

CERTIFICATE AND INDEMNITY
REGARDING HAZARDOUS SUBSTANCES

THIS CERTIFICATE AND INDEMNITY REGARDING HAZARDOUS SUBSTANCES (“Certificate”) is made and entered into as of the [__]th day of December, 2017, by LAS VEGAS-CLARK COUNTY LIBRARY DISTRICT FOUNDATION, INC., a Nevada nonprofit corporation, having an address of 7060 W. Windmill Lane, Las Vegas, Nevada 89113, and MESQUITE QALICB, INC., a Nevada nonprofit corporation (“Borrower”), having an address of 7060 W. Windmill Lane, Las Vegas, Nevada 89113 (each an “Indemnitor” and collectively, “Indemnitors”), in favor of CLEARINGHOUSE NMTC (SUB 52), LLC, a California limited liability company, having an address of c/o Clearinghouse Community Development Financial Institution, 23861 El Toro Road, Suite 401, Lake Forest, CA 92630, and its successors and assigns (hereinafter referred to as “Lender”).

In connection with and as partial consideration for the loans in the aggregate principal amount of \$9,800,000 (the “Loan”) being made to Borrower by Lender pursuant to the terms and provisions of that certain Loan Agreement dated on or about the date hereof (as amended or otherwise modified from time to time, the “Loan Agreement”; Capitalized terms used and not defined herein shall have the meanings given to them in the Loan Agreement), Indemnitors hereby certify to Lender and agree as follows:

1. Indemnitors agree to promptly notify Lender if any Indemnitor becomes aware of (a) any release of Hazardous Substances (as defined below) in violation of Environmental Law (as defined below) or other material environmental problem which may cause liability under this Certificate located on or otherwise with respect to the real property legally described on Exhibit A attached hereto, or the improvements located thereon (collectively, the “Property”), or (b) any lien, action or notice resulting from violation of any Environmental Laws in connection with the Property. At their own cost, Indemnitors will take all actions which any Indemnitor is legally required to take to assess, rehabilitate clean up, contain, remediate, or address (collectively, “Site Rehabilitation”), as the case may be, in accordance with and to the extent required by any applicable law, any Hazardous Substances affecting the Property, including removal, containment or any other remedial action required by applicable governmental authorities.

2. Indemnitors shall indemnify and hold Lender and its direct and indirect members harmless from and against any and all claims, demands, damages, losses, liens, liabilities, penalties, fines, lawsuits and other proceedings and reasonable out-of-pocket costs and expenses (including costs of Site Rehabilitation and reasonable attorneys’ fees and disbursements), which accrue to or are incurred by Lender and arise directly or indirectly from or out of, or in any way connected with (a) the inaccuracy of the certifications or breach of any representation or warranty contained herein; (b) the presence or alleged presence of any Hazardous Substances on or under the Property or in any of the improvements on the Property; (c) any actual or alleged violation of any Environmental Law; or (d) any activities on the Property which directly or indirectly result in the Property or any Other Property (defined below) becoming contaminated with Hazardous Substances and any Site Rehabilitation required as a result thereof. Indemnitors acknowledge that they will be solely responsible, as between Indemnitors and Lender, for all costs and expenses relating to the Site Rehabilitation related to Hazardous Substances from the Property or from any Other Property which any Indemnitor is legally required to perform.

Without limiting the generality of the foregoing, Indemnitors shall indemnify Lender for the presence, release, or threat of release of any Hazardous Substances in, on, under, from or affecting:

- (a) the Property, and/or
- (b) any real property adjacent to or in the vicinity of the Property to which Hazardous Substances have:
 - (i) spread from the Property, and/or
 - (ii) been released in, on or under the Property.

