

*In the opinion of Orrick, Herrington & Sutcliffe LLP, Bond Counsel to the Authority, based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 and is exempt from State of California personal income taxes. In the further opinion of Bond Counsel, interest on the Bonds is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes, although Bond Counsel observes that such interest is included in adjusted current earnings when calculating corporate alternative minimum taxable income. Bond Counsel expresses no opinion regarding any other tax consequences relating to the ownership or disposition of, or the accrual or receipt of interest on, the Bonds. See "TAX MATTERS" herein.*

**\$9,630,000**  
**CALIFORNIA MUNICIPAL FINANCE AUTHORITY**  
**Refunding Revenue Bonds**  
**(University of San Diego)**  
**Series 2012A**

**Dated: Date of Delivery**

**Due: October 1, as shown on inside cover page**

The California Municipal Finance Authority Refunding Revenue Bonds (University of San Diego), Series 2012A (the "**Bonds**") will be issued in book-entry form in denominations of \$5,000 or any integral multiple thereof. Interest on the Bonds is payable semiannually on each April 1 and October 1, commencing October 1, 2012. The Bonds will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("**DTC**"). DTC will act as securities depository for the Bonds. Principal of and interest on the Bonds will be payable directly to DTC, as the registered owner of the Bonds, by The Bank of New York Mellon Trust Company, N.A., Los Angeles, California (the "**Trustee**"). For so long as DTC or its nominee, Cede & Co., is the registered owner of the Bonds, all notices will be mailed only to Cede & Co. See **Appendix C – "BOOK-ENTRY SYSTEM"** herein.

*The Bonds are subject to redemption prior to their respective stated maturities, as more fully described herein. See "THE BONDS – Redemption."*

The Bonds are limited obligations of the California Municipal Finance Authority (the "**Authority**") payable only out of Revenues as defined in the Indenture dated as of June 1, 2012 (the "**Indenture**"), by and between the Authority and the Trustee, and other amounts held in certain of the funds established by the Indenture. The Bonds are payable from loan payments to be paid by

**UNIVERSITY OF SAN DIEGO**

pursuant to a Loan Agreement, dated as of June 1, 2012 (the "**Loan Agreement**") by and between the Authority and the University of San Diego (the "**University**"). The Bonds are being issued by the Authority on behalf of the University pursuant to the Indenture. The Authority will loan proceeds of the Bonds to the University, which will use the proceeds, together with other legally available moneys of the University, to refund certain outstanding obligations of the University. See "PLAN OF FINANCING" herein.

THE BONDS ARE LIMITED OBLIGATIONS OF THE AUTHORITY, PAYABLE SOLELY FROM AND SECURED BY THE PLEDGE OF CERTAIN REVENUES UNDER THE INDENTURE. NEITHER THE AUTHORITY, ITS MEMBERS, THE STATE OF CALIFORNIA, NOR ANY OF ITS POLITICAL SUBDIVISIONS SHALL BE DIRECTLY, INDIRECTLY, CONTINGENTLY OR MORALLY OBLIGATED TO USE ANY OTHER MONEYS OR ASSETS TO PAY ALL OR ANY PORTION OF THE DEBT SERVICE DUE ON THE BONDS, TO LEVY OR TO PLEDGE ANY FORM OF TAXATION WHATEVER THEREFOR OR TO MAKE ANY APPROPRIATION FOR THEIR PAYMENT. THE BONDS ARE NOT A PLEDGE OF THE FAITH AND CREDIT OF THE AUTHORITY, ITS MEMBERS, THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS NOR DO THEY CONSTITUTE INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION. THE AUTHORITY HAS NO TAXING POWER.

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**MATURITY SCHEDULE ON INSIDE COVER PAGE**

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*Investment in the Bonds involves risks. See "INVESTMENT CONSIDERATIONS" for a discussion of certain factors that should be considered, in addition to the other matters set forth herein, in evaluating the investment quality of the Bonds. This cover page is provided for quick reference only. Prospective purchasers of the Bonds should read this entire Official Statement to obtain information essential to the making of an informed decision.*

The Bonds are offered by George K. Baum & Company, as underwriter (the "**Underwriter**"), when, as and if issued by the Authority and accepted by the Underwriter, subject to the approval of legality by Orrick, Herrington & Sutcliffe LLP, Bond Counsel, and certain other conditions. Certain legal matters will be passed upon for the Authority by its counsel, Squire, Sanders (US) LLP, for the University by its General Counsel, and for the Underwriter by Hogan Lovells US LLP, Denver, Colorado. It is expected that the Bonds will be available for delivery through the facilities of DTC in New York, New York on or about July 3, 2012.

**George K. Baum & Company**

Dated: May 30, 2012

**MATURITY SCHEDULE**  
**(CUSIP six digit issuer No. 13048T<sup>†</sup>)**

**\$9,630,000**  
**CALIFORNIA MUNICIPAL FINANCE AUTHORITY**  
**Refunding Revenue Bonds**  
**(University of San Diego)**  
**Series 2012A**

<u>Maturity Date</u> <u>(October 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>Price</u>	<u>CUSIP<sup>†</sup></u>
2029	\$2,225,000	5.00%	3.47%	113.091%	NJ8
2030	2,330,000	5.00	3.54	112.448	NK5
2031	2,475,000	5.00	3.61	111.809	NL3
2032	2,600,000	5.00	3.67	111.266	NM1

<sup>†</sup> Copyright 2012, American Bankers Association. CUSIP data herein is provided by Standard & Poor's CUSIP Service Bureau, a division of The McGraw-Hill Companies, Inc. CUSIP numbers are provided for reference only. The Authority, the University and the Underwriter do not take responsibility for the accuracy of such numbers.

This Official Statement does not constitute an offer or solicitation of an offer to buy and there shall not be any sale of the Bonds by any person in any jurisdiction in which, or to any person to whom, it is unlawful to make such offer or solicitation of an offer to buy. The information contained herein about the Authority has been obtained from the Authority. The information concerning the University, the Refunding Project and the Plan of Financing has been obtained from the University. The information concerning DTC has been obtained from DTC. The accuracy or completeness of information furnished by any of those parties is not guaranteed and should not be construed as a representation by the Underwriter. No person has been authorized by the Authority, the University or the Underwriter to give any information or to make any representations other than those contained in this Official Statement in connection with the offering of the Bonds and, if given or made, such information or representations must not be relied upon as having been authorized by the Authority, the University or the Underwriter. Neither the delivery of this Official Statement nor any sale hereunder shall under any circumstances create any implication that there has been no change in the affairs of the Authority or the University since the date hereof. Although the Authority has consented to the use of this Official Statement in connection with the initial issuance and sale of the Bonds, the Authority makes no representation with respect to the accuracy or completeness hereof, except for the information furnished by the Authority under the captions "THE AUTHORITY" and "LITIGATION" (solely as it relates to the Authority).

The Underwriter has provided the following sentence for inclusion in this Official Statement. The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

This Official Statement contains statements which, to the extent they are not recitations of historical fact, constitute "forward-looking statements." In this respect, the words "estimate", "project", "anticipate", "expect", "intend", "believe" and similar expressions are intended to identify forward-looking statements. Any forward-looking statement is subject to uncertainty. Inevitably, some assumptions used to develop forward-looking statements will not be realized or unanticipated events and circumstances may occur. Such forward-looking statements and the achievement of certain results or other expectations contained in such forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause actual results, performance or achievements described to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. None of the Authority, the University, or the Underwriter plans to issue any updates or revisions to those forward-looking statements if or when its expectations change, or events, conditions or circumstances on which such statements are based occur. Therefore, investors should be aware that there are likely to be differences between forward-looking statements and actual results. Those differences could be material and could impact the future availability of revenues to repay the Bonds. See "SECURITY FOR THE BONDS" and **Appendix A** – "UNIVERSITY OF SAN DIEGO."

THE UNDERWRITER MAY OFFER AND SELL THE BONDS TO CERTAIN DEALERS (INCLUDING DEALERS DEPOSITING SUCH BONDS INTO INVESTMENT TRUSTS) AND OTHERS AT PRICES LOWER THAN THE OFFERING PRICES STATED ON THE INSIDE COVER PAGE HEREOF. IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE BONDS AT LEVELS ABOVE THOSE WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

**IN MAKING ANY INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE UNIVERSITY AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THE BONDS HAVE NOT BEEN APPROVED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.**

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**TABLE OF CONTENTS**

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INTRODUCTION .....	1	TAX MATTERS .....	16
THE AUTHORITY .....	5	LEGAL MATTERS .....	18
UNIVERSITY OF SAN DIEGO .....	5	LITIGATION .....	18
PLAN OF FINANCING.....	6	VERIFICATION AGENT.....	18
Estimated Sources and Uses of Funds .....	6	FINANCIAL STATEMENTS.....	18
The Refunding Project .....	6	UNDERWRITING .....	19
DEBT SERVICE SCHEDULE .....	8	CONTINUING DISCLOSURE.....	19
THE BONDS .....	9	RATING.....	20
Description of the Bonds .....	9	MISCELLANEOUS.....	20
Redemption.....	10	OFFICIAL STATEMENT CERTIFICATION..	21
SECURITY FOR THE BONDS.....	11	APPENDICES:	
ADDITIONAL INDEBTEDNESS.....	12	Appendix A – UNIVERSITY OF SAN	
INVESTMENT CONSIDERATIONS .....	12	DIEGO.....	A-1
General Considerations .....	12	Appendix B – FINANCIAL STATEMENTS	
No Mortgage or Lien Secures the		FOR THE UNIVERSITY AS	
Bonds .....	13	OF JUNE 30, 2011 AND 2010 .	B-1
Factors Affecting the University.....	13	Appendix C – BOOK-ENTRY SYSTEM.....	C-1
Insurance Coverage; Seismic		Appendix D – DEFINITIONS AND	
Conditions .....	13	SUMMARIES OF PRINCIPAL	
Investment of Funds Risk .....	14	LEGAL DOCUMENTS .....	D-1
Gifts and Fundraising.....	14	Appendix E – FORM OF BOND COUNSEL	
Tax-Exempt Status.....	14	OPINION.....	E-1
Enforceability of Remedies.....	15	Appendix F – FORM OF CONTINUING	
		DISCLOSURE AGREEMENT .	F-1

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## OFFICIAL STATEMENT

**\$9,630,000**  
**CALIFORNIA MUNICIPAL FINANCE AUTHORITY**  
**Refunding Revenue Bonds**  
**(University of San Diego)**  
**Series 2012A**

### INTRODUCTION

*This Introduction does not purport to be complete, and reference is made to the remainder of this Official Statement, the cover, the inside cover page, the Appendices and the documents referred to herein for more complete statements with respect to the matters summarized. Certain terms used in this Official Statement and not otherwise defined herein are defined in **Appendix D – "DEFINITIONS AND SUMMARIES OF PRINCIPAL LEGAL DOCUMENTS – DEFINITIONS."***

#### Generally

This Official Statement, including the cover page, inside cover page, and the Appendices hereto, sets forth certain information concerning the University of San Diego (the "**University**") and the offering of \$9,630,000 aggregate principal amount of California Municipal Finance Authority Refunding Revenue Bonds (University of San Diego), Series 2012A (the "**Bonds**"), being issued on the University's behalf. The Bonds will be issued by the Authority pursuant to and secured by an Indenture dated as of June 1, 2012 (the "**Indenture**"), between the California Municipal Finance Authority (the "**Authority**") and The Bank of New York Mellon Trust Company, N.A., Los Angeles, California, as trustee (the "**Trustee**"). The Authority is authorized to issue the Bonds pursuant to the Indenture and the provisions of the JPA Act (defined below) and the JPA Agreement (defined below). See "THE AUTHORITY" for a discussion of the JPA Act and the JPA Agreement.

The Bonds are subject to redemption prior to their respective stated maturities. See "THE BONDS – Redemption" herein. Interest on the Bonds will be payable on October 1, 2012 and semiannually thereafter on each April 1 and October 1 (each, an "**Interest Payment Date**").

The Bonds will be initially issued in book-entry form and registered in the name of Cede & Co., as nominee of The Depository Trust Company ("**DTC**"). It is expected that the Bonds will be available for delivery through the facilities of DTC in New York, New York, on or about July 3, 2012.

#### Plan of Financing

The Authority will use the proceeds of the Bonds to fund a loan (the "**Loan**") to the University pursuant to a Loan Agreement dated as of June 1, 2012 (the "**Loan Agreement**"), between the Authority and the University, to provide funds which will be used, together with other legally available moneys of the University: (i) to refund the entire \$14,110,000 outstanding principal amount of the California Educational Facilities Authority Revenue Bonds (University of San Diego) Series 2002A (the "**Refunded Bonds**") and (ii) pay certain costs related to the issuance of the Bonds. See "PLAN OF FINANCING – Estimated Sources and Uses of Funds" herein. The refunding of the Refunded Bonds with proceeds of the Bonds is referred to herein as the "**Refunding Project**."

## **Security and Sources of Payment**

Pursuant to the Indenture, the Authority will pledge to the Trustee, for the benefit of the Holders of the Bonds, the Revenues (as defined in the Indenture) consisting primarily of all payments, prepayments, and income derived from the investment of any money in any fund or account established under the Indenture and received after the date of delivery of the Bonds by the Authority or the Trustee pursuant to the Loan Agreement or the Indenture (except for amounts held in the Rebate Fund and payments to the Authority or the Trustee for administrative costs or expenses). **The Bonds are not secured by a reserve fund, mortgage lien, or security interest in any funds or other asset of the University, except certain funds held under the Indenture for the benefit of the Holders of the Bonds.**

Under the Loan Agreement, the University pledges its full faith and credit to the payments it is required to make under the Loan Agreement. The obligations of the University to make the Base Loan Payments and Additional Payments and to perform and observe the other agreements on its part contained in the Loan Agreement are absolute and unconditional general obligations of the University. In addition, the Loan Agreement contains certain covenants for the protection of the Authority and the Holders of the Bonds. See "SECURITY FOR THE BONDS" and **Appendix D** – "DEFINITIONS AND SUMMARIES OF PRINCIPAL LEGAL DOCUMENTS – LOAN AGREEMENT."

THE BONDS ARE LIMITED OBLIGATIONS OF THE AUTHORITY, PAYABLE SOLELY FROM AND SECURED BY THE PLEDGE OF CERTAIN REVENUES UNDER THE INDENTURE. NEITHER THE AUTHORITY, ITS MEMBERS, THE STATE OF CALIFORNIA, NOR ANY OF ITS POLITICAL SUBDIVISIONS SHALL BE DIRECTLY, INDIRECTLY, CONTINGENTLY OR MORALLY OBLIGATED TO USE ANY OTHER MONEYS OR ASSETS TO PAY ALL OR ANY PORTION OF THE DEBT SERVICE DUE ON THE BONDS, TO LEVY OR TO PLEDGE ANY FORM OF TAXATION WHATEVER THEREFOR OR TO MAKE ANY APPROPRIATION FOR THEIR PAYMENT. THE BONDS ARE NOT A PLEDGE OF THE FAITH AND CREDIT OF THE AUTHORITY, ITS MEMBERS, THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS NOR DO THEY CONSTITUTE INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION. THE AUTHORITY HAS NO TAXING POWER.

## **University of San Diego**

The University, located in San Diego, California, is a nonprofit, privately endowed, coeducational university chartered under the California nonprofit public benefit corporation law. The University is an independently governed institution rooted in the Roman Catholic tradition. See "UNIVERSITY OF SAN DIEGO" and **Appendix A** – "UNIVERSITY OF SAN DIEGO" for a more detailed description of the University.

## **Financial Condition of the University**

At the June 30, 2010 and June 30, 2011 fiscal year ends, the University had (i) total assets of approximately \$884,685,000 and total net assets of approximately \$605,569,000 and (ii) total assets of approximately \$972,492,000 and total net assets of approximately \$698,866,000, respectively. In addition, the University had unrestricted and temporarily restricted revenues of approximately \$269,394,000 for the fiscal year ended June 30, 2010 and of approximately \$285,186,000 for the fiscal year ended June 30, 2011. The University's audited financial statements for the fiscal years ended June 30, 2011 and June 30, 2010 are attached hereto as **Appendix B** – "FINANCIAL STATEMENTS FOR THE UNIVERSITY AS OF JUNE 30, 2011 AND 2010," which should be carefully reviewed in their entirety by prospective investors prior to making an investment decision with respect to the Bonds. See "FINANCIAL STATEMENTS."

The University, at March 31, 2012 (unaudited), had total assets of approximately \$1,002,600,000 and total net assets of approximately \$769,484,000.

### **Redemption**

The Bonds are subject to redemption prior to their respective stated maturities. See "THE BONDS – Redemption."

### **Parity Obligations**

The University has certain other obligations outstanding in the aggregate principal amount of \$169,217,341 (taking into account the funding of the Refunding Project) payable on a parity with the Bonds: (i) a loan agreement executed in connection with the \$9,966,768 outstanding aggregate principal amount of the California Educational Facilities Authority Revenue Bonds (University of San Diego), Series 1999 (the "**Series 1999 Bonds**"); (ii) a loan agreement executed in connection with the \$93,415,000 outstanding aggregate principal amount of California Statewide Communities Development Authority Variable Rate Demand Revenue Bonds (University of San Diego), Series 2005 (the "**Series 2005 Bonds**"); (iii) a loan agreement executed in connection with the California Educational Facilities Authority Refunding Revenue Bonds (University of San Diego) (the "**CEFA Series 2011 Bonds**"), outstanding in the aggregate principal amount of \$16,915,000; (iv) a loan agreement executed in connection with the California Municipal Finance Authority Refunding Revenue Bonds (University of San Diego), Series 2011A and 2011B (the "**CMFA Series 2011 Bonds**"), outstanding in the aggregate principal amount of \$41,130,000; and (v) a ten year term loan with U.S. Bank National Association (the "**U.S. Bank Loan**") outstanding in the aggregate principal amount of \$7,790,573. In addition, the University maintains a \$10 million variable rate line of credit provided by Wells Fargo Bank, N.A. (the "**Wells Fargo Line of Credit**") that may be used for working capital purposes. There were no borrowings under the Wells Fargo Line of Credit at June 30, 2011, and no borrowings thereunder are currently anticipated. The Series 1999 Bonds, the Series 2005 Bonds, the CEFA Series 2011 Bonds, the CMFA Series 2011 Bonds, the U.S. Bank Loan, and the Wells Fargo Line of Credit are referred to herein collectively as the "**Parity Obligations.**" See **Appendix A – "UNIVERSITY OF SAN DIEGO – FINANCIAL MATTERS – Outstanding Indebtedness."** The University may incur additional debt in the future under certain circumstances. See "Certain Covenants" below and "ADDITIONAL INDEBTEDNESS" herein.

### **Certain Covenants of the University**

The University will agree in the Loan Agreement to maintain its accredited status with both the Western Association of Schools and Colleges and the American Bar Association (or successor accrediting agencies), and not to take any action that would impair the tax-exempt status of the Bonds. In addition, the University will covenant in the Loan Agreement that it will not issue any debt unless the University provides to the Trustee a duly executed Certificate (with supporting calculations) to the effect that, as of the date of issuance of such additional debt, the University's Unrestricted and Temporarily Restricted Net Assets (meaning the sum of the University's unrestricted and temporarily restricted assets, including plant assets after adding back depreciation and amortization, and subtracting total liabilities excluding all Debt Outstanding) shall be equal to at least 200% of the University's Debt Outstanding (meaning all outstanding debt with maturities greater than 90 days under generally accepted accounting principles and not including contingent liabilities). These and other covenants of the University are discussed further in **Appendix D – "DEFINITIONS AND SUMMARIES OF PRINCIPAL LEGAL DOCUMENTS – LOAN AGREEMENT."**

Under the loan documents entered into by the University in connection with the Parity Obligations, the University agreed to limitations on the incurrence of additional indebtedness that are substantially

similar to the limitation on the incurrence of additional indebtedness included in the Loan Agreement and described in the preceding paragraph. The University has also agreed pursuant to the terms of the Wells Fargo Letter of Credit (as defined in **Appendix A** hereto), which supports the payment of the principal, purchase price, and interest on the Series 2005 Bonds, and the Wells Fargo Line of Credit to comply with certain financial covenants. See **Appendix A – "UNIVERSITY OF SAN DIEGO – FINANCIAL MATTERS – Outstanding Indebtedness"** for additional information regarding such financial covenants. The University has historically complied, and presently is in compliance, with its covenants under the various agreements relating to the Parity Obligations.

### **Continuing Disclosure**

The University will undertake in a Continuing Disclosure Agreement, for the benefit of the Holders of the Bonds, to provide, or cause to be provided, to the Municipal Securities Rulemaking Board (the "**MSRB**") at its Electronic Municipal Market Access System ("**EMMA**") certain annual information and notices required to be provided by Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended. See "**CONTINUING DISCLOSURE**" and **Appendix F – "FORM OF CONTINUING DISCLOSURE AGREEMENT."**

### **Miscellaneous**

The descriptions herein of the Indenture, the Loan Agreement, the Continuing Disclosure Agreement dated as of July 3, 2012 (the "**Continuing Disclosure Agreement**") between the University and the Trustee, and other agreements relating to the Bonds are qualified in their entirety by reference to such documents, and the description herein of the Bonds is qualified in its entirety by the form thereof and the information with respect thereto included therein. All descriptions are further qualified in their entirety by reference to laws relating to or affecting the enforcement of creditors' rights. The agreements of the Authority with the Holders of Bonds are fully set forth in the Indenture, and neither any advertisement of the Bonds nor this Official Statement is to be construed as constituting an agreement with the purchasers of the Bonds. See **Appendix D – "DEFINITIONS AND SUMMARIES OF PRINCIPAL LEGAL DOCUMENTS"** for a brief summary of the rights and duties of the Authority, the rights and remedies of the Trustee and the Bondholders upon an event of default, provisions relating to amendment of the Indenture and procedures for defeasance of the Bonds.

All capitalized terms used in the body of this Official Statement and not otherwise defined herein are defined in **Appendix D – "DEFINITIONS AND SUMMARIES OF PRINCIPAL LEGAL DOCUMENTS – DEFINITIONS."**

Copies of the Indenture, the Loan Agreement, the Continuing Disclosure Agreement and other agreements relating to the Bonds are available for inspection at the University of San Diego, 5998 Alcalá Park, Hughes Center, Room 320, San Diego, California 92110, or may be obtained in reasonable quantity upon request directed to the Trustee, the Underwriter or the University. The University will deposit copies of its annual financial statements, as well as other limited information when such information becomes available, with the MSRB. See "**CONTINUING DISCLOSURE**" herein.

Insofar as any statements made in this Official Statement involve matters of opinion, regardless of whether expressly so stated, they are intended merely as such and not as representations of fact. The information and expressions of opinion herein speak only as of their date and are subject to change without notice. Neither the delivery of this Official Statement nor the consummation of any sale made hereunder nor any future use of this Official Statement shall under any circumstances, create any implication that there has been no change in the affairs of the Authority or the University.

## THE AUTHORITY

Under the Joint Exercise of Powers Act (the "**JPA Act**"), comprising Articles 1, 2, 3 and 4 of Chapter 5 of Division 7 of Title 1 (commencing with Section 6500) of the California Government Code, certain California cities, counties and special districts have entered into a joint exercise of powers agreement (the "**JPA Agreement**") forming the Authority for the purpose of exercising powers common to the members and exercising the additional powers granted to the Authority by the JPA Act and any other applicable provisions of California law. Under the JPA Agreement, the Authority may issue bonds, notes or any other evidence of indebtedness, for any purpose or activity permitted under the JPA Act or any other applicable law.

The Authority may sell and deliver obligations other than the Bonds. Such obligations other than the Bonds will be secured by instruments separate and apart from the Indenture and the Loan Agreement, and the holders of such other obligations of the Authority will have no claim on the security for the Bonds. Likewise, the Holders of the Bonds will have no claim on the security for such other obligations that may be issued by the Authority.

Neither the Authority nor its independent contractors has furnished, reviewed, investigated or verified the information contained in this Official Statement other than the information contained in this section and the section entitled "LITIGATION" (solely as it relates to the Authority). The Authority does not and will not in the future monitor the financial condition of the University or otherwise monitor payment of the Bonds or compliance with the documents relating thereto. Any commitment or obligation for continuing disclosure with respect to the Bonds or the University has been undertaken solely by the University. See "INTRODUCTION – Continuing Disclosure" and "CONTINUING DISCLOSURE" herein.

## UNIVERSITY OF SAN DIEGO

The University, located in San Diego, California, is a nonprofit, privately endowed, coeducational university chartered under the California nonprofit public benefit corporation law. The University is an independently governed institution rooted in the Roman Catholic tradition. For Fall 2011, the total headcount enrollment was 8,317 students in undergraduate, graduate and professional programs, which translates into a full-time equivalent enrollment of 7,748 students. *The issuance of the Bonds by the Authority does not constitute an endorsement of the religious principles or practices of the University.* See **Appendix A** – "UNIVERSITY OF SAN DIEGO" for a more detailed description of the University.

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**PLAN OF FINANCING**

**Estimated Sources and Uses of Funds**

The estimated sources and uses of funds relating to the Bonds and other legally available moneys of the University are set forth in the following table.

SOURCES OF FUNDS:	<u>Estimated Amounts</u>
Par amount of the Bonds .....	\$9,630,000.00
Contribution by University .....	3,881,371.56
Original issue premium <sup>(1)</sup> .....	<u>1,166,501.90</u>
TOTAL SOURCES OF FUNDS .....	<u>\$14,677,873.46</u>
<b>USES OF FUNDS:</b>	
Deposit to Escrow Fund <sup>(2)</sup> .....	\$14,487,543.00
For costs of issuance <sup>(3)</sup> .....	<u>190,330.46</u>
TOTAL USES OF FUNDS .....	<u>\$14,677,873.46</u>

- <sup>(1)</sup> Amount shown represents original issue premium. See "TAX MATTERS."  
<sup>(2)</sup> See "The Refunding Project" under this caption.  
<sup>(3)</sup> Costs of issuance include legal fees, financial consultant's fees, if any, the rating agency fee, the Underwriter's fee, Authority fee, and other costs. See "UNDERWRITING." Costs of issuance will be paid with moneys contributed by the University.

**The Refunding Project**

*Generally*

A portion of the proceeds of the Bonds, together with other legally available moneys of the University, will be used to refund and redeem the Refunded Bonds as described below.

*Refunded Bonds*

The proceeds of the Bonds, together with other legally available moneys of the University, will be deposited into an escrow fund (the "**Escrow Fund**") established pursuant to an escrow agreement relating to the Refunded Bonds (the "**Escrow Agreement**"), by and among the University, and The Bank of New York Mellon Trust Company, N.A. (successor to BNY Western Trust Company, as trustee for the Refunded Bonds), as escrow agent, and acknowledged and accepted by the California Educational Facilities Authority, and will be held uninvested until applied to pay the redemption price of the Refunded Bonds on their redemption date of October 1, 2012. See "Verification of Mathematical Calculations" under this caption.

*Verification of Mathematical Calculations*

Prior to the delivery of the Bonds, Robert Thomas CPA, LLC, will deliver a report on the mathematical accuracy of certain computations contained in schedules provided to them by the Underwriter relating to the adequacy of the amount held in the Escrow Fund to pay all of the principal of and interest on the Refunded Bonds when due.

Based on the mathematical computations of the accountants, the Escrow Fund will be funded in an amount sufficient such that the Refunded Bonds will be deemed to have been paid and will no longer be outstanding as of the date of the deposit to the Escrow Fund as described herein. See "VERIFICATION AGENT."

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## DEBT SERVICE SCHEDULE

The following table reflects the debt service due on the Bonds and the Parity Obligations in each fiscal year ending June 30 through the final maturity date of the Bonds.

### Debt Service Schedule

Fiscal Year (ending June 30)	Debt Service on Series 2012A Bonds			Annual Debt Service on	Total Annual Debt Service
	Principal <sup>(1)</sup>	Interest <sup>(2)</sup>	Annual Debt Service	Parity Obligations <sup>(3)</sup>	
2012	\$ --	\$ --	\$ --	\$8,260,751	\$8,260,751
2013	--	358,450	358,450	9,843,634	10,202,084
2014	--	481,500	481,500	9,826,688	10,308,188
2015	--	481,500	481,500	9,824,765	10,306,265
2016	--	481,500	481,500	9,835,439	10,316,939
2017	--	481,500	481,500	9,819,604	10,301,104
2018	--	481,500	481,500	9,814,665	10,296,165
2019	--	481,500	481,500	9,827,356	10,308,856
2020	--	481,500	481,500	9,828,518	10,310,018
2021	--	481,500	481,500	9,829,015	10,310,515
2022	--	481,500	481,500	9,819,348	10,300,848
2023	--	481,500	481,500	9,819,332	10,300,832
2024	--	481,500	481,500	9,994,512	10,476,012
2025	--	481,500	481,500	9,987,300	10,468,800
2026	--	481,500	481,500	9,614,594	10,096,094
2027	--	481,500	481,500	9,586,259	10,067,759
2028	--	481,500	481,500	9,576,779	10,058,279
2029	--	481,500	481,500	9,555,044	10,036,544
2030	2,225,000	425,875	2,650,875	6,748,587	9,399,462
2031	2,330,000	312,000	2,642,000	6,742,088	9,384,088
2032	2,475,000	191,875	2,666,875	6,745,655	9,412,530
2033	2,600,000	65,000	2,665,000	6,729,360	9,394,360
2034	--	--	--	8,378,607	8,378,607
2035	--	--	--	8,391,454	8,391,454
2036	--	--	--	8,400,953	8,400,953
2037	--	--	--	8,416,680	8,416,680
2038	--	--	--	8,428,246	8,428,246
2039	--	--	--	8,440,386	8,440,386
2040	--	--	--	8,452,677	8,452,677
2041	--	--	--	8,469,641	8,469,641
2042	--	--	--	8,485,765	8,485,765
2043	--	--	--	8,649,279	8,649,279
2044	--	--	--	8,675,441	8,675,441
2045	--	--	--	8,695,975	8,695,975
2046	--	--	--	8,720,532	8,720,532
<b>Total</b>	<u>\$9,630,000</u>	<u>\$9,057,200</u>	<u>\$18,687,200</u>	<u>\$312,234,929</u>	<u>\$330,922,129</u>

(1) Payable on October 1.

(2) Payable on April 1 and October 1, commencing October 1, 2012.

(3) Adjusted to reflect the refunding of the Refunded Bonds as part of the Refunding Project. Interest with respect to the Series 2005 Bonds is estimated based on a swap rate of 3.513%. Principal payments with respect to the Series 2005 Bonds are calculated based on the University's agreement under the swap to cause the amortization of the principal of the Series 2005 Bonds in certain amounts, beginning in October 2012 and continuing from time to time thereafter until maturity, by directing the Authority to optionally redeem the Series 2005 Bonds pursuant to the Indenture relating to the Series 2005 Bonds.

## THE BONDS

### Description of the Bonds

The Bonds will be issued and sold in the aggregate principal amount will mature on October 1 in the years and in the principal amounts, and will bear interest at the rates set forth on the inside cover page hereof. The Bonds will be initially issued and sold as fully registered bonds, without coupons, in book-entry form only in denominations of \$5,000 each and any integral multiple thereof. Interest on the Bonds is payable on October 1, 2012 and semiannually thereafter on each April 1 and October 1 (each an "**Interest Payment Date**"). The principal or redemption price of and interest with respect to the Bonds is payable by the Trustee to Cede & Co., as the nominee of DTC, which will remit such principal, premium (if any), and interest to the DTC participants, which will in turn remit such principal, premium (if any), and interest to the beneficial owners of the Bonds. See **Appendix C** – "BOOK-ENTRY SYSTEM." Any such interest not so punctually paid or duly provided for shall cease to be payable to the Bondholder on such Record Date and shall be paid to the person in whose name the Bond is registered at the close of business on a Special Record Date for the payment of such defaulted interest. The Special Record Date shall be fixed by the Trustee, notice thereof being given to the Bondholders not less than ten days prior to such Special Record Date.

The Bonds will be dated the date of delivery and will bear interest (calculated on the basis of a 360-day year comprised of twelve 30-day months payable in arrears) from the Interest Payment Date to which interest has been paid as of the date of authentication thereof or, if a Bond is authenticated on or before the Record Date for the first Interest Payment Date, from its dated date; provided, however, that if, as of the date of authentication of any Bond, interest thereon is in default, such Bond will bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

The principal of and premium, if any, on the Bonds shall be payable in lawful money of the United States of America upon surrender at the Principal Corporate Trust Office of the Trustee. The interest on any Bond shall be payable to the person whose name appears on the registration books of the Trustee as the registered owner thereof as of the close of business on the Record Date for each Interest Payment Date, such interest to be paid by check mailed by first-class mail on such Interest Payment Date, to the registered owner at his or her address as it appears on such registration books. Notwithstanding the foregoing, however, any Holder of all the Bonds and any Holder of \$1,000,000 or more in aggregate principal amount of the Bonds shall be entitled to receive payments of interest on the Bonds held by it by wire transfer of immediately available funds to such bank or trust company located within the United States of America as such Holder shall designate in writing to the Trustee by the Record Date for such payment. So long as Cede & Co. is the registered owner of the Bonds, principal of and interest on the Bonds are payable by wire transfer of same day funds by the Trustee to Cede & Co., as nominee for DTC. See **Appendix C** – "BOOK-ENTRY SYSTEM."

During any time the Bonds are not registered as book-entry only as described in **Appendix C** – "BOOK-ENTRY SYSTEM," the Bonds may be transferred or exchanged upon presentation and surrender at the Principal Corporate Trust Office of the Trustee, provided that the Trustee will not be required to register the transfer or exchange of any Bonds during the period established by the Trustee for selection of Bonds for redemption and after a Bond has been selected for redemption. The Authority and the Trustee will, under certain circumstances, replace Bonds which have been mutilated, lost, destroyed or stolen. The Authority may require payment of a reasonable fee and of the expenses which may be incurred by the Authority or the Trustee for each new Bond issued to replace a Bond that has been mutilated, lost, destroyed or stolen.

In the event that the book-entry only system is discontinued, payments of principal and interest with respect to the Bonds shall be payable as described above. See **Appendix C** – "BOOK-ENTRY SYSTEM" for a more complete discussion of the book-entry only system.

## **Redemption**

### *Optional Redemption*

The Bonds maturing on or after October 1, 2023, are subject to redemption prior to their respective stated maturities, as a whole or in part on any date on or after October 1, 2022, from any moneys received by the Trustee from the Borrower pursuant to the Loan Agreement and deposited in the Optional Redemption Account, provided in each case that the maturities and the amount of Bonds of each maturity to be redeemed from the amount so prepaid and the redemption date shall be as specified in the request of the Borrower given pursuant to the Loan Agreement, at par plus accrued interest, if any, to the date of redemption.

### *Selection of Bonds for Redemption*

Whenever provision is made in the Indenture for the redemption of less than all of the Bonds, the Trustee is to select the Bonds to be redeemed, from the Outstanding Bonds not previously called for redemption, by lot within a maturity and, if from more than one maturity, in inverse order of maturity or in such other order of maturity as shall be specified in a request of the Borrower pursuant to the Loan Agreement.

### *Notice and Effect of Redemption*

Notice of redemption will be given by the Trustee by first class mail, postage prepaid, to Bondholders not less than thirty (30) days or more than sixty (60) days prior to the date fixed for redemption as hereinafter provided to (i) the respective Holders of any Bonds designated for redemption at their addresses appearing on the Bond registration books of the Trustee, (ii) the Information Securities Depositories, (iii) the Authority, (iv) one or more Information Services, and (v) the Municipal Securities Rulemaking Board through its Electronic Municipal Marketplace Access (EMMA) System. Notice of redemption to the Information Securities Depositories and the Information Services shall be given by telecopy confirmed by first class mail. Each notice of redemption shall state the date of such notice, the redemption date, the redemption price (including any premium), the place or places of redemption (including the name and appropriate address or addresses of the Trustee), the CUSIP number (if any) of the maturity or maturities, and, if less than all the Bonds of any maturity are to be redeemed, the distinctive certificate numbers of the Bonds of such maturity to be redeemed and, in the case of Bonds to be redeemed in part only, the respective portions of the principal amount thereof to be redeemed. Each such notice will also state that on said date there will become due and payable on each of said Bonds the redemption price thereof or of said specified portion of the principal amount thereof in the case of a Bond to be redeemed in part only, together with interest accrued thereon to the redemption date, and that from and after such redemption date interest thereon will cease to accrue, and will require that such Bonds be then surrendered at the address or addresses of the Trustee specified in the redemption notice.

Notwithstanding the foregoing, failure by the Trustee to give notice pursuant to the Indenture as described above to one or more of the Information Services or the Information Securities Depositories or Municipal Securities Rulemaking Board, or the insufficiency of any such notices shall not affect the sufficiency of the proceedings for redemption. Failure to mail the notices required by the Indenture to any Holder of any Bond designated for redemption, or any defect in any notice so mailed, shall not affect the validity of the proceedings for redemption of any other Bonds.

### *Conditional Notice of Redemption*

Notwithstanding the foregoing, with respect to any notice of redemption of the Bonds from the prepayment of Base Loan Payments by the Borrower pursuant to the Loan Agreement, unless upon the giving of such notice such Bonds shall be deemed to have been paid within the meaning of the defeasance provisions of the Indenture, such notice shall state that such redemption shall be conditional upon the receipt by the Trustee on or prior to the date fixed for such redemption of amounts sufficient to pay the principal of, and premium, if any, and interest on, such Bonds to be redeemed, and that if such amounts shall not have been so received said notice shall be of no force and effect, the Bonds shall not be subject to redemption on such date and the Bonds shall not be required to be redeemed on such date. In the event that such notice of redemption contains such a condition and amounts are not so received, the redemption shall not be made and the Trustee shall within a reasonable time thereafter give notice, to the Persons and in the manner in which the notice of redemption was given, that such amounts were not so received.

### **SECURITY FOR THE BONDS**

The following is a brief description of the security provided for the payment of the Bonds. For a more complete description of the security for the Bonds as provided by the Indenture and the Loan Agreement, see **Appendix D** – "DEFINITIONS AND SUMMARIES OF PRINCIPAL LEGAL DOCUMENTS."

The Bonds are payable from funds to be paid to the Trustee by the University pursuant to the Loan Agreement, which funds consist primarily of loan payments to be paid to the Trustee by the University pursuant to the University's absolute and unconditional general obligations thereunder. The Loan Agreement contains certain covenants for the protection of the Authority and the Holders of the Bonds. See "INTRODUCTION – Certain Covenants of the University" above and **Appendix D** – "DEFINITIONS AND SUMMARIES OF PRINCIPAL LEGAL DOCUMENTS – LOAN AGREEMENT."

**The Bonds are not secured by a reserve fund, mortgage lien or security interest on or in any funds or other assets of the University, except certain funds held under the Indenture for the benefit of the Holders of the Bonds. See "INVESTMENT CONSIDERATIONS – No Mortgage or Lien Secures the Bonds."**

Under the Loan Agreement, the University pledges its full faith and credit to the payments it is required to make under the Loan Agreement. The obligations of the University to make the Base Loan Payments and Additional Payments and to perform and observe the other agreements on its part contained in the Loan Agreement are absolute and unconditional general obligations of the University. See **Appendix D** – "DEFINITIONS AND SUMMARIES OF PRINCIPAL LEGAL DOCUMENTS – LOAN AGREEMENT." Pursuant to the Indenture, the Authority will irrevocably pledge to the Trustee for the benefit of the Holders of the Bonds and to secure the payment of the principal of and premium, if any, and interest on the Bonds in accordance with the terms and provisions of the Indenture, subject only to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth therein, and subject to the rights of the Holders of the Bonds, all of the Revenues (as defined in **Appendix D** hereto) and any other amounts (including proceeds of the sale of Bonds but excluding Additional Payments paid by the University pursuant to the Loan Agreement, costs of issuance, other expenses and indemnification paid by the University pursuant to the Loan Agreement) held in any fund or account established pursuant to the Indenture other than the Rebate Fund. Such pledge will constitute a lien on and security interest in such assets and will attach, be perfected and be valid and binding from and after the delivery of the Bonds, without any physical delivery thereof or further act.

The Bonds will be payable on a parity basis with the Parity Obligations which are also general, unsecured obligations of the University. See "INTRODUCTION – Parity Obligations" and **Appendix A – "UNIVERSITY OF SAN DIEGO – FINANCIAL MATTERS."**

THE BONDS ARE LIMITED OBLIGATIONS OF THE AUTHORITY, PAYABLE SOLELY FROM AND SECURED BY THE PLEDGE OF CERTAIN REVENUES UNDER THE INDENTURE. NEITHER THE AUTHORITY, ITS MEMBERS, THE STATE OF CALIFORNIA, NOR ANY OF ITS POLITICAL SUBDIVISIONS SHALL BE DIRECTLY, INDIRECTLY, CONTINGENTLY OR MORALLY OBLIGATED TO USE ANY OTHER MONEYS OR ASSETS TO PAY ALL OR ANY PORTION OF THE DEBT SERVICE DUE ON THE BONDS, TO LEVY OR TO PLEDGE ANY FORM OF TAXATION WHATEVER THEREFOR OR TO MAKE ANY APPROPRIATION FOR THEIR PAYMENT. THE BONDS ARE NOT A PLEDGE OF THE FAITH AND CREDIT OF THE AUTHORITY, ITS MEMBERS, THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS NOR DO THEY CONSTITUTE INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION. THE AUTHORITY HAS NO TAXING POWER.

### **ADDITIONAL INDEBTEDNESS**

Pursuant to the Loan Agreement, the University may incur additional indebtedness (including additional debt relating to new series of bonds) at any time and from time to time, subject to compliance with its additional bonds covenant. The University covenants in the Loan Agreement that it will not issue any debt unless the University provides to the Trustee a duly executed Certificate (with supporting calculations) to the effect that, as of the date of issuance of such additional debt, the University's Unrestricted and Temporarily Restricted Net Assets (meaning the sum of the University's unrestricted and temporarily restricted assets, including plant assets after adding back depreciation and amortization, and subtracting total liabilities excluding all Debt Outstanding) shall be equal to at least 200% of the University's Debt Outstanding. The term "Debt Outstanding" is defined in the Loan Agreement to mean all outstanding debt with maturities greater than 90 days under generally accepted accounting principles and not including contingent liabilities. See **Appendix D – "DEFINITIONS AND SUMMARIES OF PRINCIPAL LEGAL DOCUMENTS – LOAN AGREEMENT"** for a description of this and other covenants under the Loan Agreement.

### **INVESTMENT CONSIDERATIONS**

*The following are certain investment considerations that have been identified by the University and should be carefully considered by prospective purchasers of the Bonds. The following list should not be considered to be exhaustive and has been prepared within the context of this Official Statement. Inclusion of certain investment considerations below is not intended to signify that there are not other investment considerations or risks attendant to the Bonds that are material to an investment decision with respect to the Bonds. Investors should review the Official Statement in its entirety.*

#### **General Considerations**

Except as noted herein, the Bonds are payable solely from and secured by the Authority's pledge of Revenues, which consist of payments to be made by the University under the Loan Agreement. As described below, many factors could adversely affect the University's ability to pay the Loan Payments under the Loan Agreement. There can be no assurance that income and receipts will be realized by the

University in amounts sufficient to make payments under the Loan Agreement and thus sufficient to pay the principal of, premium, if any, and interest on the Bonds. The University's obligation to make Loan Payments under the Loan Agreement is an unconditional general obligation of the University, however, such obligation is not secured by any security interest in any property of the University. Any and all financial forecasts herein are only good faith estimates and are not intended as a representation or warranty as to the future financial condition of the University.

