the School for the prior fiscal year prepared in accordance with generally accepted accounting principles applicable to nonprofit corporations from time to time, if available.
8. Annually, no later than six (6) months after the close of each fiscal year, commencing with the Fiscal Year ending June 30, 2022, the certifications and calculations of the Consolidated Days Cash on Hand for the Obligated Group Schools and the Base Rent Coverage Ratio for each Obligated Group School as described in the Liquidity Covenant and Coverage Ratio covenant under the Lease described above.
9. Such other information as may be reasonably requested by the Borrower, the Authority, the Trustee or Master Trustee

## Intercreditor Agreement

[TO COME]

# CERTAIN RISK FACTORS

*Investment in the Bonds involves substantial risks. The following information should be considered by prospective investors in evaluating the Bonds. However, the following does not purport to be an exclusive listing of risks and other considerations which may be relevant to investing in the Bonds, and the order in which the following information is presented is not intended to reflect the relative importance of any such risks. Certain factors which could result in a reduction of revenues available to the Obligated Group and a corresponding reduction in payments made to the Authority are discussed herein.*

A number of factors could have an adverse impact on the ability of Encore to generate revenues needed to meet its obligations under the Lease, which could, in turn, have an adverse effect on the ability of the Corporation and the Members of the Obligated Group to generate sufficient revenues to meet their respective obligations to make payments due under the Loan Agreement and Obligation No. 2. The ability of Encore to generate sufficient revenues to make payments under the Lease is dependent upon a number of elements, including State budget pressures, demand for charter schools, the ability of the School to provide the educational services and classes demanded by parents or to attract students generally, changes in the level of confidence in the public school system in general or public charter schools in particular, competition, faculty recruitment, demographic changes, legislation, governmental regulations, changes in immigration policy, litigation and the School’s ability to achieve enrollment and fundraising levels. This, in turn, is affected by numerous circumstances both within and outside the control of the Obligated Group and Encore, including a continuation of favorable governmental policies and programs with respect to public charter schools (see “APPENDIX D – CALIFORNIA CHARTER SCHOOLS, RELATED STATUTES, AND FUNDING” attached hereto); the competitive appeal and perceived quality of the School’s curriculum; the ability and energy of the School’s faculty and administration; and the benevolence of the School’s supporters. There can be no assurance given that revenues of the Obligated Group or the revenues of Encore attributable to the School will not decrease. Any and all financial projections are only good faith estimates and are not intended as a representation or warranty as to the future financial condition of the members of the Obligated Group or Encore.

See “APPENDIX A – CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOLS, THE CORPORATION AND THE OBLIGATED GROUP,” “APPENDIX B – AUDITED FINANCIAL STATEMENTS OF ENCORE FOR THE FISCAL YEAR ENDED JUNE 30, 2021” and “APPENDIX C – YEAR-TO-DATE AND PROJECTED FINANCIAL INFORMATION OF ENCORE FOR THE FISCAL YEARS ENDING JUNE 30, 2022 AND JUNE 30, 2023” attached hereto.

## Sufficiency of Revenues

The Bonds are payable primarily from Payments which are derived from payments received under the Loan Agreement and Obligation No. 2. The Landlord has also encumbered the Facility with a Mortgage as security for the obligation to make the payments under the Master Indenture, including Obligation No. 2.

The Corporation’s primary expected source of the revenues for payment of its obligations under the Loan Agreement will be the Rent payments the Landlord receives from Encore pursuant to the Lease. The Lease provides that Encore will be obligated to pay rent thereunder only from revenues derived from operation of the School. See “THE LEASE” herein. Based on present circumstances, including the successful operating history of the School, Encore believes it will generate a sufficient amount of such revenues to meet its payment obligations under the Lease representing the source of payment by the Corporation and the Landlord of debt service on the Bonds. However, the School’s charter may be terminated or not extended or renewed, or the basis of the assumptions utilized by Encore and the Corporation to formulate such beliefs may otherwise change. No representation or assurance can be made that the Obligated Group generate or will continue to generate sufficient revenues to meet their obligations under the Loan Agreement and Obligation No. 2 with respect to the Bonds.

AS NOTED ELSEWHERE HEREIN, THE OBLIGATION OF ENCORE TO MAKE PAYMENTS UNDER THE LEASE IS A SPECIAL OBLIGATION LIMITED SOLELY TO THE GROSS REVENUES OF THE SCHOOL, WHICH INCOME DERIVES SOLELY FROM THE OPERATION OF THE SCHOOL AND NOT THE OTHER CHARTER SCHOOLS OPERATED BY OR ANY OTHER REVENUES OF ENCORE. NEITHER THE GENERAL REVENUES NOR THE REVENUES ENCORE MAY DERIVE FROM THE OPERATION OF CHARTER SCHOOLS OTHER THAN THE SCHOOL, NOR FROM ANY SCHOOLS ENCORE MAY OPERATE IN THE FUTURE, ARE PLEDGED TO MAKE PAYMENTS WITH RESPECT TO THE LEASE OR THE BONDS. SEE “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS” HEREIN.

Moreover, although in addition to the property subject to the Lease, the Corporation and its affiliates may own and lease other facilities through its affiliates to other charter schools, and Encore has in the past and may in the future establish and operate other charter schools, the obligations represented by the Loan Agreement and Obligation No. 2 are not secured generally by such properties of the Corporation’s affiliates nor by the revenues of Encore that are not derived from operation of the School.

NONE OF THE AUTHORITY, ANY AUTHORITY MEMBER OR ANY PERSON EXECUTING THE BONDS IS LIABLE PERSONALLY ON THE BONDS OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THEIR ISSUANCE. THE BONDS ARE LIMITED OBLIGATIONS OF THE AUTHORITY, PAYABLE SOLELY FROM AND SECURED BY THE PLEDGE OF CERTAIN REVENUES UNDER THE BOND INDENTURE. NEITHER THE AUTHORITY, ITS MEMBERS, THE STATE OF CALIFORNIA, NOR ANY OF ITS POLITICAL SUBDIVISIONS SHALL BE DIRECTLY, INDIRECTLY, CONTINGENTLY OR MORALLY OBLIGATED TO USE ANY OTHER MONEYS OR ASSETS TO PAY ALL OR ANY PORTION OF THE DEBT SERVICE DUE ON THE BONDS, TO LEVY OR TO PLEDGE ANY FORM OF TAXATION WHATEVER THEREFOR OR TO MAKE ANY APPROPRIATION FOR THEIR PAYMENT. THE BONDS ARE NOT A PLEDGE OF THE FAITH AND CREDIT OF THE AUTHORITY, ITS MEMBERS, THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS, NOR DO THEY CONSTITUTE INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION. THE AUTHORITY HAS NO TAXING POWER.

## Outbreak of Disease; Coronavirus

An outbreak of disease or similar public health threat, such as the novel coronavirus (“COVID-19”) outbreak, or fear of such an event, could have an adverse impact on Encore’s and the School’s financial condition and operating results. The spread of COVID-19 has had significant negative impacts throughout the world, including the regions in which the School operates. Encore closed its school facilities in March 2020 and transitioned to remote learning and instruction for the remainder of the 2019-20 school year.

In compliance with State guidelines, Encore began the 2020-21 school year exclusively through remote learning and instruction, and beginning in [\_\_\_\_\_\_\_\_\_] 2020 transitioned to a hybrid remote and in-person learning program. Encore returned to 100% in-person instruction for the 2021-22 school year.

The World Health Organization has declared the COVID-19 outbreak to be a pandemic, and states of emergency have been declared by the State and the United States. The purpose behind these declarations are to coordinate and formalize emergency actions and across federal, State and local governmental agencies, and to proactively prepare for a wider spread of the virus. On March 27, 2020 the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) was signed by the President of the United States. The CARES Act appropriates over $2 trillion to, among other things, (i) provide cash payments to individuals, (ii) expand unemployment assistance and eligibility, (iii) provide emergency grants and loans for nonprofit organizations and small businesses, (iv) provide loans and other assistance to corporations, including the airline industry, (v) provide funding for hospitals and community health centers, (vi) expand funding for safety net programs, including child nutrition programs, and (vii) provide aid to state and local governments.

The CARES Act also creates an above-the-line deduction on 2020 federal income taxes for all taxpayers for total charitable contributions of up to $300 and increases the existing cap on annual contributions for taxpayers who itemize and allows employers to delay payment of the employer portion of federal payroll taxes in 2020. Additionally, the CARES Act appropriates $13.5 billion for formula-grants to States, which will then distribute 90 percent of funds to local educational agencies to use for coronavirus-response activities, and $3 billion to governors to allocate at their discretion for emergency support grants to local educational agencies.

The American Rescue Plan Act of 2021 signed into law on March 11, 2021, includes a $122.8 billion Elementary and Secondary Schools Emergency Relief Fund for purposes related to the COVID-19 pandemic.

State law allows charter schools to apply for a waiver to hold them harmless from the loss of LCFF funding based on attendance and state instructional time penalties when they are forced to close schools due to emergency conditions. In addition, the Governor of the State has enacted Executive Order N-26-20 (“Executive Order N-26-20”), which (i) generally streamlines the process of applying for such waivers for closures related to COVID-19 and (ii) directs charter schools to use LCFF apportionment to fund distance learning and high quality educational opportunities, provide school meals and, as practicable, arrange for the supervision of students during school hours.

On March 17, 2020, Senate Bill 89 (“SB 89”) and Senate Bill 117 (“SB 117”) were signed by the Governor, both of which take effect immediately. SB 89 amends the Budget Act of 2019 by appropriating $500,000,000 from the State general fund for any purpose related to the Governor’s March 4, 2020 emergency proclamation. SB 117, among other things, (i) specifies that for charter schools that comply with Executive Order N–26–20, the ADA reported to the State Department of Education for the second period and the annual period for apportionment purposes for the 2019-20 school year only includes all full school months from July 1, 2019 through February 29, 2020, (ii) prevents the loss of funding related to an instructional time penalty because a charter school closed due to the COVID–19 by deeming the instructional days and minutes requirements to have been met during the period of time the school was closed due to COVID–19, (iii) requires a charter school to be credited with the ADA it would have received had it been able to operate its After School Education and Safety Program during the time the school was closed due to COVID–19, and (iv) appropriates $100,000,000 from the State general fund to the State Superintendent to be apportioned to certain local educational agencies for purposes of purchasing personal protective equipment, or paying for supplies and labor related to cleaning school sites.

On March 19, 2020, the Governor ordered all California residents to stay home or at their place of residence to protect the general health and well-being, except as needed to maintain continuity of 16 critical infrastructure sectors described therein (the “Stay Home Order”).

On June 29, 2020, Senate Bill 98 (“SB 98”), the education omnibus bill to the 2020-21 State Budget, was signed by the Governor, which took effect immediately. SB 98 provides that distance learning may be offered by a charter school during the 2020-21 academic year on a local educational agency or schoolwide level as a result of an order or guidance from a State public health officer or a local public health officer or for pupils who are medically fragile or would be put at risk by in-person instruction, or who are self-quarantining because of exposure to COVID-19. SB 98 provides requirements for distance learning, including, but not limited to: (i) confirmation or provision of access for all pupils to connectivity and devices adequate to participate in the educational pram and complete assigned work, (ii) content aligned to grade level standards that is provided at a level of quality and intellectual challenge substantially equivalent to in-person instruction, (iii) support for pupils who are not performing at grade level or need support in other areas, (iv) special education services, (v) designated and integrated instruction in English language development for English learners, and (vi) daily live interaction with certificated employees and peers. In addition, SB 98 provides that charter schools will generally be funded based on ADA from the 2019-20 fiscal year, imposes limits on layoffs for certain classified and certificated employees during fiscal year 2020-21, suspends the annual instructional minutes requirement, and waives the requirement for adopting an LCAP or annual update to the LCAP for fiscal year 2020-21, while imposing a new requirement to adopt a learning continuity and attendance plan by September 30, 2020.

On August 28, 2020, the Governor released a revised system of guidelines for reopening - Blueprint for a Safer Economy (“Blueprint”). Blueprint assigns each of the State’s 58 counties into four color-coded tiers - purple, red, orange and yellow - in descending order of severity, based on the number of new daily cases of COVID-19 and the percentage of positive tests. Counties must remain in a tier for at least three weeks before advancing to the next one. To move forward, a county must meet the next tier’s criteria for two consecutive weeks. If a county’s case rate and positivity rate fall into different tiers, the county remains in the stricter tier. Implementation of the guidelines as part of a phased reopening depended on local public health conditions, including community preparedness measures.

On June 11, 2021, the Governor issued two executive orders. The first order rescinded several previous executive orders effective June 15, 2021, including the Stay Home Order and the order that led to the establishment of the Blueprint. The second order began the process of winding down the State’s COVID‑19 related executive orders in several phases: by June 30, 2021 (including most of Order N-26-20); by July 31, 2021; and by September 30, 2021. Under the order’s timeline, by September 30, 2021, nearly 90% of the executive actions taken since March 2020 will have been lifted. In addition, on June 11, 2021, the California Department of Public Health issued an order that took effect on June 15, 2021. The order replaced the previous public health orders, allowing all sectors to return to usual operations, with limited exceptions for events characterized by large crowds (greater than 5,000 attendees indoors and 10,000 attendees outdoors), which will require (indoors) or recommend (outdoors) vaccine verification and/or negative testing through October 1, 2021. Face coverings are required in certain settings, such as on public transit, indoors in schools and childcare settings, and in healthcare settings, as well as, for unvaccinated individuals, in all indoor public settings and businesses. Additionally, Californians are required to follow existing guidance for K-12 schools, childcare programs, and other supervised youth activities.

To date there have been numerous confirmed cases of COVID-19 in the county in which the School operates, and health officials are expecting the number of confirmed cases to grow. The outbreak has resulted in the imposition of restrictions on mass gatherings and widespread temporary closings of businesses, universities and schools (including the School). The U.S. is restricting certain non-US citizens and permanent residents from entering the country. In addition, stock markets in the U.S. and globally have been volatile, with significant declines attributed to coronavirus concerns.

Potential impacts to Encore, the School, the Obligated Group and the Corporation associated with the COVID-19 outbreak include, but are not limited to, increasing costs and challenges relating to establishing distance learning programs or other measures to permit instruction while schools remain closed, decreased demand for Encore’s services, increased competition from established virtual or on-line schools or other distance learning programs, potential decline in academic assessment results due to transition to distance learning programs, disruption of the regional and local economy with corresponding effects on students and their families, adverse effects on State revenues that may affect budgeting and appropriation for charter schools and public education generally. Additionally, the State’s Smarter Balanced Assessment Consortium standardized testing was cancelled for the 2019-20 school year. The economic consequences and the declines in the U.S. and global stock markets resulting from the spread of COVID-19, and responses thereto by local, State, and the federal governments, could have a material impact on the investments in the State pension trusts, which could materially increase the unfunded actuarial accrued liability of the STRS and PERS Defined Benefit Programs, which, in turn, could result in material changes to Encore’s required contribution rates in future fiscal years.

The COVID-19 outbreak is ongoing, and the ultimate geographic spread of the virus, the duration and severity of the outbreak, and the economic and other of actions that may be taken by governmental authorities to contain the outbreak or to treat its impact are uncertain. The ultimate impact of COVID-19 on operations and finances of Encore, the Corporation and the Obligated Group is unknown. There can be no assurances that the spread of COVID-19, or the responses thereto by local, State, or the federal government, will not adversely impact enrollment of the School or participation in any Encore distance learning programs or, notwithstanding actions by the State, materially adversely impact the financial condition or operations of Encore, the Corporation or the Obligated Group. For example, if it is perceived that competitors of the School, including traditional public schools or other charter schools, are better equipped to handle the spread of COVID-19 or similar future outbreaks or to provide distance learning, it could lead to lower enrollment in the future. Additionally, there can be no assurance that costs of technology to Encore will not increase, or that third-party vendors will continue to be available in the future, each of which could result in increased costs and difficulty in providing distance learning in the future.

Additional information with respect to events surrounding the outbreak of COVID-19 and responses thereto can be found on State and local government websites, including but not limited to: the Governor’s office (<http://www.gov.ca.gov>) and the California Department of Public Health (<https://covid19.ca.gov/>). *The information on such websites is not incorporated herein by reference, and neither the Corporation nor Encore assumes any responsibility for the accuracy of the information on such websites.*

## Operating History; Reliance on Projections

See Appendix A for information regarding projected enrollment of the School. No assurance is given that such projections will be met, or that the number of students attending the School may not diminish in the future. The projections of revenues and expenses contained in Appendix C are based upon the number of students projected to be enrolled at the School and were prepared by Encore for the Corporation and have not been independently verified by any party other than Encore.

No feasibility studies have been conducted with respect to operation of the Facility pertinent to the Bonds. The projections are “forward-looking statements” and are subject to the general qualifications and limitations described herein. The Placement Agent has not independently verified Encore’s projections set forth in Appendices A and C or otherwise and makes no representations nor gives any assurances that such projections, or the assumptions underlying them, are complete or correct. Further, the projections relate only to a limited number of fiscal years, and consequently do not cover the entire period that the Bonds will be outstanding.

ENCORE PREPARED THE PROJECTIONS BASED ON ASSUMPTIONS ABOUT FUTURE STATE FUNDING LEVELS AND FUTURE OPERATION OF THE FACILITY, INCLUDING STUDENT ENROLLMENT AND EXPENSES. THERE CAN BE NO ASSURANCE THAT ACTUAL ENROLLMENT REVENUES AND EXPENSES WILL BE CONSISTENT WITH THE ASSUMPTIONS UNDERLYING SUCH PROJECTIONS. MOREOVER, NO GUARANTEE CAN BE MADE THAT THE PROJECTIONS OF REVENUES AND EXPENSES INCLUDED HEREIN WILL CORRESPOND WITH THE RESULTS ACTUALLY ACHIEVED IN THE FUTURE BECAUSE THERE CAN BE NO ASSURANCE THAT ACTUAL EVENTS WILL CORRESPOND WITH THE PROJECTIONS’ UNDERLYING ASSUMPTIONS. ACTUAL OPERATING RESULTS MAY BE AFFECTED BY MANY FACTORS, INCLUDING, BUT NOT LIMITED TO, INCREASED COSTS, LOWER THAN ANTICIPATED REVENUES (AS A RESULT OF INSUFFICIENT ENROLLMENT, REDUCED STATE OR FEDERAL AID PAYMENTS, OR OTHERWISE), EMPLOYEE RELATIONS, CHANGES IN TAXES, CHANGES IN APPLICABLE GOVERNMENT REGULATIONS, CHANGES IN DEMOGRAPHIC TRENDS, CHANGES IN EDUCATION COMPETITION AND CHANGES IN LOCAL OR GENERAL ECONOMIC CONDITIONS. REFER TO APPENDIX A, ATTACHED HERETO, TO REVIEW THE PROJECTIONS, THEIR UNDERLYING ASSUMPTIONS, AND THE OTHER FACTORS THAT COULD CAUSE ACTUAL RESULTS TO DIFFER SIGNIFICANTLY FROM PROJECTED RESULTS. REFER TO “INTRODUCTION” ABOVE, FOR QUALIFICATION AND LIMITATIONS APPLICABLE TO FORWARD-LOOKING STATEMENTS.

## Dependence on State Aid Payments that are Subject to Annual Appropriation and Political Factors

California charter schools such as the School may not charge tuition and have no taxing authority. The primary source of revenue generated by charter schools is aid provided by the State for all public schools. The amount of State aid received with respect to any individual school is based on a variety of factors. The amount of aid available in any year to pay the per pupil allowance is subject to appropriation by the California Legislature. The Legislature bases its decisions about appropriations on many factors, including the State’s economic performance. Moreover, because some public officials, their constituents, commentators and others have viewed charter schools as controversial, political factors may also come to bear on charter school funding. As a result, the Legislature may not appropriate funds, or may not appropriate funds in a sufficient amount, for the School to generate sufficient revenue to allow Encore to meet its obligations under the Lease representing debt service payments on the Bonds. No liability would accrue to the State in such event, and the State would not be obligated or liable for any future payments or any damages. If the State were to withhold State aid payments for any reason, even for a reason that is ultimately determined to be invalid or unlawful, the School could be forced to cease operations.

