

Cal Poly Pomona Foundation Inc.  
Meeting of the Board of Directors, Meeting 407

April 23, 2025  
2:00 PM

Join Zoom Meeting  
<https://cpp.zoom.us/j/84274449845>  
Meeting ID: 872 3813 0332

## AGENDA

**Chair:** Christina Gonzales

**Directors:** Dr. Alison Baski, Mayra Brown, Michelle Cardona, Dr. Soraya Coley, Erica Frausto-Aguado, Dr. Terri Gomez, April Jimenez, Dr. Rita Kumar, John McGuthry, Cynthia Nelson, Dr. Phyllis Nelson, Lowell Overton, Stephanie Pastor, Anissa Patel, Dr. Homeyra Sadaghiani, Megan Shadrack, Dr. David Speak, Ruby Suchecki, Frances Teves, Dr. Maryann Tolano-Leveque, Cade Wheeler, Kris Zoleta

**Staff:** Naomi Aguilar, Shari Benson, Claudia Burciaga-Ramos, Jared Ceja, Lisa Coats, Juan Hernandez, Tariq Marji, Thomas Sekayan.

I. **CALL TO ORDER & PUBLIC ACKNOWLEDGEMENT**

Christina Gonzales, Chair

*Acknowledgement of members of the public who may or may not be commenting on a specific item or making a general comment.*

II. **CHAIRS REPORT**

Christina Gonzales

III. **INFORMATION & DISCUSSION ITEMS**

A. Resignation of Community Director (Oliver Santos)

Jared Ceja, CEO

IV. **ACTION ITEM**

B. Student Housing Acquisition  
(Attachment) A

Jared Ceja, CEO  
Juan Hernandez, CFO

V. **OPEN FORUM**

VI. **ADJOURNEMENT**

Christina Gonzales

**Next Board Meeting #408 – Tuesday, May 13, 2025, at 2:00 p.m. at Kellogg West Hillside & Zoom**

The open proceedings of this meeting are being recorded.  
By participating in this meeting, attendees acknowledge and consent to the recording.

# Memorandum

Date: April 23, 2025

To: Board of Directors

From: Jared Ceja, Chief Executive Officer  
Juan Hernandez, Chief Financial Officer

Attached: Project Goals  
Financial Summary  
Draft Loan Agreement

**Subject: STUDENT HOUSING ACQUISITION & FINANCING**

As discussed in previous meetings of the Board of Directors, the proposed purchase of a campus-adjacent 636-bed student housing development (“The Current”) will aid University and CPPE goals. Specifically, it will enable the expansion of safe, affordable, and student-centered housing while driving long-term financial results.

Multiple scenarios will be presented to evaluate key factors, risk, and potential returns. This data was informed by the 23/24 Housing Demand Assessment prepared by JLL along with input from the developer and CSU Finance & Treasury.

On December 17<sup>th</sup>, 2024, the Board approved entering negotiations with the developer as part of the due diligence process. A purchase price agreement has been reached. Management has also been working with the CSU Office of the Chancellor and CPP Administrative Affairs on other required steps of the process. Upon Board approval, the CSU Board of Trustees will consider approval of the purchase and necessary financing via systemwide revenue bonds.

**PROPOSED ACTION:**

With guidance from the CSU Office of the Chancellor, Management recommends approval to purchase The Current at \$126M, plus applicable fees and closing costs, and secure the appropriate financing to do so. Upon approval, Management will forward this resolution to the CSU Board of Trustees for review and approval.

**RESOLUTION:**

WHEREAS, Cal Poly Pomona Foundation, Inc. (the “Corporation”) has been formed for the purpose of furthering the educational programs of California Polytechnic State University, Pomona (the “University”) as more fully described in the Articles of Incorporation of the Corporation (the “Articles of Incorporation”);

WHEREAS, the Corporation is an auxiliary organization of The California State University governed by California Education Code Sections 89900 et seq. and the administrative regulations of The California State University as set forth in Title 5 of the California Code of Regulations;

WHEREAS, the Corporation is organized under the Nonprofit Public Benefit Corporation Law of the State of California and the Articles of Incorporation provide that it is not organized for the private gain of any person;

WHEREAS, no part of the Corporation's net earnings, if any, will ever inure to the benefit of any person except the Board of Trustees of the California State University (the "Board");

WHEREAS, the Articles of Incorporation provide that assets of the Corporation will not be distributed to any member, director or officer of the Corporation;

WHEREAS, the Board previously issued Trustees of the California State University Revenue Bonds Series;

WHEREAS, the Corporation desires to undertake the financing of certain capital costs associated with the acquisition of a student housing property commonly known as "The Current" (the "Project");

WHEREAS, the Corporation expects to pay certain expenditures out of reserves in connection with the Project subsequent to the issuance of indebtedness;

WHEREAS, the Corporation has requested the assistance of the Board to finance the Project based on the Board lending certain proceeds to the Corporation;

WHEREAS, the Corporation financing of the Project is contingent upon Board adoption of its resolution approving such assistance and loan to the Corporation;

WHEREAS, in order to provide funds for such loan the Board proposes to issue bond anticipation notes (the "Notes") or Trustees of the California State University Systemwide Revenue Bonds and to loan a portion of the proceeds of such bonds, namely, the not-to-exceed principal amount of \$128,600,000 to the Corporation;

WHEREAS, the Corporation and the Board desire to enter into a loan agreement, or any amendment thereto (the "Loan Agreement"), to specify the terms and conditions of such loan from the Board to the Corporation and to require and confirm Corporation general obligation pledge of all unrestricted revenues available to make payments at such times and in such manner as may be necessary to provide for the full repayment of the debt service on the Notes or the Trustees of the California State University Systemwide Bonds, as such debt service becomes due;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Corporation as follows:

Section 1. It is hereby found and determined that the foregoing recitals are true and correct and the activities and purposes of the Corporation are permitted under the Nonprofit Public Benefit Corporation Law of the State of California.

Section 2. The proposed Loan Agreement is hereby approved. Any one of the Corporation's officers (the "Signing Officers") or the Chief Executive Officer, with the advice of retained counsel, is hereby authorized and directed, for and in the name and on behalf of the Corporation, to execute and deliver the loan documents, in substantially said forms, with such changes therein as such the Chief Executive Officer, may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided, that the terms of the Loan

Agreement, as finally executed and delivered, shall provide that the total aggregate principal component or the scheduled loan payments payable by the Corporation with respect to the financing of the project shall not exceed \$128,600,000.

Section 3. The officers of the Corporation and the Chief Executive Officer, or their designees, with the advice of retained counsel, are each hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to effectuate the purposes of this resolution.

Section 4. This Resolution shall take effect immediately upon its adoption.

**PASSED AND ADOPTED THIS 23<sup>RD</sup> DAY OF APRIL 2025, by the following vote:**

Yea:        \_\_\_                   Nay:        \_\_\_                   Abstain:    \_\_\_

By: \_\_\_\_\_  
Dr. Rita Kumar, Secretary/Treasurer  
Board of Directors

# Student Housing Project Goals

This opportunity will directly benefit students by:

- **Prioritizing CPP students** for housing assignments
- **Adding capacity** to aid the bed net deficit of 1,761 beds (23/24 Housing Demand Study by JLL)
- **Enhancing security measures** aligned with university standards
- **Offering pricing protections**, including an initial rate freeze and annual increases below market trends
- **Supporting student retention, personal growth, and timely graduation** through an improved residential experience



# FINANCIAL SUMMARY

## Purchase Price \$126M (\$140M originally), \$6M Cash Down

- Appraised at \$120.2M
- Comparable construction cost of \$138.5M (\$150M + with prevailing wage)
- \$15.6M in land value

## SRB Debt Financing 128.6M @5.7% (max)

- Includes capitalized interest and closing cost
- Actual rate expected to be up to 100 basis points lower

## Return and Cashflow (at 636 beds)

- Year 1 payback of down payment plus \$1.69M additional cash.
  - Due to capitalized interest, no interest payments in year 1
- After year 1, positive cashflow starting in year 7 with initial price freeze and marginal rental rate increases thereafter. (Year 3 if rate is 100bps favorable)
- \$81M of cash return over 30 years



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TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY

and

CAL POLY POMONA FOUNDATION, INC.