### **No Mortgage or Lien Secures the Bonds**

The Bonds are secured only by the general obligation pledge of the University; they are not secured by a mortgage, lien or security interest on or in any of the funds, buildings or other assets of the University (other than the funds (excepting the Rebate Fund) established under the Indenture). Under the Loan Agreement, the University is permitted to incur additional indebtedness subject to compliance with its additional bonds covenant as described in "ADDITIONAL INDEBTEDNESS." To the extent that any future debt of the University is secured by a pledge, mortgage or security interest, the owners thereof would have priority over the owners of the Bonds as to payment from the property subject to such mortgage or lien. See "SECURITY FOR THE BONDS."

### **Factors Affecting the University**

The ability of the University to generate sufficient revenues to meet its obligations under the Loan Agreement depends on a number of factors, including (i) the University's ability to achieve enrollment, tuition, University housing occupancy and fundraising at levels sufficient to consistently generate an excess of unrestricted current fund revenues over related expenses and mandatory payments and (ii) the University's ability to continue to attract students, including its ability to provide financial aid at sufficient levels in attractive combinations of scholarships, grants, loans and work-study. These factors in turn are affected by numerous future economic and other conditions, which could include possible adverse events such as the loss by the University of its accreditations; destruction or loss of a substantial portion of the University's facilities; litigation; competition; discontinuation of favorable governmental policies and programs with respect to post-secondary education; changes in the direction of demographic trends determining the number of college-aged persons in the general population; changes in prospective levels of regional and national economic prosperity; the occurrence of natural, national or international calamities; changes in the competitive appeal and perceived quality of the University's curriculum; changes in the demand for post-high school education and for certain degrees; the ability and energy of the faculty and administration; a reduction in the amounts received by the University through fundraising efforts; or a reduction in the value of the University's assets. There can be no assurance that the University's income and receipts will not decrease.

### **Insurance Coverage; Seismic Conditions**

The San Diego area, like all California communities, may be subject to unpredictable seismic activity, fires due to the vegetation and topography, or flooding in the event of unseasonable rainfall. The occurrence of seismic activity, fires or flooding in or around the University's facilities could result in substantial damage to the University's facilities which, in turn, could substantially reduce the value of such properties and could affect the ability of the University to pay Loan Payments as and when necessary to pay debt service on the Bonds. Furthermore, certain of the buildings located on the University's campus were built in earlier decades and do not conform to seismic standards applicable to more recently constructed buildings. While the University maintains general liability insurance covering a variety of hazards as is the norm in California, it does not carry earthquake insurance. As a result, should such buildings be substantially damaged by an earthquake, the University may have insufficient funds to repair such damage.

If earthquake damage is severe, the University's inability to repair or replace its facilities may also materially impair its ability to continue its operations and to meet its obligations under the Loan Agreement.

### **Investment of Funds Risk**

The University invests its money pursuant to investment policies adopted from time to time by its Board of Trustees. All investments made by the University contain a degree of risk. Such risks include, but are not limited to, a lower rate of return than expected, loss of market value and loss or delayed receipt of principal. The occurrence of these events with respect to amounts invested by the University could have a material adverse effect on the availability of funds for the payment of Loan Payments by the University. See **Appendix A** – "UNIVERSITY OF SAN DIEGO – FINANCIAL MATTERS – Endowment" and Notes (2), (3) and (12) to the audited financial statements of the University attached hereto as **Appendix B** for information regarding the investments and the endowment of the University.

### **Gifts and Fundraising**

The University receives gifts, grants and donations from private and public sources. For a variety of reasons, gifts and fundraising results are difficult to project with precision. These reasons include the voluntary nature of charitable giving, the effect of the general and local economy on giving, the unpredictability of the effectiveness of the marketing of a fundraising campaign, the varying tax treatments of the deductibility of gifts and many other factors. While the University believes its fundraising goals are reasonable, it is possible that its goals will not be attained. A failure to attain sufficient levels of gifts and support could have a material adverse effect on the University's ability to maintain its current level of operations and pay debt service on the Bonds.

### **Tax-Exempt Status**

The Internal Revenue Code of 1986, as amended (the "**Code**") imposes a number of requirements that must be satisfied for interest on nonprofit corporation obligations, such as the Bonds, to be excludable from gross income for federal income tax purposes. These requirements include limitations on the use of Bond proceeds, limitations on the investment earnings of Bond proceeds prior to expenditure, a requirement that certain investment earnings on Bond proceeds be paid periodically to the United States and a requirement that the Authority file an information report with the Internal Revenue Service ("**IRS**"). The Authority and the University have covenanted in certain of the documents referred to herein that they will comply with such requirements.

Failure by the University to comply with the requirements stated in the Code and related regulations, rulings and policies may result in the treatment of interest on the Bonds as taxable, retroactively to the date of issuance of the Bonds. Moreover, the occurrence of one or more of the other events described in this section also could adversely affect the exclusion from gross income for federal or State income tax purposes of the interest on the Bonds.

***Tax-Exempt Status of the University.*** The tax-exempt status of the Bonds presently depends upon the maintenance by the University of its status as an organization described in Section 501(c)(3) of the Code. The maintenance of such status is contingent on compliance with general rules promulgated in the Code and related regulations regarding the organization and operation of tax-exempt entities, including its operation for charitable purposes and its avoidance of transactions which may cause its assets to inure to the benefit of private individuals.

In recent years, the IRS has increased the frequency and scope of its audit and other enforcement activity regarding tax-exempt organizations and such organizations are increasingly subject to a greater

degree of scrutiny by the IRS. The primary penalty available to the IRS under the Code with respect to a tax-exempt entity engaged in unlawful, private benefit is the revocation of tax-exempt status. Although the IRS has not frequently revoked the 501(c)(3) tax-exempt status of nonprofit organizations, it could do so in the future. Loss of tax-exempt status by the University could result, among other consequences, in the University being in default of certain of its covenants regarding the Bonds. Loss of tax-exempt status of the University also would have material adverse consequences on the financial condition of the University and would cause interest on the Bonds to become taxable.

Less onerous sanctions also have been imposed by the IRS, which sanctions focus enforcement on private persons who transact business with a tax-exempt organization rather than the tax-exempt organization itself, but these sanctions do not replace the other, more severe remedies available to the IRS as mentioned above.

***Unrelated Business Taxable Income.*** The IRS and state, county and local taxing authorities have been undertaking audits and reviews of the operations of tax-exempt organizations with respect to their exempt activities and the generation of unrelated business taxable income ("**UBTI**"). The University has not historically generated any significant amounts of UBTI. The University may participate in activities which generate UBTI in the future. Management of the University believes that it has properly accounted for and reported UBTI; nevertheless, an investigation or audit could lead to a challenge which could result in taxes, interest and penalties with respect to unreported UBTI and in some cases could ultimately affect the tax-exempt status of the University as well as the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

***State Income Tax Exemption.*** The loss by the University of its State income tax exemption could be adverse and material to the University and to the value of the Bonds.

***Exemption from Property Taxes.*** In recent years, state, county and local taxing authorities have been undertaking audits and reviews of the operations of tax-exempt organizations with respect to their real property tax exemptions. The management of the University believes that the facilities of the University (with the exception of investment real estate) are exempt from State real property taxes; however, there can be no assurance that this will continue to be the case, and any loss of exemption could have a material adverse effect on the financial condition of the University.

## **Enforceability of Remedies**

The remedies available to the Trustee or the Holders of the Bonds upon an Event of Default under the Indenture or Loan Agreement are in many respects dependent upon judicial actions which are often subject to discretion and delay, and such remedies may not be readily available or may be limited. In particular, under the United States Bankruptcy Code, a bankruptcy case may be filed by the Authority, by or against the University or by or against any of their affiliates. In general, the filing of any such petition operates as a stay against enforcement of the terms of the agreements to which the bankrupt entity is a party, and in the bankruptcy process, executory contracts such as the Loan Agreement or the Indenture may be subject to assumption or rejection by the bankrupt party. In the event of any such rejection, the non-rejecting party or its assigns may become an unsecured claimant of the rejecting party. The various legal opinions to be delivered concurrently with the Bonds (including Bond Counsel's approving opinion and opinions of counsel to the University and counsel to the Authority) will be qualified, as to the enforceability of the various legal instruments, by limitations imposed by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors generally and by general principles of equity applied in the exercise of judicial discretion.

## TAX MATTERS

In the opinion of Orrick, Herrington & Sutcliffe LLP, Bond Counsel to the Authority ("Bond Counsel"), based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Code and is exempt from State of California personal income taxes. Bond Counsel is of the further opinion that interest on the Bonds is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes, although Bond Counsel observes that such interest is included in adjusted current earnings when calculating corporate alternative minimum taxable income. A complete copy of the proposed form of opinion of Bond Counsel is included herein as **Appendix E**.

To the extent the issue price of any maturity of the Bonds is less than the amount to be paid at maturity of such Bonds (excluding amounts stated to be interest and payable at least annually over the term of such Bonds), the difference constitutes "original issue discount," the accrual of which, to the extent properly allocable to each Beneficial Owner thereof, is treated as interest on the Bonds which is excluded from gross income for federal income tax purposes and State of California personal income taxes. For this purpose, the issue price of a particular maturity of the Bonds is the first price at which a substantial amount of such maturity of the Bonds is sold to the public (excluding bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents or wholesalers). The original issue discount with respect to any maturity of such Bonds accrues daily over the term to maturity of such Bonds on the basis of a constant interest rate compounded semiannually (with straight-line interpolations between compounding dates). The accruing original issue discount is added to the adjusted basis of such Bonds to determine taxable gain or loss upon disposition (including sale, redemption, or payment on maturity) of such Bonds. Beneficial Owners of the Bonds should consult their own tax advisors with respect to the tax consequences of ownership of Bonds with original issue discount, including the treatment of Beneficial Owners who do not purchase such Bonds in the original offering to the public at the first price at which a substantial amount of such Bonds is sold to the public.

Bonds purchased, whether at original issuance or otherwise, for an amount higher than their principal amount payable at maturity (or, in some cases, at their earlier call date) ("Premium Bonds") will be treated as having amortizable bond premium. No deduction is allowable for the amortizable bond premium in the case of bonds, like the Premium Bonds, the interest on which is excluded from gross income for federal income tax purposes. However, the amount of tax-exempt interest received, and a Beneficial Owner's basis in a Premium Bond, will be reduced by the amount of amortizable bond premium properly allocable to such Beneficial Owner. Beneficial Owners of Premium Bonds should consult their own tax advisors with respect to the proper treatment of amortizable bond premium in their particular circumstances.

The Code imposes various restrictions, conditions and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the Bonds. The Authority and the University have made certain representations and covenanted to comply with certain restrictions, conditions and requirements designed to ensure that interest on the Bonds will not be included in federal gross income. Inaccuracy of these representations or failure to comply with these covenants may result in interest on the Bonds being included in gross income for federal income tax purposes, possibly from the date of original issuance of the Bonds. The opinion of Bond Counsel assumes the accuracy of these representations and compliance with these covenants. Bond Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or not taken), or events occurring (or not occurring), or any other matters coming to Bond Counsel's attention after the date of issuance of the Bonds may adversely

affect the value of, or the tax status of interest on, the Bonds. Accordingly, the opinion of Bond Counsel is not intended to, and may not, be relied upon in connection with any such actions, events or matters.

In addition, Bond Counsel has relied, among other things, on the opinion of General Counsel of the University, Counsel to the University, regarding the current qualification of the University as an organization described in Section 501(c)(3) of the Code. Such opinion is subject to a number of qualifications and limitations. Bond Counsel has also relied upon representations of the University concerning the University's "unrelated trade or business" activities as defined in Section 513(a) of the Code. Neither Bond Counsel nor Counsel to the University has given any opinion or assurance concerning Section 513(a) of the Code, and neither Bond Counsel nor Counsel to the University can give or has given any opinion or assurance about the future activities of the University, or about the effect of future changes in the Code, the applicable regulations, the interpretation thereof or the resulting changes in enforcement thereof by the IRS. Failure of the University to be organized and operated in accordance with the IRS's requirements for the maintenance of its status as an organization described in Section 501(c)(3) of the Code, or to operate the facilities financed by the Bonds in a manner that is substantially related to the University's charitable purpose under Section 513(a) of the Code, may result in interest payable with respect to the Bonds being included in federal gross income, possibly from the date of the original issuance of the Bonds.

Although Bond Counsel is of the opinion that interest on the Bonds is excluded from gross income for federal income tax purposes and is exempt from State of California personal income taxes, the ownership or disposition of, or the accrual or receipt of interest on, the Bonds may otherwise affect a Beneficial Owner's federal, state or local tax liability. The nature and extent of these other tax consequences depend upon the particular tax status of the Beneficial Owner or the Beneficial Owner's other items of income or deduction. Bond Counsel expresses no opinion regarding any such other tax consequences.

Current and future legislative proposals, if enacted into law, clarification of the Code or court decisions may cause interest on the Bonds to be subject, directly or indirectly, to federal income taxation or to be subject to or exempted from state income taxation, or otherwise prevent Beneficial Owners from realizing the full current benefit of the tax status of such interest. As one example, the Obama Administration recently announced a legislative proposal which, for tax years beginning on or after January 1, 2013, generally would limit the exclusion from gross income of interest on obligations like the Bonds to some extent for taxpayers who are individuals and whose income is subject to higher marginal income tax rates. Other proposals have been made that could significantly reduce the benefit of, or otherwise affect, the exclusion from gross income of interest on obligations like the Bonds. The introduction or enactment of any such legislative proposals, clarification of the Code or court decisions may also affect, perhaps significantly, the market price for, or marketability of, the Bonds. Prospective purchasers of the Bonds should consult their own tax advisors regarding any pending or proposed federal or state tax legislation, regulations or litigation, and regarding the impact of future legislation, regulations or litigation, as to which Bond Counsel expresses no opinion.

The opinion of Bond Counsel is based on current legal authority, covers certain matters not directly addressed by such authorities, and represents Bond Counsel's judgment as to the proper treatment of the Bonds for federal income tax purposes. It is not binding on the IRS or the courts. Furthermore, Bond Counsel cannot give and has not given any opinion or assurance about the future activities of the Authority or the University, or about the effect of future changes in the Code, the applicable regulations, the interpretation thereof or the enforcement thereof by the IRS. The Authority and the University have covenanted, however, to comply with the requirements of the Code.

Bond Counsel's engagement with respect to the Bonds ends with the issuance of the Bonds, and, unless separately engaged, Bond Counsel is not obligated to defend the Authority, the University or the

Beneficial Owners regarding the tax-exempt status of the Bonds in the event of an audit examination by the IRS. Under current procedures, parties other than the Authority, the University and their appointed counsel, including the Beneficial Owners, would have little, if any, right to participate in the audit examination process. Moreover, because achieving judicial review in connection with an audit examination of tax-exempt bonds is difficult, obtaining an independent review of IRS positions with which the Authority or the University legitimately disagrees, may not be practicable. Any action of the IRS, including but not limited to selection of the Bonds for audit, or the course or result of such audit, or an audit of bonds presenting similar tax issues may affect the market price for, or the marketability of, the Bonds, and may cause the Authority, the University or the Beneficial Owners to incur significant expense.

## **LEGAL MATTERS**

The validity of the Bonds and certain other legal matters are subject to the approving opinion of Orrick, Herrington & Sutcliffe LLP, Bond Counsel. A complete copy of the proposed form of Bond Counsel opinion is contained in **Appendix E** hereto. Approval of other legal matters will be passed upon for the Authority by its counsel, Squire, Sanders (US) LLP (the "**Authority Counsel**"), for the University by its General Counsel, and for the Underwriter by its counsel, Hogan Lovells US LLP, Denver, Colorado. Neither Authority Counsel nor Bond Counsel undertakes any responsibility for the accuracy, completeness or fairness of this Official Statement.

## **LITIGATION**

There is no litigation pending (with service of process having been accomplished) against the Authority concerning the validity of the Bonds. For information on litigation pending against the University, see **Appendix A** – "UNIVERSITY OF SAN DIEGO – LITIGATION."

## **VERIFICATION AGENT**

Robert Thomas CPA, LLC will deliver its report indicating that it has examined, in accordance with the standards established by the American Institute of Certified Public Accountants, the mathematical accuracy of the mathematical computations of the adequacy of the deposit of proceeds of the Bonds under the Escrow Agreement to pay the principal and interest of the Refunded Bonds maturing on such dates and the redemption price of the remaining portion of the Refunded Bonds. See "PLAN OF FINANCING – Estimated Sources and Uses of Funds" and "– The Refunding Project – Verification of Mathematical Calculations."

## **FINANCIAL STATEMENTS**

The audited financial statements for the University as of June 30, 2011 and 2010, included in this Official Statement as **Appendix B** – "FINANCIAL STATEMENTS FOR THE UNIVERSITY AS OF JUNE 30, 2011 AND 2010," have been audited by Moss Adams LLP, independent auditors, as stated in their report appearing herein. These financial statements are the most recent audited financial statements of the University. Such financial statements of the University should be carefully reviewed by prospective investors in their entirety.

Moss Adams LLP has not been engaged to perform and has not performed, since the date of the report included in **Appendix B**, any procedures on the financial statements addressed in that report. Moss Adams LLP also has not performed any procedures relating to this Official Statement.

## **UNDERWRITING**

George K. Baum & Company, as Underwriter, has agreed to purchase the Bonds at an aggregate purchase price of \$10,796,501.90 (equal to the aggregate principal amount of the Bonds plus original issue premium of \$1,166,501.90). The University will pay to the Underwriter an underwriting fee of \$37,787.75 in connection with the Underwriter's purchase of the Bonds. The Underwriter is obligated to purchase all such Bonds if any are purchased. The Underwriter may offer and sell the Bonds to certain dealers (including dealers depositing such Bonds into investment trusts) and others at prices lower than the offering prices stated on the inside cover page hereof, and such public offering prices may be changed, from time to time, by the Underwriter.

## **CONTINUING DISCLOSURE**

The Authority has determined that no financial or operating data concerning the Authority is material to an evaluation of the offering of the Bonds or to any decision to purchase, hold or sell Bonds, and accordingly, the Authority will not provide any such information. The University has undertaken all responsibilities for any continuing disclosure to Holders of the Bonds as described below and the Authority shall have no liability to the Holders of the Bonds or any other person with respect to Rule 15c2-12 (the "**Rule**") promulgated by the United States Securities and Exchange Commission.

Pursuant to the Continuing Disclosure Agreement, the University has undertaken to compile annually and deliver to the MSRB and the Trustee for the benefit of the Holders and the beneficial owners of the Bonds certain financial information and operating data relating to the University, and to provide notice of certain enumerated events. The specific nature of the information to be provided is set forth in **Appendix F – "FORM OF CONTINUING DISCLOSURE AGREEMENT."** These covenants have been made in order to assist the Underwriter in complying with the Rule.

The University has learned that its continuing disclosure annual reports for the fiscal years ended as of June 30, 2009, June 30, 2010, and June 30, 2011 (collectively, the "**Continuing Disclosure Information**") were not timely filed. The University timely provided to its dissemination agent (the "**Dissemination Agent**") with respect to certain of its outstanding bonds the Continuing Disclosure Information for filing on the MSRB's EMMA System as required under the related continuing disclosure agreements of the University. However, such Continuing Disclosure Information was not timely filed on the EMMA System by the Dissemination Agent.

The University has caused the Dissemination Agent to file the Continuing Disclosure Information on the EMMA System, and has implemented measures, together with the Dissemination Agent, to ensure that its audited financial statements and related information required to be filed under the University's existing continuing disclosure agreements for future fiscal years will be timely filed on the EMMA System in accordance with the requirements of the related continuing disclosure agreements, including the Continuing Disclosure Agreement. The University has otherwise materially complied with the requirements of its existing continuing disclosure agreements.

## RATING

The Bonds have been assigned a rating of "A2" with a positive outlook by Moody's Investors Service, Inc. ("**Moody's**").

A rating reflects only the view of the agency giving such rating and is not a recommendation to buy, sell or hold the Bonds. An explanation of the procedure and methodology used by such rating agency and the significance of such rating may only be obtained from Moody's. Such rating may be changed at any time, and no assurance can be given that it will not be revised downward or withdrawn entirely by such rating agency if, in its judgment, circumstances so warrant. While the University has agreed to provide certain updated disclosure with respect to the Bonds (see "CONTINUING DISCLOSURE"), neither the Authority nor the Underwriter has undertaken any responsibility to bring to the attention of the Holders of the Bonds any proposed change in or withdrawal of the rating. In addition, none of the Authority, the University or the Underwriter has undertaken any responsibility to oppose any such proposed revision or withdrawal. Any such downward revision or withdrawal of such rating may have an adverse effect on the market price or marketability of the Bonds.

## MISCELLANEOUS

All quotations from, summaries and explanations of the JPA Act, the JPA Agreement, the Indenture, the Loan Agreement, the Continuing Disclosure Agreement, the Bonds, the Escrow Agreement and of other statutes and documents contained herein do not purport to be complete, and reference is made to such documents and statutes for full and complete statements of their provisions. Copies in reasonable quantity of such documents may be obtained upon request directed to the Trustee, the Underwriter or the University.

Information relating to DTC and the book-entry system described in **Appendix C – "BOOK-ENTRY SYSTEM"** is based upon information furnished by DTC and is believed to be reliable, but none of the University, the Authority or the Underwriter makes any representations or warranties whatsoever with respect to such information.

Any statements in this Official Statement involving matters of opinion are intended only as such and not as representations of fact. This Official Statement is not to be construed as a contract or agreement between the Authority, the University, or the Underwriter and the Holders of any of the Bonds.

Appendices A and B hereto contain certain information with respect to the University. The information contained in such Appendices has been furnished by the University and by officers and officials of the University, and the Authority makes no representations or warranties whatsoever with respect to the information contained in such Appendices or any other information contained in this Official Statement, except for information set forth under the captions "THE AUTHORITY" and "LITIGATION" (solely as it relates to the Authority).

Nothing in the Indenture or in the Bonds, expressed or implied, is intended or shall be construed to give to any person other than the Authority, the Trustee, the University and the Holders of the Bonds any legal or equitable right, remedy or claim under or in respect of the Indenture or any covenant, condition or provision therein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Authority, the Trustee, the University and the Holders of the Bonds.

**OFFICIAL STATEMENT CERTIFICATION**

This Official Statement has been reviewed and approved by the University.

**UNIVERSITY OF SAN DIEGO**

By: \_\_\_\_\_ /s/ Julie H. Sullivan  
Executive Vice President & Provost

Dated: May 30, 2012

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**APPENDIX A**  
**UNIVERSITY OF SAN DIEGO**

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## APPENDIX A

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### TABLE OF CONTENTS

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INTRODUCTION.....	1
HISTORY AND MISSION.....	2
DEGREE OFFERINGS.....	3
College of Arts and Sciences.....	3
School of Law.....	3
School of Business.....	4
School of Leadership and Education Studies.....	4
Hahn School of Nursing and Health Sciences.....	5
Joan B. Kroc School of Peace Studies.....	5
STUDENT ENROLLMENT.....	6
STUDENT APPLICATIONS, ACCEPTANCES, AND MATRICULATIONS.....	7
Undergraduate Schools.....	7
Graduate Schools.....	7
Tuition.....	8
Geographic Distribution.....	10
FACULTY AND STAFF.....	11
Pension Plan.....	11
FACILITIES.....	12
THE PROJECT.....	13
ACCREDITATION, MEMBERSHIPS, AND AFFILIATIONS.....	13
GOVERNANCE.....	15
The Executive Committee of the Board.....	16
ADMINISTRATION.....	18
FINANCIAL MATTERS.....	20
Accounting Matters.....	20
Land, Property, Buildings and Equipment.....	22
Budget Procedures.....	22
Cash and Investments.....	23
Endowment.....	24
Outstanding Indebtedness.....	24
Student Financial Aid.....	27
DEVELOPMENT.....	27
INSURANCE.....	28
LITIGATION.....	29

## INTRODUCTION

The University of San Diego (the "**University**" or "**USD**") is a co-educational, residential, comprehensive Roman Catholic university chartered in 1949. The University's 180-acre campus is located in Linda Vista overlooking Mission Bay on the Pacific Ocean, 15 minutes from downtown San Diego. Accredited by the Western Association of Schools and Colleges since 1956, the University offers Bachelor's degrees in 39 areas of undergraduate study, 33 Master's degrees, three doctoral degrees, five Master of Laws degrees, and the Juris Doctorate. The University is a California nonprofit corporation and an exempt organization as described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

For the 2011-12 academic year, the University enrolled 5,459 full-time equivalent undergraduate students, 1,291 full-time equivalent graduate students and 998 full-time equivalent doctoral students. The University's total enrollment of undergraduate, graduate, and doctoral students has increased by 10.8% since fall 2007.

The Administration believes the following characteristics continue to strengthen the University's competitive position.

- *U.S. News & World Report* 2012 edition listed USD among the top 100 universities nationally offering undergraduate, graduate, and doctoral degree programs and *The Princeton Review* included the University in its guide to the best 376 colleges in the nation.
- The University offers 17 intercollegiate NCAA Division-I athletic teams. Since 1999, USD teams and athletes have garnered 74 All-America selections; won 21 conference championships; advanced 46 teams to the post-season; earned 328 Conference All-Academic honors; earned 737 All-Conference selections (1st team, 2nd team, honorable mention); and won one national championship. Additionally, USD has won a record four straight West Coast Conference Commissioner's Cup trophies as the best all-around athletic program in the WCC.
- The University's College of Arts and Sciences has produced 18 undergraduate Truman, Fulbright, Goldwater and Strauss scholars and finalists.
- The USD School of Law is a member of the Association of American Law Schools and was elected to the Order of the Coif, the most distinguished rank of American law schools. The average LSAT score for School of Law entering students is above the 80<sup>th</sup> percentile.
- USD has garnered academic recognition through Phi Beta Kappa, Mortar Board and the National Society of Collegiate Scholars (NSCS). The national honor society Mortar Board recognizes college seniors who have demonstrated academic achievement and a dedication to service while NSCS recognizes collegiate freshmen and sophomores.
- The University overlooks the Pacific Ocean's Mission Bay just north of the nation's seventh largest city and features a historic 16<sup>th</sup> century Spanish architectural style.

## HISTORY AND MISSION

Chartered in 1949, the University of San Diego began as two separate institutions: San Diego College for Women and San Diego University. As the joint vision of The Most Reverend Charles F. Buddy and Mother Rosalie Hill, the two sought to develop two institutions that would provide the best in both sacred and secular learning.

The inaugural class of 52 women began at San Diego College for Women in February of 1952. Two years later, Bishop Buddy welcomed 39 students to San Diego University's College for Men and an additional 60 to its School of Law. Both located in Alcalá Park, the two institutions' seven buildings still serve as the heart of campus today. Of these was Immaculata Church, built by the Diocese of San Diego, where USD students and community members still attend mass today. The patron saint of the Diocese of San Diego, San Diego de Alcalá serves as the namesake for the University.

Inspired by the Second Vatican Council of 1965's directive to "unite in a mutual sharing effort", the two institutions began the process of combining academic, fiscal and physical resources to form the University of San Diego. Upon the completion of the merger of the two institutions in 1972, the University of San Diego enrolled 2,516 students and employed 149 faculty on a campus that included 15 buildings.

Under the direction of President Arthur E. Hughes throughout the 1980s, the University welcomed the first class to the Doctor of Nursing Science program at the Philip Y. Hahn School of Nursing, founded the Institute for Christian Ministries, and began the Center for Public Interest Law. Additionally in the 1980s, USD women's sports teams achieved NCAA Division-I status while the University won city, conference, or national championships in crew, men's basketball, women's softball, and men's and women's tennis. Additionally, the USD football team played a game against Occidental College on national television during the National Football League players' strike of 1982.

After 24 years of service, President Hughes was replaced as the president of the University by Alice B. Hayes. President Hayes' tenure began with the construction of Colachis Way, a pedestrian mall connecting the campus. Later in 1996, the University welcomed former President Bill Clinton and Senator Bob Dole to campus for a nationally televised debate, held in the newly renovated Shiley Theatre.

The University entered the 21<sup>st</sup> century under President Hayes' direction with an enrollment of 6,858, a faculty of 584 members, and 28 campus structures. The University was reaccredited by the Western Association of Colleges and Universities in 2001 for the maximum ten-year term. The application process for the renewal of such accreditation is underway. Prior to her departure in 2003, President Hayes oversaw the performance of 52,000 hours of community service by USD students, with 70% of students participating in service projects prior to their graduation.

In 2003, Mary E. Lyons became the third president of the University since the completion of the merger in 1972. Her inauguration coincided with the institution of a Phi Beta Kappa chapter on campus, as well as the opening of the Shiley Center for Science and Technology.

The University of San Diego has undergone several periods of expansion thanks to the generous gifts of a number of donors and alumni. Through a \$75 million total contribution from the wife of McDonald's financier Ray Kroc, Joan B. Kroc endowed the University with gifts of \$25 million and \$50 million for the Institute for Peace and Justice. Through additional donations from Sid Craig, husband of Jenny Craig, and inventor Donald P. Shiley, the University was able to establish the Jenny Craig Pavilion (athletic center) in 2000 and the Donald P. Shiley Institute for Science and Technology in 2003.

Today, over 60 years since its founding, USD serves as a nationally ranked Roman Catholic institution with approximately 766 full- and part-time faculty members and over 7,000 undergraduate, graduate and doctoral students. Under the governance of an independent board of trustees, the University offers six academic divisions: the College of Arts and Sciences, School of Law, School of Business Administration, School of Leadership and Education Studies, Hahn School of Nursing and Health Sciences and the Joan B. Kroc School of Peace Studies. With the original seven structures still at the heart of campus, the University has expanded to over 50 structures on 180 acres, each in place to serve the University's goal of educating globally competent, ethically minded leaders of tomorrow.

The Board of Trustees has adopted the following statement of mission and purpose for the University of San Diego:

"The University of San Diego is a Roman Catholic institution committed to advancing academic excellence, expanding liberal and professional knowledge, creating a diverse and inclusive community, and preparing leaders dedicated to ethical conduct and compassionate service."

## **DEGREE OFFERINGS**

The University is organized into six schools: College of Arts and Sciences, School of Law, School of Business Administration, School of Leadership and Education Studies, Hahn School of Nursing and Health Sciences, and the Joan B. Kroc School of Peace Studies. Each offers the appropriate degrees on undergraduate, graduate, and doctoral degree levels. In addition, the University offers a number continuing education programs, workshops, seminars, non-degree classes and certifications.

### **College of Arts and Sciences**

The College of Arts and Sciences awards both undergraduate and graduate degrees. Undergraduate degrees are offered in 29 major areas of study, including Anthropology, Architecture, Art History, Biochemistry, Biology, Biophysics, Chemistry, Communication Studies, Computer Science, English, Environmental Studies, Ethnic Studies, French, History, Interdisciplinary Humanities, International Relations, Liberal Studies, Marine Science, Mathematics, Music, Philosophy, Physics, Political Science, Psychology, Sociology, Spanish, Theatre Arts, Theology and Religious Studies, and Visual Arts. In addition, students have the ability to minor in 35 areas of study. Graduate programs are offered in seven areas of study, including Master of Fine Arts in Dramatic Arts, Master of Arts in History, Master of Arts in International Relations, Master of Arts in Pastoral Care and Counseling, Master of Arts in Peace and Justice Studies, Master of Arts in Practical Theology, and Master of Science in Marine Science. The total number of degrees conferred during the 2010-11 academic year for the College of Arts and Sciences was 661, including 633 Bachelor's degrees and 28 graduate degrees.

### **School of Law**

The School of Law enrolled 998 (FTE) students for the fall 2011 semester in the Juris Doctorate (J.D.) program, who are taught by a faculty of 50 full-time and 65 adjunct or visiting faculty, including judges and practicing attorneys. The Juris Doctorate program spans three years for full-time students, with a four year option for part-time students attending classes in the evenings. In addition to the Juris Doctorate, the School of Law offers Master of Laws degrees in five areas of study: Comparative Law, Taxation, Business and Corporate Law, International Law, and a General Master of Laws with Concentration, as approved by School of Law administration. The School of Law also offers a Master of

Science degree in Legal Studies. For the 2010-11 academic year, the School of Law granted 322 J.D. degrees and 71 Master of Laws degrees.

### **School of Business**

The USD School of Business Administration offers undergraduate degrees in eight major areas of study: Business Administration, Accountancy, Business Economics, Economics, Finance, International Business, Marketing and Real Estate. The fall 2011 undergraduate cohort included 1,423 students at the School of Business Administration. The University of San Diego is ranked 36th in the nation on Bloomberg BusinessWeek's 2011 list of the top 50 undergraduate business programs. This is the fifth consecutive year that USD has made the top-50 list. Bloomberg BusinessWeek awarded the school "A+" grades for teaching quality, and "A" grades for facilities and services, and job placement. USD's undergraduate program is among the top five on the west coast.

MBA students choose an area of elective emphasis, and can choose between Finance, Real Estate, Management, Marketing, Supply Chain Management, International Business, New Venture Management, and Corporate Social Responsibility and Sustainable Enterprises. The International MBA program is a full-time, 2-year cohort-based program designed to develop managers and leaders with a global orientation and skills to succeed in the international marketplace. The program design incorporates flexibility for numerous study abroad options such as completing a Dual Degree, enrolling in a semester exchange program, and participating in USD study abroad opportunities in such countries as Argentina, Brazil, China, the Czech Republic, France, Morocco and Spain. Additionally, the School of Business Administration offers Master of Science degrees in Accountancy, Real Estate, Supply Chain Management, Taxation, Electronic Commerce, Executive Leadership, Global Leadership, and Information Technology. For the 2010-11 academic year, the School of Business Administration conferred 505 Bachelor's and 245 Master's degrees.

The University of San Diego's Evening Master of Business Administration program is ranked 14th in the nation, according to Bloomberg BusinessWeek's latest list of the top 50 part-time programs. The ratings are based on surveys of academic quality and student satisfaction. USD also came out on top with "A+" grades across the board in quality of teaching, curriculum, and how students rank the caliber of their classmates.

USD's MBA program ranked #39 in the world for integrating social and environmental issues, according to the Aspen Institute's Beyond Grey Pinstripes ranking. USD's MBA program is the highest ranked in southern California on this measure.

The USD Engineering Program, which is part of the USD School of Business Administration, offers undergraduate degrees in three major areas of study: Electrical Engineering, Industrial & Systems Engineering and Mechanical Engineering. For the 2010-11 academic year, the Engineering Department conferred 47 Bachelor's degrees. The fall 2011 undergraduate cohort includes 199 students. USD's Engineering Program received recognition by *U.S. News & World Report* as the nation's 27th ranked undergraduate Engineering Program in August 2010.

### **School of Leadership and Education Studies**

The School of Leadership and Education Studies ("**SOLES**") provides education to students seeking Master's or doctoral degrees in three broad areas of study, including Marital and Family Therapy, Counseling, and Leadership Studies. Under these three areas of study, Master of Arts degrees are awarded in Marital and Family Therapy, Counseling (with two specializations), Higher Education Leadership, Leadership Studies, and Nonprofit Leadership Management. The SOLES also offers Master of Arts in

Education and Master of Arts in Teaching in the following areas of study: Special Education; History/Social Science; Curriculum and Teaching; Mathematics; Science and Technology Education and Literacy; and Culture and Teachers of English to Speakers of Other Languages. In addition to these degree programs, the SOLES offers a number of credentials, certificates, and programs to provide additional support to individuals seeking higher education in the aforementioned areas of study. For the 2010-11 academic year, the SOLES granted 162 Master's and 17 doctoral degrees.

### **Hahn School of Nursing and Health Sciences**

The Hahn School of Nursing and Health Sciences opened in 1978 and offers options in nursing and health sciences to a wide variety of applicants. The Hahn School has degree offerings for students with nearly no nursing background up to the Ph.D. level in Nursing. USD is one of only three California institutions of higher learning to offer a doctorate degree in Nursing. Students who have previously attained a Bachelor's degree in a field other than nursing may apply to the Master's Entry Program in Nursing ("MEPN"). Students study for five semesters before earning a Master of Science in Clinical Nursing. The School offers a Master of Science in Nursing program for students with a Bachelor's degree who have studied or worked in the field of nursing. The program offers seven areas of emphasis: Executive Nurse Leader, Adult-Gerontology Clinical Nurse Specialist, Clinical Nursing, Family Nurse Practitioner, Dual Adult Nurse Practitioner/Family Nurse Practitioner, Dual Pediatric Nurse Practitioner/Family Nurse Practitioner, and Psychiatric-Mental Health Nurse Practitioner. The Hahn School also offers two doctorate degrees in nursing: the Doctor of Nursing Practice and the Doctor of Philosophy in Nursing. For the 2010-11 academic year, the Hahn School conferred 87 Master's and 26 doctoral degrees.

### **Joan B. Kroc School of Peace Studies**

The Joan B. Kroc School of Peace Studies offers an interdisciplinary program emphasizing ethics, international affairs, and conflict resolution. The Kroc School offers a Master of Arts degree in Peace and Justice Studies as well as an undergraduate minor in the same field. The Kroc School was established based on a \$50 million gift from the estate of Joan B. Kroc. In the 2010-11 academic year, the Kroc School conferred its third graduating class of 18 Master's degree recipients.

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## STUDENT ENROLLMENT

The following tables list the University's headcount and full-time equivalent enrollment for the past five academic years. Total headcount enrollment has increased by 10.8% since 2007-08, while full-time equivalent enrollment has grown by 13.0% over the same period.

### University of San Diego Enrollment 2007-2012

	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>
Headcount Enrollment					
Undergraduate (Headcount)	4,932	5,119	5,111	5,388	5,493
Graduate (Headcount)	1,423	1,593	1,645	1,696	1,740
Law School (Headcount)	<u>1,149</u>	<u>1,120</u>	<u>1,112</u>	<u>1,117</u>	<u>1,084</u>
Total Headcount	7,504	7,832	7,868	8,201	8,317
FTE Enrollment					
Undergraduate (FTE)	4,910	5,043	5,041	5,320	5,459
Graduate (FTE)	917	1,074	1,161	1,256	1,291
Law School (FTE)	<u>1,028</u>	<u>1,014</u>	<u>1,020</u>	<u>999</u>	<u>998</u>
Total FTE	6,855	7,131	7,222	7,575	7,748

USD uses a three-year average to compute the University's six-year graduation rate. For the three classes of freshmen who entered USD in the fall of 2002, 2003 and 2004, the average graduation rate was 74%.

The University expects strong growth in enrollment to continue in the future, although there can be no assurance that this will occur. The 2011 edition of *U.S. News and World Report* ranked USD 97<sup>th</sup> among the nation's top national universities, the highest in the University's history.

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## STUDENT APPLICATIONS, ACCEPTANCES, AND MATRICULATIONS

The University has generally enjoyed strong enrollment demand. Applications have increased approximately 60% at the graduate schools, from 1,658 in 2007-08 to 2,652 in 2011-12, and approximately 31% for freshman applying to the University's undergraduate program, from 10,563 in 2007-08 to 13,860 in 2011-12.

### Undergraduate Schools

The University's number of budgeted undergraduate students does not fluctuate from year to year. Based upon historic acceptances as a percent of applications, the University has the flexibility to increase actual enrollments when it is appropriate. The office of Admissions plans for approximately 1,100 incoming freshman each year. There was an intentional increase in the number of actual freshman enrolled for fall 2008 to increase tuition revenue (an increase of 166 freshmen over fall 2007). The decrease in enrollment (178 freshman) that followed the bubble in fall 2008 was largely a function of capacity. Actual enrollments normalized again in fall 2009 to just over the budgeted freshmen enrollment of 1,100.

The following table highlights the University's freshman application, acceptance, and enrollment statistics.

#### Freshman Applications, Acceptances, and Enrollments

	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>
Applications	10,563	10,584	11,000	12,141	13,860
Acceptances	5,085	5,519	5,434	6,227	6,590
Acceptances as % of Applications	48%	52%	49%	51%	47.5%
Enrollments	1,094	1,260	1,082	1,150	1,143
Enrollments as % of Acceptances	22%	23%	20%	18%	17.3%

The following table shows the University's mean SAT scores for undergraduate matriculants for the previous five academic years.

#### Mean SAT Scores of Matriculated Freshmen

	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>
Critical Reading SAT Score	579	588	593	593	601
Math SAT Score	596	602	613	610	619
Writing SAT Score	586	596	598	600	609
National Average	1,511	1,511	1,509	1,509	1,500
% of national average	117%	118%	120%	120%	122%

### Graduate Schools

The following table highlights the University's graduate school applications, acceptances, and enrollment statistics. The acceptance rate increased in the 2010-11 academic year by 1% over the prior academic year to 47%, while applications reached a five year high, increasing by approximately 60% over the past five years.

Graduate acceptance rate and yield fluctuations are partially driven by the cyclical nature of the economy and correlation with graduate enrollment in general. In addition, the University's MBA and IMBA programs have become more selective, contributing to lower acceptance rates and declining yields over the last four years.

### Graduate Applications, Acceptances, and Enrollments

	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>
Applications	1,658	1,658	2,176	2,559	2,652
Acceptances	823	968	1,265	1,173	1,256
Acceptances as % of Applications	50%	58%	58%	46%	47%
Enrollments	589	666	614	581	617
Enrollments as % of Acceptances	72%	69%	49%	50%	50%

The following table highlights the University's School of Law applications, acceptances, and enrollment statistics. The University of San Diego Law School has accepted only approximately 34% of applicants, on average, over the past five academic years.

### Law School Applications, Acceptances, and Enrollments

	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>
Applications	4,725	4,329	4,424	5,201	4,314
Acceptances	1,545	1,525	1,504	1,623	1,627
Acceptances as % of Applications	33%	35%	34%	31%	38%
Enrollments	359	345	324	331	300
Enrollments as % of Acceptances	23%	23%	22%	20%	18%

### Tuition

The following table shows tuition charges per student for undergraduate, graduate, doctoral and J.D. degree students over the past five years.

#### Student Tuition

	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>
Undergraduate tuition	\$32,300	\$34,000	\$35,870	\$36,950	\$38,150
Undergraduate % increase	6.0%	5.3%	5.5%	3.0%	3.2%
Graduate tuition	\$19,710	\$20,322	\$21,042	\$21,744	\$22,482
Graduate % increase	4.3%	3.1%	3.5%	3.3%	3.4%
Doctoral tuition	\$19,944	\$20,700	\$21,420	\$22,140	\$22,860
Doctoral % increase	4.0%	3.8%	3.5%	3.4%	3.3%
Law School (J.D) tuition	\$37,560	\$39,060	\$39,800	\$41,200	\$42,540
Law School % increase	5.0%	4.0%	1.9%	3.5%	3.3%

For 2010-11, despite a slightly higher discount factor and small net tuition increase, USD was able to increase its net tuition revenue. The following table breaks out USD's total tuition and fees.

