

ITEM IV. Mesquite New Markets Tax Credit Transaction. Discussion and possible Board action to approve Resolutions and grant authority to the Foundation President to enter into any and all documents, agreements and/or instruments required for the Mesquite Library New Markets Tax Credit transaction.

Background: The Board of Directors previously approved a transaction financed through the New Markets Tax Credit program related to the Las Vegas-Clark County Library District (“Library District”) East Las Vegas Library construction project, which successfully closed on July 26, 2017. A second opportunity to pursue New Markets Tax Credit financing arose on August 29, 2017, when the Las Vegas-Clark County Library District Foundation, a Nevada non-profit corporation (the “Foundation”), received a Term Sheet from the CDFI, Clearinghouse, out of Yuba City, CA, pledging \$10.0 million in New Markets Tax Credits to finance the library facility in Mesquite, Nevada. As with the previous project, there are several entities involved in the structure of the transaction, and the Library Foundation will play the role of Leverage Lender, after receiving a grant from the Library District.

JPMorgan Chase Bank, N.A., a national banking association (“JPMC”), is the sole member of Chase Community Equity, LLC, a Delaware limited liability company (“Investor”). The Investor will be the sole member in Chase NMTC Mesquite Library Investment Fund, LLC, a Delaware limited liability company (the “Fund”). The Foundation will make a loan in an amount equal to \$6,646,000 to the Fund (the “Leverage Loan”), from proceeds granted to it by the Library District, a political subdivision of the State of Nevada. The Investor (with the proceeds of an equity investment from JPMC) will make a \$3,354,000 equity investment in the Fund, and the Fund will use such funds, together with the proceeds of the Leverage Loan, to make a “qualified equity investment” (as such term is used in Section 45D of the Internal Revenue Code of 1986, as amended (the “Code”), and referred to herein as a “QEI”) in the amount of \$10,000,000 in Clearinghouse NMTC (Sub 52), LLC, a California limited liability company (the “Project Lender”).

The Project Lender will use substantially all of the funds provided by the QEI to make certain loans to Mesquite QALICB, Inc., a Nevada non-profit corporation (“Project Borrower”), in the aggregate amount of \$9,800,000 (collectively, the “Project Loan”), each of which is intended to constitute a “qualified low-income community investment,” as such term is used in Section 45D of the Code (referred to as a “QLICI”). As a result of the QLICI’s, the QEI is expected to generate “new markets tax credits” pursuant to Section 45D of the Code.

The Project Borrower, which is Mesquite QALICB, Inc. (as referenced above), (i) will have a leasehold interest in certain real property located at 121 and 160 West First North Street, Mesquite, Nevada 89027 (collectively, the “Property”), (ii) the Project Borrower will purchase with the Project Loan a new community library facility constructed by the Library District upon the Property (the “Project”), and (iii) upon acquisition of the Project by the Project Borrower, the Project Borrower will lease the Property and Project to the Library District.

As with the previous East Las Vegas Library transaction, the bylaws for the Project Borrower require that the Board of Directors shall include two (2) independent directors elected annually pursuant to NRS 82.196 by the Board of Trustees of the Library District, from nominees who are

not officers, directors, trustees or employees of the Library District, the Foundation, or any other affiliate of the Project Borrower, the District, or the Foundation; and three (3) directors elected annually pursuant to NRS 82.196 by the Board of Trustees of the Library District from nominees who are current or former employees, officers, or trustees of the Library District or employees, officers, directors or trustees of the Foundation.

Presently, the members of the board for the Project Borrower are Library District Trustee Randy Ence, Library District CFO Fred James, Foundation Board Member Keiba Crear, and former Library District Trustees Michael Saunders and Tim Wong.

Kutak Rock, LLP (“Kutak Rock”), as lead New Markets project counsel to the Foundation, has prepared the two documents attached to this document: 1) Memorandum dated December 8, 2017, which provides detail on the transaction documents, and 2) Resolutions, which summarizes the approvals under consideration by the board for this transaction (“Resolutions”). The structure of this transaction is substantially the same as the East Las Vegas Library New Markets Tax Credit transaction. All documents, agreements and/or instruments to close the transactions will be signed by the Library District, Foundation, and Mesquite QALICB, Inc., are in substantially final form and have been reviewed and approved by the Library District’s attorneys (including Kutak Rock) and the Library District’s executives and consultants (including Crescent Growth Capital, LLC). Mitchell Stipp, of the Law Office of Mitchell Stipp, which has been engaged as local Nevada counsel for the Library District and has worked with Kutak Rock, the Library District legal counsel, and the Foundation’s consultants on the preparation and negotiation of the transaction documents, will be available at the meeting to answer any questions. All documents to be signed by the Foundation will be contingent on the review and approval of the Library District Board of Trustees to move forward with the Mesquite New Markets Tax Credit transaction.

