

PROMISSORY NOTE

Principal	Loan Date	Maturity Date	Loan Number
<u>\$10,000,000</u>	<u>01/15/2023</u>	<u>01/15/2028</u>	<u>2023-08</u>

Borrower: Duchesne County School District Legal Name: Duchesne County School District

Address: 1010 E. 200 N., Roosevelt, UT 84066

Contact Name/Phone Number/Email: Dee Miles- Business Administrator/ (435) 738-1242/ dmiles@dcsd.org

Loan Committee Recommendation:	<u>04/28/2022</u>
USB E Finance Committee Recommendation:	<u>[TBD]</u>
USB E Board Approval:	<u>[TBD]</u>
Loan Disbursement:	<u>01/15/2023</u>
Lender:	<u>Utah State Board of Education (USB E)</u>

PROMISE TO PAY: Duchesne County School District ("Borrower") promises to pay to Utah State Board of Education ("Lender"), in lawful money of the United States of America, the principal amount of Ten Million Dollars Even (\$10,000,000), together with interest at the rate of 1.00% per annum on the unpaid principal balance from 01/15/2023 until paid in full utilizing the simple interest methodology, and such Loan Servicing Fee as is agreed to herein.

PAYMENT: Borrower will pay this loan according to the Payment Method in 5 regular payments of \$2,060,398.00 (or until paid in full) beginning on 01/01/2024. Borrower's payments must be received by the first working day of each month beginning on 01/01/2024. Borrower's final payment is due 01/01/2028, and will be for all principal, penalties if applicable, and accrued interest not yet paid. Payments include principal and interest, and may be required to include additional interest or penalties above that listed in the amortization schedule appended herein if payments are not made by the first working day of each month or within grace periods outlined below. The annual interest rate for this Note is computed on a simple interest methodology. All payments shall be applied first to penalties and interest and then to principal

DISTRIBUTION OF PRINCIPAL TO BORROWER: Accordingly, Principal for the loan will be disbursed to the Borrower per the following approved schedule

- 1) January 15, 2023 Amount: \$10,000,000.00

Interest will be accrued according to the disbursement date of the Principal amounts as reflected in the attached amortization table.

USE OF FUNDS: Borrower herein acknowledges that School Building Revolving Loan funds of \$10,000,000.00 are determined by statute to be restricted to uses specifically outlined in Loan Application Budget Details, and that accounting records will be maintained to support all expenditures associated with these funds; property records and inventory management systems will be established to safeguard property purchased with loan funds.

LOAN SERVICING FEE: In addition to the amount stated above, Borrower agrees to pay an annual loan servicing fee to Lender as published by the Department of Administrative Services. Payment of the servicing fee is due on or before July 1 of each calendar year. The loan servicing fee may be changed from year to year as determined at the sole discretion of the Department of Administrative Services. Lender shall provide Borrower with at least five days advance notice of any change in the fee before the fee is payable.

EXISTING OBLIGATIONS: Borrower shall pay any existing or outstanding obligations with regard to this loan as of 01/15/2023 and shall provide documentation of payments made upon request.

PREPAYMENT PENALTY: None.

PAYMENT METHOD: PAYMENT METHOD: Borrower will enroll in an "Automatic Clearinghouse" (ACH) program such that payments will be automatically deducted from the Borrower's designated Bank Account upon the required date of payment, each month. It is the affirmative obligation of the Borrower to keep account information and ACH permission up-to-date, and to notify USBE internal accounting and School Finance and Statistics staff of changes therein. Borrower acknowledges that the loan may be serviced through the Utah State Division of Finance which may also require up-to-date account information.

DEFAULT: Borrower will be in default if any of the following happens:

- (a) Borrower fails to make or have sufficient funds available when payment is due as per attached schedule of amortization, and fails to cure such within 15 days of receiving written notice.
- (b) Borrower fails to comply with or to perform when due any other term, obligation, covenant, or condition contained in this Note or any written agreement related to this Note, or in any other agreement or loan Borrower has with Lender.
- (c) Any representation or statement made or furnished to Lender by Borrower or on Borrower's behalf is false or misleading in any material respect either now or at the time made or furnished.
- (d) Borrower dissolves (regardless of whether election to continue is made), Borrower becomes insolvent, a receiver is appointed for any part of Borrower's property, Borrower makes an assignment for the benefit of creditors, or any proceeding is commenced either by Borrower or against Borrower under any bankruptcy or insolvency laws.
- (e) Borrower is in default under any other note, security agreement, lease agreement or lease schedule or loan agreement, whether now existing or hereafter made, between Borrower and Lender or any direct or indirect subsidiary of Lender, including school districts.
- (f) Any creditor tries to take any of Borrower's property on or in which Lender has a lien or security interest, if any.
- (g) A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of the Indebtedness is impaired.
- (h) Lender in good faith deems itself insecure.
- (i) As determined through USBE audit of school records, funds are not used in accordance with purposes stated in the supporting loan application.