\_\_\_\_\_  
LOAN AGREEMENT  
\_\_\_\_\_

Dated as of [TBD]

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## **LOAN AGREEMENT**

**THIS LOAN AGREEMENT**, dated as of [TBD], between the **TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY**, an agency of the State of California (the “Board”), and the **CAL POLY POMONA FOUNDATION, INC.**, (the “Borrower”), a nonprofit public benefit corporation duly organized under the laws of the State of California.

### **W I T N E S S E T H:**

**WHEREAS**, the Borrower has requested or has previously received the assistance of the Board to finance or refinance certain facilities as specified in Exhibit A hereto (collectively, the “Borrower Project”) by the Board’s lending certain proceeds of bond anticipation notes or revenue bonds of the Board to the Borrower;

**WHEREAS**, the Board has duly adopted one or more resolutions approving such assistance and loan to the Borrower;

**WHEREAS**, in order to provide funds for such loan the Board proposes to issue, or has previously issued, certain obligations as set forth in Schedule A hereto (collectively, the “SRB Obligations”), and proposes to loan, or has previously loaned, a portion of the proceeds of such SRB Obligations, in the principal amount indicated on Schedule A hereto (collectively, the “Bonds”), to the Borrower;

**WHEREAS**, the Board and the Borrower desire to enter into this loan agreement (this “Agreement”) to specify the terms and conditions of such loan from the Board to the Borrower and to require and confirm the obligation of the Borrower to make payments at such times and in such manner as may be necessary to provide for full payment of the debt service on the Bonds, as such debt service becomes due, and for certain other purposes specified herein;

**WHEREAS**, the Board and the Borrower have entered into that certain Loan Agreement, dated as of [TBD], relating to the financing of The Current Student Housing Acquisition;

**WHEREAS**, the Borrower’s obligations under this Loan Agreement are intended by the parties to be secured by and payable on a parity with the Borrower’s obligations under the Existing Parity Debt, and the Board has received and approved evidence of the Borrower’s compliance with the requirements contained in the Existing Parity Debt regarding additional parity indebtedness;

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

**SECTION 1. Definitions of Certain Terms.** Unless otherwise defined in this Agreement, all terms used herein which are defined in the Indenture shall have the meanings assigned to such terms in the Indenture.

## Act

The term “Act” means The State University Revenue Bond Act of 1947, codified at California Education Code Sections 90010 and following, as in force on the date hereof and as it may thereafter be amended from time to time.

## Act of Bankruptcy

The term “Act of Bankruptcy” of the Borrower means any of the following with respect to such party:

- (1) the commencement by such party of a voluntary case under the federal bankruptcy laws, as now in effect or hereafter amended, or any other applicable federal or state bankruptcy, insolvency or similar laws;
- (2) the filing of a petition with a court having jurisdiction over such party to commence an involuntary case against such party under the federal bankruptcy laws, as now in effect or hereafter amended, or any other applicable federal or state bankruptcy, insolvency or similar laws, which shall not have been stayed or dismissed within 60 days;
- (3) such party shall admit in writing its inability to pay its debts generally as they become due;
- (4) a receiver, trustee or liquidator of such party shall be appointed in any proceeding brought against such party;
- (5) the making of a general assignment by such party for the benefit of its creditors; or
- (6) the entry by such party into an agreement of composition with its creditors.

## Additional Payments

The term “Additional Payments” has the meaning ascribed to such term in Section 6 hereof.

## Agreement

The term “Agreement” has the meaning ascribed to such term in the recitals herein.

## Annual Debt Service

The term “Annual Debt Service” means, when used with respect to Indebtedness, as of any date of calculation and with respect to any period of twelve consecutive months the sum of (i) the interest payable on all such Indebtedness during such period (except to the extent

that such interest is payable from the proceeds of such Indebtedness set aside for such purpose), and (ii) the principal (or mandatory sinking fund or redemption fund or installment purchase price or lease rental or similar payment or deposit) payments on such Indebtedness required in such period; computed on the assumption that no portion of such Indebtedness shall cease to be outstanding in such period except by reason of the application of such scheduled payments; provided, however, that for purposes of such computation if Indebtedness is secured by an irrevocable letter of credit issued by a bank having a combined capital and surplus of at least One Hundred Million Dollars (\$100,000,000), principal payments or deposits with respect to such Indebtedness nominally due in the last fiscal year in which such Indebtedness matures may, at the option of the Borrower, be treated as if they were due as specified in any loan agreement or reimbursement agreement issued in connection with such letter of credit or pursuant to the repayment provisions of such letter of credit and interest on such Indebtedness after such fiscal year shall be assumed to be payable pursuant to the terms of such loan agreement or reimbursement agreement or repayment provisions; and provided further that if interest on Indebtedness is payable pursuant to a variable interest rate formula, the interest rate on such Indebtedness for periods when the actual interest rate cannot be yet determined shall be assumed to be equal to the greater of (a) the current interest rate calculated pursuant to the provisions of such agreement or, (b) if available, the weekly average interest rate on such Indebtedness during the preceding thirty-six (36) months preceding the date of calculation or, (c) if such Indebtedness has not been outstanding for such 36-month period, such weekly average interest rate on comparable debt (as determined by the Borrower, subject to the approval of the Board), as set forth in a certificate filed with the Board.

#### Base Loan Payments

The term “Base Loan Payments” has the meaning ascribed to such term in Section 5 hereof.

#### Board

The term “Board” has the meaning ascribed to such term in the recitals herein.

#### Bond Counsel

The term “Bond Counsel” means any attorney at law or firm of attorneys selected by the Board, of nationally recognized standing in matters pertaining to the validity of and federal tax exemption of interest on obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state of the United States of America.

#### Bonds

The term “Bonds” means that portion of the SRB Obligations, the proceeds of which are being loaned to the Borrower pursuant to this Agreement.

### Borrower Banking Institutions

The term “Borrower Banking Institutions” has the meaning ascribed to such term in Section 7(c) hereof.

### Borrower Project

The term “Borrower Project” has the meaning ascribed to such term in the recitals herein.

### Borrower Revenues

The term “Borrower Revenues” means all existing undesignated, unrestricted net assets, proceeds, charges, income, rents, receipts, profits and benefits of the Borrower, exclusive of (i) any gifts, grants, bequests, donations and contributions to the extent specifically restricted by the donor to a particular purpose inconsistent with their use to pay payments under this Agreement; or (ii) contracts and grants that may not by their terms be used to pay payments under this Agreement. For the avoidance of doubt, “Borrower Revenues” shall not include real property of the Borrower.

### Business Day

The term “Business Day” means any day of the year other than (i) a Saturday or Sunday, (ii) a State legal holiday, or (iii) any day on which banks located in the city in which the Trustee is located, are required or authorized by law to remain closed.

### Certificate, Request and Written Order of the Board

The terms “Certificate of the Board,” “Request of the Board,” and “Written Order of the Board” mean, respectively, a written certificate, request or order signed in the name of the Board by any person or persons at the time designated to act on behalf of the Board pursuant to a Certificate of the Board containing the specimen signature of each such person and filed with the Trustee or the Depository, as applicable.