This item requests Board of Directors’ approval of Resolutions. This approval gives Foundation President Edward Kojane the authority to sign any and all documents, agreements and/or instruments related to the Mesquite New Market transaction.

Recommended Action:

Motion to approve Resolutions and grant authority to the Foundation President to enter into any and all documents, agreements and/or instruments for the Mesquite New Markets Tax Credit transaction, effective immediately.

MEMORANDUM

TO: BOARD OF DIRECTORS OF LAS VEGAS-CLARK COUNTY LIBRARY
DISTRICT FOUNDATION, INC.

FROM: KUTAK ROCK LLP

DATE: 12/8/2017

RE: TRANSACTION DOCUMENTS FOR NEW MARKETS TAX CREDITS
TRANSACTION RELATED TO THE CONSTRUCTION OF THE
MESQUITE LIBRARY PROJECT

A. New Markets Tax Credit Transaction

Kutak Rock LLP has been engaged by Las Vegas-Clark County Library District Foundation, Inc. (the “Foundation”) to assist the Foundation with the structuring of the new markets tax credit (“NMTC”) transaction related to the construction of the Mesquite Library (the “Project”) and to review transaction documents related thereto. In order to meet the requirements of the NMTC program (the “NMTC Requirements”), the financing associated with NMTC transaction must provide a benefit to a low-income community, as that term is defined in Section 45D of the Internal Revenue Code of 1986, as amended, and the related regulations.

B. Documents Reviewed on Behalf of the Foundation

On behalf of the Foundation, we have reviewed the following documents that will be signed by the Foundation in conjunction with the NMTC financing and which will facilitate the construction of the Project. We have included a brief summary of each document which is intended to convey the main purpose of the document and is not intended to be a comprehensive summary of the business or legal points of the documents:

- 1. Grant Agreement** – this agreement documents the grant of \$6,646,000 from The Las Vegas-Clark County Library District (the “District”) to the Foundation and states the purpose of the grant. This agreement also includes an assignment of the Fund Loan Agreement and related documents from the Foundation to the District. JPMorgan Chase Bank, N.A., a national banking association (“Chase”), has agreed to this assignment.
- 2. Fund Loan Agreement** – this document evidences the agreement between the Foundation, as lender, and Chase NMTC Mesquite Library Investment Fund, LLC, a Delaware limited liability company (the “Investment Fund”), as borrower, for the Foundation to make a \$6,646,000 loan to the Investment Fund (the “Fund Loan”). All proceeds of this loan will be advanced to the Investment Fund on the date of closing.
- 3. Fund Promissory Note** – this document is not signed by the Foundation but it

evidences the Investment Fund's obligation to repay the Fund Loan. The one original copy of this note will be delivered to the Foundation after closing and is a negotiable instrument. This note should be kept in a secure location while the Fund Loan is outstanding.

4. **Allonge to Fund Promissory Note** – this document directs payments from the Investment Fund under the Fund Promissory Note to the District pursuant to the assignment of the Leverage Loan from the Foundation to the District under the Grant Agreement.
5. **Fund Pledge Agreement** – the collateral securing the Fund Loan is a pledge of the Investment Fund's limited liability company interest in Clearinghouse NMTC (Sub 52), LLC, a California limited liability company (the "Lender"). This agreement documents this collateral pledge.
6. **Officer's Certificate** – this certificate is signed by an officer of the Foundation stating that the organizational documents attached to the certificate are the current organizational documents of the Foundation and certifying that the signature of the authorized person is their signature and that the authorized person holds the office that is stated in the certificate.
7. **NMTC Resolutions** – these resolutions are passed by a quorum of directors of the Foundation and certified by the Secretary. These resolutions authorize the transaction, approve the documents and designate the person authorized to sign agreements on behalf of the Foundation.
8. **Indemnification Agreement (QALICB)** – pursuant to this agreement, Mesquite QALICB, Inc. (the "Borrower") and the Foundation agree to indemnify the Chase for losses suffered from a tax credit recapture caused by the actions of the Borrower or Foundation.
9. **Certificate and Indemnity Regarding Hazardous Substances** – pursuant to this document, the Borrower and the Foundation agree to indemnify the Lender for liabilities the Lender incurs due to violations of environmental laws at the Project.
10. **Closing Transfers Memorandum** – this spreadsheet will be signed by all transaction parties to authorize the required deposits and withdrawals on the day of closing.

