

13114032
11/1/2019 10:57:00 AM \$40.00
Book - 10854 Pg - 5091-5100
RASHELLE HOBBS
Recorder, Salt Lake County, UT
COTTONWOOD TITLE
BY: eCASH, DEPUTY - EF 10 P.

AFTER RECORDING, MAIL TO:)
)
KIRTON MCCONKIE PC)
Attention: Joel Wright)
50 East South Temple, Suite 400)
Salt Lake City, UT 84111)
116728 - JUP

SECOND AMENDMENT TO
INTERCREDITOR AGREEMENT

THIS SECOND AMENDMENT TO INTERCREDITOR AGREEMENT (the “**Second Amendment**”) is made and entered into effective on this 31st day of October, 2019, 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**”); BANK OF AMERICAN FORK, a division of PEOPLE’S INTERMOUNTAIN BANK (“**Bank of American Fork**”); and ASCENT ACADEMIES OF UTAH, a Utah nonprofit corporation (“**Borrower**”). CLI, the USDA and Bank of American Fork are collectively referred to as “**Lenders**”.

RECITALS:

- A. On May 10, 2016, Borrower and Lenders entered into the Intercreditor Agreement as amended (the “**Agreement**”) to set forth the scope of their relative liens and security interests granted by Borrower.
- B. On August 30, 2017, Borrower and Lenders entered into the First Amendment to Intercreditor Agreement to set forth the scope of their relative liens and security interests granted by Borrower with respect to the Lehi Campus and the CLI 2017 Loan.
- C. Bank of American Fork, a division of People’s Intermountain Bank, has assumed all the rights and obligations of Banner Bank under the Agreement. Any reference in the Agreement to Banner Bank shall be replaced with Bank of American Fork.
- D. Borrower now desires to finance the purchase of its campus located at 5685 W. Cilma Dr. in West Valley City, Salt Lake County, Utah (the “**WVC Campus**”) through a loan in the original principal amount of up to \$13,500,000.00 from CLI (the “**CLI 2019 Loan**”). Attached hereto as Exhibit A is a legal description of the WVC Campus. References in the Agreement to CLI Collateral Documents shall be deemed to include the documentation for the CLI 2019 Loan.
- E. The Borrower and Lenders desire to amend the Agreement to set forth the scope of their relative liens and security interests granted by Borrower with respect to the WVC Campus and the CLI 2019 Loan.

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 to amend the Agreement as follows:

1. **Custodial Agreement**. Section 3 of the Agreement shall be amended to read as follows:

3. **Custodial Agreement**. Borrower and U.S. Bank National Association (“U.S. Bank”) have entered into a Custodial Agreement dated May 10, 2016, as amended, pursuant to which a custodial account has been established with U.S. Bank into which State Payments from the WJ Campus, Farmington Campus, Lehi Campus and WVC Campus will be remitted and deposited. From the custodial account, the respective State Payments for the WJ Campus, Farmington Campus, Lehi Campus and WVC 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 subaccounts with respect to the WJ Campus, Lehi Campus and WVC 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.

2. **WVC Campus Collateral**. The Agreement shall be amended by adding an entirely new Section 7:

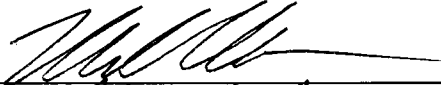
7. **WVC Campus Collateral**. Lenders and Borrower agree that CLI shall have a first priority trust deed lien and security interest on the real property constituting the WVC Campus, together with all personal property located or used in connection with the WVC Campus and all revenue and State Payments attributable to the WVC Campus (collectively the “**WVC 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 WVC Campus.

Section 3. **Affirmation**. All other terms of the Agreement shall remain enforceable as amended hereby.