### Certificate, Request and Written Order of the Borrower

The terms “Certificate of the Borrower,” “Request of the Borrower,” and “Written Order of the Borrower” mean, respectively, a written certificate, request or order signed in the name of the Borrower by any person or persons at the time designated to act on behalf of the Borrower pursuant to a Certificate of the Borrower containing the specimen signature of each such person and filed with the Depository.

### Depository

The term “Depository” means, initially, the Treasurer of the State of California, or any of its successors or assigns, or any replacement Depository so designated by a Certificate of the Board and specified in a Depository Agreements.

### Depository Agreement

The term “Depository Agreement” means a written agreement between the Board and a replacement Depository, as the same may be supplemented or amended from time to time.

### Effective date

The term “Effective Date” means [TBD].

### Existing Parity Debt

The term “Existing Parity Debt” has the meaning given thereto in the Recitals to this Loan Agreement.

### Indebtedness

The term “Indebtedness” means any indebtedness or obligation of the Borrower which, in accordance with generally accepted accounting principles, is classified as a liability on a balance sheet.

### Indenture

The term “Indenture” means, as applicable, the indenture, resolution or other similar instrument, as supplemented and amended pursuant to its terms, pursuant to which the SRB Obligations are issued.

### Maximum Aggregate Annual Debt Service

The term “Maximum Aggregate Annual Debt Service” means Annual Debt Service on all Indebtedness for the twelve month period ending on July 1 in which such Annual Debt Service is the largest.

### Net Income Available for Debt Service

The term “Net Income Available for Debt Service” means, with respect to any period, the change in undesignated, unrestricted net assets (before extraordinary items) of the Borrower, determined in accordance with generally accepted accounting principles, to which shall be added interest, amortization and depreciation expense, other non-cash charges and contributions to the California State University or its auxiliaries other than the Borrower, each item determined in accordance with generally accepted accounting principles, and excluding (a) any profits or losses on the sale or disposition, not in the ordinary course of business, of investments or fixed or capital assets or resulting from the early extinguishment of debt, (b) 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 debt service, and (c) the net proceeds of insurance (other than business interruption insurance) and condemnation awards.

### Non-Recourse Indebtedness

The term “Non-Recourse Indebtedness” means any Indebtedness secured by a lien, which is not a general obligation of the Borrower and liability for which is limited to the property subject to such lien with no recourse to, or lien upon, directly or indirectly, the Borrower Revenues or any other property of the Borrower.

### Parity Debt

The term “Parity Debt” means Existing Parity Debt and any additional Indebtedness of the Borrower which satisfies the following conditions:

(1) The agreement under which the Parity Debt is issued shall require that:

(a) An Event of Default shall constitute an event of default under such agreement;

(b) Rights and obligations of the holders of Parity Debt with respect to Borrower Revenues and the loan documents shall be substantially the same as the rights and obligations of the Board hereunder; and

(c) Remedies with respect to Borrower Revenues and the loan documents upon an Event of Default shall be substantially the same as the remedies provided in this Agreement and, prior to exercising any such remedies, the holders of such Parity Debt (or a trustee representing their interests) shall be required to cooperate with the Board to the end that the interests of such holders and the Board shall be equally protected (except rights to draw under any instrument providing credit enhancement with respect to such Parity Debt); and

(2) The Borrower shall furnish the Board with a copy of the proceedings relating to the incurrence of any Parity Debt immediately upon the incurrence thereof.

### Prior Loan Agreement

The term “Prior Loan Agreement” has the meaning given thereto in the Recitals to this Loan Agreement.

### Senior Debt

The term “Senior Debt” means any Indebtedness or other obligations of the Borrower payable from or having a lien on Borrower Revenues having priority over the Base Loan Payments, Additional Payments and all other payments required hereunder.

### SRB Obligations

The term “SRB Obligations” has the meaning ascribed to such term in the recitals herein.

State

The term “State” means the State of California.

Tax Certificate

The term “Tax Certificate” means the certificate relating to the requirements of the Code signed by the Board on the date the applicable SRB Obligations are issued.

Tax-Exempt

The term “Tax-Exempt” describes obligations the interest upon which is intended to be excludable from gross income for purposes of federal income taxation.

Trustee

The term “Trustee” means, as applicable, the trustee, co-trustee, paying agent or registrar for the SRB Obligations.

**SECTION 2. Representations and Warranties of the Borrower.** The Borrower makes the following representations and warranties to the Board:

(a) The Borrower is a nonprofit public benefit corporation duly incorporated and in good standing under the laws of the State, has the requisite legal right, power and authority to enter into this Agreement and to carry out and consummate all transactions contemplated by this Agreement, and by proper corporate action has duly authorized the execution and delivery of this Agreement.

(b) This Agreement has been duly executed and delivered by the Borrower and constitutes the legal, valid and binding agreement of the Borrower, enforceable in accordance with its terms.

(c) The execution and delivery of this Agreement and the consummation of the transactions herein contemplated will not conflict with or constitute a breach of or default under the articles of incorporation of the Borrower, its bylaws, any law or administrative rule or regulation applicable to the Borrower, any court or administrative decree or order applicable to the Borrower or any material loan agreement, bond, debenture, note or other evidence of Indebtedness or any material contract, agreement or lease to which the Borrower is a party or by which any of the Borrower’s property is bound.

(d) The Borrower is an auxiliary organization of the California State University and is authorized to act pursuant to California Education Code Sections 89900 et seq. and California Code of Regulations, Title 5, Sections 42500 et seq.

(e) The activities and purposes of the Borrower are those permitted under the Nonprofit Public Benefit Corporation Law of the State and the Borrower Project is located within the geographic boundaries of the Board and has a substantial connection with the Board.

(f) The articles of incorporation of the Borrower provide that the Borrower is not organized for profit and that its corporate income will not inure to any private person, and the Borrower hereby represents and warrants that its corporate income will not inure to any private person.

(g) There are no actions, suits or proceedings which have been served on the Borrower or, to the knowledge of the Borrower, are otherwise pending or threatened against the Borrower--

(1) to restrain or enjoin the issuance or delivery of any of the Bonds or the collection of the revenues pledged under the Indenture;

(2) in any way contesting or affecting the authority for the issuance of the Bonds or the validity of the Bonds, the Indenture, this Agreement or the Tax Certificate;

(3) in any way contesting the corporate existence or powers of the Borrower;

(4) other than as disclosed in the financial statements referenced in paragraph (k) of this Section 2, which, if determined adversely to it, would materially adversely affect the consummation of the transactions contemplated by this Agreement or the financial condition, assets or properties of the Borrower; or

(5) contesting or affecting the Borrower's status as an organization described in Section 501(c)(3) of the Code, or which would subject any income of the Borrower to federal income taxation to such extent as would result in loss of the exclusion from gross income for federal income tax purposes of interest on any of the Bonds or the SRB Obligations under Section 103 of the Code.

(h) The Borrower is an organization described in Section 501(c)(3) of the Code and is exempt from federal income tax under Section 501(a) of the Code and is a public charity and not a private foundation in accordance with Section 509(a) of the Code. The Borrower at all times will maintain its status as an organization described in Section 501(c)(3) of the Code and its exemption from federal income tax under Section 501(a) of the Code or corresponding provisions of future federal income tax laws. The facts and circumstances which formed the basis of the Borrower's status as an organization described in Section 501(c)(3) of the Code as represented to the Internal Revenue Service continue substantially to exist.

(i) No facility financed or refinanced by any portion of the proceeds of Tax-Exempt Bonds is or at any time will be used by any person not an "exempt person" within the meaning of the Code and the regulations proposed and promulgated thereunder, or by a governmental unit or a 501(c)(3) organization (including the Borrower) in an "unrelated trade or business" within the meaning of Section 513(a) of the Code and the regulations proposed and



promulgated thereunder, in such manner or to such extent as would result in loss of exclusion from gross income for federal tax purposes of interest on any of the Tax-Exempt Bonds or Tax-Exempt SRB Obligations under Section 103 of the Code.

