

AFTER RECORDING, MAIL TO:)
)
KIRTON MCCONKIE PC)
Attention: Joel Wright)
50 East South Temple, Suite 400)
Salt Lake City, UT 84111)

12277428
5/11/2016 1:43:00 PM \$28.00
Book - 10430 Pg - 1689-1698
Gary W. Ott
Recorder, Salt Lake County, UT
FOUNDERS TITLE LAYTON
BY: eCASH, DEPUTY - EF 10 P.

16-020696

DAVIS 08-076-0120
SL 20-35-200-044-0000

INTERCREDITOR AGREEMENT

THIS INTERCREDITOR AGREEMENT (the “**Agreement**”) is made and entered into effective on this 10th day of May, 2016, by, between and among Travis David, in its capacity as trustee for CLI Capital, a Texas real estate investment trust (“**CLI**”); the United States of America, acting through the Rural Housing Service, United States Department of Agriculture (the “**USDA**”); BANNER BANK, a Washington state bank (“**Banner Bank**”); and ASCENT ACADEMIES OF UTAH, a Utah nonprofit corporation (“**Borrower**”). CLI, the USDA and Banner Bank are collectively referred to as “**Lenders**”.

RECITALS:

A. In August of 2015, Borrower financed the purchase of its campus located at 5662 West 8200 South in West Jordan, Salt Lake County, Utah (the “**WJ Campus**”) through a loan in the original principal amount of \$12,500,000.00 from CLI (the “**CLI 2015 Loan**”). Attached hereto as Exhibit A-1” is a legal description of the WJ campus.

B. To secure its obligations with respect to the CLI 2015 Loan, Borrower granted to CLI a deed of trust lien on the WJ Campus dated as of August 26, 2015, an assignment of rents and leases dated as of August 26, 2015, and a collateral assignment of school revenues dated as of August 26, 2015 (collectively referred to as the “**CLI Collateral Documents**”).

C. In May of 2016, Borrower financed the purchase of its campus located at 22 South 650 West in Farmington, Davis County, Utah (the “**Farmington Campus**”) through a loan in the original amount of \$4,325,000 from the USDA (the “**USDA 2016 Direct Loan**”); and also by a loan in the original amount of \$4,325,000 from Banner Bank, which includes a guaranty from the USDA (the “**Banner Bank 2016 Loan**”). Attached hereto as Exhibit A-2 is a legal description of the Farmington Campus.

D. To secure its obligations with respect to the Banner Bank 2016 Loan, Borrower granted to Banner Bank a Trust Deed, Assignment of Leases and Rents, Security Agreement and Financing Statement dated May 10, 2016, which encumbers the Farmington Campus, and a Security Agreement (collectively the “**Banner Bank Collateral Documents**”).

E. To secure its obligations with respect to the USDA 2016 Direct Loan, Borrower granted to the USDA a Real Estate Deed of Trust for Utah dated May 10, 2016, which encumbers the Farmington Campus (collectively the “**USDA Collateral Documents**”).

F. The respective rights of Banner Bank and the USDA are further governed by the terms of Parity Deed of Trust and Security Interest Agreement dated May 10, 2016 with respect to the relative rights under the Banner Bank Collateral Documents and the USDA Collateral Documents (the “**Parity Agreement**”).

G. The Lender desire to set forth the scope of their relative liens and security interests granted by Borrower.

NOW THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **WJ Campus Collateral.** Lenders and Borrower agree that CLI shall have a first priority trust deed lien and security interest on the real property constituting the WJ Campus, together with all personal property located or used in connection with the WJ Campus and all revenue and State Payments attributable to the WJ Campus (collectively the “**WJ Collateral**”). Notwithstanding the scope of the collateral described in the Banner Bank Collateral Documents and the USDA Collateral Documents, Banner Bank and the USDA do not claim and disavow any lien or security interest in the WJ Campus.

2. **Farmington Campus Collateral.** Lenders and Borrower agree that Banner Bank and the USDA shall each have a first priority lien and security interest, of equal parity as determined by the Parity Agreement, on the real property constituting the Farmington Campus, together with all personal property located or used in connection with the Farmington Campus and all revenue and State Payments attributable to the Farmington Campus (collectively the “**Farmington Collateral**”). Notwithstanding the scope of the collateral described in the CLI Collateral Documents, CLI does not claim and disavows any lien or security interest in the Farmington Collateral.