****Signatures on the following pages****

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


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

By: 
Name: Luke Osterink
Title: Board Chair

CLI CAPITAL

By: _____
Name: _____
Title: _____

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

By: 
Name: Heath Price
Title: Community Programs Director

BANK OF AMERICAN FORK, a division of PEOPLE'S INTERMOUNTAIN BANK

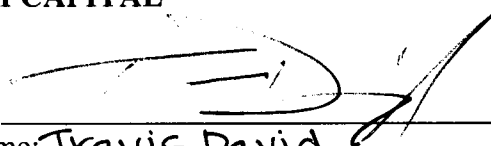
By: _____
Name: _____
Title: _____

The undersigned hereby execute and deliver this First Amendment, 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: SVP, CFO

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

By: _____
Name: _____
Title: _____

**BANK OF AMERICAN FORK, a division of
PEOPLE'S INTERMOUNTAIN BANK**

By: _____
Name: _____
Title: _____

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

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

By: _____
Name: _____
Title: _____

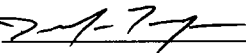
CLI CAPITAL

By: _____
Name: _____
Title: _____

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

By: _____
Name: _____
Title: _____

**BANK OF AMERICAN FORK, a division of
PEOPLE'S INTERMOUNTAIN BANK**

By:  _____
Name: Joe Trunzo
Title: Vice President

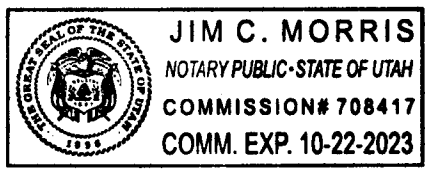
STATE OF UTAH
COUNTY OF DAVIS

I, Jim C Morris, 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 31 day of OCT, 2019.

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

* MICHAEL OSTERMILLER



STATE OF TEXAS
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 _____, 2010.

Notary Public
My Commission expires: _____

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 _____, 2019.

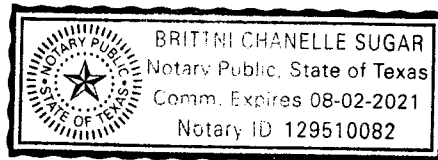
Notary Public
My Commission expires: _____

STATE OF TEXAS
COUNTY OF Potter

I, Brittini Sugar, 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 24 day of October, 2019.

Brittini Chanelle Sugar
Notary Public
My Commission expires: 8.2.21



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 a _____ of BANK OF AMERICAN FORK, a division of PEOPLE'S INTERMOUNTAIN BANK, and that he, as _____ 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 _____, 2019.

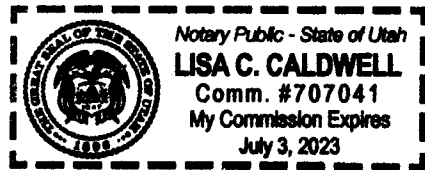
Notary Public
My Commission expires: _____

STATE OF Utah
COUNTY OF Salt Lake

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

WITNESS my hand and official stamp or seal, this the 24th day of October, 2019.

Lisa C. Caldwell
Notary Public
My Commission expires: 07-03-2023

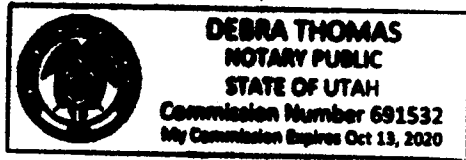


STATE OF UTAH
COUNTY OF Salt Lake

I, Debra Thomas, a Notary Public of the County and State aforesaid, certify that Joe Trunzo personally came before me this day and acknowledged that he is a Vice President of BANK OF AMERICAN FORK, a division of PEOPLE'S INTERMOUNTAIN 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 24 day of October, 2019.

Debra Thomas
Notary Public
My Commission expires: 10/13/2020



STATE OF _____
COUNTY OF _____

I, _____, a Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that (s)he is _____ of UNITED STATES OF AMERICA, ACTING THROUGH THE RURAL HOUSING SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE, and that (s)he, as _____ 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 _____, 2019.

Notary Public
My Commission expires: _____

EXHIBIT A

WVC CAMPUS

That certain real property located in Salt Lake County, Utah with a mailing address of 5685 W. Cilma Dr., West Valley City, UT 84128 and more particularly described as follows:

Lot 1, ASCENT SUBDIVISION, according to the official plat thereof as recorded in the office of the Salt Lake County Recorder, State of Utah on August 16, 2018 as Entry No. 12830862 in Book 2018P at Page 286.

Parcel No. 14-35-428-024