(j) A reasonable estimate of the remaining useful life of the Borrower Project on the latest maturity date of the Bonds will be the longer of one year or 20% of the original estimated useful life of the Borrower Project financed by the Bonds.

(k) The consolidated statements of financial position and the related statements of activities and cash flows of the Borrower (copies of which, audited by RSM, LLP, have been furnished to the Board) present fairly, in all material respects, the financial position of the Borrower as of June 30, 2020 and 2019, and the changes in its consolidated net assets and its consolidated cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America, and since June 30, 2020 there has been no material adverse change in the assets, activities or financial condition of the Borrower other than any such change which the Borrower has disclosed in writing to the Board.

(l) No information, exhibit or report furnished to the Board by the Borrower in connection with the negotiation of this Agreement contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(m) To its best knowledge, the Borrower:

(1) is in compliance with all laws, ordinances, governmental rules and regulations to which it is subject and violation of which could reasonably be expected to materially and adversely affect the financial condition of the Borrower or its ability to perform its obligations under this Agreement; and

(2) has obtained all licenses, permits, franchises or other governmental authorizations necessary and material to the ownership of its property or to the conduct of its activities, and agrees to obtain all such licenses, permits, franchises or other governmental authorizations as may be required in the future for its operations in all cases where failure to obtain such licenses, permits, franchises or other governmental authorizations could reasonably be expected to materially and adversely affect the financial condition of the Borrower or its ability to perform its obligations under this Agreement.

(n) No event of default under this Agreement has occurred and is continuing, and no event has occurred and is continuing which, with the lapse of time or the giving of notice or both, would constitute such an event of default.

(o) The Borrower is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or governmental agency which default could reasonably be expected to have consequences that would materially and adversely affect the assets, operations or financial condition of the Borrower. There are no tax claims or liens pending against the Borrower other than such, if any, as are not delinquent or may

be actively contested by the Borrower. The Borrower enjoys the peaceable and undisturbed possession of all of the premises which are material to its operation as an auxiliary organization of the California State University.

(p) No consent or approval of any trustee or holder of any indebtedness of the Borrower, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Agreement or the consummation of any transaction herein contemplated, except as have been obtained or made and as are in full force and effect.

(q) The Borrower is not in default under, and is not violating any provision of, its articles of incorporation or bylaws or any material provision of any agreement with the Board, any material indenture, mortgage, lien, administrative regulations, order, judgment, decree or other instrument or restriction of any kind or character to which it is a party or by which it is bound or to which it, or any of its assets, is subject. Neither the execution and delivery by the Borrower of this Agreement nor compliance with the terms, conditions and provisions hereof, or contemplated hereby, will conflict with or result in a material breach of, or constitute a default under, any of the foregoing.

**SECTION 3. Representations, Warranties of the Board.** The Board makes the following representations and warranties to the Borrower:

(a) The Board has full legal right, power and authority to enter this Agreement and to carry out and consummate all transactions contemplated by this Agreement, and by proper action has duly authorized the execution and delivery of this Agreement.

(b) The officers of the Board executing this Agreement are duly and properly holding their respective offices and are fully authorized to execute this Agreement.

(c) This Agreement has been duly authorized, executed and delivered by the Board, and will constitute a legal, valid and binding agreement of the Board, enforceable against the Board in accordance with its terms.

(d) The execution and delivery of this Agreement, the consummation of the transactions herein contemplated and the fulfillment or compliance with the terms and conditions hereof, will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any indenture, mortgage, deed of trust, agreement, lease, contract or other agreement or instrument to which the Board is a party or by which it or its properties are otherwise subject or bound, or, to the knowledge of the Board, any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Board, which conflict, violation, breach, default, lien, charge or encumbrance might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Agreement or the financial condition, assets, properties, or operations of the Board.

(e) No consent or approval of any trustee or holder of any indebtedness of the Board, and no consent, permission, authorization, order or license of, or filing or registration

with, any governmental authority is necessary in connection with the execution and delivery of this Agreement or the consummation of any transaction herein contemplated, except as have been obtained or made and as are in full force and effect.

**SECTION 4. Loan; Application of Proceeds of SRB Obligations.**

(a) The Borrower and the Board agree that the Board has loaned the proceeds of the Bonds to the Borrower in the amounts and on the dates set forth in Schedule A hereto.

(b) Pursuant to a Written Order of the Board, from the proceeds of the sale of the SRB Obligations, the Trustee shall deposit certain amounts in the applicable account within the [Tower Foundation of San Jose State University] Project Fund (the "Project Fund") within the California State University Dormitory Construction Fund. Such amounts shall be disbursed by the Depository in accordance with applicable procedures of the State Controller to or upon the Request of the Borrower.

**SECTION 5. Payment of Bonds.** The Borrower shall pay to the Board loan payments hereunder (the "Base Loan Payments") in the amounts and on the dates set forth in written notifications presented from time to time by the Board to the Borrower. The principal component of such Base Loan Payments shall be payable in accordance with the minimum principal payment schedule included Exhibit B attached hereto; provided, however, that the payment dates indicated in such schedule may be adjusted from time to time by the Board for the purpose of coordinating the payment of the principal component of the Base Loan Payments with the dates on which principal of the Bonds is due and payable. The interest component of such Base Loan Payments shall be payable in an amount sufficient to meet the interest component of the debt service requirements of the Bonds. The Borrower and the Board acknowledge and agree that the SRB Obligations may take the form of short-term or long-term, fixed rate or variable rate indebtedness, and accordingly agree that the Board shall specify the amount of the Base Loan Payments payable by the Borrower hereunder in order to satisfy the debt service requirements of the Bonds. Each Base Loan Payment shall be deposited on or before the Base Loan Payment due date, indicated in the written notification from the Board, which shall be seven Business Days (or such lesser period indicated by the Board) prior to the date on which interest or principal of the Bonds is due and payable. If any date for the payment of a Base Loan Payment is not a Business Day, such Base Loan Payment shall be paid on the next preceding Business Day.

Base Loan Payments and Additional Payments due and payable hereunder shall be paid in lawful money of the United States of America to or upon the order of the Board at the office of the Chancellor, or such other place as the Executive Vice Chancellor and Chief Financial Officer of the California State University acting for the Board shall designate. Any such Base Loan Payments and Additional Payments hereunder which shall not be paid when due shall bear interest at the legal rate of interest per annum at which judgments for money in the State bear interest from the date when the same is due hereunder until the same shall be paid. Notwithstanding any dispute between the Board and the Borrower, the Borrower shall make all Base Loan Payments and Additional Payments when due without deduction or offset of any kind and shall not withhold any Base Loan Payments and Additional Payments pending the final resolution of such dispute. All payments received shall be applied first to the Base Loan Payments due hereunder and thereafter to the Additional Payments due hereunder, but no such

application of any payments which are less than the total Base Loan Payments and Additional Payments due and owing shall be deemed a waiver of any default hereunder.

The Base Loan Payment schedule is subject to amendment from time to time by the Board with written acceptance of the Borrower; provided, however, that the Board and the Borrower agree that the Board may in its discretion amend the Base Loan Payment Schedule without receipt of the Borrower's written acceptance by providing a written notice to the Borrower to the effect that the Board has determined that there are insufficient Gross Revenues available under the Bond Indenture to pay the scheduled principal of and interest on any of its Systemwide Revenue Bonds then outstanding under the Bond Indenture and therefore the Base Loan Payments to be paid by the Borrower pursuant to this Section 5 have been increased. This notice shall be accompanied by a revised Base Loan Payment schedule to be attached as an exhibit to Schedule A hereto, describing the amount of the increased Base Loan Payments. Such notice and determination by the Board shall be final, conclusive and binding upon the Borrower. For all purposes of this Agreement, the calculation of Annual Debt Service shall not include any increase or potential increase in Base Loan Payments pursuant to this paragraph unless and until the Board has provided its notice to the Borrower of an actual increase in Base Loan Payments pursuant to this paragraph.

