

*In the opinion of Nixon Peabody LLP, Bond Counsel, under existing law and assuming compliance with the tax covenants described herein, and the accuracy of certain representations and certifications made by the Issuer and the Institute described herein, interest on the Series 2016B Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). Bond Counsel is also of the opinion that such interest is not treated as a preference item in calculating the alternative minimum tax imposed under the Code with respect to individuals and corporations. Bond Counsel is further of the opinion that interest on the Series 2016B Bonds is exempt from personal income taxes of the State of California (the "State") under present State law. See "TAX MATTERS" herein regarding certain other tax considerations.*



**\$12,725,000**  
**CALIFORNIA STATEWIDE**  
**COMMUNITIES DEVELOPMENT AUTHORITY**  
**REVENUE BONDS, SERIES 2016B**  
**(THE CULINARY INSTITUTE OF AMERICA PROJECT)**

**Dated: Date of Delivery**

**Due: July 1, as shown on the inside cover**

The California Statewide Communities Development Authority Revenue Bonds, Series 2016B (The Culinary Institute of America Project) (the "Series 2016B Bonds") are being issued pursuant to an Indenture of Trust, dated as of August 1, 2016 (the "Indenture"), by and between the California Statewide Communities Development Authority (the "Issuer") and The Bank of New York Mellon, as trustee (the "Trustee") and are payable solely out of the revenues or other receipts, funds or moneys of the Issuer pledged therefor or otherwise available to the Trustee for the payment thereof, including those derived under a Loan and Security Agreement, dated as of August 1, 2016 (the "Loan Agreement"), between the Issuer and The Culinary Institute of America (the "Institute").

The Series 2016B Bonds will bear interest at the rates shown on the inside cover to this Official Statement. The Series 2016B Bonds will be subject to optional and mandatory redemption and to acceleration prior to maturity as described herein under "THE SERIES 2016B BONDS - Redemption Prior to Maturity."

The Series 2016B Bonds are being issued to fund (i) the renovation, improvement and equipping of the Institute's facility located at 500 First Street, Napa, California (the "Copia Facility") to be owned and operated by the Institute, (ii) the renovation, improvement and equipping of the Institute's facility located at 2555 Main Street, St. Helena, California (the "Greystone Facility" and together with the Copia Facility, the "Facilities") to be owned and operated by the Institute, (iii) capitalized interest on the Series 2016B Bonds and (iv) all or a portion of the costs incidental to the issuance of the Series 2016B Bonds (including issuance costs of the Series 2016B Bonds). See "THE PROJECT" herein.

Interest on the Series 2016B Bonds will be payable on each January 1 and July 1, commencing January 1, 2017. The Series 2016B Bonds will be issued as registered bonds and, when issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), which will act as Securities Depository for the Series 2016B Bonds. Individual purchases will be made in book-entry form only, in the principal amount of \$5,000 or any multiple thereof. Purchasers will not receive certificates representing their ownership interest in the Series 2016B Bonds. Principal and interest will be paid by the Issuer to the Trustee which will remit such principal and interest to DTC, which will in turn remit such principal and interest to its Participants (as defined herein) for subsequent distribution to the Beneficial Owners (as defined herein) of the Series 2016B Bonds. See "THE SERIES 2016B BONDS - Book-Entry Only System" herein.

THE SERIES 2016B BONDS DO NOT CONSTITUTE A DEBT OR LIABILITY OF THE STATE OF CALIFORNIA OR OF ANY POLITICAL SUBDIVISION THEREOF, OTHER THAN THE ISSUER, BUT SHALL BE PAYABLE SOLELY FROM THE FUNDS PROVIDED THEREFOR. THE ISSUER SHALL NOT BE OBLIGATED TO PAY THE PRINCIPAL OF THE SERIES 2016B BONDS, OR THE REDEMPTION PREMIUM OR INTEREST THEREON, EXCEPT FROM THE FUNDS PROVIDED THEREFOR UNDER THE INDENTURE AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF CALIFORNIA OR OF ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR THE REDEMPTION PREMIUM OR INTEREST ON THE SERIES 2016B BONDS. THE ISSUANCE OF THE SERIES 2016B BONDS SHALL NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION THEREOF TO LEVY OR TO PLEDGE ANY FORM OF TAXATION OR TO MAKE ANY APPROPRIATION FOR THEIR PAYMENT. THE ISSUER HAS NO TAXING POWER. MOREOVER, NEITHER THE ISSUER NOR THE PROGRAM PARTICIPANTS SHALL BE LIABLE FOR ANY OTHER COSTS, EXPENSES, LOSSES, DAMAGES, CLAIMS OR ACTIONS, IN CONNECTION WITH THE LOAN AGREEMENT, THE SERIES 2016B BONDS OR THE INDENTURE, EXCEPT ONLY TO THE EXTENT AMOUNTS ARE RECEIVED FOR THE PAYMENT THEREOF FROM THE INSTITUTE UNDER THE LOAN AGREEMENT.

This cover page contains information for general reference only. It is not intended as a summary of this transaction. Investors are advised to read the entire Official Statement to obtain information essential to making an informed investment decision.

The Series 2016B Bonds are offered when, as and if issued and received by the Underwriters and subject to the receipt of the unqualified legal opinion as to the validity of the Series 2016B Bonds of Nixon Peabody LLP, Los Angeles, California, Bond Counsel. Certain legal matters will be passed upon for the Institute by its counsel, Corbally, Gartland & Rappleyea, LLP, Poughkeepsie, New York. Certain legal matters will be passed upon for the Issuer by its counsel, Orrick, Herrington & Sutcliffe LLP, Portland, Oregon. Certain legal matters will be passed upon for the Underwriters by their counsel, Dentons US LLP, New York, New York. It is anticipated that the Series 2016B Bonds will be available for delivery in book-entry only form to DTC on or about August 30, 2016.

**J.P. MORGAN**

**BARCLAYS**

**\$12,725,000**  
**CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY**  
**REVENUE BONDS, SERIES 2016B**  
**(THE CULINARY INSTITUTE OF AMERICA PROJECT)**

**Maturities, Amounts, Interest Rates and Yields**

**\$2,600,000 Serial Bonds**

<u>Due July 1</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>CUSIP<sup>(1)</sup></u>
2027	\$380,000	5.00%	2.30%*	13080SNA8
2028	400,000	5.00	2.39*	13080SNB6
2029	420,000	5.00	2.46*	13080SNC4
2030	445,000	5.00	2.54*	13080SND2
2031	465,000	5.00	2.62*	13080SNE0
2032	490,000	5.00	2.67*	13080SNF7

\$2,215,000 Term Bonds, 5.00%, due July 1, 2036, Yield 2.71%, CUSIP<sup>(1)</sup>: 13080SNG5\*

\$3,465,000 Term Bonds, 5.00%, due July 1, 2041, Yield 2.76%, CUSIP<sup>(1)</sup>: 13080SNH3\*

\$4,445,000 Term Bonds, 5.00%, due July 1, 2046, Yield 2.80%, CUSIP<sup>(1)</sup>: 13080SNJ9\*

\* Priced at the stated yield to the first optional call date of July 1, 2026 at a redemption price of 100%.

<sup>(1)</sup> The CUSIP (Committee on Uniform Securities Identification Procedures) numbers on the inside cover page of this Official Statement have been assigned by an organization not affiliated with the Issuer, the Institute, the Underwriters or the Trustee, and such parties are not responsible for the selection or use of the CUSIP numbers. The CUSIP numbers are included solely for the convenience of holders and no representation is made as to the correctness of the CUSIP numbers printed above. CUSIP numbers assigned to the Series 2016B Bonds may be changed during the term of the Series 2016B Bonds based on a number of factors including but not limited to the refunding or defeasance of such issues or the use of secondary market financial products. None of the Issuer, the Institute, the Underwriters or the Trustee has agreed to, nor is there any duty or obligation to, update this Official Statement to reflect any change or correction in the CUSIP numbers printed above.

No person has been authorized by the Institute to give any information or to make any representations not contained in this Official Statement, and, if given or made, such information or representations must not be relied upon as having been authorized. This Official Statement does not constitute an offer to sell or solicitation of an offer to buy any of the Series 2016B Bonds in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction. The information, estimates and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the Institute. The Underwriters have reviewed the information in this Official Statement in accordance with, and as a part of their responsibilities under the federal securities law as applied to the facts and circumstances of this transaction, but the Underwriters do not guaranty the accuracy or completeness of such information.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITERS MAY OVER ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SERIES 2016B BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

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**OFFICIAL STATEMENT**  
**of the**  
**CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY**  
**Relating to**

**\$12,725,000 Revenue Bonds, Series 2016B**  
**(The Culinary Institute of America Project)**

**INTRODUCTION**

The purpose of this Official Statement, including the inside cover page and the appendices attached hereto, is to provide information in connection with the issuance by the California Statewide Communities Development Authority (the “Issuer”) of its \$12,725,000 Revenue Bonds, Series 2016B (The Culinary Institute of America Project) (the “Series 2016B Bonds”). The following is a brief description of certain information concerning the Series 2016B Bonds, the Issuer and The Culinary Institute of America (the “Institute”). A more complete description of such information and additional information that may affect decisions to invest in the Series 2016B Bonds is contained throughout this Official Statement, which should be read in its entirety. Certain capitalized terms not otherwise defined herein are defined in APPENDIX C — “SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT.”

**Purpose of the Issue**

The Series 2016B Bonds are being issued for the purpose of providing funds which, together with other available moneys, will be used to (i) finance (a) the renovation, improvement and equipping of the Institute’s facility located at 500 First Street, Napa, California (the “Copia Facility”) to be owned and operated by the Institute and (b) the renovation, improvement and equipping of the Institute’s facility located at 2555 Main Street, St. Helena, California (the “Greystone Facility” and together with the Copia Facility, the “Facilities”) to be owned and operated by the Institute, (ii) pay capitalized interest on the Series 2016B Bonds, and (iii) pay all or a portion of the costs incidental to the issuance of the Series 2016B Bonds (including issuance costs of the Series 2016B Bonds). (collectively, (i), (ii) and (iii) of this paragraph are referred to as the “Project”). See “THE PROJECT” and “ESTIMATED SOURCES AND USES OF FUNDS.”

**Authorization of the Series 2016B Bonds**

The Series 2016B Bonds are authorized to be issued pursuant to a resolution of the Issuer adopted on August 4, 2016 (the “Resolution”). The Series 2016B Bonds will be issued under an Indenture of Trust dated as of August 1, 2016 (the “Indenture”), by and between the Issuer and The Bank of New York Mellon, as trustee (the “Trustee”). See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2016B BONDS” herein.

**The Issuer**

The Issuer is a joint powers agency organized pursuant to a Joint Powers Agreement among a number of California counties, cities and special districts entered into pursuant to the provisions relating to the joint exercise of powers contained in Chapter 5 of Division 7 of Title 1 (commencing with Section 6500) of the California Government Code. The Issuer is authorized to participate in financings for the benefit of certain organizations described under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”).

**The Institute**

The Institute is an independent education corporation chartered by the Board of Regents of the University of the State of New York. The Institute’s main campus is located in Hyde Park, New York. For more information on the Institute, see “THE INSTITUTE” herein, APPENDIX A — “CERTAIN INFORMATION CONCERNING THE INSTITUTE” and APPENDIX B — “CONSOLIDATED FINANCIAL STATEMENTS OF THE INSTITUTE WITH REPORT OF INDEPENDENT AUDITORS FOR THE YEARS ENDED MAY 31, 2015 AND 2014” herein.

## **The Project**

The Project consists of (a) the renovation, improvement and equipping of the Copia Facility, (b) the renovation, improvement and equipping of the Greystone Facility, (c) the payment of capitalized interest on the Series 2016B Bonds, and (iii) the payment of all or a portion of the costs incidental to the issuance of the Series 2016B Bonds (including issuance costs of the Series 2016B Bonds). See “THE PROJECT.”

## **Limited Obligations of the Issuer**

THE SERIES 2016B BONDS DO NOT CONSTITUTE A DEBT OR LIABILITY OF THE STATE OF CALIFORNIA OR OF ANY POLITICAL SUBDIVISION THEREOF, OTHER THAN THE ISSUER, BUT SHALL BE PAYABLE SOLELY FROM THE FUNDS PROVIDED THEREFOR. THE ISSUER SHALL NOT BE OBLIGATED TO PAY THE PRINCIPAL OF THE SERIES 2016B BONDS, OR THE REDEMPTION PREMIUM OR INTEREST THEREON, EXCEPT FROM THE FUNDS PROVIDED THEREFOR UNDER THE INDENTURE AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF CALIFORNIA OR OF ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR THE REDEMPTION PREMIUM OR INTEREST ON THE SERIES 2016B BONDS. THE ISSUANCE OF THE SERIES 2016B BONDS SHALL NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION THEREOF TO LEVY OR TO PLEDGE ANY FORM OF TAXATION OR TO MAKE ANY APPROPRIATION FOR THEIR PAYMENT. THE ISSUER HAS NO TAXING POWER. MOREOVER, NEITHER THE ISSUER NOR THE PROGRAM PARTICIPANTS SHALL BE LIABLE FOR ANY OTHER COSTS, EXPENSES, LOSSES, DAMAGES, CLAIMS OR ACTIONS, IN CONNECTION WITH THE LOAN AGREEMENT, THE SERIES 2016B BONDS OR THE INDENTURE, EXCEPT ONLY TO THE EXTENT AMOUNTS ARE RECEIVED FOR THE PAYMENT THEREOF FROM THE INSTITUTE UNDER THE LOAN AGREEMENT.

## **General**

The Series 2016B Bonds will be issued as “book-entry only” obligations to be held by The Depository Trust Company, as depository (the “Depository”) for the Series 2016B Bonds. See “THE SERIES 2016B BONDS — Book-Entry Only System” herein.

The Series 2016B Bonds will be equally and ratably secured as to principal and interest by the Indenture. The Indenture constitutes a first lien on the Trust Estate (as defined in the Indenture).

The purchase of the Series 2016B Bonds involves a degree of risk. Prospective purchasers should carefully consider the material under the caption “BONDHOLDERS’ RISKS” herein.

The Series 2016B Bonds will be sold and delivered by the Issuer to J.P. Morgan Securities LLC and Barclays Capital Inc., as underwriters (the “Underwriters”), pursuant to a bond purchase agreement (the “Bond Purchase Agreement”) by and among the Issuer, the Institute and the Underwriters. See “UNDERWRITING” herein.

It is anticipated that on or about September 15, 2016, the Dutchess County Local Development Corporation will issue approximately \$37,000,000\* of its Revenue Bonds (The Culinary Institute of America) Series 2016A-1 (the “Series 2016A-1 Bonds”) to (i) refund the Dormitory Authority of the State of New York’s (“DASNY”) The Culinary Institute of America Revenue Bonds, Series 2004A (the “Series 2004A Bonds”), in the original principal amount of \$9,760,000, with a principal amount currently outstanding in the approximate sum of \$5,675,000, and The Culinary Institute of America Revenue Bonds, Series 2004C (the “Series 2004C Bonds”), in the original and outstanding principal amount of \$23,725,000\*, and (ii) finance certain renovations, additions and improvements to the Institute’s existing campus facilities at Hyde Park, New York. It is also anticipated that contemporaneously with the issuance of the Series 2016A-1 Bonds, the Dutchess County Local Development Corporation will issue approximately \$5,000,000 of its Revenue Bonds (The Culinary Institute of America) Series 2016A-2 (Taxable) (the “Series 2016A-2 Bonds” and, together with the Series 2016A-1 Bonds, the “Series 2016A Bonds”) for the purpose

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\*Preliminary, subject to change.

of providing funds to pay swap termination costs in connection with the Series 2004C Bonds and associated costs thereof. If issued, the Series 2016A Bonds will be secured under a separate indenture from the Indenture securing the Series 2016B Bonds and shall not constitute Additional Bonds.

The following summaries are not comprehensive or definitive. All references to the Series 2016B Bonds, the Indenture and the Loan Agreement are qualified in their entirety by the definitive forms thereof. Copies of the documents are available for inspection at the office of the Underwriters at 383 Madison Avenue, 8th Floor, New York, New York 10179 and 745 Seventh Avenue, 19th Floor, New York, New York 10019, respectively, after delivery of the Series 2016B Bonds to the Underwriters, and at the principal corporate trust office of the Trustee located at 101 Barclay Street, 7 West, New York, New York.

Capitalized terms used in this Official Statement shall have the meanings specified in APPENDIX C – “SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT.” Terms not otherwise defined in this Official Statement have the meanings provided in the specific documents.

## **THE SERIES 2016B BONDS**

### **General**

The Series 2016B Bonds will be dated, bear interest at the rates per annum and mature in the years and in the principal amounts shown on the inside cover page to this Official Statement, subject to redemption prior to maturity as hereinafter described. The Series 2016B Bonds are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple denominations thereof.

Interest on the Series 2016B Bonds will be payable semiannually on January 1 and July 1, commencing January 1, 2017. Subject to the provisions described below under “Book-Entry Only System,” principal of and any redemption premium on the Series 2016B Bonds are payable upon presentation and surrender of such Series 2016B Bonds at the principal corporate trust office of the Trustee and interest on the Series 2016B Bonds will be payable (i) by check or draft mailed to the registered address of the Person entitled thereto or (ii) by wire transfer to any Owner of at least \$500,000 in aggregate principal amount of Series 2016B Bonds, upon written notice provided by the Owner to the Trustee not later than five (5) days prior to the Record Date for such Debt Service Payment Date, on each Debt Service Payment Date.

### **Redemption Prior to Maturity**

#### ***Optional Redemption***

The Series 2016B Bonds maturing on or after July 1, 2027, are subject to redemption by the Issuer, at the option of the Institute, on or after July 1, 2026, in whole or in part at any time, at the Redemption Price (as defined in the Indenture) of 100% of the principal amount outstanding, plus accrued interest to the Redemption Date, upon receipt by the Trustee of notice from the Institute on behalf of the Issuer, directing such redemption, as described below under the heading “Notice of Redemption.” The Institute may direct such prepayment only if it shall prepay an amount under the Loan Agreement equal to the amount of the prepayment price described above.

#### ***Extraordinary Redemption***

The Series 2016B Bonds are subject to extraordinary optional redemption prior to maturity, as a whole or in part at any time, without premium or penalty, at a Redemption Price equal to 100% of the principal amount of the Series 2016B Bonds to be prepaid plus interest accrued thereon to the Redemption Date, upon the occurrence of any of the following events:

- (a) The Facilities or any material portion of the Facilities shall have been damaged or destroyed to such extent that, in the opinion of an Authorized Representative of the Institute (expressed in a certificate filed with the Issuer and the Trustee within sixty (60) days after such damage or destruction), (1) the Facilities or any such portion of any of the Facilities cannot be reasonably restored within a period of twelve (12) consecutive months after such damage or

destruction to the condition thereof immediately preceding such damage or destruction, or (2) the Institute is thereby prevented or is reasonably expected to be thereby prevented from carrying on its normal operations within the Facilities or any such portion of any of the Facilities for a period of twelve (12) consecutive months after such damage or destruction, or (3) the cost of restoration of any of the Facilities or such portions of any of the Facilities would exceed the Net Proceeds of insurance carried thereon; or

(b) Title to, or the use of, all or any material part of any of the Facilities shall have been taken by Condemnation (as defined in the Indenture) such that, in the opinion of an Authorized Representative of the Institute (expressed in a certificate filed with the Issuer and the Trustee within sixty (60) days after the date of such taking), the Institute is thereby prevented from carrying on their respective normal operations therein for a period of twelve (12) consecutive months after such taking.

### ***Mandatory Redemption from Bond Fund***

The Series 2016B Bonds are subject to mandatory redemption, without premium or penalty, in whole or in part, and shall be prepaid or redeemed prior to maturity with moneys deposited into the Bond Fund created under the Indenture as a result of the unused balance in the Project Fund created under the Indenture upon the abandonment of the Facilities or a portion thereof due to a legal or regulatory impediment and deposited into the Bond Fund pursuant to the Indenture.

The Series 2016B Bonds are subject to mandatory redemption, without premium or penalty in whole or in part and shall be prepaid or redeemed prior to maturity with moneys deposited into the Bond Fund as a result of the unused balance in the Renewal Fund and deposited in the Bond Fund pursuant to the Indenture. See “APPENDIX C — SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT — Use of the Moneys in Project Fund” and “— Payments into Bond Fund” herein.

### ***Sinking Fund Redemption***

The Series 2016B Bonds maturing on July 1, 2036 are subject to mandatory redemption in part commencing on July 1, 2033 by lot by operation of Sinking Fund Payments at a redemption price equal to the principal amount of the Series 2016B Bonds to be redeemed plus accrued interest to the Redemption Date. The amounts and due dates of the Sinking Fund Payments for the Bonds are set forth in the following table:

<b><u>Sinking Fund Payment Date (July 1)</u></b>	<b><u>Amount</u></b>
2033	\$515,000
2034	540,000
2035	565,000
2036*	595,000

\* Maturity date

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The Series 2016B Bonds maturing on July 1, 2041 are subject to mandatory redemption in part commencing on July 1, 2037 by lot by operation of Sinking Fund Payments at a redemption price equal to the principal amount of the Series 2016B Bonds to be redeemed plus accrued interest to the Redemption Date. The amounts and due dates of the Sinking Fund Payments for the Bonds are set forth in the following table:

<b><u>Sinking Fund Payment Date (July 1)</u></b>	<b><u>Amount</u></b>
2037	\$625,000
2038	655,000
2039	695,000
2040	725,000
2041*	765,000

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\* Maturity date

The Series 2016B Bonds maturing on July 1, 2046 are subject to mandatory redemption in part commencing on July 1, 2042 by lot by operation of Sinking Fund Payments at a redemption price equal to the principal amount of the Series 2016B Bonds to be redeemed plus accrued interest to the Redemption Date. The amounts and due dates of the Sinking Fund Payments for the Bonds are set forth in the following table:

<b><u>Sinking Fund Payment Date (July 1)</u></b>	<b><u>Amount</u></b>
2042	\$805,000
2043	840,000
2044	885,000
2045	930,000
2046*	985,000

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\* Maturity date

### ***Notice of Redemption***

The Trustee shall call the Series 2016B Bonds for optional redemption upon receipt of notice from the Issuer or the Institute directing such redemption, which notice shall be sent to the Trustee at least forty-five (45) days prior to the Redemption Date specified in such notice and shall specify (i) the principal amount of Series 2016B Bonds and their maturities so to be called for redemption, (ii) the applicable Redemption Price and (iii) the provision or provisions of the Indenture pursuant to which such Series 2016B Bonds are to be called for redemption. The Trustee shall call the Series 2016B Bonds for redemption as provided in the first paragraph under the heading “- Mandatory Redemption from Bond Fund” above as soon as practical upon notice from the Institute of the abandonment of the Facilities or a portion thereof in accordance with the terms thereof without need for further direction from the Issuer or the Institute. The Trustee shall call Series 2016B Bonds for redemption as provided in the second paragraph under the heading “- Mandatory Redemption from Bond Fund” above and sinking fund redemption on the applicable Sinking Fund Payment Dates without need for direction from the Institute or Issuer.

When the Series 2016B Bonds are to be redeemed pursuant to the Indenture, the Trustee shall give notice of the redemption of the Series 2016B Bonds in the name of the Issuer, by mail at least thirty (30) days and not more than sixty (60) days prior to said redemption to the Owner of each Series 2016B Bond to be redeemed at the address shown on the registration books, stating: (i) the Series 2016B Bonds to be redeemed; (ii) the Redemption Date; (iii) that such Series 2016B Bonds will be redeemed at the Office of the Trustee; (iv) that on the Redemption Date there shall become due and payable upon each Series 2016B Bond to be redeemed the Redemption Price thereof, together with interest accrued to the Redemption Date; and (v) that from and after the Redemption Date interest thereon shall cease to accrue. Any notice of redemption may be conditioned on sufficient funds being on deposit with the Trustee on the Redemption Date to effect such redemption and if sufficient funds are not on deposit, the redemption shall be rescinded and be of no further force and effect. Notwithstanding anything to the contrary contained in the Indenture, failure by the Trustee to give such notice by mail, or any defect therein, shall not affect the validity of any proceeding for the redemption of the Series 2016B Bonds.

### ***Payment of Redeemed Series 2016B Bonds***

After notice shall have been given in the manner provided above, the Series 2016B Bonds or portions thereof called for redemption shall become due and payable on the Redemption Date so designated. Upon presentation and surrender of such Series 2016B Bonds at the Office of the Trustee, such Series 2016B Bonds shall be paid at the Redemption Price, plus accrued interest to the Redemption Date.

If, on the Redemption Date, moneys for the redemption of all the Series 2016B Bonds or portions thereof to be redeemed, together with interest thereon to the Redemption Date, shall be held by the Trustee so as to be available therefor on such date, the Series 2016B Bonds or portions thereof so called for redemption shall cease to bear interest, and such Series 2016B Bonds or portions thereof shall no longer be Outstanding under the Indenture or be secured by or be entitled to the benefits of the Indenture except with respect to payment of the Redemption Price thereof and accrued interest thereon to the Redemption Date. If such moneys shall not be so available on the Redemption Date, the notice of redemption shall be rescinded and such Series 2016B Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption and shall continue to be secured by and be entitled to the benefits of the Indenture.

In the event of any partial redemption, the particular Series 2016B Bonds or portions thereof to be redeemed shall be selected by the Trustee not more than sixty (60) days prior to the Redemption Date from maturities designated in writing by the Institute, and within each maturity by lot or by such other method as the Trustee shall deem fair and appropriate, provided that for so long as the Series 2016B Bonds shall be Book Entry Bonds, the particular Series 2016B Bond or portions thereof to be redeemed within a maturity may be selected by lot by the Depository in such manner as the Depository may determine. If any maturity of the Series 2016B Bonds which is subject to sinking fund redemption is to be redeemed in part, the Trustee shall apply any partial redemption payments (other than a scheduled mandatory redemption) to the schedule of mandatory Sinking Fund Payments thereon as designated by the Institute. Further, the Trustee may provide for the selection for redemption of portions (equal to \$5,000 or any integral multiple denominations thereof) of Series 2016B Bonds subject to any partial redemption shall not be other than a whole multiple of \$5,000 thereof.

### **Registration, Transfer and Exchange**

So long as any Series of Bonds shall remain Outstanding, the Issuer shall maintain, at the Office of the Trustee, books for the registration and transfer such series of Bonds. The Trustee is appointed Bond Registrar for the Issuer under the Indenture for the purpose of registering and making transfers on such registration books for each Series of Bonds issued thereunder. The Trustee, as Bond Registrar, shall register in such books and permit to be transferred thereon, under such reasonable regulations as the Trustee may prescribe, any Series of Bonds entitled to registration or transfer.

Each Series 2016B Bond shall be transferable only on the books of the Trustee and upon surrender of the Series 2016B Bond, at the Office of the Trustee, together with a written instrument of transfer, satisfactory to the Trustee, duly executed by the registered owner or his attorney duly authorized in writing. Upon the transfer of any registered Series 2016B Bond, the Issuer shall issue in the name of the transferee a new registered Series 2016B Bond of the same aggregate principal amount and maturity and rate of interest as the surrendered Series 2016B Bond.

The Issuer, the Trustee and any Paying Agent may deem and treat the Person in whose name any Series 2016B Bond shall be registered upon the books of the Trustee as the absolute owner thereof, whether such Series 2016B Bond shall be overdue or not for the purpose of receiving payment of the principal of or Redemption Price and, except as otherwise provided in the Indenture, interest on such Series 2016B Bond and for all other purposes. All such payments so made to any such registered Owner or upon his order shall be valid and effectual to satisfy and discharge the liability of the Issuer upon such Series 2016B Bond to the extent of the sum or sums so paid. Neither the Issuer, the Trustee nor any Paying Agent shall be affected by any notice to the contrary.

In all cases in which the privilege of exchanging or transferring the Series 2016B Bonds is exercised, the Issuer shall execute and the Trustee shall authenticate and deliver the Series 2016B Bonds in accordance with the provisions of the Indenture. All Series 2016B Bonds surrendered in any exchanges or transfers shall forthwith be

canceled in accordance with the provisions of the Indenture. For every exchange or transfer of the Series 2016B Bonds, whether temporary or definitive, the Issuer or the Trustee may make a charge sufficient to reimburse it for (i) any tax, fee or other governmental charge required to be paid with respect to the delivery of definitive Series 2016B Bonds in exchange for temporary Series 2016B Bonds, (ii) the cost of preparing each new Series 2016B Bond, and (iii) any other expenses of the Issuer or the Trustee incurred in connection therewith.

Neither the Issuer nor the Trustee shall be obligated to exchange or transfer any Series 2016B Bond during the ten (10) days next preceding (i) a Debt Service Payment Date, or (ii) in the case of any proposed redemption of Series 2016B Bonds, the date of the first mailing of notice of such redemption.

### **Acceleration**

Upon the occurrence of an Event of Default under Section 10.1(a)(v) the Loan Agreement or any similar provision in any other loan agreement with respect to any Additional Bond, all Series of Bonds Outstanding shall become immediately due and payable without action or notice of any kind on the part of the Trustee or the Issuer. Upon the occurrence and continuance of an Event of Default, the Trustee shall, by notice in writing delivered to the Issuer and the Institute, declare all Series of Bonds Outstanding immediately due and payable, and such Series of Bonds shall become and be immediately due and payable, anything in the Series of Bonds or in the Indenture to the contrary notwithstanding. In such event, there shall be due and payable on the Series of Bonds an amount equal to the total principal amount of all such Series of Bonds, plus all interest accrued thereon and which will accrue thereon to the date of payment. If all of the Series of Bonds Outstanding shall become so immediately due and payable, the Issuer and the Trustee shall as soon as possible declare by written notice to the Institute all unpaid installments payable by the Institute under the Loan Agreement or any similar provision in any other loan agreement with respect to any Additional Bonds to be immediately due and payable.

At any time after the principal of the Series 2016B Bonds shall have been so declared to be due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under the Indenture, the Trustee may annul such declaration and its consequences with respect to any Series 2016B Bonds not then due by their terms if (i) moneys shall have been deposited in the Bond Fund sufficient to pay all matured installments of interest and principal, or the Redemption Price (other than principal then due only because of such declaration) of such Outstanding Series of Bonds; (ii) sufficient moneys shall be available to pay the amounts described in the Indenture; (iii) all other amounts then payable by the Issuer under the Indenture shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee; and (iv) every other Event of Default known to the Trustee (other than a default in the payment of the principal of such Bonds then due only because of such declaration) shall have been remedied to the satisfaction of the Trustee. No such annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

### **Book-Entry Only System**

The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the Series 2016B Bonds. The Series 2016B 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 Series 2016B Bond will be issued for each maturity of the Series 2016B Bonds, each in the aggregate principal amount of such maturity, and will be 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 and 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 Series 2016B Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2016B Bonds on DTC’s records. The ownership interest of each actual purchaser of each Series 2016B 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 Series 2016B 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 Series 2016B Bonds, except in the event that use of the book-entry system for the Series 2016B Bonds is discontinued.

To facilitate subsequent transfers, all Series 2016B 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 Series 2016B Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not affect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2016B Bonds; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Series 2016B Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account 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.

Redemption notices shall be sent to DTC. If less than all of the Series 2016B Bonds 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 Series 2016B 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 Issuer 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 Series 2016B Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, principal and interest payments on the Series 2016B Bonds will 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 Issuer or the 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 the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Issuer 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 depository with respect to the Series 2016B Bonds at any time by giving reasonable written notice to the Issuer or the Trustee. Under such circumstances, in the event that a successor depository is not obtained, Series 2016B Bond certificates are required to be printed and delivered.

The Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Series 2016B Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Issuer believes to be reliable, but the Issuer takes no responsibility for the accuracy thereof.

NONE OF THE ISSUER, THE INSTITUTE, THE UNDERWRITERS OR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO THE PARTICIPANTS OR THE BENEFICIAL OWNERS WITH RESPECT TO: (1) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DTC PARTICIPANT; (2) THE PAYMENT BY DTC OR ANY DTC PARTICIPANT OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL, REDEMPTION PRICE OR PURCHASE PRICE OR INTEREST ON THE SERIES 2016B BONDS; (3) THE DELIVERY BY DTC OR ANY DTC PARTICIPANT OF ANY NOTICE TO ANY BENEFICIAL OWNER WHICH IS REQUIRED OR PERMITTED UNDER THE TERMS OF THE INDENTURE TO BE GIVEN TO BOND OWNERS; (4) THE SELECTION OF THE BENEFICIAL OWNERS TO RECEIVE PAYMENT IN THE EVENT OF ANY PARTIAL REDEMPTION OF THE SERIES 2016B BONDS; OR (5) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS BONDOWNER.

SO LONG AS CEDE & CO. IS THE REGISTERED OWNER OF THE SERIES 2016B BONDS, AS NOMINEE OF DTC, REFERENCES HEREIN TO THE BOND OWNERS OR REGISTERED HOLDERS OF THE SERIES 2016B BONDS SHALL MEAN CEDE & CO. AND SHALL NOT MEAN THE BENEFICIAL OWNERS OF THE SERIES 2016B BONDS.

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## DEBT SERVICE REQUIREMENTS

The following table sets forth the amounts required to be paid by the Institute during each twelve month period ending May 31 of the Institute's fiscal year shown for the payment of the principal of and interest on the Series 2016B Bonds, debt service on all other currently outstanding indebtedness of the Institute and the total debt service on all indebtedness of the Institute, including the Series 2016B Bonds.

Fiscal Year Ending May 31	<u>Series 2016B Bonds</u>		Total Debt Service on <u>Series 2016B Bonds</u>	Total Debt Service on Other <u>Outstanding Bonds*</u>	Total <u>Debt Service</u>
	<u>Principal</u>	<u>Interest</u>			
2017	\$ ---	\$213,851	\$ 213,851	\$8,995,594	\$9,209,445
2018	---	636,250	636,250	7,215,523	7,851,773
2019	---	636,250	636,250	7,202,258	7,838,508
2020	---	636,250	636,250	7,175,321	7,811,571
2021	---	636,250	636,250	7,180,655	7,816,905
2022	---	636,250	636,250	7,188,104	7,824,354
2023	---	636,250	636,250	6,340,909	6,977,159
2024	---	636,250	636,250	5,799,206	6,435,456
2025	---	636,250	636,250	5,579,860	6,216,110
2026	---	636,250	636,250	5,602,718	6,238,968
2027	---	636,250	636,250	5,600,179	6,236,429
2028	380,000	626,750	1,006,750	5,597,079	6,603,829
2029	400,000	607,250	1,007,250	5,718,637	6,725,887
2030	420,000	586,750	1,006,750	5,391,392	6,398,142
2031	445,000	565,125	1,010,125	5,379,049	6,389,174
2032	465,000	542,375	1,007,375	5,419,076	6,426,451
2033	490,000	518,500	1,008,500	5,431,663	6,440,163
2034	515,000	493,375	1,008,375	5,412,572	6,420,947
2035	540,000	467,000	1,007,000	5,442,117	6,449,117
2036	565,000	439,375	1,004,375	4,352,464	5,356,839
2037	595,000	410,375	1,005,375	4,221,350	5,226,725
2038	625,000	379,875	1,004,875	3,365,665	4,370,540
2039	655,000	347,875	1,002,875	3,368,286	4,371,161
2040	695,000	314,125	1,009,125	3,031,363	4,040,488
2041	725,000	278,625	1,003,625	3,025,206	4,028,831
2042	765,000	241,375	1,006,375	3,016,713	4,023,088
2043	805,000	202,125	1,007,125	3,015,344	4,022,469
2044	840,000	161,000	1,001,000	2,103,794	3,104,794
2045	885,000	117,875	1,002,875	---	1,002,875
2046	930,000	72,500	1,002,500	---	1,002,500
2047	985,000	24,625	1,009,625	---	1,009,625

\* Assumes the net swap rate on the hedged Series 2004C Bonds and Series 2006 Bonds and the current variable rates on the unhedged Series 2004C and Series 2008 Bonds in 2017, increase about 10 basis points annually thereafter to 2021. Does not reflect the planned issuance of Series 2016A Bonds. See, "THE 2016B BONDS – General", herein.

## SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2016B BONDS

The Series 2016B Bonds will be secured by (i) the Issuer's rights and remedies under the Loan Agreement (except with respect to the Unassigned Rights), including the right to collect and receive loan payments required to be made thereunder and (ii) all other moneys and securities held from time to time by the Trustee for the Bondholders pursuant to the Indenture and all proceeds of the Series 2016B Bonds prior to the disbursement pursuant to the terms of the Indenture and the Loan Agreement, except moneys held in the Rebate Fund.

### Loan Agreement

#### *General*

Under the Loan Agreement, the Institute will be absolutely and unconditionally obligated to make loan payments to the Trustee, as the assignee of the Issuer, sufficient to provide for the payment of the principal of, and interest and premium, if any, on the Series 2016B Bonds when due, and to provide for deposits to the Bond Fund, if

required, at the times and in the amounts required by the Indenture and the Loan Agreement. See APPENDIX C – “SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT.”