## Possible Offsets to State Apportionment

Section 41344 of the Education Code provides that if an audit or review requires any of the School to repay prior year apportionments because of significant audit exceptions, including penalty payments (“Audit Exceptions”), the Superintendent of Public Instruction (the “Superintendent”) and the Director of the Department of Finance (the “Director”), or their designees, will jointly establish a plan for the annual repayment of Audit Exceptions (the “Audit Repayment Plan”), which under certain circumstances can extend for a period of up to eight equal annual payments. The State Controller withholds from the State School Fund the amounts specified in the Audit Repayment Plan. If the Superintendent and the Director do not establish an Audit Repayment Plan, the State Controller withholds the entire amount of the Audit Exceptions from the next apportionment.

The State Controller may reduce the funding available in the payment schedules for these apportionments to offset for funds owing to the State. These offsets include, but are not limited to, the following: Charter School Revolving Loan (Education Code Section 41365), Class Size Reduction (Education Code Section 52124); Audit Repayment (Education Code Sections 41341, 41344); and Accounts Receivable (Government Code Section 12419.5), in addition to other possible authorized or required offsets, or additional offsets not yet authorized by legislation. None of the foregoing offsets is currently applicable to the School.

## Default Under the Lease; No Assurance Regarding Subsequent Tenant

If there is a default by the Corporation under the Loan Agreement attributable to a default by Encore under the Lease, the Obligated Group will likely not have sufficient funds to satisfy their obligations under the Loan Agreement and Obligation No. 2, absent re-leasing – or in appropriate cases, selling – the Facility. If Encore were to default under the Lease, there is no assurance that the Landlord would be able to find a new tenant for the Facility which could generate revenues in a sufficient amount to allow the Corporation and members of the Obligated Group to make payments under the Loan Agreement and Obligation No. 2 to satisfy debt service on the Bonds or a buyer that would purchase the Facility for a sufficient amount to allow the Corporation to repay principal and interest with respect to the Loan. This risk is heightened by the fact that the Facility has been improved specifically for use as a charter school campus and may be legally restricted to that use.

## Survival of Lease after a Bond Default and Foreclosure

The Corporation, the Landlord, Encore, and the Master Trustee will enter into a Subordination, Non-Disturbance and Attornment Agreement in connection with the Facility (the “SNDA”). The SNDA addresses the priority of the rights between Encore and the Master Trustee. The SNDA provides that Encore’s rights under the Lease to the use, possession and enjoyment of the Facility will not be disturbed by the Master Trustee so long as no event of default exists under the Lease. The non-disturbance portion assures Encore that its rights to the Facility will be preserved (“nondisturbed”) on specified conditions within control of Encore if the Corporation defaults on its Loan with the Authority and the Master Trustee forecloses on the Facility. The attornment component of the SNDA provides that Encore will continue its obligations under the Lease if a new landlord takes over the Lease.

## Additional Indebtedness and Additional Obligated Group School Indebtedness

The Master Indenture permits the issuance of Additional Indebtedness on a parity basis with Obligation No. 1 and Obligation No. 2 if certain conditions are met. See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS – The Master Indenture – Limitations on Additional Indebtedness” herein. The Corporation (either itself or though affiliates) may acquire, construct and equip additional charter schools in the future. If it does, or for certain other expenses, it may issue Additional Indebtedness which may or may not be on a parity basis with Obligation No. 1 and Obligation No. 2 and may or may not be issued through the Master Indenture. If secured on a parity basis, any such parity indebtedness would be entitled to share ratably with the holders of the Bonds and any other holder of parity debt in any moneys realized from the exercise of remedies in the event of a default by the Corporation to the extent provided in the Bond Documents. The amount of any such Additional Indebtedness is undetermined at this time. The issuance of Additional Indebtedness may adversely affect the investment security of the Bonds.

Pursuant to the Lease, Encore may also issue additional indebtedness, subject to certain conditions and limitations. See “THE LEASE – Certain Covenants of Encore under the Lease – Financial Covenants – Limitation on Liens on Gross School Revenues” herein. The issuance of such additional Encore indebtedness may adversely affect the investment security of the Bonds.

***Prior Bonds and Prior Intercept.*** The Prior Issuer previously issued its Charter School Revenue Bonds (Encore Education Obligated Group) Series 2016A and Series 2016B (Taxable), which are currently outstanding in the aggregate principal amount of $15,305,000.

The Corporation’s obligations under the Prior Loan Agreement are secured by the Prior Intercept, whereby the State Controller’s Office makes apportionments to UMB Bank, N.A., as trustee for the Prior Bonds, in amounts sufficient to repay the Prior Bonds and related costs. Under the laws of the State, no party, including Encore, the Corporation or any of their respective creditors (including the Trustee for the Bonds) have any claim to the money apportioned or to be apportioned to the Prior Trustee by the State Controller pursuant to the Prior Intercept.

Although Obligation No. 2 is senior to Obligation No. 1 under the Master Indenture, and payment of Base Rent under the Lease relating to the Bonds is payable senior to that related to the Prior Bonds, the Prior Intercept is functionally senior in position to the County Intercept relating to the Bonds with regard to State apportionment funding, as the Prior Intercept directs State apportionments to be sent directly by the State Controller’s Office to the Prior Trustee before remaining amounts are remitted by the State to SBCOE and available to fund the County Intercept related to the Bonds.

## Addition and Removal of Members

The Master Indenture permits the addition of Members under the Obligated Group, but it also permits the removal of Members, subject to certain conditions and limitations. See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS – The Master Indenture – Withdrawal from Obligated Group.” Any such withdrawal of Members from the Obligated Group may decrease the revenues available for payment of debt service on the Bonds and may adversely affect the investment security of the Bonds.

## Reserve Account

The Bond Indenture establishes the Reserve Account within the Revenue Fund for payment of principal of and interest on the Bonds to the extent the Revenues are insufficient to make such payments. Although the Corporation believes such reserve to be reasonable and anticipates that the Revenues will be sufficient to cover the debt service on the Bonds, there is no assurance that funds on deposit in the Reserve Account and future Revenues will be sufficient to cover debt service on the Bonds.

## Purchases and Transfers of Bonds Restricted to Qualified Institutional Buyers

As described in the “NOTICE TO INVESTORS” that precedes the Table of Contents of this Private Placement Memorandum, the Bonds are to be sold (including in secondary market transactions) only to Qualified Institutional Buyers. The Bond Indenture contains provisions limiting transfers of the Bonds and beneficial interests therein to Qualified Institutional Buyers. The face of each Bond will contain a legend indicating that the Bond is subject to transfer restrictions as set forth in the Bond Indenture. The Bonds will be issued in minimum denominations of $250,000 and any integral multiple of $5,000 in excess thereof. In light of these restrictions, purchasers should not expect that there will be an active secondary market for the Bonds. Although the Bond Indenture contains provisions that call for removal of transfer restrictions and reduction in minimum denominations in the event the Bonds are rated “A-” or “A3,” or better, as applicable, by Fitch, S&P, or Moody’s, there can be no assurance that any such credit rating will be received.

There can be no assurance that there will be a secondary market for the purchase or sale of the Bonds, and there may be no market for the Bonds depending upon prevailing market conditions, the financial condition or market position of firms who make up the secondary market and the financial position and results of operations of Encore and the Obligated Group.

Investors should be aware that they might be required to bear the financial risks of this investment for an indefinite period of time and/or that to the extent there is a secondary market for the Bonds, the secondary market price of the Bonds may be affected as a result of the restrictions. If a trading market for the Bonds develops, future trading prices of such Bonds will depend on many factors, including, among other things, prevailing interest rates and the market for similar instruments. Depending upon those and other factors, the Bonds may trade at a discount from their principal amount.

## Tax Related Issues

***Prior Bonds.*** The tax-exempt status of the Prior Bonds depends upon the maintenance by the Corporation and Encore of their respective statuses as organizations described in Section 501(c)(3) of the Code. The maintenance of such status is contingent on compliance with general rules promulgated in the Code and related regulations regarding the organization and operation of tax-exempt entities, including the operation for charitable and educational purposes and avoidance of transactions which may cause the assets of either to inure to the benefit of private individuals.

In recent years, the Internal Revenue Service (the “IRS”) has increased the frequency and scope of its audit and other enforcement activity regarding tax-exempt organizations and, in particular, charter schools. As a result, tax-exempt organizations are increasingly subject to a greater degree of scrutiny. The primary penalty available to the IRS under the Code with respect to a tax-exempt entity engaged in unlawful private benefit is the revocation of tax-exempt status. Although the IRS has not frequently revoked the Section 501(c)(3) status of nonprofit corporations, it could do so in the future. Loss of tax-exempt status by the Corporation or Encore could potentially result in loss of tax exemption of interest on the Prior Bonds and of other existing and future tax-exempt debt of members of the Obligated Group, if any, and defaults in covenants regarding the Prior Bonds and other existing and future tax-exempt debt, if any, would likely be triggered.

Less onerous sanctions have been enacted which enforce rules applicable to Section 501(c)(3) organizations, but these sanctions do not replace the other remedies available to the IRS as mentioned above.

The Corporation received a determination letter from the Internal Revenue Service (the “IRS”) on February 9, 2016, confirming its status as a public charity exempt from federal income tax under the Code, as a supporting organization. On November 15, 2018, the Corporation’s federal tax exempt status was automatically revoked by the IRS for not filing its required tax returns for three consecutive years. The Corporation has covenanted in the Loan Agreement to file all overdue tax returns and seek to obtain retroactive reinstatement of its federal tax exempt status as soon as possible. There can be no assurance that the Corporation’s federal tax exempt status will be reinstated on any particular timeline, or at all, and the Corporation cannot predict what, if any, effect the revocation of its federal tax exempt status will have on the Prior Bonds.

***State Income Tax Exemption.*** The Corporation is not currently deemed exempt from State income tax. The loss by Encore or, in the future, the Corporation of federal tax exemption might trigger a challenge to its State income tax exemption. Such event could be adverse and material.

***Exemption from Property Taxes.*** In recent years, State, county and local taxing authorities have been undertaking audits and reviews of the operations of tax-exempt corporations with respect to their real property tax exemptions. The management of the Corporation and Encore believe that Facility is exempt from California real property taxation.

## Factors That Could Affect the Security Interest in the Facility; Superior Liens

The Master Trustee’s security interest in the Facility may be subordinated to the interest and claims of others in several instances. Some examples of cases of subordination of prior claims are (i) statutory liens, (ii) rights arising in favor of the United States of America or any agency thereof, (iii) present or future prohibitions against assignment in any statutes or regulations, (iv) constructive trusts, equitable liens or other rights impressed or conferred by any state or federal court in the exercise of its equitable jurisdiction, (v) federal or state bankruptcy or insolvency laws that may affect the enforceability of the Loan Agreement, (vi) rights of third parties in amounts not in the possession of the Master Trustee, and (vii) claims that might arise if appropriate financing or continuation statements are not filed in accordance with the California Uniform Commercial Code as from time to time in effect.

## Limitations of Appraisals

Appraisals are estimates of value and not an assurance of what any particular property would bring on sale. Appraisals also are subject to numerous other limitations set forth therein. Potential investors should not assume that the appraised value set forth in “THE FACILITY – Appraisal” represent reliable estimates of what the Facility would bring in liquidation following an Event of Default.

The Appraiser has not been engaged to update or revise the estimates contained in the Appraisal since its effective date.

## Limitations on Value of the Facility and to Remedies Under the Mortgage

***Maintenance of Value.*** The Facility is located in a region that has experienced significant real property market volatility over the past several years. There can be no assurance made that, should the Members of the Obligated Group default in making the payments due under Obligation No. 2, including in the event Encore defaults in making the Rent payments due under the Lease, the Facility could be foreclosed upon and sold for the amounts owed under Obligation No. 2.

***Hazardous Substances.*** While governmental taxes, assessments and charges are common claims against the value of property, other less common claims may be relevant. One of the most serious in terms of the potential reduction in the value that may be realized is a claim with regard to hazardous substances. In general, the Corporation or Encore may be required by law to remedy conditions of the Facility relating to release of hazardous substances. The federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, sometimes referred to as “CERCLA” or the “Superfund Act,” is the most well-known and widely applicable of these laws. California laws with regard to hazardous substances are stringent and similar to certain federal acts. Under many of these laws, the owner (or operator) is obligated to remedy a hazardous substance condition of property whether or not the owner (or operator) had or has anything to do with the creation or handling of the hazardous substance. The effect, therefore, should the Facility be affected by a hazardous substance, is generally to reduce the marketability and value of the parcel by the cost of remedying the condition. Further, such liabilities may arise not simply from the existence of a hazardous substance but from the method of handling the hazardous substance. Any of these potentialities could significantly affect the value of the Facility that would be realized upon a default and foreclosure.

***Foreclosure.*** There are two methods of foreclosing on a deed of trust or mortgage under California law, by nonjudicial sale and by judicial sale. Foreclosure under a deed of trust may be accomplished by a nonjudicial trustee’s sale under the power of sale provision in the deed of trust. Prior to such sale, the trustee must record a notice of default and election to sell and send a copy to the trustor, to any person who has recorded a request for a copy of the notice of default and notice of sale, to any successor in interest of the trustor and to certain other parties discernable from the real property records. The trustee then must wait for the lapse of at least three months after the recording of the notice of default and election to sell before establishing the trustee’s proposed sale date and giving a notice of sale (in a form mandated by California statutes). The notice of sale must be posted in a public place and published once a week for three consecutive calendar weeks, with the first such publication preceding the trustee’s sale by at least 20 days. Such notice of sale must be posted on the property and sent, at least 20 days prior to the trustee’s sale, to the trustor, to each person who has requested a copy, to any successor in interest of the trustor, to the beneficiary of any junior deed of trust and to certain other parties discernable from the real property records. In addition, the notice of sale must be recorded with the county recorder at least 14 days prior to the date of sale. The trustor, any successor in interest of the trustor in the trust property, or any person having a junior lien or encumbrance of record may, during the statutory reinstatement period, which extends to five days prior to the sale date, cure any monetary default by paying any delinquent installments of the debt then due under the terms of the deed of trust and certain other obligations secured thereby (exclusive of principal due by virtue of acceleration upon default) plus costs and expenses actually incurred in enforcing the obligation and certain statutorily limited attorneys’ and trustees’ fees. Following a nonjudicial sale, neither the trustor nor any junior lienholder has any right of redemption, and the beneficiary may not ordinarily obtain a deficiency judgment against the trustor.

Should foreclosure under a deed of trust be sought in the form of a judicial foreclosure, it is generally subject to most of the delays and expenses of other lawsuits and may require several years to complete. The primary advantage of a judicial foreclosure is that the beneficiary is entitled, subject to other limitations, to obtain a deficiency judgment against the trustor to the extent that the amount of the debt is in excess of the fair market value of the property. Following a judicial foreclosure sale, the trustor or its successors in interest may redeem the property for a period of one year (or a period of only three months if the proceeds of sale are sufficient to satisfy the debt, plus interest and costs). In addition, in order to assure collection of any rents assigned as additional collateral under the Mortgage, a receiver for the Facility may be appointed by a court.

***Damage, Destruction or Condemnation.*** Although the Landlord will be required to obtain certain insurance against damage or destruction as set forth in the Master Indenture, there can be no assurance that any portion of the Facility will not suffer losses for which insurance cannot be or has not been obtained or that the amount of any such loss, or the period during which the Landlord, as a result of damage or destruction to the Facility, cannot generate revenues, will not exceed the coverage of such insurance policies.

If the Facility, or any portion thereof, is damaged or destroyed, or is taken in a condemnation proceeding, the proceeds of insurance or any condemnation award for the Facility, or any portion thereof, must be applied as provided in the Master Indenture to restore or rebuild the Facility or to redeem Bonds. There can be no assurance that the amount of revenues available to restore or rebuild the Facility, or any portion thereof, or to redeem Bonds will be sufficient for that purpose, or that any remaining portion of the Facility will generate revenues sufficient to pay the expenses of the Corporation and the Loan Repayments.

***Seismic****.* The Facility is located in a seismically active region of California. The occurrence of severe seismic activity could result in substantial damage to the Facility, which could adversely affect the ability of Encore to operate the Facility or make payments due under the Lease and/or the ability of the Corporation to make the Loan Repayments and could adversely affect the value of the Facility. Neither the Corporation nor the Landlord are obligated by the Loan Agreement or Master Indenture to maintain earthquake insurance on any portion of the Facility and there can be no assurance that the Corporation or the Landlord will obtain such coverage in the future.

***Flood****.* Neither the Corporation nor the Landlord are obligated by the Loan Agreement or Master Indenture to maintain flood insurance on any portion of the Facility and there can be no assurance that the Corporation or the Landlord will obtain such coverage in the future. The Facility is not located in special flood hazard areas as designated by the Federal Emergency Management Agency.

***Environmental Risks.*** There are potential risks relating to liabilities for environmental hazards with respect to the ownership of any real property. If hazardous substances are found to be located on a property, owners of such property may be held liable for costs and other liabilities related to the removal of such substances which costs and liabilities could exceed the value of the Facility or any portion thereof. See “THE FACILITY” herein for a description of environmental reports regarding the Facility.

## Bankruptcy

The rights and remedies of the Beneficial Owners of the Bonds are subject to various provisions of the Federal Bankruptcy Code (the “Bankruptcy Code”). If the Corporation, the Landlord or Encore were to become a debtor in a bankruptcy case, its revenues and certain of its accounts receivable and other property created or otherwise acquired after the filing of such petition and for up to 90 days prior to the filing of such petition may not be subject to the security interest created under the Mortgage for the benefit of the Master Trustee. The filing would operate as an automatic stay of the commencement or continuation of any judicial or other proceeding against such entity, and its property, and as an automatic stay of any act or proceeding to enforce a lien upon or to otherwise exercise control over such property. If the bankruptcy court so ordered, the property of the Corporation or a Member, including accounts receivable and proceeds thereof, could be used for the financial rehabilitation of such entity despite the security interest of the Trustee therein. While the Bankruptcy Code requires that the interest of the Trustee as lien owner be adequately protected before the collateral may be used by the Corporation or a Member, such protection could take the form of a replacement lien on assets acquired or created after the bankruptcy petition is instituted. The rights of the Trustee to enforce liens and security interests against the Corporation’s or Member’s assets could be delayed during the pendency of the rehabilitation proceedings.

The Corporation, a Landlord or Encore could file a plan for the reorganization of its debts in any such proceeding which could include provisions modifying or altering the rights of creditors generally, or any class of them, secured or unsecured. The plan, when confirmed by a court, binds all creditors who had notice or knowledge of the plan and discharges all claims against the debtor provided for in the plan. No plan may be confirmed unless certain conditions are met, among which are that the plan is in the best interests of creditors, is feasible and has been accepted by each class of claims impaired thereunder. Each class of claims has accepted the plan if at least two thirds in dollar amount and more than one half in number of the class cast votes in its favor. Even if the plan is not so accepted, it may be confirmed if the court finds that the plan is fair and equitable with respect to each class of non-accepting creditors impaired thereunder and does not discriminate unfairly.

## Factors Associated with the School’s Operations

There are a number of factors affecting schools generally that could have an adverse effect on the School and on Encore’s financial position and ability operate the Facility as a charter school and, consequently, on the Corporation’s ability to make Loan Repayments necessary to make debt service payments on the Bonds. These factors include, but are not limited to: (i) failure to qualify for statutory reimbursement under state programs; (ii) increasing costs of compliance with federal, state or local laws or regulations, including, but not limited to, laws or regulations concerning environmental quality, work safety and accommodation of persons with disabilities; (iii) taxes or other charges imposed by federal, state or local governments; (iv) the ability to attract a sufficient number of students; (v) changes in existing statutes pertaining to the powers of the School and disruption of the School’s operations by real or perceived threats against the School, its staff members or students; and (vi) decline in the reputation of the School or the ability of the School and its management to provide educational services desired and accepted by the population it serves.

Potential purchasers should be aware that the School faces constant competition for students and there can be no assurance that the School will continue to attract and retain the number of students that are needed to generate revenues sufficient to make payments on the Lease that are the source of revenue to debt service on the Bonds. Neither the Corporation nor Encore can assess or predict the ultimate effect of the foregoing factors on its operations or financial results of its operations or on its ability to make payments required under the Lease, the Loan Agreement or Obligation No. 2.

## State Financial Difficulties

Charter schools, like all public schools, depend on revenues from the State for a large portion of their operating budgets. The availability of State funds for public education is a function of constitutional and statutory provisions affecting school district revenues and expenditures, the condition of the State economy (which affects total revenue available to the State School Fund) and the annual State budget process. Decreases in State revenues may adversely affect education appropriations made by the Legislature. As noted, the Legislature bases its decisions about appropriations on many factors, including the State’s economic performance, and, because some public officials, their constituents, commentators and others have viewed charter schools as controversial, political factors may also come to bear on charter school funding. See “CERTAIN RISK FACTORS – Dependence on State Aid Payments that are Subject to Annual Appropriation and Political Factors” above.