C. **Compliance with NMTC Program and Benefit to Low-Income Community**

After review of the current drafts of transaction documents as of the date of this memorandum, we have determined that the transaction documents comply with the NMTC Requirements. Additionally, if the Project is completed and operated in compliance with the transaction documents we reviewed as of the date hereof, we expect the Project to meet the NMTC Requirements and that the Project will provide a benefit to the low-income community in which the Project is located.

Please let us know if you would like to discuss any of these issues further or if we can be of any other assistance.

BAB

**RESOLUTIONS OF THE BOARD OF DIRECTORS
OF LAS VEGAS-CLARK COUNTY
LIBRARY DISTRICT FOUNDATION, INC.**

As of December ____, 2017, all of the Directors of the Las Vegas-Clark County Library District Foundation, Inc., a Nevada nonprofit corporation (the "Foundation"), the following actions have been authorized, approved and agreed to, at a Special Meeting pursuant to Article V of the Bylaws of the Foundation:

WHEREAS, the Las Vegas-Clark County Library District, a political subdivision of the state of Nevada (the "District"), is the owner of that certain real property and existing improvements located at 121 and 160 West First North Street, Mesquite, Nevada 89027, the legal description of which is set forth in Exhibit A hereto (the "Land"); and

WHEREAS, the District desires to construct and equip improvements (the "Improvements") on the Land for use as a public library and community service center (the "Project"); and

WHEREAS, the District has determined that the Project may be financed in part through financing obtained under the New Markets Tax Credit Program ("NMTC Program"), established in 2000 as part of the Community Renewal Tax Relief Act of 2000; and

WHEREAS, to facilitate the participation of the District in the NMTC Program, the District desires to create a new affiliated nonprofit entity named Mesquite QALICB, Inc., a Nevada nonprofit corporation ("QALICB"), which will be controlled by the District, and lease, as lessor, its interests in the Land and the Improvements to the QALICB, as lessee, pursuant to a ground lease along with addenda attached thereto (collectively, the "Ground Lease"); and

WHEREAS, pursuant to the Ground Lease, the District will construct the Improvements on the Land and will sell the Improvements to the QALICB upon completion; and

WHEREAS, in order to facilitate participation by District and QALICB in the NMTC Program, the District, as lessee, will enter into a premises lease with QALICB, as lessor, whereby the District will lease the Land and the Improvements from QALICB, so that the District may operate the Land and Improvements as a community library facility and community service center, in furtherance of the purposes for which the District is organized; and

WHEREAS, in order to facilitate the financing under the NMTC Program, the District desires to grant \$6,646,000 to the Foundation pursuant to a grant agreement (the "Grant");

WHEREAS, in order to facilitate the financing under the NMTC Program, the Foundation desires to loan the approximate principal amount of \$6,646,000 (the "Leverage Loan") to Chase NMTC Mesquite Library Investment Fund, LLC, a Delaware limited liability company and a single-purpose investment fund (the "Fund"); and

WHEREAS, the Fund will use the proceeds of the Leverage Loan, together with other funds to be invested in the Fund by Chase Community Equity, LLC, a Delaware limited liability company ("Tax Credit Investor"), in the approximate amount of \$3,354,000, to fund a \$10,000,000 Qualified Equity Investment (the "QEI") in the aggregate in Clearinghouse NMTC

(Sub 52), LLC, a California limited liability company (the “CDE”), in exchange for Tax Credit Investor’s receipt of \$3,900,000 in New Markets Tax Credits in accordance with the NMTC Program; and

WHEREAS, the CDE will make loans to QALICB in the aggregate amount of approximately \$9,800,000 for the purpose of financing the acquisition of the Project, establishing reserves and paying fees, other up-front costs and the closing costs of the Project (the “QLICI Loan”) in accordance with those certain loan and security documents to be entered into by the CDE and QALICB; and