Subject to the above limitations, such indemnity shall include, but not be limited to, any and all loss, damage, expense or similar type of economic detriment out of any one or more of the following:

- (c) injury or death to any person;
- (d) damage to or loss of use of the Property or any Other Property or ground water, waterway or body of water adjacent to the Property or any Other Property;
- (e) the cost of Site Rehabilitation activities arising out of any and all Hazardous Substances from the Property or any Other Property or surrounding area including, without limitation any ground water, waterway or body of water and the preparation of any closure or other activity to the extent such actions are legally required by any governmental entity;
- (f) the cost required to take necessary precautions required by any governmental entity to protect against the release of any Hazardous Substances in, on or under the Property or any Other Property, the air, any ground water, waterway or body of water, any public domain or any surrounding areas to the Property or any Other Property;
- (g) the cost of any demolition and rebuilding or repair of improvements on the Property or in any surrounding areas to the Property or any Other Property;
- (h) any lawsuit brought or threatened, settlement reached, or governmental order relating to the presence, suspected presence, disposal, release or threatened release of any Hazardous Substances in, on, under, from or affecting the Property or any Other Property or in any surrounding areas to the Property or any Other Property; and
- (i) the imposition of any lien on or against the Property or any Other Property or in any surrounding areas to the Property or any Other Property arising from the presence, disposal, release or threatened release of any Hazardous Substances in, on, under, from or affecting the Property or any Other Property.

3. The obligations of each Indemnitor under this Certificate are unconditional and shall not be limited by any limitations of liability provided for in any document relating to the

Loan (the “Loan Documents”). The representations, warranties and covenants of each Indemnitor set forth in this Certificate (including, without limitation, the indemnity provided for in Section 2, above) (a) are separate and distinct obligations from (i) such Indemnitor’s obligations under the Loan Agreement and the other Loan Documents evidencing and securing the Loan, and (ii) such Indemnitor’s obligations under the Guaranty; (b) shall not be discharged or satisfied by foreclosure of the liens created by such mortgages or other security documents; and (c) shall continue in effect after any transfer of the Property, including without limitation transfers pursuant to foreclosure proceedings (whether judicial or nonjudicial), or by any transfer in lieu of foreclosure. Notwithstanding the provisions of this Certificate to the contrary, Indemnitors shall not be obligated to indemnify or perform any Site Rehabilitation hereunder with regard to any Hazardous Substances first used, generated, manufactured, stored, treated, released, discharged or disposed in, on, under or about the Property by any third party which first existed on the Property following the date on which Lender or any nominee or designee of Lender, shall take title to or possession of the Property, whether by enforcement of a deed of trust, deed-in-lieu thereof or otherwise, or a receiver is appointed, or title to or possession of the Property is otherwise transferred pursuant to the exercise of remedies under the Loan Documents, as a result of which Borrower ceases to have possession or control of the Property, and the indemnification hereunder shall not cover expenses resulting from the gross negligence or willful misconduct of any such indemnified party.

4. As used in this Certificate:

(a) “Environmental Report” means collectively, that certain Phase I Environmental Site Assessment dated November 20, 2017 prepared by Geotechnical & Environmental Services, Inc. with respect to 121 West First North Street, Mesquite Nevada 89027; that certain Phase I Environmental Site Assessment Update dated November 20, 2017 prepared by Geotechnical & Environmental Services, Inc. with respect to 105 West Mesquite Boulevard & 160 West First North Street, Mesquite, Nevada 89027; that certain Phase I Environmental Site Assessment Update dated October 3, 2017 prepared by Geotechnical & Environmental Services, Inc. with respect to 121 & 160 West First North Street, Mesquite, Nevada 89027; and that certain Phase I Environmental Site Assessment dated July 13, 2016 prepared by Geotechnical & Environmental Services, Inc. with respect to 105 West Mesquite Boulevard, Mesquite, Nevada 89027.

(b) “Hazardous Substances” shall mean “Hazardous Materials,” as defined in the Loan Agreement as well as any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, a hazardous, toxic or radioactive substance, or other similar term, by any federal, state or local environmental statute, regulation, or ordinance presently in effect or that may be promulgated in the future, as such statutes, regulations and ordinances may be amended from time to time, including but not limited to the statutes listed below:

(i) Federal Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901 et seq.;

(ii) Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9601 et seq.;

(iii) Federal Clean Air Act, 42 U.S.C. Sections 7401-7626;

(iv) Federal Water Pollution Control Act, Federal Clean Water Act of 1977, 33 U.S.C. Section 1257 et seq.;

(v) Federal Insecticide, Fungicide, and Rodenticide Act, Federal Pesticide Act of 1978, 7 U.S.C. Paragraph 13 et seq.;

(vi) Federal Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; and

(vii) Federal Safe Drinking Water Act, 42 U.S.C. Section 300(f) et seq.