3. **Custodial Agreement.** Borrower and U.S. Bank National Association (“**U.S. Bank**”) have entered into a Custodial Agreement dated May 10, 2016 pursuant to which a custodial account has been established with U.S. Bank into which State Payments from the WJ Campus and the Farmington Campus will be remitted and deposited. From that custodial account, the respective State Payments for the WJ Campus and the Farmington Campus will be deposited into subaccounts for each campus. CLI shall be entitled to take a security interest (and related control account with U.S. Bank) in the subaccount with respect to the WJ Campus, and Banner Bank and the USDA shall be entitled to take a security interest (and related control account with U.S. Bank) in the subaccount with respect to the Farmington Campus.

4. **Amendments.** The parties to this Agreement shall work in good faith to amend this Agreement as reasonably necessary to accommodate Borrower’s ability to obtain financing to purchase, refinance, or build other campuses through other financing sources including, but not limited to USDA financing, USDA guaranteed financing, tax-exempt bonds, and other private loans. Amendments hereto shall be made in writing and signed by all parties. Notwithstanding the above, Lenders have no obligation to agree to any amendment that interferes with either the WJ or Farmington Collateral or Lenders’ respective rights therein or under the Custodial Agreement.

5. **Successor and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the respective legal successors and permitted assigns of the parties hereto.


[Signature Pages Follow]

The undersigned hereby execute and deliver this Agreement, effective as of the date first written above.

**ASCENT ACADEMIES OF UTAH, a Utah
nonprofit corporation, as Borrower**

By: _____
Name: _____
Title: _____

CLI CAPITAL

By:  _____
Name: *TRAVIS DAVID* _____
Title: *Chief operating officer* _____

**UNITED STATES OF AMERICA, ACTING
THROUGH THE RURAL HOUSING
SERVICE, UNITED STATES DEPARTMENT
OF AGRICULTURE**

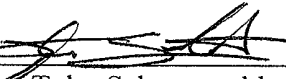
By: _____
Name: _____
Title: _____

BANNER BANK

By: _____
Name: _____
Title: _____

The undersigned hereby execute and deliver this Agreement, effective as of the date first written above.

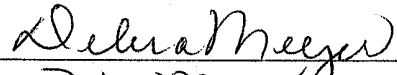
**ASCENT ACADEMIES OF UTAH, a Utah
nonprofit corporation, as Borrower**

By: 
Name: Tyler Schvaneveldt
Title: Board Financial Coordinator


CLI CAPITAL

By: _____
Name: _____
Title: _____

**UNITED STATES OF AMERICA, ACTING
THROUGH THE RURAL HOUSING
SERVICE, UNITED STATES DEPARTMENT
OF AGRICULTURE**

By: 
Name: Debra Meyer
Title: CD Director

BANNER BANK

By: 
Name: Joseph A. Trunzo
Title: Vice President

STATE OF UTAH
COUNTY OF _____

I, _____, a Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that he is President of the Board of Trustees of ASCENT ACADEMIES OF UTAH, a Utah nonprofit corporation, and that he, as President of the Board of Trustees being authorized to do so, executed the foregoing on behalf of the corporation.

WITNESS my hand and official stamp or seal, this the ____ day of _____, 2016.

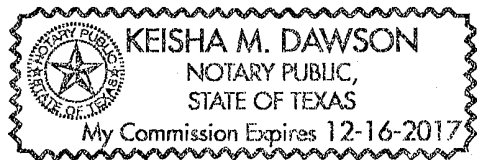
Notary Public
My Commission expires: _____

Texas
STATE OF ~~UTAH~~
COUNTY OF Potter

I, Keisha M. Dawson, a Notary Public of the County and State aforesaid, certify that Travis David personally came before me this day and acknowledged that he is Trustee of CLI CAPITAL, a Texas real estate investment trust and that he, as Trustee being authorized to do so, executed the foregoing on behalf of the investment trust.

WITNESS my hand and official stamp or seal, this the 9th day of May, 2016.

Keisha M. Dawson
Notary Public
My Commission expires: 12-16-17

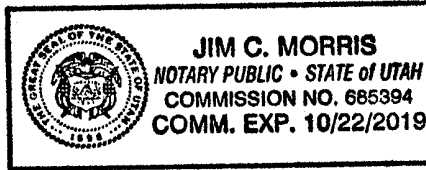


STATE OF UTAH
COUNTY OF DAVIS

I, JIM C MORRIS, a Notary Public of the County and State aforesaid, certify that Tyler Schvaneveldt personally came before me this day and acknowledged that he is Board Financial Coordinator of ASCENT ACADEMIES OF UTAH, a Utah nonprofit corporation, and that he, as President of the Board of Trustees being authorized to do so, executed the foregoing on behalf of the corporation.