The State has previously experienced severe financial difficulties. In prior years, the State’s response to its financial difficulties has had a significant impact on Proposition 98 funding and settle-up treatment, as further described in “APPENDIX D – CALIFORNIA CHARTER SCHOOLS, RELATED STATUTES, AND FUNDING” attached hereto. In the past, the State has sought to avoid or delay paying settle-up amounts when funding has lagged the guaranteed amount. The State has also sought to avoid increases in the minimum guarantee through various mechanisms by treating any excess appropriations as advances against subsequent years’ Proposition 98 minimum funding levels rather than current-year increases; by deferring State aid payments from one fiscal year to the next; and by suspending Proposition 98. Continued decreases in State revenues may adversely affect education appropriations made by the Legislature. None of the Corporation, Encore or any other party to the Bond transaction can predict how State income or State education funding will vary over the entire term of the Bonds. No party to the Bond transaction takes any responsibility for informing owners of the Bonds about any such changes.

Information about the financial condition of the State, as well as its budget and spending for education, is available and regularly updated on various State-maintained websites, including those of the LAO, the Department of Finance and the California State Controller. In addition, various State of California official statements, which contain summaries of current and past State budgets and the impact of those budgets on State education funding, may be found at the website of the California State Treasurer, [www.treasurer.ca.gov.](http://www.treasurer.ca.gov/)  Such information is prepared by the respective State entity maintaining each such website and not by any of the parties to this transaction. The parties to this transaction take no responsibility for the accuracy, completeness or timeliness of such information or the continued accuracy of the internet addresses noted herein, and no such information is incorporated herein by these references.

## Budget Delays and Restrictions on Disbursement of State Funds during a Budget Impasse

The State Constitution specifies that an annual budget will be proposed by the Governor by January 10 of each year for the next fiscal year (the “Governor’s Budget”). Under State law, the annual proposed Governor’s Budget cannot provide for projected expenditures in excess of projected revenues for the ensuing fiscal year. State law also requires the Governor to update the Governor’s Budget projections and budgetary proposals by May 14 of each year (the “May Revision”). The May Revision is normally the basis for final negotiations between the Governor and Legislature to reach agreement on appropriations and other legislation to fund State government for the ensuing fiscal year (the “Budget Act”).

The Budget Act must be approved by a majority vote of each House of the Legislature and must be in balance. The budget becomes law upon the signature of the Governor. Text of proposed and adopted budgets may be found at the website of the Department of Finance, [www.dof.ca.gov,](http://www.dof.ca.gov/) currently under the heading “California Budget.” Analyses of budgets are prepared by the Legislative Analyst’s Office at [www.lao.ca.gov.](http://www.lao.ca.gov/) Such information is prepared by the respective State entity maintaining each such website and not by any of the parties to this transaction. The parties to this transaction take no responsibility for the accuracy, completeness or timeliness of such information or the continued accuracy of the internet addresses noted herein, and no such information is incorporated herein by these references.

The State Legislature is required to approve a State Budget Act no later than June 15 of each year. The State Legislature has failed to approve the State Budget Act by the deadline therefor in a number of years. Failure by the State to adopt a Budget Act restricts the California State Controller’s ability to disburse State funds after the beginning of the ensuing fiscal year. See “APPENDIX D – CALIFORNIA CHARTER SCHOOLS, RELATED STATUTES, AND FUNDING” attached hereto regarding the ability of the State Controller to disburse State funds in such situations. Any State budget delay would delay the State’s appropriation of funds and could negatively impact Encore’s ongoing viability and its ongoing ability to make payments under the Lease representing debt service on the Bonds.

## Key Management

The creation of, and the philosophy of teaching in, charter schools generally initially may reflect the vision and commitment of a few key persons on the board of directors and/or the upper management of the charter school or its management organization (“Key Directors/Managers”). Loss of any such Key Directors/Managers, and the inability of the Corporation or Encore to find comparable qualified replacements, could adversely affect their respective operations or financial results.

See “APPENDIX A – CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOL, THE CORPORATION AND THE OBLIGATED GROUP” attached hereto for information regarding the management and leadership of the Corporation, Encore and the School.

## Other Limitations on Enforceability of Remedies

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

In addition to the foregoing, the realization of any rights under the Loan Agreement, the Bond Indenture and the Mortgage upon a default depends upon the exercise of various remedies specified in the Loan Agreement, the Bond Indenture and the Mortgage. These remedies may require judicial action which is often subject to discretion and delay. Under existing law, certain of the remedies specified in the Loan Agreement, the Bond Indenture and the Mortgage may not be readily available or may be limited. For example, a court may decide not to order the specific performance of the covenants contained in the Loan Agreement, the Bond Indenture or the Mortgage. Accordingly, the ability of the Authority, the Trustee or the Master Trustee to exercise remedies under the Loan Agreement, the Bond Indenture and the Mortgage, as applicable, upon an Event of Default could be impaired by the need for judicial or regulatory approval.

## Specific Risks of Charter Schools

***Charter School Law.*** The Charter School Law is evolving. Amendments are made relatively frequently and legislative and public attitudes are still forming. Certain amendments have been described elsewhere in this Private Placement Memorandum. It is likely that additional changes will be made in the future, some of which may be adverse to charter schools in general may affect the financial viability of the School.

See “APPENDIX D – CALIFORNIA CHARTER SCHOOLS, RELATED STATUTES, AND FUNDING” attached hereto for more information on recent and pending legislation relating to charter schools.

***Non-Renewal or Revocation of Charters.*** The Charter School Law enables charter authorizers to grant five-year charters which may be renewed after evaluation and can be revoked at any time because of either educational non-performance or fiscal mismanagement. See “APPENDIX D – CALIFORNIA CHARTER SCHOOLS, RELATED STATUTES, AND FUNDING” attached hereto. While management of Encore believes that it has a stable relationship with representatives of Hesperia Unified School District, the State Board of Education, and representatives of the San Bernardino County board of Education, each of which, under appropriate circumstances, is authorized to grant charters under the Charter School Law, there is no assurance that there will not be a non-renewal or revocation of a charter.

See “APPENDIX A – CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOL, THE CORPORATION AND THE OBLIGATED GROUP” attached hereto for information about the current status of the charter for the School.

***Legal Challenges.*** In addition to non-renewal or revocation, a charter may also be subject to challenge by an interested third-party. No assurance can be given that a School’s charter will not be subjected to legal challenge. See “ABSENCE OF MATERIAL LITIGATION – The Corporation” herein and “APPENDIX A – CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOL, THE CORPORATION AND THE OBLIGATED GROUP” attached hereto. Any failure of Encore to have a charter for the School in place could well have a material adverse effect on the Landlord or the Corporation and their ability to generate revenues necessary to make payments under the Loan Agreement and Obligation No. 2 which are expected to provide sufficient revenues to satisfy the debt service requirements for the Bonds.

***Budgetary Constraints.*** Charter schools are funded primarily from State and local tax revenues and budgetary pressures at the State or local level may jeopardize future funding levels, which may adversely affect the ability of the Corporation and the Landlord to make payments under the Loan Agreement and Obligation No. 2. See “APPENDIX D – CALIFORNIA CHARTER SCHOOLS, RELATED STATUTES, AND FUNDING” attached hereto.

***Enrollment Levels.*** Encore’s revenues and financial strength will depend in part upon maintaining certain enrollment levels at the School. A reduction in enrollment for the School will have a direct result of reducing revenues available to pay amounts due under the Lease. See “APPENDIX A – CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOL, THE CORPORATION AND THE OBLIGATED GROUP” attached hereto.

***Risk of Reduction in ADA Funding***. Since the majority of funds for the School’s operations come from the State on the basis of ADA, the School is subject to State funding reductions or restrictions that might affect all public school districts and charter schools. Among other such risks, over time the State may not increase ADA-based funding commensurate with increases in the cost of school operations, or the State may even decrease ADA-based funding.

ADA-based funding is determined by actual attendance, and not by student enrollment data. Regardless of the statewide level of ADA-based funding, the School is subject to loss of revenue if enrollment should decrease, or if average daily attendance should decrease even if enrollment remains steady, whether due to student illness, truancy or other factors. Such a loss of revenues could adversely affect the ability of Encore to make Rent payments due under the Lease and, consequently, the ability of the Corporation and the Landlord to make payments under the Loan Agreement and Obligation No. 2.

In addition, the Charter School Law prohibits a charter school from imposing fees or charges for its educational services. Therefore, the School is dependent upon receipt of ADA-based funding, as well as philanthropic support. There is little Encore or the Corporation can do to increase revenues, other than for the School to admit a larger number of students.

In the 2020-21 Fiscal Year, charter schools with growing enrollment faced a restriction in ADA-based funding related to the 2020-21 State Budget’s “hold harmless” feature, which denied funding for growth in ADA above 2019-20 levels. In this way, the 2020-21 Budget provision functioned as a cap on ADA (the “ADA Cap”), with a limiting effect expected to impact educational agencies with growing enrollment. See “APPENDIX D – CALIFORNIA CHARTER SCHOOLS, RELATED STATUTES, AND FUNDING” attached hereto. On September 18, 2020, the Governor signed into law Senate Bill 820 (“SB 820”) which provided for funding based on the lesser of (a) certified enrollment as of the October 2020 data reported in the California Longitudinal Pupil Achievement Data System, and the applicable statewide attendance rate for the 2019-20 Fiscal Year (for elementary school districts or high school districts), and (b) either (i) qualifying projected enrollment in its most recent 2020-21 budget adopted on or before June 30, 2020, or in its adopted 2019-20 second interim report and the applicable statewide attendance rate for the 2019-20 Fiscal Year (for elementary school districts or high school districts), or (ii) qualifying projected ADA in its most recent 2020-21 budget adopted on or before June 30, 2020, or in its adopted 2019-20 second interim report. SB 820 did not provide additional funding for ADA growth over 2019-20 levels in nonclassroom-based charter schools.

No assurance can be made that ADA growth in future fiscal years will be funded. In addition, proposals, including future State budget actions, may extend the ADA Cap to future fiscal years or impose additional reductions or restrictions of ADA funding. Any such limitations may adversely affect the finances and/or operations of Encore and the Corporation.

***Compliance with the Elementary and Secondary Education Act.*** Prior to the adoption of the ESSA (defined below), the No Child Left Behind Act of 2001 (the “NCLB”) served as the primary federal law with respect to K-12 education. NCLB employed the concept of Adequate Yearly Progress (“AYP”) to measure and hold schools and school districts responsible for student achievement. In California, the NCLB subjected California schools to an annual AYP determination. AYP was calculated by using a formula set by the California Department of Education. It measured participation rates, math and reading performance, and graduation rate targets for the elementary, middle and high school levels. In connection with the adoption of ESSA, the federal government has repealed the AYP requirement.

Under California law, if a school received Title I funds and did not make AYP for two consecutive years, the school was placed on “Program Improvement” status and the school was required to develop a school improvement plan. If the school did not achieve AYP goals for a third year, “corrective action” was undertaken, which could include the provision of supplemental educational services for low-performing, low-income students. A school that continued to fail to make AYP was required to take corrective action and undergo restructuring plans. Failure to meet AYP for years subsequent to the second year carried further consequences under the NCLB. Under California law, the right to operate a charter school may be terminated if the school fails to make or meet reasonable progress toward achievement of goals, objectives, content standards, pupil performance standards or applicable federal requirements.

In March 2014, the State of California was granted a one-year waiver by the U.S. Department of Education from using test results of academic assessments to calculate AYP under the then-existing NCLB, in order to facilitate the state’s transition to the new California Assessment of Student Performance and Progress (“CAASPP”) system. In March 2015, the California State Board of Education requested another one-year waiver from the U.S. Department of Education. In May 2015, the U.S. Department of Education granted the additional one-year waiver, with certain conditions.

In December 2015, the Every Student Succeeds Act of 2015 (“ESSA”) was passed by Congress and signed by the President in connection with the amendment and reauthorization of the Elementary and Secondary Education Act of 1965. With the passage of ESSA, states are no longer required to produce AYP, but are required to develop new accountability systems by 2017-18. See “APPENDIX A – CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOL, THE CORPORATION AND THE OBLIGATED GROUP” attached hereto. ESSA, among other things, prohibits officers and employees of the federal government from mandating, directing or controlling a state, local education agency or school’s specific instructional content, academic standards and assessments, curriculum, or program of instruction, as a condition of eligibility to receive funds under ESSA.

***State Retirement Systems.*** Encore is currently a member employer of the State’s STRS and PERS retirement systems (see “APPENDIX A – CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOL, THE CORPORATION AND THE OBLIGATED GROUP” attached hereto). Although Encore does not anticipate withdrawing from or otherwise terminating its membership in STRS or PERS, there can be no assurance that State law or federal law under the Code, including IRS rulings and other guidance, will permit charter schools to continue to participate in the STRS or PERS Governmental Plans (as defined in Section 414(d) of the Code).

The STRS and PERS retirement system have substantial system-wide unfunded liabilities. If Encore were to withdraw from STRS or PERS, voluntarily or otherwise, it could be liable for its share of the unfunded liabilities of the systems. Neither Encore nor the Corporation can predict what liabilities, if any, would result if Encore’s member employer status in the retirement system were to terminate, or what impact any such a termination would have on Encore’s finances and operations.

## Claims and Insurance Coverage

Litigation could arise from the corporate and business activities of Encore or the Corporation. Such litigation may result as a result of either Encore’s or the Corporation’s status as an employer. Many of these risks are covered by insurance, but some are not. For example, claims arising from wrongful termination or sexual molestation claims and business disputes may not be covered by insurance or other sources. Such claims may, in whole or in part, constitute a significant liability of Encore or the Corporation if determined or settled adversely, as may any additional claims for other torts, accidents, or environmental enforcement actions, to the extent such claims exceed the limits of applicable insurance coverage.

The Corporation and Encore covenant and agree in the Master Indenture and the Lease that they will maintain, or caused to be maintained, property, general liability and business interruption insurance with respect to the Facility at levels set forth therein. The Corporation and Encore are not obligated by the Master Indenture or the Lease to maintain earthquake insurance and there can be no assurance that the Corporation or Encore will obtain such coverage in the future. See “APPENDIX F – FORM OF LOAN AGREEMENT” and “APPENDIX G – MASTER INDENTURE AND FORM OF SUPPLEMENTAL MASTER INDENTURE NO. 2” attached hereto.

## Risk of Noncontinued Philanthropy or Grants

In the past, Encore has received income from unrestricted gifts and donations or grants to supplement operating revenues to finance operations and capital needs. Gifts, grants and donations are expected to continue. However, there can be no assurance that projections of this non-operating revenue will be realized or will not decrease, adversely affecting the financial condition of Encore.

## Use of Facility

No assurance can be given as to whether a challenge to the educational use of the Facility brought would result in an interruption of the School’s operations and have a material negative impact on the Revenues. Any court order prohibiting the educational use of the Facility would entitle the Master Trustee to submit a claim on the lender’s title insurance policy. See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS – Mortgage” herein.

## No Rating on the Bonds

The Bonds are not rated, and the Corporation does not contemplate making application to any rating agency for the assignment of a rating to the Bonds. See “NO RATING” herein.

## SB 740 Funding

Effective beginning the 2017-18 fiscal year, reimbursable costs under the SB 740 program are limited to either of the following conditions: (i) reimbursable facility rent or lease costs do not exceed the prior year’s costs on file with the Authority as of the 2016–17 fiscal year, subject to a cost-of-living adjustment; or (ii) the rent or lease costs of new facility agreements are at or below market rate based on an independent appraisal paid for by the charter school.

In order to be eligible for the SB 740 program, a charter school must be in good standing with its chartering authority and be in compliance with the terms of its charter at the time of application submission, and without interruption throughout the term of the grant. The Authority relies on information from the chartering authority regarding a school’s good standing and compliance with the terms of its charter. See “APPENDIX A – CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOL, THE CORPORATION AND THE OBLIGATED GROUP” attached hereto for information on the current status of the charter for the School.

Encore has received SB 740 funding in the past and expects to continue receiving such funding relating to facilities costs of the Facility. However, there can be no assurances that Encore will continue to qualify for or receive SB 740 funding, or that such funding will not be reduced or eliminated by the State in the future. See “CERTAIN RISK FACTORS – Specific Risks of Charter Schools” herein, and “APPENDIX A – CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOL, THE CORPORATION AND THE OBLIGATED GROUP” and “APPENDIX D – CALIFORNIA CHARTER SCHOOLS, RELATED STATUTES, AND FUNDING” attached hereto. The financial projections set forth in Appendix C attached hereto assume the receipt of SB 740 funding relating to the School in fiscal year 2021-22 and future fiscal years, and a failure to receive such funding would negatively affect Encore’s finances.

## Cybersecurity

Encore, like many other public and private entities, relies on a technology environment to conduct its operations. As a recipient and provider of personal, private, or sensitive information, Encore is subject to multiple cyber threats including, but not limited to, hacking, viruses, malware and other attacks on computer and other sensitive digital networks and systems. Entities or individuals may attempt to gain unauthorized access to Encore’s digital systems for the purposes of misappropriating assets or information or causing operational disruption and damage. [Within the last five years, Encore has not experienced attacks on its computer operating systems which resulted in a breach of its cybersecurity systems that are in place. No assurances can be given that Encore’s efforts to manage cyber threats and attacks will be successful or that any such attack will not materially impact the operations or finances of Encore. Encore carries cybersecurity insurance.]

## Limited Duties of Trustee

The Trustee shall have no duty to investigate or analyze documents, including any reports, financial statements, insurance policies, or other material delivered to the Master Trustee or Trustee under the terms of the Master Indenture, the Bond Indenture, the Loan Agreement or the Lease and shall only be required to act on such information if the Master Trustee or Trustee, as applicable, has actual or deemed knowledge of an Event of Default thereunder. Such items include but are not limited to: insurance certificates and financial reporting. Therefore, the Master Trustee or Trustee may only be able to identify and declare an Event of Default in connection with a non-payment or failure to deliver certain documents by a date certain under the Master Indenture, Loan Agreement or the Lease, as applicable.

In addition, the Indenture permits moneys in the Working Capital Fund, Cost of Issuance Fund and Revenue Fund to be invested and reinvested by the Trustee in Eligible Securities only. The Trustee will rely solely on the written direction of the Corporation in investing and reinvesting such moneys, without further investigation or independent determination as to whether such investments constitute Eligible Securities.

See “APPENDIX E – FORM OF BOND INDENTURE” attached hereto.

# ABSENCE OF MATERIAL LITIGATION

## The Authority

To the knowledge of the Authority, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body, pending or threatened against the Authority seeking to restrain or enjoin the sale or issuance of the Bonds, or in any way contesting or affecting any proceedings of the Authority taken concerning the sale thereof, the pledge or application of any moneys or security provided for the payment of the Bonds, the validity or enforceability of the documents executed by the Authority in connection with the Bonds, the completeness or accuracy of this Private Placement Memorandum or the existence or powers of the Authority relating to the sale of the Bonds.

## The Corporation

There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body, pending or, to the knowledge of the Corporation, threatened in writing against the Corporation seeking to restrain or enjoin the sale or issuance of the Bonds, or in any way contesting or affecting any proceedings of the Corporation taken concerning the sale thereof, the pledge or application of any moneys or security provided for the payment of the Bonds, the validity or enforceability of the documents executed by the Corporation in connection with the Bonds, the completeness or accuracy of the Private Placement Memorandum or the existence or powers of the Corporation relating to the sale of the Bonds.

# TAX MATTERS

In the opinion of Bond Counsel, under existing statutes, regulations, rulings and judicial decisions, interest (and original issue discount) on the Bonds is not excluded from gross income for federal income tax purposes under Section 103 of the Code but is exempt from State of California personal income tax.

Except for certain exceptions, the excess of the stated redemption price at maturity of a Bond over the issue price of a Bond (the first price at which a substantial amount of the Bonds of the same maturity is to be sold to the public) constitutes original issue discount. Original issue discount accrues under a constant yield method. The amount of original issue discount deemed received by the Beneficial Owner of a Bond will increase the Beneficial Owner’s basis in the Bond. Beneficial Owners of Bonds should consult their own tax advisor with respect to taking into account any original issue discount on the Bonds.