### Total Tuition and Fees

(In Thousands)

	<u>Unrestricted Tuition and Fees</u>	<u>Financial Aid<sup>(1)</sup></u>	<u>Net Tuition Revenue</u>	<u>Discount Factor<sup>(2)</sup></u>	<u>Net Increase in Tuition Revenues</u>
2006-07	\$233,712	\$45,484	\$188,288	19.5%	8.9%
2007-08	246,037	48,803	197,234	19.8%	4.8%
2008-09	254,613	65,524	189,089	25.7%	-4.1%
2009-10	266,940	75,965	190,975	28.5%	1.0%
2010-11	288,548	83,720	204,828	29.0%	7.3%

(1) Approximately 70% of undergraduate students, 79% of graduate students, and 88% of law students receive some form of financial aid. Sources of funds for such financial aid include institutional (University general operating) funds, private donors and foundations, as well as federal and state programs. Funds are awarded in the form of scholarships, loans and work-study employment. See "FINANCIAL MATTERS – Student Financial Aid" in this Appendix A.

(2) The discount factor represents the financial aid commitment level necessary to recruit and retain USD students. USD's target is to maintain a discount rate of 25%, which supports the desired freshman class profile. The higher discount rates in fall 2008 and fall 2009 represent planned and strategic temporary increases, which were managed through intentional increases to financial aid packages offered to students during these two years. Elevated discount rates resulting from the two-year increases will continue in the near future, as financial aid follows a student through all four years. The 2010 freshmen class held to the budgeted discount rate of 25%.

The average tuition and fees for academic year 2011-12 for those schools that the University considers its major competitors for undergraduate students were as follows:

### California Private Colleges & Universities

2011-12 Undergraduate Tuition & Fee Data

<u>Institution</u>	<u>Tuition &amp; Fees</u>
University of Southern California	\$42,710
Claremont McKenna College	42,240
Pepperdine University	40,752
Pomona College	39,727
Santa Clara University	39,047
University of San Diego	38,366
Loyola Marymount University	37,605
University of San Francisco	37,424
University of the Pacific	36,290
Mount St. Mary's College	31,626
Azusa Pacific University	29,940
Biola University	29,908

## Geographic Distribution

The University draws its student body primarily from California as shown by the following tabulation of the geographic distribution of undergraduate freshman students for the past five academic years.

### Geographic Distribution of Undergraduate Freshman Students by Region

	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>
Regions:					
California	52%	56%	51%	56%	56%
Southwest	16%	16%	17%	14%	16%
Northwest/Mountain	9%	8%	9%	9%	10%
Northeast/Mid-Atlantic	9%	7%	7%	7%	8%
Midwest	6%	6%	7%	6%	7%
Alaska/Hawaii/Territories	2%	2%	3%	2%	2%
Southeast	2%	2%	2%	2%	2%
Foreign Citizens	2%	2%	2%	2%	4%
U.S. Citizens Abroad	1%	1%	1%	1%	1%

In addition, for the fall 2011 semester, USD enrolled 446 international students from 70 countries.

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## FACULTY AND STAFF

The University employs approximately 395 full-time faculty. In addition, the University staffs approximately 433 part-time faculty which includes faculty engaged in annual and per-course contracts. Approximately seventy-five percent (75%) of the faculty held a doctoral or terminal Master's degree for fall 2010. This percentage rises to 93% when considering full-time faculty exclusively. The number of full- and part-time faculty for the past five academic years is shown in the following table:

### University of San Diego Faculty Composition

	<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>
Full-Time Faculty					
Tenured	226	218	222	229	240
Tenure-track	100	109	106	112	101
Temporary	<u>37</u>	<u>40</u>	<u>41</u>	<u>40</u>	<u>54</u>
Subtotal	363	367	369	381	395
Part-Time Faculty					
Phased Retirement	21	19	22	22	17
Annual Contracts	76	78	87	71.5	70.5
Per-course Contracts	<u>264</u>	<u>302</u>	<u>323</u>	<u>333.5</u>	<u>345.5</u>
Subtotal	361	399	432	427	433
Total Headcount	724	766	801	808	828
Total FTE	503.2	508.6	526.2	534.0	546.2

The student-to-faculty ratio for fall 2011 was 15.5:1.

The University offers tenure to its faculty members in an effort to recruit and retain the highest quality faculty. All tenure and other faculty related decisions are handled independently by a Committee on Faculty Appointment, Reappointment, Rank and Tenure for each of the University's different schools. These committees also oversee the process of review and evaluation for faculty members, which include recommendations for tenured status, reappointment and promotion. Duties of faculty vary by school, but include teaching, scholarship, advising, faculty governance, and University or community service.

The University has never experienced a strike or labor stoppage. The University believes its relationship with its employees is good.

### **Pension Plan**

The University of San Diego provides all benefit-based employees with a 403(b) Defined Contribution plan. The University contributes 12% of the base salary to the plan and employees have the option of making voluntary contributions on a pre-tax basis up to the maximum set by the IRS. Both the employee and University contributions are employee-directed into various funding vehicles as provided by the plan sponsors. Employees may choose among two retirement vendors: TIAA-CREF and Fidelity Investments. Employees are eligible to participate in the plan beginning the first full pay period following the date of employment.

USD provides a 457(b) plan to a select group of management and highly compensated employees. This is an eligible unfunded deferred compensation plan which is intended to supplement the University's 403(b) Defined Contribution Plan.

The University has a retirement health care program that pays a specified fixed amount to supplement the medical insurance payments made by retirees of the University. The University has internally designated specific investments toward covering this obligation. The amount of these assets equaled obligations for the past two years, totaling \$2,839,000 and \$2,327,000 as of June 30, 2011 and 2010, respectively.

The University's expense related to its defined contribution plans was approximately \$12,477,000 and \$12,315,000 for the years ended June 30, 2011 and 2010, respectively.

## **FACILITIES**

The University's 180-acre campus overlooks the Pacific Ocean's Mission Bay two miles north of downtown San Diego. The Pacific Ocean, San Diego Harbor, the Coronado Islands and La Jolla are all visible from campus. With buildings inspired by 16<sup>th</sup> Century Spanish architecture, the Alcalá Park campus encompasses over 50 structures.

Central to the University's campus are the seven original structures on which the University was founded. Camino and Founders Halls mirror one another on campus and serve as office, classroom and residential space. Built in 1951 and 1952, respectively, the two halls are connected by the 15,000 square foot Sacred Heart Hall, which originally served as the University's dining hall.

Maher Hall, built in 1954 and recently upgraded through a \$1.5 million renovation, provides residential space to 250 USD freshman students as well a coffee shop, and administrative offices. The 110,000 square foot structure offers views of Mission Bay and Tecolote Canyon.

Built in 1956, the 77,446 square foot Serra Hall originally served as the academic space for arts and sciences for the San Diego College for Men. Today, the structure houses the undergraduate admissions office, several academic departments and computer labs.

Warren Hall and the Pardee Legal Research Center have served as the home to the School of Law since 1957. The structures provide lecture halls, classrooms, and offices, as well as the Grace Courtroom and a legal library. Warren Hall's Grace Courtroom is modeled after the courtroom of the first United States Supreme Court.

The Hughes Administration Center was originally built in 1952 and belonged to the San Diego Diocese before it was purchased by USD and remodeled in 1995. Also central to the Campus is the Diocese of San Diego's Immaculata Church, which serves area parishioners and the USD community.

The University has also expanded its facilities over the last six decades with the construction and acquisition of additional classroom space, faculty office space, administrative space, student residences, physical plant and athletic facilities and student union facilities. Since 2000, the University has added the Jenny Craig Sports Pavilion, the Joan B. Kroc Institute for Peace and Justice building, The Shiley Center for Science and Technology facility, the Student Life Pavilion, The Degeri Alumni Center, and multiple student residence facilities, and expanded athletic facilities and parking facilities.

## **THE PROJECT**

A portion of the proceeds of the Bonds, together with other legally available moneys of the University, will be used to refund the Series 2002A Bonds. See "PLAN OF FINANCING" in the body of the Official Statement.

### **ACCREDITATION, MEMBERSHIPS, AND AFFILIATIONS**

The University is an accredited member of the Western Association of Schools and Colleges (WASC). The University's WASC accreditation was reaffirmed in February 2001 and is expected to be officially reaffirmed during the Summer of 2012. As of Spring 2012, the University has completed all three major stages of the reaccreditation process described below, which included two site visits and reports. To conclude this process, the University's President is scheduled to meet with the WASC Commission in June 2012. Approximately one month later, the WASC Commission is expected to issue its findings and recommendations. While no assurance can be given that reaccreditation will be granted and a decision is not final until the WASC Commission issues its findings and recommendations, the positive Spring 2012 WASC site visit report suggests that reaccreditation will be granted.

The reaccreditation process is a multi-year, self-study process that formally engages the University in an institution-wide reflection on educational capacity and performance. It is a rigorous examination of how institutional resources, structures, and processes are aligned with scholastic outcomes. Three stages make up the new WASC reaccreditation process:

- The first stage involves the development of the Institutional Proposal, which was accepted by WASC in June, 2008. During the Institutional Proposal stage, institutions conduct a self-study that focuses on issues germane to their particular missions with the goal of developing "researchable questions" that guide the entire review process. The proposal affords institutions the opportunity to affirm their values, vision, and mission, engage the campus community in articulating institutional priorities, and enhance the capacity to make informed decisions about improvement.
- The second stage involves (i) the preparation of the Capacity and Preparatory Review (CPR) report, which was submitted to WASC in July, 2010, and (ii) a site visit from WASC for the CPR Review, which was conducted in October, 2010. The purpose of the CPR Review is to demonstrate the institution's commitment to institutional capacity by asking, "does the campus function with the capacity to fulfill its educational purposes?". "Institutional capacity" involves resource, structure, and process issues from a holistic perspective and puts the following questions at center: "Where are we now?"; "Where do we need to go?"; and "How will we get there?". Following the site visit, the WASC visiting team submitted a report of its findings to the WASC Accrediting Commission. The WASC Accrediting Commission issued its Commission Action Letter to the President of the University in March 2011, pursuant to which it (i) endorsed the visiting team's recommendations and emphasized the need for continued development of the assessment and diversity themes for the Educational Effectiveness Review visit (described below), and (ii) requested that USD respond to the major recommendations listed in the CPR team's report, including focusing on the development of a culture of assessment and demonstrating the impact of the implementation of the University's diversity's initiatives.

- The third stage involves the Educational Effectiveness Review. The purpose of the Educational Effectiveness Review is to invite sustained engagement by the institution on the extent to which it fulfills its educational objectives. It asks if institutional systems are effectively linked to evidence of student learning and are consistent with their educational goals and academic standards. This stage puts the following questions at center: "How well are our systems working?"; "Is what we accomplish good enough?" and "What do we need to do to improve?". The University submitted its report to WASC on December 21, 2011 in preparation for the Educational Effectiveness Review site team visit which took place from February 29, 2012 to March 2, 2012.

Successful completion of the WASC reaccreditation process leads to reaffirmation of accreditation, which certifies to the educational community and to the general public that all of USD's degree programs and educational activities meet or exceed established standards, and that the campus is progressing toward its stated goals.

Individual programs on the USD campus are accredited by various accrediting organizations. The USD Department of Chemistry is on the list of colleges and universities approved by the American Chemical Society. The undergraduate and graduate programs of the School of Business Administration are accredited by the AACSB International – The Association to Advance Collegiate Schools of Business. The dual BS/BA degree programs in Electrical Engineering, Industrial and Systems Engineering, and Mechanical Engineering are accredited by the Engineering Accreditation Commission of ABET (formerly the Accreditation Board for Engineering and Technology). The Marital and Family Therapy program in the School of Leadership and Education Sciences is accredited by the Commission on Accreditation for Marriage and Family Therapy Education. The Professional Education Unit (PEU) in the School of Leadership and Education Sciences is accredited by the National Council for Accreditation of Teacher Education (NCATE). This accreditation includes Learning and Teaching, School Counseling, Special Education, and School Leadership programs. NCATE is recognized by the U.S. Department of Education and the Council for Higher Education Accreditation to accredit programs for the preparation of teachers and other professional school personnel. The Master's in Counseling degree program in the School of Leadership and Education Sciences is accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP). The University is authorized by the California Commission on Teacher Credentialing (CTC) to recommend candidates for the Multiple BCLAD emphasis teaching credentials, Multiple Subject and Single Subject teaching credentials, the Education Specialist Credential (Special Education), the Administrative Services Credential, and the Pupil Personnel Service Credential. The Special Education program in the School of Leadership and Education Sciences is nationally recognized by The Council for Exceptional Children. The programs of the Hahn School of Nursing and Health Science are accredited by the Commission on Collegiate Nursing Education (CCNE). The School of Law is accredited by the American Bar Association and is a member of the Order of the Coif and the Association of American Law Schools.

The University is a member of many associations including: the Association of American Law Schools, the European Foundation of Management Development, the Latin American Council of Management Schools and the Order of the Coif.

University of San Diego athletic teams are nicknamed the Toreros and compete in the West Coast Conference against seven other private, religiously affiliated universities in California, Oregon and Washington. The USD football team competes against both public and private institutions across the United States in the Pioneer League.

The University maintains exchange program affiliations with several institutions in Brazil, China, Finland, France, Germany, Greece, Italy, Mexico, Morocco, South Korea, Spain and Uruguay.

The University was recently invited to join the Ashoka Changemaker Campus consortium of leading institutions in social entrepreneurship education.

## **GOVERNANCE**

The University is governed by a self-perpetuating Board of Trustees (the "**Board**"). The Board is comprised of no more than forty-five (45), consisting of 30 Trustees from the elected Trustee class, two Trustees as selected by the California Provincial of the Religious of the Sacred Heart, and two Trustees selected by the incumbent Bishop or Administrator of the Roman Catholic Diocese of San Diego. Trustees shall hold office for a period of three years or until his or her successor is elected. The President of the University serves as a member of the Board with full voting rights for the duration of his or her employment contract. Trustees do not receive compensation for their services.

The Board holds four regular annual meetings and such special meetings as may be called. A majority of the Trustees is required for a quorum at any meeting of the Board. Actions of the Board require the vote of a majority of the Trustees present at a meeting at which a quorum is present. Between meetings of the Board, the Executive Committee, consisting of 12 members, has full power and authority to take most actions that the Board is empowered to take. See "The Executive Committee of the Board" under this caption. The standing committees of the Board are listed below.

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The following is a list of the members of the Board for academic year 2011-12, the year of initial appointment, the year the term ends, and the principal business or professional affiliation of each member.

### **Board of Trustees**

<u>Trustee</u>	<u>Initial Year of Appointment</u>	<u>Year Term Ends</u>	<u>Principal Business Affiliation</u>
Ron Fowler, <i>Chair</i>	1996	2014	Chairman, CEO, Liquid Investments, Inc.
Frank Alessio, <i>Vice Chair</i>	1986	2012	Managing Member, F.D.A. Capital, LLC
Richard M. Bartell	2009	2018	President, Bartell Hotels
Cindy Basso Eaton	2009	2018	President, Global Healing
Constance Carroll, Ph.D.	2010	2019	Chancellor, San Diego Community College District
Richard Davis	2007	2016	Chairman, President, and CEO, U.S. Bancorp
Monsignor Richard Duncanson	2009	Ex-Officio	Pastor, Mission Basilica San Diego de Alcalá
Margarita Palau Hernandez	2007	2016	Attorney at Law
Robert A. Hoehn	1996	2020	Owner, Hoehn Honda
Kathleen Hughes, RSCJ	1999	Ex-Officio	Society of the Sacred Heart
Roger Joseph	2005	2014	President and CEO, Franklin Croft Inc
Michael B. Kaplan	2011	2020	Co-Owner, ARKA Properties Group
Donald Knauss	2008	2017	Chairman and CEO, The Clorox Company
James C. Krause	2009	2018	Attorney at Law, Krause, Kalfayan, Benink & Slavens, LLP
Stanley W. Legro	2009	2018	Chairman, Pacific Action Resource
Mary E. Lyons, Ph.D.	2003	Ex-Officio	President, University of San Diego
Luis Maizel	2005	2014	Senior Manager, LM Advisors, Inc.
James Mazzo	2004	2013	President, Abbott Medical Optics
James McCarthy	2008	2017	Chairman and CEO, Gemini Consulting Group, Inc
Mr. Liam E. McGee	2011	2020	Chairman, CEO and President The Hartford Financial Services Group, Inc..
Ann L. Navarra	2010	2019	Vice President of Finance, Jerome's Furniture
Carolyn Osiek, RSCJ	2008	Ex-Officio	Professor, Brite Divinity School, Texas Christian University
James Peters	2005	2014	Managing Member, Principle Greenback Ventures Inc.
James D. Power IV	2011	2020	Managing Director, Power Family Enterprises
Monsignor Lawrence Purcell	1998	Ex-Officio	Pastor, Church of the Nativity
John Redmond	2007	2016	President and CEO, MGM Grand Resorts (Retired)
Byron C. Roth	2009	2018	Chairman and CEO, ROTH Capital Partners, LLC
David Shaffer	2007	2016	Executive Chairman, Cengage Learning
Darlene Marcos Shiley	1990	2012	President, The Shiley Foundation
Herbert Tasker	1994	2012	Chairman, President and CEO, Mason McDuffie Mortgage Corp.

### **The Executive Committee of the Board**

The Executive Committee consists of the Chair of the Board of Trustees, the President of the University, each Board officer, the chair of each standing committee established by the Board of Trustees,

and up to two at-large trustee committee members. The term of an at-large Trustee member of the Executive Committee shall be one year or as otherwise approved by resolution of the Board of Trustees. The Chair of the Board of Trustees shall be the Chair of the Executive Committee. Between meetings of the Board of Trustees, the Executive Committee shall have most powers and authority of the Board of Trustees in the management of the business and affairs of the University.

Most committees of the Board meet on a regular basis just prior to full Board meetings. The standing committees of the Board and their respective Chairs are:

<b><u>Committee</u></b>	<b><u>Chair</u></b>
Executive Committee	R. Fowler
Academic Affairs	J. Mazzo
Athletics	D. Shaffer
Audit	J. Redmond
Finance	H. Tasker
Investment	L. Maizel
Mission and Institutional Advancement	M. Hernandez
Student Affairs	J. McCarthy
Trustees	F. Alessio
Executive Compensation, Sub Committee of Executive Committee	J. Peters

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## ADMINISTRATION

The University is administered on a daily basis by its President, the Executive Vice President & Provost, the Vice President for Mission & Ministry, the Vice President for Business Services & Administration, the Vice President for University Relations, and the Vice President for Student Affairs. The President is appointed by and serves at the pleasure of the Board; the Executive Officers serve at the pleasure of the President. Effective July 1, 2012, the University will reorganize its financial operations to follow a more traditional model. Previously, the University's financial operations were organized within two divisions: the Office of Budget and Treasury within the Division of Academic Affairs, and the Controller's Office within the Division of Business Services and Administration. Under the new structure and effective July 1, 2012, the position of Chief Financial Officer will be created and filled by the University's current Assistant Vice President for Budget and Treasury, Ms. Terry Kalfayan. The Controller's Office and all associated operations, along with the University's budget and treasury functions, will report to the Chief Financial Officer. The Chief Financial Officer will report to the Executive Vice President and Provost, thus resulting in all core financial operations of the University being managed within the Division of Academic Affairs.

The following is a list of the Executive Officers of the University. A brief description of each Executive Officer's background follows the table. The position of Vice President for Business Services & Administration is currently vacant. A search is presently underway to identify a replacement for this position. As a result of the reorganization of the University's financial operations described above, the responsibilities of the Vice President for Business Services & Administration will no longer include core financial management responsibilities and will, instead, focus on human resources, facilities management, campus master planning, public safety, purchasing, dining services and bookstore operations.

### Administration

<u>Name</u>	<u>Position</u>	<u>Year of Appointment</u>
Dr. Mary E. Lyons	President	2003
Dr. Julie Sullivan	Executive Vice President & Provost	2005
Msgr. Daniel Dillabough	Vice President for Mission & Ministry	1998
Ms. Terry Kalfayan	Chief Financial Officer <sup>(1)</sup>	2012
Dr. Timothy O'Malley	Vice President for University Relations	2006
Ms. Carmen Vazquez	Vice President for Student Affairs	2005

(1) Effective July 1, 2012.

**Dr. Mary E. Lyons** was appointed President of the University of San Diego in July of 2003. Prior to her appointment as President, Dr. Lyons has previously served as president at two other institutions of higher education. She came to the University after serving as president for seven years at the College of St. Benedict in St. Joseph, Minnesota. Her first presidential appointment came at California Maritime University in Vallejo, California where she spent six years as president. Dr. Lyons' additional educational background includes: Academic Dean and Professor of Rhetoric and Homiletics, Franciscan School of Theology, Berkeley, CA (1984-1990); Teaching Assistant for Fundamentals of Composition, San Jose State University (1975-1978); and Adjunct Instructor for Reading and Composition, Ohlone College, Fremont, CA (1977-1978). Dr. Lyons spent ten years working outside of higher education as part-time consultant in public speaking and advocacy for the California State Automobile Association's Management Seminars. In 1971 Dr. Lyons enlisted in the United States Navy where she served as a captain and garnered four medals of commendation from the U.S. Navy and Armed Forces. Dr. Lyons earned her Ph.D. in Rhetoric from the University of California, Berkeley in 1983, her Master of Arts in English from San Jose

State University in 1976 and her Bachelor of Arts in English from Sonoma State University in Rohnert Park, California in 1971.

**Dr. Julie Sullivan** joined the University of San Diego in July of 2005 and currently serves as the Executive Vice President and Provost. As such she is the Chief Academic Officer and Chief Budget Officer of the University, responsible for all six schools of USD as well as the additional academic programs and services. Prior to joining USD, Dr. Sullivan served as a professor at Rady School of Management with a joint appointment in the School of International Relations and Pacific Studies at University of California, San Diego. Previously she was the Ernst & Young Distinguished Professor at University of North Carolina – Chapel Hill's Kenan Flagler Business School. Her 17-year tenure at Chapel Hill included stints as Interim Dean, Chair of the Business School Foundation Board of Trustees, Senior Associate Dean, Associate Dean of the Master of Accounting Program, Director of the Center for International Business Education and Research and Director of the Center for Innovation in Learning. Dr. Sullivan has held previous professional positions outside of higher education at the American Accounting Association and The Accounting Review and National Tax Journal. She is also a member of the Board of Directors of several public and non-profit organizations. Dr. Sullivan earned her Ph.D., Master's, and Bachelor's degrees from the University of Florida in Business and Accounting.

**Msgr. Daniel Dillabough** joined the University of San Diego in 1998 and currently serves as the Vice President for Mission and Ministry. Prior to his taking this position at the University, he served the Diocese of San Diego, as Chancellor, Moderator of Diocesan Offices, Director of Clergy Personnel, Director of Temporal Affairs, and Judicial Vicar. He also taught at North American College in Rome and has been a guest lecturer in Theology and Religious Studies at USD. Msgr. Dillabough has served on the Mercy Hospital Foundation Board of Trustees, University of San Diego Board of Trustees, the Catholic Insurance Association, Broadcast Company of the Americas, the Religious Trust Agreement Board (RETA), the Executive Board of Catholic Charities, and the Board of Directors for Senior Citizen Housing. Monsignor also serves the Chaplain for the San Diego Chargers Football Organization. Msgr. Dillabough was ordained in 1974. He earned a B.A. in Philosophy and English from USD, a S.T.B. in Sacred Theology from the Gregorian University, a J.C.L. in Canon Law from the Pontifical University, Propaganda Fide, Rome, and a S.T.D. in Moral Theology from the Lateran University.

**Ms. Terry Kalfayan** joined the University of San Diego in June of 2000 as Controller. In February of 2007, she was promoted to her current position as Assistant Vice President for Budget and Treasury, and, effective July 2012, Ms. Kalfayan will assume the role of Chief Financial Officer. As Chief Financial Officer, Ms. Kalfayan's responsibilities will include the planning and oversight of the University's annual operating budget; invested endowment; cash management; electronic commerce; capital financing activities; tax-exempt debt portfolio; accounting; payroll; student financial services; accounts payable; and corporate card programs. Prior to June 2000, Ms. Kalfayan served as Controller for Sharp Healthcare, San Diego's largest integrated healthcare delivery system. She began her career with Deloitte and Touche, an international public accounting and consulting firm. Ms. Kalfayan is a Certified Public Accountant in California, and currently serves on the West Coast Conference Audit Committee. A San Diego native, Ms. Kalfayan received both her Bachelor of Science in Business Administration and Masters of Science in Accountancy and Financial Management from the University of San Diego.

**Dr. Timothy O'Malley** took over as the Vice President for University Relations at the University of San Diego on August 1, 2006. Before assuming his position at USD, Dr. O'Malley oversaw development, alumni and public relations for Pacific University in Forest Grove, Oregon. He began his career in higher education development in 1983 at the University of Portland, and has held similar positions at the Washington State University College of Engineering and Architecture as well as the Washington State University Foundation. He began his career by teaching English at the high school and community college level for ten years. Throughout his career, Dr. O'Malley has spent time on numerous boards and

committees in the non-profit sector including the Council for Advancement and Support of Education (CASE). Dr. O'Malley holds a Ph.D. in Educational Policy and Management from the University of Oregon, a Master of Arts in English from California State University, East Bay in Hayward, California and his Bachelor of Arts in English from the University of Portland.

**Ms. Carmen Vazquez** assumed the position of Vice President for Student Affairs at USD in 2005. Before coming to the University, she spent three years as the Assistant Vice Chancellor for Student Life at the University of California, San Diego. Between 1979 and 2001, Ms. Vazquez served the State University of New York Stony Brook in a number of positions including: Assistant Vice President for Alumni Relations (2000-2001), Dean of Students (1995-2002), Adjunct Faculty – School of Welfare (1990-2002), Director of Student Union Activities (1990-2000), Associate Director of Student Union Activities (1984-1990), and Area Coordinator/Quad Director for the Department of Residence Life (1979-1984). Ms. Vazquez obtained a Master of Social Work and Bachelor of Arts in Psychology and Sociology from the State University of New York Stony Brook. She also holds an Associate of Arts in Behavioral Sciences from Fisher Junior College in Boston.

## **FINANCIAL MATTERS**

The following summaries and discussions of financial matters should be read in conjunction with the audited financial statements of the University, related notes, and the independent auditors' report. See "FINANCIAL STATEMENTS" in the body of the Official Statement and Appendix B – "FINANCIAL STATEMENTS FOR THE UNIVERSITY AS OF JUNE 30, 2011 AND 2010."

### **Accounting Matters**

The University operates on a fiscal year ending June 30. The following table summarizes the Statement of Activities for the years ended June 30, 2007, 2008, 2009, 2010 and 2011 and for the nine month period ended March 31, 2012.

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**Statement of Activities**  
(Fiscal Year Ended June 30 (unless otherwise indicated))  
(In Thousands)

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>Period Ended Mar. 31, 2012 (Unaudited)</u>
<b>OPERATING</b>						
<b>Revenues and other additions:</b>						
Tuition and fees	\$233,712	\$246,037	\$254,613	\$266,940	\$288,548	\$300,781
Less: tuition discounts and financial aid	(45,484)	(48,803)	(65,524)	(75,965)	(83,720)	(88,636)
Net tuition and fees	<u>188,228</u>	<u>197,234</u>	<u>189,089</u>	<u>190,975</u>	<u>204,828</u>	<u>212,145</u>
Sales and services of auxiliary enterprises	39,135	40,996	45,504	46,057	45,245	44,049
Grants and contracts	8,215	8,347	9,333	9,424	13,135	11,829
Contributions	11,556	11,561	9,962	10,515	14,912	10,778
Investment return distributed	6,086	6,808	7,681	8,186	5,952	6,524
Investment income	8,325	2,378	101	2,737	1,111	535
Other revenue	3,753	3,041	3,567	3,202	3,555	2,899
Total revenues	<u>265,298</u>	<u>270,365</u>	<u>265,237</u>	<u>271,096</u>	<u>288,738</u>	<u>288,759<sup>(1)</sup></u>
Net assets released from restrictions for operations	-	-	-	-	-	-
Total revenues and other additions	<u>265,298</u>	<u>270,365</u>	<u>265,237</u>	<u>271,096</u>	<u>288,738</u>	<u>288,759</u>
<b>Expenses:</b>						
Educational programs	120,517	123,344	131,834	131,443	137,132	105,775
Research	1,310	1,502	1,879	2,091	3,077	3,018
Scholarships funded by restricted resources	6,153	6,033	-	-	-	-
Athletics and recreation	11,720	11,890	13,363	12,859	12,968	9,270
Public service	3,759	3,520	3,453	3,574	3,728	2,760
Auxiliary enterprise expenses	34,184	36,446	39,252	41,393	40,005	22,841
Management and general expenses	50,236	56,959	60,550	57,685	56,837	51,935
Total expenses	<u>227,879</u>	<u>239,694</u>	<u>250,331</u>	<u>249,045</u>	<u>253,747</u>	<u>195,599<sup>(2)</sup></u>
Increase (decrease) in net assets from operations	<u>37,419</u>	<u>30,671</u>	<u>14,906</u>	<u>22,051</u>	<u>34,991</u>	<u>93,160<sup>(1)(2)</sup></u>
<b>NON-OPERATING</b>						
<b>Investment return:</b>						
Investment income (loss)	43,677	(2,181)	(65,459)	32,457	50,180	201
Less: investment return distributed	(6,086)	(6,808)	(7,681)	(8,186)	(5,952)	(6,524)
Total non-operating investment return	<u>37,591</u>	<u>(8,989)</u>	<u>(73,140)</u>	<u>24,271</u>	<u>44,228</u>	<u>(6,323)</u>
Contributions from non-operating activities	5,408	1,346	2,173	7,449	9,181	2,417
Unrealized gain (loss) on interest rate swap	77	(7,614)	(8,376)	(6,355)	4,897	(18,636)
Other non-operating changes, including UPMIFA	(351)	(656)	(191)	(125)	-	-
Increase (decrease) in net assets from non-operating activities	<u>42,725</u>	<u>(15,913)</u>	<u>(79,534)</u>	<u>25,240</u>	<u>58,306</u>	<u>(22,542)</u>
<b>INCREASE (DECREASE) IN NET ASSETS</b>	<u>80,144</u>	<u>14,758</u>	<u>(64,628)</u>	<u>47,291</u>	<u>93,297</u>	<u>70,618</u>
<b>NET ASSETS</b>						
Beginning of year	<u>528,004</u>	<u>608,148</u>	<u>622,906</u>	<u>558,278</u>	<u>605,569</u>	<u>698,866</u>
End of year	<u>\$608,148</u>	<u>\$622,906</u>	<u>\$558,278</u>	<u>\$605,569</u>	<u>\$698,866</u>	<u>\$769,484</u>

(1) Student tuition, room and board comprise approximately 86% of the University's annual operating revenues. Tuition for undergraduates, law and most graduate schools, as well as room and board are recorded and collected at the start of each fall and spring semester. This recurring revenue cycle results in the recording of virtually all student tuition, room and board revenue by March 31st of each year. Other revenues stemming from certain non-degree programs, dining services and bookstore sales continue to be earned throughout the fourth quarter of the fiscal year.

(2) Although the majority of the University's operating revenue is generally recorded by March 31<sup>st</sup> of each year, significant operating expenses continue to be recorded through June 30<sup>th</sup> and are not yet reflected by March 31<sup>st</sup> of each year. Such expenses include salary expenses for faculty, staff and administration; benefits; utilities; depreciation; and other operating expenses. Costs for student financial aid are generally incurred over the same cycle as tuition revenue and are, therefore, generally completely recorded as of March 31st.

The University's net assets as of June 30, 2007, 2008, 2009, 2010, and 2011 and as of March 31, 2012 were as follows:

<b>Net Assets</b> (In Thousands)						
	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	Period Ended March 31, 2012 (Unaudited)
Net assets:						
Unrestricted	\$369,084	\$393,234	\$360,524	\$383,043	\$440,557	\$520,728
Temporarily restricted	100,236	86,033	50,866	74,132	104,133	91,031
Permanently restricted	138,828	143,639	146,888	148,394	154,176	157,725
Total net assets	<u>\$608,148</u>	<u>\$622,906</u>	<u>\$558,278</u>	<u>\$605,569</u>	<u>\$698,866</u>	<u>\$769,484</u>

### Land, Property, Buildings and Equipment

As of June 30, 2011, the net book value of the capital assets of the University in its land, property, buildings and equipment totaled \$461.7 million. The net book value of the capital assets of the University in its land, property, buildings and equipment as of June 30, 2007, 2008, 2009, 2010, and 2011 and as of March 31, 2012 were as follows:

<b>Land, Buildings, and Equipment, Net</b> (In Thousands)						
	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	Period Ended Mar. 31, 2012 (Unaudited)
Land and improvements	\$ 30,395	\$ 37,900	\$ 47,211	\$ 47,211	\$ 47,211	\$47,211
Buildings and improvements	310,742	383,772	391,221	440,691	454,913	454,913
Furniture, equipment, and library books	64,663	67,601	73,751	76,115	67,346	67,346
Construction in progress	63,016	20,252	42,300	15,256	4,804	7,515
Subtotal	<u>468,816</u>	<u>509,525</u>	<u>554,483</u>	<u>579,273</u>	<u>574,274</u>	<u>576,985</u>
Less accumulated depreciation	<u>(81,501)</u>	<u>(90,645)</u>	<u>(100,520)</u>	<u>(113,621)</u>	<u>(116,610)</u>	<u>(116,610)<sup>(1)</sup></u>
Subtotal	387,315	418,880	453,963	465,652	457,664	460,375
Art collection	4,382	4,382	4,072	4,071	4,072	4,072
Land, Buildings, and Equipment, Net	<u>\$391,697</u>	<u>\$423,262</u>	<u>\$458,035</u>	<u>\$469,723</u>	<u>\$461,736</u>	<u>\$464,447</u>

(1) Depreciation is recorded at year-end and will be updated as of June 30, 2012.

### Budget Procedures

The University's annual budget is based on revenue estimates of student tuition and fees, gifts, grants, auxiliary enterprise revenues, and other miscellaneous revenues, and on expenditure estimates submitted by the academic and administrative centers of the University. The initial revenue and expenditure estimates are compiled by the office of Budget & Treasury and reviewed by University Budget Committee. Final findings and recommendations are submitted to the Finance Committee of the Board

and, upon their acceptance, are presented to the Board at its February meeting for consideration and approval.

Budgetary control is the responsibility of the Executive Vice President and Provost and the Assistant Vice President for Budget & Treasury. Actual performance to budget is monitored on a monthly basis through the use of an automated fund accounting system designed exclusively for colleges and universities.

### Cash and Investments

In 2010-11, approximately 75% of investments at fair value represented USD's endowment and are restricted as described in "Endowment."

Of USD's approximately \$435.7 million in investments as of June 30, 2011, \$186.4 million could be liquidated in 30 days or less, \$188.6 million could be liquidated within 90 days, and \$63.3 million are considered illiquid with a liquidation horizon greater than 90 days.

**Total Cash and Investments**  
(In Thousands)  
(as of June 30 (unless otherwise indicated))

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	Period Ended March 31, 2012 (Unaudited)
Cash and cash equivalents	\$ 6,615	\$ 1,454	\$ 6,158	\$ 1,930	\$ 2,560	\$ 1,478
Investments at fair value	416,050	403,638	311,923	347,291	435,727(1)	484,049
<b>Total Cash and Investments</b>	<b>\$422,665</b>	<b>\$405,092</b>	<b>\$318,081</b>	<b>\$349,221</b>	<b>\$438,287</b>	<b>\$485,527</b>

(1) The increase in the fair value of Investments from 2010 to 2011 resulted from favorable changes in market conditions and a decision by the University to retain approximately \$13 million in surplus moneys during the year.

The University had pending exposure to capital calls of approximately \$24.2 million as of June 30, 2011, and \$24.7 million as of May 1, 2012, with respect to unfunded commitments on its investments. Capital call commitments are generally funded with endowment funds and are held as part of the University's pooled investments. Funding with respect to the referenced unfunded commitments is scheduled to be completed by fiscal year 2014. There is no assurance, however, that such unfunded commitments will be funded by fiscal year 2014.

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## Endowment

The purpose of the endowment fund (the "**Fund**") is to: (1) provide a relatively predictable, stable, and constant return sufficient to meet the spending needs of the University; (2) to preserve and enhance the real (inflation adjusted) purchasing power of the Fund through active management; and (3) to increase the Fund through unspent income and gains, appreciated value, gifts, and other appropriate funds. Over the past three years, USD has maintained an average endowment balance of approximately \$269 million.

USD's pooled investments, including endowment funds as of June 30, 2009, 2010 and 2011 were comprised of the following:

	2009		2010		2011	
	<u>Market Value</u>	<u>% of Portfolio</u>	<u>Market Value</u>	<u>% of Portfolio</u>	<u>Market Value</u>	<u>% of Portfolio</u>
Equities	\$97,376	42.6%	\$87,724	34.0%	\$128,876	39.0%
Fixed Income	44,559	19.5%	46,108	17.9%	51,895	15.7%
Cash						
Equivalents	4,455	2.0%	5,229	1.8%	16,597	5.1%
Real Assets	19,481	8.5%	31,455	12.3%	29,927	9.1%
Marketable						
Alternatives	41,192	18.0%	59,169	22.9%	59,250	18.0%
Non-marketable						
Alternatives	21,389	9.4%	28,568	11.1%	43,135	13.1%
Total Pooled Investments	\$228,452	100%	\$258,253	100%	\$330,040	100%

The return objective for the investment pool, measured over a full market cycle, is inflation plus 5.5%, after the payment of all investment-related fees. In addition, the Fund should experience no greater risk (volatility and variability of return) than that of the market, the market being defined as the Fund's relevant policy benchmarks. It is recognized that the achievement of a long-term, real return in excess of 5.5% per year requires a significant allocation to higher returning asset classes. To help moderate the volatility of the portfolio, the Fund seeks to achieve meaningful diversification across asset classes. In addition, the Fund includes significant allocations to asset classes that provide a meaningful hedge against deflation and inflation.

Spending is based on a total return strategy, which includes both appreciation and income. The University's spending allowance rate is 4% of the trailing three-year average of the Fund's fair market value. Spending allocations are withheld from individual endowment funds with fair market values that are lower than the gift principal (*i.e.*, original gift value). Allocations are made only from accumulated earnings, while principal balances are not distributed. The Board may expend so much of the Fund as the Board determines to be prudent for the uses and purposes for which the Fund is established, consistent with the goal of conserving the long-term purchasing power of the Fund.

## Outstanding Indebtedness

**Summary.** As of May 1, 2012, the University's outstanding indebtedness is as set forth below. See "DEBT SERVICE SCHEDULE" in the body of the Official Statement for a summary of the total debt service associated with such indebtedness.

1. California Municipal Finance Authority, University of San Diego Series 2011. The CMFA Series 2011A Bonds (\$17,910,000) and Series 2011B Bonds (\$23,220,000) were issued in October 2011 in the aggregate principal amount of \$41,130,000. The total par amount remains outstanding, as principal begins amortizing in October 2025 for the Series 2011A Bonds and in October 2012 for the Series 2011B Bonds. The proceeds from the CMFA Series 2011A Bonds currently refunded a portion of the California Educational Facilities Authority Revenue Bonds (University of San Diego), Series 1999 equal to \$19,200,000 (the "**Refunded Series 1999 Bonds**") and proceeds from the CMFA Series 2011B Bonds currently refunded \$24,155,000 in callable and outstanding maturities of certain Certificates of Participation evidencing a proportionate interest of the holders thereof in certain payments to be made by the County of San Diego, California pursuant to an Installment Purchase Agreement dated as of May 1, 2001 between the County and the University (the "**Refunded Series 2001 Certificates**"). The Refunded Series 1999 Bonds were originally issued as current interest term bonds maturing on October 1, 2028. A portion of the Series 1999 Bonds not constituting the Refunded Series 1999 Bonds remains outstanding as of the date hereof in an amount equal to \$9,966,768 (see paragraph 5 under this caption). The Refunded Series 2001 Certificates were comprised of serial certificates originally scheduled to mature October 1, 2012 through October 1, 2016 and term certificates maturing on October 1, 2021, 2028, and 2041. The CMFA Series 2011A Bonds were issued as fixed rate bonds with a final maturity of October 2028 and bear interest at rates ranging from 5% to 5.25%. The CMFA Series 2011B Bonds were issued as fixed rate bonds with a final maturity of October 2026 and bear interest at rates ranging from 3.00% to 5.00%.

2. California Educational Facilities Authority, University of San Diego Series 2011. The CEFA Series 2011 Bonds were issued in March 2011 in the aggregate principal amount of \$18,640,000. The total par amount outstanding at May 1, 2012 is \$16,915,000. The proceeds from the CEFA Series 2011 Bonds currently refunded \$19,055,000 of the California Educational Facilities Authority, University of San Diego Series 1998 Bonds. The CEFA Series 2011 Bonds were issued as fixed rate bonds with a final maturity of October 2022 and bear interest at rates ranging from 3.00% to 5.00%. The CEFA Series 2012 Bonds are not callable. Proceeds from the Series 1998 Bonds advance refunded \$37,250,000 in aggregate principal of the California Educational Facilities Authority, University of San Diego Series 1989 Bonds and Series 1992 Bonds.

3. California Statewide Communities Development Authority, University of San Diego Series 2005. The Series 2005 Bonds were issued in November 2005 in the aggregate principal amount of \$93,415,000 and mature on October 1, 2045. The proceeds of the Series 2005 Bonds refunded the University's portion of the California Educational Facilities Authority Series 1995A Bonds (\$6,830,198) and were used to finance the construction, installation, and furnishing of new administrative, educational and student housing facilities located on the University's campus (\$86,000,000). The Series 2005 Bonds were issued in the weekly variable rate demand mode and were initially secured by a direct-pay letter of credit through BNP Paribas. In conjunction with the Series 2005 Bonds, the University entered into a 67% of 3-month LIBOR-based interest rate swap through maturity. Such swap was amended in 2009. Pursuant to such swap, the University swaps a variable rate payment with the respect to the Series 2005 Bonds for a 3.513% fixed rate payment. See Note 1 and Note 3 of the University's audited financial statements attached hereto as **Appendix B** for a discussion of the interest rate swap with respect to the Series 2005 Bonds. As of the date hereof, the original par amount of the Series 2005 Bonds remains outstanding. The University has agreed under the swap to cause the amortization of the principal of the Series 2005 Bonds in certain amounts, beginning in October 2012 and continuing from time to time thereafter until maturity, by directing the Authority to optionally redeem the Series 2005 Bonds pursuant to the Indenture relating to the Series 2005 Bonds.

On October 13, 2010, the University entered into a commitment with Wells Fargo Bank, N.A. ("**Wells Fargo**"), to replace BNP Paribas as the letter of credit provider. Wells Fargo issued its substitute irrevocable, direct-pay letter of credit (the "**Wells Fargo Letter of Credit**") pursuant and subject to the

terms of a Reimbursement Agreement dated as of November 1, 2010 (the "**Wells Fargo Reimbursement Agreement**") by and between the University and Wells Fargo. The Wells Fargo Reimbursement Agreement provides, among other things, that (a) the University will not issue any additional debt if (i) a default or event of default under the Wells Fargo Reimbursement Agreement has occurred and is continuing, (ii) the issuance of such additional debt would result in a default or event of default, (iii) the University's Unrestricted and Temporarily Restricted Net Assets are less than 200% of the University's debt as of the University's most recent reporting period then ended, or (iv) the University would not be in compliance on a pro-forma basis with all financial covenants under the Wells Fargo Reimbursement Agreement after giving effect to such additional debt as if such debt had been issued during the University's most recent reporting period then ended. In addition, the Wells Fargo Reimbursement Agreement requires that at the end of each fiscal year, the University shall have a debt service coverage ratio of at least 1.25 to 1.00 per its annual audit. The University presently is in compliance with its covenants under the Wells Fargo Reimbursement Agreement. As of June 30, 2011, (i) the amount of the University's adjusted Unrestricted and Temporarily Restricted Net Assets (\$865,262,000) was equal to 424% of the University's debt of \$203,962,000 (calculated in accordance with the terms of the Wells Fargo Reimbursement Agreement) and (ii) the University's debt service coverage ratio (calculated in accordance with the terms of the Wells Fargo Reimbursement Agreement) was 3.5x. The University reasonably expects the ratio of its adjusted Unrestricted and Temporarily Restricted Net Assets to outstanding debt and its debt service coverage ratio, each to be calculated as of June 30, 2012, to be at levels that are comparable to the levels of such ratios calculated as of June 30, 2011.