**SECTION 6. Additional Payments.** In addition to the Base Loan Payments required to be made by the Borrower, the Borrower shall also pay to or upon the order of the Board the following sums (the "Additional Payments"):

(a) Such reasonable amounts in each year as shall be required by the Board for the payment of all administrative costs and other expenses of the Board in connection with this Agreement or the Depositary Agreement, including all fees, costs and expenses payable by the Board in connection with the Bonds, this Agreement or the Depositary Agreement, including but not limited to, fees of accountants or attorneys, litigation costs and all other necessary or appropriate costs of the Board or charges required to be paid by it in order to comply with the terms of the Bonds, this Agreement and the Depositary Agreement. Such Additional Payments shall be billed to the Borrower from time to time. Amounts so billed shall be due and payable within 30 days from the date of such bill;

(b) Such amounts as may be necessary to satisfy the rebate requirements of the Bonds in accordance with the Tax Certificate; and

(c) Cost components payable by the Board with respect to the Bonds, including but not limited to fees and expenses of the Trustee, dealers, broker-dealers, remarketing agents, rebate consultants, dissemination agents, bond counsel, disclosure counsel, financial advisors, underwriters for the Bonds and the Board's annual pro rata fees payable to the State. Such Additional Payments shall be billed to the Borrower from time to time. Amounts so billed shall be due and payable by the Borrower within 30 days from the date of such bill.

**SECTION 7. Obligations of Borrower Unconditional; Pledge of Borrower Revenues.** (a) The Borrower pledges its full faith and credit to the payments it is required to make under this Agreement. The obligations of the Borrower to make the Base Loan Payments and Additional Payments and to perform and observe the other agreements on its part contained

in this Agreement shall be absolute and unconditional general obligations of the Borrower. This Agreement shall constitute Indebtedness of the Borrower. Until such time as the principal of, premium, if any, and interest on all Bonds shall have been fully paid (or provision for the payment thereof shall have been made as provided in the Indenture), the Borrower (i) will not suspend or discontinue any Base Loan Payments or Additional Payments, (ii) will perform and observe all of its other agreements contained in this Agreement and (iii) will not terminate this Agreement for any cause, including, without limiting the generality of the foregoing, any change in the laws of the United States of America or of the State or any political subdivision of either or any failure of the Board to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement. This Agreement shall be deemed and construed to be a “net contract,” and the Borrower shall pay absolutely net the Base Loan Payments, Additional Payments and all other payments required hereunder, free of any deductions, without abatement, diminution or set-off other than those herein expressly provided.

(b) Subject only to the provisions of this Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein and therein, the Borrower does hereby pledge to secure the Base Loan Payments, Additional Payments and all other payments required hereunder, all of the Borrower Revenues and any other amounts (including proceeds of the sale of Bonds) held in any fund or account established pursuant to this Agreement. Said pledge shall constitute a lien on and security interest in such assets in order to secure the Base Loan Payments, Additional Payments and all other payments required hereunder.

(c) The Borrower agrees that, so long as any such payments remain unpaid, all of the Borrower Revenues shall be deposited as soon as practicable upon receipt in a fund designated as the “Borrower Revenue Fund” which the Borrower shall establish and maintain hereunder subject to the provisions of subsection (d) of this Section, in an account or accounts at such banking or financial institution or institutions having such notice address or addresses as the Borrower shall from time to time designate in writing to the Board for such purpose (herein called the “Borrower Banking Institution(s)”). Subject only to the provisions of this Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein, the Borrower hereby pledges and, to the extent permitted by law, grants a security interest to the Board in the Borrower Revenue Fund to secure the Base Loan Payments, Additional Payments and all other payments required hereunder.

(d) Amounts in the Borrower Revenue Fund may be used and withdrawn by the Borrower at any time for any lawful purpose, except as provided herein. In the event that on the fourteenth (14th) day prior to any Interest Payment Date or Principal Payment Date, the Board does not have amounts sufficient to pay all Base Loan Payments, Additional Payments and all other payments required hereunder, the Board shall notify the Borrower and the Borrower Banking Institution(s) of such delinquency, and unless such payment is made immediately upon providing such notice, the Borrower shall cause the Borrower Banking Institution(s) to, and the Borrower Banking Institution(s) shall, transfer the Borrower Revenue Fund to the name and credit of the Board. The Borrower Revenue Fund shall remain in the name and to the credit of the Board for a period of at least six (6) months and until: (1) the amounts on deposit in said fund are sufficient to pay in full (or have been used to pay in full) all transfers and deposits due pursuant to paragraph (e) below and all debt service payments due and past due with respect to

any Parity Debt, and (2) any events of default known to the Board shall have been made good or cured or provision shall have been made therefor, whereupon the Borrower Revenue Fund (except for the Borrower Revenues required to make such payments or cure such defaults) shall be returned to the name and credit of the Borrower. During any period that the Borrower Revenue Fund is held in the name and to the credit of the Board, the Board shall use and withdraw from time to time amounts in said fund to make the transfers and deposits required by Section 5 hereof and any Parity Debt and to such other payments in the order, subject to Section 18 hereof, as directed by the Board and the holders of Parity Debt then outstanding. During any period that the Borrower Revenue Fund is held in the name and to the credit of the Board, all Borrower Revenues shall continue to be deposited in the Borrower Revenue Fund but the Borrower shall not be entitled to use or withdraw any of the Borrower Revenues unless used and withdrawn for the payment of current or past due operating expenses of the Borrower. The Borrower agrees to execute and deliver all instruments as may be required to implement this Section. The Borrower further agrees that a failure to comply with the terms of this Section shall cause irreparable harm to the Board and shall entitle the Board, with or without notice, to take immediate action to compel the specific performance of the obligations of the Borrower as provided in this Section.

(e) The Borrower shall pay to the Board such amount as is required to make the Base Loan Payments, Additional Payments and all other payments required hereunder pursuant to the payment provisions set forth in Section 5.

(f) If on the forty-fourth (44th) day prior to each Interest Payment Date or Principal Payment Date, the Board has not received moneys sufficient to pay the Base Loan Payments, Additional Payments and all other payments required hereunder, the Board shall immediately notify the Borrower of such insufficiency by telephone or other form of electronic communication (confirmed in writing).

(g) If on the day that is thirty (30) days prior to an Interest Payment Date or Principal Payment Date the Board has not received sufficient amounts to pay in full the Base Loan Payments, Additional Payments and all other payments required hereunder, the Board shall immediately notify the Borrower by telephone or other form of electronic communication (confirmed in writing). Said notice shall request the Borrower to pay in full all the Base Loan Payments, Additional Payments and all other payments required hereunder that are then due and payable not later than fifteen (15) days prior to such Interest Payment Date or Principal Payment Date.

**SECTION 8. Prepayment.** The Borrower shall have the right, so long as all amounts which have become due hereunder have been paid, at any time or from time to time to prepay all or any part of the Base Loan Payments, and the Board agrees to accept such prepayments when the same are tendered. Prepayments may be made by payments of cash. All such prepayments (and the additional payment of any amount necessary to pay the applicable premium, if any, payable upon the redemption of Bonds or any additional costs as determined by the Board) shall be deposited by the Board in a redemption or similar fund and, at the request of, and as determined by, the Borrower, credited against the Base Loan Payments in the order of their due date or used for the redemption or purchase of Bonds in the manner and subject to the terms and conditions set forth in the Indenture and the satisfaction of any rebate requirements set

forth in the Tax Certificate and the Indenture. Upon receipt by the Borrower and the Depository of a Certificate of the Board to the effect that all of the Base Loan Payments due hereunder shall have been prepaid and that all of the Additional Payments which have become due hereunder have been paid, the Borrower shall be relieved of its obligations hereunder and this Loan Agreement shall terminate.