The amount by which a Bond Beneficial Owner’s original basis for determining loss on sale or exchange in the applicable Bond (generally, the purchase price) exceeds the amount payable on maturity (or on an earlier call date) constitutes amortizable bond premium, which the Beneficial Owner of a Bond may elect to amortize under Section 171 of the Code. Such amortizable bond premium reduces the Bond Beneficial Owner’s basis in the applicable Bond (and the amount of taxable interest received) and is deductible for federal income tax purposes. The basis reduction as a result of the amortization of Bond premium may result in the Beneficial Owner of a Bond realizing a taxable gain when a Bond is sold by the Beneficial Owner for an amount equal to or less (under certain circumstances) than the original cost of the Bond to the Beneficial Owner. The Beneficial Owners of the Bonds that have a basis in the Bonds that is greater than the principal amount of the Bonds should consult their own tax advisors with respect to whether or not they should elect to amortize such premium under Section 171 of the Code.

In the event of a legal defeasance of a Bond, such bond might be treated as retired and “reissued” for federal tax purposes as of the date of the defeasance, potentially resulting in recognition of taxable gain or loss to the applicable Bond Beneficial Owner generally equal to the difference between the amount deemed realized from the deemed redemption and reissuance of the Bond Beneficial Owner’s adjusted tax basis in such bond.

The federal income tax discussion set forth above with respect to the Bonds is included for general information only and may not be applicable depending upon a Beneficial Owner’s particular situation. The ownership and disposal of the Bonds and the accrual or receipt of interest with respect to the Bonds may otherwise affect the tax liability of certain persons. Bond Counsel expresses no opinion regarding any such tax consequences. BEFORE PURCHASING ANY OF THE BONDS, ALL POTENTIAL PURCHASERS SHOULD CONSULT THEIR INDEPENDENT TAX ADVISORS WITH RESPECT TO THE TAX CONSEQUENCES RELATING TO THE BONDS AND THE TAXPAYER’S PARTICULAR CIRCUMSTANCES.

A copy of the proposed form of opinion of Bond Counsel for the Bonds is included herewith in Appendix J.

# APPROVAL OF LEGALITY

The validity of the Bonds and certain other legal matters are subject to the approving opinions of Stradling Yocca Carlson & Rauth, a Professional Corporation, Bond Counsel to the Authority, the approval of certain matters for the Authority by Kutak Rock LLP, the approval of certain matters for the Placement Agent by Quarles & Brady LLP, as Placement Agent’s counsel, and the approval of certain matters by Musick, Peeler & Garrett LLP, as counsel to the Corporation. Bond Counsel, the Placement Agent and its counsel will receive compensation contingent upon the sale and delivery of the Bonds. A complete copy of the proposed form of Bond Counsel opinion is contained in Appendix J hereto. Neither Bond Counsel nor the Authority undertakes any responsibility for the accuracy, completeness or fairness of this Private Placement Memorandum. Musick, Peeler & Garrett LLP will also render certain opinions pertaining to Encore.

# NO RATING

The Bonds are not rated. Neither of the Corporation nor the Authority has made or contemplates making application to any rating agency for the assignment of a rating to the Bonds, except as noted below with respect to the Corporation. See “CERTAIN RISK FACTORS – No Rating on the Bonds” herein.

# LIMITED OFFERING OF BONDS

The Bonds are exempt from registration under federal securities law but are being offered only to a limited number of sophisticated investors and will be sold only to purchasers who are Qualified Institutional Buyers. By purchasing the Bonds, each investor is deemed to have made the acknowledgments, representations, warranties and agreements set forth under the heading “TRANSFER RESTRICTIONS” herein.

# PLACEMENT AGENT

The Authority and the Corporation have engaged Stifel, Nicolaus & Company, Incorporated (the “Placement Agent”) to act as Placement Agent in connection with the limited offering of the Bonds. The Placement Agent has not underwritten the Bonds and is not responsible for the accuracy or the completeness of the information included in this Private Placement Memorandum or any other information or documentation that the purchasers of the Bonds have received or relied upon in making their decision to purchase and own the Bonds.

The Placement Agent has entered into a Placement Agent Agreement relating to the limited offering and sale of the Bonds by the Authority. Pursuant to the Placement Agent Agreement, the Placement Agent has agreed to arrange for the limited offering of the Bonds by the Authority, subject to the satisfaction of certain conditions, with qualified purchasers. The Placement Agent will be paid a fee for its Placement Agent services in the amount of $\_\_\_\_\_\_\_\_\_, in accordance with the Placement Agent Agreement.

# ADDITIONAL INFORMATION

The Corporation has furnished all information herein relating to the Corporation, and Encore has furnished all information herein relating to Encore. Any statements herein involving matters of opinion, whether or not expressly so stated, are intended as such and not as representations of fact, and no representation is made that any of such statements will be realized. Neither this Private Placement Memorandum nor any statement which may have been made orally or in writing with respect to this Private Placement Memorandum is to be construed as a contract with the Beneficial Owner of any Bond.

All of the summaries of the provisions of the Bonds, Bond Indenture, Loan Agreement, Master Indenture and Lease set forth herein (exclusive of financial and statistical data), and all other summaries and references to such other materials not purporting to be quoted in full, are only brief outlines of certain provisions thereof and are made subject to all of the detailed provisions thereof, to which reference is hereby made for further information, and do not purport to be complete statements of any or all such provisions of such documents. All estimates and assumptions herein have been made on the best information available and are believed to be reliable, but no representations whatsoever are made that such estimates or assumptions herein will be realized. To the extent statements made herein involve anything other than matters of opinion, whether or not expressly so stated, they are intended merely as such and not as representations of fact.

The information set forth herein, or in the Appendices, should not be construed as representing all of the conditions affecting Encore or the Corporation. The appendices attached hereto are a part of this Private Placement Memorandum.

The summaries of or references to constitutional provisions, statutes, resolutions, agreements, contracts, financial statements, reports, publications and other documents or compilations of data or information set forth in this Private Placement Memorandum do not purport to be complete statements of the provisions of the items summarized or referred to and are qualified in their entirety by the actual provisions of such items, copies of which are either publicly available or available upon request and the payment of a reasonable copying, mailing and handling charge from Stifel, Nicolaus & Company, Incorporated, 2121 Avenue of the Stars, Suite 2100, Los Angeles, CA 90067.

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# MISCELLANEOUS

NONE OF THE INFORMATION IN THIS PRIVATE PLACEMENT MEMORANDUM HAS BEEN SUPPLIED OR VERIFIED BY THE AUTHORITY OTHER THAN THE INFORMATION UNDER THE CAPTIONS “THE AUTHORITY” AND “ABSENCE OF MATERIAL LITIGATION – THE AUTHORITY.” THE AUTHORITY MAKES NO REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, AS TO THE ACCURACY (OTHER THAN IN THE SECTIONS IDENTIFIED ABOVE) OR COMPLETENESS OF INFORMATION IN THIS LIMITED OFFERING MEMORANDUM.

The distribution and use of this Private Placement Memorandum have been approved by the Authority, the Corporation and Encore.

WESTERN ENCORE PROPERTIES INCORPORATED

By: /s/ [NAME]

Authorized Signatory

ENCORE EDUCATION CORPORATION, as Lessee

By: /s/ Dr. Sabrina Bow

Chief Executive Director

**APPENDIX A**

**CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOL,   
THE CORPORATION AND THE OBLIGATED GROUP**

**APPENDIX B**

**Audited Financial Statements of ENCORE for the Fiscal Year Ended June 30, 2021**

**APPENDIX C**

**YEAR-TO-DATE AND PROJECTED FINANCIAL INFORMATION OF ENCORE FOR THE FISCAL YEARS ENDING JUNE 30, 2022 AND JUNE 30, 2023**

**APPENDIX D**

**CALIFORNIA CHARTER SCHOOLS, RELATED STATUTES, AND   
FUNDING** **CHARTER SCHOOLS**

**General**

This section provides a brief overview of California’s charter school law. Prospective purchasers of the Bonds should note that the overview contained in this section and the summary of relevant law noted by cross-reference in the sections that follow are provided for the convenience of prospective purchasers but are not and do not purport to be comprehensive. Additional information regarding various aspects of charter school funding in California is available on numerous State-maintained websites and through other publicly available sources.

Under State Law, charter schools are largely independent schools operating as part of the public school system under the exclusive control of the officers of the public schools. A charter school is usually created or organized by a group of teachers, parents and community leaders, or a community-based organization, and is usually sponsored by an existing local public school district or county board of education. Specific goals and operating procedures for the charter school are detailed in a “charter” granted by the sponsoring board to the charter organizers.

A charter school is generally exempt from the laws governing school districts, except where specifically noted in the law. Charter schools in the State are created pursuant to Part 26.8 (beginning with Section 47600) of Division 4 of Title 2 of the State Education Code (the “Charter School Law”). The law also requires that a public charter school be nonsectarian in its programs, admission policies, employment practices and all other operations, and prohibits the conversion of a private school to a charter school. Public charter schools may not charge tuition and may not discriminate against any pupil on the basis of ethnicity, national origin, gender or disability. State public charter schools are required to participate in the State Testing and Reporting Program.

According to the Charter School Law, the purpose of a charter school is to: (1) improve pupil learning; (2) increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils identified as academically low achieving; (3) encourage the use of different and innovative teaching methods; (4) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site; (5) provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system; (6) hold schools accountable for meeting measurable pupil outcomes and provide schools a way to shift from a rule-based to a performance-based system of accountability; and (7) provide vigorous competition within the public school system to stimulate continual improvements in all public schools.

Anyone may write a charter. However, for a new charter school (not conversion of an existing traditional public school), charter developers must present a petition to the governing board of the local school district (or other chartering authority) containing the signatures of either: (1) a number of teachers meaningfully interested in teaching at the school equal to at least 50 percent of the number of teachers the charter school estimates will be employed during the charter school’s first year of operation, or (2) a number of parents or legal guardians representing at least 50 percent of the number of pupils expected to enroll at the school in its first year. For conversion schools, Charter School Law requires signatures of at least 50 percent of the permanent status teachers at the school to be converted. Pupils may not be required to attend a charter school nor may teachers be compelled to teach there. Charters are granted for a maximum term of five years, and may be renewed for new five-year terms without limitation upon satisfaction of certain criteria described below; provided, however, that under certain circumstances, high-performing charter schools may be renewed for a period of between five seven years.

Generally, each charter school is funded to its statutory entitlement after the local contribution is taken into account. Local funding comes from the chartering school district or other sponsoring local education agency in lieu of property taxes (generally funded from the school district’s own property tax receipts), while the State funds the balance directly through the county office of education. The proportion coming from the State will vary from district to district depending on the amount of local property taxes collected. In addition, charter schools receive certain State funding and lottery funds based upon pupil attendance, and may be eligible for other special programmatic aid from State and federal grants. Charter schools are prohibited from charging tuition under the Charter School Law.

For additional information regarding funding of education in the State and information relating to certain risks and other considerations relevant to a decision to invest in the Bonds, see “STATE FUNDING OF EDUCATION” herein and “CERTAIN RISK FACTORS – Specific Risks of Charter Schools” in the forepart of this Private Placement Memorandum.

**Chartering Authority**

Under the Charter School Law, the local school district governing board serves as the primary chartering authority. A petitioner may seek approval of a charter from a county board of education if the pupils to be served are pupils that would normally be provided direct education and related services by the county office of education. A petitioner may also seek approval from a county board of education for a countywide charter school, which may be granted only if the county board finds that the proposed countywide charter school will offer services to a pupil population that will benefit from those services and that cannot be served as well by a charter school that operates only in one school district in the county. See “— Countywide Benefit Charter Schools” below. Petitioners may request the county board of education to review a charter petition if the petition has been previously denied by the local school district governing board.

If the governing board of a school district denies a petition and the county lacks an independent county board of education, the petitioner may elect to submit the petition for the establishment of a charter school to the state board. If the denial of a charter petition is reversed by the state board, the state board shall designate the governing board of the school district in which the charter school is located as the chartering authority.

If the county board of education denies a petition, the petitioner may appeal that denial to the state board. The state board shall either hear the appeal or summarily deny review of the appeal based on the documentary record. If the state board hears the appeal, the state board may affirm the determination of the governing board of the school district or the county board of education, or both of those determinations, or may reverse only upon a determination that there was an abuse of discretion. If the denial of a charter petition is reversed by the state board, the state board shall designate, in consultation with the petitioner, either the governing board of the school district or the county board of education in which the charter school is located as the chartering authority.

For information concerning the charter granted with respect to the School, see “APPENDIX A – CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOL, THE CORPORATION AND THE OBLIGATED GROUP” attached hereto.

**Elements of a Charter Petition**

Each charter petition, at a minimum, must contain reasonably comprehensive descriptions of each of sixteen required elements. They are:

1. A description of the educational program of the charter school.

2. The annual goals for the charter school for all pupils and for each subgroup of pupils, and specific annual actions to achieve those goals.

3. If the proposed charter school will serve high school pupils, the manner in which the charter school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements.

4. The measurable pupil outcomes identified for use by the charter school.

5. The method by which pupil progress in meeting those pupil outcomes is to be measured.

6. The charter school’s governance structure, including parental involvement.

7. The qualifications to be met by individuals employed by the charter school.

8. Procedures to ensure health and safety of pupils and staff. These procedures shall include: that each employee of the charter school furnish the charter school with a criminal record summary; the development of a school safety plan; and that the school safety plan be reviewed and updated by March 1 of every year by the charter school.

9. The means by which the charter school will achieve a balance of racial and ethnic pupils, special education pupils, and English learner pupils, including redesignated fluent English proficient pupils, reflective of the general population residing in the chartering district.

10. Admission policies and procedures, consistent with the requirements in Education Code Section 47605(e).

11. The manner in which annual, independent financial audits will be conducted, and the manner in which audit exceptions and deficiencies will be resolved to the satisfaction of the chartering authority.

12. The procedures by which pupils may be suspended or expelled from the charter school for disciplinary reasons or otherwise involuntarily removed from the charter school for any reason.

13. Provisions for employee coverage under the State Teachers’ Retirement System, the Public Employees’ Retirement System, or federal social security.

14. The public school attendance alternatives for pupils residing within the district who choose not to attend charter schools.

15. A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.

16. The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.

17. A declaration of whether or not the charter school will be deemed the exclusive public school employer of the employees of the charter school for purposes of the Educational Employment Relations Act.

18. A description of the procedures for closure of the school, including the disposition of assets and the maintenance and transfer of pupil records.

Under the accountability requirements of Assembly Bill 1137 (“AB 1137”), signed into law in October 2003, districts or other agencies that grant charter authority must identify a contact person for charter schools, visit each charter school at least once a year, and ensure that charter schools submit all required reports (including fiscal reports that must be sent four times a year to the district and local county office of education). In addition, the district must monitor the fiscal condition of its charter schools and notify the State Department of Education whenever a charter is granted, denied, revoked, or the charter school will cease operation. AB 1137 also required that charter schools show a certain level of academic performance to have their charters renewed.

**Approval or Denial of Charter Petition**

No later than 60 days after receiving a petition, the governing board of the school district will hold a public hearing on the provisions of the charter, at which time the governing board of the school district will consider the level of support for the petition by teachers employed by the school district, other employees of the school district, and parents. Following review of the petition and the public hearing, the governing board of the school district will either grant or deny the charter within 90 days of receipt of the petition, provided, however, that the date may be extended by an additional 30 days if both parties agree to the extension.

The governing board of the school district will publish all staff recommendations, including the recommended findings and, if applicable, the certification from the county superintendent of schools prepared pursuant to paragraph (8) below, regarding the petition at least 15 days before the public hearing at which the governing board of the school district will either grant or deny the charter. At the public hearing at which the governing board of the school district will either grant or deny the charter, petitioners will have equivalent time and procedures to present evidence and testimony to respond to the staff recommendations and findings.

In reviewing petitions for the establishment of charter schools authorized by a school district, the chartering authority will be guided by the intent of the State Legislature that charter schools are and should become an integral part of the California educational system and that the establishment of charter schools should be encouraged. The governing board of the school district will grant a charter for the operation of a school if it is satisfied that granting the charter is consistent with sound educational practice and with the interests of the community in which the school is proposing to locate. The governing board of the school district shall consider the academic needs of the pupils the school proposes to serve.

The governing board of the school district will not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:

1. The charter school presents an unsound educational program for the pupils to be enrolled in the charter school;
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition;
3. The petition does not contain the number of required signatures;
4. The petition does not contain an affirmation of each of the admission conditions described in Education Code Section 47605(e);
5. The petition does not contain reasonably comprehensive descriptions of all of the elements described in “— Elements of a Charter Petition” herein; and
6. The petition does not contain a declaration of whether or not the charter school will be deemed the exclusive public employer of the employees of the charter school for purposes of Chapter 10.7 of the Government Code.
7. The charter school is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate. Analysis of this finding shall include consideration of the fiscal impact of the proposed charter school. A written factual finding under this paragraph shall detail specific facts and circumstances that analyze and consider the following factors:
8. The extent to which the proposed charter school would substantially undermine existing services, academic offerings, or programmatic offerings.
9. Whether the proposed charter school would duplicate a program currently offered within the school district and the existing program has sufficient capacity for the pupils proposed to be served within reasonable proximity to where the charter school intends to locate.
10. The school district is not positioned to absorb the fiscal impact of the proposed charter school. A school district satisfies this paragraph if it has a qualified interim certification pursuant to Section 1240 of the Education Code and the county superintendent of schools, in consultation with the County Office Fiscal Crisis and Management Assistance Team, certifies that approving the charter school would result in the school district having a negative interim certification pursuant to Section 1240 of the Education Code, has a negative interim certification pursuant to Section 1240 of the Education Code, or is under state receivership. Charter schools proposed in a school district satisfying one of these conditions shall be subject to a rebuttable presumption of denial.

In reviewing petitions for the establishment of charter schools within the school district, the governing board of the school district will give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the State Board of Education.

If the governing board of a school district denies a petition, the petitioner may elect to submit the petition for the establishment of a charter school to the county board of education. The county board of education will review the petition pursuant to the same process by which a school district reviews a charter school petition.

If the governing board of a school district denies a petition and the county board of education has jurisdiction over a single school district, the petition may elect to submit the petition for the establishment of a charter school to the state board. The state board will review the petition pursuant to the same process by which a school district reviews a charter school petition. If the denial of a charter petition is reversed by the state board, the state board shall designate the governing board of the school district in which the charter school is located as the chartering authority.

If the county board of education denies a petition, the petitioner may appeal that denial to the state board. The state board will either hear the appeal or summarily deny review of the appeal based on the documentary record. If the state board hears the appeal, the state board may affirm the determination of the governing board of the school district or the county board of education, or both of those determinations, or may reverse only upon a determination that there was an abuse of discretion. If the denial of a charter petition is reversed by the state board, the state board will designate, in consultation with the petitioner, either the governing board of the school district or the county board of education in which the charter school is located as the chartering authority.

If either the county board of education or the state board fails to act on a petition within 180 days of receipt, the decision of the governing board of the school district to deny the petition will be subject to judicial review.

**Charter Renewal**

A chartering authority may grant one or more renewals of a charter petition. Except as otherwise described herein, each renewal will be for a period of five years. Renewals and material revisions of charters are governed by the same standards and criteria as initial approvals of charter petitions, and will include, but not be limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed.

AB 130 (as defined herein), which was signed into law by the Governor on July 9, 2021, automatically extends by two years the term of all existing charter schools whose term expires between January 1, 2022 and June 30, 2025, inclusive. See “– Amendments to the Charter School Law” below.

A charter school that, concurrently with its renewal, proposes to expand operations to one or more additional sites or grade levels must request a material revision to its charter, which may be made only with the approval of the chartering authority and is governed by the standards and criteria of an initial approval or denial of a charter petition. Paragraphs numbered (7) and (8) under the heading “— Approval or Denial of Charter Petition” above may not be used to deny a renewal of an existing charter school, but may be used to deny a proposed expansion constituting a material revision.

The chartering authority shall consider the schoolwide performance and performance of all subgroups of pupils served by the charter school on the state indicators included in the California School Dashboard and the performance of the charter school on the local indicators included in the California School Dashboard. The chartering authority shall provide greater weight to performance on measurements of academic performance in determining whether to grant a charter renewal. In addition to the state and local indicators, the chartering authority shall consider clear and convincing evidence, demonstrated by verified data, showing either of the following:

(A) The school achieved measurable increases in academic achievement, as defined by at least one year’s progress for each year in school.

(B) Strong postsecondary outcomes, as defined by college enrollment, persistence, and completion rates equal to similar peers.