### ***Debt Service Coverage Ratio***

Pursuant to the Loan Agreement, the Institute shall maintain at all times a Debt Service Coverage Ratio (as defined below) as of the last day of each Fiscal Year (a “Testing Date”) of at least 1.25:1.00 (the “Debt Service Coverage Covenant”). If (a) on any two consecutive Testing Dates, the Institute does not satisfy the coverage requirement, or (b) on any Testing Date, the coverage falls below 1.00:1.00, the Trustee may require the Institute to retain a Management Consultant to make recommendations that will enable the Institute to comply with the debt service coverage requirement. Compliance with the Debt Service Coverage Ratio covenant shall be tested annually commencing with the Fiscal Year ending May 31, 2017, on the basis of the Institute’s audited financial statements. Failure to maintain the required Debt Service Coverage Ratio, however, shall not be an Event of Default under the Loan Agreement. For purposes of the covenant, “Debt Service Coverage Ratio” means as of the date of calculation the ratio of (i) Operating Revenues Available for Debt Service to (ii) Annual Debt Service.

The following table sets forth the Debt Service Coverage Ratio of the Institute as measured for its five most recent fiscal years ending May 31:

	2011	2012	2013	2014	2015
Operating Revenue	\$129,924,614	\$142,544,883	\$145,278,881	\$144,841,274	\$145,296,750
Operating Expenses Less Depreciation, Amortization and Interest	113,891,465	120,133,344	124,933,728	125,857,116	126,191,767
Net Operating Income	\$16,033,149	\$22,411,539	\$20,345,153	\$18,984,158	\$19,104,983
Annual Debt Service	\$6,786,020	\$6,615,704	\$6,607,069	\$5,869,582	\$7,380,901
Debt Service Coverage	2.36x	3.39x	3.08x	3.23x	2.59x

### ***Available Assets to Debt Ratio.***

Pursuant to the Loan Agreement, the Institute further covenants that it shall maintain a ratio of Available Assets to Long-Term Indebtedness at least equal to 0.65:1.00 as of each Testing Date. Compliance with the Available Assets to Debt Ratio Covenant shall be tested annually commencing with the Fiscal Year ending May 31, 2017, on the basis of the Institute’s audited financial statements. If on any Testing Date the Institute does not satisfy the Available Assets to Debt Ratio requirement described above, or the percentage decline in the Available Assets to Debt Ratio from the Fiscal Year two years prior to the current Fiscal Year to the current Fiscal Year is fifty percent (50%) or greater, the Trustee may require the Institute to retain a Management Consultant. Failure to maintain the required Available Assets to Debt Ratio, however, shall not be an Event of Default under the Loan Agreement.

### ***Additional Indebtedness***

Pursuant to the Loan Agreement, the Institute may issue additional Long-Term Indebtedness or request the Issuer to issue one or more series of Additional Bonds under the Indenture, provided that (i) all terms and conditions for the incurrence of such additional Indebtedness or Additional Bonds under the Indenture have been satisfied, (ii) the Institute maintains a long-term debt rating not lower than Baa3 or BBB- from at least one rating agency, and (iii) (a) such additional Indebtedness is less than or equal to ten percent (10%) of the Institute’s unrestricted and temporarily restricted net assets, or (b) the Institute provides to the Trustee a certificate containing pro forma calculations demonstrating that the Debt Service Coverage Covenant and the Available Assets to Debt Ratio each would have been met in the most recently completed fiscal year taking into account the proposed additional Indebtedness.

### **Pledged Revenues**

As security for the payment of all liabilities and the performance of all obligations of the Institute pursuant to the Loan Agreement, the Institute pledges, grants a security interest in, and assigns to the Issuer the Pledged Revenues and any deposit account of the Institute that may contain Pledged Revenues, together with the Institute’s

right to receive and collect the Pledged Revenues and the proceeds of the Pledged Revenues and of such right pursuant to the Loan Agreement. This pledge, grant of security interest in, and assignment of the Pledged Revenues shall be subordinate only to the Prior Pledges.

Prior Pledges are defined under the Indenture to mean the liens, pledges, charges, encumbrances and security interests made and given pursuant to (i) a loan agreement dated as of February 11, 2004 relating to the DASNY Culinary Institute of America Insured Revenue Bonds, Series 2004A&C, which are expected to be refunded by the Series 2016 A-1 Bonds, (ii) a loan agreement dated July 22, 2004 relating to the DASNY Culinary Institute of America Insured Revenue Bonds, Series 2004D, (iii) a loan agreement dated as of August 31, 2006 relating to the DASNY Culinary Institute of America Insured Revenue Bonds, Series 2006, (iv) a loan agreement dated as of September 19, 2012 relating to the DASNY The Culinary Institute of America Revenue Bonds, Series 2012, (v) a loan agreement dated as of August 21, 2013 relating to the DASNY The Culinary Institute of America Revenue Bonds, Series 2013, and (vi) a loan agreement dated as of November 1, 2008 relating to the California Statewide Communities Development Authority Variable Rate Demand Revenue Bonds (The Culinary Institute of America) Series 2008 (the “Series 2008 Bonds”), as amended by the First Supplemental Loan Agreement, dated as of October 1, 2010 in connection with the conversion of the Series 2008 Bonds to be converted to “qualified tax-exempt obligations” in October 2010.

The Institute represents and warrants that no part of the Pledged Revenues or any right to receive or collect the same or the proceeds thereof is subject to any lien, pledge, security interest of assignment, other than Prior Pledges, and that the Pledged Revenues assigned pursuant hereto are legally available to provide security for the Institute’s performance under the Loan Agreement. The Institute agrees that it shall not, after the date of delivery of the Series 2016B Bonds, create or permit the creation of any pledge, assignment, encumbrance, restriction, security interest in or other commitment of or with respect to the Pledged Revenues which is prior or equal to the pledge made by the Loan Agreement.

### **The Deed of Trust**

To secure the Institute’s payments under the Loan Agreement and the performance of its covenants and obligations under the Loan Agreement, concurrently with the issuance of the Series 2016B Bonds, the Institute grant to the Trustee (for the benefit of the Bondholders) a first lien, subject to Permitted Encumbrances, on the Greystone Facility, as provided in a First Amended and Restated Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, dated as of August 1, 2016, from the Institute to Chicago Title Company, as trustee for the benefit of the Trustee (the “Deed of Trust”). Permitted Encumbrances include, among other things, any lien or encumbrance as permitted by the written consent of the Issuer. With respect to the Greystone Facility, the indebtedness of the Institute with respect to the 2010 Bonds and the Series 2016B Bonds are secured on a *pari passu* basis. The lien of the Deed of Trust in favor of the Series 2016B Bonds is further subject to, and in some cases may be subordinate to Permitted Encumbrances (as defined in the Indenture).

No assurance can be given that a sale of any of the Institute’s real property that is subject to the Deed of Trust would generate proceeds in an amount sufficient to defease the Series 2016B Bonds.

## **THE ISSUER**

### **Purpose and Powers**

The Issuer is a joint powers agency organized pursuant to a Joint Powers Agreement among a number of California counties, cities and special districts entered into pursuant to the provisions relating to the joint exercise of powers contained in Chapter 5 of Division 7 of Title 1 (commencing with Section 6500) of the California Government Code. The Issuer is authorized to participate in financings for the benefit of certain organizations described under Section 501(c)(3) of the Code.

### **Limited Recourse on Series 2016B Bonds and the Issuer**

THE SERIES 2016B BONDS DO NOT CONSTITUTE A DEBT OR LIABILITY OF THE STATE OF CALIFORNIA OR OF ANY POLITICAL SUBDIVISION THEREOF, OTHER THAN THE ISSUER, BUT



SHALL BE PAYABLE SOLELY FROM THE FUNDS PROVIDED THEREFOR. THE ISSUER SHALL NOT BE OBLIGATED TO PAY THE PRINCIPAL OF THE SERIES 2016B BONDS, OR THE REDEMPTION PREMIUM OR INTEREST THEREON, EXCEPT FROM THE FUNDS PROVIDED THEREFOR UNDER THE INDENTURE AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF CALIFORNIA OR OF ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR THE REDEMPTION PREMIUM OR INTEREST ON THE SERIES 2016B BONDS. THE ISSUANCE OF THE SERIES 2016B BONDS SHALL NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION THEREOF TO LEVY OR TO PLEDGE ANY FORM OF TAXATION OR TO MAKE ANY APPROPRIATION FOR THEIR PAYMENT. THE ISSUER HAS NO TAXING POWER. MOREOVER, NEITHER THE ISSUER NOR THE PROGRAM PARTICIPANTS SHALL BE LIABLE FOR ANY OTHER COSTS, EXPENSES, LOSSES, DAMAGES, CLAIMS OR ACTIONS, IN CONNECTION WITH THE LOAN AGREEMENT, THE SERIES 2016B BONDS OR THE INDENTURE, EXCEPT ONLY TO THE EXTENT AMOUNTS ARE RECEIVED FOR THE PAYMENT THEREOF FROM THE INSTITUTE UNDER THE LOAN AGREEMENT.

Except for the information contained herein under the caption “THE ISSUER” and “LITIGATION” insofar as it relates to the Issuer, the Issuer has not provided any of the information contained in this Official Statement. The Issuer is not responsible for, has not verified, reviewed or approved and does not certify as to the accuracy or sufficiency of the disclosures made herein or any other information provided by the Institute, the Underwriters or any other person.

#### **THE INSTITUTE**

The Institute is a New York education corporation and an organization described under Section 501(c)(3) of the Code. The Institute has the sole responsibility for paying the debt service payments to become due on the Series 2016B Bonds. Certain information, including financial information, concerning the Institute is included in Appendices A and B hereto.

#### **THE PROJECT**

##### **The Project**

The Project consists of (i) (a) the renovation, improvement and equipping of the Copia Facility to be owned and operated by the Institute and (b) the renovation, improvements and equipping of the Greystone Facility to be owned and operated by the Institute, (ii) the payment of capitalized interest on the Series 2016B Bonds, and (iii) the payment of all or a portion of the costs incidental to the issuance of the Series 2016B Bonds (including issuance costs of the Series 2016B Bonds).

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## SOURCES AND USES OF FUNDS

Estimated sources and uses of funds are as follows:

### Sources of Funds

Principal Amount of Series 2016B Bonds.....	\$12,725,000
Plus: Original Issue Premium.....	<u>2,497,106</u>
Total Sources.....	<u>\$15,222,106</u>

### Uses of Funds

Deposit to the Project Fund .....	\$13,905,534
Capitalized Interest.....	1,026,726
Costs of Issuance <sup>(1)</sup> .....	<u>289,846</u>
Total Uses.....	<u>\$15,222,106</u>

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<sup>(1)</sup> Estimated amount to provide for Underwriters' discount, legal fees, Trustee fees, Issuer fees, financial advisors' fees, printing fees and associated bond issuance costs related to the Series 2016B Bonds.

## BONDHOLDERS' RISKS

*The following is a discussion of certain risks that could affect payments to be made with respect to the Series 2016B Bonds. Such discussion is not exhaustive, should be read in conjunction with all other parts of this Official Statement and should not be considered as a complete description of all risks that could affect such payments. Prospective purchasers of the Series 2016B Bonds should analyze carefully the information contained in this Official Statement, including the appendices hereto, and additional information in the form of the complete documents summarized herein, copies of which are available as described in this Official Statement.*

### General

The Series 2016B Bonds are payable from payments to be made by the Institute under the Loan Agreement. The ability of the Institute to comply with its obligations under the Loan Agreement depends primarily upon the ability of the Institute to continue to attract sufficient tuition-paying students to its educational programs, to obtain sufficient revenues from related activities and to maintain sufficient creditworthiness. The Institute expects that revenues derived from its ongoing operations, together with other available resources, will at all times be sufficient to make the required payments on the Loan Agreement and the Institute will covenant under the Loan Agreement to make all such payments when due. There are certain risks, however, which might prevent the Institute from obtaining sufficient revenues from tuition and other sources to meet all of its obligations, including its obligations under the Loan Agreement. Purchasers of the Series 2016B Bonds should bear in mind that the occurrence of any number of events could adversely affect the ability of the Institute to generate such revenues. Future economic, demographic and other conditions, including the demand for culinary educational services, the ability of the Institute to provide the services required by students, economic developments and competition from other culinary educational institutions, together with changes in costs, may adversely affect revenues and expenses and, consequently, the ability of the Institute to provide for payments. The future financial condition of the Institute could also be adversely affected by, among other things, legislation and regulatory actions, and a number of other conditions which are unpredictable.

### Financial Assistance

The amount of available financial assistance is a significant factor in the decision of many students to attend a particular college or university. During the 2015-2016 academic year, approximately 90% of the Institute's enrolled students receive some form of financial assistance through the Institute. The level of financial assistance is directly affected by funding levels of federal, state and other financial aid programs. Any significant reduction in the

level of financial assistance offered to prospective students could reduce the number of students enrolling at the Institute.

### **Investment Income**

The Institute's investment program for endowment and similar funds operates under an investment policy statement and guidelines established by the Board, which delegates direct oversight for the investment program to the Investment Committee of the Board. The consolidated endowment pool is managed by external money managers appointed for the purpose by the Investment Committee. Although the unrestricted portion of the Institute's endowment funds and the payout therefrom are available for debt service payments on the Series 2016B Bonds, no assurance can be given that unforeseen developments in the securities markets will not have an adverse effect on the market value of those investments and the income generated therefrom.

### **Fund Raising**

The Institute raises funds to finance its operations and capital development programs from a variety of benefactors. Although it plans to continue those efforts in the future, there can be no assurance that those efforts will be successful. Such efforts may be adversely affected by a number of factors, including general economic conditions and tax law changes affecting the deductibility of charitable contributions.

### **Government Funding**

The federal and state governments provide funding to support education, including tuition assistance. These sources of funding and the governmental programs that support them have been and will continue to be subject to modification and revision due to state and federal policy decisions, legislative action and government funding limitations. The financial condition of the Institute could be adversely affected by these actions and the ability of the Institute to maintain its creditworthiness will be based on its ability to successfully manage the outcome of any such actions.

### **Risks as Employer**

The Institute is a major employer, combining a complex mix of full-time faculty, part-time faculty, technical and clerical support staff and other types of workers in a single operation. As with all large employers, the Institute bears a wide variety of risks in connection with its employees. These risks include discrimination claims, personal tort actions, work-related injuries, exposure to hazardous materials, interpersonal torts (such as between employees or between employees and students) and other risks that may flow from the relationships between employer and employee or between students and employees. Certain of these risks are not covered by insurance, and certain of them cannot be anticipated or prevented in advance.

### **Changes in Law**

Changes in law may impose new or added financial or other burdens on the operations of the Institute. Developments may include: (i) legislative or regulatory requirements for maintaining status as an organization exempt from taxation as described in Section 501(c)(3) of the Code; or (ii) challenges to State and local exemptions from real property tax and other taxes. It is not possible to predict the scope or effect of future legislative or regulatory actions with respect to taxation of not-for-profit corporations. There can be no assurance that future changes in the laws and regulations will not materially adversely affect the operations and financial condition of the Institute by requiring it to pay income or real property taxes (or other ad valorem taxes).

### **Tax-Exempt Status Change**

Loss of tax-exempt status by the Institute could result in loss of tax exemption of interest on the Series 2016B Bonds and defaults in covenants regarding the Series 2016B Bonds and other related tax-exempt debt would likely be triggered. However, loss of tax-exempt status by the Institute would not cause a mandatory redemption or acceleration on the Series 2016B Bonds nor would it cause a change in the interest rates on the Series 2016B Bonds. The maintenance by the Institute of its Section 501(c)(3) tax-exempt status depends, in part, upon compliance with general rules in the Code and related United States Treasury regulations regarding the organization and operation of

tax-exempt entities, including their operation for charitable and educational purposes and their avoidance of transactions that may cause their assets to inure to the benefit of private individuals.

### **Additional Indebtedness**

The Institute may issue, incur or assume additional indebtedness without limitation, subject to compliance with the conditions contained in the Loan Agreement. See “Security and Sources of Payment for the Series 2016B Bonds - Loan Agreement - Additional Indebtedness” and “APPENDIX C - Glossary and Summary of Certain Documents - Summary of Certain Provisions of the Loan Agreement.” There is no assurance that, despite compliance with the covenants in the Loan Agreement, the ability of the Institute to make necessary payments to repay the Series 2016B Bonds would not be affected by the issuance of additional indebtedness.

### **Certain Matters Relating to Enforceability of the Indenture and Loan Agreement**

The obligation of the Institute to make payments on the Loan Agreement will be limited as the obligations of debtors typically are affected by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar laws or by equitable principles affecting the enforcement of creditors’ rights. If the Institute filed for the reduction of its debts in a proceeding under the federal Bankruptcy Code, the court could approve provisions modifying, eliminating or altering the rights of creditors generally, or any class of them, secured or unsecured. If the Institute should file a plan of reorganization (“Plan”), when confirmed by the court, such Plan binds all creditors who had notice or knowledge of the Plan and discharges all claims against the debtor as provided for in the Plan. No Plan may be confirmed unless certain conditions are met, among which are that the Plan is in the best interests of creditors, is feasible and has been accepted by each class of claims impaired thereunder. Each class of claims has accepted the Plan if at least two-thirds in dollar amount and more than one-half in number of the allowed claims of the class that are voted with respect to the Plan are cast in its favor. Even if the Plan is not so accepted, it may be confirmed if the court finds that the Plan is fair and equitable with respect to each class of non-accepting creditors impaired thereunder and does not discriminate unfairly.

In addition, there exists common law authority and authority under State of New York statutes for the ability of the State of New York courts to terminate the existence of a not-for-profit corporation or undertake supervision of its affairs on various grounds, including a finding that such corporation has insufficient assets to carry out its stated charitable purposes or has taken some action which renders it unable to carry out such purposes. Such court action may arise on the court’s own motion or pursuant to a petition of the State of New York’s Attorney General or such other persons who have interests different from those of the general public, pursuant to the common law and statutory power to enforce charitable trusts and to see to the application of their funds to their intended charitable uses.

### **No Debt Service Reserve Fund**

The Indenture does not provide for a Debt Service Reserve Fund with respect to the Series 2016B Bonds. Consequently, a failure of the Institute to make all scheduled payments under the Loan Agreement for any reason could result in a default in payments to the Bondholders.

### **Interest Rate Swap Risk**

The Institute is party to certain interest rate swap agreements to manage interest rate risk. Swap agreements are subject to periodic “mark-to-market” valuations and may, at any time, have a negative value (which could be substantial) to the Institute. Changes in the market value of such agreements could negatively or positively impact the Institute’s financial condition, and such impact could be material. Further, such swap agreements may be subject to early termination upon the occurrence of certain specified events. If either the Institute or the swap provider terminates such an agreement when the agreement has a negative value to the Institute, the Institute could be obligated to make a termination payment to the swap provider in the amount of such negative value, and such payment could be substantial and potentially materially adverse to the Institute’s financial condition. In the event of an early termination of a swap agreement, there can be no assurance that (i) the Institute would receive any termination payment payable to it by the applicable swap provider, (ii) the Institute would not be obligated to or would have sufficient monies to make a termination payment payable by it to the applicable swap provider, and (iii) the Institute would be able to obtain a replacement swap agreement with comparable terms.

## **Variable Rate Exposure Risk**

The Institute has outstanding variable rate debt as more fully described in Appendix A under “Outstanding Indebtedness”. A rating change of the Institute’s credit enhancers or liquidity providers may adversely affect the interest costs on the Institute’s variable rate debt or may render such variable rate debt unmarketable.

## **Secondary Market for the Series 2016B Bonds**

There can be no assurance that there will be a secondary market for purchase or sale of the Series 2016B Bonds. From time to time there may be no market for the Series 2016B Bonds depending upon prevailing market conditions, including the financial condition or market position of firms who may make the secondary market, the evaluation of the Institute’s capabilities and the financial condition and results of operations of the Institute.

## **CONTINUING DISCLOSURE OBLIGATIONS**

Because the Series 2016B Bonds are limited obligations of the Issuer, payable solely from amounts received from the Institute, financial or operating data concerning the Issuer is not material to an evaluation of the offering of the Series 2016B Bonds or to any decision to purchase, hold or sell the Series 2016B Bonds. Accordingly, the Issuer is not providing any such information. The Institute has undertaken all responsibilities for any continuing disclosure to the Series 2016B Bondholders, as described below, and the Issuer shall have no liability to the Series 2016B Bondholders or any other Person with respect to Rule 15c2-12 (“Rule 15c2-12”) promulgated under the Securities Exchange Act of 1934 by the Securities and Exchange Commission.

The Institute believes it has met its past continuing disclosure obligations in all material respects by annually filing within 120 days after the close of its fiscal year its financial statements and operating information. Certain operating information was not available within the 120 days requirement and was filed as “draft information” within 120 days and subsequently filed as “final”. Other narrative operating information may not have been filed as required. As a result, the Institute may not have timely provided certain information in the past five years that it had agreed to provide in prior continuing disclosure agreements, including certain operating data relating to continuing education, retention and employee relations. The Institute filed this information anywhere from 9 to 37 days later than the date required under the continuing disclosure agreements.

The Institute has since put in place procedures to ensure all 2016B related future filings are completed in accordance with Rule 15c2-12 and is working on revised internal procedures to insure timely compliance with prior continuing disclosure agreements. To further assist the Underwriters in complying with Rule 15c2-12, the Institute will enter into a written agreement (the “Continuing Disclosure Agreement”) for the benefit of the Series 2016B Bondholders with Digital Assurance Certification LLC (“DAC”), as disclosure dissemination agent and the Trustee. The proposed form of the Continuing Disclosure Agreement is attached as Appendix D hereto.

## **TAX MATTERS**

### **Federal Income Taxes**

The Internal Revenue Code of 1986, as amended (the “Code”), imposes certain requirements that must be met subsequent to the issuance and delivery of the Series 2016B Bonds for interest thereon to be and remain excluded from gross income for federal income tax purposes. Noncompliance with such requirements could cause the interest on the Series 2016B Bonds to be included in gross income for federal income tax purposes retroactive to the date of issue of the Series 2016B Bonds. Pursuant to the Indenture, the Loan Agreement and the Tax Regulatory Agreement for the Series 2016B Bonds, the Issuer and the Institute have covenanted to comply with the applicable requirements of the Code in order to maintain the exclusion of the interest on the Series 2016B Bonds from gross income for federal income tax purposes pursuant to Section 103 of the Code. In addition, the Issuer and the Institute have made certain representations and certifications in the Indenture, the Loan Agreement and the Tax Regulatory Agreement. Bond Counsel will also rely on the opinion of counsel to the Institute as to all matters concerning the status of the Institute as an organization described in Section 501(c)(3) of the Code and exempt from federal income tax under Section 501(a) of the Code. Bond Counsel will not independently verify the accuracy of those representations and certifications or that opinion.

In the opinion of Nixon Peabody LLP, Bond Counsel, under existing law and assuming compliance with the aforementioned covenant, and the accuracy of certain representations and certifications made by the Issuer and the Institute described above, interest on the Series 2016B Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Code. Bond Counsel is also of the opinion that such interest is not treated as a preference item in calculating the alternative minimum tax imposed under the Code with respect to individuals and corporations. Interest on the Series 2016B Bonds is, however, included in the adjusted current earnings of certain corporations for purposes of computing the alternative minimum tax imposed on such corporations.

## **State Taxes**

Bond Counsel is of the opinion that interest on the Series 2016B Bonds is exempt from personal income taxes of the State of California (the “State”) under present State law. Bond Counsel expresses no opinion as to other State or local tax consequences arising with respect to the Series 2016B Bonds nor as to the taxability of the Series 2016B Bonds or the income therefrom under the laws of any state other than the State.

## **Original Issue Premium**

Series 2016B Bonds sold at prices in excess of their principal amounts are “Premium Bonds”. An initial purchaser with an initial adjusted basis in a Premium Bond in excess of its principal amount will have amortizable bond premium which is not deductible from gross income for federal income tax purposes. The amount of amortizable bond premium for a taxable year is determined actuarially on a constant interest rate basis over the term of each Premium Bond based on the purchaser’s yield to maturity (or, in the case of Premium Bonds callable prior to their maturity, over the period to the call date, based on the purchaser’s yield to the call date and giving effect to any call premium). For purposes of determining gain or loss on the sale or other disposition of a Premium Bond, an initial purchaser who acquires such obligation with an amortizable bond premium is required to decrease such purchaser’s adjusted basis in such Premium Bond annually by the amount of amortizable bond premium for the taxable year. The amortization of bond premium may be taken into account as a reduction in the amount of tax-exempt income for purposes of determining various other tax consequences of owning such Series 2016B Bonds. Owners of the Premium Bonds are advised that they should consult with their own advisors with respect to the state and local tax consequences of owning such Premium Bonds.

## **Ancillary Tax Matters**

Ownership of the Series 2016B Bonds may result in other federal tax consequences to certain taxpayers, including, without limitation, certain S corporations, foreign corporations with branches in the United States, property and casualty insurance companies, individuals receiving Social Security or Railroad Retirement benefits, and individuals seeking to claim the earned income credit. Ownership of the Series 2016B Bonds may also result in other federal tax consequences to taxpayers who may be deemed to have incurred or continued indebtedness to purchase or to carry the Series 2016B Bonds. Prospective investors are advised to consult their own tax advisors regarding these rules.

Interest paid on tax-exempt obligations such as the Series 2016B Bonds is subject to information reporting to the Internal Revenue Service (the “IRS”) in a manner similar to interest paid on taxable obligations. In addition, interest on the Series 2016B Bonds may be subject to backup withholding if such interest is paid to a registered owner that (a) fails to provide certain identifying information (such as the registered owner’s taxpayer identification number) in the manner required by the IRS, or (b) has been identified by the IRS as being subject to backup withholding.

Bond Counsel is not rendering any opinion as to any federal tax matters other than those described in the opinion attached as Appendix E to this Official Statement. Prospective investors, particularly those who may be subject to special rules described above, are advised to consult their own tax advisors regarding the federal tax consequences of owning and disposing of the Series 2016B Bonds, as well as any tax consequences arising under the laws of any state or other taxing jurisdiction.

## **Changes in Law and Post Issuance Events**

Legislative or administrative actions and court decisions, at either the federal or state level, could have an adverse impact on the potential benefits of the exclusion from gross income of the interest on the Series 2016B Bonds and for federal or state income tax purposes, and thus on the value or marketability of the Series 2016B Bonds. This could result from changes to federal or state income tax rates, changes in the structure of federal or state income taxes (including replacement with another type of tax), repeal of the exclusion of the interest on the Series 2016B Bonds from gross income for federal or state income tax purposes, or otherwise. We note that in each year since 2011, President Obama released legislative proposals that would limit the extent of the exclusion from gross income of interest on obligations of states and political subdivisions under Section 103 of the Code (including the Series 2016B Bonds) for taxpayers whose income exceeds certain thresholds. It is not possible to predict whether any legislative or administrative actions or court decisions having an adverse impact on the federal or state income tax treatment of holders of the Series 2016B Bonds may occur. Prospective purchasers of the Series 2016B Bonds should consult their own tax advisers regarding the impact of any change in law on the Series 2016B Bonds.

Bond Counsel has not undertaken to advise in the future whether any events after the date of issuance and delivery of the Series 2016B Bonds may affect the tax status of interest on the Series 2016B Bonds. Bond Counsel expresses no opinion as to any federal, state or local tax law consequences with respect to the Series 2016B Bonds, or the interest thereon, if any action is taken with respect to the Series 2016B Bonds or the proceeds thereof upon the advice or approval of other counsel.

The form of the approving opinion of Bond Counsel is attached to this Official Statement as APPENDIX E – “FORM OF APPROVING OPINION OF BOND COUNSEL.”

## **FINANCIAL ADVISORS**

Excelsior Capital Advisory Services LLC and Public Financial Management Inc. are serving as co-financial advisors to the Institute (collectively, the “Financial Advisors”) in connection with the issuance of the Series 2016B Bonds. The Financial Advisors are not obligated to undertake an independent verification of, or to assume responsibility for the accuracy, completeness, or fairness of the information contained in this Official Statement and the appendices hereto.

## **INDEPENDENT AUDITORS**

The consolidated financial statements for the Institute as of and for the years ended May 31, 2015 and 2014, set forth in Appendix B of this Official Statement, have been audited by KPMG LLP, independent auditors, as set forth in their report thereon appearing in Appendix B of this Official Statement.

## **RATING**

Moody’s Investors Service, Inc. (“Moody’s”) has assigned a rating of “Baa2” (with a stable outlook) to the Series 2016B Bonds. Such rating reflects only the views of such organization and any desired explanation of the significance of such rating should be obtained from Moody’s at 99 Church Street, New York, New York 10007. There is no assurance that such rating will prevail for any given period of time or that it will not be revised downward or withdrawn entirely by such rating agency if, in the judgment of it, circumstances so warrant. Any such downward revision or withdrawal of such rating may have an adverse effect on the market price of the Series 2016B Bonds.

## **LITIGATION**

### **The Issuer**

To the knowledge of the Issuer, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body, pending against the Issuer seeking to restrain or enjoin the sale or issuance of the Bonds, or in any way contesting or affecting any proceedings of the Issuer taken concerning the sale thereof, the pledge or application of any moneys or security provided for the

payment of the Bonds, the validity or enforceability of the documents executed by the Issuer in connection with the Bonds, the completeness or accuracy of the Official Statement or the existence or powers of the Issuer relating to the sale of the Bonds.

### **The Institute**

There is not now pending nor, to the knowledge of the Institute, threatened any litigation restraining or enjoining the execution or delivery of the Bond Documents to which the Institute is a party or questioning or affecting the validity of such documents or the proceedings or authority under which such documents were authorized or delivered. Neither the creation, organization or existence of the Institute nor the title of any of the present members or other officers of the Institute to their respective offices is being contested. There is no litigation pending or, to its knowledge, threatened which in any manner questions the right of the Institute to enter into the Bond Documents to which the Institute is a party or which would have a material adverse effect on the ability of the Institute to meet its obligations under the Loan Agreement.

### **LEGAL MATTERS**

All legal matters incident to the authorization and validity of the Series 2016B Bonds are subject to the approval of Nixon Peabody LLP, Bond Counsel, whose approving opinion will be delivered with the Series 2016B Bonds and a form of which is attached as Appendix E. Certain legal matters will be passed upon for the Issuer by Orrick, Herrington & Sutcliffe LLP, Portland, Oregon. Certain legal matters will be passed upon for the Institute by Corbally, Gartland & Rappleyea, LLP, Poughkeepsie, New York. Certain legal matters will be passed upon for the Underwriters by Dentons US LLP, New York, New York.

### **UNDERWRITING**

The Underwriters have jointly and severally agreed, subject to certain conditions, to purchase the Series 2016B Bonds from the Issuer at an aggregate purchase price of \$15,150,458.70 (consisting of the principal amount of the Series 2016B Bonds plus original issue premium of \$2,497,105.50 less underwriters' discount of \$71,646.80) and to make a public offering of the Series 2016B Bonds at prices that are not in excess of the public offering prices stated on the inside cover page of this Official Statement. The obligations of the Underwriters are subject to certain conditions precedent, and the Underwriters will be obligated to purchase all such Series 2016B Bonds if any are purchased. The Series 2016B Bonds may be offered and sold to certain dealers (including the Underwriters) at prices lower than such public offering prices or yields higher than such public offering yields, and such public offering prices or yields may be changed from time to time by the Underwriters. The Underwriters have designated J.P. Morgan Securities LLC as their Representative.

J.P. Morgan Securities LLC ("JPMS"), one of the Underwriters of the Series 2016B Bonds, has entered into negotiated dealer agreements (each, a "Dealer Agreement") with each of Charles Schwab & Co., Inc. ("CS&Co.") and LPL Financial LLC ("LPL") for the retail distribution of certain securities offerings at the original issue prices. Pursuant to each Dealer Agreement, each of CS&Co. and LPL may purchase Series 2016B Bonds from JPMS at the original issue price less a negotiated portion of the selling concession applicable to any Series 2016B Bonds that such firm sells.

In addition, certain of the Underwriters may have entered into distribution agreements with other broker-dealers (that have not been designated by the Issuer as Underwriters) for the distribution of the offered bonds at the original issue prices. Such agreements generally provide that the relevant Underwriter will share a portion of its underwriting compensation or selling concession with such broker-dealers.

The Underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include sales and trading, commercial and investment banking, advisory, investment management, investment research, principal investment, hedging, market making, brokerage and other financial and non-financial activities and services. Certain of the Underwriters and their respective affiliates have, from time to time, performed, and may in the future perform, various investment banking services for the Issuer for which they have received or will receive customary fees and expenses.



In the ordinary course of their various business activities, the Underwriters and their respective affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (which may include bank loans and/or credit default swaps) for their own account for the accounts of their customers and may at any time hold long and short positions in such securities and instruments. Such investment and securities activities may involve securities and instruments of the Issuer.

#### **MISCELLANEOUS**

So far as any statements made in this Official Statement involve matters of opinion or estimates, whether or not expressly stated, they are set forth as such and not as representations of fact, and no representation is made that any of such opinions or estimates will be realized. Neither this Official Statement nor any statement which may have been made orally or in writing with regard to the Series 2016B Bonds is to be construed as a contract with the holders of the Series 2016B Bonds.

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The Institute has authorized the execution and distribution of this Official Statement.

**THE CULINARY INSTITUTE OF AMERICA**

By:                     /s/Maria Krupin                      
Vice President - Finance

**CERTAIN INFORMATION CONCERNING THE INSTITUTE**

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## GENERAL INFORMATION

### History

The Culinary Institute of America (the “CIA” or the “Institute”) is the world’s premier culinary college dedicated to driving leadership development for the foodservice and hospitality industry. The independent, not-for-profit CIA offers associate degrees in culinary arts and baking and pastry arts; bachelor’s degree majors in management, culinary science, and applied food studies; and executive education through its Food Business School. Conferences and consulting services have made the CIA the “think tank” of the food service industry in the areas of health and wellness, sustainability, world cuisine and cultures, and professional excellence and innovation. The Institute also offers certificate programs and courses for professional and enthusiasts. Its worldwide network of 49,000 alumni includes leaders in every area of foodservice and hospitality. The CIA has campuses in New York, California, Texas and Singapore.

The CIA has enjoyed a distinctive and successful history characterized by rapid expansion in its 70 years of service. The Institute opened in 1946 as the New Haven Restaurant Institute, a storefront cooking school in downtown New Haven, Connecticut, with an enrollment of 50 students and a faculty consisting of a chef, a baker, and a dietitian. The Institute, at that time a vocational training school primarily for World War II veterans, offered a 16-week program featuring instruction in 78 popular menus of the day. Members of the New Haven Restaurant Association sponsored the original school, whose founders, Frances Roth and Katharine Angell, served as its first director and chair of the board, respectively.

As the foodservice industry grew, so did enrollment, necessitating a move in 1947 to larger quarters—a 40-room mansion adjacent to Yale University. The Institute’s name was changed to the Restaurant Institute of Connecticut and in 1952 it became known as The Culinary Institute of America, reflecting the diversity of the student population. The educational program was expanded to two years, and continuing education courses for industry professionals were introduced. By the time of Mrs. Roth’s retirement in 1965, the Institute had increased its enrollment to 400 students and operated a \$2 million facility.

In 1969, double-class sessions were initiated to accommodate a backlog of applications and an auxiliary campus was leased, but with more than 1,000 students and with facilities strained to the maximum, the CIA’s administrators launched a search for a new home. They found it in St. Andrew-on-Hudson, a former Jesuit seminary in Hyde Park, New York.

The Institute purchased the five-story, 150-room building on 80 acres of land overlooking the Hudson River for \$1 million in 1970. Two years and \$4 million in renovations later, the new campus opened, with its main building renamed Roth Hall. In 1972, the Board of Regents of the State of New York granted the CIA a charter to confer an Associate in Occupational Studies (“AOS”) degree. The new campus offered a trimester program in which students entered three times over the course of the year. In 1976, this was replaced by the Progressive Learning Year (“PLY”) program that enabled smaller groups of 72 students to graduate and enter the industry every three weeks, 16 times a year. A paid externship semester was created, offering students the opportunity to gain on-the-job experience by working in the foodservice industry.

The expanding curriculum and the additional space available in Roth Hall enabled the Institute to establish the Epicurean Room in 1973, a public restaurant that provided a realistic, hands-on setting for students. The restaurant was later renamed the Escoffier Restaurant and was awarded a three-star rating by *The New York Times* and four stars by the *Mobil Travel Guide*. The restaurant has also won *Restaurants & Institutions* magazine’s Ivy Award and was inducted into the *Nation’s Restaurant News* Hall of Fame. In 2012, it was transformed into The Bocus Restaurant.