(c) “Other Property” means any property which becomes contaminated with Hazardous Substances directly or indirectly as a result of construction, operations or other activities on, or the contamination of, the Property.

5. This Certificate shall be binding upon and inure to the benefit of Lender and Indemnitors and their respective heirs, representatives, successors and assigns. This Certificate shall be governed under the laws of the State of Nevada, and shall be construed in accordance with and governed by the laws of said State, except to the extent that any of such laws may now or hereafter be preempted by Federal law.

6. Each Indemnitor hereby agrees that this Certificate and the Indebtedness shall remain in full force and effect at all times hereinafter until paid and/or performed in full notwithstanding any action or undertakings by, or against Lender or Indemnitors in any proceeding in the United States Bankruptcy Court, including, without limitation, any proceeding relating to valuation of collateral, election or imposition of secured or unsecured claim status upon claims by Lender pursuant to any chapter of the Bankruptcy Code or the Rules of Bankruptcy Procedure as same may be applicable from time to time.

7. Indemnitors hereby represent and warrant that they have reviewed the Environmental Report. Indemnitors further represent and warrant that, to the best of each Indemnitor’s actual knowledge, the Environmental Report accurately represented the environmental condition of the Property as of its date. Each Indemnitor hereby represents and warrants that Indemnitor has been in a position to observe and control all activities on the Property since the date of the Environmental Report to such an extent that Indemnitor can, and does hereby, represent and warrant to the best of its knowledge, that nothing has occurred at the Property or surrounding properties since the date of the Environmental Report that would exacerbate or constitute “recognized environmental conditions” not otherwise identified in the Environmental Report. Each Indemnitor hereby further represents and warrants that (i) such Indemnitor has completed, or will complete during the construction of the Project, any Site Rehabilitation legally required by the appropriate governmental authorities with jurisdiction over the matters described in the Environmental Report, (ii) such Indemnitor is in compliance with all federal, state and local Environmental Laws (as defined in the Loan Agreement) applicable to the Property and has not been cited for any violation of any federal, state or local Environmental Laws applicable to the Property, and (iii) to such Indemnitor’s knowledge, there has been no “release or threatened release of a hazardous substance” (as defined by CERCLA) or any other

release, emission or discharge into the environment of any hazardous or toxic substance, pollutant or other materials from the Property other than as permitted under the applicable Environmental Law or disclosed to Lender in the Environmental Report.

8. Indemnitors shall comply, and cause all other persons on or occupying the Property to comply, with all laws relating to Hazardous Substances; not install, use, generate, manufacture, store, treat, release or dispose of, nor permit the installation, use, generation, storage, treatment, release or disposal of, Hazardous Substances on, under or about the Property except for Hazardous Substances used in the construction, operation or use of the Property in compliance with all Environmental Laws; provide Lender with copies of all reports, analyses, notices, licenses, approvals, orders, correspondences or other written materials in its possession or control relating to the environmental condition of the Property or real property or bodies of water adjoining or in the vicinity of the Property or environmental proceedings immediately upon receipt, completion or delivery of such materials; not install or allow to be installed any tanks on, at or under the Property; not create or permit to continue in existence any lien (whether or not such lien has priority over the lien created by the Deed of Trust) upon the Property imposed pursuant to any laws relating to Hazardous Substances; and not change or alter the present use of the Property unless Indemnitors shall have notified Lender thereof in writing and Lender shall have determined, in its reasonable discretion, that such change or modification will not result in the presence of Hazardous Substances on the Property in question in such a level that would increase the potential liability for environmental proceedings.