The chartering authority may deny a charter renewal only upon making written findings, setting forth specific facts to support the findings, that the charter school has failed to meet or make sufficient progress toward meeting standards that provide a benefit to the pupils of the school, that closure of the charter school is in the best interest of pupils and, if applicable that its decision provided greater weight to performance on measurements of academic performance.

***Authorizer Shall Renew.*** The chartering authority shall not deny renewal for a charter school if either of the following apply for two consecutive years immediately preceding the renewal decision; provided, however, that a charter school eligible for technical assistance shall not qualify for renewal under this provision:

(A) The charter school has received the two highest performance levels schoolwide on all the state indicators included in the California School Dashboard for which it receives performance levels; and

(B) For all measurements of academic performance, the charter school has received performance levels schoolwide that are the same or higher than the state average and, for a majority of subgroups performing statewide below the state average in each respective year, received performance levels that are higher than the state average.

The chartering authority that granted the charter may renew a charter pursuant to this paragraph for a period of between five and seven years.

Notwithstanding the above, the chartering authority may deny renewal of a charter school upon a finding that the school is demonstrably unlikely to successfully implement the program set forth in the petition due to substantial fiscal or governance factors, or is not serving all pupils who wish to attend. The chartering authority may deny renewal of a charter school pursuant to this provision only after it has provided at least 30 days’ notice to the charter school of the alleged violation and provided the charter school with a reasonable opportunity to cure the violation, including a corrective action plan proposed by the charter school.

***Authorizer Shall Not Renew.*** The chartering authority shall not renew a charter if either of the following apply for two consecutive years immediately preceding the renewal decision:

(A) The charter school has received the two lowest performance levels schoolwide on all the state indicators included in the California School Dashboard for which it receives performance levels.

(B) For all measurements of academic performance, the charter school has received performance levels schoolwide that are the same or lower than the state average and, for a majority of subgroups performing statewide below the state average in each respective year, received performance levels that are lower than the state average.

The chartering authority shall consider the following factors, and may renew a charter that meets the criteria above only upon making both of the following written factual findings, specific to the particular petition, setting forth specific facts to support the findings:

(A) The charter school is taking meaningful steps to address the underlying cause or causes of low performance, and those steps are reflected, or will be reflected, in a written plan adopted by the governing body of the charter school.

(B) There is clear and convincing evidence showing either of the following:

(i) The school achieved measurable increases in academic achievement, as defined by at least one year’s progress for each year in school.

(ii) Strong postsecondary outcomes, as defined by college enrollment, persistence, and completion rates equal to similar peers.

For a charter renewed pursuant to this provision, the chartering authority may grant a renewal for a period of two years.

**Countywide Benefit Charter Schools**

Education Code Section 47605.6 provides for the creation of countywide benefit charter schools to operate at one or more sites within the geographic boundaries of a county and that provide instructional services that are not generally provided by a county office of education. A county board of education may approve a countywide charter only if it finds, in addition to the other requirements of the Charter School Law, that the educational services to be provided by the charter school will offer services to a pupil population that will benefit from those services and that cannot be served as well by a charter school that operates in only one school district in the county.

The provisions governing denial of a charter petition for school district governing boards also apply to the denial of a charter petition for countywide benefit charters. A county board of education will deny a petition if it finds one or more of the following: (i) the charter school presents an unsound educational program for the pupils to be enrolled in the charter school, (ii) petitioners are demonstrably unlikely to successfully implement the program set forth in the petition, (iii) the petition does not contain the number of required signatures, (iv) the petition does not contain an affirmation of each of the enumerated conditions described in Education Code Section 47605(e), (v) the petition does not contain reasonably comprehensive descriptions of the educational program of the school, measurable pupil outcomes and certain other factors, as required by State law, (vi) the petition does not contain a declaration of whether or not the charter school will be deemed the exclusive public employer of the employees of the charter school for purposes of Chapter 10.7 of the Government Code, and (vii) any other basis that the county board of education finds justifies the denial of the petition. If a petition for a countywide benefit charter is denied, or the renewal of an existing countywide benefit charter is denied, the petition may not be submitted to the State Board of Education (“SBE”) for review.

The School does not operate pursuant to a countywide benefit charter. See “APPENDIX A – CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOL, THE CORPORATION AND THE OBLIGATED GROUP” attached hereto.

**Charter Management Organizations**

As the number of charter schools operating pursuant to the Charter School Law has increased over time, nonprofit organizations have been established, referred to as charter management organizations (“CMOs”), to manage the operations of several charter schools for the purpose of achieving certain economic and operational efficiencies. CMOs centralize or share certain functions and resources among multiple charter schools, including but not limited to accounting, human resources, marketing, purchasing, property management and administration. CMOs may operate at the regional or statewide level. Encore functions as a CMO for the School. See “APPENDIX A – CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOL, THE CORPORATION AND THE OBLIGATED GROUP” attached hereto.

**Charter Revocation**

A charter may be revoked if the charter granting authority finds, based on substantial evidence, that a charter school (i) has committed a material violation any of the conditions, standards or procedures set forth in its charter, or (ii) has failed to meet or to pursue any of the student outcomes identified in its charter, or (iii) has failed to meet generally accepted accounting principles, or engages in fiscal mismanagement, or (iv) has violated any provision of law. Prior to revoking a charter, the charter granting authority must notify the charter school of the violation, afford the charter school a reasonable opportunity to remedy the violation (unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils), and, upon failure to do so, give written notice of intent to revoke and notice of facts in support of revocation to the charter school and hold a public hearing on the matter. An adverse decision by a school district governing board may be appealed to the county board of education and an adverse decision by the county board, directly or on appeal, may be appealed to the SBE. See “CERTAIN RISK FACTORS – Specific Risks of Charter Schools – Non-Renewal or Revocation of Charters” in the forepart of this Private Placement Memorandum.

In addition, the SBE may take action based on the recommendation of the State Superintendent of Public Instruction, including but not limited to revocation of a school’s charter, upon a finding of (i) gross financial mismanagement that jeopardizes the financial stability of the charter school, (ii) illegal or substantially improper use of charter school funds for the personal benefit of any officer, director or fiduciary of the charter school, (iii) substantial and sustained departure from measurably successful practices such that continuing departure would jeopardize the educational development of the school’s pupils, or (iv) failure to improve pupil outcomes across multiple state and school priorities identified in the charter. Regulations promulgated by the SBE require the California Department of Education to identify and notify the SBE of each charter school that is determined to warrant action pursuant to clause (iii) of the immediately preceding sentence by November 1 of each year. Under these regulations, charter schools so notified are required to be given an opportunity to submit written information as to why its charter should not be revoked. Any resulting action to revoke a charter is effective at the end of the fiscal year in which the action is taken, unless the SBE identifies departures at the school that are so significant as to be cause for immediate revocation and closure of the charter school. The regulations require the SBE to hold a public hearing to consider action including but not limited to charter revocation not later than March 31. See “CERTAIN RISK FACTORS – Specific Risks of Charter Schools – Non-Renewal or Revocation of Charters” in the forepart of this Private Placement Memorandum.

In the past, Encore has received notices from Hesperia Unified School District, its authorizer, of violations of its charter. See “APPENDIX A – CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOL, THE CORPORATION AND THE OBLIGATED GROUP” attached hereto for more information on the current status of the School’s charter. In addition, as noted above, any future adverse decision by the governing board of Hesperia Unified School District may be appealed to the San Bernardino County Board of Education and an adverse decision by such Board of Education may be appealed to the SBE.

**Amendments to the Charter School Law**

The Legislature has amended the Charter School Law frequently since its initial adoption in 1992, and legislative and public attitudes are still evolving. Neither Encore nor any charter school has any control over State legislative or regulatory decision making that could affect the operations or ongoing funding sources for the School.

Neither the Corporation nor Encore makes any representation as to whether any proposed amendments to the Charter School Law will be enacted into law, or what, if any, impact such proposed amendments would have on the Corporation or Encore.

Assembly Bill 130 (“AB 130”) was signed into law by the Governor on July 9, 2021. AB 130 was an omnibus budget trailer bill relating to the State’s budget for the 2021-22 fiscal year. Among other things, AB 130 provided for the following:

* All charter schools whose term expires on or between January 1, 2022 and June 30, 2025 will automatically have their term extended by two years.
* The existing moratorium on the establishment of new nonclassroom-based charter schools is extended from January 1, 2022 to January 1, 2025.
* Require certain high-poverty schools (including charter schools) to apply to operate a federal universal meal service and provide breakfast and lunch free of charge through such program to all pupils at such school upon State approval.
* Expands the State’s existing transitional kindergarten program to require admission of all children having their fourth birthday before September 1, which program previously only required admission of four-year-old children having their fifth birthday between September 2 and December 2, to be phased in between the 2022-23 school year and 2025-26 school year.

Assembly Bill 1505 (“AB 1505”) was signed into law by the Governor on October 3, 2019. The provisions of AB 1505 amending existing law relating to the review, approval and appeal of charter petitions became operative on July 1, 2020. AB 1505 made various changes to provisions relating to the review of charter school petitions and renewals by authorizers, including the following:

* Requiring a charter school that, concurrently with its renewal, proposes to expand operations to one or more additional sites or grade levels shall request a material revision to its charter. A material revision to the provisions of a charter petition may be made only with the approval of the chartering authority. A material revision of a charter is governed by the standards and criteria described in Education Code Section 47605.
* Adding additional factors for a school district to consider when reviewing a charter school petition, including the interests of the community, the academic needs of the pupils, by which means the charter school will achieve a balance of racial and ethnic pupils, special education pupils, and English learner pupils, including redesignated fluent English proficient pupils, that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted, the fiscal impact on the school district, and whether the charter school would substantially undermine existing services, academic offerings or programmatic offerings of the school district. The factors may not be used to deny a renewal of an existing charter school, however may be used to deny a proposed expansion constituting a material revision.
* Renewals of existing charter school petitions will not be subject to the authorizer’s evaluation of the fiscal impact on the school district, so long as the renewal does not request an expansion to additional sites or grade levels.
* Authorizers must deny a renewal if the charter school has received certain low performance levels on the California School Dashboard for the most recent two years prior to renewal, unless the authorizer makes certain findings.
* Authorizers may not deny a renewal, and may renew for a term between 5 and 7 years, if the charter school has received certain high performance levels on the California School Dashboard for the most recent two years prior to renewal, unless the authorizer makes certain findings.
* Petitions denied by a school district and county may only be granted on appeal to the State Board of Education if the State Board of Education finds an abuse of discretion by the school district or county. If approved on State appeal, the State Board of Education will designate either the school district or the county as the authorizer. The State Board of Education will no longer be able to authorize Statewide benefit charters.
* All charter school teachers will be required to be certified by June 30, 2025.
* No new nonclassroom-based charter schools may be approved from January 1, 2020 through January 1, 2022.

On September 30, 2020, the Governor signed into law Assembly Bill 2765 (“AB 2765”). AB 2765 makes any construction, alteration, demolition, installation or repair work done on a charter school subject to prevailing wages, when such work is paid for, in whole or in part, with proceeds of conduit revenue bonds issued on or after January 1, 2021, unless such charter school has an average daily attendance not exceeding 80 pupils.

**Growth in Charter Schools in California**

California has the largest concentration of charter schools in the nation with approximately 690,000 students enrolled in charter schools for the 2020-21 school year (up approximately 15,300 students from the prior school year), which was approximately 11.5% of total state-wide enrollment in the 2020-21 school year (up from approximately 11.0 percent of total state-wide enrollment in the prior school year). The following table shows the total number of charter schools in California by year since 1998-99.

**TOTAL CHARTER SCHOOLS IN CALIFORNIA**

**Fiscal Years 1998-99 Through 2020-21**

|  |  |
| --- | --- |
| ***Fiscal Year*** | ***Number of Charter Schools*** |
| 2020-21 | 1,296 |
| 2019-20 | 1,304 |
| 2018-19 | 1,323 |
| 2017-18 | 1,275 |
| 2016-17 | 1,254 |
| 2015-16 | 1,230 |
| 2014-15 | 1,182 |
| 2013-14 | 1,130 |
| 2012-13 | 1,063 |
| 2011-12 | 982 |
| 2010-11 | 912 |
| 2009-10 | 809 |
| 2008-09 | 746 |
| 2007-08 | 682 |
| 2006-07 | 585 |
| 2005-06 | 560 |
| 2004-05 | 502 |
| 2003-04 | 443 |
| 2002-03 | 408 |
| 2001-02 | 349 |
| 2000-01 | 299 |
| 1999-00 | 235 |
| 1998-99 | 177 |

**STATE FUNDING OF EDUCATION**

**General**

The Charter School Law provides that the State legislature intended “each charter school be provided with operational funding that is equal to the total funding that would be available to a similar school district serving a similar pupil population . . .” As is true for school districts in the State, charter schools’ revenue is derived primarily from two sources: a State portion funded from the State’s general fund and a locally generated portion derived from each sponsoring school district’s share of the local *ad valorem* property tax. Decreases in State revenues, or in the legislative appropriations made to fund education, may significantly affect charter schools’ operations.

***Adoption of Annual State Budget.*** According to the State Constitution, the Governor of the State is required to propose a budget to the State Legislature no later than January 10 of each year, and a final budget must be adopted by the State Legislature no later than June 15, although this deadline has been breached in previous years. Historically, the budget required a two-thirds vote of each house of the State Legislature for passage. However, on November 2, 2010, the State’s voters approved Proposition 25, which amended the State Constitution to lower the vote requirement necessary for each house of the State Legislature to pass a budget bill and send it to the Governor. Specifically, the vote requirement was lowered from two-thirds to a simple majority (50% plus one) of each house of the State Legislature. This lower vote requirement also applies to trailer bills that appropriate funds and are identified by the State Legislature “as related to the budget in the budget bill.” The budget becomes law upon the signature of the Governor, who may veto specific items of expenditure. Under Proposition 25, a two-thirds vote of the State Legislature is still required to override any veto by the Governor. School district budgets must generally be adopted by July 1, and revised by the school board within 45 days after the Governor signs the budget act to reflect any changes in budgeted revenues and expenditures made necessary by the adopted State budget. The Governor signed the fiscal year 2021-22 State budget on June 28, 2021.

Failure by the State to adopt a budget may restrict the State Controller’s ability to disburse State funds. Under the rule of White v. Davis (also referred to as Jarvis v. Connell), a State Court of Appeal decision reached in 2002 and later refined by a California Supreme Court decision in 2003, the State Controller may be able to disburse State funds after the beginning of the fiscal year prior to the adoption of the State budget bill or emergency appropriation if the expenditure, among other things, is (i) authorized by a continuing appropriation found in statute, (ii) mandated by the State Constitution (such as appropriations for salaries of elected state officers), or (iii) mandated by federal law (such as payments to State workers at no more than minimum wage). The State Controller has consistently stated that basic State funding for schools is continuously appropriated by statute, but that special and categorical funds may not be appropriated without an adopted budget. Should the State Legislature fail to pass a budget or emergency appropriation before the start of any fiscal year, Encore and the Corporation might experience delays in receiving certain expected revenues. See “CERTAIN RISK FACTORS” in the forepart of this Private Placement Memorandum.

State income tax and other receipts can fluctuate significantly from year to year, depending on economic conditions in the State and the nation. Because funding for education is closely related to overall State income, as described in this section, funding levels can also vary significantly from year to year, even in the absence of significant education policy changes. A brief description of the adopted State budget for fiscal year 2021-22 is included below; however, no prediction can be made as to how State income or State education funding will vary over the entire term to maturity of the Bonds, and neither the Corporation nor Encore take any responsibility for informing Beneficial Owners of the Bonds as to any such annual fluctuations. Information about the State budget and State spending for education is regularly available at various State maintained websites. Text of proposed and adopted budgets may be found at the website of the Department of Finance, www.dof.ca.gov., under the heading “California Budget.” An impartial analysis of the budget is posted by the Office of the Legislative Analyst at www.lao.ca.gov. In addition, various State of California official statements, many of which contain a summary of the current and past State budgets and the impact of those budgets on school districts in the State, may be found at the website of the State Treasurer, currently located at www.treasurer.ca.gov., and the Electronic Municipal Market Access (“EMMA”) website of the Municipal Securities Rulemaking Board, currently located at http://emma.msrb.org. The information referred to is prepared by the respective entities maintaining each website and not by Encore or the Corporation, and neither Encore nor the Corporation can take any responsibility for the continued accuracy of these internet addresses or for the accuracy, completeness or timeliness of information posted there, and such information is not incorporated herein by these references. The information referred to above should not be relied upon in making an investment decision with respect to the Bonds.

***Aggregate State Education Funding.*** Under Proposition 98, a constitutional and statutory amendment adopted by the State’s voters in 1988 and amended by Proposition 111 in 1990 (now found at Article XVI, Sections 8 and 8.5 of the Constitution), a minimum level of funding is mandated for school districts, community college districts, and other State agencies that provide direct elementary and secondary instructional programs, including charter schools.

The Proposition 98 guaranteed amount for education is based on prior year funding, as adjusted through various formulas and tests that take into account State proceeds of taxes, local property tax proceeds, school enrollment, per capita personal income, and other factors. The State’s share of the guaranteed amount is based on State general fund tax proceeds and is not based on the general fund in total or on the State budget. The local share of the guaranteed amount is funded from local property taxes. The total guaranteed amount varies from year to year and throughout the stages of any given fiscal year’s budget, from the Governor’s initial budget proposal to actual expenditures to post year end revisions, as additional information regarding the various factors becomes available. Over the long run, the guaranteed amount may increase as enrollment and per capita personal income grow.

If, at year end, the guaranteed amount is calculated to be higher than the amount actually appropriated in that year, the difference becomes an additional education funding obligation, referred to as “settle up.” If the amount appropriated is higher than the guaranteed amount in any year, that higher funding level permanently increases the base guaranteed amount in future years. The Proposition 98 guaranteed amount is reduced in years when general fund revenue growth lags personal income growth, and may be suspended for one year at a time by enactment of an urgency statute. In either case, in subsequent years when State general fund revenues grow faster than personal income (or sooner, as the State Legislature may determine), the funding level must be restored to the guaranteed amount, the obligation to do so being referred to as “maintenance factor.”

In recent years, the State’s response to fiscal difficulties has had a significant impact on Proposition 98 funding and settle-up treatment. The State has sought to avoid or delay paying settle-up amounts when funding has lagged the mandated amount. In response, teachers’ unions, the State Superintendent and others sued the State or Governor in 1995, 2005, 2009 and 2011 to force them to fund schools in the full amount required. The settlement of the 1995 and 2005 lawsuits has so far resulted in over $4 billion in accrued State settle-up obligations. However, legislation enacted to pay down the obligations through additional education funding over time, including the Quality Education Investment Act of 2006 (QEIA), have also become part of annual budget negotiations, resulting in repeated adjustments and deferrals of the settle-up amounts.

The State has also sought to preserve general fund cash while avoiding increases in the base guaranteed amount through various mechanisms: by treating any excess appropriations as advances against subsequent years’ Proposition 98 minimum funding levels rather than current year increases; by temporarily deferring apportionments of Proposition 98 funds from one fiscal year to the next; by permanently deferring apportionments of Proposition 98 funds from one fiscal year to the next; by suspending Proposition 98, as the State did in fiscal years 2004-05, 2010-11, 2011-12 and 2012-13; and by proposing to amend the Constitution’s definition of the guaranteed amount and settle up requirement under certain circumstances. The 2014-15 State Budget and 2015-16 State Budget reversed certain of these trends by, among other things, eliminating certain deferrals, authorizing payments of certain deferred amounts owed to schools subject to State General Fund Revenues and authorizing settle-up payments with respect to deferred apportionments of the Proposition 98 minimum guarantee.

***2021-22 State Budget.*** On July 16, 2021, the Governor signed a series of bills representing the State budget for fiscal year 2021-22 (the “2021-22 Budget”). The Governor’s signing followed negotiations between the Governor and the State Legislature regarding the final provisions of the 2021-22 Budget, including the expenditure of a large projected State general fund surplus. The State Legislature passed temporary budgetary legislation in June of 2021 to meet the required constitutional deadline. The following is drawn from the DOF summary of the 2021-22 Budget.

The 2021-22 Budget indicates that revenues are up significantly from the forecast included in the Governor’s proposed State budget for fiscal year 2021-22, resulting in a large budgetary surplus. This is a result of strong cash trends, two major federal relief bills since the beginning of 2021, continued stock market appreciation, and a significantly upgraded economic forecast from the prior fiscal year. The 2021-22 Budget also reports that the State has received approximately $285 billion in federal COVID-19 stimulus funding for State programs. Although the 2021-22 Budget acknowledges that building reserves and paying down debts are critical, the 2021-22 Budget allocates approximately 85% of discretionary funds to one-time spending. The multi-year forecast reflects a budget roughly in balance, although the 2021-22 Budget assumes that risks remain to the economic forecast, including a stock market decline that could reduce State revenues.