Today, students on all campuses acquire experience in the CIA’s other on-campus restaurants. The New York campus features The Ristorante Caterina de’ Medici which highlights seasonal Italian selections. A three-star, fine-dining establishment, the American Bounty Restaurant showcases American food, wine, and beer and is the recipient of the Ivy Award. The Apple Pie Bakery Café, features artisan breads, elegant pastries, and café cuisine. Pangea – a “pop-up” restaurant features plant-forward fare that reflects the need to protect our food resources by reducing the amount of meat protein and highlights vegetables, legumes and other grains. The California campus features The Wine Spectator featuring casual cuisine in an open kitchen concept and The Conservatory Restaurant a

farm to table concept. The Texas campus includes Nao – Latin Gastro Bar featuring Latin American cuisine. CIA students prepare and serve meals in the Institute’s on-campus public restaurants for catered functions and for student and employee dining.

As the curriculum—and the CIA’s reputation—expanded, the Institute continued to grow. Three residence halls were built on the Hyde Park campus in 1974 to accommodate 880 students, and a fourth residence hall housing 350 students was completed in 1986. An extensive culinary library was established, as was the Marriott Career Planning/Information Center and the Learning Resources Center.

In 1981, the Institute became the only school authorized to administer the American Culinary Federation (“ACF”) master chef certification exam. The Institute employs the largest concentration of master chefs certified through the eight-day ACF-sponsored exam.

The CIA began to serve the industry’s continuing training needs when it opened the Continuing Education Center in 1984. More than 6,000 foodservice professionals come to the Institute’s Hyde Park and Greystone California campuses annually to update and expand their culinary knowledge by participating in continuing education courses.

The CIA received a \$1 million grant in early 1988 from The General Foods Fund, Inc., and used those funds to construct the General Foods Nutrition Center to encourage education and research in nutritional cooking. In 1990, the Institute opened the School of Baking and Pastry, which in 1992 was dedicated as the Shunsuke Takaki School of Baking and Pastry.

In 1992, the CIA purchased 70 additional acres for its Hudson Valley campus. A year later, approval was granted by the New York Board of Regents for the Institute to offer two Bachelor of Professional Studies (BPS) degrees—one in Culinary Arts Management, the other in Baking and Pastry Arts Management. Also in 1993, the CIA opened the Conrad N. Hilton Library thanks in part to a \$1.5 million gift from the Conrad N. Hilton Foundation.

Responding to a growing need for food and wine professional development on the West Coast, the Institute opened The Culinary Institute of America at Greystone, a branch campus located in the heart of California’s Napa Valley, in 1995. Today, the CIA at Greystone offers AOS degree programs in Culinary Arts or Baking and Pastry Arts, certificate programs in Culinary Arts or Advanced Wines and Beverages, and programs for industry professionals and food enthusiasts.

The CIA continued to pursue ways to give students more opportunities to not only learn, but to enjoy campus life. The Institute opened the Student Recreation Center at its New York campus in July 1998. In January 2000, the Apple Pie Bakery Café commenced operations in Roth Hall in support of the CIA’s baking and pastry arts degree programs. In the spring of 2001, the CIA opened The Colavita Center for Italian Food and Wine, an educational facility devoted to the study of the culinary traditions of Italy. And in November 2002, the Institute opened the doors to the newly named Farquharson Hall (formerly Alumni Hall). The site of student dining, and special events, Farquharson Hall was painstakingly restored to its original splendor as the main chapel of the St. Andrew-on-Hudson Jesuit seminary.

In 2004, the New York campus added four Adirondack-style lodges for student housing, and two more in 2007. In 2005, Anton Plaza was completed and the Institute acquired 20 additional acres of land, bringing the total campus acreage to 170. A new Admissions Center was added in 2006, and townhouses were built on the north end of campus in 2012.

The year 2008 marked the opening of The Culinary Institute of America, San Antonio. The Texas branch campus offers Associate in Applied Science (“AAS”) degree programs in Culinary Arts or Baking and Pastry Arts, a certificate program in Latin cuisines, and programs for industry professionals and food enthusiasts.

In 2010, in partnership with the Singapore Institute of Technology, the CIA opened its Singapore campus. The CIA Singapore offers the Institute’s BPS degree program in Culinary Arts Management to graduates of polytechnic institutions with related diplomas. Classes are taught in the state-of-the arts facility on the campus of Temasek campus.

The Marriott Pavilion on the Hyde Park campus opened in 2014 and hosts commencement ceremonies, conferences, cultural events, and lectures by luminaries of the food industry. It features an 800-seat theater, culinary demonstration kitchen, conference space for 300, and *Gastrotypographicalassemblage*—a 33-foot-wide, eight-foot-tall, three-dimensional mural that hung at CBS headquarters from the 1960s through 1980s. The 1,650 individual letters spelling out culinary expressions and 65 food-related objects that make up this unique artwork are on display to the general public for the first time ever.

A new student dining facility, The Egg, made its debut in 2015 on the Hyde Park campus. The Egg offers a broad range of healthful and cutting-edge food options to students in a spectacular setting overlooking the Hudson River. To accomplish these objectives, the CIA integrated the principles of its Menus of Change initiative into the menu. These principles include increasing use of vegetables and fruits, developing dishes where meat plays more of a supporting role, making more of the grain options whole grain, and creating conscious menus that promote health and sustainability. Dining stations use local, responsible, and sustainable ingredients. Snacks focus on health, wellness, and the diversity of cultures and cuisines. The pricing structure provides a discount for students ordering healthier tasty dishes. There are no high-fructose sweetened beverages and, to help make caring for the environment part of campus culture, some beverages are free for students carrying reusable cups.

The Egg is also home to experiential classrooms. The High-Volume Production Cookery class serves breakfast, lunch, and dinner from a state-of-the-art kitchen called The Line. Management students in the Intrapreneurship concentration conceive and create a new foodservice operation each semester at the Innovation Kitchen. This program serves as an incubator for restaurant concepts. A microbrewery, The Brooklyn Brewery at the CIA, is home to a bachelor's-level Art and Science of Brewing class.

The Egg immediately has become the focal point of student life on campus. In addition to the many dining options, it features seven lounge areas seating 500 indoors and outdoor seating for 150 more, a special events stage and advanced sound system, large multi-media screens for movie and sports nights, and dozens of charging stations. A marketplace offers fresh, local produce and other artisanal ingredients for students to bring home to cook in their residence hall or off-campus housing.

Expanding the CIA's presence in the Napa Valley, the Institute recently acquired the Napa, California property that was once known as Copia: The American Center for Wine, Food and the Arts. The Culinary Institute of America at Copia will reestablish the facility with its original goal of providing excellence in culinary education. The Food Business School will be housed in the Copia location as well. Operations are expected to commence in this facility in September 2016.

In partnership with Salentodamore Societa Consortile A Responsabilita Limitata ("SSCRL"), students from the CIA will have the ability to participate in an immersive academic concentration in Italian cuisines and cultures. The concentration for students pursuing a CIA bachelor's degree in management features a semester abroad at the Costello di Ugento a newly restored 900 year-old castle in Puglia. The program begins in January 2017 and will be offered in both spring and fall semesters.

Today the CIA enrolls approximately 2,900 students in its degree programs and employs nearly 160 chef-instructors and other faculty members. The Institute's 48,000-plus graduates are leaders and pacesetters in the industry.

From the introduction of classes in American regional cuisine to the development of a nutrition program, The Culinary Institute of America has remained at the forefront of the issues and trends in foodservice. In the years ahead, the Institute will continue to carry out its mission of providing the very best education to train tomorrow's culinary leaders and innovators.

### **Greystone Student Housing**

The Institute expects within the next 60 days to enter into a long-term ground lease with a private developer for the acquisition, improvement and management of its Pratt Avenue student housing facility for the Greystone campus. The ground lease is expected to provide for the construction of 164 new beds and the acquisition of the 60 existing beds in a staggered fashion. Upon the acquisition of the existing beds in 2017, the developer is expected to pay the Institute approximately \$4.5 million as an acquisition payment which is expected to be used to prepay the

same amount of the Institute's Series 2008 Bonds. The developer will be solely responsible for the construction, operation and financing of the student housing and there will be no financial recourse to the Institute for either construction or operating costs. In addition to the \$4.5 million payment, the Institute will receive an annual ground lease payment, a license agreement fee pursuant to a license agreement and a management fee pursuant to a management agreement whereby the Institute will manage the student housing facility on behalf of the lessee.

## **Academic Programs**

### *Associate Degree Program*

The CIA's 21-month Associate Degree Program offered on all three domestic campuses includes 1,300 hours of hands-on practical kitchen experience as well as lecture-style classes in hospitality/management subjects. The Institute operates on a Progressive Learning Year that affords 16 entry dates and 16 graduations throughout the year. The program is divided into four 15-week semesters of required courses that all students must complete on campus and one 18-week on-the-job training session with a cooperating foodservice establishment. Students who successfully complete this program earn an Associate in Occupational Studies ("AOS") degree.

### *Baccalaureate Degree Program*

The CIA offers three majors resulting in a bachelor's degree: management, applied food studies, and culinary science. The management program stresses hands-on instruction in culinary arts or baking and pastry arts in the college's unparalleled facilities, and includes business-related courses in marketing, communications, finance, languages, world culture, and supervisory leadership. These programs are designed to prepare students with the culinary, management, and conceptual skills they need to excel in today's foodservice industry. Students may also opt to participate in an overseas travel experience in Italy, Spain, France, Latin America, or China or to pursue an academic concentration. Current concentrations are offered in American Food Studies: Farm-to-Table Cooking; Advanced Wine, Beverage, and Hospitality; Advanced Concepts in Baking and Pastry; "Intrapreneurship;" Asian Studies; and Latin Cuisine Studies. Most concentrations include a semester at one of the CIA's branch campuses.

The major in applied food studies provides an in-depth understanding of global food resources, policy and cultures, and their interconnections. Courses such as Anthropology of Food, Food Ecology, Food History, and Social Science complement the college's foundational hands-on kitchen and bake shop classes. Together they prepare graduates to impact food-related issues from a chef's perspective.

The culinary science degree applies a science-based understanding food and ingredients and how to use science to increase customer satisfaction. Graduates will be prepared to pursue careers in culinary research and development, as creative restaurant chefs, or in food production and delivery at large-scale operations such as the military or healthcare facilities. Courses include Culinary Chemistry, Dynamics of Heat Transfer, Flavor Science and Perception, and Precision Temperature Cooking.

### *Continuing Education Courses*

Offered in all three domestic campuses, continuing education courses provide advanced training opportunities for people already employed in the foodservice industry, the CIA offers a year-round schedule of educational programs in cooking, baking and pastry, and hospitality management at all three U.S. campuses. The curriculum is designed to strengthen the professional's existing skills, introduce new techniques, and foster an understanding of industry trends and their future applications.

### *Food Enthusiast Programs*

A variety of programs for food enthusiasts are offered as well at all three of the Institute's U.S.-based campuses, including weekend courses, Boot Camps, and Taste of the CIA cooking classes.



**Accreditation**

The Institute is accredited by the Middle States Commission on Higher Education, an institutional accrediting agency recognized by the U.S. Secretary of Education and the Council for Higher Education Accreditation. The Institute holds an Absolute Charter issued by the New York State Board of Regents and is approved for veterans training under the G.I. Bill of Rights. The curricula are registered by the New York State Education Department. The Institute is also authorized by the Texas Higher Education Coordinating Board and holds a Certificate of Approval from the Texas Workforce Commission.

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## **Governance**

The governing body of the CIA, as chartered by the New York State Board of Regents, is a Board of Trustees comprised of 25 elected individuals selected by a nominating committee and voted upon by the CIA's Board of Trustees to serve a three-year term. The Trustees, who are not compensated for their services, meet at least three times a year to discuss, direct, and manage the business concerns and affairs of the Institute.

### **Officers**

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Non-Executive Chairman of the  
Board of Directors  
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Executive Chef/CEO/  
Co-founder, Sterling Hospitality

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CEO, Mina Group LLC

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Chef/ Restaurateur  
The Charlie Palmer Group

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Customer Experience  
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##### **Harold (Hal) Rosser**

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Dermatologist

##### **Joseph H. Wender**

Senior Consultant  
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Tony May Group  
**Charles Merinoff II**  
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Breakthru Beverage Group

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President & CEO  
Cameron Mitchell Restaurants

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CEO Partners, Inc.

**Margaret E. Happel Perry**  
Past President  
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*Chairman Emeritus*  
Foodservice Consultant

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The Restaurant Company

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Arno Schmidt Enterprises

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Chairman & CEO  
Sugar Foods Corp.

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Founder and Teacher  
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## Administration

The CIA is administered on a day-to-day basis by the President and the President's Cabinet, which is comprised of the Provost, Vice President for Finance, Vice President for Strategic Initiatives and Industry Leadership, Vice President for Advancement & Business Development, Vice President for Enrollment Management & Marketing, Vice President for Administration & Shared Services, Vice President for Academic Degree Programs, Associate Vice President of Branch Campuses, Associate Vice President and Dean for Student Affairs and Chief of Staff/Chief Information Officer. The President is the Chief Executive Officer of the CIA appointed by the Board of Trustees and is under contract with the Institute. The CIA's Administrative Officers are the President and Vice President for Finance.

**L. Timothy Ryan, - President** - Dr. Ryan has been President of The Culinary Institute of America since 2001. A 1977 graduate of the CIA, Dr. Ryan is the first alumnus and first faculty member to rise through the ranks to become the Institute's fifth president. After working as a chef in the restaurant industry, President Ryan returned to the Institute in 1982. During his 31 years at the CIA, Dr. Ryan has been instrumental in strengthening and enhancing the Institute by launching the world's first Bachelor's Degree Program in Culinary Arts Management and Baking and Pastry Arts Management, developing a highly successful publishing program, fashioning award-winning videos and television shows, expanding the Institute's continuing education programs, developing the American Bounty Restaurant, and strengthening an already gifted faculty roster. At age 26, Dr. Ryan became the youngest person ever to earn Certified Master Chef (CMC) status from the American Culinary Federation (ACF) and also holds the distinction of being the youngest national president of the ACF, elected at age 36. He has served as ACF vice president and chairman, and is a former chairman of the editorial council for the ACF's publication, The National Culinary Review. Dr. Ryan was named ACF's Chef of the Year in 1998 and is one of five Americans ever to receive the Presidential Medal from the World Association of Cooks Societies that same year. Dr. Ryan has won numerous Gold Medals in international competitions throughout his career, including four Gold Medals and the World Championship at the 1984 and 1988 Culinary Olympics in Germany. He has produced a host of successful culinary books, all of which are James Beard Award nominees, including The New Professional Chef, Techniques of Healthy Cooking, and An American Bounty. A native of Pittsburgh, Dr. Ryan earned his EdD from The University of Pennsylvania, and his MBA and BS from the University of New Haven.

**Mark Erickson, - Provost** - An honors graduate of the CIA class of 1977, Chef Erickson was employed by the Institute in 1984 as a faculty member, was promoted to Education Department head in 1987, and promoted to director of culinary education in Hyde Park in 1988. He left the CIA in 1990, but returned in 1999 as managing director of Greystone, the CIA's California campus, and was eventually named provost in 2011. Prior to joining the CIA, Mr. Erickson served as chef garde manager of the Palace Hotel in Gstaad, Switzerland, executive sous chef of the Greenbrier Hotel in West Virginia, and executive chef of the Cherokee Town & Country Club in Atlanta, GA. Mr. Erickson earned his B.S. in Restaurant & Hotel Management at the University of New Haven. Chef Erickson was a member of the gold medal-winning United States Culinary Olympic Teams in 1980, 1984, and 1988, and part of the U.S. team that won the 1985 Culinary World Cup. He earned "Crystal Chef" honors by having the highest score in the ten-day Certified Master Chef examination administered by the American Culinary Federation in 1985. Mr. Erickson holds a Bachelor of Science degree in Restaurant & Hotel Management from the University of New Haven and an MBA from Marist College.

**Maria Krupin, - Vice President for Finance** - As the CIA's vice president of finance, Ms. Krupin is responsible for providing vision and leadership for all financial matters and acts as its chief financial officer. She has already begun to develop and implement strategies for managing finances at all four campuses and oversees all higher educational compliance-related financial matters. Ms. Krupin joined the Institute in 2015 after 23 years with Ramapo College ("Ramapo") in Mahwah, New Jersey, the last 17 months as vice president for administration and finance. In addition to serving as vice president at Ramapo, Ms. Krupin was also the associate vice president of budget and fiscal planning, acting controller, executive director of budget and fiscal planning, and both director and associate director of budget and fiscal affairs. During her tenure at the college, she also served as an adjunct instructor for four years. Earlier in her career, she was a senior accountant at Fairleigh Dickinson University in Teaneck, New Jersey and an accountant with a certified public accounting firm in New Rochelle, New York. Ms. Krupin holds a Master of Science in management, with a concentration in finance, from the New Jersey Institute of Technology, and a Bachelor of Business Administration in accounting from Pace University. Among her many financial and higher education affiliations, she serves as a peer evaluator for the Middle States Commission on

Higher Education, and has given presentations to academic peers on the topic of “allocating resources to achieve mission during uncertain times.” She is a member of NACUBO, serves on the planning committee of the New York City region of EACUBO and is a board member of NYCURMG.

**Greg Drescher - Vice President for Strategic Initiatives and Industry Leadership** – Mr. Drescher is responsible for the CIA’s thought leadership, strategic partnerships and initiatives, industry conferences, and new media. Mr. Drescher assumed his current title in 2011 after serving as executive director of strategic initiatives for the Institute. In this role, he created the Institute’s influential Worlds of Flavor® International Conference & Festival series, Worlds of Healthy Flavors Leadership Retreat in partnership with the Harvard School of Public Health, and other CIA “think tank” initiatives. Mr. Drescher joined the CIA in 1995, and served nearly 10 years as the first director of education for the Institute’s campus in St. Helena, California, where he oversaw the development of the CIA at Greystone’s program of continuing and advanced studies. Previously, Mr. Drescher was co-founder and program chairman of the Boston-based Oldways Preservation & Exchange Trust. In this capacity, he designed programs in the United States and throughout the Mediterranean region, and jointly spearheaded a collaboration of some of the world’s leading health experts and organizations, including the Harvard School of Public Health and the World Health Organization. In the 1980s, he served as national program director and later as associate director of the American Institute of Wine & Food, an organization co-founded by Julia Child and Robert Mondavi.

**Victor A. L. Gielisse - Vice President for Advancement and Business Development**– Dr. Gielisse’s responsibilities include all of the Institute’s alumni relations and fund-raising initiatives as well as stewarding the CIA’s relationship within the foodservice industry, including business development, consulting, custom training programs, industry outreach, licensing programming, and donor support opportunities. Chef Gielisse is one of 66 Certified Master Chefs (“CMC”) in the United States, earning the Crystal Chef Award for the highest score in the CMC examination. He holds a Bachelor of Science Degree, a Master of Business Administration (MBA), and a Doctorate in Business Administration (“DBA”) from The School of Administration and Management of California Coast University. He is also a Certified Hospitality Educator (“CHE”) with a graduate diploma from the Educational Institute of the American Hotel & Lodging Association. Prior to joining the CIA administration in 1998, he was the chef/owner of the Ivy Award-winning restaurant Actuelle in Dallas, Texas and president of the consulting firm CFT/Culinary Fast-Trac and Associates Inc. Chef Gielisse served as the Chairman of the American Culinary Federation (“ACF”) Culinary Competition Committee. He is a coach and advisor to ACF Culinary Team USA; and was a judge of the 2004 and 2008 IKA Culinary Olympics in Erfurt, Germany. He is the author of *Cuisine Actuelle* and *In Good Taste, a Contemporary Approach to Cooking*, as well as the co-author of the CIA cookbook *Modern Batch Cookery* (John Wiley & Sons, 2011). Chef Gielisse was manager of the CIA’s Culinary Team 2000 that won three gold medals and a silver award at Hotelympia 2000 in England, and five silver medals at the IKA Culinary Olympics. He was a member of the 1984 U.S. Culinary Olympic Team and the 1986 U.S. National Team that won the first Culinary World Cup. In 1999, Chef Gielisse was named one of “The 50 New Taste Makers” in the United States’ hospitality industry by *Nation’s Restaurant News* and named “Best Seafood Chef in America” by *Restaurant and Business Magazine*.

**Jackie Nealon- Vice President for Enrollment Management and Marketing** - Dr. Nealon is responsible for all student recruitment and retention efforts for the CIA’s associate, bachelor’s, and graduate-level education programs at the not-for-profit college’s four campuses worldwide. Dr. Nealon joined the CIA in 2016 from Long Island University where she was chief of staff and vice president of enrollment, campus life, and communications. Her strong and varied background in higher education also includes serving as vice president of enrollment, communications, and marketing at the New York Institute of Technology; director of recruitment and acting director of enrollment services at Seton Hall University; and dean of graduate and part-time admissions at Hofstra University. At NYIT, she also served as an adjunct associate professor of communications. Dr. Nealon earned her doctorate in higher education management from the University of Pennsylvania in Philadelphia, Master of Arts degree in strategic leadership and communication from Seton Hall University, and Bachelor of Arts in English from Adelphi University. Dr. Nealon is a member of the National Association of College Admissions Counselors, National Association of College and University Business Officers, National Association of Student Financial Aid Administrators, New York State Association of College Admissions Counselors, and the American Association of College Registrars and Admissions Officers. She is immediate past president of the Nassau Counselors’ Association and was that organization’s College Counselor of the Year for 2010.

**Richard Mignault - Vice President for Administration and Shared Services** – Mr. Mignault is directly responsible for oversight of human resources, legal affairs, hospitality services and residential housing. Prior to joining the CIA administration in 2010, Mr. Mignault was senior vice president for human resources and administration for Hilton Hotels Corporation and was responsible for managing both corporate and field human resource functions for 140,000 employees in more than 80 countries. Mr. Mignault served in a variety of managerial and senior leadership positions in his more than 20 years with Hilton, both in the United States and abroad. In addition to his work for Hilton Hotels, Mr. Mignault was a principal consultant with Penta Management Group, a Miami-based firm focused on strategic planning and organizational process improvement. In this role, he managed numerous and diverse projects including creating the human resource function for the opening of Carnival Hotels and Casino's largest land based casino. He also served as vice president of human resources and information technology for Windsor Casino Limited, Canada's largest and most profitable gaming enterprise; and as vice president of human resources and administration for S.A.S. International Hotels in Brussels, Belgium. A native of Montreal, Mr. Mignault holds a Bachelor of Arts degree from the University of Western Ontario.

**Dr. Michael Sperling - Vice President for Academic Affairs** – Dr. Sperling is responsible for providing leadership in academic administration and faculty management, principally concerning strategy, implementation, and assessment of a coherent and dynamic curriculum. Dr. Sperling joined the Institute's administration in 2012 after serving five years as Provost and Vice President for Academic Affairs at Mercy College in Dobbs Ferry, New York. During his academic career, he was also Provost and Dean of Faculty at Manhattanville College; Vice Provost for Global Learning, Assistant Provost for Educational Technology, Interim Dean and Psychology Department Chair at Fairleigh Dickinson University; and an American Council on Education Fellow at Baruch College. His collegiate faculty experience includes serving as a Professor in psychology at Mercy, Manhattanville, and Fairleigh Dickinson, and as a visiting fellow of psychology in psychiatry at Cornell University Medical College. Dr. Sperling earned both his Doctor of Philosophy (PhD) and Master of Science degrees in clinical psychology from the University of Massachusetts at Amherst and his Bachelor of Arts in psychology from the University of Pennsylvania. He is a member of the American Council on Education's Council of Fellows, the American Psychological Association, and is Vice Chair of the Board of One to World, a non-profit organization providing enrichment programming to Fulbright Scholars and international students in the New York metropolitan region.

**Sue Cussen - Associate Vice President of Branch Campuses** - Ms. Cussen is responsible for oversight of the day-to-day operations of the college's campuses in St. Helena, California; San Antonio, Texas; and Singapore. Prior to her current position, Ms. Cussen was Senior Director of Continuing Education and Publishing and Director of Marketing for the Continuing Education Department at the CIA. Sue Cussen came to the college in 2000 with extensive experience in the marketing arena. She was Director of Marketing, Sales and Communication at Container Machinery Corporation in Kinderhook, New York; Project Manager at Elrick and Lavidge in Clifton Park, NY; Regional Sales Representative at Pitney Bowes, Albany, New York; and Marketing Manager at Certified Reports in Kinderhook. Ms. Cussen holds a Bachelor of Science degree in business economics from the State University of New York at Oneonta and an MBA with a marketing concentration from the State University of New York at Albany.

**Kathy Merget - Associate Vice President and Dean for Student Affairs** – Dr. Merget is directly responsible for all student affairs at the college, including residence life, health services, counseling, student activities, and the recreation center. Prior to assuming her current role in 2015, Dr. Merget was dean of liberal arts and business management for 15 years. She joined the CIA in 1994 as one of 12 new faculty members designing the curriculum for the college's then-new bachelor's degree in management and teaching Interpersonal Communication and Psychology of Human Behavior in the program. Dr. Merget also has taught freshman- and sophomore-level Nutrition and Introduction to Management courses at the CIA. She previously taught at Marist College as an adjunct graduate instructor. Dr. Merget earned her PhD and master's degrees in Applied Developmental Psychology from Fordham University. She also holds a master's degree in Counseling/Community Psychology from Marist College and a Bachelor of Science from the State University of New York at Cortland. In 2011, Dr. Merget returned to school, enrolling in Duke University's Integrative Medicine program to become a Certified Integrative Health Coach focusing on the health and well-being of those who pursue a career in the culinary profession. She has been instrumental in introducing students, faculty, and staff at the CIA to the concept and practice of mindfulness. Additional areas of research within the food industry include emotional intelligence and non-cognitive skill sets. Dr. Merget is a strong advocate for veterans who are returning to school. Dr. Merget is co-author of *Anorexia, Bulimia, and Compulsive Overeating* (1990). Dr. Merget has 15 years' experience in private practice as a therapist in the

Hudson Valley. Dr. Merget is the associate state coordinator for the American Council on Education Women's Network. She has served as regional coordinator and institutional representative for the Mid-Hudson Association of Women in Higher Education and is a founding member of the CIA's Women in Leadership group. Dr. Merget is also a member of the executive board for The Culinary Institute of America/Cornell School of Hotel Administration Alliance.

**Rick Tietjen – Chief of Staff and Chief Information Officer** - Mr. Tietjen is the chief of staff and chief information officer. As chief of staff, Mr. Tietjen is responsible for the President's Office administration, compliance, policy, business intelligence, and the planning and execution of major college initiatives. Under the chief information officer role, he oversees the college's Information Technology Systems department, which includes enterprise systems, infrastructure services, user support, network services, telecommunications, and audio/video. Prior to his current appointment in 2015, Mr. Tietjen was the Institute's associate vice president of planning and operations support for five years. After joining the CIA in 1990, he advanced through successive responsibilities in the Information Technology department, achieving the senior position of director of systems and networking, followed by an appointment to the college's administration as senior director of planning and operational improvement. He also taught Computers and Food Business as an adjunct instructor from 2005 to 2007, and was awarded CIA Staff Member of the Year in 2002. As background for his work at the college, Mr. Tietjen gained foodservice industry experience in dining operations at the Beekman Arms in Rhinebeck, NY from 1987 to 1992. Mr. Tietjen earned his MBA from Capella University in 2003 and his Bachelor of Science degree in computer science from Marist College in 1991. He also holds Oracle DBA and Novell CNE technical certifications along with completing other technical and non-technical certificates. Mr. Tietjen is a member of the National Association of College and University Business Officers and EDUCAUSE, a non-profit association that is focused on higher education information technology. Mr. Tietjen also serves on the non-profit boards of Abilities First Incorporated in Poughkeepsie, New York and Hudson Valley Pattern from Progress in Newburgh, New York.

## OPERATING INFORMATION

### Faculty

The Institute's 154 chefs and instructors share their culinary expertise in classes which average an 18:1 student instructor ratio. Each Culinary and Baking and Pastry Chef instructor must have at least seven years of experience in the foodservice industry and most have more than a decade of service in some of the world's finest restaurants, hotels and industry corporations. The following table sets forth the faculty profile for the past five academic years.

#### FACULTY PROFILE

	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>
Full-Time	148	155	151	153	154
Part-Time	3	3	3	2	2
Total	151	158	154	155	156
Full-Time Equiv. Faculty	150	157	153	154	155

### Employee Relations

The faculty on the Hyde Park campus is represented in collective bargaining by the Culinary Teachers Association. The Institute's current contract with the Culinary Teachers Association expires on May 31, 2020. The Hyde Park maintenance and grounds staff are represented in collective bargaining by SEIU Local 200. The Institute's current contract with the Culinary Craft Association expires on May 31, 2018.

### Admissions

Identified in the table below are the number of applications received for admission to the Institute for each academic year of study over the past five academic years. Applications over the five most recent academic years have increased by approximately 24% while acceptances have increased by more than 28% over the same time



period. Also included are the number of applications accepted and the number of students enrolled for each academic year.

### **ADMISSIONS STATISTICS**

#### **Applications, Acceptances and Matriculants**

	<b><u>2010-11</u></b>	<b><u>2011-12</u></b>	<b><u>2012-13</u></b>	<b><u>2013-14</u></b>	<b><u>2014-15</u></b>
Undergraduate					
Applications	3,861	4,439	4,888	4,456	4,788
Acceptances	2,415	2,590	2,951	2,931	3,103
Accept. Ratio	63%	58%	60%	66%	65%
Matriculants	1,577	1,563	1,536	1,509	1,474
Matriculation Ratio	65%	60%	52%	52%	48%

#### **Student Enrollment**

All matriculated students attend the Institute on a full-time basis. The following table presents the fall enrollment for the last five academic years.

### **ENROLLMENT SUMMARY**

#### **Fall Enrollment**

<b><u>Fall</u></b>	<b><u>Number of Students</u></b>
2011	2,880
2012	2,912
2013	2,896
2014	2,855
2015	2,940

The Institute attracts students from all over the United States as well as from abroad. More than 81% of the Institute's degree program enrollment at the Hyde Park campus is drawn from outside the State of New York. The table below presents the geographic profile of the Institute's Hyde Park enrollment for the fall of 2015.

<b><u>Origin</u></b>	<b><u>2015 Fall Enrollment</u></b>	<b><u>Percentage</u></b>
New York	547	18.6%
New Jersey	267	9.1
Texas	241	8.2
California	166	5.6
Pennsylvania	149	5.1
Florida	126	4.3
Connecticut	96	3.3
Virginia	90	3.1
Maryland	87	3.0
Massachusetts	76	2.6
All Other U.S.	665	22.6
Foreign	<u>430</u>	<u>14.6</u>
Total	2,940	100.0%

## Competition

The CIA considers its major competitors to include Johnson & Wales University and The Arts Institutes (Education Management Corporation).

## Continuing Education

The Institute conducts Continuing Education Programs at both the Hyde Park, New York campus as well as the Greystone campus in St. Helena, California. Continuing Education encompasses a multitude of educational programs, including courses for professional culinarians which are designed to upgrade the skills of professionals in the hospitality industry, certificate programs, seminars and conferences, wine programs, distance learning, exclusive master chef testing, and adult education for food enthusiasts. Non-credit tuition revenue generated from Continuing Education and Culinary Leadership Conferences totaled \$10.9 million in fiscal year 2014-15.

## Graduation

### DEGREES CONFERRED BY THE CIA

	<u>2010/2011</u>	<u>2011/2012</u>	<u>2012/2013</u>	<u>2013/2014</u>	<u>2014/2015</u>
AOS Degrees	1,058	1,163	1,213	1,152	1,101
BPS Degrees	<u>318</u>	<u>346</u>	<u>344</u>	<u>353</u>	<u>321</u>
Total	1,376	1,509	1,557	1,505	1,422

## Retention

The Institute has strong retention and graduation rates. The graduation rate for students entering the Culinary Arts program is 72% and for those entering the Baking & Pastry program is 77% percent. The graduation rate for juniors who enter the bachelor's degree program is 78%.

## Tuition and Fees

For the 2016-17 fiscal year, annual full-time tuition at the Institute, for students in Associate's Degree Program was \$28,630, miscellaneous fees totaled \$2,050 and full room and board charges amounted to \$10,010. Miscellaneous fees cover the cost of uniforms, textbooks, materials and supplies. Net credit program tuition and fees and housing revenues account for approximately 69% of the Institute's unrestricted operating revenues. Tuition, room and board charges and miscellaneous student fees for the last five fiscal years are listed below:

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### **STUDENT CHARGES FOR DEGREE PROGRAMS**

	<b><u>2011-12</u></b>	<b><u>2012-13</u></b>	<b><u>2013-2014</u></b>	<b><u>2014-2015</u></b>	<b><u>2015-16</u></b>	<b><u>2016-17</u></b>
Tuition	\$24,990	\$25,900	\$26,460	\$26,950	\$27,930	\$28,630
Miscellaneous Fees	2,155	2,225	2,285	2,348	2,405	2,050
Room and Board	<u>8,820</u>	<u>8,870</u>	<u>9,120</u>	<u>9,312</u>	<u>9,540</u>	<u>10,010</u>
Total	\$35,965	\$36,995	\$37,865	\$38,610	\$39,875	\$40,690

In addition to the AOS programs at the Hyde Park and Greystone campuses and the AAS program at the San Antonio campus, there are numerous other credit programs at the Institute. At the Hyde Park campus, there is a bachelor's degree program (for juniors and seniors). The certificate programs available at the Greystone campus include a 30-week Advanced Culinary Arts Certificate Program and a 30-week Wine & Beverage Graduate Certificate Program. The Institute's gross credit program tuition and fees from all campuses was \$110.5 million in Fiscal Year 2014-15.

### **Student Financial Aid**

The Institute administers a student aid program through which approximately 90% of the student body receives financial assistance in the form of grants, loans or campus employment. In fiscal year 2014-15, the Institute provided \$22.5 million in Institutional grant aid to students. In addition, Federal grants to students from the Pell Program, the Supplemental Educational Opportunity Grants Program and from the Veterans Benefits Program amounted to \$9.8 million. New York residents enrolled at the Institute received \$700,000 in grants from the State's Tuition Assistance Plan in 2014-15. A summary of the funds provided for scholarships for the past five fiscal years is as follows:

### **SOURCES OF SCHOLARSHIP AND GRANT AID**

(in thousands)

<b><u>Fiscal Year</u></b>	<b><u>Institute Grants</u></b>	<b><u>State Grants</u></b>	<b><u>Federal Grants</u></b>	<b><u>Outside Awards</u></b>	<b><u>Total</u></b>
2010-11	16,614	837	8,076	2,787	28,314
2011-12	15,357	903	8,942	2,791	27,993
2012-13	17,399	719	9,884	3,621	31,623
2013-14	18,490	847	9,395	3,753	32,485
2014-15	22,450	1,006	9,823	4,595	37,874

In addition to grant aid, students financed their educational costs with jobs and loans. Students earned approximately \$1.9 million from Institute-sponsored employment opportunities and borrowed approximately \$.55 million through the Perkins Student Loan Program. In 2014-15 students borrowed an aggregate of \$16 million under the Stafford Student Loan program and \$23.4 million in various parent and alternative loan programs.

### **ANNUAL FINANCIAL STATEMENT INFORMATION**

The consolidated financial statements of the Institute as of and for the years ended May 31, 2015 and 2014 included in Appendix B to this Official Statement, have been audited by KPMG LLP, independent auditors, as stated in their report.

### **Management Report of Operating Results**

Since fiscal year 2011, the Institute has averaged a yearly net increase in unrestricted net assets of approximately \$14 million. For more than 30 consecutive years, the Institute has operated with an unrestricted surplus, averaging \$8 million over the five fiscal years ended May 31, 2015. Historically, net tuition has represented the largest component of operating revenues. The following chart and summaries are derived from the Institute's consolidated audited financial statements for the five fiscal years ended May 31, 2011 through May 31, 2015. Please see appendix B for the Institute's most recent audited financial statements and supporting footnotes.