4. California Educational Facilities Authority, University of San Diego Series 2002. The Series 2002 Bonds were issued in May 2002 in the aggregate principal amount of \$14,110,000. The total par amount remains outstanding, as principal begins amortizing in October 2029. The proceeds of the Series 2002 Bonds financed the design, construction, and equipping of a 230,000 square foot, 700 stall multi-level parking garage on the University's campus. The Series 2002 Bonds were issued as two, fixed rate term bonds maturing October 2030 and 2032 at 5.25% and 5.50%, respectively. All of the outstanding principal of the Series 2002 Bonds will be refunded with proceeds of the Bonds. See "PLAN OF FINANCING" in the body of the Official Statement.

5. California Educational Facilities Authority, University of San Diego Series 1999. The Series 1999 Bonds were issued in January 1999 in the aggregate principal amount of \$31,778,189. As of June 30, 2011, there was \$29,985,483 aggregate principal amount of the Series 1999 Bonds outstanding. The proceeds of the Series 1999 Bonds financed the construction and equipping of a 150,000 square foot science facility and a new 110,000 square foot sports complex and student activity center. The Series 1999 Bonds were issued as fixed rate with payment of principal and interest on the bonds insured by Ambac Assurance Corporation. The Series 1999 Bonds have a final maturity of October 2028 and bear interest at rates ranging from 4.45% to 5.16%. The Series 1999 Bonds include non-callable capital appreciation bonds as well as traditional tax-exempt current interest bonds. All of the outstanding callable principal of the Series 1999 Bonds was refunded with proceeds of the CMFA Series 2011 Bonds. The total par amount outstanding of the Series 1999 Bonds at May 1, 2012 is \$9,966,768.

6. U.S. Bank Term Loan; Wells Fargo Line of Credit. Effective September 30, 2010, the University converted a line of credit payable to U.S. Bank National Association to a ten year term loan in the aggregate principal amount of \$8,250,000. The amount drawn on the line of credit was \$8,250,000 as of June 30, 2011. The aggregate principal amount outstanding on the line of credit as of July 1, 2012 is expected to be \$7,144,351. Proceeds of the line of credit were used to fund a major campus sustainability project. The term loan is secured by the property purchased with proceeds of the loan. In addition, the University maintains a \$10 million variable rate line of credit provided by Wells Fargo (the "**Wells Fargo Line of Credit**") that may be used for working capital purposes. There were no borrowings under this line of credit at June 30, 2011, and no borrowings are anticipated as of June 30, 2012. See Note 8 to the audited

financial statements of the University attached hereto as **Appendix B** for a discussion of the University's lines of credit and the conversion of the U.S. Bank line of credit to a term loan. Pursuant to the terms of the documentation with respect to the Wells Fargo Line of Credit, the University is required to maintain a debt service coverage ratio of at least 1.5 to 1.0, determined as of each fiscal year end. The University presently is in compliance with its covenants under the Wells Fargo Line of Credit documentation. As of June 30, 2011, the University's debt service coverage ratio calculated in accordance with the terms of the documentation relating to the Wells Fargo Line of Credit was 4.2x. The University reasonably expects its debt service coverage ratio, calculated as of June 30, 2012, to be at a level that is comparable to the level of such ratio calculated as of June 30, 2011.

### Student Financial Aid

Approximately 70% of undergraduate students, 79% of graduate students, and 88% of law students receive some form of financial aid. Changes in eligibility for government-sponsored student aid programs have impacted a number of undergraduate and graduate students and have resulted in a higher contribution to the unrestricted scholarship program by the University. Federal and state financial aid programs are subject to changing laws and regulations, and accordingly, future financial assistance from such sources is difficult to forecast. Reduction of federal or state financial aid could have a negative impact on University enrollment or finances. The following table shows the financial aid assistance provided to USD students from 2007-08 to 2010-11 and as of March 31, 2012.

<b>Financial Aid Assistance</b>					As of March
(In Thousands)					31, 2012
	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>(Unaudited)</u>
<b>Scholarships/Grants</b>					
Federal	\$7,597	\$8,327	\$11,252	\$14,234	\$12,350
State	4,119	4,357	4,561	4,936	4,417
Institutional (University general operating funds)	51,300	61,874	71,141	77,517	83,786
Total Scholarships/Grants	\$63,016	\$74,558	\$86,954	\$96,687	\$100,553
<b>Self Help</b>					
Student Loans	\$110,201	\$111,198	\$120,066	\$134,868	\$134,000
Federal Work Study	1,208	1,777	2,140	1,797	1,800
Total Self-Help	\$111,409	\$112,975	\$122,206	\$136,665	\$135,800

### DEVELOPMENT

The Office of University Relations is responsible for building relationships between the University and its community including donors, alumni, parents, and other USD friends, as well as the task of seeking funding to support building projects, endowed chairs, and scholarships.

At the completion of the University's last capital campaign (July 2001 through December 2007), the total amount raised was in excess of \$200 million, including over \$30 million for capital projects associated with the completion of the Donald P. Shiley Center for Science and Technology, the Joan B. Kroc Institute for Peace and Justice building, Degheri Alumni Center, Mother Rosalie Hill Hall (School of

Education and Leadership Science), Missions Café and Fitness Center and the start of the Student Life Pavilion project.

The University's total philanthropic support from outright cash, stock and gifts-in-kind for the period 2007 to 2012 year-to-date exceeds \$76 million. The following table indicates this support for the five fiscal years ended June 30, 2007 through 2011 and for the 9-month period ended March 31, 2012. This summary information reflects actual cash and pledge payments, and does not reflect new pledges.

### Historical Philanthropic Support in \$000's

	Fiscal Year					Period Ended
	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>March 31, 2012</u> <u>(Unaudited)</u>
<b>Types of Gifts</b>						
Cash	\$15,332	\$11,719	\$14,114	\$13,079	\$11,571	\$12,077
Stock/property	886	794	200	340	5,618 <sup>(1)</sup>	1,127
Gift-in-kind	<u>241</u>	<u>494</u>	<u>219</u>	<u>214</u>	<u>178</u>	<u>0</u>
Total	16,459	13,007	14,533	13,633	17,366	13,204
<b>Gift Restrictions</b>						
Unrestricted cash	4,229	4,422	4,493	4,107	4,145	3,525
Unrestricted non-cash	312	554	317	254	904	463
Restricted	<u>11,918</u>	<u>8,031</u>	<u>9,723</u>	<u>9,272</u>	<u>12,317</u>	<u>9,216</u>
Total	16,459	13,007	14,533	13,633	17,366	13,204

(1) Includes a gift in the amount of approximately \$3 million received by the University in the form of stock/property to endow the Center for Catholic Thought and Culture (since renamed The Frances G. Harpst Center for Catholic Thought and Culture) and a \$2 million payment in the form of stock received in partial fulfillment of the \$10 million pledge for USD's Master Athletic Plan described below.

In fiscal year 2010-11, 4,510 alumni (representing approximately 10% of USD's alumni base) gave \$1.64 million in philanthropic support to USD, including unrestricted, restricted, capital, annual and endowment.

In addition, USD previously received a \$10 million pledge for USD's Athletic Master Plan. The University has already collected \$6 million of the \$10 million commitment, \$2 million of which was cash received in fiscal year 2010, \$2 million of which was stock received in fiscal year 2011, and \$2 million of which was cash received in fiscal year 2012. USD received a \$7 million irrevocable bequest in July 2011 and payment on a previous bequest of \$3.7 million.

### INSURANCE

The University carries standard industry insurance policies, including Primary General and Excess Liability, Educator's Legal Liability, Licensed Professional Liability and Medical Professional Liability, Worker's Compensation, Property and environmental liability coverage. In addition, the university carries a variety of International Liability, Auto and Crime, Fiduciary Kidnap and Ransom policies.

## **LITIGATION**

Litigation and other claims incident to the normal operation of the University are pending against the University. While the ultimate liability, if any, of the University is not presently determinable, such litigation and other claims will not, in the opinion of the University, affect the University's ability to carry out its obligations under the Loan Agreement or have a material adverse impact on the financial condition of the University.

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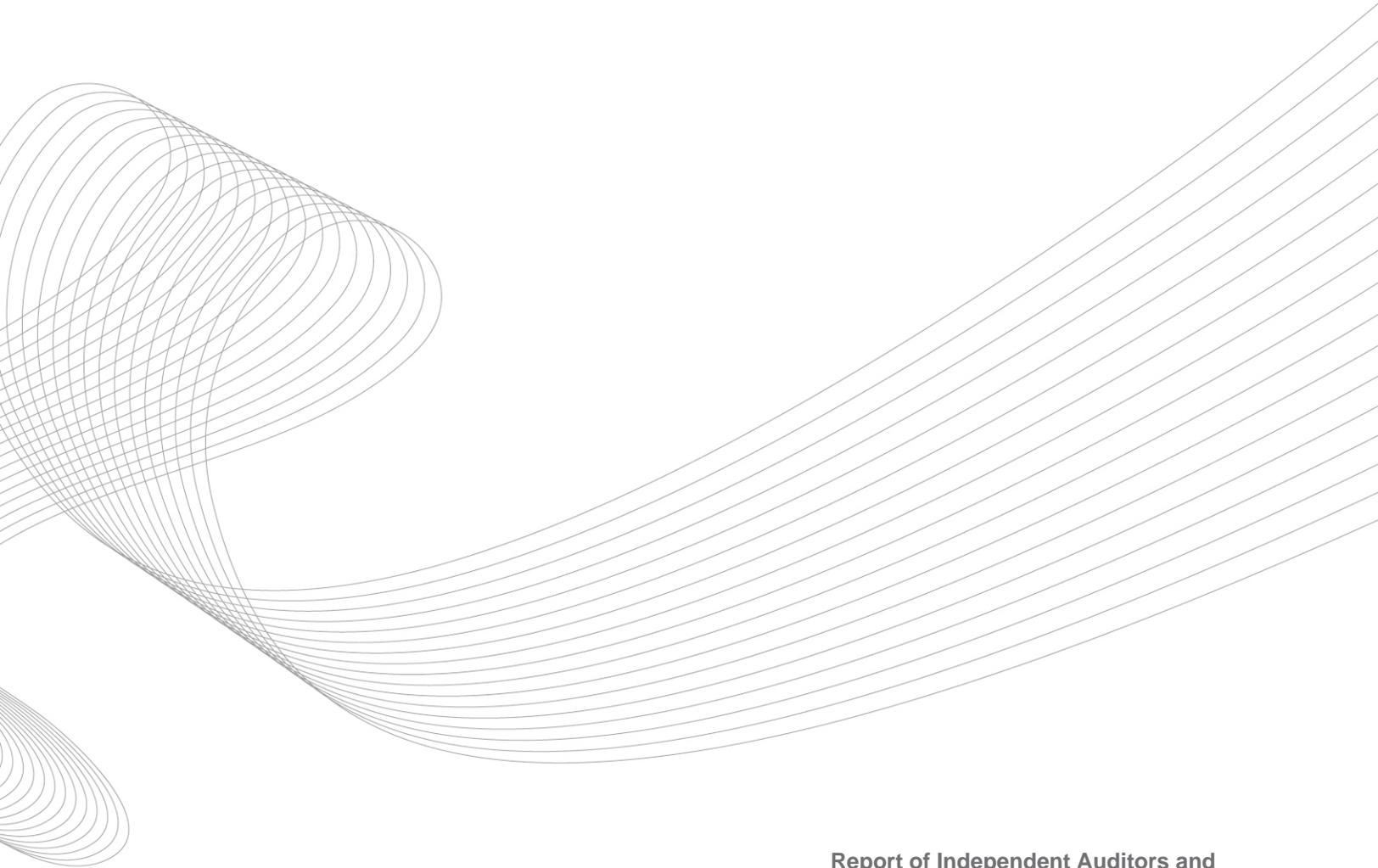
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**APPENDIX B**  
**FINANCIAL STATEMENTS FOR THE UNIVERSITY**  
**AS OF JUNE 30, 2011 AND 2010**

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**Report of Independent Auditors and  
Financial Statements for  
University of San Diego  
June 30, 2011 and 2010**

**MOSS-ADAMS<sub>LLP</sub>**

Certified Public Accountants | Business Consultants

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# **C O N T E N T S**

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	<b><u>Page</u></b>
<b>REPORT OF INDEPENDENT AUDITORS</b>	1
<b>FINANCIAL STATEMENTS</b>	
Statements of Financial Position	2
Statement of Activities (2011)	3
Statement of Activities (2010)	4
Statements of Cash Flows	5
Notes to Financial Statements	6 – 27

## REPORT OF INDEPENDENT AUDITORS

To the Board of Trustees  
University of San Diego

We have audited the accompanying statements of financial position of the University of San Diego (the "University") as of June 30, 2011 and 2010, and the related statements of activities and cash flows for the years then ended. These financial statements are the responsibility of the University's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the University's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the University at June 30, 2011 and 2010, and the changes in its net assets and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

*Moss Adams LLP*

San Diego, California  
October 24, 2011

# UNIVERSITY OF SAN DIEGO

## STATEMENTS OF FINANCIAL POSITION JUNE 30, 2011 AND 2010 (IN THOUSANDS)

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	2011	2010
<b>Assets</b>		
Cash and cash equivalents	\$ 2,560	\$ 1,930
Short-term investments	105,474	71,812
Accounts and loans receivable, net	40,625	40,860
Other assets	9,926	9,734
Contributions receivable, net	21,918	15,147
Property, plant, and equipment, net	461,736	469,723
Long-term investments	330,253	275,479
Total assets	<u>\$ 972,492</u>	<u>\$ 884,685</u>
<b>Liabilities</b>		
Accounts payable and accrued expenses	\$ 38,214	\$ 41,969
Deferred tuition revenue	19,690	16,158
Other liabilities	22,730	25,400
Bonds payable	181,953	185,030
Refundable advances	11,039	10,559
Total liabilities	<u>273,626</u>	<u>279,116</u>
<b>Net Assets</b>		
Unrestricted	440,557	383,043
Temporarily restricted	104,133	74,132
Permanently restricted	154,176	148,394
Total net assets	<u>698,866</u>	<u>605,569</u>
Total liabilities and net assets	<u>\$ 972,492</u>	<u>\$ 884,685</u>

# UNIVERSITY OF SAN DIEGO

## STATEMENT OF ACTIVITIES YEAR ENDED JUNE 30, 2011 (IN THOUSANDS)

	2011			Total
	Unrestricted	Temporarily Restricted	Permanently Restricted	
<b>OPERATING</b>				
<b>Revenues and other additions:</b>				
Tuition and fees	\$ 288,548	\$ -	\$ -	\$ 288,548
Less: tuition discounts and financial aid	(83,720)	-	-	(83,720)
Net tuition and fees	204,828	-	-	204,828
Sales and services of auxiliary enterprises	45,245	-	-	45,245
Grants and contracts	13,135	-	-	13,135
Contributions	8,174	3,327	3,411	14,912
Investment return distributed	506	5,446	-	5,952
Investment income	1,111	-	-	1,111
Other revenue	3,414	-	141	3,555
Total revenues	276,413	8,773	3,552	288,738
Net assets released from restrictions for operations	9,464	(9,464)	-	-
Total revenues and other additions	285,877	(691)	3,552	288,738
<b>Expenses:</b>				
Educational programs	137,132	-	-	137,132
Research	3,077	-	-	3,077
Athletics and recreation	12,968	-	-	12,968
Public service	3,728	-	-	3,728
Auxiliary enterprise expenses	40,005	-	-	40,005
Management and general expenses	56,837	-	-	56,837
Total expenses	253,747	-	-	253,747
Increase (decrease) in net assets from operations	32,130	(691)	3,552	34,991
<b>NON-OPERATING</b>				
<b>Investment return:</b>				
Investment income	18,197	31,980	3	50,180
Less: investment return distributed	(506)	(5,446)	-	(5,952)
Total non-operating investment return	17,691	26,534	3	44,228
Contributions from non-operating activities	-	6,954	2,227	9,181
Unrealized gain on interest rate swap	4,897	-	-	4,897
Other non-operating changes	2,796	(2,796)	-	-
Increase in net assets from non-operating activities	25,384	30,692	2,230	58,306
<b>INCREASE IN NET ASSETS</b>	57,514	30,001	5,782	93,297
<b>NET ASSETS</b>				
Beginning of year	383,043	74,132	148,394	605,569
End of year	\$ 440,557	\$ 104,133	\$ 154,176	\$ 698,866

# UNIVERSITY OF SAN DIEGO

## STATEMENT OF ACTIVITIES YEAR ENDED JUNE 30, 2010 (IN THOUSANDS)

	2010			Total
	Unrestricted	Temporarily Restricted	Permanently Restricted	
<b>OPERATING</b>				
<b>Revenues and other additions:</b>				
Tuition and fees	\$ 266,940	\$ -	\$ -	\$ 266,940
Less: tuition discounts and financial aid	(75,965)	-	-	(75,965)
Net tuition and fees	190,975	-	-	190,975
Sales and services of auxiliary enterprises	46,057	-	-	46,057
Grants and contracts	9,424	-	-	9,424
Contributions	4,858	4,111	1,546	10,515
Investment return distributed	549	7,637	-	8,186
Investment income	2,737	-	-	2,737
Other revenue	3,046	-	156	3,202
Total revenues	257,646	11,748	1,702	271,096
Net assets released from restrictions for operations	11,175	(11,175)	-	-
Total revenues and other additions	268,821	573	1,702	271,096
<b>Expenses:</b>				
Educational programs	131,443	-	-	131,443
Research	2,091	-	-	2,091
Athletics and recreation	12,859	-	-	12,859
Public service	3,574	-	-	3,574
Auxiliary enterprise expenses	41,393	-	-	41,393
Management and general expenses	57,685	-	-	57,685
Total expenses	249,045	-	-	249,045
Increase in net assets from operations	19,776	573	1,702	22,051
<b>NON-OPERATING</b>				
<b>Investment return:</b>				
Investment income (loss)	12,659	19,923	(125)	32,457
Less: investment return distributed	(549)	(7,637)	-	(8,186)
Total non-operating investment return	12,110	12,286	(125)	24,271
Contributions from non-operating activities	-	7,520	(71)	7,449
Unrealized loss on interest rate swap	(6,355)	-	-	(6,355)
Other non-operating changes	(3,012)	2,887	-	(125)
Increase (decrease) in net assets from non-operating activities	2,743	22,693	(196)	25,240
<b>INCREASE IN NET ASSETS</b>	22,519	23,266	1,506	47,291
<b>NET ASSETS</b>				
Beginning of year	360,524	50,866	146,888	558,278
End of year	\$ 383,043	\$ 74,132	\$ 148,394	\$ 605,569

# UNIVERSITY OF SAN DIEGO

## STATEMENTS OF CASH FLOWS YEARS ENDED JUNE 30, 2011 AND 2010 (IN THOUSANDS)

	2011	2010
<b>OPERATING ACTIVITIES</b>		
Changes in net assets	\$ 93,297	\$ 47,291
Adjustments to reconcile changes in net assets to net cash provided by operating activities:		
Depreciation and amortization	15,323	14,989
Net provision for losses on receivables	912	280
Net realized and unrealized gains on long-term investments	(52,658)	(35,352)
Net unrealized (gains) losses on interest rate swap	(4,897)	6,355
Contributions restricted for long-term investments	(3,358)	(1,637)
Contributions and investment income restricted for revolving student loan fund	(17)	(20)
Contributions restricted for investment in property, plant, and equipment	(2,488)	(3,317)
Changes in operating assets and liabilities:		
Receivables	(2,095)	(5,085)
Other assets	(419)	(505)
Contributions receivable	(6,771)	(4,344)
Accounts payable and accrued expenses	(3,755)	(282)
Deferred tuition revenue	3,532	(4,782)
Other liabilities	1,001	102
Net cash provided by operating activities	<u>37,607</u>	<u>13,693</u>
<b>INVESTING ACTIVITIES</b>		
Proceeds from maturities/sales of investments	290,313	333,136
Purchases of investments	(326,091)	(333,152)
Purchase of property, plant, and equipment	(7,110)	(26,556)
Net cash (used in) investing activities	<u>(42,888)</u>	<u>(26,572)</u>
<b>FINANCING ACTIVITIES</b>		
Principal payments on bonds payable	(4,185)	(3,693)
Advances for government loan funds	480	668
Net disbursements of student loans	1,418	1,247
Proceeds from note payable	2,335	5,455
Contributions restricted for long-term investments	3,358	1,637
Contributions and investment income restricted for revolving student loan fund	17	20
Contributions restricted for investment in property, plant, and equipment	2,488	3,317
Net cash provided by financing activities	<u>5,911</u>	<u>8,651</u>
<b>INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS</b>	630	(4,228)
<b>CASH AND CASH EQUIVALENTS</b>		
Beginning of year	<u>1,930</u>	<u>6,158</u>
End of year	<u>\$ 2,560</u>	<u>\$ 1,930</u>
<b>SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION</b>		
Cash paid for interest	<u>\$ 9,612</u>	<u>\$ 8,079</u>

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

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### Note 1 – Nature of Operation and Significant Accounting Policies

The University of San Diego (the “University”) is an independent Catholic university chartered in 1949 under the nonprofit public benefit corporation law and is governed by its Board of Trustees. In 1972, the San Diego College for Women merged with the University of San Diego College for Men forming the University. The University includes a College of Arts and Sciences and five professional schools: the School of Business Administration, the School of Leadership and Education Sciences, the School of Law, the Philip Y. Hahn School of Nursing and Health Science, and the Joan B. Kroc School of Peace Studies.

**Financial Statement Presentation:** The University classifies its net assets as unrestricted, temporarily restricted, and permanently restricted based upon the following criteria:

- Unrestricted net assets represent expendable funds available for operations that are not otherwise limited by donor restrictions.
- Temporarily restricted net assets consist of contributed funds subject to specific donor-imposed restrictions, which are contingent upon a specific performance of a future event or a specific passage of time before the University may spend the funds.
- Permanently restricted net assets are subject to irrevocable donor restrictions, requiring that the assets be maintained in perpetuity, primarily for generating investment income to fund current operations.

### Revenue Recognition

- *Tuition and Fees:* Student tuition and fees are recorded as revenue in the year during which the related academic services are rendered. Student tuition and fees received in advance of services to be rendered are recorded as deferred tuition revenue.
- *Gifts:* Contributions of cash, unconditional pledges, and other assets are recorded as revenue in the period received and are classified as permanently restricted, temporarily restricted, or unrestricted based on donor stipulations. Contributions whose restrictions are met in the same period they are received are recorded as revenue in temporarily restricted net assets and as net assets released from restrictions. Unconditional pledges with terms greater than one year are initially recorded at fair value based on their estimated future cash flows. Conditional promises to give are not recognized until they become unconditional, that is, when the conditions on which they depend are substantially met. Gifts of assets other than cash are recorded at their estimated fair value.

**Operating Activities:** Operating revenue and expenses consist of those items attributable to the University’s academic programs, research conducted by the academic departments, and auxiliary operations. The amount computed under the endowment spending policy of the investment pool and all investment income earned by investing cash in excess of daily requirements are used to support current operations. Contribution revenues with restrictions for long-lived assets are recorded under non-operating activities.

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

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### Note 1 – Nature of Operation and Significant Accounting Policies (Continued)

**Cash and Cash Equivalents:** The University considers liquid investments, which fund the daily operating activities of the University and have a maturity of three months or less at the date of purchase, to be cash equivalents. The University is required to keep separate bank accounts for certain funding received. Balances in these accounts totaled approximately \$1,651,000 and \$988,000 as of June 30, 2011 and 2010, respectively.

**Concentration of Credit Risk:** Financial instruments that potentially subject the University to concentrations of credit risk consist principally of cash deposits at financial institutions and investments in marketable securities. At times, balances in the University's cash and investment accounts exceed Federal Deposit Insurance Corporation ("FDIC") or Securities Investors Protection Corporation ("SIPC") limits.

**Accounts and Loans Receivable:** Receivables are recorded net of an allowance for doubtful accounts. The allowance is based on historical experience and management's evaluation of receivables at the end of each year.

**Interest Rate Swap:** In conjunction with the University's November 2005 issuance of variable rate demand revenue bonds, the University entered into an interest rate swap agreement with a financial institution counterparty. The purpose of this agreement is to swap the variable rate on underlying debt for a fixed rate of 3.45 percent for a period of 40 years. The University entered into the agreement to manage the risk associated with the cash flows attributable to interest payments on the debt and does not use this instrument for speculative purposes. The instrument's fair value and changes therein are reported in the University's unrestricted net assets. The value of the swap instrument represents the estimated receivable of or payable by the University to cancel the agreement at the reporting date, which is based on option pricing models that consider risks and market factors.

The unrealized gains (losses) for the change in the swap agreement's fair value were approximately \$4,897,000 and (\$6,355,000) for the years ended June 30, 2011 and 2010, respectively. The value of the swap instrument is a payable of approximately \$13,166,000 and \$18,063,000 recorded in other liabilities at June 30, 2011 and 2010, respectively.

**Refundable Advances:** The University serves as an agent for the federal government in administering the Perkins Student Loan Fund Program and the Nursing Faculty Loan Program. Amounts received in conjunction with these programs are recorded as refundable advances in the statements of financial position. Disbursements made to students in accordance with the federal program requirements are recorded as student loans receivable. Included in accounts and loans receivable at June 30, 2011 and 2010 are student loans receivable of approximately \$13,014,000 and \$12,621,000, respectively, related to these programs.

**Functional Expense Classifications:** Expenses, including certain allocated expenses, are reported in major categories: educational programs, research, athletics and recreation, public service, auxiliary enterprise expenses, and management and general expenses. Auxiliary enterprises include, among others, student residence and board, food services, and the bookstore.

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

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### Note 1 – Nature of Operation and Significant Accounting Policies (Continued)

Management and general expenses consist of general institutional support including expenses for fundraising. The University incurred fundraising expenses in the amount of approximately \$7,177,000 during the year ended June 30, 2011, including \$5,224,000 in personnel expenses and approximately \$1,953,000 in other expenses. The University incurred fundraising expenses in the amount of approximately \$6,952,000 during the year ended June 30, 2010, including \$5,164,000 in personnel expenses and approximately \$1,788,000 in other expenses. These expenses were incurred to support campaigns promoting charitable contributions including gifts directed toward the University's endowment and capital projects.

**Earnings on Permanently Restricted Endowments:** Assets of the University's individual endowment funds (the "Funds") are generally maintained in pooled investment portfolios. Interest, dividends, and gains and losses in the investment pool are allocated on a monthly-average basis to the Funds in proportion to each Fund's relative share in the investment pool, and are recorded in the Fund which is authorized to expend the earnings. The earnings on permanently restricted endowments are primarily recorded as temporarily restricted, in accordance with donor stipulations. In certain unique situations, a Fund's earnings may be recorded as permanently restricted or unrestricted, in accordance with donor stipulations. Accumulated unspent earnings are reinvested and retained in the Funds to protect them against inflation over the long-term.

**Expiration of Donor-Imposed Restrictions:** The expiration of a donor-imposed restriction on net assets is recognized in the period in which the restriction expires and at the time the related resources are reclassified to unrestricted net assets. Net assets are released from donor restrictions by incurring expenses satisfying the restricted purposes, by occurrences of events specified by the donors, or by the change of restrictions specified by the donors. Restrictions on gifts of cash or other assets received for the acquisition of long-lived assets are released when the long-lived assets are placed into service.

**Fair Value of Financial Instruments:** Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The University classifies certain of its assets and liabilities based upon established fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy are described below:

- Level 1:** Valuations based on unadjusted quoted prices in active markets for identical assets or liabilities that the University has the ability to access at the measurement date;
- Level 2:** Valuations based on quoted prices in markets that are not active or for which all significant inputs are observable, either directly or indirectly; and
- Level 3:** Valuations based on inputs that are unobservable and significant to the overall fair value measurement.

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

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### Note 1 – Nature of Operation and Significant Accounting Policies (Continued)

A financial instrument's level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement. The categorization of assets and liabilities within the hierarchy is based upon the pricing transparency and does not necessarily correspond to the University's perceived risk of the assets and liabilities.

The University considers the carrying value of other financial instruments to approximate fair value because of the relatively short period of time between origination of the instruments and their expected realization.

Although the University uses its best judgment in determining the fair value of financial instruments, there are inherent limitations in any methodology. Future confirming events could affect the estimates of fair value and could be material to the financial statements. These events could also affect the amount realized upon liquidation of the instruments.

**Use of Estimates:** The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

**Income Taxes:** The University is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code ("IRC") and section 23701(d) of the California Revenue and Taxation Code.

The University follows the provisions of ASC 740-10, *Income Taxes*, related to accounting for uncertain tax positions. The University has no unrecognized tax benefits or liabilities as of June 30, 2011 and 2010. The University files an exempt organization return and applicable unrelated business income tax return in the U.S. federal jurisdiction, and with the California Franchise Tax Board. The University is no longer subject to income tax examinations by taxing authorities for years before 2007 for its federal filings and for years before 2006 for its state filings.

### Note 2 – Investments

Investments, other than real estate, are reported at their fair values. Real estate is reported at historical cost. The carrying value of real estate is periodically evaluated and may be reduced if the fair market value falls below the current carrying value, except for temporary fluctuations. No such adjustments were made in 2011 or 2010.

The University follows a spending rule for its endowment funds, which provides for regular increases in spending, while preserving the long-term purchasing power of the endowment. Earnings available for spending are shown in operating income, and the balance as non-operating income.

The University pools certain investments from the various net asset categories. Interest, dividends, and gains and losses in the investment pool are all distributed to the appropriate net asset category. Distributions are based upon the carrying value of the various net asset categories' assets when pooled, adjusted for purchases or gifts specifically identified to a given net asset category.

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

### Note 2 – Investments (Continued)

Investments consist of the following at June 30 (in thousands):

	2011	2010
Cash and cash equivalents	\$ 39,960	\$ 33,321
Fixed-income	55,237	44,160
Equities	-	36
Real estate	10,490	11,521
Pooled investments	330,040	258,253
	<u>\$ 435,727</u>	<u>\$ 347,291</u>

Pooled investments consist of the following at June 30 (in thousands):

Cash and cash equivalents	\$ 16,957	\$ 5,229
Fixed-income	51,895	46,108
Equities	128,876	87,724
Real assets	29,927	31,455
Marketable alternatives	59,250	59,169
Non-marketable alternatives	43,135	28,568
	<u>\$ 330,040</u>	<u>\$ 258,253</u>

**Investment Return:** The following schedule summarizes investment income and its classification on the statements of activities for the years ended June 30, 2011 and 2010 (in thousands):

	2011			Total
	Unrestricted	Temporarily Restricted	Permanently Restricted	
Interest and dividends	\$ 2,978	\$ 2,058	\$ 19	\$ 5,055
Less: management fees	(652)	(1,033)	-	(1,685)
Net interest and dividends	2,326	1,025	19	3,370
Realized gain (loss), net	3,403	8,287	(10)	11,680
Unrealized gain (loss), net	13,579	22,668	(6)	36,241
	<u>\$ 19,308</u>	<u>\$ 31,980</u>	<u>\$ 3</u>	<u>\$ 51,291</u>

	2010			Total
	Unrestricted	Temporarily Restricted	Permanently Restricted	
Interest and dividends	\$ 2,798	\$ 2,177	\$ 139	\$ 5,114
Less: management fees	(528)	(970)	-	(1,498)
Net interest and dividends	2,270	1,207	139	3,616
Realized (loss) gain, net	(260)	(398)	49	(609)
Unrealized gain (loss), net	13,386	19,114	(313)	32,187
	<u>\$ 15,396</u>	<u>\$ 19,923</u>	<u>\$ (125)</u>	<u>\$ 35,194</u>

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

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### Note 2 – Investments (Continued)

Included in the net unrealized gain (loss) for the years ended June 30, 2011 and 2010 are gross unrealized losses of approximately \$4,773,000 and \$23,648,000, respectively. The remaining amount is attributed to the conversion of unrealized gains to realized gains upon the sale of investments, net of gross unrealized gains.

The global credit markets, the financial services industry, and the United States economy as a whole have been experiencing a period of substantial turmoil and uncertainty. It is possible that these conditions may adversely affect the University's business, vendors, and prospects as well as its liquidity and financial condition.

### Note 3 – Fair Value of Financial Instruments

The University uses the following methods and assumptions to estimate the fair value for its assets and liabilities measured and carried at fair value in the financial statements:

**Fixed Income Securities:** Investments in fixed income securities are comprised of U.S. Treasury notes, mortgage-backed securities, municipal and corporate bonds, as well as global investment grade debt securities denominated primarily in developed countries around the world. Fair value is based on quoted market prices, for those traded with sufficient frequency. If a quoted market price is not available, fair value is estimated based on the net asset value ("NAV") of the fund.

**Equities Funds:** Investments in equities funds include investments in securities traded in active markets for which closing prices are readily available. Investments in equities funds also include investments in index funds, which fair values may be based on market data of underlying assets and/or the NAV of the fund.

**Real Estate:** Real estate is initially reported at historical cost. The carrying value of real estate is periodically evaluated and may be adjusted if fair value is less than carrying value and impairment is not considered to be temporary.

**Real Asset Funds:** Investments in real asset funds includes funds, and funds of funds, which invest in various real assets. Fair value is based on quoted market prices, for those traded on active markets. Most of these investments are either funds not actively traded in a public market or investments in limited partnerships, in which fair value is determined by the NAV of the funds as determined in good faith by the fund manager or general partner.

**Alternative Investments:** Investments in alternatives includes fund of funds, private hedge, and equity funds for which no active market exists. The University has estimated the investments' fair value by using the NAV provided by the fund's managers.

The University generally records alternative investments at the investment manager's NAV, as the managers have the greatest insight into the investments of their fund and the related industry and have the appropriate expertise to determine the NAV. The University assesses the NAV and takes into consideration events such as suspended redemptions, imposition of gates, restructuring, secondary sales, and investor defaults to determine if an adjustment is necessary. Additionally, asset holdings are reviewed within the investment manager's audited financial statements, as are interim financial statements and fund manager communications, for purposes of assessing valuation.

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

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### Note 3 - Fair Value of Financial Instruments (Continued)

**Beneficial Interest in Trust Held by Third Parties:** The University's beneficial interest in trust assets is valued at fair value using the quoted market prices of the underlying securities and discounted when appropriate. If a quoted market price is not available, fair value is determined using the net present value of future distributions the University expects to receive over the term of the agreements.

**Interest Rate Swap Agreement:** The fair value of the interest rate swap agreement is the estimated amount the University would receive or pay to terminate the agreement at the reporting date, taking into consideration the current interest rates and creditworthiness of counterparties.

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

### Note 3 – Fair Value of Financial Instruments (Continued)

The following tables disclose by level the fair value hierarchy for the assets and liabilities at June 30:

	(In Thousands)			
	Level 1	Level 2	Level 3	2011
<b>Assets</b>				
Investment in:				
Cash and cash equivalents	\$ 56,917	\$ -	\$ -	\$ 56,917
Fixed-income securities:				
Domestic debt securities	1,187	33,217	-	34,404
Government debt securities	15,299	5,276	-	20,575
Domestic and global securities	24,362	15,335	-	39,697
Domestic bank loans	-	12,196	-	12,196
Other fixed income	-	260	-	260
Equities funds:				
Domestic equity securities	34,619	22,730	-	57,349
International equity securities	5,670	35,812	-	41,482
Emerging market equity securities	-	23,483	-	23,483
Inflation sensitive equities	6,562	-	-	6,562
Real assets funds	473	29,454	-	29,927
Marketable alternatives:				
Absolute return hedge funds	-	17,199	19,860	37,059
Long/short hedge funds	-	4,882	17,309	22,191
Non-marketable alternatives:				
Venture capital	-	-	8,443	8,443
Domestic private equity	-	-	7,310	7,310
International private equity	-	-	9,823	9,823
Distressed debt	-	-	9,805	9,805
Energy & resources	-	-	5,169	5,169
Real estate	-	-	2,585	2,585
Fair value investment subtotal	145,089	199,844	80,304	425,237
Beneficial interest in trust held by third parties	-	-	5,255	5,255
Total fair value assets	<u>\$ 145,089</u>	<u>\$ 199,844</u>	<u>\$ 85,559</u>	<u>\$ 430,492</u>
<b>Liabilities</b>				
Interest rate swap agreement	\$ -	\$ 13,166	\$ -	\$ 13,166
Total fair value liabilities	<u>\$ -</u>	<u>\$ 13,166</u>	<u>\$ -</u>	<u>\$ 13,166</u>

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

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### Note 3 - Fair Value of Financial Instruments (Continued)

	<b>(In Thousands)</b>			
	<b>Level 1</b>	<b>Level 2</b>	<b>Level 3</b>	<b>2010</b>
<b>Assets</b>				
Investment in:				
Fixed-income securities	\$ 37,784	\$ 52,484	\$ -	\$ 90,268
Equities funds	25,423	62,337	-	87,760
Real assets funds	5,545	22,282	3,628	31,455
Marketable alternatives	-	19,826	39,343	59,169
Non-marketable alternatives	-	-	28,568	28,568
Fair value investment subtotal	68,752	156,929	71,539	297,220
Beneficial interest in trust held by third parties	-	-	4,616	4,616
Total fair value assets	<u>\$ 68,752</u>	<u>\$ 156,929</u>	<u>\$ 76,155</u>	<u>\$ 301,836</u>
<b>Liabilities</b>				
Interest rate swap agreement	\$ -	\$ 18,063	\$ -	\$ 18,063
Total fair value liabilities	<u>\$ -</u>	<u>\$ 18,063</u>	<u>\$ -</u>	<u>\$ 18,063</u>

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

### Note 3 – Fair Value of Financial Instruments (Continued)

The following tables disclose the summary of changes in the fair value of the Level 3 assets:

	(In Thousands)					
	Balance as of July 1, 2010	Total Realized Gains/(Losses)	Total Unrealized Gains/(Losses)	Purchases and Sales, net	Actuarial Adjustment	Balance as of June 30, 2011
Marketable alternatives:						
Absolute return hedge funds	\$ 19,984	\$ 421	\$ 1,312	\$ (1,857)	\$ -	\$ 19,860
Long/short hedge funds	19,359	1,669	149	(3,868)	-	17,309
Non-marketable alternatives:						
Venture capital	5,376	481	1,523	1,063	-	8,443
Domestic private equity	6,751	1,646	255	(1,342)	-	7,310
International private equity	6,235	115	1,472	2,001	-	9,823
Distressed debt	10,206	198	897	(1,496)	-	9,805
Energy & resources	3,234	-	895	1,040	-	5,169
Real estate	394	55	960	1,176	-	2,585
Investments	71,539	4,585	7,463	(3,283)	-	80,304
Beneficial interest in trust held by third parties						
	4,616	-	-	-	639	5,255
Total Level 3	<u>\$ 76,155</u>	<u>\$ 4,585</u>	<u>\$ 7,463</u>	<u>\$ (3,283)</u>	<u>\$ 639</u>	<u>\$ 85,559</u>

	(In Thousands)				
	Balance as of July 1, 2009	Realized and Unrealized Gains/ (Losses), net	Purchases and Sales, net	Actuarial Adjustment	Balance as of June 30, 2010
Fixed-income securities	\$ 11,815	\$ 1,385	\$ (13,200)	\$ -	\$ -
Real assets funds	2,486	27	1,115	-	3,628
Marketable alternatives	24,235	2,862	12,246	-	39,343
Non-marketable alternatives	21,389	3,056	4,123	-	28,568
Investments	59,925	7,330	4,284	-	71,539
Beneficial interest in trust held by third parties					
	4,430	-	-	186	4,616
Total Level 3	<u>\$ 64,355</u>	<u>\$ 7,330</u>	<u>\$ 4,284</u>	<u>\$ 186</u>	<u>\$ 76,155</u>

The University recognizes all significant transfers between Levels 1, 2, and 3 at fair market value at the end of the reporting period. For the fiscal year ended June 30, 2011, the University recorded no significant transfers between Levels 1, 2, or 3.

Net depreciation on investments and the actuarial adjustment for the beneficial interest in trusts in the above tables are reflected in the line "Investment income (loss)" and "Contributions," respectively, on the statements of activities. Unrealized losses shown for Level 3 assets held at June 30, 2011 and 2010 totaled \$2,342,000 and \$881,000, respectively.

The University has diversified its alternative investments. The fair values of these investments are generally determined by using the NAV per share of the investments.

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

### Note 3 – Fair Value of Financial Instruments (Continued)

The following summarizes these investments by major categories as of June 30, 2011:

	Fair Value	Unfunded Commitment	Redemption	Redemption Notice	Note
<b>Fixed-income securities:</b>					
Domestic debt securities	\$ 33,217	N/A	1 – 30 days, with exception to those under gate limitations	1 – 30 days, with exception to those under gate limitations	(a)
Government debt securities	\$ 5,276	N/A	1 – 30 days, with exception to those under gate limitations	1 – 30 days, with exception to those under gate limitations	(a)
Domestic and global securities	\$ 15,335	N/A	1 – 30 days, with exception to those under gate limitations	1 – 30 days, with exception to those under gate limitations	(a)
Domestic bank loans	\$ 12,196	N/A	1 – 30 days, with exception to those under gate limitations	1 – 30 days, with exception to those under gate limitations	(a)
Other fixed income	\$ 260	N/A	1 – 30 days, with exception to those under gate limitations	1 – 30 days, with exception to those under gate limitations	(a)
<b>Equities funds:</b>					
Domestic equity securities	\$ 22,730	N/A	1 – 30 days, with exception to those under gate limitations	1 – 30 days, with exception to those under gate limitations	(a)
International equity securities	\$ 35,812	N/A	1 – 30 days, with exception to those under gate limitations	1 – 30 days, with exception to those under gate limitations	(a)
Emerging market equity securities	\$ 23,483	N/A	1 – 30 days, with exception to those under gate limitations	1 – 30 days, with exception to those under gate limitations	(a)
<b>Real assets funds</b>	\$ 29,454	N/A	1 month - maturity	30 days - maturity	(b)
<b>Marketable alternatives:</b>					
Absolute return hedge funds	\$ 37,059	N/A	3 – 36 months	30 - 90 days	(c)
Long/short hedge funds	\$ 22,191	N/A	3 – 36 months	30 - 90 days	(d)
<b>Non-marketable alternatives:</b>					
Venture capital	\$ 8,443	\$ 3,167	N/A – Redeemable upon maturity	N/A	(e)
Domestic private equity	\$ 7,310	\$ 5,529	N/A – Redeemable upon maturity	N/A	(f)
International private equity	\$ 9,823	\$ 5,208	N/A – Redeemable upon maturity	N/A	(f)
Distressed debt	\$ 9,805	\$ 2,726	N/A – Redeemable upon maturity	N/A	(g)
Energy & resources	\$ 5,169	\$ 5,072	N/A – Redeemable upon maturity	N/A	(h)
Real estate	\$ 2,585	\$ 2,494	N/A – Redeemable upon maturity	N/A	(i)

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

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### Note 3 – Fair Value of Financial Instruments (Continued)

- (a) This category includes funds that consist of assets from several accounts which are blended together. These funds invest in U.S. debt and equities, international equities, as well as emerging markets. Less than 1 percent of the investments are not redeemable until liquidation by the fund manager. The remaining values are generally redeemable within one year, subject to certain gate limitations.
- (b) This category includes funds, and a fund of funds, which invest in natural resources, commodities, private energy, and private real estate in the U.S. and outside the U.S.
- (c) This category includes investments in various types of hedge funds using a total of 11 different fund managers. These funds are invested in absolute return strategies, including diversified arbitrage, event-driven arbitrage and distressed funds. Less than 1 percent of the investments are not redeemable until liquidation by the fund manager. The remaining values are generally redeemable within one year, subject to certain gate limitations.
- (d) This category includes investments in various types of hedge funds using a total of 7 different fund managers. These funds are invested in long and short strategies in both U.S. and global common stocks. Less than 1 percent of the investments are not redeemable until liquidation by the fund manager. The remaining values are generally redeemable within one year, subject to certain gate limitations.
- (e) This category includes investments in venture capital funds and funds of venture capital funds. Underlying investments are primarily private investments in early stage companies.
- (f) This category includes investments in private equity funds and private equity funds of funds in the U.S. and outside of the U.S. whose mandates include leveraged buyouts and growth equity investments in companies.
- (g) This category includes investments in distressed debt funds and funds of funds. Underlying investments are primarily securities of companies or government entities that are already in default, under bankruptcy protection, or in distress and heading towards such a condition.
- (h) This category includes funds, and a fund of funds, which invest in natural resources, commodities, and private energy in the U.S. and outside the U.S.
- (i) This category includes funds, and a fund of funds, which invest in private real estate in the U.S. and outside the U.S.