For fiscal year 2020-21, the 2021-22 Budget projects total general fund revenues and transfers of $188.8 billion and authorizes expenditures of $166.1 billion. The State is projected to end the 2020-21 fiscal year with total available reserves of $39.8 billion, including $25.1 billion in the traditional general fund reserve, $12.3 billion in the BSA, $1.9 billion in the PSSSA and $450 million in the Safety Net Reserve Fund. For fiscal year 2021-22, the 2021-22 Budget projects total general fund revenues and transfers of $175.3 billion and authorizes expenditures of $196.4 billion. The State is projected to end the 2021-22 fiscal year with total available reserves of $25.2 billion, including $4 billion in the traditional general fund reserve, $15.8 billion in the BSA, $4.5 billion in the PSSSA and $900 million in the Safety Net Reserve Fund. The balance in the PSSSA (as defined herein) in fiscal year 2021-22 is projected to trigger school district reserve caps beginning in fiscal year 2022-23.

The 2021-22 Budget sets the Proposition 98 minimum funding guarantee for fiscal year 2021-22 at $93.7 billion. This results in per-pupil funding of $13,976 from Proposition 98 funding, growing to $21,555 when accounting for all funding sources. The Proposed 2021-22 Budget also makes retroactive increases to the minimum funding guarantee in fiscal years 2019-20 and 2020-21, setting them at $79.3 billion and $93.4 billion, respectively. Collectively, this represents a three-year increase in the minimum funding guarantee of $47 billion from the level projected by the 2020-21 State budget. In addition, Test 1 is projected to be in effect over this three year period.

Other significant features relating to K-12 school district funding include the following:

* *Local Control Funding Formula*: The 2021-22 Budget funds a compounded COLA of 4.05%, representing an adjustment of 2.31% allocable to fiscal year 2020-21 and a fiscal year 2021-22 adjustment of 1.7%. Additionally, to assist local educational agencies address ongoing fiscal pressures, the 2021-22 Budget also includes $520 million in Proposition 98 funding to provide a 1% increase in LCFF base funding. This discretionary increase, when combined with the compounded COLA, results in a 5.07% growth in LCFF funding over 2020-21 levels. As result, the adjusted Base Grants for fiscal year 2021-22 are as follows: (i) $8,093 for grades Kindergarten through 3, (ii) $8,215 for grades 4 through 6, (iii) $8,458 for grades 7 and 8, and (iv) $9,802 for grades 9 through 12. To increase the number of adults providing direct services to students on school campuses, the 2021-22 Budget also includes an ongoing increase to the LCFF Concentration Grant of $1.1 billion, an increase from 50% to 65%. Local educational agencies that are recipients of these funds will be required to demonstrate in their LCAPs how these funds are used to increase the number of certificated and classified staff on their campuses, including school counselors, nurses, teachers, paraprofessionals, custodial staff, and other student support providers.
* *Deferrals:* The State budget for fiscal year 2020-21 deferred approximately $1.9 billion in K-12 apportionments in fiscal year 2019-20, growing to more than $11 billion in fiscal year 2020-21. The 2021-22 Budget eliminates in its entirety all K-12 deferrals in fiscal year 2021-22.
* *Universal Transitional Kindergarten:* The 2021-22 Budget includes a series of provisions intended to incrementally establish a universal transitional kindergarten for four-year-old children. Full implementation is expected by fiscal year 2025-26. Local educational agencies will able to use fiscal year 2021-22 for planning and infrastructure development. The 2021-22 Budget indicates that the costs to the State general fund of the plan are projected to be approximately $600 million in fiscal year 2022-23, growing to approximately $2.7 billion in fiscal year 2025-26. The 2021-22 Budget includes $200 million in one-time Proposition 98 funding for planning and implementation grants for all local educational agencies and $100 million in one-time Proposition 98 funding to train and increase the number of early childhood educators. To build on and enhance the quality of the existing transitional kindergarten program, the 2021-22 Budget also proposes new ongoing Proposition 98 funding beginning in fiscal year 2022-23 to provide one additional certificated or classified staff person in each transitional kindergarten classroom, reducing adult-to-child ratios from 1:24 to 1:12.
* *Student Supports:* $3 billion, available over several years, to expand and strengthen the implementation and use of community school models in communities with high levels of poverty. Community schools typically integrate health, mental health and other services for students and families and provide these services directly on school campuses. In addition, the 2021-22 Budget provides $547.5 million in one-time Proposition 98 funding to assist high school students, particularly those that are eligible for free and/or reduced priced meals, English learners or foster youth, to graduate having completed certain classes required for admission to the California State University and University of California systems.
* *County Offices of Education:* In recognition of the disproportionate impact of the COVID-19 pandemic on youth in foster care, the 2021-22 Budget provides $30 million in one-time Proposition 98 funding to county offices of education to work with local partners to coordinate and provide direct services to these students.
* *Expanded Learning Time:* $1.8 billion of Proposition 98 funding as part of a multi-year plan to implement expanded-day, full-year instruction and enrichment for all elementary school students, with a focus on local educational agencies with the highest concentrations of low-income students, English language learners, and youth in foster care. Pursuant to this plan, all local educational agencies will receive funding for expanded learning opportunities based on their number of low-income students, English language learners, and youth in foster care, with local educational agencies with the highest concentrations of these students receiving a higher funding rate. All local educational agencies will be required to offer expanded learning opportunities to the students generating the funding, with the local educational agencies receiving the higher funding rate required to offer expanded learning opportunities to all students. Students will have access to no-cost after school and summer programs, which when combined with regular instructional time, is expected to provide these students with the opportunity for nine hours of developmentally appropriate academics and enrichment activities per instructional day and for six weeks each summer. Additionally, these programs will be required to maintain adult-to-student ratios of no less than 1:10 for Transitional Kindergarten and Kindergarten students and 1:20 for students in first through sixth grades.
* *Educator Preparation, Retention and Training:* $2.9 billion to support a variety of initiatives intended to further expand the State’s educator preparation and training infrastructure, including meeting the needs of early childhood educators.
* *Nutrition:* $54 million in additional Proposition 98 funding to reimburse all meals served to students, including those who would not normally qualify for reimbursement under the State’s existing meal program. Beginning in fiscal year 2022-23, all public schools will be required to provide two free meals per day to any student who requests one, regardless of income eligibility. Further, all schools eligible for the federal universal meals provision program will be required to apply for it, and the State will cover any remaining unreimbursed costs up to the federal free per-meal rate, at an estimated annual cost of $650 million in Proposition 98 funding. Additionally, the 2021-22 Budget provides $150 million in one-time Proposition 98 funding for school districts to upgrade kitchen infrastructure and equipment, and to provide training to food service employees.
* *Remote Learning:* The 2021-22 Budget requires that all districts return to full-time in-person instruction for the 2021-22 school year. Consistent with all school years prior to fiscal year 2020-21, this mode of instruction will be the default for all students, and generally one of only two ways in which local educational agencies can earn State apportionment funding in fiscal year 2021-22. However, to give families a high-quality option for non-classroom based instruction, and to provide local educational agencies with an option to generate state funding by serving students outside the classroom in response to parent requests, the Budget requires school districts and county offices of education to provide students with an independent study option and includes a series of improvements to the State’s existing independent study programs.
* *Special Education:* $1.7 billion to invest in and improve instruction and services for students with disabilities to provide, among other things, learning recovery support, an increase in the State-wide base funding rate for special education funding, a 4.05% COLA to State special education funding, and early intervention services for preschool-aged children.
* *Career Technical Education (CTE):* An increase of $150 million in ongoing Proposition 98 funding to augment opportunities for local educational agencies to participate in the CTE Incentive Grant Program. The 2021-22 Budget also provides an increase of $86.4 million in one-time Proposition 98 funding for CTE regional occupational centers or programs operated by joint powers authorities to address costs associated with the COVID-19 pandemic.

For additional information regarding the 2021-22 Budget, see the DOF website at [www.dof.ca.gov](http://www.dof.ca.gov). However, the information presented on such website is not incorporated herein by reference.

***Assembly Bill 86.*** On March 5, 2021, the Governor signed into law Assembly Bill 86 (“AB 86”), which provides approximately $6.6 billion to accelerate the return of in-person school instruction and expand student support. Specifically, AB 86 provides $2 billion for in-person instruction grants to local educational agencies (with the exception of non-classroom based charter schools and independent study programs) that can be used for, among other things, personal protective equipment, ventilation upgrades and COVID-19 testing. To qualify for the funding, local educational agencies will be required to offer in-person instruction for Kindergarten through second grade, and all grades levels for high-need students, by March 31, 2021, losing 1% of eligible funds for every day thereafter if they do not. Schools in the Blueprint’s red, orange or yellow tiers are required to offer in-person instruction to all elementary grades and at least one middle or high school grade or risk losing the same amount of funding. Local educational agencies will forfeit eligibility for all funding if they do not resume in-person instruction by May 15, 2021. Funding will be allocated proportionally on the basis of LCFF funding entitlements, determined as of the fiscal year 2020-21 second principal apportionment certification.

The remaining $4.6 billion is allocated for supplemental instruction and support for social and emotional well-being. Schools will be able to use the funds for, among other things, providing more instructional time (including summer school), tutoring, learning recovery programs, mental health services, access to school meal programs, programs to address pupil trauma and supports for credit-deficient students. Funding will be allocated proportionally on the basis of LCFF funding entitlements, determined as of the fiscal year 2020-21 second principal apportionment certification. Local educational agencies will also receive an additional $1,000 for each homeless pupil enrolled in the 2020-21 fiscal year.

AB 86 also codifies several State programs that support the safe re-opening of schools, including (i) setting aside 10% of available vaccines for education workers, (ii) COVID-19-related data reporting requirements, and (iii) additional funding for the State’s “Safe Schools For All Team,” which provides technical assistance and oversight to schools that experience COVID-19 outbreaks.

***Proposed 2022-23 State Budget.*** On January 10, 2022, the Governor released his proposed State budget for fiscal year 2022-23 (the “Proposed 2022-23 Budget”). The following information is drawn from the DOF and LAO overviews of the Proposed 2022-23 Budget.

The Proposed 2022-23 Budget reports that, since the passage of the prior year’s budgetary legislation, the State’s economy has continued to recover from the recession occasioned by the COVID-19 pandemic. Before accounting for certain required transfers (such as those to the BSA), State revenues are higher than the projections included in the 2021-22 Budget by almost $28.7 billion over a three-year span from 2020-21 through 2022-23. The Proposed 2022-23 Budget attributes this increase to four main factors: (1) a more robust economic recovery, (2) a greater share of wage gains going to high-wage sectors, (3) a stronger-than-forecast stock market, and (4) higher inflation. The Proposed 2022-23 Budget identifies several risk factors that could affect the current economic and revenue forecasts, including the impact of the COVID-19 Omicron variant or other potential future COVID-19 variants, persistent supply chain issues, increased inflation, stock market volatility and the lack of affordable housing.

For fiscal year 2021-22, the Proposed 2022-23 Budget projects total general fund revenues and transfers of $196.7 billion and authorizes expenditures of $210 billion. The State is projected to end the 2021-22 fiscal year with total reserves of $47.4 billion, including $20.5 billion in the traditional general fund reserve, $19.3 billion in the BSA, $6.7 billion in the PSSSA and $900 million in the Safety Net Reserve Fund. For fiscal year 2022-23, the Proposed 2022-23 Budget projects total general fund revenues and transfers of $195.7 billion and authorizes expenditures of $213 billion. The State is projected to end the 2022-23 fiscal year with total reserves of $34.6 billion, including $3.1 billion in the traditional general fund reserve, $20.9 billion in the BSA, $9.7 billion in the PSSSA and $900 million in the Safety Net Reserve Fund. The projected balance in the PSSSA at the conclusion of fiscal year 2021-22 will trigger school district reserve caps in fiscal year 2022-23. See “ – CONSTITUTIONAL AND STATUTORY PROVISIONS AFFECTING EDUCATION REVENUES AND APPROPRIATIONS – Proposition 2” herein.

The upward revisions of State general fund revenues results in significant increases to the Proposition 98 minimum funding guarantee. Proposition 98 funding for local education agencies for fiscal year 2022-23 is set at $102 billion (including $73.1 billion from the State general fund and $28.9 billion from other sources), an increase of $8.2 billion (or 8.8%) from the level set by the 2021-22 Budget. The Proposed 2022-23 Budget projects that Test 1 will be in effect in fiscal year 2022-23, as it has been in the prior two fiscal years. To accommodate expected enrollment increases related to the expansion of transition kindergarten (as described more fully below), the Proposed 2022-23 Budget would rebench the Test 1 percentage of State revenues allocated to education.

As a result of increased revenues, the Proposed 2022-23 Budget would also make certain retroactive adjustments to the minimum funding guarantee in fiscal years 2020-21 and 2021-22, setting them at $95.9 billion and $99.1 billion, respectively. Together with the funding level for fiscal year 2022-23, this represents a three-year increase in the guarantee of $16.1 billion over the level included in the 2021-22 Budget.

The Proposed 2022-23 Budget would set total funding for K-12 education at $119 billion, including $70.5 billion from the State general fund and $48.5 billion from other sources. K-12 per-pupil funding would total $20,855 from all sources, including $15,261 from Proposition 98 sources. Other significant features relating to K-12 school district funding include the following:

* *Local Control Funding Formula*: The Proposed 2022-23 Budget funds a COLA of 5.33% to LCFF apportionments for local education agencies. The Proposed 2022-23 Budget acknowledges that demographic trends which existed prior to the COVID-19 pandemic have been exacerbated over the past two fiscal years. To allow local education agencies to adjust to enrollment-related funding declines and minimize the impacts of single-year drops in enrollment, the Proposed Budget would amend the LCFF calculation to consider the greater of a local education agency’s current year, prior year or average of three prior years’ ADA. The Proposed 2022-23 Budget also indicates that the administration intends to engage in outreach and discussions with interested parties to explore options for providing declining enrollment protections to charter schools. Ongoing costs associated with these funding changes are estimated to be approximately $1.2 billion in Proposition 98 funds.
* *Categorical Programs:* An increase of $295 million in ongoing Proposition 98 funding to provide a 5.33% COLA for categorical programs that remain outside the LCFF.
* *Universal Transitional Kindergarten*: $639.2 million to expand eligibility for transitional kindergarten to include all children turning five years old between September 2 and February 2, beginning in the 2022-23 fiscal year. These funds will increase the Proposition 98 minimum guarantee through a rebenching process, as described above. Additionally, the Proposed 2022-23 Budget includes $383 million in Proposition 98 funding to add one additional certificated or classified employee to every transitional kindergarten class, which is expected to reduce student-to-adult ratios to more closely align with the State’s preschool program.
* *Literacy*: The Proposed Budget provides a series of measures to provide access to literacy support systems, including (i) $500 million in one-time Proposition 98 funding for grants to high-needs schools to train and hire literacy coaches and reading specialists, and (ii) $200 million in one-time Proposition 98 funding to enable local educational agencies to create and expand multi-lingual school or classroom libraries.
* *Educator Preparation, Retention and Training:* $54.4 million in Proposition 98 funding and other State funds to continue to support a variety of initiatives intended to further expand the State’s educator preparation and training infrastructure.
* *Expanded Learning Time:* $3.4 billion in ongoing Proposition 98 funding to continue funding a multi-year plan to implement expanded-day, full-year instruction and enrichment for all elementary school students. The Proposed 2022-23 Budget also includes $937 million in one-time Proposition 98 funding to support expanded learning opportunities infrastructure, with a focus on integrating arts and music programming into enrichment opportunities for students.
* *Special Education:* $500 million to increase in the State-wide base funding rate for special education funding.
* *College and Career Pathways*: $1.5 billion in one-time Proposition 98 funding, over four years, to support the development of college and career pathways for high schoolers focused on technology (including computer science, green technology and engineering), health care, education and climate-related fields. Additionally, the Proposed 2022-23 Budget includes $500 million in one-time Proposition 98 funding, also available over four years, to strengthen and expand student access and participation in dual enrollment opportunities that are also coupled with student advising and support services. These funds are intended to complement $45 million in higher education funding for pathways and partnerships for STEM, education and health care career preparation.
* *Transportation*: $1.5 billion in one-time Proposition 98 funding, available over three years, to support school transportation programs with a focus on greening school bus fleets. These funds would include grants of (i) $500,000 for local educational agencies with high concentrations of low-income, foster youth and English-learning students, and (ii) $500,000 for local educational agencies to acquire electric school buses and associated infrastructure.
* *Nutrition:* $596 million in additional Proposition 98 funding to build on prior budgetary legislation to create universal access to subsidized school meals. Additionally, the Proposed 2022-23 Budget provides $450 million in additional, one-time Proposition 98 funding to upgrade school kitchen infrastructure and equipment to incorporate fresh, minimally-processed, California-grown foods in school meals. Finally, the Proposed 2022-23 Budget provides an additional $30 million in one-time Proposition 98 funding to support a farm-to-school program which connects local producers and school food buyers, increases food education opportunities at schools, gardens and farms, and engages schools and students with the agricultural community.
* *Facilities:* $1.4 billion in State general obligation bond funding to support school construction projects. This represents the final installment available to local education agencies under Proposition 51. See “ – CONSTITUTIONAL AND STATUTORY PROVISIONS AFFECTING EDUCATION REVENUES AND APPROPRIATIONS – Kindergarten Through Community College Public Education Facilities Bond Act of 2016” herein. The Proposed 2022-23 Budget also provides $1.3 billion in one-time State general funds in fiscal year 2022-23, and $925 million of such funds in 2023-24, to support new construction and modernization projects through the State’s school facility program. Finally, the Proposed 2022-23 Budget includes $30 million in ongoing Proposition 98 funding to support eligible facilities costs for the Charter School Facility Grant Program.

For additional information regarding the Proposed 2022-23 Budget, see the DOF and LAO websites at [www.dof.ca.gov](http://www.dof.ca.gov) and [www.lao.ca.gov](http://www.lao.ca.gov). However, the information presented on such websites is not incorporated herein by reference.

***Future Budgets and Budgetary Actions.*** Neither the Corporation nor Encore can predict what actions will be taken in the future by the State legislature and the Governor to address changing State revenues and expenditures. Neither the Corporation nor Encore also can predict the impact such actions will have on State revenues available in the current or future years for education. The State budget will be affected by national and State economic conditions and other factors over which the Corporation and Encore will have no control. Certain actions or results could produce a significant shortfall of revenue and cash, and could consequently impair the State’s ability to fund schools. The COVID-19 outbreak has already resulted in significant negative economic effects at State and federal levels, and additional negative economic effects are possible, each of which could negatively impact anticipated State revenue levels for fiscal year 2020-21 and beyond. In addition, the outbreak could also result in higher State expenditures, of both a direct nature (such as those related to managing the outbreak) and an indirect nature (such as higher public usage of need-based programs resulting from unemployment or disability). See “CERTAIN RISK FACTORS – Outbreak of Disease; Coronavirus” in the forepart of this Private Placement Memorandum. Neither the Corporation nor Encore also can predict whether the federal government will provide additional funding in amounts sufficient to offset any of the fiscal impacts of the COVID-19 outbreak described above. State budget shortfalls in future fiscal years may also have an adverse financial impact on the financial condition of the Corporation and Encore.

***Prohibitions on Diverting Local Revenues for State Purposes.*** Beginning in 1992-93, the State satisfied a portion of its Proposition 98 obligations by shifting part of the property tax revenues otherwise belonging to cities, counties, special districts, and redevelopment agencies, to school and college districts through a local Educational Revenue Augmentation Fund (“ERAF”) in each county. Local agencies, objecting to invasions of their local revenues by the State, sponsored a statewide ballot initiative intended to eliminate the practice. In response, the State Legislature proposed an amendment to the State Constitution, which the State’s voters approved as Proposition 1A at the November 2004 election. That measure was generally superseded by the passage of a new initiative constitutional amendment at the November 2010 election, known as “Proposition 22.”