**Unrestricted Activities**  
**Five Fiscal Years Ended May 31**  
**(in thousands)**

	2011	2012	2013	2014	2015
Operating revenues and gains:					
Tuition and fees	\$ 108,560	116,212	119,285	120,446	121,361
Less scholarships and awards	(19,083)	(17,265)	(19,635)	(21,453)	(25,458)
Net tuition and fees	89,477	98,947	99,650	98,993	95,903
Contributions for operations	3,302	4,377	3,561	4,087	4,468
Government grants and contracts	989	850	700	764	1,828
Investment return designated for operations	2,564	2,665	3,348	3,797	4,143
Sales and services of educational activities	10,340	10,561	10,762	10,085	8,693
Sales of auxiliary enterprises	16,924	17,863	17,927	18,040	18,180
Other sources	4,672	4,537	5,723	5,034	5,003
Net assets released from restrictions	1,657	2,744	3,608	4,042	7,078
Total operating revenues and gains	129,925	142,545	145,279	144,841	145,297
Operating expenses:					
Instruction	52,560	55,681	58,417	57,434	56,170
Academic support	17,467	17,975	18,127	18,576	19,228
Student services	12,396	12,472	13,255	13,763	13,641
Institutional support	28,530	31,056	31,806	31,777	33,413
Auxiliary enterprises	14,217	14,153	14,392	14,722	15,868
Total operating expenses	125,169	131,338	135,996	136,272	138,319
Increase in net assets from operations	4,755	11,207	9,282	8,569	6,977
Nonoperating:					
Contributions for plant and endowment	778	634	846	302	1,138
Net assets released for plant	4,363	2,453	7,440	310	257
Investment return above amounts designated for current operations	5,429	(5,643)	6,036	9,003	(254)
Depreciation in fair value of derivative instrument	(486)	(6,811)	3,870	1,205	(1,360)
Change in value of gift annuity agreement	—	568	—	—	—
Cost of debt extinguishment	(176)	—	(316)	—	—
Net asset reclassification of endowment funds	(259)	—	—	—	—
Increase in net assets from nonoperating activities	9,648	(8,799)	17,876	10,820	(219)
Increase in net assets	14,404	2,408	27,158	19,389	6,758
Net assets at the beginning of the year	128,503	142,907	145,315	172,473	191,863
Net assets at the end of the year	\$ 142,907	145,315	172,473	191,863	198,621

**Net Assets**

Unrestricted net assets of approximately \$198.6 million as of May 31, 2015 consisted primarily of investments, cash, other unrestricted assets and net plant equity. Net plant equity at May 31, 2015 was \$113.0 million. Temporarily restricted net assets are generally available for program purposes such as term endowment, financial aid, facilities and equipment and deferred giving arrangements. Permanently restricted net assets are restricted by the donor, the investment return from which is used to support program activities such as financial aid, instruction and facility maintenance.

For comparative purposes, the table below presents a summary of the changes in the Institute's net assets for each of the three categories of assets over the past five years based on information derived from the Institute's consolidated audited financial statements for the fiscal years ended May 31, 2011 through May 31, 2015.

**Change in Net Assets**  
**Five Fiscal Years Ended May 31**  
**(in thousands)**

	2011	2012	2013	2014	2015
Unrestricted net assets:					
Operating revenues and gains	\$ 129,925	142,545	145,279	144,842	145,297
Operating expenses	125,169	131,338	135,996	136,273	138,319
Increase in net assets from operations	4,755	11,207	9,282	8,569	6,977
Increase (decrease) from non-operations	9,648	(8,799)	17,876	10,820	(219)
Net change in unrestricted net assets	14,404	2,408	27,158	19,389	6,758
Temporarily restricted net assets:					
Contributions	12,411	13,307	4,240	2,644	6,108
Investments return	3,362	445	7,272	3,410	2,188
Net assets released for plant	(4,363)	(2,453)	(7,440)	(310)	(257)
Net assets released from restrictions	(1,657)	(2,744)	(3,608)	(4,042)	(7,078)
Net asset reclassification of endowment funds	259	—	—	—	—
Net change in temporarily restricted net assets	10,012	8,555	464	1,701	961
Permanently restricted net assets:					
Contributions	6	119	1,029	121	301
Investments return	1	—	3	0	—
Net change in temporarily restricted net assets	7	119	1,032	121	301
Increase in net assets	24,423	11,082	28,654	21,212	8,020
Net assets at the beginning of the year	164,129	188,552	199,634	228,288	249,500
Net assets at the end of the year	188,552	199,634	228,288	249,500	257,520
Net Assets:					
Unrestricted	142,907	145,315	172,473	191,863	198,621
Temporarily restricted	22,614	31,169	31,632	33,334	34,294
Permanently restricted	23,032	23,151	24,183	24,304	24,605
Total	\$ 188,552	199,634	228,288	249,500	257,520

### Fund Raising

During fiscal year 2015, the Institute recorded \$12 million in net contributions. Of this amount, \$10.4 million represented operating gifts and \$1.6 million represented contributions for plant and endowment. Cash and other gift revenue totaling \$6 million were received during the year and \$6 million in net pledge gifts were received. The Institute's pledge receivable as of May 31, 2015 was \$7.9 million, which is presented at net present value.

The Institute is entering its final year of its "Building on Excellence Campaign". The campaign which started on June 1, 2009 will end on May 31, 2017. The campaign seeks to raise \$100 million to transform the

campus and support student and faculty members. At the heart of the campaign is a need to create bold new facilities and renovate existing buildings. At May 31, 2016 the Institute raised over \$96 million or 95% of goal.

The chart which follows shows a six-year history of net gifts received.

<b><u>Fiscal Year</u></b>	<b><u>Net Gifts Received</u></b>
2011	\$16,496,729
2012	18,437,396
2013	9,675,050
2014	7,154,191
2015	12,014,307
2016	<u>23,314,864</u>
Total	<u>\$87,092,537</u>

## **Investments**

Total investments include long-term and short-term investments and deposits with trustees. The following table provides the market value of the CIA's total investments for the past four fiscal years ended May 31:

	<b><u>Total Investments</u></b>				
	<b><u>2011</u></b>	<b><u>2012</u></b>	<b><u>2013</u></b>	<b><u>2014</u></b>	<b><u>2015</u></b>
Time deposits & short term funds	\$ 10,259,447	\$ 182,111	\$ 68,631	\$ 68,316	\$ 136,707
Comingled equity and debt funds	1,256,585	1,213,393	8,106,866	1,575,195	1,577,815
Real Estate	1,100,000	1,100,000	1,100,000	1,100,000	1,100,000
Private Equity	2,126,519	2,760,180	3,222,059	3,447,987	3,182,174
Multi-strategy	81,845,329	102,252,558	119,839,356	139,283,532	139,310,631
Real assets	<u>4,071,511</u>	<u>3,880,583</u>	<u>3,948,573</u>	<u>4,024,246</u>	<u>3,221,667</u>
Total investments	<u>\$100,659,391</u>	<u>\$111,388,825</u>	<u>\$136,285,485</u>	<u>\$149,499,276</u>	<u>\$148,528,994</u>

At May 31, 2015, total investments had a market value of \$148.5 million, of which the Institute estimates approximately \$141.0 million of investments could be liquidated within 90 days. At May 31, 2015, the Institute's Multi-Strategy investments were comprised of 52% global equities, 11% fixed income, 18% absolute return, 14% real assets and five percent private equity. The Institute's total investments managed by Perella Weinberg Partners (PWP), the Institute's outsourced chief investment officer, had a market value of \$139.3 million at May 31, 2015. During FY2016 the Institute liquidated \$15 million in investments in order to expand its presence in California with the purchase of "Copia" in the City of Napa. The total unaudited investment value at May 31, 2016 was \$123,991,166.

The Institute has adopted a total return spending policy on its endowment and similar funds. Under this policy, the Institute accounts for a spending rate of five percent based on the endowment fund's average fair value of the prior 12 quarters. The spending rate is accounted for as investment return designated for operations in operating revenues. Excess earnings, or investment return shortfalls, are accounted for in non-operating activities.

Historically the Institute's operations have generated sufficient cash flow such that the Institute has not drawn down funding from long term investments. In fiscal years 2015 and 2014, the Institute generated \$8.6 million and \$11.6 million, in positive cash flows from operations, respectively. The goal established by the Institute's Board of Trustees is to grow the Institute's long term investment value through investment earnings and appreciation, new gifts and operating surpluses.

The Institute's endowment is overseen by the Investment Committee of the Board of Trustees, and supported by PWP as investment consultant. The Investment Committee has the responsibility for maintaining the investment policy including the spending policy, asset allocation and rebalancing of the portfolio, and the selection

and/or retention of the investment manager(s). The Investment Committee meets on a quarterly basis with PWP to review performance, asset allocation and any other issues.

The following table details the market value of the Institute's endowment investments for the past five fiscal years ended May 31:

<b>Endowment Investments</b>					
	<b><u>2011</u></b>	<b><u>2012</u></b>	<b><u>2013</u></b>	<b><u>2014</u></b>	<b><u>2015</u></b>
Endowment and similar purposes	\$93,093,301	\$100,155,107	\$115,130,491	\$127,511,912	\$131,235,637

### **Pension Plans**

All employees of the Institute are eligible to participate in the Defined Contribution Plan sponsored by the Teacher's Insurance and Annuity Association. Under this defined contribution plan, the Institute makes annual contributions to the plans, which are immediately vested, for the benefit of the participants. There are no unfunded past service costs under this plan.

### **Land, Building and Equipment**

The book value of the physical plant of the Institute has increased by more than 25% over the five fiscal years ended May 31, 2015. The following tabulation shows the book value of land, buildings and equipment and furnishings at May 31 of each of the last five fiscal years.

<b><u>Fiscal Year</u></b>	<b><u>Land</u></b>	<b><u>Buildings &amp; Improvements</u></b>	<b><u>Furniture &amp; Equipment</u></b>	<b><u>Construction In Progress</u></b>	<b><u>Accumulated Depreciation</u></b>	<b><u>Total</u></b>
<b>2011</b>	\$7,373,865	\$222,676,116	\$56,792,505	\$2,471,152	\$(99,697,886)	\$189,615,752
<b>2012</b>	7,373,865	226,051,963	59,815,282	3,536,987	(107,506,852)	189,271,245
<b>2013</b>	7,373,865	231,646,612	63,697,190	11,637,224	(115,393,042)	198,961,849
<b>2014</b>	7,661,136	257,925,817	67,063,440	10,997,650	(123,350,552)	220,277,491
<b>2015</b>	7,661,136	261,005,328	70,874,825	30,185,064	(131,877,102)	237,849,251

The Institute presently carries, under blanket policies, insurance on its buildings and their contents, excluding building foundations and land, at 100% of the replacement cost.

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## Outstanding Indebtedness

Long-term indebtedness of the Institute at May 31, 2015 is summarized as follows:

<u>Issue</u>	<u>Rate(s)</u>	<u>Maturity</u>	<u>Outstanding</u>
Dormitory Authority of the State of New York Insured Revenue Bonds, Series 2004A	2.000% - 4.000%	2027	\$ 6,400,000
Dormitory Authority of the State of New York Insured Revenue Bonds, Series 2004B	2.500% - 4.000%	2016	1,895,000
Dormitory Authority of the State of New York Insured Revenue Bonds, Series 2004C	Variable	2033	23,725,000
Dormitory Authority of the State of New York Insured Revenue Bonds, Series 2004D	Variable	2034	15,050,000
Dormitory Authority of the State of New York Insured Revenue Bonds, Series 2006	Variable	2036	12,725,000
California Statewide Communities Development Authority Revenue Bonds, Series 2008	Variable	2038	13,710,000
Dormitory Authority of the State of New York Insured Revenue Bonds, Series 2012	Fixed	2042	20,605,000
Dormitory Authority of the State of New York Insured Revenue Bonds, Series 2013	Fixed	2042	<u>30,765,000</u>
Total long-term obligations			\$124,875,000

In connection with the issuance by DASNY of the Series 2004C and the Series 2004D shown in the table above on behalf of the Institute, the Institute entered into an interest rate swap agreement with Goldman, Sachs & Co. in an aggregate notional amount of \$23,725,000 and an interest rate swap agreement with Wachovia (now Wells Fargo) in an aggregate notional amount of \$14,000,000, respectively. These two separate, but substantially identical, interest rate exchange agreements (collectively, the “2004 Swap Agreements”) were entered by the Institute in order to convert the variable rate on its variable rate bonds, to a synthetic fixed rate. At May 31, 2015, the 2004 Swap Agreements have an aggregate notional amount of \$37,725,000, bear a fixed rate of 3.359% and 3.597%, respectively, and have maturities matching the related series of bonds. A portion of the proceeds from the 2016A-1 issue will be used to refund the 2004 Series A and C bonds. The 2016A-2 issue will be used to terminate the Series 2004C Swap Agreement.

In connection with the issuance by DASNY of the Series 2006 Bonds shown in the table above, the Institute entered into an interest rate swap agreement with Royal Bank of Canada in an aggregate notional amount of \$15,125,000. Such interest rate exchange agreement (the “2006 Swap Agreement”) was entered into by the Institute in order to convert the variable rate on its variable rate bonds to a synthetic fixed rate. At May 31, 2015, the 2006 Swap Agreement has an aggregate notional amount of \$12,725,000, bears a fixed rate of 3.678%, and has a maturity matching the Series 2006 Bonds. RBC Capital Markets, LLC is an indirect wholly-owned subsidiary of Royal Bank of Canada, the counterparty for the 2006 Swap Agreement.

In connection with the 2010 reoffering of the California Statewide Communities Development Authority Revenue Bonds (The Culinary Institute of America) Series 2008 (the “CSCDA Bonds”) shown in the table above, which converted the Bonds to bank qualified variable rate bonds purchased by TD Bank, N.A. for an initial term of ten years, the 2005 interest rate swap agreement in an aggregate notional amount of \$9,700,000 (at May 31, 2015), maturing on October 1, 2035 was assumed by TD Bank, N.A. and the fixed rate was modified to 3.284%.

The Institute entered into the Swap Agreements as a means of achieving a lower net fixed rate interest cost rather than issuing fixed-rate bonds at the time of issuance. The swap agreements may expose the Institute to certain market, tax-rate and credit risks. The Institute may terminate the swap agreements at any time at market value, or upon the occurrence of certain events. In addition, the Institute or the swap agreement providers may terminate the swap agreements if the Institute fails to perform under the terms of the swap agreements or is downgraded below



“Baa2” by Moody’s. If the swap agreements are terminated, the Series 2004C, Series 2004D, Series 2006 and Series 2008 Bonds would bear interest at variable rates, and the Institute could be liable for one or more termination payments if the swap agreements have a negative market value. The Swap Agreements require the Institute to post collateral if a swap value exceeds a \$2 million liability to the Institute for each counterparty. As of May 31, 2015, the Institute had posted collateral of \$4.04 million to its swap counterparties.

### **Insurance**

The Institute carries a broad range of property and general liability coverage, including Directors and Officers liability coverage, in amounts customary for institutions of the size of the Institute.

### **Litigation**

There is no material litigation pending or threatened against the Institute which would result in recovery which is not covered by applicable insurance programs less deductible provisions.

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**APPENDIX B**

**CONSOLIDATED FINANCIAL STATEMENTS OF THE INSTITUTE WITH REPORT OF  
INDEPENDENT AUDITORS FOR THE YEAR ENDED MAY 31, 2015 AND 2014**

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**THE CULINARY INSTITUTE OF AMERICA**

Consolidated Financial Statements

May 31, 2015 and 2014

(With Independent Auditors' Report Thereon)

# **THE CULINARY INSTITUTE OF AMERICA**

## **Consolidated Financial Statements**

May 31, 2015 and 2014

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KPMG LLP  
515 Broadway  
Albany, NY 12207-2974

## Independent Auditors' Report

Board of Trustees  
The Culinary Institute of America:

We have audited the accompanying consolidated financial statements of The Culinary Institute of America, which comprise the consolidated statements of financial position as of May 31, 2015 and 2014, and the related consolidated statements of activities and cash flows for the years then ended, and the related notes to the consolidated financial statements.

### *Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with U.S. generally accepted accounting principles; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

### *Auditors' Responsibility*

Our responsibility is to express an opinion on these consolidated 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 audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### *Opinion*

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of The Culinary Institute of America as of May 31, 2015 and 2014, and the changes in their net assets and their cash flows for the years then ended in accordance with U.S. generally accepted accounting principles.

**KPMG LLP**

September 18, 2015

# THE CULINARY INSTITUTE OF AMERICA

## Consolidated Statements of Financial Position

May 31, 2015 and 2014

<b>Assets</b>	<b>2015</b>	<b>2014</b>
Cash and cash equivalents	\$ 9,145,084	978,389
Cash held as collateral (note 7)	4,040,000	2,570,000
Investments (note 3)	148,528,994	149,499,276
Student accounts receivable, net (note 2)	5,255,125	3,948,048
Other receivables	1,996,961	1,975,396
Inventory	2,725,990	2,539,113
Prepaid and other assets	2,815,746	2,175,537
Contributions receivable, net (note 5)	7,893,491	6,779,473
Long-term loans to students, net (note 2)	2,027,252	1,939,216
Deposits with bond trustees (note 8)	13,413,711	31,737,775
Land, buildings and equipment, net (note 6)	237,849,251	220,277,491
Total assets	\$ 435,691,605	424,419,714
<b>Liabilities and Net Assets</b>		
Liabilities:		
Accounts payable	\$ 5,786,375	6,211,340
Borrowings under line of credit (note 7)	4,000,000	—
Deferred revenue	20,555,715	19,208,578
Accrued liabilities	7,759,579	7,084,845
Accrued compensated absences	4,283,458	4,202,290
Fair value of derivative instruments (note 7)	11,023,642	9,663,924
Bonds payable (note 7)	123,121,781	126,901,630
U.S government refundable advances	1,640,805	1,646,717
Total liabilities	178,171,355	174,919,324
Net assets:		
Unrestricted	198,620,905	191,862,555
Temporarily restricted (note 10)	34,293,963	33,333,424
Permanently restricted (note 10)	24,605,382	24,304,411
Total net assets	257,520,250	249,500,390
Total liabilities and net assets	\$ 435,691,605	424,419,714

See accompanying notes to consolidated financial statements.



**THE CULINARY INSTITUTE OF AMERICA**  
Consolidated Statement of Activities  
Year ended May 31, 2015  
(with summarized information for the year ended May 31, 2014)

	<b>2015</b>			<b>2014</b>
	<b>Unrestricted</b>	<b>Temporarily restricted</b>	<b>Permanently restricted</b>	<b>Total</b>
Operating revenues and gains:				
Tuition and fees	\$ 121,360,583	—	—	121,360,583
Less scholarships and awards	(25,457,682)	—	—	(25,457,682)
Net tuition and fees	95,902,901	—	—	95,902,901
Contributions for operations (note 5)	4,468,166	5,917,538	—	10,385,704
Government grants and contracts	1,828,458	—	—	1,828,458
Investment return designated for operations	4,143,363	2,293,226	—	6,436,589
Sales and services of educational activities	8,692,867	—	—	8,692,867
Sales of auxiliary enterprises	18,180,002	—	—	18,180,002
Other sources	5,003,279	—	—	5,003,279
Net assets released from restrictions	7,077,714	(7,077,714)	—	—
Total operating revenues and gains	145,296,750	1,133,050	—	146,429,800
Operating expenses:				
Instruction	56,170,024	—	—	56,170,024
Academic support	19,228,393	—	—	19,228,393
Student services	13,640,567	—	—	13,640,567
Institutional support	33,412,613	—	—	33,412,613
Auxiliary enterprises	15,867,772	—	—	15,867,772
Total operating expenses	138,319,369	—	—	138,319,369
Increase in net assets from operations	6,977,381	1,133,050	—	8,110,431
Nonoperating:				
Contributions for plant and endowment (note 5)	1,137,638	189,994	300,971	1,628,603
Net assets released for plant	257,233	(257,233)	—	—
Investment return, net of amounts designated for current operations	(254,184)	(105,272)	—	(359,456)
Change in fair value of derivative instruments (note 7)	(1,359,718)	—	—	(1,359,718)
Increase (decrease) in net assets from nonoperating activities	(219,031)	(172,511)	300,971	(90,571)
Increase in net assets	6,758,350	960,539	300,971	8,019,860
Net assets at the beginning of the year	191,862,555	33,333,424	24,304,411	249,500,390
Net assets at the end of the year	\$ 198,620,905	34,293,963	24,605,382	257,520,250

See accompanying notes to consolidated financial statements.

**THE CULINARY INSTITUTE OF AMERICA**

Consolidated Statement of Activities

Year ended May 31, 2014

	<b>2014</b>			
	<b>Unrestricted</b>	<b>Temporarily restricted</b>	<b>Permanently restricted</b>	<b>Total</b>
Operating revenues and gains:				
Tuition and fees	\$ 120,446,036	—	—	120,446,036
Less scholarships and awards	(21,453,302)	—	—	(21,453,302)
Net tuition and fees	98,992,734	—	—	98,992,734
Contributions for operations (note 5)	4,086,901	2,173,696	—	6,260,597
Government grants and contracts	763,919	—	—	763,919
Investment return designated for operations	3,796,747	2,297,034	—	6,093,781
Sales and services of educational activities	10,085,497	—	—	10,085,497
Sales of auxiliary enterprises	18,039,930	—	—	18,039,930
Other sources	5,033,598	—	—	5,033,598
Net assets released from restrictions	4,041,948	(4,041,948)	—	—
Total operating revenues and gains	144,841,274	428,782	—	145,270,056
Operating expenses:				
Instruction	57,433,852	—	—	57,433,852
Academic support	18,576,288	—	—	18,576,288
Student services	13,762,776	—	—	13,762,776
Institutional support	31,777,264	—	—	31,777,264
Auxiliary enterprises	14,722,293	—	—	14,722,293
Total operating expenses	136,272,473	—	—	136,272,473
Increase in net assets from operations	8,568,801	428,782	—	8,997,583
Nonoperating:				
Contributions for plant and endowment (note 5)	302,171	470,386	121,037	893,594
Net assets released for plant	310,364	(310,364)	—	—
Investment return, net of amounts designated for current operations	9,002,732	1,113,060	225	10,116,017
Change in fair value of derivative instruments (note 7)	1,205,222	—	—	1,205,222
Cost of debt extinguishment	—	—	—	—
Increase in net assets from nonoperating activities	10,820,489	1,273,082	121,262	12,214,833
Increase in net assets	19,389,290	1,701,864	121,262	21,212,416
Net assets at the beginning of the year	172,473,265	31,631,560	24,183,149	228,287,974
Net assets at the end of the year	\$ 191,862,555	33,333,424	24,304,411	249,500,390

See accompanying notes to consolidated financial statements.

# THE CULINARY INSTITUTE OF AMERICA

## Consolidated Statements of Cash Flows

Years ended May 31, 2015 and 2014

	<u>2015</u>	<u>2014</u>
Cash flows from operating activities:		
Change in net assets	\$ 8,019,860	21,212,416
Adjustments to reconcile change in net assets to net cash provided by operating activities:		
Depreciation and amortization	8,601,701	8,030,774
Net realized and unrealized gains on investments and deposits with bond trustees	(6,255,129)	(15,991,808)
Equipment donations	(1,137,155)	(301,093)
Change in fair value of derivative instruments	1,359,718	(1,205,222)
Contributions restricted for long-term investment	(1,628,603)	(893,594)
Change in operating assets and liabilities that provide (use) cash:		
Student accounts receivable, net	(1,307,077)	2,562,383
Other receivables	(21,565)	384,394
Inventory	(186,877)	(208,307)
Prepaid and other assets	(640,209)	(381,030)
Contributions receivable, net	(1,114,018)	(137,957)
Accounts payable and accrued liabilities	1,537,512	2,263,235
Deferred revenue	1,347,137	(3,749,030)
Net cash provided by operating activities	<u>8,575,295</u>	<u>11,585,161</u>
Cash flows from investing activities:		
Purchases of land, buildings, and equipment	(26,167,730)	(28,422,601)
Net loans advanced to students	(88,036)	(34,202)
Proceeds from sales and maturities of investments	7,875,765	8,569,725
Purchases of investments	(640,470)	(5,790,544)
Net cash used in investing activities	<u>(19,020,471)</u>	<u>(25,677,622)</u>
Cash flows from financing activities:		
Borrowings under line of credit, net	4,000,000	—
Repayments of principal of indebtedness	(3,855,000)	(3,485,000)
Change in cash held as collateral by swap counterparties	(1,470,000)	1,420,000
Proceeds from issuance of bonds payable	—	30,800,000
Bond issuance costs paid	—	(265,565)
Premium received from bond issued	—	39,144
Change in deposits with bond trustees	18,314,180	(16,100,520)
Net decrease in U.S. government grants refundable	(5,912)	(31,754)
Contributions restricted for long-term investment	1,628,603	893,594
Net cash provided by financing activities	<u>18,611,871</u>	<u>13,269,899</u>
Increase (decrease) in cash and cash equivalents	8,166,695	(822,562)
Cash and cash equivalents at beginning of year	<u>978,389</u>	<u>1,800,951</u>
Cash and cash equivalents at end of year	<u>\$ 9,145,084</u>	<u>978,389</u>
Supplemental data:		
Interest paid	\$ 3,525,901	2,384,582
Gifts-in-kind	2,847,535	2,057,071
Change in purchases of plant and equipment included in accounts payable	(1,206,575)	549,459

See accompanying notes to consolidated financial statements.

## THE CULINARY INSTITUTE OF AMERICA

### Notes to Consolidated Financial Statements

May 31, 2015 and 2014

#### (1) The Institute

The Culinary Institute of America (Institute) has been a leader in culinary education since 1946. The Institute has three domestic campuses, located on the East and West coasts of the United States of America in Hyde Park, NY and St. Helena, CA (Greystone), respectively, as well as a campus in San Antonio, TX. The Institute also has an international campus located in Singapore that is operated through The Culinary Institute of America Singapore, Ltd., a wholly owned subsidiary of the Institute.

At its Hyde Park campus, the Institute offers associate's degrees, in either culinary arts or baking and pastry arts, bachelor's of professional studies degrees in culinary arts management or baking and pastry arts management, and a bachelor's degree in culinary science. At its Greystone campus, the Institute offers either culinary arts or baking and pastry associate's degrees. At its San Antonio campus, the Institute offers an associate in applied science (AAS) degree in culinary arts. At both the Greystone and San Antonio campuses, credit bearing certificate programs are also offered. In addition, the Institute offers continuing education programs at all of its campuses. At the Singapore campus, the Institute has a collaboration agreement with the Singapore Institute of Technology for the culinary education of undergraduate degree students. In addition, the Institute operates nine public restaurants, five at the Hyde Park campus, three at the Greystone campus, and one at the San Antonio campus.

#### (2) Summary of Significant Accounting Policies

##### (a) Basis of Presentation

The accompanying consolidated financial statements include the accounts of The Culinary Institute of America and its wholly owned subsidiary (collectively, the Institute). All significant intercompany balances and transactions have been eliminated in consolidation.

The Institute's consolidated financial statements, which have been prepared on the accrual basis of accounting and are presented in accordance with U.S. generally accepted accounting principles, have been prepared to focus on the Institute as a whole and to present balances and transactions according to the existence or absence of donor-imposed restrictions. The net assets of the Institute are classified as follows:

*Unrestricted net assets* – generally are not subject to donor-imposed stipulations, but may be designated for specific purposes by the board of trustees or may otherwise be limited by contractual agreements with outside parties.

*Temporarily restricted net assets* – are subject to donor-imposed stipulations that expire by the passage of time or can be fulfilled or removed by actions pursuant to the stipulations. Temporarily restricted net assets consist primarily of gifts restricted by donors for capital projects and other operating purposes.

*Permanently restricted net assets* – are subject to donor-imposed stipulations that they be maintained in perpetuity. Generally, donors of these assets usually permit the use of all or part of the investment return on these assets. Permanently restricted net assets primarily consist of the Institute's permanent endowment funds.

## THE CULINARY INSTITUTE OF AMERICA

### Notes to Consolidated Financial Statements

May 31, 2015 and 2014

Expenses are reported as decreases in unrestricted net assets. Expirations of donor-imposed stipulations are reported as a reclassification between the applicable classes of net assets as an increase in one class of net assets and decrease in another. It is the Institute's policy to record temporarily restricted contributions received and expended in the same accounting period as unrestricted.

Nonoperating activities include contributions to be used for facilities and equipment, or contributions for the endowment fund. Nonoperating activities also includes investment return net of amounts designated for current operations, as well as gains or losses resulting from nonrecurring financing activities.

**(b) Contributions**

Contributions, including unconditional promises to give, are recognized as revenues when donors' commitments are received. Contributions of assets other than cash are recorded at their estimated fair value. Conditional pledges are recognized as revenues when conditions are substantially met. Unconditional pledges, net of an allowance for uncollectible amounts, are reported at their estimated net present values, and are classified as either temporarily or permanently restricted. The allowance for uncollectible contributions is estimated based upon management's judgment and includes factors such as prior collection history.

**(c) Cash Equivalents**

For the purposes of the statements of cash flows, the Institute considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents, unless they are part of long-term investment funds.

**(d) Revenue Recognition and Receivables**

Students are billed prior to the start of each semester. The related net revenue is deferred and recognized when the educational services are rendered. The Institute extends credit, primarily to students, in the form of notes and accounts receivable for educational expenses. Student accounts receivable do not bear interest, but long-term loans to students bear interest at rates averaging 5%.

The receivables are recorded at their current unpaid principal balance and associated interest income, if applicable, is accrued based on the principal amount outstanding and applicable interest rates. Allowances for doubtful accounts are recorded representing the amounts that, in the opinion of management of the Institute, are necessary to account for probable losses related to the receivables. These allowances are determined based upon numerous considerations, including economic conditions, the specific composition of the receivable balance, as well as trends of delinquencies and write-offs. On a periodic basis, these factors are considered and the allowances for doubtful accounts are adjusted accordingly, with a corresponding adjustment to the provision for allowance for doubtful accounts.

Reserves have been provided for accounts receivable estimated to be uncollectible at May 31, 2015 and 2014 of \$3,615,000 and \$3,143,000, respectively.

Reserves have been provided for long-term loans to students estimated to be uncollectible at May 31, 2015 and 2014 of \$522,235 and \$470,263, respectively.

## THE CULINARY INSTITUTE OF AMERICA

### Notes to Consolidated Financial Statements

May 31, 2015 and 2014

**(e) Investments**

Investments are recorded at fair value. If an investment is held directly by the Institute and in an active market where quoted prices exists, the Institute reports the fair value as the market price of an identical security. Shares in mutual funds are based on share values reported by the funds as of the last business day of the fiscal year. The Institute also holds shares or units in alternative investment funds involving hedge and private equity strategies. Such alternative investment funds may hold securities or other financial instruments for which a ready market exists and are priced accordingly. In addition, such funds may hold assets that require the estimation of fair values in the absence of readily determinable market values. Such valuations are determined by fund managers and generally consider variables such as operating results, comparable earnings multiples, projected cash flows, recent sales prices, and other pertinent information, and may reflect discounts for the illiquid nature of certain investments held.

The Institute utilizes the net asset value (NAV) reported by each of the alternative investment funds as a practical expedient for determining the fair value of the investment. These investments are redeemable at NAV under the original terms of the subscription agreements and operations of the underlying funds. However, it is possible that these redemption rights may be restricted or eliminated by the funds in the future in accordance with the underlying fund agreements. Due to the nature of the investments held by these funds, changes in market conditions and the economic environment may significantly impact the NAV of the funds and, consequently, the fair value of the Institute's interests in the funds. Furthermore, changes to the liquidity provisions of the funds may significantly impact the fair value of the Institute's interest in the funds.

Endowment and investment return includes interest and dividends, realized gains and losses, and the change in unrealized appreciation (depreciation) on the associated investments. The average cost of investment securities sold is used to determine the basis for computing realized gains or losses, and the Institute accounts for investment sales and purchases on a trade date basis.

**(f) Inventory**

Inventory primarily represents restaurant operating supplies and food and beverage and are stated at the lower of cost, determined principally on the weighted average cost method, or market.

**(g) Land, Buildings, and Equipment**

Land, buildings, and equipment are recorded at cost at the date of acquisition or fair value at date of donation.

Depreciation is recorded using the straight-line method with estimated useful lives used in the calculation of depreciation by major category of assets are as follows:

Buildings and building improvements	50 years
Kitchen equipment and renovations	15 years
Furniture and equipment	7 years
Computer equipment	5 years

## THE CULINARY INSTITUTE OF AMERICA

### Notes to Consolidated Financial Statements

May 31, 2015 and 2014

In June 2011, the Institute entered into a long-term ground lease with a component of the Collegiate Housing Foundation (CHF), a national not-for-profit organization, for the construction of three separate townhouses to be utilized for a 161-bed student housing facility. Pursuant to this 40-year agreement, the development, construction and financing of the facility is the exclusive responsibility of the CHF-CIA, LLC, the component of CHF. The facility is owned by CHF-CIA, LLC, a separate 501(c)(3) entity, and financed through tax-exempt bonds issued by the Dutchess County Local Development Corporation. The Institute does not pay nor is it responsible for the debt. When the financing is paid in full, the ownership interest in the facility may be conveyed to the Institute. Accordingly, the assets, related long-term debt and associated results of operations of CHF-CIA, LLC have been properly excluded from the Institute's consolidated financial statements.

**(h) *Discount and Bond Premium***

Bonds payable are recorded net of the discount or premium. Amortization and accretion of this discount or premium is recorded using the straight-line method. Net accretion (amortization expense) amounted to \$101,614 and \$101,287 for the fiscal years ended May 31, 2015 and 2014, respectively.

**(i) *Bond Issuance Costs***

Bond issuance costs are capitalized and amortized over the term of the related bond, using the straight-line method. Bond issuance costs are \$3,555,771 and \$3,732,536, net of amortization, at May 31, 2015 and 2014, respectively. Amortization expense amounted to \$176,765 and \$174,552 in 2015 and 2014, respectively.

**(j) *Interest Rate Swap Agreements***

The Institute uses interest rate swap agreements as part of its risk management strategy to manage exposure to fluctuations in interest rates and to manage the overall cost of its debt. The interest rate swap agreements in place are not designated as a hedge of cash flows related to the corresponding debt agreements. The fair value of the interest rate swaps is recognized as either an asset or liability based on dealer quotes of the estimated settlement amounts required of the Institute if the agreement was terminated, taking into consideration current interest rates. Gains and losses on settlements and changes in the fair value of the interest rate swap transactions are reflected in the consolidated statement of activities.

**(k) *Income Taxes***

The Institute has a tax determination letter dated February 22, 1973, from the Internal Revenue Service stating that it qualifies under the provisions of Section 501(c)(3) of the Internal Revenue Code and is generally exempt from Federal income taxes under Section 501(a) of the Internal Revenue Code. The Institute believes it has no significant uncertain tax positions.

**(l) *Commitments and Contingencies***

Liabilities for loss contingencies arising from claims, assessments, litigation, and other sources are recorded when it is probable that a liability has been incurred and the amount can be reasonably estimated. Legal costs incurred in connection with loss contingencies are expensed as incurred.

## THE CULINARY INSTITUTE OF AMERICA

### Notes to Consolidated Financial Statements

May 31, 2015 and 2014

The Institute recognizes a liability for the fair value of conditional asset retirement obligations if their fair values can be reasonably estimated. The Institute has identified a specific legal obligation related to an environmental remediation matter as a conditional asset retirement obligation. The liability associated with this obligation cannot be reasonably estimated due to the fact that a settlement date cannot be determined. Management does not believe that this item is material to the Institute's consolidated financial statements.

#### **(m) Management Estimates**

The preparation of consolidated financial statements in accordance with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenue and expenses during the reporting period. Significant items subject to such estimates and assumptions include the valuation of interest rate swaps, valuation allowances for receivables, and the valuation of certain investments. Actual results could differ from those estimates.

#### **(n) Fair Value**

The following methods and assumptions were used to estimate the fair value of each class of financial instruments for which it is practicable to estimate that value:

*Cash and cash equivalents, investments, student accounts receivable, other receivables, deposits with bond trustees, accounts payable* – The carrying amounts approximate fair value because of the short-term maturity of these instruments or they have been otherwise recorded at their estimated fair value.

*Long-term loans to students* – Determination of the fair value cannot be made as these notes are comprised of federally sponsored student loans that bear interest rates and repayment terms, and are subject to significant restrictions on their transfer and disposition.

*Bonds and notes payable* – The fair value of long-term debt is based on quoted market prices for similar issues. The fair value of the Institute's long-term debt is approximately \$129,876,000 and \$132,955,000 at May 31, 2015 and 2014, respectively.

*Interest rate swaps* – The interest rate swap agreements are recorded at fair value within the accompanying consolidated financial statements based on dealer quotes of the estimated settlement amounts required of the Institute if the agreement was terminated, taking into consideration current interest rates. The interest rate swaps are categorized as Level 2 in the fair value hierarchy.

#### **(o) Reclassifications**

Certain reclassifications have been made to the 2014 information to conform with the 2015 presentation.



## THE CULINARY INSTITUTE OF AMERICA

### Notes to Consolidated Financial Statements

May 31, 2015 and 2014

#### (p) *Adoption of New Accounting Standards*

Effective in the year ended May 31, 2015, the Institute retrospectively adopted the provisions of the FASB Accounting Standards Update (ASU) No. 2015-03, *Simplifying the Presentation of Debt Issuance Costs*. The ASU is limited to simplifying the presentation of debt issuance costs, and the recognition and measurement guidance for debt issuance costs is not affected by the ASU. As a result of the adoption, the Institute has reclassified unamortized bond issuance costs in the amount of \$3,732,536 which had been previously been presented as a separate component of total assets on the consolidated statement of financial position for the year ended May 31, 2014, and presented the amount as a reduction of Bonds payable, as required by the ASU. The adoption had no effect on the Institute's net assets, consolidated statement of activities or consolidated statement of cash flows for the year ended May 31, 2014.