### Note 4 – Accounts and Loans Receivable

The following is a summary of receivables at June 30 (in thousands):

	2011	2010
Student loans receivable	\$ 34,193	\$ 32,775
Student accounts receivable for tuition and fees	8,139	8,418
Other receivables	4,433	4,895
	<u>46,765</u>	<u>46,088</u>
Less allowance for doubtful accounts	(6,140)	(5,228)
	<u>\$ 40,625</u>	<u>\$ 40,860</u>

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

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### Note 5 - Contributions Receivable

Contributions receivable are expected to be received in the following periods at June 30 (in thousands):

	2011	2010
Unconditional pledges:		
Less than one year	\$ 2,113	\$ 2,058
One to five years	7,941	10,488
Over five years	<u>19,501</u>	<u>13,032</u>
	29,555	25,578
Less present value discount (2.8 percent)	(7,260)	(12,228)
Less allowance for uncollectibility	<u>(7,246)</u>	<u>(4,433)</u>
Net pledges receivable	15,049	8,917
Split-interest agreements - over five years	<u>6,869</u>	<u>6,230</u>
	<u>\$ 21,918</u>	<u>\$ 15,147</u>

Split-interest agreements are comprised of unitrusts and charitable gift annuities. To determine the carrying value of unitrust assets, the University determines net present value using a discount percentage of generally 2.8 percent based on estimated payouts and donor data. For charitable gift annuities, the assets are recorded at fair value and a liability is then recorded for the amount of the annuity payments based on the life of the donor. The difference between the recorded asset and liability is recorded into revenue for the given year. At June 30, 2011, the largest outstanding donor pledge balance represented 24 percent of the University's gross pledges receivable. At June 30, 2010, the largest outstanding donor pledge balance represented 30 percent of the University's gross pledges receivable.

### Note 6 - Property, Plant, and Equipment

Property, plant, and equipment consist of the following at June 30 (in thousands):

	2011	2010
Land and improvements	\$ 47,211	\$ 47,211
Buildings and improvements	454,913	440,691
Furniture, equipment, and library books	67,346	76,115
Construction in progress	<u>4,804</u>	<u>15,256</u>
	574,274	579,273
Less accumulated depreciation	<u>(116,610)</u>	<u>(113,621)</u>
	457,664	465,652
Art collection	<u>4,072</u>	<u>4,071</u>
	<u>\$ 461,736</u>	<u>\$ 469,723</u>

Property, plant, and equipment are stated at cost if purchased, or fair value at the date of donation, and are depreciated on a straight-line basis over their appropriate estimated useful lives. The estimated useful lives by asset type are fifty years for buildings; forty years for building improvements and library resources; seven years for furniture, equipment, and technology upgrades; and three years for capital lease assets.

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

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### Note 6 – Property, Plant, and Equipment (Continued)

The art collection consists of various pieces of donated and purchased artwork, antique furniture, and artifacts whose value is expected to increase over time and, therefore, is not depreciated. Depreciation expense totaled approximately \$15,098,000 and \$14,868,000 for the years ended June 30, 2011 and 2010, respectively.

Interest is capitalized in connection with the construction of certain facilities. The capitalized interest is recorded as part of the asset to which it relates and is amortized over the asset's estimated useful life. Interest expense, net of income, capitalized for the years ended June 30, 2011 and 2010 totaled approximately \$0 and \$2,710,000, respectively.

### Note 7 – Employee Benefits

The University has a retirement health care program that pays a specified fixed amount to supplement the medical insurance payments made by retirees of the University. The University has internally designated specific investments toward covering this obligation.

The following table sets forth the amount of obligation and assets as of June 30 (in thousands):

	2011	2010
Fair value of designated assets	\$ 2,839	\$ 2,327
Post-retirement benefit obligation	<u>2,354</u>	<u>2,327</u>
Over (under) funded	<u>\$ 485</u>	<u>\$ -</u>

The following table sets forth benefit costs and benefits paid (in thousands):

Benefit costs	\$ 15	\$ 61
Benefit payments	107	99
Contributions	27	114

Weighted-average assumptions:

Discount rate	6.0%	6.0%
Expected return on plan assets	8.0%	8.0%

The University uses an actuarial measurement date of June 30 to determine benefit measurements as of the same date of the current year. The discount rate is the estimated rate at which the obligation for benefits could effectively be settled. The expected return on plan assets reflects the average rate of earnings that the University estimates will be generated on the assets of the plans.

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

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### Note 7 – Employee Benefits (Continued)

The University has a defined contribution retirement plan (the “Plan”) which covers all benefit-eligible employees. For the participating employees, the University contributes 12 percent of the employees’ eligible compensation to the Plan. Both the employee and University contributions are employee-directed into various funding vehicles as provided by the plan sponsor. The University’s related expense was approximately \$12,477,000 and \$12,315,000 for the years ended June 30, 2011 and 2010, respectively.

### Note 8 – Line of Credit

The University has a variable rate line of credit at a bank with a maximum borrowing limit of \$10,000,000; of which \$2,350,000 of the line has been earmarked for letters of credit related to insurance policies. The renewable line of credit is effective through February 1, 2012 and may be used for working capital purposes. There were no borrowings under this line at June 30, 2011 and 2010.

In 2010, the University obtained a line of credit for funding of a major campus sustainability project. The University converted the balance into a ten-year term loan effective September 30, 2010. The outstanding balance as of June 30, 2011 and 2010 was \$7,791,000 and \$5,455,000, respectively, and is included in other liabilities on the statements of financial position.

### Note 9 – Lease Commitments

The University leases various types of equipment under leases that qualify as capital leases. The gross amount of equipment recorded as capital leases was approximately \$3,914,000 and \$4,717,000 at June 30, 2011 and 2010, respectively. Accumulated amortization for equipment recorded under capital leases was approximately \$2,158,000 and \$2,433,000 at June 30, 2011 and 2010, respectively. The amortization expense for these capital leases is included within the University’s depreciation expense.

The following table sets forth the University’s future minimum lease payments as of June 30, 2011 on capital lease obligations for each of the next three years (in thousands):

Years ending June 30,	
2012	\$ 813
2013	476
2014	224
	<hr/>
	\$ 1,513

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

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### Note 10 - Bonds Payable

Bonds payable consist of the following at June 30 (in thousands):

	2011	2010
2011 California Educational Facilities Authority revenue bonds (the "2011 bonds"), with interest rates varying between 3 and 5 percent, payable on April 1 and October 1 each year, maturing:		
Serial bonds, due October 2022	\$ 18,640	\$ -
	<u>18,640</u>	<u>-</u>
Unamortized original issue premium	899	-
	<u>19,539</u>	<u>-</u>
2005 California Statewide Communities Development Authority demand revenue bonds (the "2005 bonds"), with interest rates based on market conditions, varying between 0.07 and 0.35 percent during the year ended June 30, 2011, payable on April 1 and October 1 each year, maturing October 2045	<u>93,415</u>	<u>93,415</u>
	93,415	93,415
Unamortized original issue discount	<u>(179)</u>	<u>(184)</u>
	<u>93,236</u>	<u>93,231</u>
2002 California Educational Facilities Authority revenue bonds (the "2002 bonds"), with interest rates varying between 5.25 and 5.5 percent, payable on April 1 and October 1 each year, maturing:		
Term bonds, due October 2030	6,675	6,675
Term bonds, due October 2032	<u>7,435</u>	<u>7,435</u>
	14,110	14,110
Unamortized original issue discount	<u>(61)</u>	<u>(64)</u>
	<u>14,049</u>	<u>14,046</u>
2001 County of San Diego certificates of participation (the "2001 COPs"), with interest rates varying between 4.75 and 5.375 percent, payable on April 1 and October 1 each year, maturing:		
Serial certificates, annually October 2003 through October 2016	3,635	5,255
Term certificates, due October 2021	2,485	2,485
Term certificates, due October 2028	4,745	4,745
Term certificates, due October 2041	<u>14,995</u>	<u>14,995</u>
	25,860	27,480
Unamortized original issue discount	<u>(586)</u>	<u>(580)</u>
	<u>25,274</u>	<u>26,900</u>

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

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### Note 10 - Bonds Payable (Continued)

1999 California Educational Facilities Authority revenue bonds (the "1999 bonds"), comprised of current interest bonds bearing effective interest of 5 percent, payable on April 1 and October 1 each year, and capital appreciation bonds with interest rates varying between 4.45 and 5.16 percent, with interest payable at the time they mature:		
Term bonds, due October 2028, refunded		
October 2011 (Note 14)	19,200	19,200
Capital appreciation bonds, due October 2009 through October 2024	<u>10,785</u>	<u>11,656</u>
	29,985	30,856
Unamortized original issue discount	<u>(130)</u>	<u>(137)</u>
	<u>29,855</u>	<u>30,719</u>
1998 California Educational Facilities Authority revenue bonds (the "1998 bonds"), with interest rates varying between 4 and 5 percent, payable on April 1 and October 1 each year, maturing:		
Serial bonds, annually through October 2009	-	-
Term bonds, due October 2015	-	8,715
Term bonds, due October 2022	<u>-</u>	<u>11,620</u>
	-	20,335
Unamortized original issue discount	<u>-</u>	<u>(201)</u>
	<u>-</u>	<u>20,134</u>
	<u>\$ 181,953</u>	<u>\$ 185,030</u>

In March 2011, the University issued \$18,640,000 in tax-exempt bonds through the California Educational Facilities Authority for the sole purpose of refunding the 1998 bonds to achieve future debt service savings. The University recorded a \$556,000 loss on the refunding of the 1998 bonds during the year ended June 30, 2011. Costs of issuance were \$237,000.

The 2001 COPs and the 2011, 2005, 2002, and 1999 bonds are secured by the University's full faith and credit. The bond agreements place certain other restrictions on the University with which the University has complied. Bond discounts and issuance costs are amortized using the straight-line method over the life of the bonds, which approximates the interest method.

In conjunction with the November 2005 issuance of variable rate demand revenue bonds, the University established a \$94,643,000 letter of credit with Wells Fargo to enable the University to purchase tendered variable rate bonds in the event of a failed remarking. The facility is committed for this purpose as well as to pay principal and interest on the Series 2005 bonds in the event the University defaults on its payment obligations and cannot be used for operating needs of the University. As of June 30, 2011 and 2010, there were no draws against this letter of credit.

The estimated fair value of the University's bonds payable was approximately \$191,449,000 and \$195,874,000 at June 30, 2011 and 2010, respectively. The fair value was derived using estimated market prices on publicly traded debt.

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

### Note 10 - Bonds Payable (Continued)

The following table sets forth the University's principal payment requirements as of June 30, 2011 on bonds payable for each of the next five years and thereafter (in thousands):

Years ending June 30,	2011 Bonds	2005 Bonds	2002 Bonds	2001 COPs	1999 Bonds	Total
2012	\$ 1,725	\$ -	\$ -	\$ 1,705	\$ 819	\$ 4,249
2013	1,420	535	-	350	771	3,076
2014	1,475	555	-	365	721	3,116
2015	1,525	575	-	385	686	3,171
2016	1,580	595	-	405	650	3,230
Thereafter	10,915	91,155	14,110	22,650	26,338	165,168
	<u>\$ 18,640</u>	<u>\$ 93,415</u>	<u>\$ 14,110</u>	<u>\$ 25,860</u>	<u>\$ 29,985</u>	<u>\$ 182,010</u>

### Note 11 - Net Assets

Temporarily restricted net assets are available for the following purposes at June 30 (in thousands):

	2011	2010
Educational programs	\$ 49,079	\$ 30,764
Scholarships	16,591	10,110
Athletics and recreation	922	793
Public service	7,760	6,880
Research	1	104
Total program support	74,353	48,651
Management and general support	29,780	25,481
	<u>\$ 104,133</u>	<u>\$ 74,132</u>

Net assets released from restrictions are as follows:

Purpose restricted	<u>\$ 9,464</u>	<u>\$ 11,175</u>
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Permanently restricted net assets are restricted to the following purposes at June 30 (in thousands):

Revolving student loan funds from private sources	<u>\$ 22,024</u>	<u>\$ 21,885</u>
Investment in perpetuity, the income from which is expendable to support the following programs:		
Educational programs	95,751	92,919
Scholarships	26,669	26,085
Athletics and recreation	229	229
Public service	3,000	3,000
Total program support	125,649	122,233
Management and general support	6,503	4,276
	<u>132,152</u>	<u>126,509</u>
	<u>\$ 154,176</u>	<u>\$ 148,394</u>

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

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### Note 12 - Endowment

The state of California has adopted the Uniform Prudent Management of Institutional Funds Act ("UPMIFA"), the provisions of which apply to endowment funds existing or established after the date of adoption. The corpus of the fund subject to UPMIFA is classified as permanently restricted. The corpus represents the fair value of the original gifts as of the gift date and all subsequent gifts where the donor has indicated that the gift must be retained permanently. The value of assets in excess of original gifts in donor-restricted endowment funds is classified as temporarily restricted net assets until appropriated for expenditure by the University.

**Spending Policy:** Spending is based on a total return strategy, which includes both appreciation and income. The University's spending allowance rate is 4 percent of the trailing three-year average of the endowment's fair market value. The fair market value is the sum of the endowment principle and the accumulated realized and unrealized earnings. In accordance with UPMIFA, the Board of Trustees (the "Board") may expend so much of an endowment fund as the Board determines to be prudent for the uses and purposes for which the endowment fund is established, consistent with the goal of conserving the long-term purchasing power of the endowment fund.

**Investment Policy:** The overall investment goal for the pooled endowment fund (the "Fund") is three-fold: (1) to provide a relatively predictable, stable, and constant return sufficient to meet the spending needs of the University; (2) to preserve and enhance the real (inflation adjusted) purchasing power of the Fund through active management; and (3) to increase the Fund through unspent income and gains, appreciated value, gifts, and other appropriate funds.

The return objective for the Fund, measured over a full market cycle, shall be inflation plus 5.5 percent, after the payment of all investment-related fees. In addition, the Fund should experience no greater risk (volatility and variability of return) than that of the market; the market being defined as the Fund's relevant policy benchmarks. It is recognized that the achievement of a long-term, real return in excess of 5.5 percent per year will require a significant allocation to higher returning asset classes. To help moderate the volatility of the portfolio, the Fund will seek to achieve meaningful diversification across asset classes. In addition, the Fund will include significant allocations to asset classes that provide a meaningful hedge against deflation and inflation.

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

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### Note 12 - Endowment (Continued)

**Endowment Net Assets:** The following represents a description of the endowment net asset composition by type of fund as of June 30, 2011 and 2010 (in thousands):

	2011			
	<u>Unrestricted</u>	<u>Temporarily Restricted</u>	<u>Permanently Restricted</u>	<u>Total</u>
Donor-restricted endowment fund	\$ (21)	\$ 71,152	\$ 133,903	\$ 205,034
Board designated/quasi-endowment funds	<u>121,787</u>	<u>-</u>	<u>-</u>	<u>121,787</u>
Total endowment	<u>\$ 121,766</u>	<u>\$ 71,152</u>	<u>\$ 133,903</u>	<u>\$ 326,821</u>

	2010			
	<u>Unrestricted</u>	<u>Temporarily Restricted</u>	<u>Permanently Restricted</u>	<u>Total</u>
Donor-restricted endowment fund	\$ (1,087)	\$ 46,358	\$ 128,002	\$ 173,273
Board designated/quasi-endowment funds	<u>86,721</u>	<u>-</u>	<u>-</u>	<u>86,721</u>
Total endowment	<u>\$ 85,634</u>	<u>\$ 46,358</u>	<u>\$ 128,002</u>	<u>\$ 259,994</u>

As a result of market declines, the fair value of certain donor-restricted endowments was less than the historical cost value of such funds by approximately \$21,000 and \$1,087,000 at June 30, 2011 and 2010, respectively. These losses have been recorded as reductions in unrestricted net assets. Future gains will be used to restore this deficiency in unrestricted net assets before any net appreciation above the historical cost value of such funds increases temporarily restricted net assets.

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

### Note 12 - Endowment (Continued)

The following represents the changes in endowment net assets for the years ended June 30, 2011 and 2010 (in thousands):

	<b>2011</b>			
	<b>Unrestricted</b>	<b>Temporarily Restricted</b>	<b>Permanently Restricted</b>	<b>Total</b>
Net endowment assets, beginning of year	\$ 85,634	\$ 46,358	\$ 128,002	\$ 259,994
Investment return:				
Investment income, net	598	887	-	1,485
Net appreciation	16,493	30,988	-	47,481
Total investment return	17,091	31,875	-	48,966
Contribution and other revenue	3,758	-	5,593	9,351
Appropriation and other expenditures	(334)	(5,344)	-	(5,678)
Other changes, including transfers	15,617	(1,737)	308	14,188
Net endowment assets, end of year	<u>\$ 121,766</u>	<u>\$ 71,152</u>	<u>\$ 133,903</u>	<u>\$ 326,821</u>
	<b>2010</b>			
	<b>Unrestricted</b>	<b>Temporarily Restricted</b>	<b>Permanently Restricted</b>	<b>Total</b>
Net endowment assets, beginning of year	\$ 61,737	\$ 32,883	\$ 126,219	\$ 220,839
Investment return:				
Investment income, net	572	1,120	-	1,692
Net appreciation	7,995	18,412	-	26,407
Total investment return	8,567	19,532	-	28,099
Contribution and other revenue	(2)	-	1,566	1,564
Appropriation and other expenditures	(169)	(5,215)	-	(5,384)
Other changes, including transfers	15,501	(842)	217	14,876
Net endowment assets, end of year	<u>\$ 85,634</u>	<u>\$ 46,358</u>	<u>\$ 128,002</u>	<u>\$ 259,994</u>

# UNIVERSITY OF SAN DIEGO

## NOTES TO FINANCIAL STATEMENTS

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### Note 13 - Commitments and Contingencies

**Loan Programs:** The University participates in certain alternative loan programs. No assets or liabilities are recorded by the University for amounts loaned to students under these programs. The University is contingently liable for a portion of the outstanding loans, and the amount of the contingency was \$1,972,000 and \$2,024,000 at June 30, 2011 and 2010, respectively.

**Grants and Contracts:** Federal grant programs are subject to review by the grantor agencies, which could result in requests for reimbursement to grantor agencies for disallowed expenditures. Management believes it has adhered to the terms of its grants, and any disallowed expenditures resulting from such reviews would not have a material effect on the financial position of the University.

**Legal:** The University is party to certain legal actions arising in the ordinary course of business. In the opinion of management, liabilities, if any, under these actions will not have a material impact on its financial position.

### Note 14 - Subsequent Events

Subsequent events are events or transactions that occur after the statement of financial position date, but before the financial statements are available to be issued. The University recognizes in the financial statements the effects of all subsequent events that provide additional evidence about conditions that existed at the date of the statement of financial position, including the estimates inherent in the process of preparing the financial statements. The University's financial statements do not recognize subsequent events that provide evidence about conditions that did not exist at the date of the statement of financial position, but arose after the statement of financial position date and before the financial statements are available to be issued.

The University has evaluated subsequent events through October 24, 2011, which is the date the financial statements were issued.

In October 2011, the University issued \$41,130,000 in fixed rate, tax-exempt bonds through the California Municipal Finance Authority for the sole purpose of refunding the 1999 term bonds and 2001 COP's. This refunding will assist the University in achieving future debt service savings. The 1999 capital appreciation bonds were not callable, and thus they were excluded from the refunding. The estimated loss on refunding of the bonds is \$1,084,000, and cost of issuance totaled approximately \$330,000.

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**APPENDIX C**  
**BOOK-ENTRY SYSTEM**

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## APPENDIX C

### BOOK-ENTRY SYSTEM

*The information in this section concerning The Depository Trust Company ("DTC") New York, New York and DTC's Book-Entry Only System has been obtained from DTC, and the Authority, the University and the Underwriter take no responsibility for the accuracy thereof.*

DTC will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered certificate will be issued for the Bonds, as set forth on the inside cover page hereof, in the aggregate principal amount of each maturity of the Bonds and deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("**Direct Participants**") deposit with DTC. DTC also facilitates the post trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non U.S. securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("**DTCC**"). DTCC is the holding company for DTC, National Securities Clearing Corporation & Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non U.S. securities brokers and dealers, banks, trust companies and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("**Indirect Participants**"). DTC has a Standard & Poor's rating of "AA+." The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of the Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond ("**Beneficial Owner**") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no

knowledge of the actual Beneficial Owners of Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants remain responsible for keeping accounts of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time-to-time. Beneficial Owners of the Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, defaults, and proposed amendments to the Bond documents. For example, Beneficial Owners of the Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices will be sent to DTC. If less than all of the Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Authority as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, principal and interest payments on the Bonds are to be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Authority or Trustee, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee or Authority, subject to any statutory or regulatory requirements as may be in effect from time-to-time. Payment of redemption proceeds, principal and interest payments to Cede & Co. (or such other name as may be requested by an authorized representative of DTC) is the responsibility of the Authority or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Bonds at any time by giving reasonable notice to the Authority or the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, Bond certificates are required to be printed and delivered.

The Authority may decide to discontinue use of the system of book-entry only transfers through DTC (or a successor securities depository). In that event, bond certificates will be printed and delivered to DTC.

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**APPENDIX D**  
**DEFINITIONS AND SUMMARIES OF PRINCIPAL LEGAL DOCUMENTS**

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## APPENDIX D

### DEFINITIONS AND SUMMARIES OF PRINCIPAL LEGAL DOCUMENTS

*The following summary discussion of selected provisions of the Indenture and the Loan Agreement is made subject to all of the provisions of the Indenture and the Loan Agreement. This summary discussion does not purport to be a complete statement of said provisions and prospective purchasers of the Bonds are referred to the complete text of the Indenture and the Loan Agreement, copies of which are available upon request sent to the Trustee.*

#### DEFINITIONS

Unless the context otherwise requires, the terms defined below shall, for all purposes of the Indenture and of the Loan Agreement and of any indenture supplemental to the Indenture or loan agreement supplemental thereto, have the meanings specified in the Indenture, to be equally applicable to both the singular and plural forms of any of the terms defined in the Indenture.

“ABA” means the American Bar Association.

“Act” means the Joint Exercise of Powers Act, comprising Articles 1, 2, 3 and 4 of Chapter 5 of Division 7 of Title 1 (commencing with Section 6500) of the Government Code of the State.

“Additional Payments” mean the payments to be made by the Borrower to the Trustee or the Authority in accordance with the Loan Agreement as summarized herein under the heading “LOAN AGREEMENT – Additional Payments.”

“Agreement” or “Loan Agreement” means that certain loan agreement, dated as of June 1, 2012, between the Authority and the Borrower, as originally executed or as it may from time to time be supplemented, modified or amended subject to and in accordance with the terms thereof and in accordance with the Indenture as summarized herein in paragraph (b) under the heading “INDENTURE – COVENANTS – Other Covenants; Amendment of the Loan Agreement.”

“Authority” means the California Municipal Finance Authority, its successors and assigns, a joint exercise of powers authority formed by a Joint Exercise of Powers Agreement, dated as of January 1, 2004, by and among certain California cities, counties and special districts, as may be amended from time to time (the “Joint Powers Agreement”) pursuant to the provisions of the Act.

“Authority Annual Fee” means 1.5 basis points times the outstanding principal amount of the Bonds.

“Authority Issuance Fee” is that amount specified in the Indenture.

“Base Loan Payments” means the payments required to be made by the Borrower to the Trustee for the account of the Authority in accordance with the Loan Agreement as summarized herein under the heading “LOAN AGREEMENT – Payment of Bonds” for the payment of the principal (whether at maturity or prior redemption or upon acceleration) of, premium, if any, and interest to the date of maturity or redemption of the Bonds.

“Beneficial Owner” means, with respect to any Book-Entry Bond, the beneficial owner of such Bond as determined in accordance with the applicable rules of the Securities Depository for the Bonds.

“Bond Fund” means the fund by that name established pursuant to the Indenture.

“Bondholder” or “Holder” means, with respect to any Bond, the person in whose name such Bond is registered.

“Bond Register” means the books of registration of the ownership of the Bonds maintained by the Trustee pursuant to the Indenture.

“Bonds” means the California Municipal Finance Authority Refunding Revenue Bonds (University of San Diego) Series 2012A, authorized and issued pursuant to the Indenture and any bonds issued in exchange or replacement thereof in accordance with the Indenture.

“Book-Entry Bonds” means any Bonds which are then held in book-entry form as provided in the Indenture.

“Borrower” means University of San Diego, a nonprofit public benefit corporation organized and existing under the laws of the State, and its successors or assigns or any co-obligor permitted pursuant to the Loan Agreement as summarized herein under the heading “LOAN AGREEMENT – Maintenance of Corporate Existence; Consolidation, Merger, Sale or Transfer Under Certain Conditions.”

“Business Day” means any day other than (i) a Saturday, a Sunday or (ii) a day on which banks located in the city in which the Principal Corporate Trust Office of the Trustee is located are required or authorized to be closed or (iii) a day on which the New York Stock Exchange is closed.

“CEFA” means the California Educational Facilities Authority, a public instrumentality of the State and issuer of the 2002A Bonds.

“Certificate of the Authority,” “Consent of the Authority,” “Order of the Authority” or “Request of the Authority” mean, respectively, a written certificate, consent, order or request of the Authority signed by or on behalf of the Authority by any member of the Board of Directors of the Authority, or any other person designated by a certificate signed by any member of such Board and filed with the Trustee.

“Certificate of the Borrower,” “Request of the Borrower,” “Requisition of the Borrower” or “Statement of the Borrower” mean, respectively, a written certificate, request, requisition or statement of the Borrower executed by its President, Executive Vice President and Provost, Assistant Vice President for Budget and Treasury, Assistant Director Budget and Treasury, any Assistant Treasurer or such other person as may be designated by any of such officials to sign for the Borrower.

“Certified Resolution” means a copy of a resolution or ordinance of the Authority certified by the Secretary or other duly authorized officer of the Authority to have been duly adopted by the Authority and to be in full force and effect on the date of such certification.

“Code” means the Internal Revenue Code of 1986, as amended.

“Consent of the Authority” has the meaning specified under the definition herein of the terms “Certificate of the Authority,” “Consent of the Authority,” “Order of the Authority” or “Request of the Authority.”

“Continuing Disclosure Agreement” means that certain Continuing Disclosure Agreement between the Borrower and the Trustee, as dissemination agent, dated as of June 1, 2012, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the Borrower or the Authority and related to the authorization, issuance, sale and delivery of the Bonds, including but not limited to costs of preparation and reproduction of documents, printing expenses, filing and recording fees, initial fees, expenses and charges of the Trustee and Authority, legal fees and charges, fees and disbursements of consultants and professionals, rating agency fees, bond insurance premium, fees and charges for preparation, execution and safekeeping of the Bonds and any other cost, charge or fee in connection with the original issuance of the Bonds which constitutes a “cost of issuance” within the meaning of Section 147(g) of the Code.

“Costs of Issuance Fund” means the fund by that name established pursuant to the Indenture.

“DTC” means The Depository Trust Company and its successors and assigns.

“DTC Representation Letter” has the meaning specified in the Indenture as summarized herein in paragraph (d) under the heading “INDENTURE – THE BONDS – Book-Entry System.”

“Eligible Securities” means any of the following obligations as and to the extent that such obligations are at the time legal investments under the Act for moneys held under the Indenture and then proposed to be invested therein (the Trustee is entitled to rely upon the Request of the Borrower directing investments as a certification of the Borrower that such investment is a legal investment):

- (1) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America or any Federal Reserve Bank and CATS and TIGRS) or obligations the timely payment of the principal of and interest on which are unconditionally guaranteed by the United States of America;
- (2) bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies, provided that such obligations are backed by the full faith and credit of the United States of America (stripped securities shall constitute Eligible Securities only if they have been stripped by the agency itself); U.S. Export-Import Bank (direct obligations or fully guaranteed certificates of beneficial ownership), Farmers Home Administration (certificates of beneficial ownership), Federal Financing Bank, General Services Administration (participation certificates), U.S. Maritime Administration (guaranteed Title XI financing), U.S. Department of Housing and Urban Development (project notes, local authority bonds, new communities debentures-U.S. government guaranteed debentures, U.S. public housing notes and bonds-U.S. government guaranteed public housing notes and bonds), Government National Mortgage Association (GNMA-guaranteed mortgage-backed bonds, GNMA-guaranteed pass-through obligations), and Federal Housing Administration Debentures;
- (3) bonds, debentures, notes, or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities shall constitute Eligible Securities only if they have been stripped by the agency itself): Federal Home Loan Bank System (Senior debt obligations), Federal Home Loan Mortgage Corporation (“FHLMC”) (Participation Certificates, Senior debt obligations), Federal National Mortgage Association (“FNMA”) (Mortgage-backed securities and senior debt obligations), Student Loan Marketing Association (“SLMA”) (Senior debt obligations), Resolution Funding Corp. (“REFCORP”) (obligations) or Farm Credit System (Consolidated systemwide bonds and notes);

- (4) bonds or notes issued by any state or municipality which are rated by S&P and Moody's in one of the two highest rating categories assigned by such agencies;
- (5) repurchase agreements with either a primary dealer on the reporting dealer list of the Federal Reserve or any bank, which, in either case, is rated "A" or better by S&P and Moody's, provided that (a) the term of such repurchase agreement is not greater than thirty days, (b) the Trustee or third party acting solely as agent for the Trustee has possession of the collateral, (c) the collateral is valued weekly and the market value of the collateral is maintained at an amount equal to at least 104% (or, if the collateral consists of obligations of FHLMC or FNMA, 105%) of the amount of cash transferred by the Trustee to the dealer bank or securities firm under the repurchase agreement plus interest, (d) failure to maintain the requisite collateral levels will require the Trustee to liquidate the collateral immediately, (e) the repurchase securities are either obligations of, or fully guaranteed as to principal and interest by, the United States of America or any federal agency backed by the full faith and credit of the United States of America; (f) the repurchase securities are free and clear of any third-party lien or claim; and (g) there shall have been delivered to the Trustee, the Authority and the Borrower an Opinion of Counsel to the effect that such repurchase agreement meets all guidelines under State law for legal investment of public funds;
- (6) investment agreements, including guaranteed investment contracts ("GICs") and forward purchase agreements;
- (7) money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of AA-Am-G; AAA-m; or AA-m and if rated by Moody's rated Aaa, Aa1 or Aa2, including funds for which the Trustee or its affiliates provides investment advisory or other management services;
- (8) unsecured certificates of deposit, time deposits and bankers' acceptances of any bank (including those of the Trustee, its parent and its affiliates), the short-term obligations of which are rated on the date of purchase "A-1+" or better by S&P and "P-1" by Moody's and certificates of deposit (including those of the Trustee, its parent and its affiliates) secured at all times by collateral that may be used by a national bank for purposes of satisfying its obligations to collateralize pursuant to federal law which are issued by commercial banks, savings and loan associations or mutual savings banks whose short-term obligations are rated on the date of purchase "A-1" or better by S&P or "P-1" by Moody's;
- (9) commercial paper rated, at the time of purchase, "Prime-1" by Moody's and "A-1" or better by S&P;
- (10) federal funds or bankers acceptances with a maximum term of one year of any bank which has an unsecured, uninsured and unguaranteed obligation rating of "Prime-1" or "A-3" or better by Moody's and "A-1" or "A" or better by S&P;
- (11) shares in a California common law trust established pursuant to Title 1, Division 7, Chapter 5 of the Government Code of the State which invests exclusively in investments permitted by Section 53635 of Title 5, Division 2, Chapter 4 of the Government Code of the State as it may be amended;

- (12) obligations of a bank or other financial institution rated at least “Aa3” by the Rating Agency; and
- (13) any other investments, provided that the Authority shall receive notice of any such investment and such investment does not adversely affect the ratings of any Rating Agency then rating the Bonds.

“Environmental Regulation” means any federal, state or local law, statute, code, ordinance, regulation, requirement or rule relating to dangerous, toxic or hazardous pollutants, Hazardous Substances, chemical waste, materials or substances.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“ERISA Plan” means any “employee pension benefit plan,” as such term is defined in ERISA, from time to time in effect for the benefit of employees of the Borrower.

“Event of Default” means any of the events specified in the Indenture as summarized herein under the heading “INDENTURE – EVENTS OF DEFAULT; REMEDIES ON DEFAULT – Events of Default; Acceleration; Waiver of Default” or in accordance with the Loan Agreement as summarized herein under the heading “LOAN AGREEMENT – Events of Default,” as applicable.

“Facilities” means, all of the real and personal property constituting the University of San Diego, primarily located at 5998 Alcalá Park San Diego, California, as the same may be improved and expanded from time to time.

“Fiscal Year” means the period beginning on July 1 of each year and ending on the next succeeding June 30 or any other twelve-month period hereafter selected and designated as the official fiscal year period by the Borrower.

“Fitch” means Fitch Ratings, a corporation organized and existing under the laws of the State of New York, its successors and their assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, Fitch shall be deemed to refer to any other nationally recognized securities rating agency (other than Moody’s or S&P) designated by the Authority with the approval of the Borrower.

“GAAP” means the uniform accounting and reporting procedures set forth in the opinions, pronouncements and publications of the Accounting Principles Board, the American Institute of Certified Public Accountants and the Financial Accounting Standards Board or in such other statements by such other entity as may be of general use by significant segments of the accounting profession as in effect on the date of the Indenture.

“Government Obligations” means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the full and timely payment of which is guaranteed by, the United States of America, or securities evidencing ownership interests in such obligations or in specified portions thereof (which may consist of specific portions of the principal or of interest on such obligations).

“Hazardous Substances” means (a) any oil, flammable substance, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other wastes, materials or pollutants which (i) pose a hazard to the Facilities or to Persons on or about the Facilities or (ii) cause the Facilities to be in violation of any Environmental Regulation; (b) asbestos in any form which is or could

become friable, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls, or radon gas; (c) any chemical, material or substance defined as or included in the definition of “waste,” “hazardous substances,” “hazardous wastes,” “hazardous materials,” extremely hazardous waste,” “restricted hazardous waste,” or “toxic substances” or words of similar import under any Environmental Regulation including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 USC §§ 9601 et seq.; the Resource Conservation and Recovery Act (“RCRA”), 42 USC §§ 6901 et seq.; the Hazardous Materials Transportation Act, 49 USC §§ 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §§ 1251 et seq.; the California Environmental Quality Act (“CEQA”), Cal. Public Resources Code § 21000 et seq.; the California Hazardous Waste Control Law (“HWCL”), Cal. Health & Safety §§ 25100 et seq.; the Hazardous Substance Account Act (“HSAA”), Cal. Health & Safety Code §§ 25300 et seq.; the Underground Storage of Hazardous Substances Act, Cal. Health & Safety §§ 25280 et seq.; the Porter-Cologne Water Quality Control Act (the “Porter-Cologne Act”), Cal. Water Code §§ 13000 et seq., the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65); and Title 22 of the California Code of Regulations, Division 4, Chapter 30; (d) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any governmental authority or agency or may or could pose a hazard to the health and safety of the occupants of the Facilities or the owners and/or occupants of property adjacent to or surrounding the Facilities, or any other Person coming upon the Facilities or adjacent property; or (e) any other chemical, materials or substance which may or could pose a hazard to the environment.

“Indebtedness” means:

- (1) twenty-five percent (25%) of the outstanding principal amount of all indebtedness of Persons, other than the Borrower, for which the Borrower is a guarantor, unless the guarantee of such Person’s indebtedness has been drawn upon within the two most recent Fiscal Years,
- (2) all indebtedness of Persons, other than the Borrower, for which the Borrower is a guarantor if the guarantee of such Person’s indebtedness has been drawn upon within the two most recent Fiscal Years,
- (3) all other indebtedness of the Borrower (including the obligation of the Borrower to make Base Loan Payments and any installment purchase and lease rental obligations) which
  - (a) in accordance with GAAP is classified as a liability on a balance sheet or statement of financial position, and
  - (b) which has a final maturity (or which, pursuant to the terms of a revolving credit or similar agreement or otherwise, is renewable or extendable at the option of the Borrower to a date or for a period or periods ending) more than one year after the date of creation thereof, notwithstanding the fact that payments in respect thereof (whether installment, serial maturity or sinking fund payments or otherwise) are required to be made less than one year after the date of the creation thereof; excluding any indebtedness which is renewable or extendable pursuant to the terms of a revolving credit or similar agreement if, by the terms of such agreement, no indebtedness is permitted to be outstanding thereunder for a period of at least thirty (30) consecutive days during each period of twelve (12) consecutive months beginning with the effective date of such revolving credit or other similar agreement.

“Indenture” means the Indenture, dated as of June 1, 2012, by and between the Authority and the Trustee, as originally executed or as it may from time to time be supplemented, modified or amended by any Supplemental Indenture entered into pursuant to the provisions of the Indenture.

“Interest Payment Date” means October 1 and April 1 of each year, commencing October 1, 2012.

“Loan Default Events” means any of the events of default specified in the Loan Agreement as summarized herein under the heading “LOAN AGREEMENT – Events of Default.”

“Moody’s” means Moody’s Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, or, if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, Moody’s shall be deemed to refer to any other nationally recognized securities rating agency (other than S&P or Fitch) designated by the Authority with the approval of the Borrower.

“Nominee” shall have the meaning given such term in the Indenture as summarized herein in paragraph (a) under the heading “INDENTURE – THE BONDS – Book-Entry System.”

“Opinion of Bond Counsel” means an Opinion of Counsel by a nationally recognized bond counsel firm acceptable to the Authority experienced in matters relating to the exclusion from gross income for federal income tax purposes of interest payable on obligations of state and political subdivisions.

“Opinion of Counsel” means a written opinion of counsel (which may be counsel for the Authority) selected by the Authority. If and to the extent required by the Indenture, each Opinion of Counsel shall include the statements provided for in the Indenture.

“Optional Redemption Account” means the account by that name within the Bond Fund established pursuant to the Indenture.

“Order of the Authority” has the meaning specified under the definition herein of the terms “Certificate of the Authority,” “Consent of the Authority,” “Order of the Authority” or “Request of the Authority.”

“Outstanding,” when used as of any particular time with reference to Bonds, means (subject to the provisions of the Indenture as summarized herein under the heading “INDENTURE – MISCELLANEOUS – Disqualified Bonds,”) all Bonds theretofore authenticated and delivered by the Trustee under the Indenture, except (a) Bonds theretofore cancelled by the Trustee or surrendered to the Trustee for cancellation; (b) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered by the Trustee pursuant to the Indenture; and (c) Bonds with respect to which all liability of the Authority has been discharged to the extent provided in, and pursuant to the requirements of, the Indenture as summarized herein under the heading “INDENTURE – DEFEASANCE – Discharge of Liability on Bonds.”

“Participants” means those broker-dealers, banks and other financial institutions from time to time for which a Securities Depository holds Book-Entry Bonds as securities depository.

“Person” means an individual, corporation, firm, association, limited liability company, partnership, trust, or other entity or group of entities, including a governmental entity or political subdivision thereof.

“Principal Corporate Trust Office” means the corporate trust office of the Trustee, which at the date of execution of the Indenture is that specified in the Indenture, or such other office designated by the Trustee from time to time; provided, however, that for transfer, registration, exchange, payment and surrender of Bonds such term means the office or agency of the Trustee at which, at any particular time, its corporate trust agency business shall be conducted.

“Prior Trustee” means The Bank of New York Mellon Trust Company, N.A. (successor to BNY Western Trust Company), as trustee for the 2002A Bonds.

“Project” means the refunding of the 2002A Bonds.

“Rating Agency” means either Moody’s, S&P or Fitch to the extent they then are providing or maintaining a rating on the Bonds at the request of the Borrower, or in the event that Moody’s, S&P or Fitch no longer maintains a rating on the Bonds, any other nationally recognized securities rating agency then providing a rating on the Bonds designated by the Authority with the approval of the Borrower.

“Rebate Fund” means the fund by that name established and held by the Trustee pursuant to the Indenture.

“Record Date” means, with respect to any Interest Payment Date for the Bonds, the fifteenth day of the calendar month immediately preceding such Interest Payment Date, whether or not such day is a Business Day.

“Reportable Event” means a reportable event as defined in Section 4043(b) of ERISA (other than a reportable event for which the notice required thereunder has been waived).

“Request of the Authority” has the meaning specified under the definition herein of the term “Certificate of the Authority.”

“Request of the Borrower” has the meaning specified under the definition herein of the term “Certificate of the Borrower.”

“Responsible Officer” of the Trustee means and includes the chairman of the board of directors, the president, every vice president, every assistant vice president, every trust officer and every officer and assistant officer of the Trustee, other than those specifically above mentioned, to whom any corporate trust matter is referred because of his or her knowledge of, and familiarity with, a particular subject.

“Revenues” means all payments received by the Authority or the Trustee from the Borrower pursuant or with respect to the Loan Agreement (except Additional Payments paid by the Borrower pursuant to the Loan Agreement as summarized herein under the heading “LOAN AGREEMENT – Additional Payments,” any amounts paid by the Borrower pursuant to the Loan Agreement as summarized herein under the heading “LOAN AGREEMENT – Expenses; Indemnification” and amounts received for or on deposit in the Rebate Fund), including, without limiting the generality of the foregoing, Base Loan Payments (including both timely and delinquent payments), prepayments and all income derived from the investment of any money in any fund or account established pursuant to the Indenture.

“Rule 15c2-12” means Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended.

“S&P” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business, organized and existing under the laws of the State of New York, its successors and their assigns,

or, if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, S&P shall be deemed to refer to any other nationally recognized securities rating agency (other than Fitch or Moody's) designated by the Authority with the approval of the Borrower.

“Securities Depository” means with respect to Book-Entry Bonds, the entity in whose book-entry system the Bonds are held pursuant to the Indenture.