**SECTION 9. Investments.** The Board shall have sole discretion and authority to invest any payments made by the Borrower under this Agreement. The Borrower covenants that it will not make any investments of any funds in any way pledged to the security of or reasonably expected to be used to pay the Bonds, which would cause any of the Bonds to be “arbitrage bonds” subject to federal income taxation by reason of Section 103(b)(2) of the Code. The Borrower shall not purchase any obligations of the Board, pursuant to an arrangement, formal or informal, in an amount related to the amount of the loan made to the Borrower under this Agreement. Nothing in this Section shall prohibit the Borrower from receiving Bonds by gift, bequest or devise or from purchasing Bonds in the secondary market other than pursuant to an arrangement related to the loan.

**SECTION 10. No Liability of the State or the Board.** The Borrower shall be solely responsible for its payments under this Agreement. Neither the State nor the Board shall be obligated to pay such payments and neither the faith and credit nor the taxing power of the State or of any political subdivision thereof shall be pledged to such payments. The issuance of the Bonds shall not directly or indirectly or contingently obligate the State or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Neither the members of the Board nor any officer thereof nor any person executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

**SECTION 11. Maintenance of Corporate Existence; Consolidation, Merger, Sale or Transfer Under Certain Conditions.** (a) The Borrower covenants and agrees that, so long as any of the Bonds are Outstanding pursuant to the terms of the Indenture, it will maintain its existence as a nonprofit public benefit corporation exercising corporate powers and privileges pursuant to the laws of the State and will not dissolve, sell or otherwise dispose of all or substantially all of its assets or consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it. Notwithstanding the foregoing, the Borrower may, without violating the covenants contained in this Section, consolidate with or merge into another entity, or permit one or more other entities to consolidate with or merge into it, or sell or otherwise transfer to another entity all or substantially all of its assets as an entirety and thereafter dissolve, if:

- (1) The surviving, resulting or transferee entity, as the case may be:
  - (A) is a qualified auxiliary organization of the California State University;
  - (B) assumes in writing, if such corporation is not the Borrower, all of the obligations of the Borrower under this Agreement;

(C) is not, after such transaction, otherwise in default under any provisions of this Agreement (including without limitation Section 15 hereof) and is, after such transaction, otherwise in compliance with any requirements that may be specified by the Board in its discretion in connection with such transaction or this Agreement; and

(D) is an organization described in Section 501(c)(3) of the Code, or a corresponding provision of the federal income tax laws then in effect;

(2) The Board shall have received a Certificate of the Borrower to the effect that the covenants hereunder will be met after such consolidation, merger, sale or transfer; and

(3) The Board shall have received an opinion of Bond Counsel to the effect that such merger, consolidation, sale or other transfer will not cause interest on the Bonds or the SRB Obligations to be included in gross income for federal income tax purposes under Section 103 of the Code.

(b) If a merger, consolidation, sale or other transfer is effected, as provided in this Section, the provisions of this Section shall continue in full force and effect, and no further merger, consolidation, sale or transfer shall be effected except in accordance with the provisions of this Section.

(c) Another entity may also agree to become a co-obligor and jointly and severally liable with the Borrower (without the necessity of merger, consolidation or transfer of assets) under this Agreement if the foregoing provisions (other than (a)(1)(A)) are satisfied. In such event, references in this Agreement to Indebtedness of the Borrower shall apply to the combined Indebtedness of the Borrower and such other entity, references to the financial condition or results of operations of the Borrower shall apply to the combined financial condition and results of operations of the Borrower and such other entity, and the Borrower and such other entity shall be considered to be a Borrower for all purposes of this Agreement.

**SECTION 12. Insurance.** (a) So long as any Bonds remain Outstanding pursuant to the terms of the Indenture, the Borrower shall maintain or cause to be maintained insurance or risk management programs of such type, in such amounts and against such risks as are appropriate, as determined by the Borrower, for facilities of similar size and nature as the Borrower Project (and in any event as are consistent with the amounts and risks applicable to other similar properties of the Borrower), including, but not limited to, fire and extended coverage insurance, public liability insurance, workers' compensation insurance and business interruption insurance, in the event and to the extent such insurance is customarily maintained by the Borrower for facilities of similar size and nature as the Borrower Project. The Borrower shall pay as the same become due all premiums in respect thereto. In the event of any damage to, or destruction or condemnation of the Borrower Project, the Borrower, with the prior written approval of the Board, will promptly arrange for the application of the insurance proceeds or condemnation awards for the repair, reconstruction or replacement of the damaged, destroyed or taken portion thereof or for the payment of Base Loan Payments or such other purpose as the



Borrower and the Board may determine; provided, however, that no such damage, destruction or condemnation shall relieve the Borrower of its obligations hereunder.

(b) If the Board shall so request in a Request of the Board, the Borrower shall provide to the Board summaries or other evidence of its insurance coverage and shall obtain endorsements requested by the Board in its discretion.

**SECTION 13. Financial Statements of the Borrower and Reporting of Other Information.** The Borrower will furnish the following information promptly in writing to the Board, so long as any Bonds remain Outstanding pursuant to the terms of the Indenture:

(a) its audited financial statements as of the end of each of its fiscal years certified as to fairness of presentation and conformity with accounting principles generally accepted in the United States of America by an independent auditor selected by the Borrower, as soon as accepted by its governing body and within one hundred fifty (150) days after the end thereof, if available, but in any event within one hundred eighty (180) days after the end thereof, and to the Board each year such additional copies of its audited financial statements as the Board shall request in its discretion;

(b) any change in the Borrower's account number or numbers at, or the name or the notice address of, each Borrower Banking Institution;

(c) a copy of any notice from a rating agency to the effect that any rating relating to any debt of the Borrower is being downgraded or withdrawn;

(d) such information as the Board may request in its discretion to establish or maintain the rating or ratings on the SRB Obligations; and

(e) upon the request of the Board, such other information regarding the financial position, results of operations, business or prospects of the Borrower as the Board may request in its discretion from time to time.

**SECTION 14. Inspection.** The Borrower shall, at any reasonable time and from time to time, permit the Board and its representatives and agents to (i) inspect the premises and the books and records of the Borrower for the purpose of verifying compliance by the Borrower with the covenants contained herein and all of the terms of the Act, (ii) examine and make copies of and abstracts from the records and books of account of the Borrower, (iii) discuss the affairs, finances and accounts of the Borrower with any of its officers or directors and (iv) communicate with the Borrower's independent auditors.

**SECTION 15. Tax Covenants.** (a) The Borrower covenants that it shall not take any action, or fail to take any action, if such action or failure to take such action would result in the interest on the Bonds or the SRB Obligations not being excluded from gross income for federal income tax purposes under Section 103 of the Code. Without limiting the generality of the foregoing, the Borrower covenants that it shall comply with the requirements of the Tax Certificate, which is incorporated herein as if fully set forth herein. This covenant shall survive the payment in full or the defeasance of the Bonds and the SRB Obligations.

(b) In the event that at any time the Board is of the opinion that for purposes of this Section it is necessary or helpful to restrict or limit the yield on the investment of any moneys held by the Borrower, the Board shall so instruct the Borrower in a Request of the Board.

(c) Notwithstanding any provisions of this Section, if the Board provides to the Borrower an opinion of Bond Counsel to the effect that any specified action required under this Section is no longer required or that some further or different action is required to maintain the exclusion from federal income tax of interest on the Bonds or the SRB Obligations, the Borrower may conclusively rely on such opinion in complying with the requirements of this Section and the Tax Certificate, and the covenants hereunder shall be deemed to be modified to that extent.