The effect of Proposition 22 is to prohibit the State, even during a period of severe fiscal hardship, from delaying the distribution of tax revenues for transportation, redevelopment, or local government projects and services. It prevents the State from redirecting redevelopment agency property tax increment to any other local government, including school districts, or from temporarily shifting property taxes from cities, counties and special districts to schools, as in the ERAF program. This is intended to, among other things, stabilize local government revenue sources by restricting the State’s control over local property taxes. One effect of this amendment will be to deprive the State of fuel tax revenues to pay debt service on most State bonds for transportation projects, reducing the amount of State general fund resources available for other purposes, including education.

Prior to the passage of Proposition 22, the State invoked Proposition 1A to divert $1.935 billion in local property tax revenues in 2009-10 from cities, counties, and special districts to the State to offset State general fund spending for education and other programs, and included another diversion in the adopted 2009‑10 State budget of $1.7 billion in local property tax revenues from local redevelopment agencies, which local redevelopment agencies have now been dissolved. Redevelopment agencies had sued the State over this latter diversion. However, the lawsuit was decided against the California Redevelopment Association on May 4, 2010. Because Proposition 22 reduces the State’s authority to use or shift certain revenue sources, fees and taxes for State general fund purposes, the State will have to take other actions to balance its budget in some years – such as reducing State spending or increasing State taxes, and school and community college districts that receive Proposition 98 or other funding from the State will be more directly dependent upon the State’s general fund.

**Allocation of State Funding to Charter Schools**

***General Purpose Entitlement.*** Under the Charter School Law, each charter school is calculated to have a “general purpose entitlement,” which has in the past been based on the statewide average amount of State aid, local property taxes and other revenue received by school districts of similar type and serving similar pupil populations. The general purpose entitlement is calculated on a per student basis at each of four grade level ranges (grades K-3, grades 4-5, grades 6-8, and grades 9-12) and is multiplied by the charter school’s Average Daily Attendance (“ADA”) in each grade level range.

Each charter school’s general purpose entitlement is funded from local funding in lieu of property taxes and, to the extent such funding is insufficient to fulfill the entire entitlement, from money appropriated by the State from the State’s general fund for education. The local share, which must be transferred in monthly installments to the charter school by the sponsoring local educational agency in lieu of property taxes, is the average amount of property taxes per ADA received by the district, including charter school students, multiplied by the charter school’s ADA.

***Local Control Funding Formula.*** State Assembly Bill 97 (Stats. 2013, Chapter 47) (“AB 97”), enacted as part of the 2013-14 State budget, establishes a new system for funding school districts, charter schools and county offices of education. Certain provisions of AB 97 were amended and clarified by Senate Bill 91 (Stats. 2013, Chapter 49) (“SB 91”).

Funding. The primary component of AB 97, as modified by SB 91, is the implementation of the Local Control Funding Formula (“LCFF”), which replaces the revenue limit funding system for determining State apportionments, as well as the majority of categorical program funding. Under the LCFF, State allocations will be provided on the basis of target base funding grants per unit of ADA (a “Base Grant”) assigned to each of four grade spans (identical to the grade spans previously used for charter school funding). Each Base Grant is subject to certain adjustments and add-ons, as discussed below. LCFF was fully implemented over a period of six fiscal years, by fiscal year 2018-19. Beginning in fiscal year 2013-14, an annual transition adjustment as calculated for each charter school, equal to such charter school’s proportionate share of appropriations included in the State budget to close the gap between the prior-year funding level and the target allocation following full implementation of the LCFF. In each year, charter schools had the same proportion of their respective funding gaps closed, with dollar amounts varying depending on the size of the charter school’s respective funding gaps.

Base Grant. For fiscal year 2013-14, the Base Grants per unit of ADA for each grade span are as follows: (i) $6,845 for grades K-3; (ii) $6,947 for grades 4-6; (iii) $7,154 for grades 7-8; and (iv) $8,289 for grades 9-12. In each subsequent year, the Base Grants are to be adjusted for cost-of-living increases by applying the implicit price deflator for government goods and services. Following full implementation of the LCFF, the provision of COLAs are subject to appropriation for such adjustment in the annual State budget. The differences among Base Grants are linked to differentials in statewide average revenue limit rates by district type, and are intended to recognize the generally higher costs of education at higher grade levels.

The Base Grants for grades K-3 and 9-12 are subject to adjustments of 10.4% and 2.6%, respectively, to cover the costs of class size reduction in early grades and the provision of career technical education in high schools. The LCFF also provides additional add-ons to charter schools that received categorical block grant funding pursuant to the Targeted Instructional Improvement and Home-to-School Transportation programs during fiscal year 2012-13.

Supplemental Grant. Charter schools that serve students of limited English proficiency (“EL” students), students from low income families that are eligible for free or reduced priced meals (“LI” students) and foster youth are eligible to receive additional funding grants. Enrollment counts are unduplicated, such that students may not be counted as both EL and LI. Foster youth automatically meet the eligibility requirements for free or reduced priced meals, and are therefore not discussed herein separately. The LCFF authorizes a supplemental grant add-on (each, a “Supplemental Grant”) for charter schools that serve EL/LI students, equal to 20% of the applicable Base Grant multiplied by such charter schools’ respective percentages of unduplicated EL/LI student enrollment.

Concentration Grant. Charter schools whose EL/LI populations exceed 55% of their total enrollment are eligible for a concentration grant add-on (each, a “Concentration Grant”) equal to 50% of the applicable Base Grant multiplied by the percentage of such charter school’s unduplicated EL/LI student enrollment in excess of the 55% threshold; provided that a charter school may not receive a Concentration Grant for a greater proportion of EL/LI than the highest percentage of any school district in which the charter school has a physical location.

For certain charter schools that would have received greater funding levels under the prior revenue limit system, the LCFF provides for a permanent economic recovery target (“ERT”) add-on, equal to the difference between the general purpose funding such charter schools would have received under the prior system in fiscal year 2020-21, and the target LCFF allocations owed to such charter schools in the same year. To derive the projected funding levels, the LCFF assumes the discontinuance of deficit revenue limit funding, implementation of a 1.94% COLA in fiscal years 2014-15 through 2020-21, and restoration of categorical funding to pre-recession levels. The ERT add-on will be paid incrementally over the eight-year implementing period of the LCFF.

The sum of a charter school’s adjusted Base Grants, Supplemental Grants and Concentration Grants will be multiplied by the charter school’s total current year ADA. This funding amount, together with any applicable ERT or categorical block grant add-ons, will yield a district’s total LCFF allocation. Generally, the amount of annual State apportionments received by a school district or charter school will amount to the difference between such total LCFF allocation and such entity’s share of applicable local property taxes. Most school districts and charter schools receive a significant portion of their funding from such State apportionments. As a result, decreases in State revenues may significantly affect appropriations made by the Legislature to school districts and charter schools.

Accountability. The SBE has adopted regulations regarding the expenditure of supplemental and concentration funding. These regulations include a requirement that school districts and charter schools increase or improve services for EL/LI students in proportion to the increase in funds apportioned to such districts/schools on the basis of the number and concentration of such EL/LI students, as well as the conditions under which school districts and charter schools can use supplemental or concentration funding on a school-wide or district-wide basis.

School districts and charter schools are also required to adopt local control and accountability plans (“LCAPs”) disclosing annual goals for all students, as well as certain numerically significant student subgroups, to be achieved in eight areas of State priority. LCAPs may also specify additional local priorities. LCAPs must specify the actions to be taken to achieve each goal, including actions to correct identified deficiencies with regard to areas of State priority. Charter school LCAPs are required to be included in charter petitions and updated annually. School district and charter school LCAPs must be annually updated and posted on the district or charter school’s website using a State-mandated standard reporting format.

***Lottery Funding.***Charter schools receive funding from the State Lottery Fund, which receives all proceeds from, among other sources, the sale of lottery tickets. Lottery funding is allocated to charter schools per unit of ADA. Lottery funds are distributed quarterly by the State Controller’s Office. Funding is based on annual average ADA. Lottery funds are identified as either “Proposition 20” funds or “non-Proposition 20” funds. Proposition 20 lottery funds may only be used to purchase instructional materials. Non-Proposition 20 lottery funds are unrestricted, except that they may not be used for acquisition of property, construction of facilities, financing of research, or for other non-instructional purposes. Lottery funding is not included in the charter school categorical block grant. Lottery funding is approximately 2% of public school revenues and is estimated at $228 per unit of ADA for the 2021-22 fiscal year, of which approximately $163 is “non-Proposition 20” and $65 is “Proposition 20” funding.

***Categorical Funding.***Charter schools may apply for and receive categorical funds for many programs that are not included in general purpose entitlement funding, if otherwise eligible, but may not receive aid for programs exclusively or almost exclusively provided by a county office of education.

***SB 740 Facilities Grant Program Funding.*** In the 2021-22 fiscal year, charter schools that meet certain criteria are eligible to receive up to $1,232 per unit of ADA to reimburse an amount up to 75% of their annual facilities rent and lease costs from amounts appropriated under the annual Budget Act (as defined below). This per-ADA amount may increase in future years based on cost of living adjustments. To be eligible for SB 740 benefits: (i) 55% or more of the charter school’s students must be eligible for free or reduced priced meals; or (ii) the charter school must be located in the attendance area of a public elementary school in which 55% or more of students are eligible for free or reduced priced meals and the charter school must give a preference in admissions to students who are currently enrolled in that public elementary school and to students who reside in the elementary school attendance area where the charter school is located. See “APPENDIX A – CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOL, THE CORPORATION AND THE OBLIGATED GROUP” attached hereto.

SB 740 facilities funding may be used for costs associated with facilities rents and leases (consistent with the definitions used in the California School Accounting Manual) (“Facility Rents”), and for costs associated with remodeling buildings, deferred maintenance, installing or extending service systems and other built-in equipment, and improving sites (collectively, “Other Costs”). SB 740 facilities funding is not included in the charter school categorical block grant.

SB 740 funding is subject to the annual Budget Act. In the event insufficient funds are appropriated, the available funds are first used to reimburse for Facility Rents (on a pro rata basis if funds are insufficient), and any remaining funds are apportioned to reimburse for Other Costs on a pro rata basis. In addition to the risk of underfunding, should there be any changes to the free and reduced-price meal eligibility data, the amount of grant funds, which is awarded in three disbursements, may be adjusted (or a reimbursement notice provided).

The SB 740 program is administered by the California School Finance Authority (“CSFA”). In prior years, the program has been “undersubscribed,” meaning that awards were not limited by the level of appropriation. However, the program was “oversubscribed” in fiscal years 2017-18 through 2019-20, and is expected to be in the current fiscal year, with awards being reduced on a pro-rata basis.

Effective beginning the 2017-18 fiscal year, reimbursable costs under the SB 740 program are limited to either of the following conditions: (i) reimbursable facility rent or lease costs do not exceed the prior year’s costs on file with CSFA as of the 2016–17 fiscal year, subject to a cost-of-living adjustment; or (ii) the rent or lease costs of new facility agreements are at or below market rate based on an independent appraisal paid for by the charter school. See “CERTAIN RISK FACTORS – SB 740 Funding” herein.

Set forth in the following table are historical data regarding SB 740 funding and awards for fiscal years 2016-17 through 2020-21, and projected data for the current fiscal year.

**HISTORICAL SB 740 GRANT AWARDS**

**Fiscal Years 2016-17 to 2021-22**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  |  | ***2016-17*** | ***2017-18*** | ***2018-19*** | ***2019-20*** | ***2020-21*** | ***2021-22*** |
| A. | **No. of Schools Awarded** | 394 | 417 | 415 | 437 | 424(1) | 423(1) |
| B. | **Total Amount Awarded** | $97,866,240 | $133,177,000 | $136,786,000 | $136,786,000 | $136,786,000(1) | $143,520,000(1) |
|  | **Amount awarded for lease costs** | -- | 116,965,203 | 124,180,307 | 136,786,000 | 136,786,000(1) | 143,520,000(1) |
|  | **Amount awarded for Other Costs** | -- | 16,211,797 | 12,605,693 | -- | --(1) | --(1) |
| C. | **Total Funds Appropriated to SB 740(2)** | $112,031,000 | $133,177,000(3) | $136,786,000 | $136,786,000 | $136,786,000 | $143,520,000 |
| D. | **Subscription Percentage(4)** | 87% | 104% | 109% | 103% | 108%(4) | 104%(4) |
| E. | **Total Average Daily Attendance (“ADA”)(5)** | 140,389 | 151,630 | 175,087 | 165,489 | 172,143(1) | 169,208(8) |
| F. | **Average Award Per ADA(6)** | $691 | $878 | $781 | $827 | $795(1) | $848(1) |
| G. | **Maximum Award Allowed Per ADA(7)** | $750 | $1,117 | $1,147 | $1,184 | $1,211 | $1,232 |

(1) Figures are current estimates as of November 29, 2021, and subject to change.

(2) Funds annually appropriated by the State Legislature toward SB 740 grant awards.

(3) Includes an additional approximately $21.1 million appropriated for the 2017-18 fiscal year in the 2018-19 Budget.

(4) From 2013-14 to 2016-17, the SB 740 Program had been undersubscribed. However, for 2017-18, the SB 740 Program was oversubscribed. CSFA made SB 740 awards by first reimbursing lease costs, and then applying a pro-rata reduction in the award amount for applied-for “other costs” spread across all eligible applicants. In 2017-18, lease costs were fully funded at 100%, and other costs were funded at a pro-rata rate of 73.01%. In 2018-19, lease costs were fully funded at 100%, and other costs were funded at a pro-rata rate of 49%. In 2019-20 and 2020-21, CSFA expected to fund lease costs at 97.47% and 92.61%, respectively, and therefore was unable to fund other costs. CSFA expects the SB 740 Program to be oversubscribed in 2021-22 and fund lease cost awards at approximately 94.5%. See “APPENDIX A – CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOL, THE CORPORATION AND THE OBLIGATED GROUP” attached hereto.

(5) Total ADA from all schools awarded in each fiscal year.

(6) Equal to the “Amount Awarded” divided by the “Total ADA.” The Average Award Per ADA is lower than the Maximum Award Allowed Per ADA because a significant number of schools do not qualify for the maximum amount allowed; instead they are capped at 75% of actual rent. For 2020-21 and 2021-22, figures are current estimates because SB 740 applications are still being received and final awards are being calculated.

(7) SB 740 Program grant awards are calculated at the lower of: (a) 75% of actual rent paid or (b) maximum award allowed per ADA by State law. From 2012-13 to 2016-17, the maximum award allowed per ADA by State law was $750 per ADA. Pursuant to a change in State law passed by the State Legislature in June 2017, the maximum award allowed by State law was increased from $750 per ADA to $1,117 per ADA, subject to cost of living adjustments. The maximum award for 2021-22 is $1,232.

(8) Total ADA for 2021-22 estimated based on average ADA per applicant in 2020-21.

*Source: CSFA.*

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***Annual Funding Components.*** The following tables describe ADA-based state funding of California charter school education for Fiscal Year 2017-18 through 2021-22 and projected data for the current fiscal year.

|  |
| --- |
| **STATE FUNDING OF CHARTER SCHOOL EDUCATION** |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| ***Fiscal Year 2017-18*** | | | | |
|  | ***Grades*** | | | |
|  | ***K-3*** | ***4-6*** | ***7-8*** | ***9-12*** |
| Target LCFF Base Grant | $7,193 | $7,301 | $7,518 | $8,712 |
| CTE/CSR Add-ons | 748 | -- | -- | 227 |
| Lottery(2) | 194 | 194 | 194 | 194 |
| Total(1) | $8,135 | $7,495 | $7,712 | $9,133 |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| ***Fiscal Year 2018-19*** | | | | |
|  | ***Grades*** | | | |
|  | ***K-3*** | ***4-6*** | ***7-8*** | ***9-12*** |
| Target LCFF Base Grant | $7,459 | $7,571 | $7,796 | $9,034 |
| CTE/CSR Add-ons | 776 | -- | -- | 235 |
| Lottery(2) | 204 | 204 | 204 | 204 |
| Total(1) | $8,439 | $7,775 | $8,000 | $9,473 |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| ***Fiscal Year 2019-20*** | | | | |
|  | ***Grades*** | | | |
|  | ***K-3*** | ***4-6*** | ***7-8*** | ***9-12*** |
| Target LCFF Base Grant | $7,702 | 7,818 | 8,050 | 9,329 |
| CTE/CSR Add-ons | 801 | -- | -- | 243 |
| Lottery(2) | 207 | 207 | 207 | 207 |
| Total(1) | $8,710 | $8,025 | $8,257 | $9,779 |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| ***Fiscal Year 2020-21*** | | | | |
|  | ***Grades*** | | | |
|  | ***K-3*** | ***4-6*** | ***7-8*** | ***9-12*** |
| Target LCFF Base Grant | $7,702 | $7,818 | $8,050 | $9,329 |
| CTE/CSR Add-ons | 801 | -- | -- | 243 |
| Lottery(2) | 199 | 199 | 199 | 199 |
| Total(1) | $8,702 | $8,017 | $8,249 | $9,771 |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| ***Fiscal Year 2021-22(3)*** | | | | |
|  | ***Grades*** | | | |
|  | ***K-3*** | ***4-6*** | ***7-8*** | ***9-12*** |
| Target LCFF Base Grant | $8,093 | $8,215 | $8,458 | $9,802 |
| CTE/CSR Add-ons | 842 | -- | -- | 255 |
| Lottery(2) | 228 | 228 | 228 | 228 |
| Total(1) | $9,163 | $8,443 | $8,686 | $10,285 |

(1) Excludes special education, nutrition, After School Education and Safety, SB 740, Charter School Facility Grants, No Child Left Behind or Every Student Succeeds Act, class size reduction, supplemental instruction, economic impact aid, and National School Lunch Program funding and any private philanthropy, grants, or other fund-raising.

(2) Estimated.

(3) The Fiscal Year 2021-22 funding amounts are preliminary, used for initial budgeting purposes in general. For specific projections with respect to the School, see “APPENDIX A – CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOL, THE CORPORATION AND THE OBLIGATED GROUP” attached hereto.

*Sources: California Department of Education*.

For a description of the School’s ADA and funding related thereto, see “APPENDIX A – CERTAIN INFORMATION REGARDING ENCORE, THE SCHOOL, THE CORPORATION AND THE OBLIGATED GROUP” attached hereto.

**CONSTITUTIONAL AND STATUTORY PROVISIONS   
AFFECTING EDUCATION REVENUES AND APPROPRIATIONS**

**Limitations on Revenues**

Article XIIIA of the California Constitution. Article XIIIA of the State Constitution, adopted and known as Proposition 13, was approved by the voters in June 1978. Section 1(a) of Article XIIIA limits the maximum ad valorem tax on real property to one percent of “full cash value,” and provides that such tax will be collected by the counties and apportioned according to State law. Section 1(b) of Article XIIIA provides that the one-percent limitation does not apply to ad valorem taxes levied to pay interest and redemption charges on: (i) indebtedness approved by the voters prior to July 1, 1978, or (ii) bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast on the proposition, or (iii) bonded indebtedness incurred by a school district or community college district for the construction, reconstruction, rehabilitation or replacement of school facilities or the acquisition or lease of real property for school facilities, approved by 55% of the voters of the district voting on the ballot proposition, but only if certain accountability measures are included in the bond proposition. Charter schools may not conduct bond elections or issue bonds payable from property taxes, but may benefit from the proceeds of bonds issued by the school district in which the charter school is located.

Section 2 of Article XIIIA defines “full cash value” to mean the county assessor’s valuation of real property as shown on the Fiscal Year 1975-76 tax bill, or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred. The full cash value may be adjusted annually to reflect inflation at a rate not to exceed 2% per year, or to reflect a reduction in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced in the event of declining property value caused by substantial damage, destruction or other factors. The Revenue and Taxation Code permits county assessors who have reduced the assessed valuation of a property as a result of natural disasters, economic downturns or other factors, to subsequently “recapture” such value (up to the pre decline value of the property) at an annual rate higher than 2%, depending on the assessor’s measure of the restored value of the damaged property. The California courts have upheld the constitutionality of this procedure. Legislation enacted by the State Legislature to implement Article XIIIA provides that, notwithstanding any other law, local agencies may not levy any *ad valorem* property tax except the 1% base tax levied by each County and taxes to pay debt service on indebtedness approved by the voters as described above.

Since its adoption, Article XIIIA has been amended a number of times. These amendments have created a number of exceptions to the requirement that property be reassessed when purchased, newly constructed or a change in ownership has occurred. These exceptions include certain transfers of real property between family members, certain purchases of replacement dwellings for persons over age 55 and by property owners whose original property has been destroyed in a declared disaster, and certain improvements to accommodate disabled persons and for seismic upgrades to property. These amendments have resulted in marginal reductions in the property tax revenues of local school districts.