“Special Record Date” means the date established by the Trustee pursuant to the Indenture as a record date for the payment of defaulted interest on Bonds.

“State” means the State of California.

“Supplemental Indenture” or “indenture supplemental to the Indenture” means any indenture amending or supplementing the Indenture hereafter duly authorized and entered into between the Authority and the Trustee in accordance with the provisions of the Indenture.

“Tax Agreement” means the Tax Certificate and Agreement, dated the date of issuance of the Bonds, by and between the Authority and the Borrower, as the same may be amended or supplemented from time to time.

“Trustee” means The Bank of New York Mellon Trust Company, N.A., a national banking association organized and existing under the laws of the United States, and its successors and assigns or any successor trustee appointed pursuant to the provisions of the Indenture.

“2002A Bonds” means the California Educational Facilities Authority Revenue Bonds (University of San Diego) Series 2002A.

“2002 Escrow Agreement” means that certain escrow agreement, dated as of June 1, 2012, by and between the Borrower and the Prior Trustee, as escrow agent, and acknowledged and accepted by CEFA, relating to the 2002A Bonds.

“2002 Escrow Fund” means the fund by such name established in the 2002 Escrow Agreement.

“2002 Project” means the refunding of the 2002A Bonds.

“WASC” means the Western Association of Schools and Colleges or its successor.

## **INDENTURE**

### **THE BONDS**

***Authorization of Bonds.*** The Bonds are authorized to be issued under the Indenture in order to obtain moneys to carry out the purposes of the Act for the benefit of the Authority and the Borrower. The Indenture constitutes a continuing agreement with the Trustee and the Holders of all of the Bonds Outstanding, to secure the full and final payment of the principal of, premium, if any, and interest on all Bonds, subject to the covenants, agreements, provisions and conditions contained in the Indenture.

***Book-Entry System.*** (a) The Bonds shall be issued as Book-Entry Bonds and DTC shall be the initial Securities Depository for the Bonds. The Bonds shall be issued in the form of one or more separate single certificated fully registered bond for each maturity of the Bonds in the full amount of the Bonds of such maturity, registered in the name of Cede & Co., as nominee of DTC, or any successor nominee (the

“Nominee”). Except as provided in subsection (e) below, all of the Bonds shall be so registered in the Bond Register, and the provisions of subsection (f) of this section shall apply thereto.

(b) The Authority, the Borrower and the Trustee shall have no responsibility or obligation to any DTC Participant or to any Beneficial Owner, except as otherwise expressly provided in the Indenture. Without limiting the immediately preceding sentence, the Authority, the Borrower and the Trustee shall have no responsibility or obligation with respect to (1) the accuracy of the records of DTC, the Nominee or any DTC Participant with respect to any ownership interest in the Bonds, (2) the delivery to any DTC Participant or any other Person, other than a Bondholder as shown in the Bond Register, of any notice with respect to the Bonds, including any notice of redemption or (3) the payment to any DTC Participant or any other Person, other than a Bondholder, as shown in the Bond Register, of any amount with respect to principal of, premium, if any, or interest on the Bonds. The Trustee shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Bondholders, as shown on the applicable Record Date in the Bond Register, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the obligations with respect to payment of principal of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. The Authority, the Borrower and the Trustee may treat and consider the Person in whose name each Bond is registered in the Bond Register as the Holder and absolute owner of such Bond for the purpose of payment of principal, premium and interest with respect to such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever.

(c) No Person other than a Bondholder, as shown in the Bond Register, shall receive a certificated Bond evidencing the right to receive payments of principal, premium, if any, and interest pursuant to the Indenture.

(d) The Authority and the Trustee (if required by DTC) shall, if not previously on file, execute and deliver to DTC a letter of representation in customary form with respect to the Bonds (the “DTC Representation Letter”), but such DTC Representation Letter shall not in any way limit the provisions of the Indenture as summarized herein in paragraph (b) under the heading “INDENTURE – THE BONDS – Book-Entry System” or in any other way impose upon the Authority any obligation whatsoever with respect to Persons having interests in the Bonds other than the Bondholders, as shown in the Bond Register. The Trustee shall take all action necessary for all representations in the DTC Representation Letter with respect to the Trustee to be complied with at all times.

(e) The Authority, with the consent of the Borrower, may, and upon request of the Borrower shall, terminate the services of DTC as Securities Depository for the Bonds. DTC may determine to discontinue providing its services as Securities Depository for the Bonds at any time by giving written notice and all known information on the DTC Participants and the Beneficial Owners having an interest in the Bonds to the Authority, the Borrower and the Trustee and discharging its responsibilities with respect thereto under applicable law. Upon the discontinuance or termination of the services of DTC with respect to the Bonds, unless a substitute Securities Depository is appointed by the Authority (with the consent, or at the request, of the Borrower) to undertake the functions of DTC as Securities Depository for the Bonds under the Indenture, the Authority, at the expense of the Borrower, is obligated to deliver Bond certificates to or upon the order of the Beneficial Owners of such Bonds, as described in the Indenture, and such Bonds shall no longer be restricted to being registered in the Bond Register in the name of the Nominee, but may be registered in whatever name or names Bondholders transferring or exchanging such Bonds shall designate, in accordance with the provisions of the Indenture.

(f) So long as any Bond is registered in the name of the Nominee, all payments with respect to principal, premium, if any, and interest on such Bond and all notices with respect to such Bond shall be

made and given, respectively, in the manner provided in the DTC Representation Letter. Bondholders shall have no lien or security interest in any rebate or refund paid by DTC to the Trustee which arises from the payment by the Trustee of principal of, premium, if any, or interest on the Bonds in immediately available funds to DTC.

***Transfer and Exchange of Bonds.*** Registration of any Bond may, in accordance with the terms of the Indenture, be transferred, upon the books of the Trustee required to be kept pursuant to the Indenture, by the Person in whose name it is registered, in Person or by his or her duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by a written instrument of transfer in a form approved by the Trustee, duly executed. Whenever any Bond shall be surrendered for registration of transfer, the Authority shall execute and the Trustee shall authenticate and deliver a new Bond or Bonds of the same tenor. The Trustee shall require the payment by the Bondholder requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer, and there shall be no other charge to any Bondholders for any such transfer. No registration of transfer of Bonds upon the books of the Trustee required to be kept pursuant to the Indenture shall be required to be made during the period after any Record Date and prior to the related Interest Payment Date or during the period of fifteen (15) days next preceding the date on which the Trustee gives any notice of redemption, nor shall any registration of transfer of Bonds called for redemption be required.

Bonds may be exchanged at the Principal Corporate Trust Office of the Trustee for a like aggregate principal amount of Bonds of the same tenor. The Trustee shall require the payment by the Bondholder requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange, and there shall be no other charge to any Bondholders for any such exchange. No exchange of Bonds shall be required to be made during the period after any Record Date and prior to the related Interest Payment Date or during the period of fifteen (15) days next preceding the date on which the Trustee gives notice of redemption, nor shall any exchange of Bonds called for redemption be required.

***Bond Register.*** The Trustee will keep or cause to be kept, at its Principal Corporate Trust Office, sufficient books for the registration and the registration of transfer of the Bonds, which shall at all times, during regular business hours, be open to inspection by the Authority and the Trustee; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register the transfer or cause to be registered the transfer, on the Bond Register, of Bonds as provided in the Indenture.

***Bonds Mutilated, Lost, Destroyed or Stolen.*** If any Bond shall become mutilated, the Authority, at the expense of the Holder of said Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee shall be cancelled by it and delivered to, or upon the order of, the Authority. If any Bond issued under the Indenture shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence be satisfactory to it and indemnity satisfactory to it shall be given, the Authority, at the expense of the Holder, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen. If any Bond mutilated, lost, destroyed or stolen shall have matured or shall have been called for redemption, instead of issuing a substitute Bond the Trustee may pay the same without surrender upon receipt of indemnity satisfactory to the Trustee. The Authority may require payment from the Holder of a sum not exceeding the actual cost of preparing each new Bond issued under this section and of the expenses which may be incurred by the Authority and the Trustee. Any Bond issued under the provisions of this section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the Authority whether or not the Bond so alleged to be lost, destroyed

or stolen be at any time enforceable by anyone, and shall be entitled to the benefits of the Indenture with all other Bonds secured by the Indenture.

***Disposition of Cancelled Bonds.*** When and as paid in full, all Bonds shall be delivered to the Trustee, who shall forthwith cancel such Bonds and deliver a certificate evidencing such cancellation to the Authority and the Borrower. The Trustee shall destroy such cancelled Bonds in accordance with its customary procedures.

## **PLEDGE AND ASSIGNMENT;**

### **ESTABLISHMENT OF BOND FUND AND REBATE FUND**

***Pledge and Assignment.*** (a) Subject only to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in the Indenture and, subject to the rights of the Holders of the Bonds, there are pledged under the Indenture to secure the payment of the principal of and premium, if any, and interest on the Bonds in accordance with their terms and the provisions of the Indenture, all of the Revenues and any other amounts (including proceeds of the sale of Bonds but excluding Additional Payments paid by the Borrower pursuant to the Loan Agreement as summarized herein under the heading “LOAN AGREEMENT – Additional Payments” and any amounts paid by the Borrower pursuant to the Loan Agreement as summarized herein under the heading “LOAN AGREEMENT – Expenses; Indemnification”) held in any fund or account established pursuant to the Indenture other than the Rebate Fund. Said pledge shall constitute a lien on and security interest in such assets and shall attach, be perfected and be valid and binding from and after delivery of the Bonds, without any physical delivery thereof or further act.

(b) The Authority assigns to the Trustee, for the benefit of the Holders from time to time of the Bonds, all of the Revenues and other amounts pledged in paragraph (a) of this section and all of the right, title and interest of the Authority in the Loan Agreement (except for the right to receive and enforce its rights with respect to any administrative fees and expenses or Additional Payments payable to the Authority, the right to receive any reimbursements or indemnification, the right to receive any notices, certificates and reports, any express rights to give approvals, consents or waivers and the right to inspect the Facilities, books and records of the Borrower). The Trustee shall be entitled to and shall collect and receive all of the Revenues, and any Revenues collected or received by the Authority shall be deemed to be held, and to have been collected or received, by the Authority as the agent of the Trustee and shall forthwith be paid by the Authority to the Trustee. The Trustee also shall be entitled to and shall (subject to the provisions of the Indenture) take all steps, actions and proceedings following any Event of Default reasonably necessary in its judgment to enforce, either jointly with the Authority or separately, all of the rights of the Authority assigned to the Trustee and all of the obligations of the Borrower under the Loan Agreement.

(c) All Revenues shall be held in trust for the benefit of the Holders from time to time of the Bonds but shall nevertheless be disbursed, allocated and applied solely for the uses and purposes under the Indenture.

(d) If the Trustee has not received any payment required to be made by the Borrower under the Loan Agreement to pay principal or redemption price of or interest on the Bonds by the due date, the Trustee shall immediately notify the Borrower and the Authority of such insufficiency by telephone, telecopy or telegram and confirm such notification by written notice. Failure by the Trustee to give notice pursuant to this paragraph, or the insufficiency of any such notice, shall not affect the payment obligations of the Borrower under the Loan Agreement, including without limitation the timing thereof.

**Bond Fund.** (a) Upon the receipt thereof, the Trustee shall deposit all Revenues in the Bond Fund, which the Trustee shall establish and maintain and hold in trust. The Trustee shall disburse and apply amounts in the Bond Fund only as authorized in this paragraph (a):

(1) On each Interest Payment Date, the Trustee shall apply moneys in the Bond Fund to pay the interest on the Bonds as such interest shall become due and payable (including accrued interest on any Bonds purchased or redeemed prior to maturity pursuant to the Indenture).

(2) The Trustee shall apply moneys in the Bond Fund to pay the principal of the Bonds as such principal becomes due and payable.

(b) At least six (6) but not more than twenty (20) Business Days before each Interest Payment Date, the Trustee shall determine the amount, if any, credited or to be credited to the Bond Fund during the period from the day after the last Interest Payment Date to the next succeeding Interest Payment Date from any source. The Trustee shall give notice to the Borrower of such amount and the amount of the Base Loan Payment due, which notice shall be mailed, telecopied or delivered in such a manner that the Borrower will receive such notice by the fifth Business Day before such next succeeding Interest Payment Date. Any verbal notice shall be supplemented by notice given in accordance with the preceding sentence. Failure by the Trustee to give notice pursuant to this paragraph, or the insufficiency of any such notice, shall not affect the payment obligations of the Borrower under the Loan Agreement, including without limitation the timing thereof.

**Rebate Fund.** (a) The Authority covenants with all persons who hold or at any time held Bonds that the Authority will not directly or indirectly use the proceeds of any of the Bonds or permit the use of the proceeds of any of the Bonds or take or omit to take any other action which will cause any of the Bonds to be “arbitrage bonds” or to be otherwise subject to federal income taxation by reason of Sections 103 and 141 through 150 of the Code and any applicable regulations promulgated thereunder. To that end the Authority covenants to comply with all covenants set forth in the Tax Agreement applicable to the Authority. Such covenants are incorporated by reference as though fully set forth in the Indenture.

(b) The Trustee shall establish and maintain a fund separate from any other fund established and maintained under the Indenture designated as the Rebate Fund. Within the Rebate Fund, the Trustee shall also maintain such accounts as shall be directed by the Borrower as necessary in order for the Authority and the Borrower to comply with the terms and requirements of the Tax Agreement. Subject to the transfer provisions provided in paragraph (c) below, all money at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the Rebate Requirement (as defined in the Tax Agreement), for payment to the United States Government, and none of the Borrower, the Authority or the Bondholders shall have any rights in or claim to such moneys. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this section and by the Tax Agreement. The Trustee shall conclusively be deemed to have complied with such provisions if it follows the written directions of the Borrower, including supplying all necessary information requested by the Borrower and the Authority in the manner set forth in the Tax Agreement, and shall not be required to take any actions thereunder in the absence of written directions from the Borrower.

(c) Upon receipt of the Borrower’s written instructions, the Trustee shall remit part or all of the balances in the Rebate Fund to the United States Government, as so directed. In addition, if the Borrower so directs, the Trustee will deposit moneys into or transfer moneys out of the Rebate Fund from or into such accounts or funds as directed by the Borrower’s written directions. Any funds remaining in the Rebate Fund after no Bonds remain outstanding under the Indenture and payment and satisfaction of any Rebate Requirement shall be withdrawn and remitted to the Borrower upon its written request.

(d) Notwithstanding any provision of the Indenture, including in particular the section under the heading “DEFEASANCE,” of the obligation of the Borrower to pay the Rebate Requirement to the United States Government and to comply with all other requirements of this section and the Tax Agreement shall survive the defeasance or payment in full of the Bonds.

(e) Notwithstanding any provisions of this section, if the Borrower shall provide to the Authority and the Trustee an Opinion of Bond Counsel that any specified action required under this section is no longer required or that some further or different action is required to maintain the tax-exempt status of interest on the Bonds, the Borrower, the Trustee and the Authority may conclusively rely on such opinion in complying with the requirements of this section and the covenants under the Indenture shall be deemed to be modified to that extent.

***Investment of Moneys in Funds.*** Except as otherwise provided in the Indenture as summarized herein under the heading “INDENTURE – DEFEASANCE – Deposit of Money or Securities with Trustee,” all moneys in any of the funds and accounts established pursuant to the Indenture shall be invested by the Trustee solely in such Eligible Securities as are specified in a Request of the Borrower, provided, however, that, if the Borrower does not file such a Request with the Trustee, the Trustee shall invest to the extent practicable in investments described in clause (7) of the definition of the term “Eligible Securities” in the Indenture; provided, however, that any such investment shall be made by the Trustee only if, prior to the date on which such investment is to be made, the Trustee shall have received a Request of the Borrower specifying a specific money market fund and, if no such Request of the Borrower is so received, the Trustee shall hold such moneys uninvested.

Except as otherwise provided in written instructions of the Borrower which the Borrower states in writing are given in accordance with the Tax Agreement, all interest, profits and other income received from the investment of moneys shall be deposited in the Bond Fund (except for any interest, profits or other income received from the investment of moneys in the Rebate Fund, if any, which shall be retained therein) when received until all moneys in that fund have been expended and thereafter shall be deposited in the Bond Fund.

Subject to the Indenture as summarized herein under the heading “INDENTURE – DEFEASANCE – Deposit of Money or Securities with Trustee,” investments in any and all funds and accounts established pursuant to the Indenture (other than the Rebate Fund) may be commingled for purposes of making, holding and disposing of investments, notwithstanding provisions of the Indenture for transfer to or holding in a particular fund amounts received or held by the Trustee under the Indenture, provided that the Trustee shall at all times account for such investments strictly in accordance with the particular funds to which they are credited and otherwise as provided in the Indenture. The Trustee may act as principal or agent in the making or disposing of any investment. The Trustee may sell or present for redemption any securities so purchased whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund or account to which such securities are credited, and the Trustee shall not be liable or responsible for any loss resulting from such investment.

The Authority (and the Borrower by its execution of the Loan Agreement) acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Authority or the Borrower the right to receive from the Trustee brokerage confirmations of security transactions as they occur, the Authority and the Borrower specifically waive receipt of such confirmations to the extent permitted by law. The Trustee will furnish the Authority and the Borrower periodic cash transaction statements which include details for all investment transactions made by the Trustee under the Indenture.

The Trustee or any of its affiliates may act as sponsor, advisor or manager in connection with any investments made by the Trustee under the Indenture.

***Amount Remaining in Funds and Accounts.*** Any amounts remaining in the Bond Fund or any other fund or account established under the Indenture after payment in full of the Bonds (or after provision for payment thereof as provided in the Indenture), the fees, charges and expenses of the Trustee and the Authority and the Rebate Requirement (as defined in the Tax Agreement) shall belong and be paid to the Borrower by the Trustee.

## COVENANTS

***Punctual Payment.*** The Authority shall punctually pay, but only out of the Revenues and the other funds pledged as provided in the Indenture, the principal, premium, if any, and interest to become due in respect of every Bond issued under the Indenture at the times and places and in the manner provided in the Indenture and in the Bonds, according to the true intent and meaning thereof. All such payments shall be made by the Trustee as provided in the Indenture. When and as paid in full, all Bonds, if any, shall be delivered to the Trustee and shall forthwith be cancelled by the Trustee, who shall deliver a certificate evidencing such cancellation to the Authority and the Borrower. The Trustee shall destroy such cancelled Bonds in accordance with its customary procedures.

***Extension or Funding of Claims for Interest.*** In order to prevent any accumulation of claims for interest after maturity, the Authority shall not directly or indirectly extend or assent to the extension of the time for the payment of any claim for interest on any of the Bonds, and shall not, directly or indirectly, be a party to or approve any such arrangement by purchasing or funding such claims or in any other manner. In case any such claim for interest shall be extended or funded, whether or not with the consent of the Authority, such claim for interest so extended or funded shall not be entitled, in case of default under the Indenture, to the benefits of the Indenture, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest which shall not have been so extended or funded. Nothing in this section shall be deemed to limit the right of the Authority to issue bonds for the purpose of refunding any Outstanding Bonds, and such issuance shall not be deemed to constitute an extension of maturity of Bonds.

***Encumbrance Upon Revenues.*** The Authority shall not create, or permit the creation of, any pledge, lien, charge or other encumbrance upon the Revenues and other assets pledged or assigned under the Indenture while any of the Bonds are Outstanding, except the pledge and assignment created by the Indenture. Subject to this limitation, the Authority expressly reserves the right to enter into one or more other indentures for any of its corporate purposes, including other programs under the Act, and reserves the right to issue other obligations for such purposes.

***Power to Issue Bonds and Make Pledge and Assignment.*** The Authority is duly authorized pursuant to law to issue the Bonds and to enter into the Indenture and to pledge and assign the Revenues and other assets purported to be pledged and assigned, respectively, under the Indenture in the manner and to the extent provided in the Indenture. The Bonds and the provisions of the Indenture are and will be the legal, valid and binding limited obligations of the Authority enforceable in accordance with their terms, and the Authority and Trustee shall at all times, to the extent permitted by law and subject to the provisions of the Indenture, defend, preserve and protect said pledge and assignment of Revenues and other assets and all the rights of the Bondholders under the Indenture against all claims and demands of all Persons whomsoever.

***Arbitrage Covenants.*** (a) The Authority covenants that it shall not take any action, or knowingly fail to take any action, if such action or failure to take such action would result in the interest on the

Bonds not being excluded from gross income for federal income tax purposes under Section 103 of the Code. Without limiting the generality of the foregoing, the Authority covenants that it will comply with the requirements of the Tax Agreement, which are incorporated as if fully set forth in the Indenture. This covenant shall survive the payment in full or the defeasance of the Bonds.

(b) In the event that at any time the Authority is of the opinion that for purposes of this section it is necessary or helpful to restrict or limit the yield on the investment of any moneys held by the Trustee under the Indenture, the Authority shall so instruct the Trustee in a Request of the Authority accompanied by a supporting Opinion of Bond Counsel, and the Trustee shall take such action as may be directed in accordance with such instructions.

(c) Notwithstanding any provisions of this section, if the Authority shall provide to the Trustee an Opinion of Bond Counsel to the effect that any specified action required under this section is no longer required or that some further or different action is required to maintain the exclusion from federal income tax of interest on the Bonds, the Trustee may conclusively rely on such opinion in complying with the requirements of this section and the Tax Agreement, and the covenants under the Indenture shall be deemed to be modified in that extent.

***Other Covenants; Amendment of the Loan Agreement.*** (a) Subject to the provisions of the Indenture, the Trustee shall promptly collect all amounts due from the Borrower pursuant to the Loan Agreement and enforce and take all steps, actions and proceedings reasonably necessary for the enforcement of all of the rights of the Authority under the Loan Agreement and assigned to it pursuant to the Indenture as summarized herein in paragraph (b) under the heading “INDENTURE – PLEDGE AND ASSIGNMENT; ESTABLISHMENT OF BOND FUND AND REBATE FUND – Pledge and Assignment.”

(b) The Authority shall not amend, modify or terminate any of the terms of the Loan Agreement, or consent to any such amendment, modification or termination, without the prior written consent of the Trustee. The Trustee shall give such written consent if but only if (1) it has received a written representation from the Borrower to the effect that such amendment or modification will not materially and adversely affect the interests of the Holders of the Bonds (which written representation may be based on representations of other parties in accordance with the Indenture); provided that, if an Event of Default described in the Indenture as summarized herein in paragraphs (a), (b) or (c) under the heading “INDENTURE – EVENTS OF DEFAULT; REMEDIES ON DEFAULT – Events of Default; Acceleration; Waiver of Default” has occurred and is continuing, the Trustee rather than the Borrower shall make a determination that such amendment or modification will not materially and adversely affect the interests of the Holders of the Bonds (provided that, in making such determination, the Trustee may conclusively rely on written representations of financial consultants or other advisors or the opinion or advice of counsel), or (2) the Holders of a majority in aggregate principal amount of the Bonds then Outstanding consent in writing to such amendment, modification or termination, provided that no such amendment, modification or termination shall reduce the amount of Base Loan Payments to be made to the Authority or the Trustee by the Borrower pursuant to the Loan Agreement, or extend the time for making such payments, without the written consent of all of the Holders of the Bonds then Outstanding.

***Waiver of Laws.*** The Authority shall not at any time insist upon or plead in any manner whatsoever, or claim or take the benefit or advantage of, any stay or extension of law now or at any time hereafter in force that may affect the covenants and agreements contained in the Indenture or in the Bonds, and all benefit or advantage of any such law or laws is expressly waived by the Authority to the extent permitted by law.

**Further Assurances.** Whenever and so often as requested so to do by the Trustee, the Authority shall promptly execute and deliver or cause to be executed and delivered all such other and further instruments, documents or assurances, and promptly do or cause to be done all such other and further things, as may be necessary or reasonably required in order to further and more fully vest in the Trustee and the Bondholders all of the rights, interests, powers, benefits, privileges and advantages conferred or intended to be conferred upon them by the Indenture and to perfect and maintain as perfected such rights, interests, powers, benefits, privileges and advantages.

**Continuing Disclosure.** Pursuant to the Loan Agreement as summarized herein in paragraph (h) under the heading “LOAN AGREEMENT – Other Covenants of the Borrower,” the Borrower has undertaken all responsibility for compliance with continuing disclosure requirements pursuant to Rule 15c2-12, and the Authority shall have no liability to the Holders of the Bonds or any other person with respect to Rule 15c2-12. The Trustee covenants and agrees that, subject to the provisions of the Indenture, it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement and in accordance with the Loan Agreement as summarized herein in paragraph (h) under the heading “LOAN AGREEMENT – Other Covenants of the Borrower” applicable to it. Notwithstanding any other provision of the Indenture, failure of the Borrower or the Trustee to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default; however, the Trustee, at the written request of any Participating Underwriter or the Holders of at least 25% aggregate principal amount of Outstanding Bonds, shall (but only to the extent the Trustee has been tendered funds in an amount satisfactory to it or it has been otherwise indemnified from and against any loss, liability, cost or expense, including without limitation, fees and expenses of its counsel and agents and additional fees and charges of the Trustee) or any Bondholder or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Borrower to comply with its obligations under in accordance with the Loan Agreement as summarized herein in paragraph (h) under the heading “LOAN AGREEMENT – Other Covenants of the Borrower” or, as to any Bondholder or Beneficial Owner, to cause the Trustee to comply with its obligations under this section.

**Preservation of Revenues.** The Authority shall not waive any provision of the Loan Agreement or take any action to interfere with or impair the pledge and assignment under the Indenture of Revenues and the assignment to the Trustee of rights under the Loan Agreement, or the Trustee’s enforcement of any rights thereunder, without the prior written consent of the Trustee. The Trustee may give such written consent, and may itself take any such action, or consent to any Amendment, only in accordance with the Indenture.

**Compliance with Indenture.** The Authority shall not issue, or permit to be issued, any Bonds secured or payable in any manner out of Revenues in any manner other than in accordance with the provisions of the Indenture, and shall not suffer or permit any default to occur under the Indenture, but shall faithfully observe and perform all the covenants, conditions and requirements of the Indenture.

## **EVENTS OF DEFAULT; REMEDIES ON DEFAULT**

**Events of Default; Acceleration; Waiver of Default.** If one or more of the following events (“Events of Default”) shall happen, that is to say

(a) if default shall be made in the due and punctual payment of the principal of, or premium (if any) on, any Bond as the same shall become due and payable (whether at maturity, by proceedings for redemption, by declaration or otherwise);

(b) if default shall be made in the due and punctual payment of any installment of interest on any Bond when and as such interest installment shall become due and payable;

(c) if default shall be made by the Authority in the performance or observance of any other of the covenants, agreements or conditions on its part in the Indenture or in the Bonds contained, and such default shall have continued for a period of thirty (30) days after written notice thereof, specifying such default and requiring the same to be remedied, shall have been given to the Authority by the Trustee, or to the Authority and the Trustee by the Holders of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding; or

(d) if a Loan Default Event has occurred and is continuing;

then and in each and every such case during the continuance of such Event of Default, unless the principal of all the Bonds shall have already become due and payable, the Trustee, by notice in writing to the Authority, may and, upon the written request of the Holders of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding, shall declare the principal of all the Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable, anything in the Indenture or in the Bonds contained to the contrary notwithstanding.

This provision, however, is subject to the condition that if, at any time after the principal of the Bonds shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as provided in the Indenture, there shall have been deposited with the Trustee a sum sufficient to pay all principal on the Bonds matured prior to such declaration and all matured installments of interest (if any) upon all such Bonds, with interest on such overdue installments of principal at the rate borne by the respective Bonds, and the reasonable fees and expenses of the Trustee (including but not limited to those of its attorneys), and any and all other defaults known to the Trustee (other than in the payment of principal of and interest on such Bonds due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall have been made therefor, then, and in every such case, the Holders of at least a majority in aggregate principal amount of the Bonds then Outstanding, by written notice to the Authority and to the Trustee, may, on behalf of the Holders of all of the Bonds, rescind and annul such declaration and its consequences and waive such default; but no such rescission and annulment shall extend to or shall affect any subsequent default, or shall impair or exhaust any right or power consequent thereon.

***Institution of Legal Proceedings by Trustee.*** If one or more Events of Default shall happen and be continuing, the Trustee in its discretion may, and upon the written request of the Holders of a majority in aggregate principal amount of the Bonds then Outstanding, and upon being indemnified to its reasonable satisfaction therefor, shall, proceed to protect or enforce its rights or the rights of the Holders of such Bonds under the Act or under the Loan Agreement or the Indenture by a suit in equity or action at law, either for the specific performance of any covenant or agreement set forth in the Indenture, or in aid of the execution of any power granted under the Indenture, or by mandamus or other appropriate proceeding for the enforcement of any other legal or equitable remedy as the Trustee shall deem most effectual in support of any of its rights or duties under the Indenture.

***Application of Moneys Collected by Trustee.*** Any moneys collected by the Trustee pursuant to the Indenture as summarized herein under the heading “INDENTURE – EVENTS OF DEFAULT; REMEDIES ON DEFAULT – Institution of Legal Proceedings by Trustee,” shall be applied in the following order, at the date or dates fixed by the Trustee and, in the case of distribution of such moneys

on account of principal (or premium, if any), upon presentation of the Bonds, and stamping thereon the payment, if only partially paid, and upon surrender thereof, if fully paid:

*First:* To the payment of costs and expenses of collection and reasonable compensation to the Trustee for its own services and for the services of counsel, agents and employees by it properly engaged and employed, and all other expenses and liabilities incurred, and for advances, together with interest on such advances at a rate per annum equal to the Bond yield plus two percent, made pursuant to the provisions of the Indenture.

*Second:* In case the principal of none of the Bonds shall have become due and remains unpaid, to the payment of interest in default, such payments to be made ratably and proportionately to the persons entitled thereto without discrimination or preference.

*Third:* In case the principal of any of the Bonds shall have become due by declaration or otherwise and remains unpaid, first to the payment of interest on all Bonds then due and unpaid and the premium thereon, if any; in every instance such payment to be made ratably to the persons entitled thereto without discrimination or preference.

Whenever moneys are to be applied pursuant to the provision of this section, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date unless the Trustee shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal and past-due interest to be paid on such date shall cease to accrue.

Subject to the terms of the Indenture as summarized herein under the heading “INDENTURE – PLEDGE AND ASSIGNMENT; ESTABLISHMENT OF BOND FUND AND REBATE FUND – Rebate Fund,” whenever all principal of and interest on all Bonds have been paid under the provisions of this section and all fees, expenses and charges of the Trustee and the Authority (including without limitation those of its attorneys) have been paid, any balance remaining in the funds and accounts under the Indenture shall be paid to the Borrower.

***Remedies Cumulative.*** No remedy conferred upon or reserved to the Trustee or to any Holder of the Bonds is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Indenture or now or hereafter existing at law or in equity.

***Covenant to Pay Bonds in Event of Default.*** The Authority covenants that, upon the happening of any Event of Default, the Authority will pay, but only out of Revenues, to the Trustee, upon demand, for the benefit of the Holders of the Bonds, the whole amount then due and payable thereon (by declaration or otherwise) for interest or for principal and premium, or both, as the case may be, and all other sums which may be due under or secured by the Indenture, including reasonable compensation to the Trustee and its agents and counsel and any expenses or liabilities incurred by the Trustee under the Indenture and its agents and counsel. In case the Authority shall fail to pay the same forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, shall be entitled to institute proceedings at law or in equity in any court of competent jurisdiction to recover judgment for the whole amount due and unpaid, together with costs and reasonable attorneys’ fees, subject, however, to the condition that such judgment, if any, shall be limited to, and payable solely out of, Revenues as provided in the Indenture and not otherwise. The Trustee shall be entitled to recover such judgment as aforesaid,

either before, after or during the pendency of any proceedings for the enforcement of the Indenture, and the right of the Trustee to recover such judgment shall not be affected by the exercise of any other right, power or remedy for the enforcement of the provisions of the Indenture.

***Trustee Appointed Agent for Bondholders.*** The Trustee is appointed the agent and attorney-in-fact of the Holders of all Bonds Outstanding under the Indenture for the purpose of filing any claims relating to the Bonds.

***Power of Trustee to Control Proceedings.*** In the event that the Trustee, upon the happening of an Event of Default, shall have taken some action, by judicial proceedings or otherwise, pursuant to its duties under the Indenture, whether upon its own discretion or upon the request of the Holders of a majority in aggregate principal amount of the Bonds then Outstanding, it shall have full power, in the exercise of its discretion for the best interests of the Holders of the Bonds, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; provided, however, that the Trustee shall not, unless there no longer continues an Event of Default under the Indenture, discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, if at the time there has been filed with it a written request signed by the Holders of at least a majority in aggregate principal amount of the Bonds Outstanding under the Indenture opposing such discontinuance, withdrawal, compromise, settlement or other disposal of such litigation.

***Limitation on Bondholders' Right to Sue.*** Notwithstanding any other provision of the Indenture, no Holder of any Bond issued under the Indenture shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon the Indenture, unless (a) such Holder shall have previously given to the Trustee written notice of the occurrence of an Event of Default under the Indenture; (b) the Holders of at least a majority in aggregate principal amount of all the Bonds then Outstanding shall have made written request upon the Trustee to exercise the powers granted under the Indenture or to institute such action, suit or proceeding in its own name; (c) said Holders shall have tendered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trustee shall have refused or omitted to comply with such request for a period of sixty (60) days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are declared, in every case, to be conditions precedent to the exercise by any Holder of Bonds of any remedy under the Indenture; it being understood and intended that no one or more Holders of Bonds shall have any right in any manner whatever by his or their action to enforce any right under the Indenture, except in the manner provided in the Indenture, and that all proceedings at law or in equity to enforce any provision of the Indenture shall be instituted, had and maintained in the manner provided in the Indenture and for the equal benefit of all Holders of the Outstanding Bonds.

The right of any Holder of any Bond to receive payment of the principal of and premium, if any, and interest on such Bond out of Revenues and the funds pledged under the Indenture, on and after the respective due dates expressed in such Bond, or to institute suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder, notwithstanding the foregoing provisions of this section or in accordance with the Indenture as summarized herein under the heading "INDENTURE – EVENTS OF DEFAULT; REMEDIES ON DEFAULT – Power of Trustee to Control Proceedings," or any other provision of the Indenture.

## THE TRUSTEE

***Duties, Immunities and Liabilities of Trustee.*** The Trustee shall, prior to an Event of Default under the Indenture, and after the curing or waiver of all Events of Default under the Indenture which may have occurred, perform such duties and only such duties as are specifically set forth in the Indenture. The Trustee shall, during the existence of any Event of Default under the Indenture which has not been cured or waived, exercise such of the rights and powers vested in it by the Indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of their own affairs.

No provision of the Indenture shall be construed to relieve the Trustee from liability for its own negligent action or its own negligent failure to act or its own willful misconduct, except that:

(a) Prior to the occurrence of any Event of Default under the Indenture and after the curing or waiver of all Events of Default which may have occurred, the duties and obligations of the Trustee shall at all times be determined solely by the express provisions of the Indenture; the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in the Indenture; and no covenants or obligations shall be implied into the Indenture which are adverse to the Trustee; and

(b) At all times, regardless of whether or not any Event of Default shall exist,

(1) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Officers of the Trustee unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts; and

(2) the Trustee shall not be personally liable with respect to any action taken, permitted or omitted by it in good faith in accordance with the direction of the Holders of not less than a majority, or such other percentage as may be required under the Indenture, in aggregate principal amount of the Bonds Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under the Indenture; and

(3) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificate or opinion furnished to the Trustee, conforming to the requirements of the Indenture; but in the case of any such certificate or opinion which by any provision of the Indenture is specifically required to be furnished to the Trustee, shall be under a duty to examine the same to determine whether or not it conforms to the requirements of the Indenture.

(c) The Trustee may execute any of the trusts or powers of the Indenture and perform the duties required of it under the Indenture by or through attorneys, agents or receivers, and shall be entitled to advice of counsel concerning all matters of trust and concerning its duties under the Indenture and the Trustee shall not be responsible for any misconduct or negligence on the part of any attorney or agent appointed with due care by it under the Indenture.

None of the provisions contained in the Indenture shall require the Trustee to expend or risk its own funds or otherwise incur individual financial liability in the performance of any of its duties or in the exercise of any of its rights or powers. The permissive right of the Trustee to perform acts enumerated in the Indenture or the Loan Agreement shall not be construed as a duty or obligation under the Indenture.

***Moneys Received by Trustee to Be Held in Trust.*** Subject to the provisions of the Indenture as summarized herein under the heading “INDENTURE – DEFEASANCE – Deposit of Money or Securities with Trustee,” all moneys received by the Trustee shall, until used or applied as provided in the Indenture, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by law or as otherwise provided in the Indenture. Except to the extent provided otherwise in the Indenture, any interest allowed on any such moneys shall be deposited in the fund to which such moneys are credited.

***Compensation and Indemnification of Trustee.*** The Trustee shall be entitled to reasonable compensation for all services rendered by the Trustee in the execution of the trusts created and in the exercise and performance of any of the powers and duties under the Indenture, which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust, and the Loan Agreement will require the Borrower to pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any of the provisions of the Indenture (including the reasonable compensation and the expenses and disbursements of its counsel and of all Persons not regularly in its employ) except any such expense, disbursement or advance as may arise from its negligence or bad faith. If any property, other than cash, shall at any time be held by the Trustee subject to the Indenture, or any Supplemental Indenture, as security for the Bonds, the Trustee, if and to the extent authorized by a receivership, bankruptcy or other court of competent jurisdiction or by the instrument subjecting such property to the provisions of the Indenture as such security for the Bonds, shall be entitled (but not required) to make advances for the purpose of preserving such property or of discharging tax liens or other prior liens or encumbrances thereon. The Loan Agreement will also require the Borrower to provide certain indemnification to the Trustee. Notwithstanding the foregoing, prior to seeking indemnity the Trustee shall make timely payments of principal of and interest on the Bonds with moneys on deposit in the Bond Fund as provided in the Indenture and shall accelerate the payment of principal on the Bonds when required by the Indenture without seeking indemnification from the Borrower. Upon the occurrence and continuance of an Event of Default under the Indenture, and subject to the Indenture as summarized herein under the heading “INDENTURE – EVENTS OF DEFAULT; REMEDIES ON DEFAULT – Application of Moneys Collected by Trustee,” the Trustee shall have a lien prior to the Bonds as to all property and funds held by it (other than the Rebate Fund) for any amount owing to it or any predecessor Trustee pursuant to this section or the Loan Agreement and the rights of the Trustee to compensation for its services and to payment or reimbursement for its costs, expenses, or advances shall have priority over the Bonds in respect of all property or funds held or collected by the Trustee as such and other funds held in trust by the Trustee for the benefit of the Holders of particular Bonds.

When the Trustee incurs expenses or renders services in connection with an Event of Default specified in the Loan Agreement as summarized herein in paragraph (e) under the heading “LOAN AGREEMENT – Events of Default” and in accordance with the Indenture as summarized herein under the heading “INDENTURE – EVENTS OF DEFAULT; REMEDIES ON DEFAULT – Events of Default; Acceleration; Waiver of Default,” such expenses (including the reasonable charges and expenses of its counsel and agents) and the compensation for such services are intended to constitute expenses of administration under any applicable federal or state bankruptcy, insolvency or other similar law. The provisions of this section shall survive the termination of the Indenture and the resignation or removal of the Trustee.

***Qualifications of Trustee.*** There shall at all times be a trustee under the Indenture which shall be a corporation or banking association organized and doing business under the laws of the United States of America or of a state thereof, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$50,000,000, subject to supervision or examination by federal or State authority. If such corporations or banking associations publish reports of condition at least

annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this section the combined capital and surplus of such corporations or banking associations shall be deemed to be their combined capital and surplus as set forth in their most recent reports of conditions so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this section, the Trustee shall resign immediately in the manner and with the effect specified in the Indenture as summarized herein under the heading “INDENTURE – THE TRUSTEE – Resignation and Removal of Trustee and Appointment of Successor Trustee.”

***Resignation and Removal of Trustee and Appointment of Successor Trustee.***

(a) The Trustee may at any time resign by giving written notice to the Authority and the Borrower, and by giving to the Bondholders notice either by publication of such resignation, which notice shall be published at least once in The Wall Street Journal or The Bond Buyer, or by giving Notice by Mail to such Bondholders. No resignation or removal shall be effective until the successor has delivered an acceptance of its appointment to the Authority and the predecessor Trustee. Upon receiving such notice of resignation, the Authority, with the advice and consent of the Borrower, shall promptly appoint a successor trustee, by an instrument in writing. If no successor trustee shall have been so appointed and have accepted appointment within thirty (30) days after the giving of such notice of resignation by the Trustee, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor trustee, or any Bondholder who has been a bona fide Holder for at least six (6) months may, on behalf of himself and others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and may prescribe, appoint a successor trustee.

(b) In case at any time either of the following shall occur:

(1) the Trustee shall cease to be eligible in accordance with the provisions of the Indenture as summarized herein under the heading “INDENTURE – THE TRUSTEE – Qualifications of Trustee,” and shall fail to resign after written request therefor by the Authority or by any Bondholder who has been a bona fide Holder for at least six (6) months, or

(2) the Trustee shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, the Authority may remove the Trustee, and, with the advice and consent of the Borrower, appoint a successor trustee, by an instrument in writing, or any such Bondholder may, on behalf of itself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee, and the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and may prescribe, remove the Trustee, and appoint a successor trustee. Upon any removal of the Trustee, any outstanding fees and expenses of such former Trustee shall be paid in accordance with the Indenture as summarized herein under the heading “INDENTURE – THE TRUSTEE – Compensation and Indemnification of Trustee.”

(c) The Authority, in the absence of an Event of Default, or the Holders of a majority in aggregate principal amount of the Bonds at the time Outstanding may at any time remove the Trustee and appoint a successor trustee, by an instrument or concurrent instruments in writing signed by the Authority or such Bondholders, as the case may be.

(d) Any resignation or removal of the Trustee and appointment of a successor trustee, pursuant to any of the provisions of this section shall become effective only upon acceptance of appointment by the successor trustee as provided in the Indenture as summarized herein under the heading “INDENTURE – THE TRUSTEE – Acceptance of Trust by Successor Trustee.”

***Acceptance of Trust by Successor Trustee.*** Any successor trustee appointed as provided in accordance with the Indenture as summarized herein under the heading “INDENTURE – THE TRUSTEE – Resignation and Removal of Trustee and Appointment of Successor Trustee” shall execute, acknowledge and deliver to the Authority, the Borrower and to its predecessor trustee an instrument accepting such appointment under the Indenture, and thereupon the resignation or removal of the predecessor trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts, duties and obligations of its predecessor in the trusts under the Indenture, with like effect as if originally named as Trustee under the Indenture; but, nevertheless, on the request of the Authority or the request of the successor trustee, the Trustee ceasing to act shall execute and deliver an instrument transferring to such successor trustee, upon the trusts expressed in the Indenture, all the rights, powers and trusts of the trustee so ceasing to act. Upon request of any such successor trustee, the Authority shall execute any and all instruments in writing necessary or desirable for more fully and certainly vesting in and confirming to such successor trustee all such rights, powers and duties. Any Trustee ceasing to act shall, nevertheless, retain a lien upon all property or funds (other than the Rebate Fund) held or collected by such trustee to secure the amounts due it as compensation, reimbursement, expenses and indemnity afforded to it by the Indenture as summarized herein under the heading “INDENTURE – THE TRUSTEE – Compensation and Indemnification of Trustee.”