(d) The Borrower shall furnish, on a periodic basis, to the Board any updated information on possible unrelated business activities associated with the Project which could impact the tax-exempt status of the SRB Obligations.

(e) Notwithstanding anything to the contrary contained herein, the requirements of this Section 15 shall apply only to the extent such Bonds and SRB Obligations are issued as Tax-Exempt.

**SECTION 16. Other Covenants of the Borrower.** The Borrower covenants as follows so long as any Bonds are Outstanding pursuant to the terms of the Indenture:

(a) **Maintenance, Operation and Use of the Borrower Project.**

(1) The Borrower agrees to proceed with due diligence to complete each component of the Borrower Project within three years from the date of incurrence of the loan relating to such component of the Borrower Project; provided, however, that the Board acknowledges that each component of the Borrower Project as of the date hereof has been completed. The Borrower will use its best efforts to cause the Borrower Project to be maintained in good condition and repair, such condition and repair to be comparable with that of similar types of properties. The Borrower will maintain, operate and use the Borrower Project during the useful life thereof and will not alienate, sell, convey or transfer the Borrower Project or any portion thereof unless it either (i) provides to the Board an opinion of Bond Counsel satisfactory to the Board to the effect that such alienation, sale, conveyance or transfer will not cause interest on the Bonds or the SRB Obligations to be included in the gross income of the Holders thereof for federal income tax purposes or (ii) takes such other actions as may be required by Bond Counsel to maintain the exclusion of interest on the Bonds or the SRB Obligations from the gross income of the Holders thereof for federal income tax purposes.

(2) The Borrower shall notify the Board promptly in writing upon the completion and occupancy of each component of the Borrower Project; provided, however, that the Board acknowledges that each component of the Borrower Project existing as of the date of initial execution and delivery hereof is completed and occupied.

The Borrower shall provide the Board with such other information concerning the Borrower Project as may be requested by the Board in its discretion.

(b) **Compliance with Laws.** The Borrower will comply with all material laws, statutes, ordinances, regulations, covenants, conditions and restrictions now or hereafter affecting the Borrower Project, the Borrower or the operations thereof, and it will not commit, suffer or permit any act to be done in violation of any law, ordinance or regulation, except, in each case, where such noncompliance or act would not have a material adverse effect upon the Borrower's assets, operations or financial condition.

(c) **Taxes, Assessments, Other Governmental Charges and Utility Charges.** The Borrower will pay and discharge all taxes, assessments, governmental charges of any kind whatsoever, water rates, meter charges and other utility charges which may be or have been assessed or which may have become liens upon the Borrower Project, and will make such payments or cause such payments to be made, respectively, in due time to prevent any delinquency thereon or any forfeiture or sale of the Borrower Project or any part thereof, provided, however, that the Borrower shall not be required to pay any tax, assessment, rate or charge as herein provided as long as it shall in good faith contest the validity thereof by a proceeding which operates to prevent any forfeiture or sale of the Borrower Project or any part thereof.

(d) **Notice of Event of Default.** The Borrower will furnish, as soon as practicable and in any event within ten (10) days after it has knowledge thereof, to the Board notice of any event which constitutes, or which with the giving of notice or the passage of time or both would constitute, an event of default under Section 17 hereof, which notice shall set forth the nature of such event and the action which the Borrower proposes to take with respect thereto.

(e) **Additional Borrowing Covenants.** (1) The Borrower will not incur any Senior Debt or assume or guarantee, or otherwise obligate itself for or become liable for the payment of, or contingently agree to purchase, any debt of any person, except as expressly approved by a Certificate of the Board.

(2) The Borrower will not incur any Parity Debt except as follows:

(A) No event of default shall have occurred and be continuing under this Agreement;

(B) (i) Net Income Available for Debt Service for each of the two (2) fiscal years immediately preceding the date on which such Parity Debt will become outstanding shall have been at least equal to one and twenty-five hundredths (1.25) times the amount of Maximum Aggregate Annual Debt Service on Parity Debt and Senior Debt then outstanding and the additional Parity Debt then proposed to be issued; or (ii) Net Income Available for Debt Service for each of the two (2) fiscal years immediately following completion of the project or additions, extensions or improvements to the project paid from the proceeds of such additional Parity Debt shall be estimated to be at least equal to one and twenty-five hundredths (1.25) times the amount of Maximum Aggregate Annual Debt Service on all Parity Debt and Senior Debt then outstanding and the additional Parity Debt then proposed to be issued; provided, however,

that if such additional Parity Debt refunds any prior Parity Debt, the foregoing requirement in this clause (ii) shall not apply if Annual Debt Service for all the Parity Debt is not increased by more than \$5,000 in any year following issuance of such additional Parity Debt.

(3) The Borrower may also incur any Indebtedness secured by a lien or encumbrance which is expressly stated to be junior and subordinate to the lien and encumbrance upon the Borrower Revenues created hereunder without limitation. In addition, the Borrower may incur Non-Recourse Indebtedness without any limitation hereunder.

(4) The Borrower shall provide written notice to the Board prior to its incurrence of any Parity Debt or other Indebtedness incurred to paragraphs (2) and (3) of this subsection (e).

**SECTION 17. Events of Default.** The following shall be “events of default” under this Agreement, and the terms “events of default” or “default” shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) The Borrower fails to make any Base Loan Payment or Additional Payment by its due date; or

(b) The Borrower fails to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Agreement other than as referred to in paragraph (a) above for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied is given to the Borrower by the Board; provided, however, if the failure stated in the notice is correctable but cannot be corrected within the applicable period, the Board will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Borrower within the applicable period and diligently pursued until the default is corrected; or

(c) Any of the representations or warranties of the Borrower made herein or in any other document, certificate or writing furnished by the Borrower to the Board in connection with the application for or the negotiation of this Agreement or the issuance of the Bonds is false or incorrect in any material respect; or

(d) An Act of Bankruptcy of the Borrower shall occur.

**SECTION 18. Remedies on Default.** (a) In the event any of the Bonds shall at the time be Outstanding pursuant to the terms of the Indenture and unpaid (and provision for the payment thereof shall not have been made as provided in the Indenture), and any event of default referred to in Section 17 hereof shall have happened and be continuing, the Board may take any one or more of the following remedial steps:

(1) The Board may, at its option, declare all installments of Base Loan Payments payable for the remainder of the term of this Agreement to be immediately due and payable, whereupon the same shall become immediately due and payable.

(2) The Board may take whatever action at law or in equity may appear necessary or desirable to collect the payments then due and thereafter to become

due hereunder, whether on the stated due date or by declaration of acceleration or otherwise, for damages or for specific performance or otherwise to enforce performance and observance of any obligation, condition or covenant of the Borrower under this Agreement.

The term “*all installments*” shall mean an amount equal to the entire principal amount of the then Outstanding Bonds, together with all interest accrued or to accrue on and prior to the next succeeding redemption date or dates on which the Bonds can be and actually are redeemed after giving notice to the Holders thereof as required by the Indenture (less moneys available for such purpose then held by the Board) plus any other payments due or to become due under this Agreement, including, without limitation, any unpaid fees and expenses of the Board and the Trustee which are then due or will become due prior to the time that the Bonds are paid in full and the trust established by the Indenture is terminated.

(b) No remedy herein conferred upon or reserved to the Board is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay in exercising or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Board to exercise any remedy reserved to it by this Section, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

(c) In the event the Borrower should default under any of the provisions of this Agreement and the Board should employ attorneys or incur other expenses for the collection of the payments due under this Agreement or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower herein contained, the Borrower agrees that it will on demand therefor pay to the Board the reasonable fee of such attorneys and such other reasonable expenses so incurred by the Board.