In addition, as further disclosed in note 3, the Institute retrospectively adopted the provisions of the FASB Accounting Standards Update (ASU) 2015-07, *Fair Value Measurement: Disclosures for Investments in Certain Entities that Calculate NAV per Share (or its Equivalent)* in the year ended May 31, 2015.

#### (3) **Investments**

The investment objective of the Institute is to invest its assets in a prudent manner to achieve a long-term rate of return sufficient to fund a portion of its spending and to increase investment value after inflation. The Institute's investment strategy incorporates a diversified asset allocation approach that maintains, within defined limits, exposure to domestic and international equities, fixed income, real estate, and private equity markets. The majority of the Institute's investments are managed in a pooled fund that consists primarily of endowment assets.

Investments and other financial instruments are reported at fair value. Fair value represents the price that would be received upon the sale of an asset or paid upon the transfer of a liability in an orderly transaction between market participants as of the measurement date. Items measured and reported at fair value are classified and disclosed in one of the following categories:

- Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities that the Institute has the ability to access at the measurement date. Assets and liabilities classified as Level 1 generally include listed equities. Level 1 also includes cash and cash equivalents given the short maturity of these investments.
- Level 2 inputs are quoted market prices for markets that are not active or financial instruments for which all significant inputs are observable, either directly or indirectly. Assets and liabilities classified as Level 2 generally include fixed income securities or investments in common collective trusts that hold Level 1 assets and derivative instruments.
- Level 3 inputs include pricing inputs that are unobservable for the assets and reflect certain assumptions to determine fair value.

Effective in the fiscal year ended May 31, 2015, the Institute retrospectively adopted the provisions of the FASB Accounting Standards Update (ASU) No. 2015-07, *Fair Value Measurement Disclosures for Investments in Certain Entities that Calculate NAV per Share (or its Equivalent)* (ASU 2015-07). Among

# THE CULINARY INSTITUTE OF AMERICA

## Notes to Consolidated Financial Statements

May 31, 2015 and 2014

other things, ASU 2015-07 removes the requirement to classify within the fair value hierarchy table in Levels 2 or 3 investments in certain funds measured at net asset value (NAV) as a practical expedient to estimate fair value. The adoption did not impact the Institute's consolidated statement of financial position, consolidated statement of activities, or consolidated statement of cash flow and resulted only in changes to the Institute's investment footnote disclosures.

With respect to those investments reported at NAV as a practical expedient, fair value hierarchy categorization is not required. The fair value amounts presented as NAV are intended to permit reconciliation of the fair value hierarchy disclosure to the amounts presented in the consolidated statement of financial position. As of May 31, 2015, the Institute had no specific plans or intentions to sell investments at amounts different than NAV.

The level in the fair value hierarchy within which a fair measurement in its entirety falls is based on the lowest level input that is significant to the fair value measurement in its entirety. Accordingly, the inputs or methodology used for valuing or classifying investments for financial reporting purposes is not necessarily an indication of the risk associated with investing in those investments or a reflection on the liquidity of each fund's underlying assets and liabilities.

The Institute's investments at May 31, 2015 are summarized in the following table by their fair value hierarchy classification:

	<u>May 31, 2015</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Redemption frequency</u>	<u>Days' notice</u>
Investments at fair value:						
Time deposits and short-term funds	\$ 136,707	136,707		—	Daily	1-3
Commingled equity and debt funds	1,577,815	1,577,815	—	—	Daily	1-3
Private equity	371,109	—	—	371,109	Illiquid	—
Real estate	1,100,000	—	—	1,100,000	—	—
Total investments at fair value	<u>3,185,631</u>	<u>1,714,522</u>	<u>—</u>	<u>1,471,109</u>		
Investments measured at net asset value:						
Private equity	2,811,065				Illiquid	—
Multi-strategy	139,310,631				Quarterly	90
Real assets	<u>3,221,667</u>				Illiquid	—
Total investments	<u>\$ 148,528,994</u>					

As of May 31, 2015, 93% of the Institute's total investments were invested in a fund-of-funds managed by Perella Weinberg Partners, the Institute's outsourced chief investment officer. This particular fund offers the Institute the ability to direct investments via share classes offering exposure in global equities, fixed income, absolute return, real assets and private equity. As of May 31, 2015, the Institute's investment in this multi-strategy fund was comprised of 52% global equities, 11% global fixed income, 18% absolute return, 14% real assets and 5% private equity.

# THE CULINARY INSTITUTE OF AMERICA

## Notes to Consolidated Financial Statements

May 31, 2015 and 2014

The Institute's investments at May 31, 2014 are summarized in the following table by their fair value hierarchy classification:

	<u>May 31, 2014</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Redemption frequency</u>	<u>Days' notice</u>
Investments at fair value:						
Time deposits and short-term funds	\$ 68,316	68,316	—	—	Daily	1–3
Commingled equity and debt funds	1,575,195	1,575,195	—	—	Daily	1–3
Private equity	374,501	—	—	374,501	Illiquid	—
Real estate	1,100,000	—	—	1,100,000	—	—
Total investments at fair value	3,118,012	<u>1,643,511</u>	<u>—</u>	<u>1,474,501</u>		
Investments measured at net asset value:						
Private equity	3,073,486				Illiquid	—
Multi-strategy	139,283,532				Quarterly	90
Real assets	4,024,246				Illiquid	—
Total investments	<u>\$ 149,499,276</u>					

As a result of the adoption of ASU 2015-07, the May 31, 2014 fair value hierarchy table was restated to reflect the removal of NAV-measured investments aggregating \$139,283,532 in Level 2 and \$7,097,736 in Level 3.

As of May 31, 2014, 93% of the Institute's total investments were invested in a fund-of-funds managed by Perella Weinberg Partners, the Institute's outsourced chief investment officer. This particular fund offers the Institute the ability to direct investments via share classes offering exposure in global equities, fixed income, absolute return, real assets and private equity. As of May 31, 2014, the Institute's investment in this multi-strategy fund was comprised of 52% global equities, 10% global fixed income, 17% absolute return, 16% real assets and 5% private equity.

There were no purchases, realized or unrealized gains, or redemptions for the Institute's direct real estate investment assets measured at fair value on a recurring basis using significant unobservable inputs (Level 3) for the year ended May 31, 2015 and 2014. Other Level 3 activity was attributable to unrealized losses totaling \$3,392 and \$9,505 for the Institute's private equity investment for the year ended May 31, 2015 and 2014, respectively.

There were no transfers between Level 1 and Level 2 investments or between Level 2 and Level 3 investments during the fiscal years ended May 31, 2015 and 2014.

# THE CULINARY INSTITUTE OF AMERICA

## Notes to Consolidated Financial Statements

May 31, 2015 and 2014

The following schedule summarizes the investment return and its classification in the accompanying consolidated statements of activities:

	<u>2015</u>	<u>2014</u>
Interest income and dividends	\$ 58,731	385,407
Net realized and unrealized gains	6,149,013	15,861,264
Directly paid managed investment fees	<u>(130,611)</u>	<u>(36,874)</u>
Total return on investments	6,077,133	16,209,797
Investment return designated for current operations	<u>(6,436,589)</u>	<u>(6,093,781)</u>
Investment return, net of amounts designated for current operations	<u>\$ (359,456)</u>	<u>10,116,016</u>

### *Liquidity*

The investments fair value as of May 31, 2015 are summarized below by redemption period:

Investments redemption period:	
Daily (up to 3 days)	\$ 1,714,522
Quarterly	139,310,631
Not redeemable until liquidated	<u>7,503,841</u>
Total	<u>\$ 148,528,994</u>

The limitations and restrictions on the Institute's ability to redeem or sell certain investments vary by investment and range from required notice periods (generally 30 to 180 days after initial lock-up periods) for certain limited partnership and real asset funds, to specified terms at inception (generally 10 years) associated with private equity interests. Based upon the terms and conditions in effect at May 31, 2015, the Institute's investments in the amount of \$7,503,841 are locked up until redeemed.

Under the terms of certain limited partnership agreements, the Institute is obligated periodically to advance additional funding for certain funds that the Institute is invested in. At May 31, 2015, the Institute had capital commitments of \$1,628,940 for which calls had not been exercised. Such commitments generally have fixed expiration dates or other termination dates. The Institute maintains sufficient liquidity in its investment portfolio to cover such commitments.

## THE CULINARY INSTITUTE OF AMERICA

### Notes to Consolidated Financial Statements

May 31, 2015 and 2014

#### **(4) Endowment Funds**

The Institute's endowment consists of funds established for a variety of purposes, including both donor restricted endowment funds and funds designated by the Institute to function as endowments (board designated).

##### **(a) *Return Objectives and Risk Parameters***

The Institute has adopted investment and spending policies for endowment assets that attempt to provide a predictable stream of funding to programs supported by its endowment while seeking to maintain the purchasing power of the endowment assets. Endowment assets include those assets of donor-restricted funds that the Institute must hold in perpetuity or for a donor-specified period as well as board-designated funds. The primary investment objective of the management of the endowment fund is to maintain and grow the fund's real value by generating average annual real returns that meet or exceed the spending rate, after inflation, management fees, and administrative costs. Consistent with this goal, the Board of Trustees and the Investment Committee intend that the endowment fund be managed with an intention to maximize total returns consistent with prudent levels of risk, and reduce portfolio risk through asset allocation and diversification.

##### **(b) *Strategies Employed for Achieving Objects***

To satisfy its long-term rate-of-return objectives, the Institute relies on a total return strategy in which investment returns are achieved through both capital appreciation (realized and unrealized) and current yield (interest and dividends). The Investment Committee is responsible for establishing an asset allocation policy. The asset allocation policy is designed to attempt to achieve diversity among capital markets and within capital markets, by investment discipline and management style. The Investment Committee designs a policy portfolio in light of the endowment's needs for liquidity, preservation of purchasing power, and risk tolerance.

The Institute targets a diversified asset allocation that places emphasis on investments in global equities, global fixed income, absolute return, real assets, and private equity strategies to achieve its long-term return objectives within prudent risk constraints. The Investment Committee reviews the policy portfolio asset allocation, exposures, and risk profile on an ongoing basis.

##### **(c) *Spending Policy***

The Institute has a policy of appropriating for distribution each year a percentage of its endowment fund based on the fund's average fair value over the prior 12 quarters. The spending rate approved by the Board of Trustees was 5.0% for both the years ended May 31, 2015 and 2014. In establishing this policy, the Institute considered the long-term expected return on its endowment. Accordingly, over the long term, the Institute expects the current spending policy to allow its endowment to grow at an average of 2.0% real growth plus the rate of inflation (as measured by the Consumer Price Index). This is consistent with the Institute's objective to maintain the purchasing power of the endowment assets held as well as to provide additional growth through new gifts and investment return. The effective spending rate was 4.4% and 4.8% for the years ended May 31, 2015 and 2014, respectively.

In establishing these policies, the Institute considered the expected return on its endowment and its programming needs. Accordingly, the Institute expects the current spending policy to allow its

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## Notes to Consolidated Financial Statements

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endowment to maintain its purchasing power and to provide a predictable and stable source of revenue to the annual operating budget. Additional real growth will be provided through new gifts, any excess investment return, or additions by the Board of Trustees.

The following is a summary of the Institute's endowment net asset composition by type of fund as of May 31, 2015 and 2014:

<b>2015</b>				
	<b>Unrestricted</b>	<b>Temporarily restricted</b>	<b>Permanently restricted</b>	<b>Total</b>
Donor restricted	\$ (655,149)	25,422,620	24,142,790	48,910,261
Board designated (quasi)	82,325,376	—	—	82,325,376
	<u>\$ 81,670,227</u>	<u>25,422,620</u>	<u>24,142,790</u>	<u>131,235,637</u>

  

<b>2014</b>				
	<b>Unrestricted</b>	<b>Temporarily restricted</b>	<b>Permanently restricted</b>	<b>Total</b>
Donor restricted	\$ (633,169)	25,489,964	23,870,886	48,727,681
Board designated (quasi)	78,784,231	—	—	78,784,231
	<u>\$ 78,151,062</u>	<u>25,489,964</u>	<u>23,870,886</u>	<u>127,511,912</u>

Annually, the Institute's management assesses whether certain endowment balances comprising its permanently restricted fund, as of May 31, 2015, had market values less than their historical corpus values. Aggregate shortfalls amounted to \$655,149 and \$633,169 at May 31, 2015 and 2014, respectively, and are accounted for in the unrestricted fund. Permanent endowment corpuses are separately maintained in the permanent fund. Endowment earnings shortfalls are covered by investments held in unrestricted net assets.

The reconciliation of permanently restricted endowment net assets to permanently restricted net assets at May 31, 2015 and 2014 is as follows:

	<b>2015</b>	<b>2014</b>
Permanent endowment investment balance	\$ 24,142,790	23,870,886
Permanent endowment pledge receivable	462,592	433,525
Permanently restricted net assets	<u>\$ 24,605,382</u>	<u>24,304,411</u>

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## Notes to Consolidated Financial Statements

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The following is a summary of the components of the return of the endowment pool and changes in endowment net assets for the years ended May 31, 2015 and 2014:

	2015			2014		
	Unrestricted	Temporarily restricted	Permanently restricted	Unrestricted	Temporarily restricted	Permanently restricted
Endowment net assets, beginning of year	\$ 78,151,062	25,489,964	23,870,886	67,395,917	24,141,425	23,593,149
Investment return	3,403,603	2,191,346	—	10,580,537	3,419,599	225
Amounts appropriated for spending	(3,511,426)	(2,293,226)	—	(3,003,742)	(2,297,034)	—
Endowment reinvestment of appropriated spending and changed restrictions	3,155,389	34,536	—	2,702,212	225,974	—
Contributions, pledge payments and other transfers	471,599	—	271,904	476,138	—	277,512
Endowment net assets, end of year	<u>\$ 81,670,227</u>	<u>25,422,620</u>	<u>24,142,790</u>	<u>78,151,062</u>	<u>25,489,964</u>	<u>23,870,886</u>

The Institute follows the New York Prudent Management of Institutional Funds Act (NYPMIFA) in the management of its endowment. The Institute has interpreted NYPMIFA as allowing the Institute to spend or accumulate the amount of an endowment fund that the Institute determines is prudent for the uses, benefits, purposes and duration for which the endowment fund is established, subject to the intent of the donor as expressed in the gift instrument. The Institute has not changed the way permanently restricted net assets are classified as a result of this interpretation and classifies as permanently restricted net assets (a) the original values of gifts donated to permanent endowments, (b) the original values of subsequent gifts to permanent endowments, and (c) accumulations to permanent endowments made in accordance with the directions of the applicable donors' gift instruments at the times the accumulations are added to the funds. U.S. generally accepted accounting principles requires the portion of a donor restricted endowment fund that is not classified in permanently restricted net assets to be classified as temporarily restricted net assets until those amounts are appropriated for spending by the Institute's Board of Trustees in a manner consistent with the standard of prudence prescribed by NYPMIFA.

In accordance with NYPMIFA, the Investment Committee considers the following factors in making a determination to appropriate or accumulate endowment funds:

- The duration and preservation of the fund
- The purposes of the Institute and the endowment fund
- General economic conditions
- The expected total return from income and the appreciation of investments

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- Other resources of the Institute
- Where appropriate and where circumstances would otherwise warrant, alternatives to expenditure of an endowment fund, giving due consideration to the effect that such alternatives may have on the Institute
- The investment policies of the Institute

### (5) Contributions and Contributions Receivable

At May 31, 2015 and 2014, contributions receivable estimated to be collected are as follows:

	<u>2015</u>	<u>2014</u>
Less than one year	\$ 2,233,815	1,863,835
One to five years	3,841,035	3,417,521
Thereafter	<u>3,030,526</u>	<u>2,480,524</u>
	9,105,376	7,761,880
Less present value discount (3% on May 31, 2015 and May 31, 2014)	(1,038,069)	(835,661)
Less allowance for doubtful receivables	<u>(173,816)</u>	<u>(146,746)</u>
Total	<u>\$ 7,893,491</u>	<u>6,779,473</u>

Net contributions include gifts which support both operating and nonoperating activities of the Institute are comprised of the following:

	<u>2015</u>	<u>2014</u>
Pledge revenue	\$ 6,276,661	2,224,843
Cash and other gift revenue	3,119,589	2,608,833
Gifts-in-kind	<u>2,847,535</u>	<u>2,057,071</u>
Gross contributions	12,243,785	6,890,747
Receivable write-offs and net change in allowance for doubtful receivables	(27,070)	207,894
Net change in present value adjustment	<u>(202,408)</u>	<u>55,550</u>
Net contributions	<u>\$ 12,014,307</u>	<u>7,154,191</u>

For the years ended May 31, 2015 and 2014, the Institute's fundraising expense amounted to \$1,883,022 and \$2,126,492, respectively. These amounts do not include expenses incurred for fundraising events which amounted to \$637,762 and \$495,567, respectively.



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### (6) Land, Buildings, and Equipment

Land, buildings, and equipment as of May 31, 2015 and 2014 consists of:

	<u>2015</u>	<u>2014</u>
Land	\$ 7,661,136	7,661,136
Buildings and building improvements	261,005,328	257,925,817
Furniture and equipment	70,874,825	67,063,440
Construction-in-progress	30,185,064	10,977,650
	<u>369,726,353</u>	<u>343,628,043</u>
Less accumulated depreciation	<u>(131,877,102)</u>	<u>(123,350,552)</u>
Total	<u>\$ 237,849,251</u>	<u>220,277,491</u>

During fiscal year 2015, the Institute began major renovation of a student recreation center and continued land improvements for areas surrounding the new conference center at the Hyde Park campus. To finance this project, the Institute issued Series 2013 Insured Revenue Bonds with the Dormitory Authority of the State of New York in September 2013 (see note 7).

Depreciation of buildings and building improvements, and furniture and equipment was \$8,526,550 and \$7,957,510 for the fiscal years ended May 31, 2015 and 2014, respectively.

Interest costs incurred during construction are capitalized, net of interest earned on construction funds. Capitalized interest during fiscal years ended May 31, 2015 and 2014 was \$1,400,923 and \$1,738,348, respectively.

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## Notes to Consolidated Financial Statements

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### (7) Bonds Payable

Bonds payable are comprised of the following at May 31, 2015 and 2014:

	<u>Interest rate</u>	<u>Original issue</u>	<u>Outstanding at May 31, 2015</u>	<u>Outstanding at May 31, 2014</u>
State of New York				
Revenue bonds:				
Series 2004A (a)	2.0% – 4.0%	9,760,000	\$ 6,400,000	6,745,000
Series 2004B (a)	2.5% – 4.0%	9,720,000	1,895,000	2,795,000
Series 2004C (a)	Variable	23,725,000	23,725,000	23,725,000
Revenue bonds:				
Series 2004D (b)	Variable	19,000,000	15,050,000	15,550,000
Revenue bonds:				
Series 2006 (c)	Variable	15,125,000	12,725,000	13,075,000
Revenue bonds:				
Series 2012 (e)	3.0% – 5.0%	22,150,000	20,605,000	21,495,000
Revenue bonds:				
Series 2013 (f)	2.0% – 5.0%	30,800,000	30,765,000	30,800,000
Revenue bonds:				
Communities Development Authority:				
Revenue bonds:				
Series 2008 (d)	Variable	18,200,000	<u>13,710,000</u>	<u>14,545,000</u>
			<u>\$ 124,875,000</u>	<u>128,730,000</u>

- (a) The Series 2004A, Series 2004B and Series 2004C Bonds are secured by the pledge and assignment to a financial institution (Trustee) of amounts recorded in the Debt Service Reserve Fund (note 8). Additionally, the bonds are secured by pledged tuition revenues (as defined in the loan agreement), a mortgage on the associated student townhouses and security interests in certain fixtures, furnishings and equipment located therein.

For the Series 2004C Bonds, the Institute entered into an interest rate swap agreement, the effect of which is to modify the interest rate characteristics of the Series 2004C Bonds from a floating to a fixed rate. The interest rate swap agreement requires the Institute to pay a fixed rate of interest (3.359%) and receive variable rates of interest based on fluctuations in the one-month LIBOR rate. The original notional amount of this interest rate swap was \$23,725,000 and decreases consistent with the scheduled principal payments on the associated Series 2004C Bonds. The swap agreement matures on July 1, 2033. The fair value of the interest rate swap is \$4,229,591 at May 31, 2015.

During fiscal year 2008, the Institute completed a reoffering of the Series 2004C Bonds in order to modify the variable interest rate mode from the Auction Rate Mode to the Weekly Rate Mode, as defined and provided for within the combined Reoffering Circular. Also, the associated bond series have been additionally secured by an irrevocable, transferable direct pay letter of credit issued

## THE CULINARY INSTITUTE OF AMERICA

### Notes to Consolidated Financial Statements

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by TD Banknorth N.A. under terms of a Reimbursement Agreement dated May 1, 2014 between the Institution and the aforementioned bank. This letter of credit will expire in April of 2019.

- (b) The Series 2004D Bonds are secured by the pledge and assignment to a financial institution (Trustee) of amounts recorded in the Debt Service Reserve Fund (note 8). Additionally, the bonds are secured by pledged tuition revenues (as defined in the loan agreement), a mortgage on the Admissions Building and Anton Parking Plaza and security interests in certain fixtures, furnishings and equipment located therein. For the Series 2004D Bonds, the Institute entered into an interest rate swap agreement, the effect of which is to modify the interest rate characteristics of the Series 2004D Bonds from a floating to a fixed rate. The interest rate swap agreement requires the Institute to pay a fixed rate (3.597%) and receive variable rates of interest based on fluctuations in the one-month LIBOR rate. The original notional amount of this interest rate swap was \$14,000,000 and decreases consistent with the scheduled principal payments on the associated Series 2004D Bonds. The swap agreement matures on July 1, 2034. The fair value of the interest swap is \$2,979,853 at May 31, 2015.

During fiscal year 2008, the Institute completed a reoffering of the Series 2004D Bonds in order to modify the variable interest rate mode from the Auction Rate Mode to the Weekly Rate Mode, as defined and provided for within the combined Reoffering Circular. Also, the associated bond series have been additionally secured by an irrevocable, transferable direct pay letter of credit issued by TD Banknorth N.A. under terms of a Reimbursement Agreement dated May 1, 2014 between the Institution and the aforementioned bank. This letter of credit will expire in April of 2019.

- (c) The Series 2006 Bonds are secured by the pledge and assignment to a financial institution (Trustee) of amounts recorded in the Debt Service Reserve Fund (note 8). Additionally, the bonds are secured by pledged tuition revenues (as defined in the loan agreement), a mortgage on the associated townhouses and security interests in certain fixtures, furnishings, and equipment located therein. For the Series 2006 Bonds, the Institute entered into an interest rate swap agreement, the effect of which is to modify the interest rate characteristics of the Series 2006 Bonds from a floating to a fixed rate. The interest rate swap agreement requires the Institute to pay a fixed rate (3.678%) and receive variable rates of interest based on fluctuations in the one-month LIBOR rate. The original notional amount of this interest rate swap was \$15,125,000 and decreases consistent with the scheduled principal payments on the associated Series 2006 Bonds. The swap agreement matures on July 1, 2036. The fair value of the interest rate swap is \$2,948,186 at May 31, 2015.

During fiscal year 2008, the Institute completed a reoffering of the Series 2006 Bonds in order to modify the variable interest rate mode from the Auction Rate Mode to the Weekly Rate Mode, as defined and provided for within the combined Reoffering Circular. Also, the associated bond series have been additionally secured by an irrevocable, transferable direct pay letter of credit issued by TD Banknorth N.A. under terms of a Reimbursement Agreement dated May 1, 2014 between the Institution and the aforementioned bank. This letter of credit expires in April of 2019.

- (d) The Series 2008 Bonds were issued to (1) finance the renovation and equipping of the student residential property and the campus store located at Greystone and (2) refund in full the previously issued California Statewide Communities Development Authority (Series 2005 Bonds).

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### Notes to Consolidated Financial Statements

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The bonds are secured by pledged tuition revenues (as defined in the loan agreement) subject to the prior DASNY pledges and a first lien mortgage on the Greystone campus. In connection with the issuance of the Series 2005 Bonds, the Institute entered into an interest rate swap agreement, the effect of which is to modify the interest rate characteristics of the Series 2005 Bonds and subsequently, the refunding portion of the Series 2008 Bonds from a floating to fixed rate. The interest rate swap agreement requires the Institute to pay a fixed rate (3.23%) and receive variable rates of interest based on fluctuations in the one-month LIBOR rate. The original notional amount of this interest rate swap was \$14,150,000 and decreases consistent with the scheduled principal payments on the associated Series 2005 Bonds which were refunded by the Series 2008 Bonds. The fair value of the interest rate swap is \$866,012 at May 31, 2015.

During the fiscal year 2011, the Institute completed a remarketing of the Series 2008 Bonds which converted the Bonds from variable rate bonds secured by a bank letter of credit to variable rate bank qualified private placement bonds. The converted Series 2008 Bonds were purchased by TD Bank, NA and are subject to a Continuing Covenants Agreement dated October 29, 2010 between the Institute and the aforementioned bank. The purchase period is for ten years expiring in 2020. The 2005 interest rate swap agreement continues to hedge a portion of the converted Series 2008 Bonds, as the swap was assumed by TD Bank, NA and the rate was modified to 3.28%. The Institute was in compliance with its debt covenants as of May 31, 2015.

- (e) The Series 2012 Bonds were issued to (1) finance the construction and equipping of a new conference center located at the Hyde Park Campus and (2) refund in full, the previously issued Dormitory Authority of the State of New York (Series 1999 Bonds). These bonds are secured by pledged tuition revenues (as defined by the loan agreement). The bonds were issued at fixed interest rates ranging from 3.0% to 5.0% at the date of issuance depending on the underlying principal maturity date. These bonds were issued at a premium that is being amortized using the straight-line method over the remaining life of the bonds, resulting in a yield ranging from 0.98% to 4.07%.
- (f) The Series 2013 Bonds were issued to (1) finance the major renovation and equipping of a Institute's student recreation center and (2) finance land improvements for the areas surrounding the new conference center at the Hyde Park campus. These bonds are secured by pledged tuition revenues (as defined by the loan agreement). The bonds were issued at fixed interest rates ranging from 2.0% to 5.0% at the date of issuance depending on the underlying principal maturity date. These bonds were issued at a premium that is being amortized using the straight-line method over the remaining life of the bonds, resulting in a yield ranging from 0.87% to 5.18%.

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Scheduled principal payments and maturities of bonds payable are summarized as follows:

Year ending May 31:	
2016	\$ 4,480,000
2017	4,635,000
2018	4,855,000
2019	5,045,000
2020	5,210,000
Thereafter through 2043	<u>100,650,000</u>
Bond principal maturities	124,875,000
Add bond premium	2,096,755
Less bond discounts	(294,203)
Less bond issue costs	<u>(3,555,771)</u>
Bonds payable, net	<u>\$ 123,121,781</u>

Total interest expense for the years ended May 31, 2015 and 2014, was \$3,586,177 and \$3,045,987, respectively.

The fair values of the aforementioned interest rate swaps are included on the accompanying consolidated statements of financial position and the change in the fair values is reported as appreciation or depreciation in fair value of derivative instruments within the consolidated statements of activities. The counterparties to these arrangements are major financial institutions with which the Institute also has other financial relationships. The Institute is exposed to credit loss in the event of nonperformance by the counterparties. However, the Institute does not anticipate nonperformance by the counterparties. Further, in accordance with collateral requirements set forth in the swap agreements, the Institute deposited \$4,040,000 and \$2,570,000 with the counterparties at May 31, 2015 and 2014, respectively.

#### ***Credit Facility***

The Institute has unsecured lines of credit totaling \$9.0 million in 2015 and had a total of \$6.0 million in an unsecured line of credit in 2014. At May 31, 2015, there was \$4.0 million outstanding borrowings under these lines. The interest rate fluctuates from time to time based on changes in the LIBOR interest rates. Total interest expense paid on the lines of credit for the years ended May 31, 2015 and 2014, was \$80,652 and \$0 respectively.

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## Notes to Consolidated Financial Statements

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### (8) Deposits with Bond Trustees

Funds on deposit with bond trustees, primarily representing investments in U.S. Treasury obligations at fair value, relate to the Series 2004, 2004D, Series 2006, Series 2008, Series 2012 and Series 2013, Bonds as follows:

	<b>Debt service fund</b>	<b>Debt service reserve fund</b>	<b>Project fund</b>	<b>Total</b>
Series 2004	\$ 1,330,575	2,739,067	—	4,069,642
Series 2004D	488,493	1,172,907	—	1,661,400
Series 2006	353,125	890,907	—	1,244,032
Series 2008	—	—	23,731	23,731
Series 2012	1,277,101	1,585,008	—	2,862,109
Series 2013	1,151,913	—	2,400,884	3,552,797
2015 Total	<u>\$ 4,601,207</u>	<u>6,387,889</u>	<u>2,424,615</u>	<u>13,413,711</u>
2014 Total	\$ 3,472,582	6,396,435	21,868,758	31,737,775

The amounts in the debt service funds are for the anticipated principal and bond interest payments due July 1.

At May 31, 2015, the Institute is required to maintain debt service reserve funds of an aggregate minimum in the amount of \$6,344,114 which are available to cover any deficits in the debt service fund.

### (9) Retirement Plan

All employees of the Institute who have been employed by the Institute for at least one year and work in excess of 1,000 hours annually are eligible to participate in the Institute's Retirement Defined Contribution Plan with the Teacher's Insurance and Annuity Association, College Retirement Equities Fund (TIAA/CREF). Under this plan, the Institute makes annual contributions which are immediately vested for the benefit of the participants. For the years ended May 31, 2015 and 2014, the expense amounted to \$3,416,070 and \$3,434,374, respectively.

The Institute also has a Supplemental Tax Deferred Annuity Plan with TIAA/CREF for employees who want to make additional retirement contributions. There is no pension expense to the Institute for this plan.

# THE CULINARY INSTITUTE OF AMERICA

## Notes to Consolidated Financial Statements

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### (10) Temporarily Restricted and Permanently Restricted Net Assets

Temporarily restricted net assets were available for the following purposes:

	<u>2015</u>	<u>2014</u>
Gifts for operations	\$ 570,325	718,482
Gifts for scholarships	1,555,838	1,181,529
Gifts for campaign for excellence	6,344,954	5,501,615
Gifts for plant	400,226	441,834
Term endowment	19,612,849	19,612,849
Accumulated endowment return	5,809,771	5,877,115
Total	<u>\$ 34,293,963</u>	<u>33,333,424</u>

Temporarily restricted net assets included contributions receivable of \$7,430,899 and \$6,335,948 at May 31, 2015 and 2014, respectively.

Permanently restricted net assets consist entirely of endowment corpus and pledges, with donor stipulations that they be invested in perpetuity for the following purposes:

	<u>2015</u>	<u>2014</u>
Student scholarships	\$ 10,356,344	10,055,398
Library support	10,112,258	10,112,258
Building maintenance	2,460,380	2,460,355
Operating support	1,676,400	1,676,400
Total	<u>\$ 24,605,382</u>	<u>24,304,411</u>

### (11) Subsequent Events

On June 5, 2015, the Institute transferred \$1.0 million under deposit for the purchase of property in Napa, California, located near the Institute's Greystone campus. The total purchase price under the purchase and sale and escrow agreement is \$12.5 million with closing scheduled for late September 2015.

The Institute evaluated subsequent events for potential recognition or disclosure through September 18, 2015, the date on which the consolidated financial statements were available to be issued.

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## APPENDIX C

### SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT

#### Summary of Schedule of Definitions

As used in this Official Statement, the following terms shall have the meanings set forth below.

“Account” means any Account within any Fund created and maintained pursuant to the Indenture.

“Act” means the Joint Exercise of Powers Act, constituting Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, as now in effect and as it may from time to time be amended or supplemented.

“Act of Bankruptcy” means the filing of a petition in bankruptcy (or other commencement of a bankruptcy or similar proceeding) by or against the Institute or the Issuer under any applicable bankruptcy, reorganization, insolvency or similar law as is now or hereafter in effect.

“Additional Bonds” or “Series of Additional Bonds” means any Series of Additional Bonds issued by the Issuer on behalf of the Institute pursuant to the Indenture.

“Additional Payments” the payments made by the Institute pursuant to the Loan Agreement.

“Affiliate” shall mean a corporation, partnership, association, limited liability company, joint venture, business trust or similar entity organized under the laws of any state that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common contract with, the Institute.

“Annual Debt Service” when used in connection with any Indebtedness, means as of any particular date of calculation the amount required to be paid by the Institute during the then current Fiscal Year to pay the principal, whether at maturity or upon mandatory redemptions and prepayments, of and interest on such Indebtedness; provided, however, that such amounts required to be paid on Short-Term Indebtedness shall include interest only; and provided further that such amount shall not include interest to be paid from proceeds of Indebtedness (i.e. capitalized interest) or principal amounts paid during the then current Fiscal Year from the proceeds of Refunding Debt. In the event the Institute has entered into variable rate to fixed rate swap agreement or agreements in connection with all or a portion of its Indebtedness, “Annual Debt Service” shall include payments exchanged by the Institute and the interest rate swap provider(s) under such interest rate swap agreement(s) by adding any amounts paid by the Institute to the swap provider(s) and subtracting any amounts received by the Institute from the swap provider(s).

“Applicable Elected Representative” means any Person constituting an “applicable elected representative” within the meaning given to the term in Section 147(f)(2)(E) of the Code.

“Authorized Investments” means:

- A. 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, and CATS and TIGRS) or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.
- B. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself):

1. U.S. Export-Import Bank (Eximbank)  
Direct obligations are fully guaranteed certificates of beneficial ownership
  2. Farmers Home Administration (FmHA)  
Certificates of beneficial ownership
  3. Federal Financing Bank
  4. Federal Housing Administration Debentures (FHA)
  5. General Services Administration  
Participation Certificates
  6. Government National Mortgage Association (GNMA or “Ginnie Mae”)  
GNMA – guaranteed mortgage-backed bonds  
GNMA – guaranteed pass-through obligations  
(not acceptable for certain cash-flow sensitive issues)
  7. U.S. Maritime Administration  
Guaranteed Title XI financing
  8. U.S. Department of Housing and Urban Development (HUD)  
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
- C. 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 are only permitted if they have been stripped by the agency itself):
1. Federal Home Loan Bank System  
Senior debt obligations
  2. Federal Home Loan Mortgage Corporation (FHLMC or “Freddie Mac”)  
Participation Certificates  
Senior debt obligations
  3. Federal National Mortgage Association (FNMA or “Fannie Mae”)  
Mortgage-backed securities and senior debt obligations
  4. Resolution Funding Corp. (REFCORP) obligations
  5. Farm Credit System  
Consolidated systemwide bonds and notes
- D. Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933.
- E. Certificates of deposit secured at all times by collateral described in (A) and/or (B) above. Such certificates must be issued by commercial banks, savings and loan associations or mutual savings banks. The collateral must be held by a third party and the Trustee must have a perfected first security interest in the collateral.
- F. Certificates of deposit, savings accounts, deposit accounts or money market deposits which are fully insured by FDIC, including BIF and SAIF.
- G. Investment Agreements, including GIC’s, Forward Purchase Agreements and Reserve Fund Put Agreements provided by banks and other institutions rated A by S&P and A by Moody’s without regard to rating qualifier (+ or -).
- H. Commercial paper rated, at the time of purchase, Prime – 1 by Moody’s and A-1 or better by S&P.
- I. Bonds or notes issued by any state or municipality which are rated by Moody’s and S&P in one of the two highest rating categories assigned by such agencies.

- J. 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 A3 or better by Moody's and A-1 or A or better by S&P.
- K. Repurchase agreements providing for the transfer of securities from a dealer bank or securities firm (seller/borrower) to a municipal entity (buyer/lender), and the transfer of cash from a municipal entity to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the municipal entity in exchange for the securities at a specified date.
1. Repurchase agreements must be between the Issuer and a dealer bank or securities firm.
    - a. Primary dealers on a Federal Reserve reporting dealer list which are rated A or better by S&P and Moody's or
    - b. Banks rated A or above by S&P, Fitch and Moody's.
  2. The written repurchase agreements contract must include the following:
    - a. Securities which are acceptable for transfer are:
      - (1) Direct U.S. governments, or
      - (2) Federal agencies backed by the full faith and credit of the U.S. government (and FNMA and FHLMC).
    - b. The term of the repurchase agreements may be up to 30 days.
    - c. The collateral must be delivered to the Issuer, the Trustee (if the Trustee is not supplying the collateral) or third party acting as agent for the Trustee (if the Trustee is supplying the collateral) before/simultaneous with payment (perfection by possession of certificated securities).
    - d. Valuation of collateral: The securities must be valued weekly, marked-to-market at current market price plus accrued interest. The value of collateral must be equal to 104% of the amount of cash transferred by the municipal entity to the dealer bank or security firm under the repurchase agreements plus accrued interest. If the value of securities held as collateral slips below 104% of the value of the cash transferred by municipality, then additional cash and/or acceptable securities must be transferred. If, however, the securities used as collateral are FNMA or FHLMC, then the value of collateral must equal 105%.
  3. Legal opinion which must be delivered to the Issuer: Repurchase agreements meet guidelines under state law for legal investment of public funds.