No successor trustee shall accept appointment as provided in this section unless at the time of such acceptance such successor trustee shall be eligible under the provisions of the Indenture as summarized herein under the heading “INDENTURE – THE TRUSTEE – Qualifications of Trustee.”

Upon acceptance of appointment by a successor trustee as provided in this section, the successor trustee shall give the Bondholders and each Rating Agency notice of the succession of such trustee to the trusts under the Indenture in the manner prescribed in the Indenture as summarized herein under the heading “INDENTURE – THE TRUSTEE – Resignation and Removal of Trustee and Appointment of Successor Trustee,” for the giving of notice of resignation of the Trustee.

***Merger or Consolidation of Trustee.*** Any corporation or banking association into which the Trustee may be merged or with which it may be consolidated, or any corporation or banking association resulting from any merger or consolidation to which the Trustee shall be a party, or any corporation or banking association succeeding to all or substantially all of the corporate trust business of the Trustee, or any corporation or banking association which the Trustee may sell or transfer all or substantially all of its corporate trust business, shall be the successor of the Trustee under the Indenture without the execution or filing of any paper or any further act on the part of any of the parties to the Indenture, anything in the Indenture to the contrary notwithstanding, provided that such successor trustee shall be eligible under the provisions of the Indenture as summarized herein under the heading “INDENTURE – THE TRUSTEE – Qualifications of Trustee.”

***Accounting Records and Reports; Financing Statements.*** The Trustee shall keep proper books of record and account in accordance with corporate trust accounting standards in which complete and correct entries shall be made of all transactions relating to the receipt, investment, disbursement, allocation and application of the Revenues and other amounts held under the Indenture and the proceeds of the Bonds received by the Trustee. Such records shall specify the account or fund to which each investment (or portion thereof) held by the Trustee is to be allocated and shall set forth, in the case of

each Eligible Security, (a) its purchase price, (b) its value at maturity or its sale price, as the case may be, (c) the amounts and dates of any payments to be made with respect thereto and (d) such documentation and evidence as is required to be obtained by the Borrower to establish that the requirements of the Tax Agreement have been met. Such records shall be open to inspection by the Authority and the Borrower, and by any Bondholder at any reasonable time during regular business hours on reasonable notice. The Trustee shall furnish to the Borrower monthly statements (which may be in the form of its customary statements) covering receipts, disbursements, allocation and application of Revenues and the proceeds of the Bonds and all investments made by the Trustee and all funds and accounts held by the Trustee, and the Trustee shall furnish to the Authority such statements on a quarterly basis, unless otherwise requested by the Authority. The Trustee shall furnish to any Bondholder who may make written request therefor a copy of the most recent audited financial statements of the Borrower that are in the possession of the Trustee. The Trustee shall have no responsibility or liability with respect to the Borrower's failure to provide such statements, and the Trustee shall not be required to compel the Borrower to provide any such statements.

The Trustee shall furnish to any Bondholder who may make written request therefor a copy of the most recent audited financial statements of the Borrower that are in the possession of the Trustee. The Trustee shall have no responsibility or liability with respect to the Borrower's failure to provide such statements, and the Trustee shall not be responsible to compel the Borrower to provide any such statements.

The Trustee shall not be responsible for the preparation or filing of any UCC financing statements or continuation statements under the Indenture.

***Appointment of Co-Trustee.*** In the event the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies granted under the Indenture to the Trustee or hold title to the properties, in trust, as granted in the Indenture, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional institution as a separate trustee or co-trustee. In the absence of an Event of Default under the Indenture, the appointment of any such separate trustee or co-trustee shall be subject to the approval of the Authority and the Borrower. The following provisions of this section are adapted to these ends.

(a) In the event that the Trustee appoints an additional institution as a separate trustee or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, interest or lien expressed or intended by the Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate trustee or co-trustee, but only to the extent necessary to enable such separate trustee or co-trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate trustee or co-trustee shall run to and be enforceable by either of them. Such co-trustee may be removed by the Trustee at any time, with or without cause.

(b) Should any instrument in writing from the Authority be required by the separate trustee or co-trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Authority. In case any separate trustee or co-trustee, or a successor to either, shall become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate trustee or co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a successor to such separate trustee or co-trustee.

## **MODIFICATION OF INDENTURE**

***Modification without Consent of Bondholders.*** Subject to the conditions and restrictions in the Indenture contained, the Authority and the Trustee, from time to time and at any time, may enter into an indenture or indentures supplemental to the Indenture, which indenture or indentures thereafter shall form a part of the Indenture, including, without limitation, for one or more of the following purposes, provided that the Authority and the Trustee shall have received the written consent of the Borrower and an Opinion of Bond Counsel to the effect that such amendment or modification will not cause interest on the Bonds to be included in the gross income of the Holder thereof for federal income tax purposes and the Trustee shall have received a written representation from the Borrower to the effect that such amendment or modification will not materially and adversely affect the interests of the Holders of the Bonds (which written representation may be based on representations of other parties in accordance with the Indenture); provided that, if an Event of Default described in the Indenture as summarized herein in paragraphs (a), (b) or (c) under the heading “INDENTURE – EVENTS OF DEFAULT; REMEDIES ON DEFAULT – Events of Default; Acceleration; Waiver of Default,” has occurred and is continuing, the Trustee rather than the Borrower shall make a determination that such amendment or modification will not materially and adversely affect the interests of the Holders of the Bonds (provided that, in making such determination, the Trustee may conclusively rely on written representations of financial consultants or advisors or the opinion or advice of counsel):

(a) to add to the covenants and agreements of the Authority in the Indenture contained, other covenants and agreements thereafter to be observed, or to assign or pledge additional security for the Bonds, or to surrender any right or power under the Indenture reserved to or conferred upon the Authority;

(b) to make such provisions for the purpose of curing any ambiguity, inconsistency or omission, or of curing, correcting or supplementing any defective provision, contained in the Indenture, or in regard to such matters or questions arising under the Indenture as the Authority may deem necessary or desirable and not inconsistent with the Indenture;

(c) to modify, amend or supplement the Indenture or any indenture supplemental to the Indenture in such manner as to permit the qualification of the Indenture or thereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect, and, if they so determine, to add to the Indenture or any indenture supplemental to the Indenture such other terms, conditions and provisions as may be permitted by said Trust Indenture Act of 1939, as amended, or similar federal statute; or

(d) in connection with an amendment of the Loan Agreement permitted by the Indenture as summarized herein under the heading “INDENTURE – COVENANTS – Other Covenants; Amendment of the Loan Agreement” for the purpose of conforming the terms, conditions and covenants of the Indenture to the corresponding or related provisions of such amended Agreement.

Any supplemental indenture authorized by the provisions of this section may be executed by the Authority and the Trustee without the consent of the Holders of any of the Bonds at the time Outstanding, notwithstanding any of the provisions of the Indenture as summarized herein under the heading “INDENTURE – MODIFICATION OF INDENTURE – Modification with Consent of Bondholders,” but the Trustee shall not be obligated to enter into any such supplemental indenture which affects the Trustee’s own rights, duties or immunities under the Indenture or otherwise.

The Trustee shall mail an executed copy of a supplemental indenture authorized by this section to the Borrower and each Rating Agency then rating the Bonds promptly after execution by the Authority and the Trustee.

***Modification with Consent of Bondholders.*** With the written consent of the Borrower or the Holders of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding, the Authority and the Trustee may from time to time and at any time, with an Opinion of Bond Counsel to the effect that such amendment or modification will not cause interest on the Bonds to be included in the gross income of the Holders thereof for federal income tax purposes, enter into an indenture or indentures supplemental to the Indenture for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of the Indenture or of any supplemental indenture; provided, however, that no such supplemental indenture shall (1) extend the fixed maturity of any Bonds or reduce the rate of interest thereon or extend the time of payment of interest, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof or (2) reduce the aforesaid percentage of Holders of Bonds whose consent is required for the execution of such supplemental indentures or extend the time of payment or permit the creation of any lien on the Revenues or the funds pledged in the Indenture prior to or on a parity with the lien of the Indenture or deprive the Holders of the Bonds of the lien created by the Indenture upon the Revenues or the funds pledged in the Indenture, without the consent of the Holders of all the Bonds then Outstanding. Upon receipt by the Trustee of a Certificate of the Authority authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of the Borrower or the Bondholders, as aforesaid, the Trustee shall join with the Authority in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under the Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such supplemental indenture.

It shall not be necessary for the consent of the Borrower or the Bondholders under this section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

Promptly after the execution by the Authority and the Trustee of any supplemental indenture pursuant to the provisions of this section, the Trustee shall mail a notice, setting forth in general terms the substance of such supplemental indenture, to the Borrower and the Bondholders at the addresses shown on the Bond registration books maintained by the Trustee. Any failure of the Trustee to give such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

The Trustee shall mail an executed copy of such supplemental indenture and any amendment of the Loan Agreement to the Borrower and each Rating Agency then rating the Bonds promptly after execution by the Authority, the Trustee, and in the case of the Loan Agreement, the Borrower.

***Effect of Supplemental Indenture.*** Upon the execution of any supplemental indenture pursuant to the provisions of the Indenture shall be and shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under the Indenture of the Authority, the Trustee and all Holders of Outstanding Bonds shall thereafter be determined, exercised and enforced under the Indenture subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be part of the terms and conditions of the Indenture for any and all purposes.

***Opinion of Counsel as to Supplemental Indenture.*** Subject to the requirement in the Indenture for an Opinion of Bond Counsel, the Trustee may receive an Opinion of Counsel as conclusive evidence

that any supplemental indenture executed pursuant to the provisions of the Indenture complies with the requirements of the Indenture.

***Notation of Modification on Bonds; Preparation of New Bonds.*** Bonds authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of the Indenture may bear a notation, in form approved by the Authority, as to any matter provided for in such supplemental indenture, and if such supplemental indenture shall so provide, new Bonds, so modified as to conform, in the opinion of the Authority, to any modification of the Indenture contained in any such supplemental indenture, may be prepared by the Authority, authenticated by the Trustee and delivered without cost to the Holders of the Bonds then Outstanding, upon surrender for cancellation of such Bonds, in equal aggregate principal amounts.

## **DEFEASANCE**

***Discharge of Indenture.*** Bonds may be paid by the Authority in any of the following ways, provided that the Authority also pays or causes to be paid any other sums payable under the Indenture by the Authority:

- (a) by paying or causing to be paid the principal of and premium, if any, and interest on the Bonds Outstanding, as and when the same become due and payable;
- (b) by depositing with the Trustee, in trust, at or before maturity, money or securities in the necessary amount (as provided in the Indenture as summarized herein under the heading “INDENTURE – DEFEASANCE – Deposit of Money or Securities with Trustee”) to pay or redeem Bonds Outstanding; or
- (c) by delivering to the Trustee, for cancellation by it, all Bonds Outstanding;

If the Authority shall pay all Bonds then Outstanding as provided above and shall also pay or cause to be paid all other sums payable under the Indenture by the Authority, then and in that case, at the election of the Authority (evidenced by a Certificate of the Authority, filed with the Trustee, signifying the intention of the Authority to discharge all such indebtedness and the Indenture), and notwithstanding that any Bonds shall not have been surrendered for payment, the Indenture and the pledge of Revenues made under the Indenture and all covenants, agreements and other obligations of the Authority under the Indenture shall cease, terminate, become void and be completely discharged and satisfied, except only as provided in the Indenture as summarized herein under the heading “INDENTURE – DEFEASANCE – Discharge of Liability on Bonds.” In such event, upon request of the Authority, the Trustee shall cause an accounting for such period or periods as may be requested by the Authority to be prepared and filed with the Authority and shall execute and deliver to the Authority all such instruments as may be necessary or desirable to evidence such discharge and satisfaction, and the Trustee shall pay over, transfer, assign or deliver to the Borrower all moneys or securities or other property held by it pursuant to the Indenture which are not required for the payment or redemption of Bonds not theretofore surrendered for such payment or redemption and which are not required for the payment of fees and expenses of the Trustee.

***Discharge of Liability on Bonds.*** Upon the deposit with the Trustee, in trust, at or before maturity, of money or securities in the necessary amount (as provided in the Indenture as summarized herein under the heading “INDENTURE – DEFEASANCE – Deposit of Money or Securities with Trustee”) to pay or redeem any Outstanding Bond, whether upon or prior to its maturity or the redemption date of such Bond (provided that, if such Bond is to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as provided in the Indenture or provision satisfactory to the Trustee shall have been made for the giving of such notice), then all liability of the Authority in respect of such Bond shall cease, terminate and be completely discharged, except only that thereafter the Holder

thereof shall be entitled to payment of the principal of and interest on such Bond by the Authority, and the Authority shall remain liable for such payment but only out of the money or securities deposited with the Trustee as aforesaid for its payment, provided further, however, that the provisions of the Indenture as summarized herein under the heading “INDENTURE – DEFEASANCE – Payment of Bonds after Discharge of Indenture” shall apply in all events.

The Authority or the Borrower may at any time surrender to the Trustee for cancellation by it any Bonds previously issued and delivered, which the Authority or the Borrower may have acquired in any manner whatsoever, and such Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

***Deposit of Money or Securities with Trustee.*** Whenever in the Indenture it is provided or permitted that there be deposited with or held in trust by the Trustee money or securities in the amount necessary to pay or redeem any Bonds, such amount (which may include money or securities held by the Trustee in the funds established pursuant to the Indenture) shall be equal (taking into account income which will accrue from the investment thereof on the date of deposit of such funds but without taking into account any income from the subsequent reinvestment thereof) to the principal amount of such Bonds and all unpaid interest thereon to maturity, except that, in the case of Bonds which are to be redeemed prior to maturity and in respect of which notice of such redemption shall have been given as provided in the Indenture or provision satisfactory to the Trustee shall have been made for the giving of such notice, the amount to be deposited or held shall be the principal amount of such Bonds and all unpaid interest thereon to the redemption date, together with the redemption premiums, if any, and shall be lawful money of the United States of America or Government Obligations; provided, in each case, that the Trustee shall have been irrevocably instructed (by the terms of the Indenture or by Request of the Authority) to apply such money to the payment of such principal of and premium, if any, and interest on such Bonds and provided, further, that the Authority and the Trustee shall have received (1) an Opinion of Bond Counsel to the effect that such deposit shall not cause interest on the Bonds to be included in the gross income of the Holders thereof for federal income tax purposes and that the Bonds to be discharged are no longer Outstanding; and (2) a verification report of a firm of certified public accountants or other financial services firm acceptable to the Authority verifying that the money or securities so deposited or held together with earnings thereon will be sufficient to make all payments of principal of and premium, if any, and interest on the Bonds to be discharged to and including the earlier of their respective maturity dates or the date they are to be redeemed.

***Payment of Bonds after Discharge of Indenture.*** Notwithstanding any provision of the Indenture, and subject to applicable escheat laws, any moneys held by the Trustee in trust for the payment of the principal of or premium, if any, or interest on any Bonds and remaining unclaimed for one year after the principal of all the Outstanding Bonds has become due and payable (whether at maturity or upon call for redemption or by declaration as provided in the Indenture), if such moneys were so held at such date, or one year after the date of deposit of such moneys if deposited after said date when all of the Bonds became due and payable, shall be repaid to the Borrower free from the trusts created by the Indenture, and all liability of the Trustee with respect to such moneys shall thereupon cease; *provided, however,* that before the repayment of such moneys to the Borrower as aforesaid, the Trustee may (at the cost of the Borrower) first mail to the Holders of Bonds which have not yet been paid, at the addresses shown on the registration books maintained by the Trustee, a notice, in such form as may be deemed appropriate by the Trustee, with respect to the Bonds so payable and not presented and with respect to the provisions relating to the repayment to the Borrower of the moneys held for the payment thereof.

## MISCELLANEOUS

***Liability of Authority Limited to Revenues.*** Notwithstanding anything contained in the Indenture, the Loan Agreement or in the Bonds, the Authority shall not be required to advance any moneys derived from any source other than the Revenues and other assets pledged under the Indenture for any of the purposes mentioned in the Indenture, whether for the payment of the principal or redemption price of or interest on the Bonds or for any other purpose of the Indenture. The Trustee acknowledges that the Authority's sole source of moneys to repay the Bonds will be provided by the Loan Payments made by the Borrower to the Trustee pursuant to the Loan Agreement, together with investment income on certain funds and accounts held by the Trustee under the Indenture.

The Bonds are limited obligations of the Authority, payable solely from and secured by the pledge of Revenues, as defined in the Indenture (hereinafter defined). Neither the Authority, its members, the State of California, nor any of its political subdivisions shall be directly, indirectly, contingently or morally obligated to use any other moneys or assets to pay all or any portion of the debt service due on the Bonds, to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. The Bonds are not a pledge of the faith and credit of the Authority, its members, the State of California or any of its political subdivisions nor do they constitute indebtedness within the meaning of any constitutional or statutory debt limitation. The Authority has no taxing power.

***Limitation of Rights to Parties and Bondholders.*** Nothing in the Indenture or in the Bonds, expressed or implied, is intended or shall be construed to give to any person other than the Authority, the Trustee, the Borrower and the Holders of the Bonds any legal or equitable right, remedy or claim under or in respect of the Indenture or any covenant, condition or provision therein or contained in the Indenture; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Authority, the Trustee, the Borrower and the Holders of the Bonds.

***Waiver of Notice.*** Whenever in the Indenture the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

***Destruction of Bonds.*** Whenever in the Indenture provision is made for the cancellation by the Trustee and the delivery to the Authority of any Bonds, the Trustee shall, in lieu of such cancellation and delivery, destroy such Bonds (in the presence of an officer of the Authority, if the Authority shall so require) and at the request of the Authority deliver a certificate of such destruction to the Authority.

***Severability of Invalid Provisions.*** If any one or more of the provisions contained in the Indenture or in the Bonds, or the application thereof to any Person or circumstances, shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions, or the application thereof to any Person or circumstances, shall be deemed severable from the remaining provisions contained in the Indenture and such invalidity, illegality, unenforceability or inability to apply to particular Persons or circumstances shall not affect any other provision of the Indenture or the applicability of all of the provisions of the Indenture to other Persons and circumstances, and the Indenture shall be construed as if such invalid or illegal or unenforceable provision, or the application thereof to any Person or circumstances, had never been set forth in the Indenture.

***Evidence of Rights of Bondholders.*** Any request, consent or other instrument required or permitted by the Indenture to be signed and executed by Bondholders may be in any number of concurrent instruments of substantially similar tenor and shall be signed or executed by such Bondholders in person or by an agent or agents duly appointed in writing. Proof of the execution of any such request,

consent or other instrument or of a writing appointing any such agent, or of the holding by any person of Bonds transferable by delivery, shall be sufficient for any purpose of the Indenture and shall be conclusive in favor of the Trustee and of the Authority if made in the manner provided in this section.

The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the person signing such request, consent or other instrument acknowledged the execution thereof, or by an affidavit of a witness of such execution duly sworn to before such notary public or other officer.

The ownership of Bonds shall be proved by the Bond registration books held by the Trustee.

Any request, consent, or other instrument or writing of the Holder of any Bond shall bind every future Holder of the same Bond and the Holder of every Bond issued in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the Authority in accordance therewith or reliance thereon.

***Disqualified Bonds.*** In determining whether the Holders of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under the Indenture, Bonds which are known by the Trustee to be owned or held by or for the account of the Authority or the Borrower, or by any other obligor on the Bonds, or by any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Authority or the Borrower or any other obligor on the Bonds, shall be disregarded and deemed not to be Outstanding for the purpose of any such determination; *provided, however*, that the Trustee shall not be deemed to have knowledge that any Bond is owned by the Authority or the Borrower or any other relationship mentioned above unless the Authority or the Borrower is the Holder or the Trustee has received written notice that any other Holder as described above is such a Holder. Bonds so owned which have been pledged in good faith may be regarded as Outstanding for the purposes of this section if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Bonds and that the pledgee is not a person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Authority or the Borrower or any other obligor on the Bonds. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

***Money Held for Particular Bonds.*** The money held by the Trustee for the payment of the interest, principal or redemption price due on any date with respect to particular Bonds (or portions of Bonds in the case of Bonds redeemed in part only) shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Holders of the Bonds entitled thereto, subject, however, to the provisions of the Indenture as summarized herein under the heading "INDENTURE – DEFEASANCE – Payment of Bonds after Discharge of Indenture."

***Funds and Accounts.*** Any fund required by the Indenture to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee, either as a fund or an account, and may, for the purposes of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account; but all such records with respect to all such funds shall at all times be maintained in accordance with customary standards of the corporate trust industry, to the extent practicable, and with due regard for the requirements of the Indenture as summarized herein under the heading "INDENTURE – PLEDGE AND ASSIGNMENT; ESTABLISHMENT OF BOND FUND AND REBATE FUND – Rebate Fund" and in accordance with the Indenture as summarized herein under the heading "INDENTURE – COVENANTS – Arbitrage Covenants" (and the applicable Tax Agreement) and for the protection of the security of the Bonds and the rights of every Holder thereof.

***Governing Law; Venue.*** The Indenture shall be construed in accordance with and governed by the Constitution and the laws of the State applicable to contracts made and performed in the State. The Indenture shall be enforceable in the State, and any action arising out of the Indenture shall be filed and maintained in San Diego County, California unless the Authority waives this requirement.

***Action to be Taken on Days Other Than Business Days.*** Except as otherwise specifically provided in the Indenture, whenever the Indenture requires any action to be taken on a day which is not a Business Day, such action shall be taken on the next succeeding Business Day with the same force and effect as if taken on such day. If any payment is made on the next Business Day as aforesaid, no interest shall accrue for the intervening period.

## **LOAN AGREEMENT**

***Representations and Warranties of the Borrower.*** The Borrower makes the following representations and warranties to the Authority:

(a) The Borrower is a nonprofit public benefit corporation duly incorporated and in good standing under the laws of the State, has the requisite corporate right, power and authority to enter into the Loan Agreement and to carry out and consummate all transactions contemplated on the part of the Borrower by the Loan Agreement, the Indenture, the Continuing Disclosure Agreement and the Tax Agreement and by proper corporate action has duly authorized the execution and delivery of the Loan Agreement, the Continuing Disclosure Agreement and the Tax Agreement.

(b) The Loan Agreement, the Continuing Disclosure Agreement and the Tax Agreement have been duly executed and delivered by the Borrower and constitute the legal, valid and binding agreements of the Borrower, enforceable against the Borrower in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles and to the exercise of judicial discretion in appropriate cases.

(c) The execution and delivery of the Loan Agreement, the Continuing Disclosure Agreement and the Tax Agreement and the consummation of the transactions contemplated in the Loan Agreement, the Continuing Disclosure Agreement and the Tax Agreement will not (1) conflict with or constitute a breach of or default under the Articles of Incorporation or the Bylaws of the Borrower or any material loan agreement, bond, debenture, note or other evidence of indebtedness or any material contract, agreement or lease to which the Borrower is a party or by which any of the Borrower's property is bound or (2) in any material respect conflict with or constitute a default under any law or administrative rule or regulation or any court or administrative decree or order applicable to the Borrower.

(d) The Borrower is an institution for higher education, other than a public college, situated within the State and which, by virtue of law or charter, is a nonprofit private or independent degree-granting educational institution that is regionally accredited and empowered to provide a program of education beyond the high school level.

(e) The Borrower neither restricts entry, nor grants preference in, entry on racial or religious grounds nor requires students gaining admission to receive instruction in the tenets of a particular faith.

(f) No portion of the proceeds of the Bonds will be used to finance or refinance any facility used or to be used for sectarian instruction or as a place for religious worship or any facility used or to be used primarily in connection with any part of the program of a school or department of divinity during the useful life of such facilities.

(g) There are no actions, suits or proceedings which have been served on the Borrower or, to the knowledge of Borrower, are otherwise pending or threatened against the Borrower:

(1) to restrain or enjoin the issuance or delivery of any of the Bonds or the collection of Revenues pledged under the Indenture;

(2) in any way contesting or affecting the authority for the issuance of the Bonds or the validity of the Bonds, the Indenture, the Loan Agreement, the Continuing Disclosure Agreement or the Tax Agreement;

(3) in any way contesting the corporate existence or powers of the Borrower;

(4) which, if determined adversely to it, would materially adversely affect the consummation of the transactions contemplated by the Loan Agreement, the Indenture or the Continuing Disclosure Agreement or the financial condition, assets or properties of the Borrower; or

(5) contesting or affecting the Borrower's status as an organization described in Section 501(c)(3) of the Code or which would subject any income of the Borrower to federal income taxation to such extent as would result in loss of the exclusion from gross income for federal income tax purposes of interest on any of the Bonds under Section 103 of the Code.

(h) The Borrower is an organization described in Section 501(c)(3) of the Code, and is exempt from federal income tax under Section 501(a) of the Code, except with respect to any unrelated business income of the Borrower, which income is not expected to result from the consummation of any transaction contemplated by the Loan Agreement. The Borrower is not a private foundation within the meaning of Section 509(a) of the Code, and the Borrower at all times will maintain its status as an organization described in Section 501(c)(3) of the Code and its exemption from federal income tax under Section 501(a) of the Code or corresponding provisions of future federal income tax laws. The facts and circumstances which formed the basis of the Borrower's status as an organization described in Section 501(c)(3) of the Code as represented to the Internal Revenue Service continue substantially to exist.

(i) No facility financed or refinanced by any portion of the proceeds of the Bonds is or at any time will be used by any person which is not an "exempt person" within the meaning of the Code and the regulations proposed and promulgated thereunder, or by a governmental unit or a 501(c)(3) organization (including the Borrower) in an "unrelated trade or business" within the meaning of Section 513(a) of the Code and the regulations proposed and promulgated thereunder, in such manner or to such extent as would result in loss of exclusion from gross income for federal tax purposes of interest on any of the Bonds under Section 103 of the Code.

(j) The audited balance sheets of the Borrower as of June 30, 2011 and 2010, and the related statements of financial position, activities and cash flows for the years ended on such dates (copies of which have been furnished to the Authority) present fairly, in all material respects, the financial position of the Borrower as of June 30, 2011 and 2010, and the changes in its net assets and its cash flows for the years then ended in conformity with generally accepted accounting principles, and since June 30, 2011, there has been no material adverse change in the assets, operations or financial condition of the Borrower, other than any such change which the Borrower has disclosed in writing to the Authority.

(k) To the best knowledge of the Borrower, no written information, exhibit or report containing current or historical information which was furnished to the Authority by the Borrower in connection with the negotiation of the Loan Agreement and the consummation of the transactions

contemplated by the Loan Agreement or by the Indenture contains an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading, and the information pertaining to the Borrower in the Official Statement pertaining to the Bonds does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(l) To its best knowledge, the Borrower:

(1) is in compliance with all laws, ordinances, governmental rules and regulations to which it is subject and which are material to its properties, operations, finances or status as an organization described in Section 501(c)(3) of the Code; and

(2) has obtained all licenses, permits, franchises or other governmental authorizations necessary and material to the ownership of its property or to the conduct of its activities, and agrees to obtain all such licenses, permits, franchises or other governmental authorizations as may be required in the future for its operations in all cases where failure to obtain such licenses, permits, franchises or other governmental authorizations could reasonably be expected to materially and adversely affect the condition (financial or otherwise) of the Borrower or its ability to perform its obligations under the Loan Agreement;

(m) Except as set forth below, each ERISA Plan of the Borrower has been established and is currently maintained in compliance in all material respects with the applicable provisions of ERISA and the Code. To the knowledge of the Borrower, no ERISA Plan has engaged in a prohibited transaction, and compliance by the Borrower with the provisions of the Loan Agreement will not involve any prohibited transaction that would subject the Borrower to a material tax or penalty on prohibited transactions. No ERISA Plan that is subject to Part 3 of Subtitle B of Title I of ERISA or Section 412 of the Code has had an accumulated funding deficiency, whether or not waived as of the last day of the most recent plan year of such ERISA Plan ended prior to the date of the Loan Agreement. No liability to the Pension Benefit Guaranty Corporation has been, or is expected by the Borrower to be, incurred by the Borrower with respect to any ERISA Plan subject to Title IV of ERISA, other than for premium payments. There has been no material Reportable Event with respect to any ERISA Plan subject to Section 4043 of ERISA since the effective date of said Section 4043, and since such date no event or condition has occurred that presents a material risk of termination of any such ERISA Plan by the Pension Benefit Guaranty Corporation. As of the most recent valuation date, the present value of all vested accrued benefits under each ERISA Plan subject to Title IV of ERISA as determined by each ERISA Plan's enrolled actuary within the meaning of Section 103 of ERISA under actuarial assumptions used in connection with the actuarial valuation of each such ERISA Plan did not exceed the value of such ERISA Plan's assets (less all liabilities other than those attributable to accrued benefits), as determined by each such enrolled actuary, allocable to such vested accrued benefits by more than \$1,000,000. Neither the Borrower nor any Common Control Entity has incurred any withdrawal liability in connection with a Multiemployer Plan which has not yet been paid. As used in this paragraph (n), the terms "Common Control Entity" and "Multiemployer Plan" shall have the respective meanings ascribed thereto in the Loan Agreement as summarized herein in paragraph (c) under the heading "LOAN AGREEMENT – Other Covenants of the Borrower."

(n) The Borrower is accredited by WASC, the ABA, the American Assembly of Collegiate Schools of Business, the Commission on Accreditation for Marriage and Family Therapy Education and the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology. None of these accrediting bodies have issued a warning to the Borrower, imposed a sanction, issued a

show cause order or placed it on probation in the last 10 years. The Borrower is also authorized by the Commission on Teacher Credentialing of the State of California to recommend candidates for Multiple and Single Subject Teaching credentials, the Bilingual Specialist, the Specialist in Special Education and the Administrative Services and Personnel Services credentials.

(o) No event of default under the Loan Agreement has occurred and is continuing, and no event has occurred and is continuing which, with the lapse of time or the giving of notice or both, would constitute such an event of default.

(p) The Borrower is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or governmental agency which default could reasonably be expected to have consequences that would materially and adversely affect the assets, operations or financial condition of the Borrower. There are no tax claims or liens pending against the Borrower other than such, if any, as are not delinquent or are being actively contested by the Borrower. The Borrower enjoys the peaceable and undisturbed possession of all of the premises which are material to its operation as an institution of higher education.

(q) The Borrower is not in default under and is not violating any provision of its Articles or Bylaws or any material provision of any material indenture, mortgage, lien, administrative regulations, order, judgment, decree or other instrument or restriction of any kind or character to which it is a party or by which it is bound or to which it or any of its assets is subject (other than which the Borrower has disclosed in writing to the Authority).

(r) The Borrower and the Facilities comply in all material respects with all applicable Environmental Regulations, including, without limitation, regulations governing air pollution, soil and water pollution, the use, generation, storage, treatment, removal, handling or disposal of Hazardous Substances, other materials or wastes, and the emission of electromagnetic or nuclear radiation.

(s) Neither the Borrower nor the Facilities are the subject of a federal, state or local investigation evaluating whether any remedial action is needed to respond to any alleged violation of or condition regulated by an Environmental Regulation referred to in (s) above or to respond to a release of any Hazardous Substances into the environment.

(t) The Borrower does not have any material contingent liability in connection with any release of any Hazardous Substances into the environment.

***Representations and Warranties of the Authority.*** The Authority makes the following representations and warranties to the Borrower:

(a) The Authority is a joint exercise of powers agency duly organized and existing under the laws of the State, and is duly authorized to issue the Bonds and to perform its obligations under the Loan Agreement.

(b) All requirements have been met and procedures have occurred in order to authorize the execution and delivery of the Loan Agreement. The Authority has taken all necessary action and has complied with all provisions of the law required to make the Loan Agreement a valid and binding limited obligation of the Authority, except to the extent limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally, by the application of equitable principles regardless of whether enforcement is sought in a proceeding at law or in equity, or by public policy.

(c) The Bonds have been duly authorized, executed and delivered by the Authority. Nothing in the Loan Agreement shall be construed as requiring the Authority to provide any financing for the Project other than the proceeds of the Bonds or to provide sufficient moneys for all of the cost of financing the Project.

(d) To the best knowledge of the Authority, there is no action, suit, proceeding, inquiry or investigation by or before any court, governmental agency or public board or body pending or threatened against the Authority which (i) affects or seeks to prohibit, restrain or enjoin the issuance, execution or delivery of the Bonds, the origination of the loan or the lending of the proceeds of the Bonds to the Borrower, or the execution and delivery of the Indenture or the Loan Agreement, (ii) affects or questions the validity or enforceability of the Bonds or Indenture or the Loan Agreement or (iii) questions the tax-exempt status of interest on the Bonds.

***Loan and Application of Bond Proceeds.*** The Authority covenants and agrees, upon the terms and conditions in the Loan Agreement, to make a loan to the Borrower of the proceeds of the Bonds and the Borrower agrees to use such proceeds for the purpose of refinancing the Project and the Costs of Issuance. The Authority further covenants and agrees that it shall take all actions within its authority to keep the Loan Agreement in effect in accordance with its terms. Pursuant to said covenants and agreements, the Authority will issue the Bonds upon the terms and conditions contained in the Loan Agreement and the Indenture and will cause the Bond proceeds to be applied as provided in the Indenture.

***Payment of Bonds.*** (a) The Borrower covenants and agrees that it will pay to the Trustee, for the account of the Authority, all sums necessary for the payment when due of the debt service on the Bonds, (the “Base Loan Payments”) as follows :

(1) By 8:00 a.m. Pacific time on the Business Day preceding each Interest Payment Date and principal payment date (whether at maturity or by acceleration as provided in the Indenture) with respect to the Bonds and continuing until the principal of and premium, if any, and interest on the Bonds shall have been fully paid (or provision for the payment thereof shall have been made as provided in the Indenture), the Borrower shall pay in funds which will be immediately available as of such time and date, as an installment in repayment of the loan from the Authority under the Loan Agreement, a sum equal to the aggregate amount payable on such date as principal of (whether at maturity or by acceleration as provided in the Indenture) and premium, if any, and interest on the Bonds.

(2) Any amount at the time held by the Trustee in the Bond Fund for the payment of debt service on the Bonds shall be credited against the aforesaid Base Loan Payments then required to be met by the Borrower, to the extent such amount is in excess of the amount required for payment of (i) any Bonds theretofore matured or called for redemption and (ii) interest accrued to the date of redemption or maturity of any Bonds, in all cases where such Bonds have not been presented for payment.

(b) If on any Interest Payment Date or principal payment date the balance in the Bond Fund is insufficient or unavailable to make required payments of principal of (whether at maturity or by acceleration as provided in the Indenture) and premium, if any, and interest due on the Bonds on such date, the Borrower shall forthwith pay any such deficiency to the Trustee for deposit in the Bond Fund.

(c) The Borrower acknowledges that the Trustee shall give notice:

(1) to the Borrower in accordance with the Indenture as summarized herein in paragraph (b) under the heading “INDENTURE – PLEDGE AND ASSIGNMENT;

ESTABLISHMENT OF BOND FUND AND REBATE FUND – Bond Fund,” at least five Business Days before each Interest Payment Date of the amount, if any, credited or to be credited to the Bond Fund by such next Interest Payment Date and the amount of the Base Loan Payment then due from the Borrower; and

(2) to the Borrower and the Authority in accordance with the Indenture as summarized herein in paragraph (d) under the heading “INDENTURE – PLEDGE AND ASSIGNMENT; ESTABLISHMENT OF BOND FUND AND REBATE FUND – Pledge and Assignment,” if the Borrower fails to make any payment required under the Loan Agreement by the due date, such notice to be given by telephone, telecopy or telegram followed by written notice.

***Additional Payments.*** In addition to the Base Loan Payments required to be made by the Borrower, the Borrower shall also pay to the Trustee or to the Authority, as the case may be, the following amounts (the “Additional Payments”):

(a) All taxes and assessments of any type or character charged to the Authority or to the Trustee affecting the amount available to the Authority or the Trustee from payments to be received under the Loan Agreement or in any way arising due to the transactions contemplated by the Loan Agreement (including taxes and assessments assessed or levied by any public agency or governmental authority of whatsoever character having power to levy taxes or assessments) but excluding any taxes based upon the capital and/or income of the Trustee or any other person other than the Borrower; provided, however, that the Borrower shall have the right to protest any such taxes or assessments and to require the Authority or the Trustee, as the case may be, at the Borrower’s expense, to protest and contest any such taxes or assessments assessed or levied upon them and that the Borrower shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest or contest would materially adversely affect the rights or interests of the Authority or the Trustee or the payment when due of the principal of, premium, if any, and interest on the Bonds;

(b) The Borrower also agrees to pay to the Trustee until the principal of, premium, if any, and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made as required by the Indenture, (1) the annual fee of the Trustee for its ordinary services rendered as trustee, and its ordinary expenses incurred under the Indenture, as and when the same become due, (2) the reasonable fees, charges and expenses of the Trustee, as and when the same become due, (3) the reasonable fees, charges and expenses of the Trustee for the necessary extraordinary services rendered by it and extraordinary expenses (including reasonable attorneys’ fees) incurred by it under the Indenture, as and when the same become due, (4) the cost of printing any Bonds required to be furnished by the Authority, and (5) any fees required to be paid to the Authority in connection with the issuance of the Bonds. The Borrower agrees that the provisions of this paragraph shall survive the discharge of the Indenture and the retirement of the Bonds or the resignation or removal of the Trustee;

(c) The reasonable fees and expenses of such accountants, consultants, attorneys and other experts as may be engaged by the Authority or the Trustee to prepare audits, financial statements, reports or opinions or provide such other services as are reasonably required under the Loan Agreement, the Indenture or the Tax Agreement;

(d) The Authority Issuance Fee, the Authority Annual Fee and the reasonable fees and expenses of the Authority or any agent or attorney selected by the Authority to act on its behalf in connection with the Loan Agreement, the Bonds or the Indenture, including, without limitation, any and all reasonable expenses incurred in connection with the authorization, issuance, sale and delivery of any such Bonds or in connection with any litigation, investigation or other proceeding which may at any time

be instituted involving the Loan Agreement, the Bonds or the Indenture or any of the other documents contemplated thereby, or in connection with the reasonable supervision or inspection of the Borrower, its properties, assets or operations or otherwise in connection with the administration of the Loan Agreement; and

(e) Such amounts as may be necessary to satisfy the rebate requirements in accordance with the Tax Agreement.

Such Additional Payments shall be billed to the Borrower by the Authority or the Trustee from time to time, together with (1) a statement executed by a duly authorized officer or agent of the Authority or the Trustee, as the case may be, stating that the amount billed has been incurred or paid by the Authority or the Trustee for one or more of the above items and (2) a copy of the invoice or statement for the amount so incurred or paid. Amounts so billed shall be paid by the Borrower within thirty (30) days after receipt of the bill by the Borrower. Payment by the Borrower to either the Authority or the Trustee of the amount so billed by either such party shall fulfill such payment obligation of the Borrower. The obligations of the Borrower under this section shall survive the payment of the Bonds and discharge of the Indenture.

Such Additional Payments shall be billed to the Borrower by the Authority or the Trustee from time to time, together with a statement certifying that the amount billed has been incurred or paid by the Authority or the Trustee for one or more of the above items. After such a demand, amounts so billed shall be paid by the Borrower within forty-five (45) days after the date of invoice. Notwithstanding the foregoing, the Authority shall not be required to submit a bill to the Borrower for payment of the Authority Annual Fee.

The Authority Issuance Fee and the initial Authority Annual Fee shall be paid to the Authority directly by the Borrower on the Issuance Date. Thereafter, the Authority Annual Fee shall be due and payable by the Borrower in advance on October 1 of each year, commencing with the first such date following the Issuance Date. The Borrower's obligation to pay the Authority Issuance Fee and the Authority Annual Fee shall in no way limit amounts payable by the Borrower to the Authority under the Loan Agreement, including for the enforcement thereof.

***Obligations of the Borrower Unconditional.*** The Borrower pledges its full faith and credit to the payments it is required to make under the Loan Agreement. The obligations of the Borrower to make the Base Loan Payments and Additional Payments and to perform and observe the other agreements on its part contained in the Loan Agreement shall be absolute and unconditional general obligations of the Borrower. Until such time as the principal of and premium, if any, and interest on all Bonds shall have been fully paid (or provision for the payment thereof shall have been made as provided in the Indenture), the Borrower (i) will not suspend or discontinue any Base Loan Payments or Additional Payments, (ii) will perform and observe all of its other agreements contained in the Loan Agreement and (iii) will not terminate the Loan Agreement for any cause, including, without limiting the generality of the foregoing, any change in the laws of the United States of America or of the State or any political subdivision of either or any failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Loan Agreement. The Loan Agreement shall be deemed and construed to be a "net contract," and the Borrower shall pay absolutely net the Base Loan Payments, Additional Payments and all other payments required under the Loan Agreement, free of any deductions, without abatement, diminution or set-off other than those expressly provided in the Loan Agreement.

***Prepayments.*** The Borrower may at any time prepay all or any part of the Base Loan Payments payable under the Loan Agreement, and the Authority agrees that the Trustee shall accept such

prepayments when the same are tendered by the Borrower. All such prepayments shall be deposited in the Optional Redemption Account within the Bond Fund and credited against the Base Loan Payments in the order of their due date. Notwithstanding any such prepayment, the Borrower shall not be relieved of its obligations under the Loan Agreement until all of the Bonds have been fully paid and retired (or provision for payment thereof shall have been made as provided in the Indenture).

**Investments.** By Request of the Borrower, the Borrower may direct the investment by the Trustee of moneys in the funds and accounts established pursuant to the Indenture, subject to the limitations set forth in the Indenture as summarized herein under the heading “INDENTURE – PLEDGE AND ASSIGNMENT; ESTABLISHMENT OF BOND FUND AND REBATE FUND – Investment of Moneys in Funds.” The Borrower covenants that it will not direct the Trustee to make any investments and itself will not make any investments of the proceeds of the Bonds, or any other funds in any way pledged to the security of or reasonably expected to be used to pay the Bonds, which would cause any of the Bonds to be “arbitrage bonds” subject to federal income taxation by reason of Section 103(b)(2) of the Code.

**No Liability of the Authority.** The Borrower shall be solely responsible for the payment of the Bonds. The Authority shall not be obligated to pay the Bonds or the interest thereon except from Revenues provided by the Borrower. Neither the members of the Authority nor any officer, agent or employee thereof nor any person executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

**Maintenance of Corporate Existence; Consolidation, Merger, Sale or Transfer Under Certain Conditions.** (a) The Borrower covenants and agrees that, so long as any of the Bonds are Outstanding, it will maintain its existence as a nonprofit public benefit corporation qualified to do business in the State and will not dissolve, sell or otherwise dispose of all or substantially all of its assets or consolidate with or merge into another corporation or permit one or more other corporations to consolidate with or merge into it. Notwithstanding the foregoing, the Borrower may, without violating the covenants contained in this section, consolidate with or merge into another corporation, or permit one or more other corporations to consolidate with or merge into it, or sell or otherwise transfer to another corporation all or substantially all of its assets as an entirety and thereafter dissolve, if:

- (1) The surviving, resulting or transferee corporation, as the case may be:
  - (A) assumes in writing, if such corporation is not the Borrower, all of the obligations of the Borrower under the Loan Agreement;
  - (B) is not, after such transaction, otherwise in default under any provisions of the Loan Agreement; and
  - (C) is an organization described in Section 501(c)(3) of the Code, or a corresponding provision of the federal income tax laws then in effect;
- (2) The Authority and the Trustee shall have received a Certificate of the Borrower to the effect that the covenants under the Loan Agreement will be met after such consolidation, merger, sale or transfer; and
- (3) The Trustee and the Authority shall have received an Opinion of Bond Counsel to the effect that such merger, consolidation, sale or other transfer will not cause interest on the Bonds to be included in gross income for federal income tax purposes under Section 103 of the Code.