WITNESS my hand and official stamp or seal, this the 10 day of May, 2016.

J C Morris
Notary Public
My Commission expires: 10-22-19



STATE OF UTAH
COUNTY OF _____

I, _____, a Notary Public of the County and State aforesaid, certify that Travis David personally came before me this day and acknowledged that he is Trustee of CLI CAPITAL, a Texas real estate investment trust and that he, as Trustee being authorized to do so, executed the foregoing on behalf of the investment trust.

WITNESS my hand and official stamp or seal, this the ____ day of May, 2016.

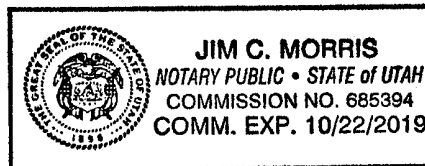
Notary Public
My Commission expires: _____

STATE OF UTAH
COUNTY OF DAVIS

I, Jim C. Morris, a Notary Public of the County and State aforesaid, certify that JOSEPH A. TRUNZO personally came before me this day and acknowledged that he is a Vice President of BANNER BANK, a Washington state bank, and that he, as Vice President being authorized to do so, executed the foregoing on behalf of the corporation.

WITNESS my hand and official stamp or seal, this the 10 day of May, 2016.

Jim C. Morris
Notary Public
My Commission expires: 10-22-19



STATE OF UTAH
COUNTY OF DAVIS

I, Jim C. Morris, a Notary Public of the County and State aforesaid, certify that Dina Meyer personally came before me this day and acknowledged that (s)he is CP Director of UNITED STATES OF AMERICA, ACTING THROUGH THE RURAL HOUSING SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE, and that (s)he, as CP Director being authorized to do so, executed the foregoing on behalf of the corporation.

WITNESS my hand and official stamp or seal, this the 10 day of May, 2016.

Jim C. Morris
Notary Public
My Commission expires: 10-22-19

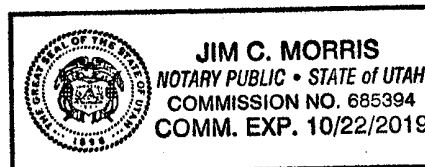


EXHIBIT A-1

WJ CAMPUS

The following real property located in Salt Lake County, State of Utah:

Tax Parcel No. 20352000440000

ALL OF LOT 1, CLAY HOLLOW SUBDIVISION PLAT, ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDED FEBRUARY 14, 2014 AS ENTRY NO. 11804743 IN BOOK 2014 OF PLATS AT PAGE 36 IN THE OFFICE OF THE COUNTY RECORDER OF SALT LAKE COUNTY, STATE OF UTAH.

EXHIBIT A-2

FARMINGTON CAMPUS

The following real property located in Davis County, State of Utah:

Tax No. 08-076-0120

BEGINNING AT THE CENTER OF SECTION 24, TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DAVIS COUNTY, UTAH AND RUNNING THENCE SOUTH 00°05'50" EAST 473.66 FEET ALONG THE QUARTER SECTION LINE AND THENCE SOUTH 90°00'00" WEST 341.46 FEET; THENCE NORTH 0°00'00" EAST 40.47 FEET; THENCE SOUTH 90°00'00" WEST 226.66 FEET TO A POINT 20 FEET EASTERLY FROM THE TOP BANK OF A STREAM; THENCE NORTHEASTERLY ALONG SAID LINE NORTH 25°00'10" EAST 47.76 FEET, NORTH 25°46'40" EAST 66.33 FEET, NORTH 32°55'22" EAST 97.73 FEET, NORTH 30°33'52" EAST 56.47 FEET, NORTH 30°48'40" EAST 60.62 FEET, NORTH 36°08'11" EAST 57.53 FEET, NORTH 50°39'16" EAST 48.30 FEET, NORTH 56°01'08" EAST 63.21 FEET, NORTH 55°21'40" EAST 63.44 FEET, NORTH 45°20'11" EAST 126.41 FEET TO A POINT ON A 475.00 FOOT RADIUS CURVE TO THE LEFT; THENCE EASTERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 119.83 FEET, (CENTRAL ANGLE=14°27'15", CHORD BEARING AND DISTANCE=SOUTH 82°21'57" EAST 119.51 FEET); THENCE SOUTH 89°34'49" EAST 20.99 FEET; THENCE SOUTH 00°07'40" EAST 73.85 FEET TO THE POINT OF BEGINNING.

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