All references in this definition of "Authorized Investments" to the ratings shall be the rating at the time such investment is made. Any subsequent downgrading or rating withdrawal shall not affect the status of an Authorized Investment.

"Authorized Representative" means the President or the Chief Financial Officer of the Institute, and such additional persons as, at the time, are designated to act on behalf of the Institute, by written certificate furnished to the Trustee and the Issuer, containing the specimen signature of each such person and signed on behalf of the Institute by the President or the Chief Financial Officer of the Institute.

"Authorized Signatory" means any member of the Commission of the Issuer and any other person as may be designated and authorized to sign on behalf of the Issuer pursuant to a resolution adopted thereby.

"Available Assets" means the sum of all cash and cash equivalents, investments and assets held by the trustees under bond indentures (exclusive of amounts held by trustees attributable to Non-Recourse Indebtedness), and any cash, cash equivalents or investments held as collateral, less all permanently restricted net assets of the Institute, all as shown on the audited financial statements of the Institute, determined in accordance with generally accepted accounting principles then applicable to the Institute.

"Available Assets to Debt Ratio Covenant" means a ratio of Available Assets to Long-Term Indebtedness at least equal to 0.65:1.

“Bankruptcy Code” means the United States Bankruptcy Code, as amended from time to time.

“Bond” or “Bonds” or “Series of Bonds” means collectively, the Series 2016B Bonds and any Series of Additional Bonds.

“Bond Counsel” means the law firm of Nixon Peabody LLP or an attorney or other firm of attorneys whose experience in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized.

“Bond Documents” means the Bond Purchase Agreement, the Indenture, the Loan Agreement, the Tax Regulatory Agreement, the Note, the Continuing Disclosure Agreement, the Preliminary Official Statement, the Official Statement, the Deed of Trust.

“Bond Fund” means the fund so designated which is established by the Indenture.

“Bond Proceeds” means the aggregate amount, including any accrued interest, paid to the Issuer by the Bondholders pursuant to the Indenture as the purchase price of the Series 2016B Bonds.

“Bond Purchase Agreement” means the Bond Purchase Agreement, dated August 16, 2016, between the Issuer and the Underwriter, and approved by the Institute, as the same may be amended from time to time.

“Bond Rate” means the Tax-Exempt rate of interest from time to time payable on any of the Series 2016B Bonds as defined therein.

“Bond Registrar” means the Trustee, acting in its capacity as Bond Registrar with respect to the Bonds, and its successors and assigns in such capacity.

“Bond Resolution” means the resolution duly adopted by the Issuer on August 4, 2016, authorizing the issuance, execution, sale and delivery of the Bonds and the execution and delivery of Issuer Documents, as such resolution may be amended or supplemented from time to time.

“Bond Year” shall have the meaning in the Tax Regulatory Agreement.

“Bondholder” means Owner.

“Business Day” means any day other than a Saturday, a Sunday, a legal holiday or a day on which banking institutions in New York, New York or any city in which the principal office of the Trustee or any Paying Agent is located are authorized by law or executive order to remain closed.

“Certificate of Authentication of the Trustee” and “Trustee’s Certificate of Authentication” means the certificate executed by an authorized signatory of the Trustee certifying the due authentication of each of the Series 2016B Bonds issued under the Indenture.

“Closing Date” means the date of sale and delivery of the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, and the final, temporary and proposed rules, regulations, rulings and interpretations of the Department of the Treasury promulgated thereunder.

“Completion Certificate” means the Completion Certificate delivered by the Institute to the Issuer and the Trustee pursuant to the Loan Agreement.

“Completion Date” means the date of completion for the Project.

“Computation Period” means “Computation Period” as defined in the Tax Regulatory Agreement.

“Condemnation” means the taking of title to, or the use of, Property under the exercise of the power of eminent domain by any governmental entity or other Person acting under governmental authority.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement, dated as of August 1, 2016, among the Institute, DAC and the Trustee.

“Cost of the Project” or “Costs of the 2016 Project” means all those costs and items of expense listed in the Loan Agreement.

“DAC” means Digital Assurance Certification, L.L.C.

“DASNY” means the Dormitory Authority of the State of New York.

“Debt Service Coverage Covenant” means a Debt Service Coverage Ratio of at least 1.25:1.00.

“Debt Service Coverage Ratio” means the ratio of (i) Operating Revenues Available for Debt Service to (ii) Annual Debt Service.

“Debt Service Payment” means, with respect to any Debt Service Payment Date, (i) the interest payable on such Debt Service Payment Date on all Bonds then Outstanding, plus (ii) the principal or Redemption Price, if any, payable on such Debt Service Payment Date on all such Bonds.

“Debt Service Payment Date” means any date on which each Debt Service Payment shall be payable on any of the Series 2016B Bonds so long as the Series 2016B Bonds shall be outstanding.

“Deed of Trust” means the First Amended and Restated Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, dated as of August 1, 2016, and from the Institute to Chicago Title Company (for the benefit of the Trustee, among others) and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and with the Indenture.

“DTC” means The Depository Trust Company, New York, New York.

“DTC Letter of Representations” means the Letter of Representations from the Issuer to DTC.

“Equipment” means all machinery, equipment and other personal property used and to be used in connection with the 2016 Project and financed with Bond Proceeds.

“Event of Default” (i) when used with respect to the Indenture means any of those events defined as an Event of Default by the Indenture, and (ii) when used with respect to the Loan Agreement, means any of the events defined as Events of Default by the Loan Agreement.

“Exempt Organization” means an organization described in Section 501(c)(3) of the Code and which is exempt from federal income taxation pursuant to Section 501(a) of the Code.

“Extraordinary Services” and “Extraordinary Expenses” means all services rendered and all fees and expenses incurred by or due to the Trustee or any Paying Agent under the Indenture other than Ordinary Services and Ordinary Expenses, including reasonable fees and disbursements of Trustee’s counsel.

“Financing Documents” means the Indenture and the Loan Agreement.

“Fiscal Year” means the twelve (12) month period beginning on June 1 in any year or such other fiscal year as the Institute may select from time to time.

“Fitch” means Fitch Ratings and its successors and assigns.

“Fund” means any Fund created and maintained pursuant to the Indenture.

“Government Obligations” means:

1. U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series – “SLGS”).
2. Direct obligations of the Treasury which have been stripped by the Treasury itself, CATS, TIGRS and similar securities.
3. Resolution Funding Corp. (REFCORP). Only the interest component of REFCORP strips which have been stripped by request to the Federal Reserve Bank of New York in book entry form are acceptable.
4. Pre-refunded municipal bonds rated Aaa by Moody’s and AAA by S&P. If however, the issue is only rated by S&P (i.e., there is no Moody’s rating), then the pre-refunded bonds must have been pre-refunded with cash, direct U.S. or U.S. guaranteed obligations or AAA rated pre-refunded municipals to satisfy this condition.
5. Obligations issued by the following agencies which are backed by the full faith and credit of the U.S.:
  - a. U.S. Export-Import Bank (Eximbank)  
Direct obligations are fully guaranteed certificates of beneficial ownership
  - b. Farmers Home Administration (FmHA)  
Certificates of beneficial ownership
  - c. Federal Financing Bank
  - d. General Services Administration  
Participation Certificates
  - e. U.S. Maritime Administration  
Guaranteed Title XI financing
  - f. U.S. Department of Housing and Urban Development (HUD)  
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

“Hazardous Substance” 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 Project or to persons on or about the Project or (ii) cause the Project 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 Hazardous Waste Control Law (“HWCL”), Cal. Health & Safety Code §§ 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 Code §§ 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 Project or the owners and/or occupants of property adjacent to or surrounding the Project, or

any other person coming upon the Project or adjacent property; or (e) any other chemical, materials or substance which may or could pose a hazard to the environment.

“Holder” means Owner.

“Improvements” means all those buildings, improvements, structures and other related facilities (i) financed with Bond Proceeds or of any payment by the Institute pursuant to the Loan Agreement, and (ii) not part of the Equipment, all as they may exist from time to time.

“Indebtedness” shall mean any obligation of the Institute for the payment of money, including without limitation (i) indebtedness for money borrowed, (ii) purchase money obligations, (iii) leases evidencing the acquisition of capital assets, (iv) reimbursement obligations, and (v) guarantees of any such obligation of a third party.

“Indenture” means the Indenture of Trust, dated as of August 1, 2016, by and between the Issuer and the Trustee, entered into in connection with the issuance, sale, delivery and payment of the Series 2016B Bonds and the security therefor as the same may be amended or supplemented from time to time.

“Independent Counsel” means an attorney or attorneys or firm or firms of attorneys duly admitted to practice law before the highest court of any state of the United States of America or in the District of Columbia and not a full time employee of the Issuer, the Institute or the Trustee.

“Independent Engineer” means an engineer or engineering firm registered and qualified to practice the profession of engineering under the laws of the State selected by the Institute and not a full time employee of the Issuer, the Institute or the Trustee.

“Information Report” means Form 8038 used by the issuers of certain tax-exempt bonds to provide the Internal Revenue Service with the information required to monitor the State volume limitations.

“Initial Bondholder” means Cede & Co., as nominee for DTC, as the initial owner of the Series 2016B Bonds.

“Institute” means The Culinary Institute of America, a duly organized and validly existing New York education corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and its successor and assigns.

“Institute Documents” means the Bond Purchase Agreement, the Letter of Representation, the Loan Agreement, the Tax Regulatory Agreement, the Note, the Continuing Disclosure Agreement, the Preliminary Official Statement, the Official Statement, and the Deed of Trust.

“Issuer” means the California Statewide Communities Development Authority, or its successors and assigns.

“Issuer Documents” means the Bond Purchase Agreement, the Series 2016B Bonds, the Loan Agreement, the Indenture, the Note, the Tax Regulatory Agreement, the Information Report, the Preliminary Official Statement and the Official Statement.

“Letter of Representation” means the Letter of Representation, dated August 16, 2016, from the Institute to the Issuer and the Underwriters.

“Lien” means any interest in Property securing an obligation owed to a Person whether such interest is based on the common law, statute or contract, and including but not limited to the security interest arising from a mortgage, encumbrance, pledge, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term “Lien” also means any reservations, exceptions, encroachments, easements, rights-of-way, covenants, conditions, restrictions, leases and other similar title exceptions and encumbrances, including but not

limited to mechanics', materialmen's, warehousemen's, carriers' and other similar encumbrances affecting real property. For the purposes of this definition, a Person shall be deemed to be the owner of any Property which it has acquired or holds subject to a conditional sale agreement or other arrangement pursuant to which title to the Property has been retained by or vested in some other Person for security purposes.

"Loan Agreement" means the Loan and Security Agreement dated as of August 1, 2016 by and between the Institute and the Issuer, as the same may be amended, modified or supplemented from time to time in accordance with the terms thereof, or any other Loan Agreement entered into in connection with any Series of Additional Bonds.

"Loan Payments" means those payments made by the Institute to the Issuer pursuant to the Loan Agreement.

"Loan Term" means the duration of the loan created in the Loan Agreement.

"Long-Term Indebtedness" means indebtedness with a term greater than one (1) year.

"Management Consultant" means a nationally recognized accounting or management consulting firm or other similar firm, experienced in reviewing and assessing the Institute's operations, acceptable to the Issuer.

"Maximum Annual Debt Service" when used in connection with any Indebtedness, means as of any particular date of calculation the greatest amount of Annual Debt Service required to be paid by the Institute during the then current or any future Fiscal Year, provided, however, that in the event the Institute has entered into a variable rate to fixed rate swap agreement in connection with all or a portion of such Indebtedness, Annual Debt Service in any future Fiscal Year shall be calculated using the fixed payment due to the interest rate swap provider (s) under such interest rate swap agreement associated with such Indebtedness.

"Moody's" means Moody's Investors Service.

"Net Proceeds" means so much of the gross proceeds with respect to which that term is used as remain after payment of all expenses, costs and taxes (including attorneys' fees) incurred in obtaining such gross proceeds.

"Non-recourse Indebtedness" means Indebtedness secured by a mortgage or other lien on property on which the creditor has agreed that it will not seek to enforce or collect such Indebtedness out of any property or assets of the Institute other than the property securing the same or to collect any deficiency upon a foreclosure, forced sale or other realization upon such property out of any other property or assets of the Institute.

"Note" or "Promissory Note" means the Promissory Note dated the Closing Date, from the Institute to the Issuer, substantially in the form of Exhibit D to the Loan Agreement, evidencing the Institute's obligations to make Debt Service Payments to the Issuer.

"Office of the Trustee" means the principal corporate trust office of the Trustee, as specified in the Indenture, or such other address as the Trustee shall designate.

"Official Statement" means the Official Statement, dated August 16, 2016, distributed by the Underwriter and the Institute in connection with the sale of the 2016B Bonds.

"Operating Revenues Available for Debt Service" means total unrestricted operating revenues, minus total unrestricted operating expenses, exclusive of depreciation and interest paid, all as shown on the audited financial statements of the Institute stated in accordance with generally accepted accounting principles then application to the Institute.

"Ordinary Services" and "Ordinary Expenses" means those services normally rendered and those fees and expenses normally incurred by or due to a trustee or paying agent, as the case may be, under instruments similar to the Indenture, including reasonable fees and disbursements of counsel for the Trustee.



“Outstanding” or “Bonds Outstanding” or “Outstanding Bonds” means all bonds which have been authenticated by the Trustee and delivered by the Issuer under the Indenture, or any supplement thereto, except: (i) any Bond cancelled by the Trustee because of payment or redemption prior to maturity; (ii) any bond deemed paid in accordance with the provisions of the Indenture, except that any such Bond shall be considered Outstanding until the maturity date thereof only for the purposes of being exchanged or registered; and (iii) any Bond in lieu of or in substitution for which another Bond shall have been authenticated and delivered pursuant to the Indenture, unless proof satisfactory to the Trustee is presented that any Bond, for which a Bond in lieu of or in substitution therefor shall have been authenticated and delivered, is held by a bona fide purchaser, as that term is defined in Article 8 of the Uniform Commercial Code of the State, as amended, in which case both the Bond so substituted and replaced and the Bond or Bonds so authenticated and delivered in lieu thereof or in substitution therefor shall be deemed Outstanding.

“Owner” means the registered owner of any Bond as shown on the registration books maintained by the Bond Registrar pursuant to the Indenture.

“Paying Agent” means the Trustee, acting as such, and any additional paying agent for the Series 2016B Bonds appointed pursuant to the Indenture, their respective successors and any other corporation which may at any time be substituted in their respective places pursuant to the Indenture.

“Permitted Encumbrances” means (i) the Loan Agreement and the Deed of Trust, (ii) utility, access and other easements and rights-of-way, restrictions and exceptions that do not materially impair the utility or the value of the Property affected thereby for the purposes for which it is intended, (iii) mechanics’, materialmen’s, warehousemen’s, carriers’ and other similar Liens which are approved in writing by the Issuer, (iv) Liens for taxes not yet delinquent, (v) equipment leases of less than one (1) year, (vi) indebtedness in connection with the acquisition of real property secured solely by non-recourse purchase money mortgages on such real property, which indebtedness is not a general obligation of the Institute, and (vii) Liens which are in existence as of the Closing Date or described in the audited consolidated financial statements of the Institute.

“Person” or “Persons” means an individual, partnership, corporation, trust or unincorporated organization, and a government or agency or political subdivision or branch thereof.

“Plans and Specifications” means those plans and specifications, if any, for the Improvements, as may be from time to time prepared for the Institute, as revised from time to time in accordance with the Loan Agreement.

“Pledged Property” shall have the meaning assigned in the Loan Agreement.

“Pledged Revenues” means an amount equal to the Maximum Annual Debt Service from (i) tuition and fees charged to students for academic instruction, the right to receive the same, the proceeds thereof and any and all deposit accounts containing Pledged Revenues, and (ii) any other moneys, income, rents or revenues of the Institute, the right to receive the same and the proceeds thereof pledged to the Issuer in connection with the issuance of a Series of Bonds, which other moneys, income, rents or revenues or the right to receive the same may be subject to pledges thereof made prior to the issuance of the Series of Bonds in connection with which such moneys, income, rents or revenues, the right to receive the same and the proceeds thereof are pledged to the Issuer.

“Preliminary Official Statement” means the Preliminary Official Statement, dated August 10, 2016, distributed by the Underwriter and the Institute in connection with the sale of the Series 2016B Bonds, as supplemented by the Supplement Dated August 15, 2016 to the Preliminary Official Statement Dated August 10, 2016 relating to the Series 2016B Bonds, including the inside cover page and appendices thereto.

“Prior Pledges” means the liens, pledges, charges, encumbrances and security interests made and given pursuant to (i) a loan agreement dated as of February 11, 2004 relating to the DASNY Culinary Institute of America Insured Revenue Bonds, Series 2004A&C, which are expected to be refunded by the Series 2016 A-1 Bonds, (ii) a loan agreement dated July 22, 2004 relating to the DASNY Culinary Institute of America Insured Revenue Bonds, Series 2004D, (iii) a loan agreement dated as of August 31, 2006 relating to the DASNY Culinary Institute of America Insured Revenue Bonds, Series 2006, (iv) a loan agreement dated as of September 19, 2012 relating to the

DASNY The Culinary Institute of America Revenue Bonds, Series 2012, (v) a loan agreement dated as of August 21, 2013 relating to the DASNY The Culinary Institute of America Revenue Bonds, Series 2013, and (vi) a loan agreement dated as of November 1, 2008 relating to the California Statewide Communities Development Authority Variable Rate Demand Revenue Bonds (The Culinary Institute of America) Series 2008 (the “Series 2008 Bonds”), as amended by the First Supplemental Loan Agreement, dated as of October 1, 2010 in connection with the conversion of the Series 2008 Bonds to be converted to “qualified tax-exempt obligations” in October 2010.

“Project” or “2016 Project” means the Project as more particularly described in the Loan Agreement and including the Improvements and the Equipment financed by the Institute the proceeds of the Series 2016B Bonds loaned by the Issuer to the Institute under the Loan Agreement.

“Project Fund” means the fund so designated which is created by the Indenture.

“Property” means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

“Rating Agency” means Moody’s, Fitch, S&P or such other nationally recognized rating agency which shall have issued and is maintaining a rating on the Series 2016B Bonds.

“Rating Agency Letter” means the rating letter from each Rating Agency assigning a rating on the Series 2016B Bonds.

“Rebate Amount” means, with respect to the Series 2016B Bonds, the amount computed as described in the Tax Regulatory Agreement.

“Rebate Fund” means the fund so designated pursuant to the Indenture.

“Record Date” means, with respect to any Debt Service Payment Date, the fifteenth (15<sup>th</sup>) day of the month next preceding such Debt Service Payment Date (whether or not a Business Day).

“Redemption Date” means, when used with respect to a Bond, the date of redemption thereof established pursuant to the Indenture.

“Redemption Price” means, when used with respect to a Bond, the principal amount thereof plus the applicable premium, if any, payable upon the prior redemption thereof pursuant to the Indenture.

“Refunding Debt” means Indebtedness issued or incurred to pay or provide for the payment of other Indebtedness.

“Renewal Fund” means the fund so designated and created pursuant to the Indenture.

“Schedule of Definitions” means the words and terms set forth in the Schedule of Definitions attached to the Indenture as the same may be amended from time to time.

“Series 2016B Bonds” means the Issuer’s Revenue Bonds, Series 2016B (The Culinary Institute of America Project) issued pursuant to the terms of the Indenture on August 1, 2016 in the aggregate principal amount of \$12,725,000 and substantially in the form of Exhibit A of the Indenture.

“Short-Term Indebtedness” means indebtedness with a term of one (1) year or less, but not including accounts payable or accrued liabilities by the Institute in the ordinary course of its operations.

“Sinking Fund Payments” means payments made on a Debt Service Payment Date to pay the Redemption Price of bonds called for redemption pursuant to the Indenture.

“S&P” or “Standard & Poor’s” means Standard & Poor’s Financial Services LLC, a subsidiary of McGraw Hill Financial, Inc.

“State” means the State of California.

“Subaccount” means any Subaccount established for a particular Series of Bonds in any Account in any Fund created and maintained pursuant to the Indenture.

“Supplemental Indenture” means any indenture supplemental to or amendatory of the Indenture or in connection with the issuance of any Additional Bonds adopted by the Issuer in accordance with the Indenture.

“Tax Regulatory Agreement” means the Tax Regulatory Agreement, dated the Closing Date, between the Issuer and the Institute, as the same may be amended, modified or supplemented from time to time in accordance with the terms thereof and with the terms of the Indenture.

“Testing Date” means the last day of the Institute’s Fiscal Year.

“Trust Estate” means the rights assigned pursuant to the Indenture and all Property which may from time to time be subject to the lien of the Indenture.

“Trustee” means (i) The Bank of New York Mellon, a banking corporation having trust powers duly organized and existing under the laws of the State of New York, having an office at 101 Barclay Street, Floor 7W, New York, NY 10286, and (ii) its successors and any corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party and any successor trustee at the time serving as successor trustee under the Indenture.

“Unassigned Rights” means the rights of the Issuer and moneys payable pursuant to and under Sections 5.3(b), 6.4(b) and (c), 6.7, 8.2, 8.8, 10.2(a)(i)(A) (but only to the extent related to the Issuer’s costs and fees) and (B), (iii) and (vi), 10.4(a) and 11.2(b) of the Loan Agreement.

“Underwriter” means collectively (i) J.P. Morgan Securities LLC, as lead underwriter, having an office at 383 Madison Avenue, 8<sup>th</sup> Floor, New York, New York 10179, (ii) Barclays Capital Inc., as Co-Underwriter, having an office at 745 Seventh Avenue, 19<sup>th</sup> Floor, New York, New York 10019, and (iii) their successors and assigns.

“2010 Bonds” has the meaning provided in the Deed of Trust.

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## SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE

*The following is a summary of certain provisions of the Indenture. Certain provisions of the Indenture are also described in the Official Statement. This summary does not purport to be complete and reference is made to the Indenture for the detailed provisions thereof. This summary is qualified in its entirety by such reference. Headings are not part of the Indenture and are included for ease of reference only.*

### **Authentication**

No Series 2016B Bond shall be valid for any purpose or shall be entitled to any right or benefit under the Indenture unless there shall be endorsed on such Series 2016B Bond a Certificate of Authentication, duly executed by the Trustee, substantially in the form set forth in the Form of Series 2016B Bond in the Indenture as Exhibit A. Such executed Certificate of Authentication by the Trustee upon any such Series 2016B Bond shall be conclusive evidence that such Series 2016B Bond has been authenticated and delivered under the Indenture. The Trustee's Certificate of Authentication on any Series 2016B Bond shall be deemed to have been executed by it if signed by an authorized signatory of the Trustee, but it shall not be necessary that the same person sign the Certificate of Authentication on all of the Series 2016B Bonds issued under the Indenture. (Section 2.05)

### **Mutilated, Lost, Stolen or Destroyed Bonds**

(a) In the event any Bond is mutilated, lost, stolen or destroyed, the Issuer shall execute and, upon its request, the Trustee shall authenticate and deliver, a new Bond of like maturity, series, interest rate and principal amount and bearing the same number (or such number as the Trustee shall permit) as the mutilated, destroyed, lost or stolen Bond, in exchange for the mutilated Bond, or in substitution for the Bond so destroyed, lost or stolen. In every case of exchange or substitution, the applicant shall furnish to the Issuer and to the Trustee (i) such security or indemnity as may be required by them to hold each of them harmless from all risks, however remote, and (ii) evidence to their satisfaction of the mutilation, destruction, loss or theft of the applicant's Bond and of the ownership thereof. Upon the issuance of any Bond upon such exchange or substitution, the Issuer may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses, including counsel fees, of the Issuer or the Trustee. In case any Bond which has matured or is about to mature shall become mutilated or be destroyed, lost or stolen, the Issuer may, instead of issuing a Bond in exchange or substitution therefor, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated Bond) if the applicant for such payment shall furnish to the Issuer and to the Trustee such security or indemnity as they may require to hold them harmless and evidence to the satisfaction of the Issuer and the Trustee of the mutilation, destruction, loss or theft of such Bond and of the ownership thereof.

(b) Every new Bond issued pursuant to the provisions of the Indenture shall constitute an additional contractual, special obligation of the Issuer (whether or not the destroyed, lost or stolen Bond shall be found at any time after the issuance of such new Bonds, in which case the destroyed, lost or stolen Bond shall be void and unenforceable) and shall be entitled to all the benefits of the Indenture equally and proportionately with any and all other Bonds duly issued under the Indenture.

(c) All Bonds shall be held and owned upon the express condition that the provisions of the Indenture are exclusive, with respect to the replacement or payment of mutilated, destroyed, lost or stolen Bonds, and shall preclude all other rights or remedies, notwithstanding any law or statute existing or hereinafter enacted to the contrary. (Section 2.09)

### **Transfer of Bonds**

(a) Each Series 2016B Bond shall be transferable only on the books of the Issuer and upon surrender of the Bond, at the Office of the Trustee, together with a written instrument of transfer, satisfactory to the Trustee, duly executed by the registered owner or his attorney duly authorized in writing. Upon the transfer of any registered Series 2016B Bond, the Issuer shall issue in the name of the transferee a new registered Series 2016B Bond of the same aggregate principal amount and maturity and rate of interest as the surrendered Series 2016B Bond.

(b) The Issuer, the Trustee and any Paying Agent may deem and treat the Person in whose name any Series 2016B Bond shall be registered upon the books of the Issuer as the absolute owner thereof, whether such Series 2016B Bond shall be overdue or not for the purpose of receiving payment of the principal of or Redemption Price and, except as otherwise provided in the Indenture, interest on such Series 2016B Bond and for all other purposes. All such payments so made to any such registered Owner or upon his order shall be valid and effectual to satisfy and discharge the liability of the Issuer upon such Series 2016B Bond to the extent of the sum or sums so paid. Neither the Issuer, the Trustee nor any Paying Agent shall be affected by any notice to the contrary. *(Section 2.11)*

### **Regulations with Respect to Exchanges and Transfers**

(a) In all cases in which the privilege of exchanging or transferring the Series 2016B Bonds is exercised, the Issuer shall execute and the Trustee shall authenticate and deliver the Series 2016B Bonds in accordance with the provisions of the Indenture. All Series 2016B Bonds surrendered in any exchanges or transfers shall forthwith be canceled in accordance with the provisions of the Indenture. For every exchange or transfer of the Series 2016B Bonds, whether temporary or definitive, the Issuer or the Trustee may make a charge sufficient to reimburse it for (i) any tax, fee or other governmental charge required to be paid with respect to the delivery of definitive Series 2016B Bonds in exchange for temporary Series 2016B Bonds, (ii) the cost of preparing each new Series 2016B Bond, and (iii) any other expenses, including counsel fees, of the Issuer or the Trustee incurred in connection therewith.

(b) Neither the Issuer nor the Trustee shall be obligated to exchange or transfer any Series 2016B Bond during the ten (10) days next preceding (i) a Debt Service Payment Date, or (ii) in the case of any proposed redemption of Series 2016B Bonds, the date of the first mailing of notice of such redemption. *(Section 2.12)*

### **Additional Bonds**

(a) So long as the Indenture is in effect, one or more Series of Additional Bonds may be issued, authenticated and delivered upon original issuance for the purpose of (i) financing additional costs with respect to the Project, (ii) providing funds in excess of Net Proceeds to repair, relocate, replace, rebuild or restore the Project in the event of damage, destruction or taking by eminent domain, (iii) providing extensions, additions, improvements or facilities to the Project, (iv) funding the costs of acquiring, constructing, equipping and start-up costs of any capital project of the Institute, (v) refunding Outstanding Bonds or other Indebtedness of the Institute, or (vi) refunding any other Indebtedness or bonds for which the Institute is the primary obligor, or for which the Institute is responsible for paying the debt service payments in connection therewith, or which the Institute has guaranteed. Such Additional Bonds shall be payable from the receipts and revenues payable to the Issuer from a Loan Agreement between the Issuer and the Institute. Prior to the issuance of a Series of Additional Bonds and the execution of a Supplemental Indenture in connection therewith, (x) the Issuer and the Institute shall enter into a new Loan Agreement providing, among other things, that the payments payable under the new Loan Agreement shall be computed so as to amortize in full the principal of and interest on such Additional Bonds and any other costs in connection therewith and (y) the Deed of Trust shall be amended, modified or supplemented and consolidated to secure such Series of Additional Bonds or a new mortgage on new mortgaged property shall be granted by the Institute to the Issuer to secure such Additional Bonds, if required.

(b) Each such Series of Additional Bonds shall be deposited with the Bond Registrar and thereupon shall be authenticated by the Authenticating Agent. Upon payment to the Trustee of the proceeds of sale of the Additional Bonds, they shall be delivered by the Bond Registrar at the direction of the Trustee to or upon the order of the purchaser or purchasers thereof, but only upon receipt by the Trustee of:

- (i) a copy of the resolution, duly certified by the Chair of the Issuer or Authorized Signatory, authorizing, issuing and awarding the Additional Bonds to the purchaser or purchasers thereof and providing the terms thereof and authorizing the execution of any Supplemental Indenture and any amendments of or supplements to the Loan Agreement;
- (ii) original executed counterparts of the Supplemental Indenture and the new Loan Agreement, expressly providing that, to the extent applicable, for all purposes of the

Supplemental Indenture, and the new Loan Agreement, the project referred to therein and the premises financed or refinanced thereunder shall include the buildings, structures, improvements, machinery, equipment or other facilities being financed, and the Bonds referred to therein shall mean and include the Additional Bonds being issued as well as the Bonds now being issued and any Additional Bonds theretofore issued;

- (iii) a written opinion of Bond Counsel, to the effect that the issuance of the Additional Bonds and the execution thereof have been duly authorized and that all conditions precedent to the delivery thereof have been fulfilled;
  - (iv) a certificate of an Authorized Representative of the Institute to the effect that each Bond Document, as amended, to which it is a party continues in full force and effect and that there is no Event of Default nor any event which upon notice or lapse of time or both would become an Event of Default;
  - (v) an original, executed counterpart of the amendment to each Bond Document with respect to such Additional Bonds;
  - (vi) if applicable, an executed municipal bond insurance policy issued by a bond insurer or other credit facility issued by a bank which guarantees or secures the payment of principal of and interest on the Additional Bonds, in each case, only if such Additional Bonds (or portion thereof) are to be insured by a bond insurer or secured by a credit facility issued by a bank;
  - (vii) a written order to the Trustee executed by an Authorized Signatory of the Issuer to authenticate and deliver the Additional Bonds to the purchaser or purchasers therein identified upon payment to the Trustee of the purchase price therein specified, plus accrued interest, if any; and
  - (viii) a certificate of the President or other Authorized Representative of the Institute evidencing that the issuance of such series of Additional Bonds complies with the Loan Agreement.
- (c) (i) Upon the request of the Institute, one or more series of Additional Bonds may be authenticated and delivered upon original issuance to refund ("Refunding Bonds") all Outstanding Bonds or any part of Outstanding Bonds. Refunding Bonds shall be issued in a principal amount sufficient, together with other moneys available therefor, to accomplish such refunding and to make such deposits required by the provisions of the Indenture and of the resolution authorizing said Refunding Bonds. In the case of the refunding pursuant to the Indenture of less than all Bonds Outstanding, the Trustee shall proceed to select such Bonds in accordance with the Indenture.
- (ii) Refunding Bonds may be authenticated and delivered only upon receipt by the Trustee (in addition to the receipt by it of the documents required by the Indenture, as may be applicable) of:
- (A) Irrevocable written instructions from the Issuer, to the Trustee, at least forty-five (45) days prior to the Redemption Date, satisfactory to the Trustee, to give due notice of redemption pursuant to the Indenture to the Holders of all the Outstanding Bonds to be refunded prior to maturity on the Redemption Date specified in such instructions; and

(B) Either:

- (1) Moneys in an amount sufficient to effect payment at maturity or upon redemption at the applicable Redemption Price, together with accrued interest on such Bonds to the maturity or Redemption Date, which moneys shall be held by the Trustee or any Paying Agent in a separate account irrevocably in trust for and assigned to the respective Holders of the Outstanding Bonds being refunded, which moneys shall be held in trust and used as provided in the Indenture, or
- (2) Government Obligations in such principal amounts, having such maturities, bearing such interest, and otherwise having such terms and qualifications, as shall be necessary to comply with the provisions of the Indenture, and any moneys required pursuant to said Indenture (with respect to all Outstanding Bonds or any part of one or more series of Outstanding Bonds being refunded), which Government Obligations and moneys shall be held in trust and used only as provided in the Indenture.

(iii) The Institute shall furnish to the Trustee and the Issuer at the time of delivery of the Series of Refunding Bonds a certificate of an independent public accountant stating that the Trustee and/or the Paying Agent (and/or any escrow agent as shall be appointed in connection therewith) shall hold in trust the moneys or such Government Obligations and moneys required to effect such payment at maturity or earlier redemption.

(d) Each Series of Additional Bonds issued pursuant to the provisions under this heading shall be equally and ratably secured under the Indenture with the Series 2016B Bonds and all other Series of Additional Bonds, if any, issued pursuant to the Indenture, without preference, priority or distinction of any Bond over any other Bonds except as expressly provided in or permitted by the Indenture.

(e) Notwithstanding anything in the Indenture to the contrary, no Series of Additional Bonds shall be issued unless: (i) at the time of issuance of such Series of Additional Bonds and after the application of proceeds thereof, there is no Event of Default under any Bond Document; (ii) the Loan Agreement is in effect and at the time of issuance there is no Event of Default under any such document nor any event which upon notice or lapse of time or both would become such an Event of Default; and (iii) the Rating Agency, if any, has confirmed in writing that the issuance of such Additional Bonds will not result in a reduction or withdrawal of the then current rating on the Bonds Outstanding.

(f) The Supplemental Indenture providing for the issuance of any Series of Additional Bonds shall contain applicable provisions for the payment of principal of, Redemption Price of, and interest on such Series of Additional Bonds including any interest rate modes applicable to such Series of Additional Bonds, redemption provisions applicable to such Series of Additional Bonds, such Funds, Accounts or subaccounts to be created or held by the Trustee under the Indenture with respect to such Series of Additional Bonds, collateral and security (including credit facilities securing such Series of additional Bonds) and such other terms and provisions as the Issuer may determine are necessary in connection with the issuance of such Additional Bonds. (*Section 2.14*)

### **Establishment of Funds**

The following trust funds are established with the Trustee and shall be held, maintained and administered by the Trustee on behalf of the Issuer in accordance with the Indenture:

(a) California Statewide Communities Development Authority Bond Fund – The Culinary Institute of America – Copia and St. Helena Facilities (the “Bond Fund”), and within such Bond Fund, an “Interest Account” and a “Principal Account” and within such Interest Account and Principal Accounts, a Subaccounts for the Series 2016B Bonds.

(b) California Statewide Communities Development Authority Project Fund – The Culinary Institute of America – Copia and St. Helena Facilities (the “Project Fund”), and within such Project Fund, a “Series 2016B Bonds Construction Account” and a “Series 2016B Bonds Capitalized Interest Account”.

(c) California Statewide Communities Development Authority Rebate Fund – The Culinary Institute of America – Copia and St. Helena Facilities (the “Rebate Fund”).

(d) California Statewide Communities Development Authority Renewal Fund – The Culinary Institute of America – Copia and St. Helena Facilities (the “Renewal Fund”).

(e) Upon the issuance of any series of Additional Bonds pursuant to the Indenture, the Supplemental Indenture entered into with such series of Additional Bonds shall create such Funds and Accounts and/or Subaccounts within any Account with respect to such series of Bonds. (*Section 4.01*)

### **Moneys to Be Held in Trust**

All moneys deposited with, paid to or received by the Trustee for the accounts of the Issuer (other than amounts deposited in the Rebate Fund) shall be held by the Trustee in trust, and shall be subject to the lien of the Indenture and held for the security of the Owners of the particular Series of Bonds until paid in full; provided, however, that moneys which have been deposited with, paid to or received by the Trustee (i) for the redemption of a portion of the particular Series of Bonds, notice of the redemption of which has been given, or (ii) for the payment of the particular Series of Bonds or interest thereon due and payable otherwise than upon acceleration by declaration, shall be held in trust for and subject to a lien in favor of only the Owners of such Series of Bonds so called for redemption or so due and payable. Upon the issuance of any series of Additional Bonds pursuant to the Indenture, the Supplemental Indenture entered into with such series of Additional Bonds shall create such Funds and Accounts and/or subaccounts within any Account with respect to such series of Bonds. The Issuer authorizes and directs the Trustee to withdraw moneys from said funds for the purposes specified in the Indenture, which authorization and direction the Trustee accepts. (*Section 4.03*)

### **Use of the Moneys in Project Fund**

(a) Moneys in the Project Fund shall be applied and expended by the Trustee in accordance with the provisions of the Indenture and of the Loan Agreement.