9. Borrower hereby grants to Lender its agents, employees, consultants and contractors, an irrevocable license and authorization to enter upon and inspect the Property at reasonable times, upon reasonable advance notice and in accordance with the terms of the Ground Lease to conduct such environmental audits and tests, including, without limitation, subsurface testing, soils and groundwater testing, and other tests which may physically invade the Property, that Lender, in its sole and absolute discretion, may determine are necessary or desirable. With respect to invasive testing, such as soil borings, Lender shall consult with Borrower (and if required under the terms of the Ground Lease, the Tenant) in advance of such tests. Lender agrees, however, that it shall not conduct any such audits, unless an Event of Default exists under the Loan Documents or Lender has reason to believe that such audit may disclose the presence or release of Hazardous Substances or unless an environmental audit deems further testing necessary. Without limiting the generality of the foregoing, Borrower agrees that Lender shall have the right to appoint a receiver to enforce this right to enter and inspect the Project to the extent such authority is provided under applicable law and as permitted under the terms of the Ground Lease. All reasonable out-of-pocket costs and expenses incurred by Lender in connection with any inspection, audit or testing conducted in accordance with this Section 9 shall be paid by Borrower. The results of all investigations and reports prepared by Lender shall be and at all times remain the property of Lender and under no circumstances shall Lender have any obligation whatsoever to disclose or otherwise make available to Indemnitors or any other party such results or any other information obtained by it in connection with such investigations and reports; provided, however, that if requested by Borrower, Lender shall provide to Borrower a copy of the written report with respect to any inspection, audit or testing for which Borrower has paid hereunder.

10. Each Indemnitor acknowledges that Lender has accepted the Environmental Report for purposes of satisfying one of the conditions precedent to Lender's entering into the financing transactions contemplated by the Loan Agreement. The acceptance of such Environmental Report in no way constitutes a warranty of Lender to Indemnitors of the suitability of the Property described in the Environmental Report for environmental or any other purpose. Each Indemnitor acknowledges and agrees that it has relied upon its own review of such Environmental Report and its own counsel with reference to reliance on such Environmental Report.

11. Notwithstanding anything herein to the contrary this Certificate shall survive repayment of the Loan and termination of the Loan Documents. This Certificate shall not apply to any environmental hazards or violations first created during Lender's ownership or actual possession of the Property.

12. Time is of the essence in the performance of each and every term of this Certificate by Indemnitors.

13. No provision of this Certificate or right of Lender hereunder can be waived nor can Indemnitors be released from their obligations hereunder except by a writing duly executed by Lender. This Certificate may not be modified, amended, revised, revoked, terminated, changed or varied in any way whatsoever except by the express terms of a writing duly executed by Lender and Indemnitors.

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IN WITNESS WHEREOF, Indemnitors have executed this Certificate as of the day and year first written above.

INDEMNITORS:

**LAS VEGAS-CLARK COUNTY LIBRARY
DISTRICT FOUNDATION, INC.**
a Nevada nonprofit corporation

By: _____
Name: Edward Kojane
Title: President

MESQUITE QALICB, INC.,
a Nevada nonprofit corporation

By: _____
Name: Fred James
Title: President

EXHIBIT A

Legal Description

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF CLARK, STATE OF NEVADA, AND IS DESCRIBED AS FOLLOWS:

Parcel 1 (APN: 001-16-202-040):

That portion of Tract 37 being a portion of the West Half (W ½) of Section 16, Township 13 South, Range 71 East, M.D.B. & M., Clark County, Nevada, more particularly described as follows:

Parcel One (1) as shown by map thereof on file in File 121 of Parcel Maps, Page 54, in the Office of the County Recorder, Clark County, Nevada.

Surveyed Description:

Located in Tract 37, Township 13 South, Range 71 East, Mount Diablo Base and Meridian, within the City of Mesquite, Clark County, Nevada, Parcel 1 as recorded in File 121, Page 54 of Parcel Maps in the Official Records of Clark County, Nevada, and being more particularly described as:

Beginning at a point on the northerly line of First North Street (A 99.00 foot dedicated right-of-way) that is the Southeast corner of said Parcel 1, said point being North 88°33'18" East 252.31 feet along the monument line and North 01°26'42" West 49.50 feet from the monument in the intersection of Desert Drive and First North Street as recorded in File 162, Page 44 of Surveys in the Official Records of Clark County, Nevada and running;

Thence South 88°33'18" West 204.99 feet along the northerly line of said First North Street;

Thence Northwesterly 31.51 feet along the arc of a 20.00 foot radius curve to the right with a central angle of 90°15'50" and the center bears North 01°26'42" West, to the Easterly line of Desert Drive (a 60.00 foot dedicated right-of-way);

Thence North 01°10'52" West 178.93 feet along the Easterly line of said Desert Drive;