**SECTION 19. Expenses; Indemnification.** The Borrower will pay all fees and expenses, including, without limitation, reasonable attorneys fees, reasonably incurred by the Board by reason of the execution and delivery and performance of this Agreement or the offer, sale, delivery or remarketing of the Bonds and will hold the Board free and harmless of and from any claims of any kind for such or similar fees and expenses.

The Borrower agrees to indemnify and hold harmless the Board and its officers, directors, employees and agents (each an “Indemnified Party”) from and against any and all losses, claims, damages, liabilities or expenses of every conceivable kind, character and nature whatsoever, including, but not limited to, losses, claims, damages, liabilities or expenses arising out of, resulting from or in any way connected with (i) the Borrower Project and (ii) the sale and the remarketing of any Bonds and the carrying out of any of the transactions contemplated by the Bonds, the official statement or such other disclosure material pertaining thereto (other than the information therein about the Board), the Indenture, this Agreement, or the Depositary Agreement; provided that such indemnification pursuant to this Section shall not apply to losses, claims, damages, liabilities or expenses resulting because of the willful default of the Board or

any Indemnified Party of the Board. The Borrower further agrees, to the extent permitted by law, to pay or to reimburse such Indemnified Parties for any and all reasonable costs, reasonable attorneys fees, reasonable liabilities or reasonable expenses incurred in connection with investigating, defending against or otherwise in connection with any such losses, claims, damages, liabilities, expenses or actions (other than losses, claims, damages, liabilities, expenses or actions resulting because of the willful default of the Board or any Indemnified Party of the Board).

Promptly after receipt by an Indemnified Party of notice of the commencement of any investigation or action, such Indemnified Party shall, if a claim in respect thereof is to be made against the Borrower under this Section, notify the Borrower in writing of the commencement thereof. In case any such investigation or action shall be brought against any Indemnified Party, and such Indemnified Party shall notify the Borrower of the commencement thereof, the Borrower shall be entitled to participate in and, to the extent that it wishes, to assume the defense thereof, with counsel reasonably satisfactory to such Indemnified Party, and after notice from the Borrower to such Indemnified Party of its election so to assume the defense thereof, such Indemnified Party shall cooperate with respect thereto and the Borrower shall not be liable to such Indemnified Party under this Section for any legal or other expenses subsequently incurred by such Indemnified Party in connection with the defense thereof other than reasonable costs of any investigation; provided, however, that if the named parties to any such action (including any impleaded parties) include the Indemnified Party and the Borrower, and the Indemnified Party reasonably concludes that representation of such Indemnified Party and the Borrower by the same counsel would be inappropriate (whether or not such representation by the same counsel has been proposed) under applicable standards of professional conduct due to actual or potential differing interests between them, the Indemnified Party shall have the right to select separate counsel to assume such legal defense and to otherwise participate in the defense of such action on behalf of the Indemnified Party; provided, further, however, that the Borrower shall not, in connection with any one such action or separate but substantially similar or related actions arising out of the same general allegations or circumstances, be liable for the fees and expenses of more than one separate firm of attorneys at any point in time for the Indemnified Party. The Borrower shall not be liable for any settlement of any such action effected without its prior written consent, but if settled with the prior written consent of the Borrower or if there is a final judgment for the plaintiff in any such action, the Borrower will indemnify and hold such Indemnified Party harmless from and against any loss or liability by reason of such settlement or judgment. The provisions of this Section 19 shall survive the termination of this Agreement.

**SECTION 20. Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given (i) if hand delivered or delivered by courier, when delivered to the appropriate notice address, or (ii) if mailed by first class mail, postage prepaid, upon receipt after deposit in the United States mail addressed to the appropriate notice address. The parties listed below may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice required or permitted hereunder shall be directed to the following notice address:

As to the Board: Trustees of the California State University  
Financing and Treasury  
Office of the Chancellor  
401 Golden Shore, 5th Floor  
Long Beach CA 90802-4210

As to the Borrower: Cal Poly Pomona Foundation  
Attn: Executive Director  
3801 W. Temple Ave  
Pomona, CA 91768

**SECTION 21. Governing Law; Venue.** This Agreement shall be construed in accordance with and governed by the constitution and the laws of the State applicable to contracts made and performed in the State.

**SECTION 22. Binding Effect; No Third Party Beneficiary.** The terms and provisions of this Agreement shall inure to the benefit of and shall be binding upon the Board, the Borrower and their respective successors and assigns, and is made solely and specifically for their benefit. No other person shall have any rights, interest or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third-party beneficiary or otherwise, including without limitation the owners of the Bonds or the Trustee.

**SECTION 23. Severability.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**SECTION 24. Agreement Represents Complete Agreement; Amendments.** This Agreement represents the entire contract between the Board and the Borrower with respect to the Bonds, the loan of the proceeds thereof to the Borrower and related matters. This Agreement, including the exhibits hereto, may not be effectively amended, changed, modified, altered or terminated except in a written instrument executed and delivered by the Board and the Borrower.

**SECTION 25. Execution of Counterparts.** This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 26. Section Headings and References.** The headings or titles of the several Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Agreement. All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Agreement; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof; and words of the masculine gender shall mean and include words of the feminine and neuter genders.

**SECTION 27. Term of Agreement.** Except as otherwise provided herein, this Agreement shall remain in full force and effect from the date of execution hereof until no Bonds remain Outstanding pursuant to the terms of the Indenture or otherwise unpaid under some other form of issuance documentation.

**SECTION 28. Termination of Prior Loan Agreements.** On the Effective Date, the parties agree that the Prior Loan Agreements shall be terminated and that the Borrower's obligations thereunder shall be evidenced hereby.



**IN WITNESS WHEREOF**, the Board and the Borrower have caused this Loan Agreement to be executed in their respective corporate names, all as of the date first above written.

TRUSTEES OF THE CALIFORNIA STATE  
UNIVERSITY

By \_\_\_\_\_  
Robert Eaton  
Assistant Vice Chancellor  
Financing, Treasury and Risk Management

CAL POLY POMONA FOUNDATION, INC.

By \_\_\_\_\_  
Jared Ceja  
Chief Executive Officer  
Cal Poly Pomona Foundation, Inc.

RECEIVED AND ACKNOWLEDGED:  
CAL POLYTECHNIC STATE UNIVERSITY,  
POMONA

By \_\_\_\_\_  
Michelle Cardona  
Interim Vice President & CFO  
Administration and Finance

**SCHEDULE A**

**Schedule of SRB Obligations**

<b>Loan Date</b>	<b>SRB Obligations</b>	<b>Initial Loan Amount</b>	<b>Outstanding Loan Amount as of Effective Date</b>	<b>Borrower Project</b>	<b>Base Loan Payment Schedule</b>
[June1, 2025]	Systemwide Revenue Bonds Series 2021A – Tax Exempt			Exhibit A-1	Exhibit B-1

**EXHIBIT A**

**DESCRIPTION OF THE BORROWER PROJECTS**

The term “*Borrower Project*” means, collectively, the following facilities, but only to the extent that the cost thereof has been financed or refinanced from proceeds of the Bonds:

**Exhibit A-1: The Current Student Housing Acquisition**

[TBD].

**EXHIBIT B**

**BASE LOAN PAYMENT SCHEDULES\***

**Exhibit B-1: The Current Student Housing Acquisition (Systemwide Revenue Bonds, Series 2025A – Tax Exempt)**

**EXHIBIT B-1**

2025A Loan Amount: \$128,600,000  
2025A Base Loan Payment Schedule\*:

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**Note:** The interest component of the Base Loan Payments shall be paid at the times and in the amounts specified by the Board pursuant to Section 5 hereof.

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**Note:** The interest component of the Base Loan Payments shall be paid at the times and in the amounts specified by the Board pursuant to Section 5 hereof.