Both the California State Supreme Court and the United States Supreme Court have upheld the validity of Article XIIIA.

Section 51 of the Revenue and Taxation Code permits county assessors who have reduced the assessed valuation of a property as a result of natural disasters, economic downturns or other factors, to subsequently “recapture” such value (up to the pre decline value of the property) at an annual rate higher than 2%, depending on the assessor’s measure of the restoration of value of the damaged property. The constitutionality of this procedure was challenged in a lawsuit brought in 2001 in the Orange County Superior Court and in similar lawsuits brought in other counties, on the basis that the decrease in assessed value creates a new “base year value” for purposes of Proposition 13 and that subsequent increases in the assessed value of a property by more than 2% in a single year violate Article XIIIA. On appeal, the California Court of Appeal upheld the recapture practice in 2004, and the State Supreme Court declined to review the ruling, leaving the recapture law in place. Charter schools are not directly dependent on local property taxes. To the extent local property taxes fund the general purpose entitlement, losses in local property tax income are required to be made up by the State.

**Proposition 30**

On November 6, 2012, voters of the State of California approved the Temporary Taxes to Fund Education, Guaranteed Local Public Safety Funding, Initiative Constitutional Amendment (also known as “Proposition 30”), which temporarily increases the State Sales and Use Tax and personal income tax rates on higher incomes. Proposition 30 temporarily imposes an additional tax on all retailers, at the rate of 0.25% of gross receipts from the sale of all tangible personal property sold in the State from January 1, 2013 to December 31, 2016. Proposition 30 also imposes an additional excise tax on the storage, use, or other consumption in the State of tangible personal property purchased from a retailer on and after January 1, 2013 and before January 1, 2017, for storage, use, or other consumption in the State. This excise tax will be levied at a rate of 0.25% of the sales price of the property so purchased. For personal income taxes imposed beginning in the taxable year commencing January 1, 2012 and ending December 31, 2018, Proposition 30 increases the marginal personal income tax rate by: (i) 1% for taxable income over $250,000 but not over $300,000 for single filers (over $340,000 but not over $408,000 for joint filers), (ii) 2% for taxable income over $300,000 but not over $500,000 for single filers (over $408,000 but not over $680,000 for joint filers), and (iii) 3% for taxable income over $500,000 for single filers (over $680,000 for joint filers). The California Children’s Education and Health Care Protection Act of 2016, also known as Proposition 55, is a constitutional amendment approved by the voters of the State on November 8, 2016. Proposition 55 extends through 2030 the increases to personal income tax rates for high-income taxpayers that were approved as part of Proposition 30. Proposition 55 did not extend the sales tax rate increase enacted under Proposition 30.

The revenues generated from the temporary tax increases will be included in the calculation of the Proposition 98 minimum funding guarantee for school districts and community college districts. From an accounting perspective, the revenues generated from the temporary tax increases will be deposited into the State account created pursuant to Proposition 30 called the Education Protection Account (the “EPA”). Pursuant to Proposition 30, funds in the EPA will be allocated quarterly, with 89% of such funds provided to schools districts and 11% provided to community college districts. The funds will be distributed to school districts and community college districts in the same manner as existing unrestricted per-student funding, except that no school district will receive less than $200 per unit of ADA and no community college district will receive less than $100 per full time equivalent student. The governing board of each school district and community college district is granted sole authority to determine how the moneys received from the EPA are spent, provided that, the appropriate governing board is required to make these spending determinations in open session at a public meeting and such local governing boards are prohibited from using any funds from the EPA for salaries or benefits of administrators or any other administrative costs.

**Proposition 2**

On November 4, 2014, voters approved the Rainy Day Budget Stabilization Fund Act (also known as “Proposition 2”). Proposition 2 is a legislatively-referred constitutional amendment which makes certain changes to State budgeting practices, including substantially revising the conditions under which transfers are made to and from the State’s Budget Stabilization Account (the “BSA”) established by the California Balanced Budget Act of 2004 (also known as Proposition 58).

Under Proposition 2, and beginning in fiscal year 2015-16 and each fiscal year thereafter, the State will generally be required to annually transfer to the BSA an amount equal to 1.5% of estimated State general fund revenues (the “Annual BSA Transfer”). Supplemental transfers to the BSA (a “Supplemental BSA Transfer”) are also required in any fiscal year in which the estimated State general fund revenues that are allocable to capital gains taxes exceed 8% of the total estimated general fund tax revenues. Such excess capital gains taxes—net of any portion thereof owed to K-14 school districts pursuant to Proposition 98—will be transferred to the BSA. Proposition 2 also increases the maximum size of the BSA to an amount equal to 10% of estimated State general fund revenues for any given fiscal year. In any fiscal year in which a required transfer to the BSA would result in an amount in excess of the 10% threshold, Proposition 2 requires such excess to be expended on State infrastructure, including deferred maintenance.

For the first 15-year period ending with the 2029-30 fiscal year, Proposition 2 provides that half of any required transfer to the BSA, either annual or supplemental, must be appropriated to reduce certain State liabilities, including making certain payments owed to K-14 school districts, repaying State interfund borrowing, reimbursing local governments for State mandated services, and reducing or prefunding accrued liabilities associated with State-level pension and retirement benefits. Following the initial 15-year period, the Governor and the State Legislature are given discretion to apply up to half of any required transfer to the BSA to the reduction of such State liabilities. Any amount not applied towards such reduction must be transferred to the BSA or applied to infrastructure, as described above.

Proposition 2 changes the conditions under which the Governor and the State Legislature may draw upon or reduce transfers to the BSA. The Governor does not retain unilateral discretion to suspend transfers to the BSA, nor does the State Legislature retain discretion to transfer funds from the BSA for any reason, as previously provided by law. Rather, the Governor must declare a “budget emergency,” defined as an emergency within the meaning of Article XIIIB of the Constitution or a determination that estimated resources are inadequate to fund State general fund expenditures, for the current or ensuing fiscal year, at a level equal to the highest level of State spending within the three immediately preceding fiscal years. Any such declaration must be followed by a legislative bill providing for a reduction or transfer. Draws on the BSA are limited to the amount necessary to address the budget emergency, and no draw in any fiscal year may exceed 50% of the funds on deposit in the BSA unless a budget emergency was declared in the preceding fiscal year.

Proposition 2 also requires the creation of the Public School System Stabilization Account (the “PSSSA”) into which transfers will be made in any fiscal year in which a Supplemental BSA Transfer is required (as described above). Such transfer will be equal to the portion of capital gains taxes above the 8% threshold that would otherwise be paid to K-14 school districts as part of the Minimum Funding Guarantee. A transfer to the PSSSA will only be made if certain additional conditions are met, as follows: (i) the Minimum Funding Guarantee was not suspended in the immediately preceding fiscal year, (ii) the operative Proposition 98 formula for the fiscal year in which a PSSSA transfer might be made is “Test 1,” (iii) no maintenance factor obligation is being created in the budgetary legislation for the fiscal year in which a PSSSA transfer might be made, (iv) all prior maintenance factor obligations have been fully repaid, and (v) the Minimum Funding Guarantee for the fiscal year in which a PSSSA transfer might be made is higher than the immediately preceding fiscal year, as adjusted for ADA growth and cost of living. Proposition 2 caps the size of the PSSSA at 10% of the estimated minimum guarantee in any fiscal year, and any excess funds must be paid to K-14 school districts. Reductions to any required transfer to the PSSSA, or draws on the PSSSA, are subject to the same budget emergency requirements described above. However, Proposition 2 also mandates draws on the PSSSA in any fiscal year in which the estimated Minimum Funding Guarantee is less than the prior year’s funding level, as adjusted for ADA growth and cost of living.

**Kindergarten Through Community College Public Education Facilities Bond Act of 2016**

The Kindergarten Through Community College Public Education Facilities Bond Act of 2016 (“Proposition 51”) is a voter initiative that was approved by voters on November 8, 2016. Proposition 51 authorizes the sale and issuance of $9 billion in general obligation bonds for the new construction and modernization of K-14 facilities. Encore makes no guarantee that it will either pursue or qualify for Proposition 51 state facilities funding.

***K-12 School Facilities.*** Proposition 51 includes $3 billion for the new construction of K-12 facilities and an additional $3 billion for the modernization of existing K-12 facilities. K-12 school districts will be required to pay for 50% of the new construction costs and 40% of the modernization costs with local revenues. If a school district lacks sufficient local funding, it may apply for additional state grant funding, up to 100% of the project costs. In addition, a total of $1 billion will be available for the modernization and new construction of charter school ($500 million) and technical education ($500 million) facilities. Generally, 50% of modernization and new construction project costs for charter school and technical education facilities must come from local revenues. However, schools that cannot cover their local share for these two types of projects may apply for State loans. State loans must be repaid over a maximum of 30 years for charter school facilities and 15 years for career technical education facilities. For career technical education facilities, State grants are capped at $3 million for a new facility and $1.5 million for a modernized facility. Charter schools must be deemed financially sound before project approval.

***Community College Facilities.*** Proposition 51 includes $2 billion for community college district facility projects, including buying land, constructing new buildings, modernizing existing buildings, and purchasing equipment. In order to receive funding, community college districts must submit project proposals to the Chancellor of the community college system, who then decides which projects to submit to the Legislature and Governor based on a scoring system that factors in the amount of local funds contributed to the project. The Governor and Legislature will select among eligible projects as part of the annual state budget process.

The table below shows the expected use of bond funds under Proposition 51:

|  |  |
| --- | --- |
| **PROPOSITION 51**  **Use of Bond Funds**  **(In Millions)** | |
|  |  |
| **K-12 Public School Facilities** |  |
| New construction | $3,000 |
| Modernization | 3,000 |
| Career technical education facilities | 500 |
| Charter school facilities | 500 |
| Subtotal | $7,000 |
|  |  |
| **Community College Facilities** | $2,000 |
| Total | $9,000 |

**Future Initiatives**

Articles XIIIA, Proposition 98, Proposition 30, Proposition 55, and Proposition 51 were each adopted as measures that qualified for the ballot pursuant to the State’s initiative process. From time to time, other initiative measures could be adopted, further affecting State and local revenues for education, and the ability or obligation of these government agencies to expend revenues for charter school purposes.

**APPENDIX E**

**FORM OF BOND INDENTURE**

**APPENDIX F**

**FORM OF LOAN AGREEMENT**

**APPENDIX G**

**MASTER INDENTURE AND FORM OF SUPPLEMENTAL MASTER INDENTURE NO. 2**

**APPENDIX H**

**FORM OF LEASE**

**APPENDIX I**

**BOOK-ENTRY SYSTEM**

The Depository Trust Company (“DTC”), will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully registered Bond certificate will be issued for each maturity of each Series of Bonds, each in the aggregate principal amount of that maturity of Bonds, and will be deposited with DTC. If, however, the aggregate principal amount of any series and maturity exceeds $500 million, one certificate will be issued with respect to each $500 million of principal amount, and an additional certificate will be issued with respect to any remaining principal amount of such series and maturity.

DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.6 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a Standard & Poor’s rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com.

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC’s records. The ownership interest of each actual purchaser of each Bond (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not affect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, defaults, and proposed amendments to the Bond documents. For example, Beneficial Owners of Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Bonds within an issue are being redeemed, DTC’s practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Bonds unless authorized by a Direct Participant in accordance with DTC’s MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Authority as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.’s consenting or voting rights to those Direct Participants to whose accounts Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and dividend payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC’s practice is to credit Direct Participants’ accounts upon DTC’s receipt of funds and corresponding detail information from the Authority or the Trustee, on payable date in accordance with their respective holdings shown on DTC’s records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in “street name,” and will be the responsibility of such Participant and not of DTC, the Trustee, or the Authority, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Authority or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the Authority or the Trustee. Under such circumstances, in the event that a successor depository is not obtained, Bond certificates are required to be printed and delivered.

The Authority may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC’s book-entry system has been obtained from sources that the Corporation believes to be reliable, but neither the Authority nor the Corporation take responsibility for the accuracy thereof.

**APPENDIX J**

**FormS of Opinion of Bond Counsel**

*Upon the delivery of the Bonds, Stradling Yocca Carlson & Rauth, a Professional Corporation, Bond Counsel to the Authority, proposes to deliver its final approving opinion with respect to the Bonds in substantially the following form:*

May \_\_, 2022

California Enterprise Development Authority

Sacramento, California

*$\_\_\_\_\_\_\_\_\_*

*CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY*

*CHARTER SCHOOL REVENUE BONDS*

*(ENCORE EDUCATION CORPORATION)*

*SERIES 2022 (TAXABLE)*

Ladies and Gentlemen:

We have examined a certified copy of the record of proceedings relating to the issuance by the California Enterprise Development Authority (the “Authority”) of California Enterprise Development Authority Charter School Revenue Bonds (Encore Education Corporation) Series 2022 (Taxable) (the “Bonds”). The Authority is organized pursuant to the provisions of the Joint Exercise of Powers Act, comprising Articles 1, 2, 3 and 4 of Chapter 5 of Division 7 of Title 1 (commencing with Section 6500) of the Government Code of the State of California (the “Act”) and a joint exercise of powers agreement, as amended (the “Agreement”). The Bonds are issued pursuant to the provisions of the Act, an indenture, dated as of May 1, 2022 (the “Indenture”), by and between the Authority and UMB Trust, N.A., as trustee (the “Trustee”), and a resolution duly adopted by the Authority on April 28, 2022. The Indenture provides that the Bonds are issued for the purpose of making a loan of the proceeds thereof to Western Encore Properties Incorporated, a California nonprofit public benefit corporation (the “Borrower”), pursuant to a Loan Agreement, dated as of May 1, 2022 (the “Loan Agreement”), by and between the Authority and the Borrower, and accepted and acknowledged by 16955 Lemon Street LLC, a California limited liability company (the “Landlord”). Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Indenture.

In our capacity as Bond Counsel to the Authority, we have examined originals or copies certified or otherwise identified to our satisfaction as being true copies of the (i) Indenture, (ii) the Loan Agreement, (iii) the Master Indenture of Trust (the “Master Indenture”), dated as of November 1, 2016, by and among the Borrower, as representative of the Obligated Group, the Landlord, as the Member of the Obligated Group, and UMB Trust, N.A., as successor master trustee thereunder (the “Master Trustee”), (iv) the Supplemental Master Indenture for Obligation No. 2 (the “Supplemental Master Indenture”), dated as of May 1, 2022, by and between the Borrower, as representative of the Obligated Group, and the Master Trustee, (v) Obligation No. 2, issued pursuant to the Master Indenture and the Supplemental Master Indenture, (vi) the Amended and Restated Lease Agreement, dated as of May 1, 2022 (the “Lease”), by and between the Landlord and Encore Education Corporation, a California nonprofit public benefit corporation (the “Lessee”), (v) the Private Placement Memorandum, dated May \_\_, 2022 (the “Private Placement Memorandum”), (vi) the Bond Placement Agreement concerning the Bonds, dated May \_\_, 2022, (the “Placement Agreement”), by and among the Authority, the Borrower, the Lessee, and Stifel, Nicolaus & Company, Incorporated, as placement agent (the “Placement Agent”), (vii) letters, certificates and opinions of counsel to the Authority, the Borrower, Lessee, the Landlord, the Trustee and others delivered pursuant to the Placement Agreement, and (viii) such other laws, documents, certifications, opinions and matters to the extent we deemed necessary to render the opinions set forth herein.

We have assumed, but have not independently verified, that the signatures on all documents, letters, opinions and certificates that we have examined (whether originals or copies) are genuine, that all documents submitted to us are authentic and were duly and properly executed by the parties thereto and that all representations made in the documents that we have reviewed and all legal conclusions contained in the opinions referred to in the preceding paragraph are true and accurate. Furthermore, we have assumed compliance with all covenants and agreements contained in the Indenture, the Loan Agreement, the Master Indenture, the Supplemental Master Indenture, the Lease and the Placement Agreement.

Based on and subject to the foregoing, and in reliance thereon, as of the date hereof we are of the opinion that:

1. The Bonds have been duly authorized, executed and issued.

2. The Indenture has been duly executed and delivered by, and constitutes the valid and binding obligation of, the Authority. The Indenture creates a valid pledge to secure the payment of the principal of, premium, if any, and interest on the Bonds, of the Payments and any other amounts held by the Trustee in the funds and accounts established pursuant to the Indenture, subject to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in the Indenture. The Indenture also creates a valid assignment to the Trustee, for the benefit of the holders from time to time of the Bonds, of the right, title and interest of the Authority in the Loan Agreement (to the extent more particularly described in the Indenture).

3. The Bonds are valid and binding limited obligations of the Authority, payable solely from the Payments and other assets pledged and assigned therefor under the Indenture and are not a lien or charge upon the funds or property of the Authority except to the extent of the aforementioned pledge and assignment. The Bonds shall never constitute the debt or indebtedness of the Authority within the meaning of any provision or limitation of the Constitution of the State of California, and shall not constitute nor give rise to a pecuniary liability of the Authority or a charge against its general credit or taxing powers.

4. The Loan Agreement has been duly authorized, executed and delivered by, and constitutes the valid and binding agreement of, the Authority.

5. Under existing statutes, regulations, rulings and judicial decisions, interest (and original discount) on the Bonds is not excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”).

6. Interest on the Bonds is exempt from State of California personal income tax.

7. Except for certain exceptions, the difference between the issue price of a Bond (the first price at which a substantial amount of the Bonds of a maturity is to be sold to the public) and the stated redemption price at maturity with respect to such Bonds constitutes original issue discount. Original issue discount accrues under a constant yield method. The amount of original issue discount deemed received by a Bondowner will increase the Bondowner’s basis in the applicable Bond.

8. The amount by which a Bondowner’s original basis for determining loss on sale or exchange in the applicable Bond (generally, the purchase price) exceeds the amount payable on maturity (or on an earlier call date) constitutes amortizable Bond premium, which must be amortized under Section 171 of the Code; such amortizable Bond premium reduces the Bondowner’s basis in the applicable Bond, and is not deductible for federal income tax purposes. The basis reduction as a result of the amortization of Bond premium may result in a Bondowner realizing a taxable gain when a Bond is sold by the Bondowner for an amount equal to or less (under certain circumstances) than the original cost of the Bond to the Bondowner. Purchasers of the Bonds should consult their own tax advisors as to the treatment, computation and collateral consequences of amortizable Bond premium.

Any federal tax advice contained herein with respect to the Bonds is not intended or written to be used, and it cannot be used, for the purpose of avoiding penalties under the Code. The federal tax advice contained herein with respect to the Bonds was written to support the promoting and marketing of the Bonds. Before purchasing any of the Bonds, all potential purchasers should consult their independent tax advisors with respect to the tax consequences relating to the Bonds and the taxpayer’s particular circumstances.

The foregoing opinions relate to the matters described herein only as of the date hereof. Certain requirements and procedures contained or referred to in the Indenture or other relevant documents relating to the Bonds may be changed, and certain actions may be taken, under the circumstances and subject to the terms and conditions set forth in such documents, upon the advice or with an approving opinion of counsel nationally recognized in the area of tax-exempt obligations. Other than expressly stated herein, we express no opinion regarding other federal or state income tax consequences caused by ownership of, or the receipt of interest on, the Bonds.

The opinions expressed herein are based upon our analysis and interpretation of existing laws, regulations, rulings and judicial decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine, or to inform any person, whether any such actions are taken or omitted or events do occur or any other matters come to our attention after the date hereof. Our engagement with respect to the Bonds has concluded with their issuance, and we disclaim any obligation to update this letter. We call attention to the fact that the rights and obligations under the Indenture, the Loan Agreement, the Master Indenture, the Supplemental Master Indenture, the Lease and the Bonds and their enforceability may be subject to bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar laws affecting creditors’ rights, to the application of equitable principles if equitable remedies are sought, to the exercise of judicial discretion in appropriate cases and to limitations on legal remedies against public agencies in the State of California. We express no opinion with respect to any indemnification, contribution, penalty, choice of law, choice of forum or waiver provisions contained in the foregoing documents nor do we express any opinion with respect to the state or quality of title to or interest in any of the real or personal property described in or subject to the lien of the Indenture or the Loan Agreement or the accuracy or sufficiency of the description contained therein of, or the remedies available to enforce liens on, any such property. Finally, we undertake no responsibility herein for the accuracy, completeness or fairness of the Private Placement Memorandum or other offering material relating to the Bonds and express no opinion with respect thereto.

Respectfully submitted,

**EXHIBIT K**

**FORM OF INVESTOR LETTER**

[TO COME]

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