Thence Southeasterly 11.04 feet along the arc of a 14.61 foot non-tangent radius curve to the left with a central angle of 43°19'12" and the center bears North 41°54'26" East;

Thence North 88°35'14" East 8.53 feet;

Thence Northeasterly 7.19 feet along the arc of a 4.57 foot radius curve to the left with a central angle of 90°09'50" and the center bears North 01°24'46" West;

Thence North 1°34'36" West 13.95 feet;

Thence North 88°33'58" East 85.57 feet;

Thence North 88°22'23" East 48.88 feet;

Thence South 01°21'07" East 18.64 feet;

Thence Northeasterly 32.53 feet along the arc of a 58.12 foot non-tangent radius curve to the left with a central angle of 32°04'14" and the center bears North 05°14'11" East;

Thence Northeasterly 32.45 feet along the arc of a 32.87 foot radius curve to the right

with a central angle of 56°34'34" and the center bears South 26°50'03" East;

Thence Southeasterly 49.36 feet along the arc of a 33.94 foot radius curve to the right with a central angle of 83°19'21" and the center bears South 29°44'31" West;

Thence Southwesterly 33.36 feet along the arc of a 132.43 foot radius curve too the left with a central angle of 14°26'08" and the center bears South 66°56'08" East;

Thence North 87°58'14" East 19.46 feet;

Thence South 01°38'37" East 102.12 feet;

Thence South 88°28'39" West 13.99 feet;

Thence Southwesterly 8.48 feet along the arc of a 5.40 foot radius curve to the left with a central angle of 89°59'59" and the center bears South 01°31'21" East;

Thence South 01°31'20" East 16.47 feet to the Northerly line of said First North Street and the Point of Beginning.

As prepared by:

Victor R. Campbell, PLS No. 11424

Bulloch Brothers Engineering Inc.

750 West Pioneer Blvd.

Mesquite, Nevada 89027

Phone: (702) 346-5100

Parcel 2 (APN: 001-16-203-039):

That portion of the Southeast Quarter (SE ¼) of the Northwest Quarter (NW ¼) of Section 16, Township 13 South, Range 71 East, M.D.M., Clark County, Nevada, more particularly described as follows:

Parcel One (1) as shown by map thereof on file in File 121 of Parcel Maps, Page 55, in the Office of the County Recorder, Clark County, Nevada.

Surveyed Description:

Located in Tract 37, Township 13 South, Range 71 East, Mount Diablo Base and Meridian, within the City of Mesquite, Clark County, Nevada, Parcel 1 as recorded in File 121, Page 55 of Parcel Maps in the Official Records of Clark County, Nevada, and being more particularly described as:

Beginning at a point on the Northerly line of First North Street (a 99.00 foot dedicated right-of-way) that is the Northeast corner of said Parcel 1, said point being North 88°33'18" East 367.13 feet along the monument line and South 01°26'42" East 49.50 feet from the monument in the intersection of Desert Drive and First North Street as recorded in File 162, Page 44 of Surveys in the Official Records of Clark County, Nevada and running;

Thence South 08°03'30" East 28.23 feet;

Thence Southeasterly 59.31 feet along the arc of a 236.11 foot radius curve to the right with a central angle of 14°23'34" and the center bears South 81°56'30" West;

Thence South $06^{\circ}20'04''$ West 124.37 feet;
Thence South $88^{\circ}33'18''$ West 327.14 feet to the Easterly line of Desert Drive (a 60.00 foot dedicated right-of-way);
Thence North $01^{\circ}10'52''$ West 190.51 feet along the Easterly line of said Desert Drive;
Thence northeasterly 31.32 feet along the arc of a 20.00 foot radius curve to the right with a central angle of $89^{\circ}44'10''$ and the center bears North $88^{\circ}49'08''$ East, to the Southerly line of said First North Street;
Thence North $88^{\circ}33'18''$ East 320.45 feet along the Southerly line of said First North Street to the Point of Beginning.

As prepared by:
Victor R. Campbell, PLS No. 11424
Bulloch Brothers Engineering Inc.
750 West Pioneer Blvd.
Mesquite, Nevada 89027
Phone: (702) 346-5100

APN: 001-16-202-040, 001-16-203-039