(b) If a merger, consolidation, sale or other transfer is effected, as provided in this section, the provisions of this section shall continue in full force and effect, and no further merger, consolidation, sale or transfer shall be effected except in accordance with the provisions of this section.

(c) Another entity may also agree to become a co-obligor and jointly and severally liable with the Borrower (without the necessity of merger, consolidation or transfer of assets) under the Loan Agreement if the foregoing provisions (other than (a)(1)(A)) are satisfied. In such event, references in the Loan Agreement to indebtedness of the Borrower shall apply to the combined indebtedness of the Borrower and such other entity, references to the financial condition or results of operation of the Borrower shall apply to the combined financial condition and results of operation of the Borrower and such other entity, and the Borrower and such other entity shall be considered to be the Borrower for all purposes of the Loan Agreement.

**Insurance.** (a) So long as any Bonds remain Outstanding, the Borrower will maintain or cause to be maintained with respect to the Facilities, with insurance companies or by means of self-insurance, insurance of such type, against such risks and in such amounts as are customarily carried by private colleges and universities located in the State of a nature similar to that of the Borrower, which insurance shall include property damage, fire and extended coverage, public liability and property damage liability insurance. The insurance required by this section shall include (to the extent commercially available and economically practicable in the Borrower's sole discretion) earthquake and flood insurance. The Borrower shall at all times also maintain worker's compensation coverage as required by the laws of the State. All insurance policies maintained pursuant to this section shall name the Borrower and the Trustee and insured parties, beneficiaries and loss payees as their interests may appear.

(b) If the Authority shall so request in a Request of the Authority, the Borrower shall provide to the Authority summaries or other evidence of its insurance coverage.

**Tax Covenants.** (a) The Borrower covenants that it shall not take any action, or knowingly fail to take any action, if such action or failure to take such action would result in the interest on the Bonds not being excluded from gross income for federal income tax purposes under Section 103 of the Code. Without limiting the generality of the foregoing, the Borrower covenants that it shall comply with the requirements of the Tax Agreement, which are incorporated in the Loan Agreement as if fully set forth therein. This covenant shall survive the payment in full or the defeasance of the Bonds.

(b) In the event that at any time the Borrower is of the opinion that for purposes of this section it is necessary or helpful to restrict or limit the yield on the investment of any moneys held by the Trustee under the Indenture, the Borrower shall so instruct the Authority and the Trustee in a Request of the Borrower accompanied by an Opinion of Bond Counsel.

(c) Notwithstanding any provisions of this section, if the Borrower provides to the Trustee and the Authority an Opinion of Bond Counsel to the effect that any specified action required under this section is no longer required or that some further or different action is required to maintain the exclusion from federal income tax of interest on the Bonds, the Trustee may conclusively rely on such opinion in complying with the requirements of this section and the Tax Agreement, and the covenants under the Loan Agreement shall be deemed to be modified to that extent.

**Other Covenants of the Borrower.** The Borrower covenants as follows so long as any Bonds are Outstanding:

(a) *Maintenance, Operation and Use of the Project and the Facilities.*

(1) The Borrower will use its best efforts to cause the Project and the Facilities to be maintained in good condition and repair, will maintain, operate and use the Project, during the useful life thereof, as an integral part of the Facilities and will not alienate, sell, convey or transfer the Project if such alienation, sale, conveyance or transfer would have a material adverse effect upon the Borrower's assets, operations or financial condition, and unless it provides to the Trustee and the Authority an Opinion of Bond Counsel to the effect that such alienation, sale, conveyance or transfer will not cause interest on the Bonds to be included in the gross income of the Holders thereof for federal income tax purposes.

(2) The Borrower will not use the Project, during the useful life thereof (irrespective of whether the Bonds are at the time Outstanding), for sectarian instruction or as a place of religious worship or in connection with any part of the program of any school or department of divinity and will honor all valid restrictions on the uses to which the Project may be subject so long as the Project is owned by the Borrower or any distributee upon dissolution or any voluntary grantee of the Borrower. This covenant shall survive the payment in full of the Bonds.

(3) The Borrower will operate the Facilities as a postsecondary educational institution, maintain the Facilities in good repair, working order and condition to achieve this function and otherwise to meet the covenants and obligations contained in the Loan Agreement and honor all valid restrictions on the uses to which the Facilities may be subject so long as the Facilities are owned by the Borrower or any distributee upon dissolution or any voluntary grantee of the Borrower.

(b) *Compliance with Laws.* The Borrower will comply with all material laws, statutes, ordinances, regulations, covenants, conditions and restrictions now or hereafter affecting the Project, the Borrower or the operations thereof, and it will not commit, suffer or permit any act to be done in violation of any law, ordinance or regulation, except, in each case, where such noncompliance or act would not have a material adverse effect upon the Borrower's assets, operations or financial condition.

(c) *ERISA.*

(1) The Borrower will not, with respect to any ERISA Plan:

(A) incur any "accumulated funding deficiency," as such term is defined in Section 412 of the Code, whether or not waived, if the amount of such accumulated funding deficiency, plus any accumulated funding deficiencies previously incurred with respect to such ERISA Plan and not eliminated, would aggregate more than \$100,000; provided that the incurring of such an accumulated funding deficiency will not be an "event of default" under the Loan Agreement as summarized herein under the heading "LOAN AGREEMENT – Events of Default," if it is reduced below \$100,000 or eliminated within 90 days after the date upon which the Borrower becomes aware of such accumulated funding deficiency; or

(B) terminate any such ERISA Plan in a manner which could result in the imposition of a material lien on the property of the Borrower pursuant to Section 4068 of ERISA and which could reasonably be expected to materially adversely affect the business, earnings, properties or financial condition of the Borrower; or

(C) withdraw from a Multiemployer Plan in a "complete withdrawal" or a "partial withdrawal" as defined in Sections 4203(a) and 4205(a), respectively, of ERISA, if such withdrawal could reasonably be expected to materially adversely affect the

Borrower's ability to comply at any time with any of the provisions of the Loan Agreement.

(2) The Borrower will:

(A) fund all current and past service pension liabilities under the provisions of all ERISA Plans subject to Title IV of ERISA such that if all such ERISA Plans were terminated at the same time by the Borrower any liens imposed on the Borrower under Section 4068 of ERISA would not be in an amount in the aggregate which would materially affect the Borrower's ability to comply at any time with any of the provisions of the Loan Agreement; and

(B) otherwise comply in all respects with the provisions applicable to its ERISA Plans contained in ERISA, the Code and the regulations published thereunder except for any noncompliance that could not reasonably be expected to affect the Borrower's ability to comply at anytime with any provision of the Loan Agreement; and

(C) notify the Authority promptly after the Borrower knows or has reason to know (i) of the happening of any material Reportable Event with respect to any ERISA Plan and, in any event, at least five days prior to any notification of such material Reportable Event given to the Pension Benefit Guaranty Corporation pursuant to the terms of Section 4043 of ERISA or (ii) of an assessment against the Borrower or any Common Control Entity of any withdrawal liability to a Multiemployer Plan. Notwithstanding anything in the Loan Agreement to the contrary, the Borrower need not notify the Trustee or the Authority of such material Reportable Event or withdrawal liability unless it might materially adversely affect the business, prospects, earnings, properties or condition (financial or otherwise) of the Borrower.

For purposes of this paragraph (c) and the representations and warranties of the Borrower contained in the Loan Agreement as summarized herein in paragraph (n) under the heading "LOAN AGREEMENT – Representations and Warranties of the Borrower," the following terms shall have the following meanings. The term "Multiemployer Plan" has the meaning set forth in Section 4001(a)(3) of ERISA and all rules and regulations promulgated from time to time thereunder. The term "Common Control Entity" means any entity which is a member of a "controlled group of corporations" with, or is under "common control" with, the Borrower as defined in Section 414(b) or (c) of the Code. The term "PBGC" means the Pension Benefit Guaranty Corporation.

(d) *Taxes, Assessments, Other Governmental Charges and Utility Charges.* The Borrower will pay and discharge all taxes, assessments, governmental charges of any kind whatsoever, water, gas and electric rates, meter charges and other utility charges which may be or have been assessed or which may have become liens upon the Facilities, and will make such payments or cause such payments to be made, respectively, in due time to prevent any delinquency thereon or any forfeiture or sale of the Facilities or any part thereof, provided, however, that the Borrower shall not be required to pay any tax, assessment, rate or charge as provided in the Loan Agreement as long as it shall in good faith contest the validity thereof by a proceeding which operates to prevent any forfeiture or sale of the Facilities or any part thereof.

(e) *Accreditation.* The Borrower will maintain its accreditation by WASC or its successor as a body that accredits schools like the Borrower. The Borrower will maintain the accreditation of its law school by the American Bar Association or its successor as a body that accredits law schools or the Committee of the Bar Examiners of the State Bar. The Borrower covenants to provide to the Authority,

within thirty (30) days of receipt thereof, copies of any action letter sent to the Borrower by each such accrediting body following its review of the report of each team which visited the Borrower's campus, which apprises the Borrower that such accrediting body is issuing a warning to the Borrower or placing the Borrower on probation.

(f) *Notice of Event of Default.* The Borrower will furnish, as soon as practicable and in any event within ten (10) days after it has knowledge thereof, to the Authority and the Trustee notice of any event which constitutes, or which with the giving of notice or the passage of time or both would constitute, an event of default under the Loan Agreement as summarized herein under the heading "LOAN AGREEMENT – Events of Default," which notice shall set forth the nature of such event and the action which the Borrower proposes to take with respect thereto.

(g) *Limitation on Additional Debt.* The Borrower will not issue any additional Debt unless the Borrower provides the Trustee with a duly executed Certificate of the Borrower to the effect (and containing supporting calculations) that, as of the date of issuance such additional Debt, the Borrower's Unrestricted and Temporarily Restricted Net Assets shall be equal to at least 200% of the Debt Outstanding.

For purposes of this subsection, the term "Unrestricted and Temporarily Restricted Net Assets" means the sum of the Borrower's unrestricted and temporarily restricted assets, including plant assets after adding back depreciation and amortization, and subtracting total liabilities excluding all Debt Outstanding.

For purposes of this subsection, the term "Debt" of any Person means at any date, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by the Indenture, debentures, notes or other similar instruments, (iii) all Debt Outstanding, (iv) all obligations of such Person under any and all rate swap transactions, credit derivative transactions, bond or bond price or bond index swaps, options, interest rate options, cap transactions, floor transactions, collar transactions, or any other similar transactions (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement and under any and all transactions of any kind, and the related confirmations, including those subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc. or any other master agreement including any such obligations or liabilities under any such master agreement (in each case, together with any related schedules), (v) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (vi) all obligations of such Person as lessee under capital leases, (vii) all Debt of others secured by a lien on any asset of such Person, whether or not such Debt is assumed by such Person, and (viii) all guarantees by such Person of Debt of other Persons that exceed \$500,000 in the aggregate.

For purposes of this subsection, "Debt Outstanding" means all outstanding Debt of the Borrower with maturities greater than ninety (90) days under GAAP and not including contingent liabilities.

The amount of Unrestricted and Temporarily Restricted Net Assets and Debt Outstanding shall be determined by reference to generally accepted accounting principles for colleges and universities, except that at the option of the Borrower, plant assets, and investments may be included at their fair market value at the date of determination. Fair market value for investments shall be based on published market prices, where applicable, or an appraisal reasonably satisfactory to the Borrower. Fair market value for land, improvements and buildings shall be established by any method, including but not limited to an appraisal, reasonably satisfactory to the Borrower. Any appraisal shall take into account all restrictions to which the property may be subject and shall not merely assume marketable title.

(h) *Continuing Disclosure.* So long as any of the Bonds are Outstanding, the Borrower covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of the Loan Agreement, failure of the Borrower to comply with the requirements of Rule 15c2 12 applicable to the Bonds, as it may from time to time hereafter be amended or supplemented, shall not be considered an Event of Default under the Loan Agreement or under the Indenture and the Trustee shall have no right to accelerate amounts due under the Loan Agreement as a result thereof; however, the Trustee, at the written request of any Participating Underwriter or the Holders of at least 25% aggregate principal amount of Outstanding Bonds, shall (but only to the extent the Trustee has been tendered funds in an amount satisfactory to it or it has been otherwise indemnified from and against any loss, liability, cost or expense, including without limitation, fees and expenses of its counsel and agents and additional fees and charges of the Trustee) or any Bondholder or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Borrower to comply with its obligations pursuant to this paragraph.

(i) *Compliance with the Provisions of the United States and California Constitutions Relating to Religion.* The Borrower covenants that it will not restrict any entry on racial or religious grounds or require students gaining admission to receive instruction in the tenets of a particular faith.

(j) *Inspection.* The Borrower shall, at any reasonable time and from time to time, upon reasonable prior written notice to the Borrower, permit the Authority and the Trustee, and their respective representatives and agents to (i) inspect the Facilities and the books and records of the Borrower for the purpose of verifying compliance by the Borrower with the covenants contained in the Loan Agreement, (ii) examine and make copies of and abstracts from the records and books of the Borrower, (iii) discuss the affairs, finances and accounts of the Borrower with any of its officers or directors and (iv) communicate with the Borrower's independent certified public accountants.

***Events of Default.*** The following shall be "events of default" under the Loan Agreement, and the terms "events of default" or "default" shall mean, whenever they are used in the Loan Agreement, any one or more of the following events:

(a) The Borrower fails to make any Base Loan Payment or Additional Payment by its due date; or

(b) The Borrower fails to observe and perform any covenant, condition or agreement on its part to be observed or performed under the Loan Agreement other than as referred to in paragraph (a) above for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied is given to the Borrower by the Authority; provided, however, if the failure stated in the notice is correctable but cannot be corrected within the applicable period, the Authority will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Borrower within the applicable period and diligently pursued until the default is corrected; or

(c) Any of the representations or warranties of the Borrower made in the Loan Agreement or in any other document, certificate or writing furnished by the Borrower to the Authority in connection with the application for or the negotiation of the Loan Agreement or the issuance of the Bonds was false or incorrect in any material respect when made; or

(d) There is an unexcused default by the Borrower under any agreement or instrument to which it is a party relating to the borrowing of money either (1) in failing to pay any installment of principal or interest in an aggregate amount of \$250,000 or more, which default shall not have been waived or excused within 90 days after the Borrower received notice of such default or (2) as a result of

which indebtedness in an amount of \$1,000,000 or more shall have been accelerated and declared to be due and payable prior to its date of maturity; or

(e) The Borrower applies for or consents to the appointment of any receiver, trustee, or similar officer for it or for all or any substantial part of its property or admits in writing its inability to pay its debts as they mature; or such a receiver, trustee or similar officer is appointed without the application or consent of the Borrower and such appointment continues undischarged for a period of sixty (60) days; or the Borrower institutes (by petition, application, answer, consent or otherwise) any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, liquidation or similar proceeding relating to it under the laws of any jurisdiction; or any such proceeding is instituted (by petition, application or otherwise) against the Borrower and remains undismissed for a period of ninety (90) days; or the Borrower makes a general assignment for the benefit of creditors.

**Remedies on Default.** (a) In the event any of the Bonds shall at the time be Outstanding and unpaid (and provision for the payment thereof shall not have been made as provided in the Indenture) and any event of default referred to in the Loan Agreement as summarized herein under the heading “LOAN AGREEMENT – Events of Default,” shall have happened and be continuing, the Authority or the Trustee may take any one or more of the following remedial steps:

(1) The Authority or the Trustee may, at its option, declare the Base Loan Payments with respect to the principal of the Outstanding Bonds and the accrued interest on the Outstanding Bonds, plus any other payments due or to become due under the Loan Agreement, including, without limitation, any unpaid fees and expenses of the Authority, the Trustee and any paying agents of the Bonds which are then due or will become due prior to the time that the Bonds are paid in full and the trust established by the Indenture is terminated, to be immediately due and payable, whereupon the same shall become immediately due and payable.

(2) The Authority or the Trustee may take whatever action at law or in equity may appear necessary or desirable to collect the payments then due and thereafter to become due under the Loan Agreement, whether on the stated due date or by declaration of acceleration or otherwise, for damages or for specific performance or otherwise to enforce performance and observance of any obligation, condition or covenant of the Borrower under the Loan Agreement.

The term “all installments” shall mean an amount equal to the entire principal amount of the then Outstanding Bonds, together with all interest accrued or to accrue on and prior to the next succeeding redemption date or dates on which the Bonds can be and actually are redeemed after giving notice to the Holders thereof as required by the Indenture (less moneys available for such purpose then held by the Trustee) plus any other payments due or to become due under the Loan Agreement, including, without limitation, any unpaid fees and expenses of the Authority, the Trustee and any paying agents of the Bonds which are then due or will become due prior to the time that the Bonds are paid in full and the trust established by the Indenture is terminated.

(b) No remedy conferred upon or reserved to the Authority or the Trustee under the Loan Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Loan Agreement or now or hereafter existing at law or in equity or by statute. No delay in exercising or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority or the Trustee to exercise any remedy reserved to it by this section, it shall not be necessary to give any notice, other than such notice as

may be expressly required under the Loan Agreement. The Trustee shall be deemed a third party beneficiary of all covenants and conditions contained in the Loan Agreement.

**Expenses; Indemnification.** (a) The Borrower will pay Costs of Issuance and all other expenses, including without limitation, reasonable attorneys fees reasonably incurred by the Authority and the Trustee in connection with the Loan Agreement or the offer, sale or delivery of the Bonds and will hold the Authority and the Trustee free and harmless of and from any claims of any kind for such or similar fees and expenses.

(b) In the event the Borrower should default under any of the provisions of the Loan Agreement and the Authority or the Trustee should employ attorneys or incur other expenses for the collection of the payments due under the Loan Agreement or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained in the Loan Agreement, the Borrower agrees that it will on demand therefor pay to the Authority or the Trustee the reasonable fee of such attorneys and such other reasonable expenses so incurred by the Authority or the Trustee.

(c) To the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Authority, the Trustee, and each of its respective past, present and future officers, members, directors, officials, employees, attorneys and agents (collectively, the "Indemnified Parties"), against any and all losses, damages, claims, actions, liabilities, costs and expenses of any conceivable nature, kind or character (including, without limitation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject under or any statutory law (including federal or state securities laws) or at common law or otherwise, arising out of or based upon or in any way relating to:

(i) the Bonds, the Indenture, the Loan Agreement or the Tax Agreement or the execution or amendment thereof or in connection with transactions contemplated thereby, including the issuance, sale or resale of the Bonds;

(ii) any act or omission of the Borrower or any of its agents, contractors, servants, employees, tenants) or licensees in connection with the Project or the Facilities, the operation of the Project or the Facilities, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation or construction of, the Project or the Facilities or any part thereof;

(iii) any lien or charge upon payments by the Borrower to the Authority and the Trustee under the Loan Agreement, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Authority or the Trustee in respect of any portion of the Project or the Facilities;

(iv) any violation of any environmental regulations with respect to, or the release of any hazardous substances from, the Project or the Facilities or any part thereof;

(v) the defeasance and/or redemption, in whole or in part, of the Bonds;

(vi) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in any offering statement or disclosure or continuing disclosure document for the Bonds or any of the documents relating to the Bonds, or any omission or alleged omission from any offering statement or disclosure or continuing disclosure document for the Bonds of any material fact necessary to be stated therein in order to

make the statements made therein, in the light of the circumstances under which they were made, not misleading;

(vii) any declaration of taxability of interest on the Bonds, or allegations that interest on the Bonds is taxable or any regulatory audit or inquiry regarding whether interest on the Bonds is taxable; or

(viii) the Trustee's acceptance or administration of the trust of the Indenture, or the exercise or performance of any of its powers or duties thereunder or under any of the documents relating to the Bonds to which it is a party;

except (a) in the case of the foregoing indemnification of the Trustee or any of its respective officers, members, directors, officials, employees, attorneys and agents, to the extent such damages are caused by the negligence or willful misconduct of such Indemnified Party; or (B) in the case of the foregoing indemnification of the Authority or any of its officers, members, directors, officials, employees, attorneys and agents, to the extent such damages are caused by the willful misconduct of such Indemnified Party. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought under the Loan Agreement, the Borrower, upon written notice from the Indemnified Party, shall assume the investigation and defense thereof, including the employment of counsel selected by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Borrower shall pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may only employ separate counsel at the expense of the Borrower if in the judgment of such Indemnified Party a conflict of interest exists by reason of common representation or if all parties commonly represented do not agree as to the action (or inaction) of counsel.

(d) The rights of any persons to indemnity under the Loan Agreement and rights to payment of fees and reimbursement of expenses pursuant to the Loan Agreement shall survive the final payment or defeasance of the Bonds and in the case of the Trustee any resignation or removal. The provisions of this section shall survive the termination of the Loan Agreement.

***Governing Law; Venue.*** The Loan Agreement shall be construed in accordance with and governed by the constitution and the laws of the State applicable to contracts made and performed in the State. The Loan Agreement shall be enforceable in the State, and any action arising out of the Loan Agreement shall be filed and maintained in San Diego County, California unless the Authority waives this requirement.

***Amounts Remaining in Funds and Accounts.*** It is agreed that any amounts remaining in the funds and accounts established pursuant to the Indenture, after payment in full of the Bonds (or after provision for payment thereof as provided in the Indenture) shall be subject to the provisions of the Indenture as summarized herein under the heading "INDENTURE – PLEDGE AND ASSIGNMENT; ESTABLISHMENT OF BOND FUND AND REBATE FUND – Amount Remaining in Funds and Accounts."

***Agreement Represents Complete Agreement; Amendments.*** The Loan Agreement and the Tax Agreement incorporated in the Loan Agreement as summarized herein in paragraph (a) under the heading "LOAN AGREEMENT – Tax Covenants," represent the entire contract between the Authority and the Borrower with respect to the Bonds, the loan of the proceeds thereof to the Borrower and related matters.

The Loan Agreement may not be effectively amended, changed, modified, altered or terminated without the concurring written consent of the Trustee, given in accordance with the provisions of the Indenture as summarized herein in paragraph (b) under the heading “INDENTURE – COVENANTS – Other Covenants; Amendment of the Loan Agreement.” The Authority agrees under the Loan Agreement that it will not consent to an amendment of the Indenture in accordance with the Indenture as summarized herein under the headings “INDENTURE – MODIFICATION OF INDENTURE – Modification without Consent of Bondholders” and “– Modification with Consent of Bondholders,” without the approval of the Borrower.

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**APPENDIX E**  
**FORM OF BOND COUNSEL OPINION**

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## APPENDIX E

### FORM OF BOND COUNSEL OPINION

*Upon delivery of the Bonds, Orrick, Herrington & Sutcliffe LLP, Los Angeles, California, Bond Counsel to the Authority, proposes to render its final approving opinion with respect to the Bonds in substantially the following form:*

[Date of Delivery]

California Municipal Finance Authority  
Carlsbad, California 92011

California Municipal Finance Authority  
Refunding Revenue Bonds  
(University of San Diego) Series 2012A  
(Final Opinion)

Ladies and Gentlemen:

We have acted as bond counsel to the California Municipal Finance Authority (the "Authority") in connection with the issuance of \$9,630,000 aggregate principal amount of California Municipal Finance Authority Refunding Revenue Bonds (University of San Diego) Series 2012A (the "Bonds"), issued pursuant to the provisions of an Indenture, dated as of June 1, 2012 (the "Indenture"), between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"). The Indenture provides that the Bonds are issued for the stated purpose of making a loan of the proceeds thereof to University of San Diego (the "Borrower") pursuant to a Loan Agreement, dated as of June 1, 2012 (the "Loan Agreement"), between the Authority and the Borrower. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Indenture.

In such connection, we have reviewed the Indenture, the Loan Agreement, the Tax Certificate and Agreement, dated the date hereof (the "Tax Agreement"), between the Authority and the Borrower, opinions of counsel to the Authority, the Borrower and the Trustee, certificates of the Authority, the Borrower, the Trustee and others, and such other documents, opinions and matters to the extent we deemed necessary to render the opinions set forth herein.

We have relied on the opinion of the General Counsel of the Borrower, counsel to the Borrower regarding, among other matters, the current qualification of the Borrower as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (the "Code"). We note that the opinion is subject to a number of qualifications and limitations. We have also relied upon representations of the Borrower regarding the use of the facilities financed with the proceeds of the Bonds in activities that are not considered unrelated trade or business activities of the Borrower within the meaning of Section 513 of the Code. We note that the opinion of counsel to the Borrower does not address Section 513 of the Code. Failure of the Borrower to be organized and operated in accordance with the Internal Revenue Service's requirements for the maintenance of its status as an organization described in Section 501(c)(3) of the Code, or use of the bond-financed facilities in activities that are considered unrelated trade or business activities of the Borrower within the meaning of Section 513 of the Code, may result in interest on the

Bonds being included in gross income for federal income tax purposes, possibly from the date of issuance of the Bonds.

The opinions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine, or to inform any person, whether any such actions are taken or omitted or events do occur or any other matters come to our attention after the date hereof. Accordingly, this letter speaks only as of its date and is not intended to, and may not, be relied upon or otherwise used in connection with any such actions, events or matters. Our engagement with respect to the Bonds has concluded with their issuance, and we disclaim any obligation to update this letter. We have assumed the genuineness of all documents and signatures presented to us (whether as originals or as copies) and the due and legal execution and delivery thereof by, and validity against, any parties other than the Authority. We have assumed, without undertaking to verify, the accuracy of the factual matters represented, warranted or certified in the documents, and of the legal conclusions contained in the opinions, referred to in the second and third paragraphs hereof. Furthermore, we have assumed compliance with all covenants and agreements contained in the Indenture, the Loan Agreement and the Tax Agreement, including (without limitation) covenants and agreements compliance with which is necessary to assure that future actions, omissions or events will not cause interest on the Bonds to be included in gross income for federal income tax purposes. We call attention to the fact that the rights and obligations under the Bonds, the Indenture, the Loan Agreement and the Tax Agreement and their enforceability may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against joint powers authorities, like the Authority, in the State of California. We express no opinion with respect to any indemnification, contribution, penalty, arbitration, judicial preference, choice of law, choice of forum, choice of venue, waiver or severability provisions contained in the foregoing documents, nor do we express any opinion with respect to the state or quality of title to or interest in any of the real or personal property described in or as subject to the lien of the Indenture or the Loan Agreement or the accuracy or sufficiency of the description contained therein of, or the remedies available to enforce liens on, any such property. Finally, we undertake no responsibility for the accuracy, completeness or fairness of the Official Statement or other offering material relating to the Bonds and express no opinion with respect thereto.

Based on and subject to the foregoing, and in reliance thereon, as of the date hereof, we are of the following opinions:

1. The Bonds constitute the valid and binding limited obligations of the Authority.
2. The Indenture has been duly executed and delivered by, and constitutes the valid and binding obligation of, the Authority. The Indenture creates a valid pledge, to secure the payment of the principal of and interest on the Bonds, of the Revenues and any other amounts held by the Trustee in any fund or account established pursuant to the Indenture, except the Rebate Fund, subject to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in the Indenture.
3. The Loan Agreement has been duly executed and delivered by, and constitutes a valid and binding agreement of, the Authority.
4. The Bonds are not a lien or charge upon the funds or property of the Authority except to the extent of the aforementioned pledge. Neither the faith and credit nor the taxing power of the State of California or of any political subdivision thereof is pledged to the payment of the principal of or interest

on the Bonds. The Bonds are not a debt of the State of California, and said State is not liable for the payment thereof.

5. Interest on the Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Code and is exempt from State of California personal income taxes. Interest on the Bonds is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes, although we observe that it is included in adjusted current earnings when calculating corporate alternative minimum taxable income. We express no opinion regarding other tax consequences related to the ownership or disposition of, or the accrual or receipt of interest on, the Bonds.

Faithfully yours,

ORRICK, HERRINGTON & SUTCLIFFE LLP

per

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**APPENDIX F**  
**FORM OF CONTINUING DISCLOSURE AGREEMENT**

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## APPENDIX F

### FORM OF CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the "**Disclosure Agreement**") is executed and delivered by University of San Diego (the "**Borrower**") and The Bank of New York Mellon Trust Company, N.A., a national banking association, as Trustee and as Dissemination Agent (the "**Trustee**" and "**Dissemination Agent**," respectively) in connection with the issuance of California Municipal Finance Authority Refunding Revenue Bonds (University of San Diego), Series 2012A (the "**Bonds**"). The Bonds are being issued pursuant to an Indenture dated as of June 1, 2012 between the California Municipal Finance Authority (the "**Authority**") and the Trustee (the "**Indenture**"). The proceeds of the Bonds are being loaned by the Authority to the Borrower pursuant to a Loan Agreement dated as of June 1, 2012 between the Authority and the Borrower (the "**Loan Agreement**"). Pursuant to Section 6.09 of the Indenture and Section 15(h) of the Loan Agreement, the Borrower and the Trustee covenant and agree as follows:

**SECTION 1. Purpose of the Disclosure Agreement.** This Disclosure Agreement is being executed and delivered by the Borrower and the Trustee for the benefit of the Holders and Beneficial Owners of the Bonds and in order to assist the Participating Underwriter in complying with the Rule (each as defined below). The Borrower and the Trustee acknowledge that the Authority has undertaken no responsibility with respect to any reports, notices or disclosures provided or required under this Disclosure Agreement, and has no liability to any person, including any Holder or Beneficial Owner of the Bonds, with respect to the Rule.

**SECTION 2. Definitions.** In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the Borrower pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

"Beneficial Owner" shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

"Disclosure Representative" shall mean the person designated by the Borrower on the signature page hereof or such person's designee, or such other person as the Borrower shall designate in writing to the Trustee and Dissemination Agent from time to time.

"Dissemination Agent" shall mean The Bank of New York Mellon Trust Company, N.A., acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the Borrower and which has filed with the Trustee a written acceptance of such designation.

"Listed Events" shall mean any of the events listed in Sections 5.A and 5.B of this Disclosure Agreement.

"MSRB" shall mean the Municipal Securities Rulemaking Board or any other entity designated or authorized by the United States Securities and Exchange Commission to receive reports pursuant to Rule 15c2-12. Until otherwise designated by the MSRB or the Securities and Exchange Commission, filings with the MSRB are to be made through the Electronic Municipal Market Access (EMMA) system of the MSRB

available on the Internet at <http://emma.msrb.org>. The current address of the MSRB is 1900 Duke Street, Suite 600, Alexandria, Virginia 22314; telephone (703) 797-6600; fax (703) 797-6700.

"Participating Underwriter" has the meaning given thereto under the Rule, or any successors to such underwriter known to the Authority.

"Rule" shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

"State" shall mean the State of California.

### **SECTION 3. Provision of Annual Reports.**

A. The Borrower shall provide or shall cause the Dissemination Agent to provide to the MSRB, not later than 180 days after the end of the Borrower's fiscal year (presently as indicated on the signature page hereof), commencing with the report for the 2011-12 Fiscal Year, an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement. In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Agreement; provided that the audited financial statements of the Borrower may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date. If the Borrower's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Sections 5.A and 5.B.

B. Not later than fifteen (15) Business Days prior to the date specified in Section 3.A for providing the Annual Report to the MSRB, the Borrower shall provide the Annual Report to the Dissemination Agent and the Trustee (if the Trustee is not the Dissemination Agent). If by such date the Trustee has not received a copy of the Annual Report, the Trustee shall contact the Borrower and the Dissemination Agent to determine if the Borrower is in compliance with the first sentence of this subsection B.

C. If the Trustee is unable to verify that an Annual Report has been provided to the MSRB by the date required in Section 3.A, the Trustee shall send a notice to the MSRB in substantially the form attached hereto as Exhibit A.

D. The Dissemination Agent shall file a report with the Borrower, the Authority and the Trustee certifying that the Annual Report has been provided pursuant to this Disclosure Agreement and stating the date that it was provided.

**SECTION 4. Content of Annual Reports.** The Borrower's Annual Report shall contain or include by reference the following:

A. The audited financial statements of the Borrower for the prior fiscal year, prepared in accordance with generally accepted accounting principles as promulgated from time to time by the Financial Accounting Standards Board. If the Borrower's audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3.A hereof, the Annual Report shall contain unaudited financial statements in a format similar to the financial statements required for the fiscal year being audited, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

B. The completed form attached hereto as Exhibit B and information designated therein.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues with respect to which the Borrower is an "obligated person" (as defined by the Rule), which have been filed with the MSRB or the Securities and Exchange Commission. If the document included by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The Borrower shall clearly identify each such other document so included by reference.

**SECTION 5. Reporting of Significant Events.**

A. In a timely manner not in excess of ten (10) business days after the occurrence of an event, the Borrower shall give, or cause to be given, to the MSRB notice of any of the following events with respect to the Bonds:

- (1) principal and interest payment delinquencies;
- (2) unscheduled draws on debt service reserves reflecting financial difficulties;
- (3) unscheduled draws on any credit enhancement reflecting financial difficulties;
- (4) substitution of credit or liquidity providers, or their failure to perform;
- (5) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (6) defeasances;
- (7) rating changes;
- (8) tender offers; and
- (9) bankruptcy, insolvency, receivership, or similar event of the Obligated Person.

For the purposes of the event identified in Section 5.A.9 hereof, the event is considered to occur when any of the following occur: (i) the appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or (ii) the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.

B. In a timely manner not in excess of ten (10) business days after the occurrence of an event, the Borrower shall give, or cause to be given, to the MSRB notice of any of the following events with respect to the Bonds, if material:

- (1) non-payment related defaults;
- (2) modifications to the rights of the beneficial owners of the Bonds;

- (3) bond calls;
- (4) release, substitution or sale of property securing repayment of the Bonds;
- (5) the consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms; and
- (6) appointment of a successor or additional trustee or a change in the name of a trustee.

C. The Trustee shall, as soon as reasonably practicable, upon a Responsible Officer's obtaining actual knowledge of the occurrence of any of the Listed Events listed in Section 5.B, contact the Disclosure Representative, inform such person of the event, and request that the Borrower promptly notify the Trustee in writing whether or not to report the event pursuant to Section 5.B hereof. The Trustee shall have no duty to determine the materiality of any such Listed Events. For purposes of this Disclosure Agreement, "actual knowledge" of the occurrence of such Listed Events shall mean actual knowledge by the officer at the corporate trust office of the Trustee with regular responsibility for the administration of matters related to the Indenture.

D. Whenever the Borrower obtains knowledge of the occurrence of a Listed Event listed in Section 5.B, because of a notice from the Trustee pursuant to Section 5.C or otherwise, the Borrower shall as soon as possible determine if such event would be material under applicable federal securities laws.

E. If the Borrower has determined that knowledge of the occurrence of a Listed Event listed in Section 5.B would be material under applicable federal securities laws, the Borrower shall promptly notify the Trustee and Dissemination Agent in writing. Such notice shall instruct the Dissemination Agent to report the occurrence pursuant to Section 5.G hereof unless such occurrence shall have been reported by the Borrower in accordance with Section 5.B hereof, in which case such notice shall inform the Trustee and the Dissemination Agent that the Borrower has taken such action.

F. If in response to a request under Section 5.C hereof, the Borrower determines that the Listed Event listed in Section 5.B would not be material under applicable federal securities laws, the Borrower shall so notify the Trustee and Dissemination Agent in writing and instruct the Dissemination Agent not to report the occurrence pursuant to Section 5.G.

G. If the Dissemination Agent has been instructed by the Borrower to report the occurrence of a Listed Event listed in Section 5.A or Section 5.B, the Dissemination Agent shall in a timely manner not in excess of ten (10) business days after the occurrence of an event file a notice of such occurrence with the MSRB with a copy to the Borrower.

**SECTION 6. Filing.** The filing of Annual Reports and notices of Listed Events or any other notice required by this Disclosure Agreement shall be effected by sending the filing or notice to the MSRB, in such designated electronic format, accompanied by such identifying information, as shall have been prescribed by the MSRB and which shall be in effect on the date of filing of such information.

**SECTION 7. Termination of Reporting Obligation.** The Borrower's and the Trustee's obligations under this Disclosure Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If the Borrower's obligations under the Loan Agreement are assumed in full by some other entity, such person shall be responsible for compliance with this Disclosure Agreement in

the same manner as if it were the Borrower and the original Borrower shall have no further responsibility hereunder. If such termination or substitution occurs prior to the final maturity of the Bonds, the Borrower shall give notice of such termination or substitution in the same manner as for a Listed Event under Section 5.

**SECTION 8. Dissemination Agent.** The Borrower may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Borrower pursuant to this Disclosure Agreement. If at any time there is not any other designated Dissemination Agent, the Borrower shall be the Dissemination Agent. The Dissemination Agent may resign by providing thirty days written notice to the Borrower and the Trustee.

**SECTION 9. Amendment; Waiver.** Notwithstanding any other provision of this Disclosure Agreement, the Borrower, the Dissemination Agent and the Trustee may amend this Disclosure Agreement (and the Trustee and Dissemination Agent shall agree to any amendment so requested by the Borrower; provided, the Trustee and Dissemination Agent shall not be obligated to enter into any such amendment that modifies or increases its duties or obligations hereunder) and any provision of this Disclosure Agreement may be waived, provided that the following conditions are satisfied:

A. If the amendment or waiver relates to the provisions of Sections 3.A, 4 or 5, it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the Bonds, or the type of business conducted;

B. The undertaking herein, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

C. The amendment or waiver either (i) is approved by the Holders of the Bonds in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Holders, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Holders or Beneficial Owners of the Bonds.

In the event of any amendment or waiver of a provision of this Disclosure Agreement, the Borrower shall describe such amendment in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or, in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Borrower. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5, and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

**SECTION 10. Additional Information.** Nothing in this Disclosure Agreement shall be deemed to prevent the Borrower from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the Borrower chooses to include any information in any Annual Report or notice

of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Agreement, the Borrower shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

**SECTION 11. Default.** In the event of a failure of the Borrower or the Trustee to comply with any provision of this Disclosure Agreement, the Trustee shall at the written request of any Participating Underwriter or the Holders of at least 25% of the aggregate principal amount of Outstanding Bonds, and upon provision of indemnification satisfactory to the Trustee, or any Holder or Beneficial Owner of the Bonds may, take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Borrower or the Trustee, as the case may be, to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the Indenture or the Loan Agreement, and the sole remedy under this Disclosure Agreement in the event of any failure of the Borrower or the Trustee to comply with this Disclosure Agreement shall be an action to compel performance.

**SECTION 12. Duties, Immunities and Liabilities of Trustee and Dissemination Agent.** Article VIII of the Indenture is hereby made applicable to this Disclosure Agreement as if this Disclosure Agreement were (solely for this purpose) contained in the Indenture and the Trustee and Dissemination Agent shall be entitled to the provisions thereof. The Dissemination Agent and Trustee shall have only such duties as are specifically set forth in this Disclosure Agreement, and the Borrower agrees to indemnify and save the Dissemination Agent and Trustee, their officers, directors, employees and agents, harmless against any loss, expense and liabilities which they may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities, costs and expenses (including attorneys' fees) due to the Dissemination Agent's or Trustee's respective fraud, violation of law, whether willful or negligent, negligence or willful misconduct. The Dissemination Agent shall be paid compensation by the Borrower for its services provided hereunder in accordance with its schedule of fees as amended from time to time and all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The Dissemination Agent and the Trustee shall have no duty or obligation to review any information provided to them hereunder and shall not be deemed to be acting in any fiduciary capacity for the Borrower, the Bondholders, or any other party. The Dissemination Agent shall have no duty to prepare any information report nor shall the Dissemination Agent be responsible for filing any report not provided to it by the Borrower in a timely manner and in a form suitable for filing. The obligations of the Borrower under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

**SECTION 13. Notices.** Any notices or communications to or among any of the parties to this Disclosure Agreement may be given as follows:

To the Borrower	At the address set forth for the Borrower on the signature page hereof.
To the Trustee and Dissemination Agent:	The Bank of New York Mellon Trust Company, N.A. 400 South Hope Street, Suite 400 Los Angeles, California 90071 Attn: Corporate Trust Services References: CMFA/University of San Diego

Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices or communications should be sent.

**SECTION 14. Beneficiaries.** This Disclosure Agreement shall inure solely to the benefit of the Authority, the Borrower, the Trustee, the Dissemination Agent, the Participating Underwriter, and Holders and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

**SECTION 15. Counterparts.** This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Dated as of July 3, 2012

**UNIVERSITY OF SAN DIEGO,**  
as Borrower

By: \_\_\_\_\_  
Authorized Signatory

Borrower's Notice Address:

University of San Diego  
5998 Alcalá Park  
San Diego, CA 92110-2492  
Executive Vice President & Provost  
June 30

Borrower's Disclosure Representative:

Borrower's Fiscal Year:

**THE BANK OF NEW YORK MELLON**  
**TRUST COMPANY, N.A.** as Trustee

By: \_\_\_\_\_  
Authorized Signatory

**EXHIBIT A**

**NOTICE TO MSRB OF FAILURE TO FILE ANNUAL REPORT**

Name of Authority: California Municipal Finance Authority  
Name of Bond Issue: California Municipal Finance Authority  
Refunding Revenue Bonds (University of San Diego), Series 2012A  
Name of Borrower: University of San Diego  
Date of Issuance: July 3, 2012

NOTICE IS HEREBY GIVEN that the Borrower has not provided an Annual Report with respect to the above-named Bonds as required by Section 6.09 of the Indenture dated as of June 1, 2012 between the Authority and Trustee and by Section 15(h) of the Loan Agreement dated as of June 1, 2012 between the Authority and the Borrower. The Borrower anticipates that the Annual Report will be filed by [Date].

Dated: \_\_\_\_\_, 20\_\_

**THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A.** as Trustee

By: \_\_\_\_\_  
Authorized Signatory

cc: Borrower

**EXHIBIT B**

**UNIVERSITY OF SAN DIEGO  
CONTINUING DISCLOSURE ANNUAL REPORT**

**Operating Data**

**Non Financial**

*Please answer each of the following questions:*

- a) Has there been a change in the name and titles of officers since the last annual report?  
(Check one)

Yes  No  If yes, please indicate name and title:

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- b) Has there been a change in accreditation since the last annual report? (See description below contained in the \_\_\_\_\_, 2012 Official Statement (the "Official Statement"). Refer to your annual reports for updates filed by the Institution.) (Check one)

Yes  No  If yes, please describe.

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- c) Please describe any new litigation, or a material result in a litigation since the date of the last report.

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- d) Please describe any significant sale, destruction or loss of real property or other material assets since the date of the last report. In addition, please describe any sale or loss of any collateral since the date of the last report.

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*Please update the information under the following captions of Appendix A of the Official Statement for the most recent academic or fiscal year, as appropriate:*

- 1) STUDENT ENROLLMENT;
- 2) STUDENT APPLICATIONS, ACCEPTANCES, AND MATRICULATIONS;
- 3) FACILITIES; and
- 4) FINANCIAL MATTERS – Cash and Investments, Endowment, and Outstanding Indebtedness.

**Financial Condition**

*Please attach a copy of your most recent audited financial statements if not already provided.*

**Listed Events**

*Please review Section 5 of the Continuing Disclosure Agreement and confirm that no Listed Event has occurred. Please describe any Listed Event that has not been reported in accordance with the terms of Section 5 of the Continuing Disclosure Agreement.*