(b) Except as otherwise provided in paragraph (a) immediately above, the Trustee is directed to issue its checks or send its wires for each disbursement from the Series 2016B Bonds Construction Account of the Project Fund upon being furnished with a written requisition therefor certified by an Authorized Representative of the Institute and substantially in the form of Exhibit B annexed to the Indenture to pay the Costs of the Project. The Trustee shall maintain adequate records pertaining to the Project Fund and all disbursements therefrom. The Trustee in the Indenture is directed to apply amounts on deposit in the applicable Capitalized Interest Account of the Project Fund to the payment of interest on the Series 2016B Bonds on each interest payment date by transferring the interest amount from the applicable Capitalized Interest Account of the Project Fund to the applicable Interest Subaccount in the Bond Fund on or prior to such interest payment date in the amounts shown on Exhibit C annexed to the Indenture until there are no proceeds remaining in the Capitalized Interest Account.

(c) The completion of the Project and payment or provision for payment of all Costs of the Project shall be evidenced by the filing with the Trustee of the Completion Certificate required by the Loan Agreement. As soon as practicable and in any event not more than sixty (60) days after the date of the filing with the Trustee of the Completion Certificate referred to in the preceding sentence, any balance remaining in the Accounts of the Project Fund, except amounts the Institute shall have directed the Trustee, in writing, to retain for any Cost of the Project not then due and payable, and after the making of any transfer to the Rebate Fund that the Institute shall have directed the Trustee, in writing, to make as required by the Tax Regulatory Agreement and the Indenture, shall (i) be used to defease the Series 2016B Bonds to the first optional call date and provided in the Indenture, in accordance with the provision of the Indenture, or (ii) upon delivery to the Issuer and the Trustee of an opinion of Bond Counsel, be transferred to the the Bond Fund and thereafter applied as provided in the Indenture.



(d) Within sixty (60) days after transfer of the balance in the Project Fund to the Bond Fund, the Trustee shall file an accounting thereof with the Issuer and the Institute.

(e) All earnings on amounts held in the Project Fund shall be retained in the respective account of the Project Fund until the Completion Date. Any transfers by the Trustee of amounts to the Rebate Fund (which transfers may only be made at the written direction of the Institute) shall be drawn by the Trustee from the Project Fund.

(f) If an Event of Default under the Indenture shall have occurred and the outstanding principal amount of the Bonds shall have been declared due and payable, the entire balance remaining in the Project Fund, after making any transfer to the Rebate Fund directed to be made by the Institute pursuant to the Tax Regulatory Agreement and the Indenture, shall be transferred to the Bond Fund for the redemption of the Series 2016B Bonds.

(g) If, prior to the completion of the Project, the Institute elects to abandon the Project or a portion thereof due to a legal or regulatory impediment, the Institute shall provide notice thereof to the Trustee. Upon receipt of such notice the Trustee shall transfer the unused balance of the Project Fund to the Bond Fund and shall be used to redeem the Series 2016B Bonds in accordance with the Indenture. *(Section 4.04)*

### **Payments into Bond Fund**

In addition to the payment into the Bond Fund of (i) the accrued interest, if any, on the Series 2016B Bonds pursuant to Section 4.02 of the Indenture and (ii) the capitalized interest on the Series 2016B Bonds pursuant to Section 4.04(b) of the Indenture, there shall be deposited in the Bond Fund, as and when received (a) all payments received by the Trustee under the Loan Agreement or any similar provision in any Loan Agreement with respect to the payment of debt service on any Series of Additional Bonds; (b) the balance in the Project Fund and the Renewal Fund to the extent authorized and specified in the Indenture; (c) the amount of net income or gain received from the investments of moneys in the Bond Fund and all Funds and Accounts (other than the Rebate Fund) held under the Indenture after the Completion Date; and (d) any amount disbursed from the applicable Capitalized Interest Account of the Project Fund for payment of interest on the Bonds, which shall be credited to the Interest Account of the Bond Fund and applied to the payment of interest on the Bonds; and (e) all other moneys received by the Trustee pursuant to any of the provisions of the Loan Agreement or the Indenture and designated for deposit in the Bond Fund. *(Section 4.05)*

### **Use of Moneys in Bond Fund**

(a) Except as otherwise expressly provided in the Indenture, moneys in the Bond Fund shall be used solely for the purchase or redemption of Series 2016B Bonds and any Series of Additional Bonds as provided in the Indenture. Moneys deposited in the Bond Fund in accordance with the provisions of the Indenture, however, may not be used for the payment of interest on the Series 2016B Bonds and any Series of Additional Bonds.

(b) The Trustee shall, on or before each Debt Service Payment Date of the Series 2016B Bonds, pay out of the monies then held for the credit of the Series 2016B Bonds Subaccount of the Interest Account the amounts required for the payment of interest becoming due on the respective series of the Series 2016B Bonds and any Series of Additional Bonds on such Debt Service Payment Date, and such amounts so withdrawn are irrevocably dedicated for and shall be applied to the payment of interest.

(c) The Trustee shall, on or before each Debt Service Payment Date, when principal of the Series 2016B Bonds and any Series of Additional Bonds or Sinking Fund Payments are due, pay out of the monies then held for the credit of the respective Subaccount of the Principal Account the amounts required for the payment of principal or Sinking Fund Payments becoming due at maturity, on a Sinking Fund Payment Date, or upon redemption of the respective series of the Series 2016B Bonds and any Series of Additional Bonds on such Debt Service Payment Date or Sinking Fund Payment Date and such amounts so withdrawn are irrevocably dedicated for and shall be applied to the payment of principal or Sinking Fund Payments.

(d) Moneys transferred to the Bond Fund from the Project Fund pursuant to the Indenture or from the Renewal Fund pursuant to the Indenture shall be invested, at the written direction of the Institute, with yield not in excess of (i) the yield on the Series 2016B Bonds, or (ii) the yield on tax-exempt obligations as described in Section 148(b)(3) of the Code, subject to limitations on earnings as set forth in the Tax Regulatory Agreement, and such moneys and earnings thereon shall be applied only to pay the principal or Sinking Fund Payments of the Series 2016B Bonds and any Series of Additional Bonds as they become due and payable or the Redemption Price of Bonds subject to redemption pursuant to the Indenture.

(e) Reserved.

(f) The Trustee shall call Bonds for redemption according to the Indenture, upon written direction of the Issuer or the Institute to the Trustee, on or after the date the Series 2016B Bonds are subject to optional redemption pursuant to the Indenture, whenever the assets of the Bond Fund shall be sufficient in the aggregate to provide monies to pay, redeem or retire all the Bonds then Outstanding or to redeem the Series 2016B Bonds in part pursuant to the Indenture, including accrued interest thereon to the Redemption Date. The Trustee shall call any series of Additional Bonds for redemption in accordance with the Supplemental Indenture providing for the issuance of such series of Additional Bonds.

(g) Reserved.

(h) Reserved.

(i) If the balance in the Bond Fund, not otherwise required for scheduled payments of principal of, Redemption Price or interest on the Series 2016B Bonds or any Series of Additional Bonds, forty-five (45) days prior to any date on which the Series 2016B Bonds or any Series of Additional Bonds are subject to redemption pursuant to the Indenture equals or exceeds \$50,000, the Trustee shall, upon the written request of an Authorized Representative of the Institute, apply as much of such balance as can be so applied to the redemption of the Series 2016B Bonds or any Series of Additional Bonds on such next succeeding Redemption Date in the manner provided in the Indenture. The Trustee shall promptly notify the Issuer and the Institute of the principal amount and maturity of each Series 2016B Bond or any Series of Additional Bonds so redeemed and the balance held in the Bond Fund after such redemption.

(j) Whenever the amount in the respective Account or Subaccount in the Bond Fund is sufficient to redeem all of the Outstanding Series 2016B Bonds or any Series of Additional Bonds and to pay accrued interest to maturity or the date of redemption, the Trustee shall, upon written request of an Authorized Representative of the Institute, take and cause to be taken the necessary steps to redeem all such Series 2016B Bonds or any Series of Additional Bonds on the next succeeding Redemption Date for which the required redemption notice may be given or on such later Redemption Date as may be specified by the Institute. (*Section 4.06*)

#### **Payments into Renewal Fund; Application of Renewal Fund**

(a) The Net Proceeds resulting from any insurance award, condemnation award or recovery from any contractor or subcontractor with respect to the Project shall be deposited in the Renewal Fund. The amounts in the Renewal Fund shall be subject to a security interest, lien and charge in favor of the Trustee until disbursed as provided in the Indenture.

(b) In the event the Series 2016B Bonds or any Series of Additional Bonds shall then be subject to redemption in whole (either by reason of such damage, destruction or condemnation or otherwise) pursuant to the terms thereof or of the Indenture, the Trustee shall, after making any transfer to the Rebate Fund, at the written direction of the Institute, as required by the Tax Regulatory Agreement and the Indenture, transfer the amounts deposited in the Renewal Fund to the Bond Fund. If, on the other hand, the Institute is permitted to replace, repair, rebuild, restore or relocate the Facilities pursuant to the Loan Agreement, the Trustee shall, at the written direction of the Institute, apply the amounts on deposit in the Renewal Fund, after making any transfer to the Rebate Fund, at the written direction of the Institute, as required by the Tax Regulatory Agreement and the Indenture, to such replacement, repair, rebuilding, restoration or relocation. Upon the completion of such replacement, repair,

rebuilding, restoration or relocation, and after making any transfer to the Rebate Fund, at the written direction of the Institute, as required by the Tax Regulatory Agreement and the Indenture, any balance remaining in the Renewal Fund shall without further authorization be transferred to the Principal Account of the Bond Fund and thereafter applied to pay the principal or Sinking Fund Payments of the Series 2016B Bonds or any Series of Additional Bonds as they become due and payable.

(c) If any Event of Default shall exist at the time of the receipt by the Trustee of the Net Proceeds in the Renewal Fund and be continuing, the Trustee, unless it exercises the remedy provided by the Loan Agreement, shall, after making any transfer to the Rebate Fund, at the written direction of the Institute, as required by the Tax Regulatory Agreement and the Indenture, transfer the amounts deposited in the Renewal Fund to the Bond Fund to be applied in accordance with the Indenture.

(d) If the Institute elects to replace, repair, rebuild, restore or relocate the Facilities pursuant to the Loan Agreement, the Trustee is authorized to apply the amounts in the Renewal Fund to the payment (or reimbursement to the extent the same shall have been paid by or on behalf of the Institute or the Issuer) of the costs required for the replacement, repair, rebuilding, restoration or relocation of the Facilities. The Trustee is further authorized upon the written direction of the Institute, and directed to issue its checks for each disbursement from the Renewal Fund upon a requisition submitted to the Trustee and signed by an Authorized Representative of the Institute. Such requisition shall be in the same form and subject to the same conditions as requisitions from the Project Fund. *(Section 4.07)*

#### **Investment Earnings on Funds; Application of Investment Earnings on Funds**

(a) All investment income or earnings on amounts held in the Project Fund, the Renewal Fund, the Bond Fund or any other special fund held under any of the Bond Documents (other than the Rebate Fund) prior to the Completion Date shall be deposited upon receipt by the Trustee into the Project Fund and used for the purposes set forth in the Indenture and after the Completion Date shall be used to pay any remaining sums due for costs of the Project not previously paid, or deposited by the Trustee into the Interest Account of the Bond Fund and used to pay the interest component of the next upcoming Debt Service Payment. The Trustee shall keep separate accounts of all investment earnings from each fund and account under the Indenture to indicate the source of the income or earnings.

(b) Within thirty (30) days after the end of each Computation Period, the Trustee, at the written direction of an Authorized Representative of the Institute, shall transfer to the Rebate Fund instead of the Project Fund or the Interest Account of the Bond Fund an amount of the investment earnings on the funds and accounts under the Indenture, such that the amount transferred to the Rebate Fund is equal to that amount as is set forth as the Rebate Amount in a written certificate delivered by the Institute to the Trustee pursuant to the Tax Regulatory Agreement and the Indenture. *(Section 4.08)*

#### **Payments into Rebate Fund; Application of Rebate Fund**

(a) The Rebate Fund and the amounts deposited therein shall not be subject to a security interest, pledge, assignment, lien or charge in favor of the Trustee or any Owner of any Series of Bond or any other Person.

(b) The Trustee, upon the receipt of a certification of the Rebate Amount from an Authorized Representative of the Institute, shall transfer, from moneys in the Project Fund or the Renewal Fund, or from any other moneys paid by the Institute in accordance with the Tax Regulatory Agreement, into the Rebate Fund, within thirty (30) days after the end of each Bond Year, an amount such that the amount held in the Rebate Fund after such deposit is equal to the Rebate Amount calculated as of the last day of the immediately preceding Bond Year. If there has been delivered to the Trustee a certification of the Rebate Amount in conjunction with the completion of the Project pursuant to the Loan Agreement at any time during a Bond Year, the Trustee shall deposit in the Rebate Fund within thirty (30) days of the Completion Date an amount received from the Institute such that the amount held in the Rebate Fund after such deposit is equal to the Rebate Amount calculated at the completion of the 2016 Project. The amount deposited in the Rebate Fund pursuant to this paragraph shall be paid by the Institute pursuant to the Tax Regulatory Agreement.

(c) In the event that on the first day of any Bond Year the amount on deposit in the Rebate Fund exceeds the Rebate Amount, the Trustee, upon the receipt of written instructions from an Authorized Representative of the Institute, shall withdraw such excess amount and deposit it in the Series 2016B Bonds Construction Account of the Project Fund until the completion of the Project, or, after the Completion Date, deposit it in the applicable Subaccounts of the Accounts of the Bond Fund.

(d) The Trustee, upon the receipt of written instructions from an Authorized Representative of the Institute, shall pay to the United States, out of amounts in the Rebate Fund, (i) not later than thirty (30) days after the last day of the fifth Bond Year and after every fifth Bond Year thereafter, an amount such that, together with prior amounts paid to the United States, the total paid to the United States is equal to ninety percent (90%) of the Rebate Amount with respect to the Series 2016B Bonds as of the date of such payment, and (ii) notwithstanding the provisions of the Indenture, not later than thirty (30) days after the date on which all Series 2016B Bonds have been paid in full, one hundred (100%) percent of the Rebate Amount as of the date of payment.

(e) The Trustee shall have no obligation under the Indenture to transfer any amounts to the Rebate Fund unless the Trustee shall have received specific written instructions from the Institute to make such transfer. *(Section 4.09)*

### **Investment of Moneys**

(a) Moneys held in any fund established pursuant to the Indenture shall be invested and reinvested by the Trustee in Authorized Investments, pursuant to written direction by an Authorized Representative of the Institute. Such investments shall mature in such amounts and have maturity dates or be subject to redemption at the option of the owners thereof on or prior to the date on which the amounts invested therein will be needed for the purposes of such fund or accounts. Upon written direction, the Trustee may at any time sell or otherwise reduce to cash a sufficient amount of such investments whenever the cash balance in such fund or accounts is insufficient for the purposes thereof. The Trustee, if instructed in writing to invest in money market funds, is to liquidate money market funds to cover all payments unless written instructions are received to liquidate other securities. Any such investments shall be held by or under control of the Trustee and shall be deemed at all times a part of the fund or the respective account within a fund or special trust account for which such moneys are invested, and the interest accruing thereon and any profit realized from such investment shall be credited to and held in and any loss shall be charged to the applicable fund.

(b) The Trustee may make any investment permitted by the Indenture through its own bond department. Notwithstanding anything to the contrary contained in the Indenture, the Trustee shall not be liable for any depreciation in the value of any investment made pursuant to the Indenture or for any loss arising from any such investment.

(c) Any investment authorized in the Indenture is subject to the condition that no use of the proceeds of any of the Series 2016B Bonds or of any other moneys shall be made which would cause such Series 2016B Bonds (i) to be “arbitrage bonds” within the meaning of such quoted term in Section 148 of the Code, (ii) to be “federally guaranteed” within the meaning of such quoted term in Section 149(b) of the Code, or (iii) to otherwise fail to comply with the terms of the Tax Regulatory Agreement. The Trustee shall not be liable if such use shall cause the Series 2016B Bonds to be “arbitrage bonds”, “federally guaranteed” or otherwise fail to comply with the terms of the Tax Regulatory Agreement provided only that the Trustee shall have made such investment pursuant to the written direction or confirmation by an Authorized Representative of the Institute as provided in the Indenture.

(d) Reserved.

(e) The Trustee shall, at the written direction of the Institute, sell at the best price obtainable by the Trustee, or present for redemption, any obligation purchased by it as an investment whenever it shall be necessary in order to provide monies to meet any payment or transfer from the Fund or account for which such investment was made. *(Section 4.11)*

### **Payment to Institute upon Payment of Bonds**

Except as otherwise specifically provided in the Indenture, after payment in full of the principal or Redemption Price of and interest on all the Series 2016B Bonds or any Series of Bonds (or after provision for the payment thereof has been made in accordance with the Indenture) and after payment in full of the fees, charges and expenses of the Trustee and any Paying Agent, including reasonable attorneys' fees, and all other amounts required to be paid under the Indenture, and the fees, charges and expenses of the Issuer and all other amounts required to be paid under the Loan Agreement, all amounts remaining in any fund established pursuant to the Indenture with respect to such Series of Bonds (except the Rebate Fund) or otherwise held by the Trustee and by any additional Paying Agent for the account of the Issuer or the Institute under the Indenture or under the Loan Agreement shall be paid to the Institute. *(Section 4.12)*

### **Payment to Issuer**

The Trustee shall transfer the Additional Payments constituting the Issuer's annual fee, promptly upon receipt thereof from the Institute, to the Issuer at the Remittance Address. *(Section 4.13)*

### **Failure to Present Bonds**

Subject to the provisions under the heading "Mutilated, Lost, Stolen or Destroyed Bonds", in the event any Bond shall not be presented for payment when the principal or Redemption Price thereof becomes due, either at maturity or at the date fixed for prior redemption thereof or otherwise, if moneys sufficient to pay such Bond shall be held by the Trustee for the benefit of the Owner thereof, all liability of the Issuer to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged. Thereupon, the Trustee shall hold such moneys, without liability for interest thereon, for the benefit of the Owner of such Bonds, who shall thereafter be restricted exclusively to such moneys for any claim under the Indenture or on, or with respect to, said Bond. Subject to any law to the contrary, if any Bond shall not be presented for payment within the period of two (2) years following the date when such Bond becomes due, whether by maturity or call for prior redemption or otherwise, the Trustee shall return to the Issuer the funds theretofore held by it for payment of such Bond, and thereafter (a) all liability of the Trustee with respect to such moneys shall terminate, and (b) such Bond shall, subject to the defense of any applicable statute of limitations, thereafter be an unsecured obligation of the Issuer. The Trustee shall, at least sixty (60) days prior to the expiration of such two (2) year period, give notice to any Owner who has not presented any Bond for payment that any moneys held for the payment of any such Bond will be returned as provided in the Indenture at the expiration of such two (2) year period. The failure of the Trustee to give any such notice shall not affect the validity of any return of funds pursuant to the Indenture. *(Section 5.11)*

### **Cancellation**

All Bonds which have been paid, redeemed, purchased or surrendered shall be cancelled and delivered by the Trustee to the Issuer. A copy of the cancelled Bond or other form of notice of such cancellation shall be delivered to the Institute upon its written request. *(Section 5.12)*

### **Payments Due on Days Other Than Business Days**

In any case where the date that any payment of the principal of, premium, if any, Sinking Fund Payment or interest on any Bonds issued under the Indenture or the date fixed for redemption of any Bonds shall be a day other than a Business Day, then such payment shall be made on the next succeeding Business Day with the same force and effect as if made on the date due, and no interest shall accrue for the period after such date. *(Section 5.13)*

### **Agreement to Provide Information**

The Trustee agrees, whenever requested in writing by the Issuer or the Institute, to provide such information that is known to the Trustee relating to the Bonds as the Issuer or the Institute, from time to time, may reasonably request, including, but not limited to, such information as may be necessary to enable the Issuer or the

Institute to make any reports required by any federal, state or local law or regulation or to request any consent or waiver from the holders of the Bonds. *(Section 5.15)*

### **Non-Liability of the Issuer**

The Issuer shall not be obligated to pay the principal (or Redemption Price) of or interest on the Bonds, except from Debt Service Payments and other moneys and assets received by the Trustee pursuant to the Loan Agreement. Neither the faith and credit nor the taxing power of the State or any political subdivision thereof (including the Program Participants), nor the faith and credit of the Issuer is pledged to the payment of the principal (or Redemption Price) of or interest on the Bonds. Neither the Issuer nor the Program Participants shall be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with the Loan Agreement, the Bonds or the Indenture, except only to the extent amounts are received for the payment thereof from the Institute under the Loan Agreement.

The Trustee acknowledges that the Issuer's sole source of moneys to repay the Bonds will be provided by the payments made by the Institute to the Trustee pursuant to the Loan Agreement, together with investment income on certain funds and accounts held by the Trustee under the Indenture, and agrees that if the payments to be made under the Loan Agreement shall ever prove insufficient to pay all principal (or Redemption Price) and interest on the Bonds as the same shall become due (whether by maturity, redemption, acceleration or otherwise), then the Trustee shall give notice to the Institute in accordance with Article VIII of the Indenture to pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal (or Redemption Price) or interest, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Trustee, the Institute, the Issuer or any third party, subject to any right of reimbursement from the Trustee, the Issuer or any such third party, as the case may be, therefor. *(Section 5.17)*

### **Continuing Disclosure Agreement**

Pursuant to the Loan Agreement, the Institute has undertaken responsibility for compliance with, and he Issuer shall have no liability to the holders of the Bonds or any other person with respect to, any reports, notices or disclosures required by or provided pursuant to the Continuing Disclosure Agreement authorized by said Loan Agreement. Notwithstanding any other provision of the Indenture, failure of the Institute or the Trustee to perform in accordance with the Continuing Disclosure Agreement shall not constitute a default or an Event of Default under the Indenture, and the rights and remedies provided by the Indenture upon the occurrence of such a default or an Event of Default shall not apply to any such failure, but the Continuing Disclosure Agreement may be enforced only as provided therein. *(Section 5.15)*

### **Discharge of Lien**

(a) If the Issuer shall pay or cause to be paid to the Owners of any series of Bonds or of all Outstanding Bonds the principal thereof, redemption premium, if any, and interest thereon, at the times and in the manner stipulated therein and in the Indenture, and if there shall have been paid all fees, charges and expenses required to be paid under the Indenture, then the lien on the Trust Estate created for the benefit of the Owners of such Series of Bonds so paid shall be released, discharged and satisfied. In such event, except as otherwise specifically provided in the Indenture, the Trustee and any additional Paying Agent shall pay or deliver to the Institute all moneys or securities held by it pursuant to the Indenture which are not required for the payment of principal of, interest and premium, if any, on such Series of Bonds. The Issuer may pay or cause to be paid any Series of Bonds without at the same time paying or causing to be paid all other Series of Outstanding Bonds. If the Issuer does not pay or cause to be paid, at the same time, all Outstanding Bonds, then the Trustee and any additional Paying Agent shall not return those moneys and securities held under the Indenture as security for the benefit of the Owners of Bonds not so paid or caused to be paid.

(b) When all of the Outstanding Bonds shall have been paid in full, or provisions for such full payment of all Outstanding Bonds shall have been made in accordance with the Indenture, the Trustee and the Issuer shall promptly execute and deliver to the Institute such written certificates, instruments and documents as the Institute shall reasonably provide to cause the lien of the Indenture upon the Trust Estate to be discharged and canceled.

(c) Notwithstanding the fact that the lien of the Indenture upon the Trust Estate may have been discharged and canceled in accordance with the Indenture, the Indenture and the rights granted and duties imposed, to the extent not inconsistent with the fact that the lien upon the Trust Estate may have been discharged and canceled, shall nevertheless continue and subsist until the principal or Redemption Price of and interest on all of the Bonds shall have been fully paid or the Trustee shall have returned to the Issuer pursuant to the Indenture all funds theretofore held by the Trustee for payment of any Bonds not theretofore presented for payment. *(Section 7.01)*

### **Discharge of the Indenture**

(a) Any Outstanding Bond or installments of interest with respect thereto shall, prior to the maturity or redemption date thereof, be deemed to have been paid within the meaning of, and with the effect expressed in, subsection (a) of the heading “Discharge of the Lien” if: (i) there shall have been deposited with the Trustee sufficient cash and/or Government Obligations, in accordance with subsection (b) below which will, without further investment, be sufficient, together with the other amounts held for such payment, to pay the principal of the Series of Bonds when due or to redeem the Series of Bonds on the earliest possible redemption date thereof at the Redemption Price specified in the Indenture; (ii) in the event such Bonds are to be redeemed prior to maturity in accordance with the Indenture or in a Supplemental Indenture with respect to such Series of Bonds, all action required by the provisions of the Indenture to redeem the Bonds shall have been taken or provided for to the satisfaction of the Trustee and notice thereof in accordance with the Indenture or in a Supplemental Indenture with respect to such Series of Bonds shall have been duly given or provision satisfactory to the Trustee shall have been made for the giving of such notice; (iii) provision shall have been made for the payment of all fees and expenses of the Trustee and of any additional Paying Agent with respect to the Series of Bonds of which the Bond is a part; (iv) the Issuer shall have been reimbursed for all of its expenses under the Loan Agreement with respect to the Series of Bonds of which such Series of Bonds is a part; (v) all other payments required to be made under the Loan Agreement and the Indenture or any Supplemental Indenture with respect to such Series of Bonds of which the Bond is a part shall have been made or provided for; (vi) the Issuer causes to be delivered an opinion of Bond Counsel stating that all conditions precedent with respect to the satisfaction and discharge of the Indenture have been met; and (vii) there shall have been delivered to the Issuer and to the Trustee a verification report from a verification agent (in each case reasonably satisfactory to the Issuer and the Trustee) to the effect that the moneys and/or Government Obligations are sufficient, together with any income to be earned thereon, without reinvestment, to pay the principal of, interest on, and redemption premium, if any, of the Bonds to be defeased.

(b) For the purpose of the provisions under this heading, the Trustee shall be deemed to hold sufficient moneys to pay the principal of an Outstanding Bond not then due or to redeem an Outstanding Bond prior to the maturity thereof only if there shall be on deposit with the Trustee and available for such purpose an amount of cash and/or a principal amount of Government Obligations, maturing or redeemable at the option of the owner thereof not later than (i) the maturity date of such Series of Bonds, or (ii) the first date following the date of computation on which such Series of Bonds may be redeemed pursuant to the Indenture (whichever may first occur), which, together with income to be earned on such Government Obligations prior to such maturity date or Redemption Date, equals the principal and redemption premium, if any, due on such Series of Bonds, together with all interest thereon (at the maximum applicable rate) which has accrued and which will accrue to such maturity or Redemption Date.

(c) Upon the defeasance of any series of Series of Bonds or of all Outstanding Bonds in accordance with the Indenture, the Trustee shall hold in trust, for the benefit of the Owners of such Series of Bonds, all such cash and/or Government Obligations, shall make no other or different investment of such cash and/or Government Obligations and shall apply the proceeds thereof and the income therefrom only to the payment of such Bonds. *(Section 7.02)*

### **Events of Default**

The following shall be “Events of Default” under the Indenture with respect to any Bond or any Series of Bonds:

(a) A default in the due and punctual payment of any interest or any principal, Sinking Fund Payments, or Redemption Price of any Bond, whether at the stated maturity thereof, upon proceedings for

redemption thereof or upon the maturity thereof by declaration, or any other amounts due under the Indenture or the other Bond Documents or any other bond documents entered into in connection with any series of Additional Bonds; or

(b) A default in the performance or observance of any other of the covenants, agreements or conditions on the part of the Issuer contained in the Indenture or in any Series of Bonds and the continuance thereof for a period of thirty (30) days after written notice given by the Trustee or by the Owners of not less than fifty percent (50%) of the principal amount of the applicable Series of Bonds then Outstanding; or if such default cannot be cured within thirty (30) days, but the Issuer is proceeding diligently to cure such default, then the Issuer shall be permitted an additional ninety (90) days within which to remedy the default; or

(c) The occurrence of an Event of Default under any Loan Agreement. *(Section 8.01)*

### **Acceleration; Annulment of Acceleration**

(a) Upon the occurrence of an Event of Default under the Loan Agreement or any similar provision in any other Loan Agreement with respect to any Additional Bonds, all Series of Bonds Outstanding shall become immediately due and payable without action or notice of any kind on the part of the Trustee or the Issuer. Upon the occurrence and continuance of an Event of Default, the Trustee shall, by notice in writing delivered to the Issuer and the Institute, declare all Series of Bonds Outstanding immediately due and payable, and such Series of Bonds shall become and be immediately due and payable, anything in the Series of Bonds or in the Indenture to the contrary notwithstanding. In such event, there shall be due and payable on the Series of Bonds an amount equal to the total principal amount of all such Series of Bonds, plus all interest accrued thereon and which will accrue thereon to the date of payment. If all of the Series of Bonds Outstanding shall become so immediately due and payable, the Issuer and the Trustee shall as soon as possible declare by written notice to the Institute all unpaid installments payable by the Institute under the Loan Agreement or any similar provision in any other Loan Agreement with respect to any Additional Bonds to be immediately due and payable.

(b) At any time after the principal of the Series 2016B Bonds shall have been so declared to be due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under the Indenture, the Trustee may annul such declaration and its consequences with respect to any Series 2016B Bonds not then due by their terms if (i) moneys shall have been deposited in the Bond Fund sufficient to pay all matured installments of interest and principal, Sinking Fund Payments, or the Redemption Price (other than principal then due only because of such declaration) of such Outstanding Series of Bonds; (ii) sufficient moneys shall be available to pay the amounts described in the Indenture; (iii) all other amounts then payable by the Issuer under the Indenture shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee; and (iv) every other Event of Default known to the Trustee (other than a default in the payment of the principal of such Bonds then due only because of such declaration) shall have been remedied to the satisfaction of the Trustee. No such annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon. *(Section 8.02)*

### **Enforcement of Remedies**

(a) Upon the occurrence and continuance of any Event of Default, and upon being provided with security or indemnity reasonably satisfactory to the Trustee against any liability or expense which might thereby be incurred, the Trustee shall proceed forthwith to protect and enforce its rights and the rights of the Owners under the Act, the applicable Series of Bonds and the applicable Loan Agreement by such suits, actions or proceedings as the Trustee, being advised by counsel, shall deem expedient. In considering what actions are or are not prudent in the circumstances, the Trustee shall consider whether or not to take such action as may be permitted to be taken by the Trustee under any of the Financing Documents.

(b) The Trustee acting directly may sue for, enforce payment of and receive any amounts due or becoming due from the Issuer or the Institute for principal, Redemption Price, interest or otherwise under any of the provisions of the Series of Bonds, the Bond Documents, and any bond documents entered into in connection with any Series of Additional Bonds without prejudice to any other right or remedy of the Trustee or of the Owners.



(c) Regardless of the happening of an Event of Default, the Trustee shall have the right to institute and maintain such suits and proceedings as it may be advised by such Owners shall be necessary or expedient (i) to prevent any impairment of the security under the Indenture by any acts which may be unlawful or in violation of the Indenture or of any resolution authorizing any Series of Bonds, or (ii) to preserve or protect the interests of the Owners, provided that such request is in accordance with law and the provisions of the Indenture and is not unduly prejudicial to the interests of the Owners not making such request.

(d) Notwithstanding anything to the contrary in the Indenture, the Issuer shall have no obligation to and instead the Trustee may, without further direction from the Issuer, take any and all steps, actions and proceedings, to enforce any or all rights of the Issuer (other than those Unassigned Rights retained by the Issuer) under the Indenture or the Loan Agreement, including, without limitation, the rights to enforce the remedies upon the occurrence and continuation of an Event of Default and the obligations of the Institute under the Loan Agreement. *(Section 8.03)*

### **Appointment of Receivers**

Upon the occurrence of an Event of Default and upon the filing of a suit or commencement of other judicial proceedings to enforce the rights of the Trustee or the Owners under the Indenture, the Trustee shall, to the extent permitted by law, be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate and of the revenues and receipts thereof, pending such proceedings, with such powers as the court making such appointment shall confer. *(Section 8.04)*

### **Application of Moneys**

(a) The Net Proceeds received by the Trustee pursuant to any right given or action taken under the provisions of the Indenture shall be, after paying the fees and expenses of the Trustee, deposited in the Bond Fund.

(b) All moneys held in a Subaccount of the Bond Fund for any particular Series of Bonds during the continuance of an Event of Default shall be applied as follows:

- (i) Unless the principal of all the Bonds of a particular Series of Bonds shall have become due or shall have been declared due and payable,

FIRST - To the payment of all installments of the interest then due, in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment of interest, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto without any discrimination or preference; and

SECOND - To the payment of the unpaid principal or Redemption Price, if any, of any Series of Bonds or principal installments which shall have become due (other than any Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of the Indenture), in order of their due dates, with interest on such Bonds, at the rate or rates expressed thereon, from the respective dates upon which such Bonds became due and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal and interest due on such date, to the Persons entitled thereto without any discrimination or preference; and

THIRD - To the payment of the principal or Redemption Price of and interest on such Bonds as the same become due and payable; and

- (ii) If the principal of all such Bonds shall have become due or shall have been declared due and payable, to the payment of the principal and interest (at the rate or rates expressed thereon) then due and unpaid upon all such Bonds, without preference or priority of

principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bonds of such series, ratably according to the amounts due respectively for principal and interest, to the Persons entitled thereto without any discrimination or preference; and

- (iii) If the principal of all such Bonds shall have been declared due and payable and if such declaration shall thereafter have been annulled pursuant to provisions of the Indenture, the moneys shall be applied in accordance with the provisions of paragraph (i) of paragraph (i) of subsection (b) above.

(c) Whenever moneys are to be applied by the Trustee pursuant to the provisions under this heading, such moneys shall be applied at such time or times as the Trustee shall determine in good faith, 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. On the date fixed by the Trustee for application of such moneys, interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the application of any such moneys and of the fixing of any such date. *(Section 8.05)*

### **Remedies not Exclusive**

No remedy conferred upon or reserved to the Trustee or to the Owners by the Indenture is intended to be exclusive of any other remedy. Each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Owners under the Indenture or now or hereafter existing at law or in equity or by statute. *(Section 8.07)*

### **Resignation by Trustee**

The Trustee and any successor Trustee may, at any time, resign from the trusts created and be discharged of their duties and obligations under the Indenture by giving not less than sixty (60) days written notice to the Issuer and, by first class mail, to each Owner of each Series of Bonds then Outstanding. Such resignation shall take effect upon the date specified in such notice, provided, however, that in no event shall such a resignation take effect until a successor Trustee has been appointed pursuant to the Indenture. If no successor Trustee shall have been appointed within 45 days of the notice of resignation or removal of the Trustee, the Trustee shall have the right, at the expense of the Issuer, to petition a court of competent jurisdiction for the appointment of a successor Trustee. *(Section 9.06)*

### **Removal of Trustee**

The Trustee may be removed at any time without cause by an instrument which (i) is signed by the Owners of not less than fifty-one percent (51%) in aggregate principal amount of each Series of Bonds then Outstanding, (ii) specifies the date on which such removal shall take effect and the name and address of the successor Trustee, and (iii) is delivered to the Trustee, the Issuer and the Institute. Notice of any such removal shall be given, by first class mail, to each Owner of Bonds then Outstanding not less than sixty (60) days before such removal is to take effect as stated in such instrument. The Trustee may also be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provisions of the Indenture or the Loan Agreement, by any court of competent jurisdiction upon the application by the Issuer, the Institute or the Owners of not less than fifty-one percent (51%) in aggregate principal amount of each Series of Bonds then Outstanding. *(Section 9.07)*

### **Appointment of Successor Trustee; Temporary Trustee**

(a) In case the Trustee under the Indenture shall resign, or be removed, or be dissolved, or shall be in the course of dissolution or liquidation, or otherwise become incapable of acting under the Indenture, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor Trustee may be appointed by the Issuer or the Owners of not less than fifty-one percent (51%) in aggregate principal amount of each Series of Bonds then Outstanding by an instrument signed by such Owners and delivered to such successor Trustee, the predecessor Trustee, the Issuer and the Institute. Notice of any such appointment shall be

given, by first class mail, to each Owner of each Series of Bonds then Outstanding within thirty (30) days after delivery to the Issuer of the instrument appointing such successor Trustee.

(b) In case of the occurrence of any event affecting the Trustee under the Indenture described in subsection (a) under this heading, the Issuer, by an instrument signed by the Chair and attested by the Secretary, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed by the Owners in the manner provided in subsection (a) under this heading. Such instrument appointing such successor Trustee by the Issuer shall be delivered to the successor Trustee so appointed, to the predecessor Trustee and to the Institute. Notice of any such appointment shall be given, by first class mail, to each Owner of each Series of Bonds then Outstanding within thirty (30) days after delivery to the successor Trustee of the instrument appointing such successor Trustee. Any such temporary Trustee appointed by the Issuer shall immediately and without further act be superseded by any successor Trustee appointed by the Owners.