LENDER'S RIGHTS: Upon default, Lender may declare the entire unpaid principal balance on this Note and all accrued unpaid interest immediately due, with 15 days written notice. Borrower may within fifteen (15) days of receipt of written notice be accorded a grace period to cure such default without any further cost or penalty, other than accrual of additional interest. Upon default, including failure to pay upon final maturity, Lender, at its option, may also, if permitted under applicable law, increase the interest rate on this Note 5.000 percentage points. The interest rate will not exceed the maximum rate permitted by applicable law. Borrower further agrees to pay all costs and expenses, if any, of the Lender in connection with the collection of this Note for any uncured default, including, subject to any limits under applicable law, Lender's reasonable attorneys' fees and Lender's legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. If not prohibited by applicable law, Borrower also will pay any, court costs, in addition to all other sums provided by law. Lender may also hire another party to collect this debt if Borrower fails to pay as per this agreement. This Note has been delivered to Lender and accepted by Lender in the State of Utah. If there is a lawsuit, Borrower agrees, upon Lender's request, to submit to the jurisdiction of the courts of Salt Lake County, the State of Utah. Lender and Borrower hereby waive the right to any jury trial in any action, proceeding or counterclaim brought by either Lender or Borrower against the other. This Note shall be governed by and construed in accordance with the laws of the State of Utah.

RIGHT OF SETOFF: Borrower grants to Lender a contractual security interest in, and hereby assigns, conveys, delivers, pledges, and transfers to Lender all Borrower's right, title and interest in and to, Borrower's accounts with Lender and all accounts Borrower may open in the future, excluding, however, all trust accounts for which the grant of a security interest would be prohibited by law. Borrower authorizes Lender to the extent permitted by applicable law, to charge or setoff all sums owing on this Note against any and all such accounts.

COLLATERAL: This note is unsecured.

ASSIGNMENT: Borrower may not transfer, assign, sell, or otherwise dispose of any of its obligations, rights or interests hereunder.

INDEMNIFICATION: Borrower further agrees to indemnify Lender, and its Board officers and employees or associated staff members (each an "Indemnified Party") from and against any and all claims, damages losses, liabilities and expenses (including reasonable fees and disbursements of counsel) for which any of them may become liable or which may be incurred by or asserted against any of them in connection with the investigation of, preparation for or defense of any pending or threatened claim or any action or proceeding arising out of, related to or in connection with this transaction whether or not any Indemnified Party or any Borrower is a party thereto, including any transaction in which any proceeds of the Loan are or are proposed to be applied; provided, however, that the Borrowers shall not be liable for any portion of such claims, damages, losses, liabilities or expenses resulting from an Indemnified Party's gross negligence or willful misconduct. The provisions of this section shall survive the termination of this Agreement.

LATE CHARGE: In the event of insufficiency of funds in bank account of record through which ACH withdrawal for repayment is conducted, request for payment will be re-run, however Borrower will be charged a late charge of 5.00% [\$103,019.90] of the delinquent payment.

JURY WAIVER: Lender and Borrower hereby waive the right to any jury trial in any action, proceeding or counterclaim brought either by Lender or Borrower against each other.

STATUTE OF FRAUDS: This promissory note and any other documents executed in connection herewith are the final expression of the agreement between Borrower and Lender and may not be contradicted by evidence of any alleged oral agreement.

GENERAL PROVISIONS: Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. Borrower or any person who signs guarantees or endorses this note or its authorizing resolution hereby waives, to the extent allowed by law, presentment, and demand for payment, protest and notice of dishonor. Upon any change in the terms of this Note or upon default, and unless otherwise expressly stated in writing, Borrower will be understood to have undertaken the obligations stated herein, whether as maker, guarantor, accommodation maker or endorser, and shall not be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan, or release any party or guarantor or collateral, if any; or impair, fail to realize upon or perfect Lender's security interest in the collateral, if any; and take any other action deemed necessary by Lender without the consent of or notice to anyone unless specifically required herein. All such parties also agree that Lender may modify this loan without the written consent of the party with whom the modification is made.

PRIOR TO SIGNING THIS NOTE, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. BORROWER AGREES TO THE TERMS OF THE NOTE AND ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THE NOTE. IN ADDITION, THE BORROWER AND ALL SIGNATORIES TO THIS NOTE AGREE TO REMAIN FULLY BOUND UNTIL THIS NOTE SHALL BE FULLY PAID AND WAIVE DEMAND, PRESENTMENT AND PROTEST AND ALL NOTICES HERETO AND FURTHER AGREE TO REMAIN BOUND NOTWITHSTANDING ANY EXTENTION, MODIFICATION, WAIVER, OR OTHER INDULGENCE OR DISCHARGE OR RELEASE OF ANY OBLIGOR HEREUNDER OR IN THE EVENT OF AN EXCHANGE OR SUBSTITUTION, OR RELEASE OF ANY COLLATERAL GRANTED AS SECURITY FOR THIS NOTE.

Executed this day _____

LENDER: Utah State Board of Education (USBE)

By _____
Board Chair, Mark Huntsman

BORROWER: Duchesne County School District

By _____
President, Tony Smith

By _____
Business Administrator, Dee Miles