WHEREAS, the CDE requires that the Foundation make certain guaranties with respect to the QLICI Loan by QALICB, contained in that certain Certificate and Indemnity Regarding Hazardous Substances, by the Foundation and QALICB in favor of the CDE (the “Environmental Indemnity”), and the Foundation has determined that it is in the best interest of the Foundation to enter into the Environmental Indemnity; and

WHEREAS, the proceeds of payments made by QALICB to the CDE under the QLICI Loan will be distributed to the Fund as its source of funds for payments of principal and accrued interest to be made to the Foundation under the Leverage Loan (the transaction relating to the Leverage Loan, the Grant, and related matters, including the Environmental Indemnity, as described in the foregoing recitals, being hereinafter referred to as the “Transaction”); and

WHEREAS, in connection with the Leverage Loan, the Foundation desires to enter into various loan and security documents (collectively with all other documents to be signed by the Foundation in connection with the Leverage Loan being referred to here as the “Leverage Loan Documents”), which include but are not limited to a fund loan agreement by and between the Foundation and the Fund; and

WHEREAS, the Board of Directors has determined that the Foundation will substantially benefit from the acquisition by Tax Credit Investor of its interests in the Fund and an indirect interest in the CDE as an investor, and desire to comply with the requirements of Tax Credit Investor, as a condition to its agreement to facilitate the transactions as an investor in the Fund and the CDE, to execute, in favor of the Tax Credit Investor, that certain Indemnification Agreement (QALICB) (“Indemnity Agreement”) in which the Foundation, together with QALICB, agrees to pay to the Tax Credit Investor the amount of any recapture, disallowance or loss by the Tax Credit Investor of any of the New Markets Tax Credits as set forth in the Indemnity Agreement; and

WHEREAS, as used herein, the Leverage Loan Documents, the Indemnity Agreement, the Environmental Indemnity, the documents related to the Grant, and any other documents required to be executed and delivered by the Foundation in connection with the Transaction, are collectively referred to herein as the “Transaction Documents”; and

WHEREAS, the Board of Directors have determined that the Transaction is in furtherance of the charitable purposes of the Foundation.

NOW THEREFORE, BE IT RESOLVED, that the Board of Directors hereby consents to the participation by the Foundation in the Transaction as described in the foregoing recitals, specifically (a) making of the Leverage Loan by the Foundation, as lender, to the Fund, as borrower, under the terms of the Leverage Loan Documents to be executed by the Authorized

Representative (as hereinafter defined) of the Foundation, and (b) execution and delivery of the Transaction Documents; and

RESOLVED FURTHER, that the Board of Directors hereby consents to the indemnification of the Tax Credit Investor in connection with any recapture, disallowance or loss of any of the New Markets Tax Credits pursuant to the Indemnity Agreement; and

RESOLVED FURTHER, that the President of the Foundation or any other officer of the Foundation (“Authorized Representative”) is authorized and directed to execute and deliver the Transaction Documents on behalf of the Foundation in form and substance approved by the Authorized Representative, and with such changes thereto as the Authorized Representative may approve, the execution and delivery by the Authorized Representative being conclusive evidence of the approval of any such changes; and

RESOLVED FURTHER, that the Authorized Representative is authorized on behalf of the Foundation, to execute, deliver and perform such further agreements, certificates, filings, financing statements, instruments and other documents as may be necessary or appropriate to consummate the Transaction contemplated or required by the Transaction Documents; and

RESOLVED FURTHER, that any action previously taken by the Authorized Representative or other officer or representative of the Foundation, in the name of or on behalf of the Foundation and in furtherance of the Transaction, is hereby ratified, confirmed and approved in all respects as the action of or action on behalf of the Foundation.

The original executed copy of this document shall be filed in the minute book of the Foundation and become a part of the records of the Foundation.

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I am the duly appointed, qualified and acting Secretary for the Las Vegas-Clark County Library District Foundation, Inc., a Nevada nonprofit corporation, and do hereby represent, warrant and certify that the above resolutions were duly approved and adopted by the Board of Directors on the date first written above.

Secretary

EXHIBIT A TO RESOLUTIONS OF THE BOARD OF DIRECTORS

LEGAL DESCRIPTION OF THE LAND