(c) Any Trustee appointed pursuant to the provisions under this heading shall be a national banking association, trust company or bank which is authorized to exercise the corporate trust powers intended to be conferred upon it by the Indenture and has combined capital and surplus of at least \$25,000,000, or any other corporate or individual trustee duly authorized and empowered to act as Trustee under the Indenture and reasonably acceptable to the Issuer and approved by all Owners. (*Section 9.08*)

### **Concerning Successor Trustees**

(a) Every successor Trustee appointed under the Indenture shall execute, acknowledge and deliver to its predecessor Trustee and the Issuer an instrument accepting such appointment under the Indenture. Thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the Property, rights, powers, trusts, duties and obligations, with respect to the Indenture, of its predecessor Trustee.

(b) Every predecessor Trustee shall, on the written request of the Issuer or the successor Trustee, execute and deliver an instrument transferring to such successor Trustee all the Property, rights, powers and trusts of such predecessor under the Indenture. Every predecessor Trustee shall deliver to its successor Trustee all securities and moneys held by it as Trustee under the Indenture. If any instrument from the Issuer shall be requested by any successor Trustee, acknowledging the transfer to such successor Trustee of the Property, rights, powers and duties vested or intended to be vested under the Indenture, any and all such instruments shall be executed, acknowledged and delivered by the Issuer.

(c) The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor under the Indenture, together with all other instruments provided for the Indenture, shall be filed and/or recorded by the successor Trustee with the Issuer. (*Section 9.09*)

### **Supplemental Indentures Not Requiring Consent of Owners**

(a) Without the consent of or notice to any of the Owners of each Series of Bonds issued under the Indenture, the Issuer and the Trustee may enter into one or more Supplemental Indentures, not inconsistent with the terms and provisions of the Indenture, for any one or more of the following purposes:

- (i) To cure any ambiguity or formal defect or omission in the Indenture;
- (ii) To cure, correct or supplement any defective provision of the Indenture in such manner as shall not be inconsistent with the Indenture and shall not impair the security of the Indenture nor adversely affect the Owners;
- (iii) To grant to or confer upon the Trustee for the benefit of the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners or the Trustee, but only with the prior written consent of the Institute not unreasonably to be withheld;

- (iv) To add to the covenants and agreements of the Issuer in the Indenture, other covenants and agreements to be observed by the Issuer;
- (v) To identify more precisely the Trust Estate;
- (vi) To subject to the lien of the Indenture additional revenues, receipts, Property or collateral, but only with the prior written consent of the Institute not unreasonably to be withheld;
- (vii) To release Property from the lien of the Indenture or to grant or release easements to the extent permitted by the Indenture;
- (viii) To make any other changes in the Indenture (A) which do not prejudice the interests of the Trustee, the Institute or the Owners or (B) to which the Trustee and the Institute have consented in writing and which do not prejudice the interests of the Owners;
- (ix) To make any change which, in the opinion of Bond Counsel, is necessary or desirable in order to preserve the exclusion of interest on the Series 2016B Bonds or any other series of Tax-Exempt Additional Bonds issued under the Indenture from gross income for federal income tax purposes;
- (x) To make any change requested by a Rating Agency in connection with obtaining or maintaining a rating on any Series of Bonds; or
- (xi) To issue any series of Additional Bonds in accordance with the provisions of the Indenture.

(b) In connection with the execution and delivery of any Supplemental Indenture to be entered into under the provisions of the Indenture, the Trustee shall be entitled to receive and may rely upon an opinion of Independent Counsel as conclusive evidence that any such Supplemental Indenture complies with the foregoing conditions and provisions. *(Section 10.01)*

#### **Supplemental Indentures Requiring Consent of Owners**

(a) Except as provided under the heading “Supplemental Indentures Not Requiring Consent of Owners.” the Owners of not less than fifty-one percent (51%) in aggregate principal amount of Bonds then Outstanding (or if less than all Series of Bonds then Outstanding are affected by such Supplemental Indenture, then the Owners of not less than fifty-one percent (51%) in aggregate principal amount of the Series of Bonds so affected) shall have the right, from time to time, to consent to and approve the execution by the Issuer and the Trustee of such Supplemental Indentures as shall be deemed necessary and desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding any of the terms or provisions contained in the Indenture or in any Supplemental Indenture or in the Series 2016B Bonds or any other Series of Bonds issued under the Indenture; provided, however, that nothing contained under this heading shall permit:

- (i) A change in the terms of redemption or maturity of the principal of or the time of payment of interest on any Outstanding Series of Bonds or a reduction in the principal amount or Redemption Price of any Outstanding Series of Bonds or the rate of interest thereon, without the consent of the Owners of such Series of Bonds; or
- (ii) The creation of a lien upon the Trust Estate ranking prior to or on a parity with the lien created by the Indenture, without the consent of the Owners of all Outstanding Series of Bonds; or
- (iii) A preference or priority of any Bond or Series of Bonds over any other such Bond or Series of Bonds, without the consent of the Owners of all such Outstanding Bonds so affected; or

- (iv) A reduction in the aggregate principal amount of any Series of Bonds required for consent to such Supplemental Indenture, without the consent of the Owners of all Outstanding Series of Bonds.

(b) If at any time the Issuer shall request the Trustee to enter into a Supplemental Indenture for any of the purposes of subsection (a) under this heading, the Trustee, upon being satisfactorily indemnified with respect to expenses, shall cause notice of the proposed execution of such Supplemental Indenture to be given, by first class mail, to each Owner of Series of Bonds then Outstanding at their addresses as they appear on the registration books kept by the Trustee. Such notice shall briefly summarize the contents of the proposed Supplemental Indenture and shall state that copies thereof are on file at the Office of the Trustee for inspection by all Owners.

(c) The Trustee shall not, however, be subject to any liability to any Owner by reason of its failure to mail the notice required by subsection (b) under this heading.

(d) If, within such period after the mailing of the notice required by subsection (b) under this heading as the Issuer shall prescribe with the approval of the Trustee, the Issuer shall deliver to the Trustee an instrument or instruments executed by the Owners of not less than fifty-one percent (51%) in aggregate principal amount of Series of Bonds then Outstanding, referring to the proposed Supplemental Indenture as described in such notice and consenting to and approving the execution thereof, the Trustee shall execute such Supplemental Indenture.

(e) If the Owners of not less than fifty-one percent (51%) in aggregate principal amount of the Series of Bonds Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as provided in the Indenture, no Owner of such Series of Bonds shall have any right to object to any of the terms and provisions contained therein or in any manner to question the propriety of the execution thereof or enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof.

(f) The Trustee shall be entitled to receive and may rely upon an opinion of Independent Counsel as conclusive evidence that (i) any Supplemental Indenture entered into by the Issuer and the Trustee, and (ii) the evidence of requisite Owner consent thereto comply with the provisions under this heading. *(Section 10.02)*

#### **Amendments to the Loan Agreement Not Requiring Consent of Owners**

Without the consent of or notice to any of the Owners, the Issuer may enter into, and the Trustee may consent to, any amendment, change or modification of any Loan Agreement as may be required (a) by the provisions thereof or of the Indenture, (b) for the purpose of curing any ambiguity or formal defect or omission therein, (c) in connection with the description of the Project and the substitution, addition or removal of a portion of the Facilities as provided in the Loan Agreement and the Indenture, (d) in connection with additional real estate which is to become part of the Project, or (e) in connection with any other change therein which, in the sole judgment of the Trustee, does not adversely affect the interests of the Trustee or the Owners of the applicable Series of Bonds. The Trustee shall be entitled to receive and may rely upon an opinion of Independent Counsel stating that and as conclusive evidence that any such amendment, change or modification complies with the provisions under this heading. *(Section 11.01)*

#### **Amendments to the Loan Agreement Requiring Consent of Owners**

Except for amendments, changes or modifications as provided under the heading “Amendments to the Loan Agreement Not Requiring Consent of Owners”, neither the Issuer nor the Trustee shall consent to any amendment, change or modification of the Loan Agreement without mailing of notice and the written approval or consent of the Owners of not less than fifty-one percent (51%) in aggregate principal amount of the applicable Series of Bonds at the time Outstanding procured and given in the manner set forth in the Indenture; provided, however, that no such amendment shall be permitted which changes the terms of payment thereunder without the consent of the Owners of all the applicable Series of Bonds then Outstanding. The Trustee shall be entitled to receive and may rely on an opinion of Independent Counsel stating that and as conclusive evidence that any such amendment, change or

modification and the evidence of requisite Owner consent comply with the requirements of the provisions under this heading. *(Section 11.02)*

#### **Amendments of Tax Regulatory Agreement Not Requiring Consent of Owners**

Without the consent of or notice to any of the Owners, the Issuer and the Institute may consent to any amendment, change or modification of the Tax Regulatory Agreement as may be required (a) for the purpose of curing any ambiguity or formal defect or omission, or (b) in connection with any other change therein which, in either case, does not adversely affect the interests of the Issuer, the Institute or the Owners of the applicable Series of Bonds. The Issuer and the Institute shall be entitled to receive and may rely upon an opinion of Bond Counsel stating that and as conclusive evidence that any such amendment, change or modification complies with the provisions under this heading. *(Section 11.05)*

#### **Amendments of Tax Regulatory Agreement Requiring Consent of Owners**

Except for amendments, changes or modifications as provided under the heading “Amendments of Tax Regulatory Agreement Not Requiring Consent of Owners”, neither the Issuer nor the Institute shall enter into any amendment, change or modification of the Tax Regulatory Agreement without mailing of notice and the written approval or consent of the Owners of not less than fifty-one percent (51%) in aggregate principal amount of the applicable Series of Bonds at the time Outstanding procured and given in the manner set forth in the Indenture. The Issuer shall be entitled to receive and may rely upon an opinion of Bond Counsel stating that and as conclusive evidence that any such amendment, change or modification and the evidence of requisite Owner consent comply with the provisions under this heading. *(Section 11.06)*

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## SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT

*The following is a summary of certain provisions of the Loan Agreement. Certain provisions of the Loan Agreement are also described in the Official Statement. This summary does not purport to be complete and reference is made to the Loan Agreement for the detailed provisions thereof. This summary is qualified in its entirety by such reference. Headings are not part of the Loan Agreement and are included for ease of reference only.*

### **Loan of Series 2016B Bond Proceeds**

The Issuer agrees to loan the Series 2016B Bond Proceeds to the Institute in accordance with the provisions of the Loan Agreement. Such Series 2016B Bond Proceeds shall be disbursed to the Institute in accordance with the provisions of the Loan Agreement and of the Indenture. (Section 5.1)

### **Financing and Refinancing of the Project**

(a) The Institute agrees, and covenants and warrants to the Issuer that the proceeds of the Series 2016B Bonds will be used to finance and refinance the Project.

(b) The Institute agrees, and covenants and warrants to the Issuer, it has or will acquire, renovate, construct, equip and furnish the Facilities in accordance with the Plans and Specifications.

(c) The Institute shall pay all fees, costs and expenses incurred in the construction and renovation of the Improvements and the acquisition and installation of the Equipment from funds made available therefor in accordance with the Loan Agreement, and shall ask, demand, sue for, levy, recover and receive all such sums or money, debts, dues and other demands whatsoever which may be due, owing and payable to the Institute under the terms of any contract, order, receipt, or writing in connection with the construction, renovation and completion of the Improvements and the acquisition and installation of the Equipment, and to enforce the provisions of any contract, agreement, obligation, bond or other performance security. (Section 4.1)

### **Issuance of the Series 2016B Bonds; Disbursement of Bond Proceeds**

In order to provide funds for payment of the Costs of the Project, together with other payments and incidental expenses in connection therewith, the Issuer agrees that it will authorize, issue, sell and cause the Series 2016B Bonds to be delivered on the terms set forth in the Indenture. Bond Proceeds shall be disbursed in accordance with the provisions of the Indenture and the Loan Agreement. (Section 4.2)

### **Application of Series 2016B Bond Proceeds**

The Bond Proceeds shall be deposited in the Project Fund and used to pay the costs of the Project. Except as provided in subsection (a)(ii) under the heading "Remedies on Default", the Bond Proceeds, upon the written direction of an Authorized Representative of the Institute, and on the conditions provided for in the Indenture, shall be applied to pay only the following costs and items of expense paid by or on behalf of the Issuer as provided under the Tax Regulatory Agreement or included in a resolution of the Board of Trustees of the Institute indicating an intent to reimburse the Institute for costs of the Project incurred prior to that date:

- (i) the cost of preparing the Plans and Specifications (including any preliminary study or planning of the Project or any aspect thereof),
- (ii) all costs of renovating, constructing, equipping and furnishing the Facilities (including environmental audits and architectural, engineering and supervisory services with respect to the Project),

- (iii) all fees, taxes, charges and other expenses for recording or filing, as the case may be, any documents that the Issuer or the Trustee may deem desirable in order to protect or perfect any security interest contemplated by the Indenture,
- (iv) all legal, accounting and any other fees, costs and expenses incurred in connection with the preparation, printing, reproduction, authorization, issuance, execution, sale and distribution of the Series 2016B Bonds and the Bond Documents and all other documents in connection with the Loan Agreement or therewith, and with any other transaction contemplated by the Loan Agreement or the Indenture and the fees and expenses in connection with obtaining a rating, if any, on the Series 2016B Bonds,
- (v) the interest on the Series 2016B Bonds during the acquisition and construction of the Project including capitalized interest,
- (vi) any administrative fee and fee for services of the Issuer, or
- (vii) reimbursement to the Institute for any of the above-enumerated costs and expenses. *(Section 4.3)*

### **Completion by Institute**

(a) In the event that the Net Proceeds of the Series 2016B Bonds are not sufficient to pay in full the Costs of the Project, the Institute agrees to pay, for the benefit of the Issuer and the Trustee, all such sums as may be in excess of the Net Proceeds of the Series 2016B Bonds. The Institute shall execute, deliver and record or file such instruments as the Issuer or the Trustee may request in order to perfect or protect the Issuer's security interests contemplated by the Indenture and the Note.

(b) The Institute shall not be entitled to any reimbursement for such excess cost or expense from the Issuer or the Trustee or the Owners of any of the Series 2016B Bonds, nor shall it be entitled to any diminution or abatement of any other amounts payable by the Institute under the Loan Agreement. *(Section 4.5)*

### **Loan Payments and Other Amounts Payable**

(a) The Institute shall pay to the Issuer on the Closing Date the Issuer's issuance fee in an amount based on the principal of the Series 2016B Bonds. In addition, the Institute shall pay to the Issuer an annual fee of 0.015% on the principal amount outstanding on the bonds (as more fully provided below) on or before January 1 of each year commencing January 1, 2017 and continuing through the duration of the Loan Agreement. The Institute shall pay basic loan payments five (5) Business Days before each Debt Service Payment Date directly to the Trustee, in an amount equal to the Debt Service Payment becoming due and payable on the Series 2016B Bonds on such Debt Service Payment Date. The Institute's obligation to pay such basic loan payments shall be evidenced by the Promissory Note, substantially in the form attached to the Loan Agreement Exhibit B.

(b) In addition to the Loan Payments, the Institute shall also pay to the Issuer or to the Trustee, as the case may be, "Additional Payments," as follows:

(i) All taxes and assessments of any type or character charged to the Issuer or to the Trustee affecting the amount available to the Issuer or the Trustee from payments to be received hereunder 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 franchise taxes based upon the capital and/or income of the Trustee and taxes based upon or measured by the net income of the Trustee; provided, however, that the Institute shall have the right to protest any such taxes or assessments and to require the Issuer or the Trustee, as the case may be, at the Institute's expense, to protest and contest any such taxes or assessments assessed or levied upon them and that the Institute 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 adversely affect the rights or interests of the Issuer or the Trustee;



(ii) All reasonable fees, charges and expenses of the Trustee for services rendered under the Indenture and all amounts referred to in Section 9.02 of the Indenture, as and when the same become due and payable;

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

(iv) The annual fee of the Issuer and the reasonable fees and expenses of the Issuer or any agent or attorney selected by the Issuer to act on its behalf in connection with the Loan Agreement, the Institute Documents, the Series 2016B 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 Series 2016B Bonds or in connection with any litigation, investigation, inquiry or other proceeding which may at any time be instituted involving the Loan Agreement, the Institute Documents, the Series 2016B Bonds or the Indenture or any of the other documents contemplated thereby, or in connection with the reasonable supervision or inspection of the Institute, its properties, assets or operations or otherwise in connection with the administration of the Loan Agreement and the Institute Documents.

Such Additional Payments shall be billed to the Institute by the Issuer or the Trustee from time to time, together with a statement certifying that the amount billed has been incurred or paid by the Issuer or the Trustee for one or more of the above items. After such a demand, amounts so billed shall be paid by the Institute within thirty (30) days after receipt of the bill by the Institute. Notwithstanding the foregoing, the Issuer shall not be required to submit a bill to the Institute for payment of the Issuer's annual fee of 0.015% of the aggregate principal amount of Series 2016B Bonds Outstanding under the Indenture. Such annual fee shall be paid by the Institute to the Trustee on a prorata basis (i.e., the annual fee shall be divided by the number of payments to be made during each annual period based on the number of interest payments), due and payable in arrears, on each respective Interest Payment Date (deeming, for purposes of calculating the prorata fee to be paid, any principal to be paid on or as of such Interest Payment Date as no longer Outstanding) and shall be made as an Additional Payment in accordance with the Loan Agreement and Section 4.13 of the Indenture.

(c) In addition, the Institute shall pay as additional loan payments within fifteen (15) days after receipt of a written demand therefor the Ordinary Expenses and Extraordinary Expenses payable by the Issuer to the Trustee pursuant to and under the Indenture.

(d) Reserved.

(e) The Institute, under the provisions under this heading, agrees to make the above-mentioned payments in immediately available funds and without any further notice in lawful money of the United States of America. In the event the Institute shall fail timely to make any payment required in subsection (a) above, the Institute shall pay the same together with interest on such payment at the Late Payment Rate, but in no event at a rate higher than the maximum lawful prevailing rate, from the date on which such payment was due until the date on which such payment is made. In the event the Institute shall fail timely to make any payment required in subsection (b) above, the Institute shall pay the same together with interest on such payment at the per annum rate of ten percent (10%), but in no event at a rate higher than the maximum lawful prevailing rate, from the date on which such payment was due until the date on which such payment is made. (*Section 5.3*)

#### **Obligations of Institute Under the Loan Agreement Unconditional**

The obligations of the Institute to make the payments required in the Loan Agreement, and to perform and observe any and all of the other covenants and agreements on its part contained in the Loan Agreement, shall be a general obligation of the Institute, and shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment or counterclaim it may otherwise have against the Issuer. The Institute agrees it will not (i) suspend, discontinue or abate any payment required under the Loan Agreement, (ii) fail to observe any of its other covenants or agreements in the Loan Agreement, or (iii) terminate the Loan Agreement for any cause whatsoever unless and until the Series 2016B Bonds, including premium, if any, and interest thereon, have been paid or provided for in the Bond Documents.

Subject to the foregoing provisions, nothing contained in the Loan Agreement shall be construed to release the Issuer from the performance of any of the agreements on its part contained in the Loan Agreement or to affect the right of the Institute to seek reimbursement from, or institute any action against any party as the Institute may deem necessary to compel performance or recover damages for non-performance from such party. *(Section 5.4)*

#### **Payment of Additional Moneys in Prepayment of Series 2016B Bonds**

In addition to any other moneys required or permitted to be paid pursuant to the Loan Agreement, the Institute may, subject to the terms of the Indenture, pay moneys to the Trustee (i) to be applied as the prepayment of amounts to become due and payable by the Institute pursuant to the Loan Agreement and the Promissory Note, or (ii) to be used for the redemption or prepayment of any Series 2016B Bonds at such time or times and on such terms and conditions as is provided in such Series 2016B Bonds and in the Indenture. The Institute shall notify the Issuer and the Trustee in writing as to the purpose of any such payment. *(Section 5.5)*

#### **Rights and Obligations of the Institute upon Prepayment of Series 2016B Bonds**

In the event the Series 2016B Bonds shall have been paid in full prior to the termination of the Loan Agreement, or provision for such payment shall have been made in accordance with the Indenture, the Issuer, at the sole cost of the Institute, shall obtain and record or file appropriate terminations, discharges or releases of any security interest relating to the Project or under the Indenture. *(Section 5.6)*

#### **Maintenance and Modifications of Facilities by Institute**

(a) The Institute shall not abandon the Facilities or cause or permit any waste to the Improvements. During the Loan Term, the Institute shall not remove any part of the Facilities outside of the jurisdiction of the Issuer and shall (i) keep the Facilities in as reasonably safe condition as its operations shall permit; (ii) make all necessary repairs and replacements to the Facilities (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen); and (iii) operate the Facilities in a sound and economic manner.

(b) With the written consent of the Issuer, which shall not be unreasonably withheld, the Institute, from time to time, may make any material structural additions, modifications or improvements to the Facilities or any part thereof, provided (i) such actions do not adversely affect the structural integrity of the Facilities, and (ii) such actions do not materially impair the use of the Facilities or materially decrease their value. All such additions, modifications or improvements made by the Institute shall become a part of the Facilities. The Institute agrees to deliver to the Issuer all documents which may be necessary or appropriate to protect the lien of the Deed of Trust. *(Section 6.1)*

#### **Installation of Additional Equipment**

Subject to the provisions of the Loan Agreement and the Deed of Trust, the Institute or any permitted sublessee of the Institute from time to time may install additional machinery, equipment or other personal property in the Project (which may be attached or affixed to the Facilities), and such machinery, equipment or other personal property shall not become, or be deemed to become, a part of the Facilities, provided that the acquisition and installation of such property is not financed from either the Project Fund or the Renewal Fund. Subject to the provisions of the Deed of Trust, the Institute from time to time may create or permit to be created any Lien on such machinery, equipment or other personal property. Further, the Institute from time to time may remove or permit the removal of such machinery, equipment and other personal property from the Facilities, provided that any such removal of such machinery, equipment or other personal property shall not occur (i) if any Event of Default has occurred; or (ii) if any such removal shall adversely affect the structural integrity of the Facilities or impair the overall operating efficiency of the Facilities for the purposes for which it is intended, and provided further that, if any damage is occasioned to the Facilities by such removal, the Institute agrees promptly to repair such damage at its own expense. *(Section 6.2)*

## Insurance Required

At all times throughout the Loan Term, including, when indicated in the Loan Agreement, during the Construction Period, the Institute shall, at its sole cost and expense, maintain or cause to be maintained insurance covering the Facilities against such risks and for such amounts as are customarily insured against by facilities of like size and type and shall pay, as the same become due and payable, all premiums with respect thereto, including, but not necessarily limited to:

(a) Insurance against loss or damage by fire, lightning and other casualties customarily insured against, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the completed Improvements, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the Institute, but in no event less than the principal amount of the Bonds. During the Construction Period, such policy shall be written in the so-called "Builder's Risk Completed Value Non-Reporting Form" and shall contain a provision granting the insured permission to complete and/or occupy.

(b) Workers' compensation insurance, disability benefits insurance and each other form of insurance which the Institute is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Institute who are located at or assigned to the Facilities.

(c) Insurance protecting the Issuer, the Trustee and the Institute against loss or losses from liability imposed by law or assumed in any written contract (including the contractual liability assumed by the Institute under the Loan Agreement) and arising from personal injury, including bodily injury or death, or damage to the property of others, caused by an accident or occurrence with a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage) and with a blanket excess liability coverage in an amount not less than \$5,000,000 protecting the Issuer, the Trustee and the Institute against any loss or liability or damage for personal injury, including bodily injury or death, or property damage. This coverage shall also be in effect during the Construction Period.

(d) During the Construction Period (and for at least one year thereafter in the case of Products and Completed Operations as set forth below), the Institute shall cause the general contractor to carry liability insurance of the type and providing the minimum limits set forth below:

- (i) Workers' compensation and employer's liability with limits in accordance with applicable law.
- (ii) Comprehensive general liability providing coverage for:

- Premises and Operations
- Products and Completed Operations
- Owners Protective
- Contractors Protective
- Contractual Liability
- Personal Injury Liability
- Broad Form Property Damage  
(including completed operations)
- Explosion Hazard
- Collapse Hazard
- Underground Property Damage Hazard

Such insurance shall have a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage).

- (iii) Business auto liability, including all owned, non-owned and hired autos, with a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage).
- (iv) Excess “umbrella” liability providing liability insurance in excess of the coverage’s in (ii) and (iii) above with a limit of not less than \$5,000,000.

(e) A policy or policies of flood insurance in an amount not less than the principal amount of the Loan or the maximum amount of flood insurance available with respect to the Facilities under the Flood Disaster Protection Act of 1973, as amended, whichever is less. This requirement will be waived upon presentation of evidence satisfactory to the Issuer that no portion of the Land is located within an area identified by the U.S. Department of Housing and Urban Development as having special flood hazards. (*Section 6.4*)

#### **Additional Provisions Respecting Insurance**

(a) All insurance required by the Loan Agreement shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the entity required to procure the same and authorized to write such insurance in the State. The company issuing the policies required by subsections (a) and (e) under the heading “Insurance Required” shall be rated “A” or better by A.M. Best Co., Inc. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the procuring entity is engaged. All policies evidencing the insurance required by subsections (a) and (e) under the heading “Insurance Required” shall provide for payment to the Trustee of the Net Proceeds of insurance resulting from any claim for loss or damage thereunder, and all policies of insurance required by the Loan Agreement shall provide for at least thirty (30) days’ prior written notice of the restriction, cancellation or modification thereof to the Issuer and the Trustee. The policy evidencing the insurance required by subsection (c) under the heading “Insurance Required” shall name the Issuer and the Trustee as additional insureds. All policies evidencing the insurance required by subsections (d)(ii) and (iv) under the heading “Insurance Required” shall name the Issuer and the Institute as additional insureds. Upon request of the Trustee, the Institute will assign and deliver to the Trustee the policies of insurance required under subsection (a) under the heading “Insurance Required”, so and in such manner and form that the Trustee shall at all times, upon such request and until the payment in full of the Series 2016B Bonds, have and hold said policies and the Net Proceeds thereof as collateral for the payment of the Series 2016B Bonds. The policies under subsection (a) under the heading “Insurance Required” shall contain appropriate waivers of subrogation.

(b) The policies (or certificates and binders) of insurance required by subsection (a) under the heading “Insurance Required” shall be deposited with the Trustee on or before the Closing Date. A copy of the policy (or certificate and binder) of insurance required by subsection (c) under the heading “Insurance Required” shall be delivered to the Issuer on or before the Closing Date. A copy of the policies (or certificates and binders) of insurance required by subsections (d)(ii) and (iv) under the heading “Insurance Required” shall be delivered to the Issuer on or before the Closing Date. The Institute shall deliver to the Issuer and the Trustee before the first Business Day of each twelve (12) month period thereafter a certificate dated not earlier than the immediately preceding month reciting that there is in full force and effect, with a term covering at least the next succeeding twelve (12) month period, insurance of the types and in the amounts required by the Loan Agreement and complying with the additional requirements of subsection (a) under the heading “Additional Provisions Respecting Insurance”. Prior to the expiration of each such policy or policies, the Institute shall furnish to the Issuer and the Trustee a new policy or policies of insurance or evidence that such policy or policies have been renewed or replaced or are no longer required by the Loan Agreement. The Institute shall provide such further information with respect to the insurance coverage required by the Loan Agreement as the Issuer and the Trustee may from time to time reasonably require. (*Section 6.5*)

#### **Application of Net Proceeds of Insurance**

The Net Proceeds of the insurance carried pursuant to the provisions of the Loan Agreement shall be applied as follows: (i) the Net Proceeds of the insurance required by subsection (a) under the heading “Insurance Required” shall be applied as provided in the Loan Agreement, and (ii) the Net Proceeds of the insurance required

by subsections (b), (c) and (d) under the heading “Insurance Required” shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid. *(Section 6.6)*

### **Prohibited Uses**

No portion of the proceeds of the Series 2016B Bonds shall be used to finance or refinance any facility, place or building to be used (1) primarily for sectarian instruction or study or as a place for devotional activities or religious worship or (2) by a person that is not a 501(c)(3) Organization or a Governmental Unit or by a 501(c)(3) Organization (including the Institute) in an “unrelated trade or business” (as set forth in Section 513(a) of the Code), in such a manner or to such extent as would result in any of the Series 2016B Bonds being treated as an obligation not described in Section 103(a) of the Code. *(Section 6.8)*

### **Damage or Destruction of the Facilities**

(a) If any portion of the Facilities shall be damaged or destroyed (in whole or in part) at any time during the Loan Term:

- (i) the Issuer shall have no obligation to replace, repair, rebuild, restore or relocate the Facilities or any project thereof comprising a portion of the Facilities; and
- (ii) there shall be no abatement or reduction in the Loan Payments or other amounts payable by the Institute under the Loan Agreement (whether or not such project comprising a portion of the Facilities are replaced, repaired, rebuilt, restored or relocated); and
- (iii) upon the occurrence of such damage or destruction, the Net Proceeds derived from the insurance shall be paid to the Trustee and deposited in the Renewal Fund, and, except as otherwise provided in the Loan Agreement, the Institute shall at its option either (A) replace, repair, rebuild, restore or relocate such project comprising a portion of the Project, or (B) direct the Trustee to apply such Net Proceeds to the payment of the principal of the Series 2016B Bonds or any Additional Bonds as they become due and payable or the Redemption Price of the Bonds subject to Redemption in accordance with the Indenture.

If the Institute replaces, repairs, rebuilds, restores or relocates the Facilities, the Trustee shall disburse the Net Proceeds from the Renewal Fund in the manner set forth in the Indenture to pay or reimburse the Institute for the cost of such replacement, repair, rebuilding, restoration or relocation.

(b) Any such replacements, repairs, rebuilding, restorations or relocations shall be subject to the following conditions:

- (i) such project comprising a portion of the Facilities shall be in substantially the same condition and value as an operating entity as existed prior to the damage or destruction;
- (ii) the exclusion of the interest on the Series 2016B Bonds from gross income for Federal income tax purposes shall not, in the opinion of Bond Counsel, be adversely affected;
- (iii) the Facilities (or such portion thereof) will be subject to no Liens, other than Permitted Encumbrances; and
- (iv) any other conditions the Issuer may reasonably impose.

(c) All such repair, replacement, rebuilding, restoration or relocation of the Facilities (or such portion thereof) shall be effected with due diligence in a good and workmanlike manner in compliance with all applicable legal requirements and be promptly and fully paid for by the Institute in accordance with the terms of the applicable contracts.

(d) If the Institute elects to replace, repair, rebuild, restore or relocate the Facilities pursuant to the Loan Agreement, then in the event such Net Proceeds are not sufficient to pay in full the costs of such replacement, repair, rebuilding, restoration or relocation, the Institute shall nonetheless complete the work and pay from its own moneys that portion of the costs thereof in excess of such Net Proceeds. All such replacements, repairs, rebuilding, restoration or relocations made pursuant to the provisions under this heading, whether or not requiring the expenditure of the Institute's own money, shall automatically become a part of the Facilities as if the same were specifically described in the Loan Agreement.

(e) Any balance of such Net Proceeds remaining in the Renewal Fund after payment of all costs of replacement, repair, rebuilding, restoration or relocation shall, subject to any rebate required to be made to the Federal government pursuant to the Indenture or the Tax Regulatory Agreement, be used to redeem the Series 2016B Bonds as provided in the Indenture.

(f) If the Institute shall exercise its option to terminate the Loan Agreement pursuant to the provisions under the heading "Early Termination of Loan Agreement", such Net Proceeds shall be applied to the payment of the amounts required to be paid by the Loan Agreement. If an Event of Default under the Loan Agreement shall have occurred and is continuing and the Trustee shall have exercised its remedies under the Loan Agreement, such Net Proceeds shall be applied to the payment of the amounts required to be paid by the Loan Agreement.

(g) If the entire amount of the Series 2016B Bonds and interest thereon has been fully paid, or provision therefor has been made in accordance with the Indenture, all such remaining Net Proceeds shall be paid to the Institute.

(h) Except upon the occurrence and continuation of an Event of Default, the Institute with the consent of the Issuer, not to be withheld unreasonably, shall have the right to settle and adjust all claims under any policies of insurance required by subsections (a) and (d) under the heading "Insurance Required" on behalf of the Issuer and on its own behalf. *(Section 7.1)*

## **Condemnation**

(a) If title to or use of the Facilities or any portion thereof comprising a portion of the Facilities shall be taken by Condemnation (in whole or in part) at any time during the Loan Term:

- (i) the Issuer shall have no obligation to replace, repair, rebuild, restore or relocate such project comprising a portion of the Facilities or acquire, by construction or otherwise, facilities of substantially the same nature as the Facilities (the "**Substitute Facilities**"); and
- (ii) there shall be no abatement or reduction in the amounts payable by the Institute under the Loan Agreement (whether or not such Facilities (or such portion thereof) is replaced, repaired, rebuilt, restored or relocated or the Substitute Facilities acquired); and
- (iii) upon the occurrence of such Condemnation, the Net Proceeds derived therefrom shall be paid to the Trustee and deposited in the Renewal Fund, and, except as otherwise provided in the Loan Agreement, the Institute shall
  - (A) replace, repair, rebuild, restore or relocate the Facilities (or such portion thereof) or acquire the Substitute Facilities, or
  - (B) redeem an amount of Series 2016B Bonds equal to the Net Proceeds in accordance with the Indenture.

If the Institute replaces, repairs, rebuilds, restores or relocates the Facilities (or such portion thereof) or acquires the Substitute Facilities, the Trustee shall disburse the Net Proceeds from the Renewal Fund in the manner

set forth in the Indenture to pay or reimburse the Institute for the cost of such replacement, repair, rebuilding, restoration, relocation or acquisition of the Substitute Facilities.

(b) Any such replacements, repairs, rebuilding, restorations, relocations or acquisitions of the Substitute Facilities shall be subject to the following conditions:

- (i) the Facilities (or such portion thereof) or the Substitute Facilities shall be in substantially the same condition and value as an operating entity as existed prior to the condemnation;
- (ii) the exclusion of the interest on the Series 2016B Bonds from gross income for Federal income tax purposes shall not, in the opinion of Bond Counsel, be adversely affected;
- (iii) the Facilities (or such portion thereof) or the Substitute Facilities will be subject to no Liens, other than Permitted Encumbrances; and
- (iv) any other conditions the Issuer may reasonably impose.

(c) All such repair, replacement, rebuilding, restoration or relocation of the Facilities (or such portion thereof) shall be effected with due diligence in a good and workmanlike manner in compliance with all applicable legal requirements and shall be promptly and fully paid for by the Institute in accordance with the terms of the applicable contracts.

(d) If the Institute elects to replace, repair, rebuild, restore or relocate pursuant to the Loan Agreement, then in the event such Net Proceeds are not sufficient to pay in full the costs of such replacement, repair, rebuilding, restoration, relocation or acquisition of the Substitute Facilities, the Institute shall nonetheless complete the work or the acquisition and pay from its own moneys that portion of the costs thereof in excess of such Net Proceeds. All such replacements, repairs, rebuilding, restoration, relocations and such acquisition of the Substitute Facilities made pursuant to the provisions under this heading, whether or not requiring the expenditure of the Institute's own money, shall automatically become a part of the Facilities as if the same were specifically described in the Loan Agreement.

(e) Any balance of such Net Proceeds remaining in the Renewal Fund after payment of all costs of replacement, repair, rebuilding, restoration, relocation or acquisition of the Substitute Facilities shall, subject to any rebate required to be made to the Federal government pursuant to the Indenture or the Tax Regulatory Agreement, be used to redeem the Series 2016B Bonds as provided in the Indenture.

(f) If the Institute shall exercise its option to terminate the Loan Agreement pursuant to the provisions under the heading "Early Termination of Loan Agreement", such Net Proceeds shall be applied to the payment of the amounts required to be paid by the Loan Agreement. If any Event of Default under the Loan Agreement shall have occurred and is continuing and the Trustee shall have exercised its remedies under the Loan Agreement, such Net Proceeds shall be applied to the payment of the amounts required to be paid by the Loan Agreement.

(g) If the entire amount of the Series 2016B Bonds and interest thereon has been fully paid, or provision therefor has been made in accordance with the Indenture, all such remaining Net Proceeds shall be paid to the Institute.

(h) Except upon the occurrence and continuation of an Event of Default, the Institute with the consent of the Issuer, not to be unreasonably withheld, shall have the right to settle and adjust all claims under any Condemnation proceedings on behalf of the Issuer and on its own behalf. (*Section 7.2*)

## **Indemnification**

(a) To the fullest extent permitted by law, the Institute agrees to indemnify, hold harmless and defend the Issuer, the Program Participants, the Trustee, and each of their respective officers, governing 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 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 Series 2016B Bonds, the Indenture, the Loan Agreement, Institute Documents or the Tax Regulatory Agreement or the execution or amendment hereof or thereof or in connection with transactions contemplated by the Loan Agreement or thereby, including the issuance, sale or resale of the Series 2016B Bonds;
- (ii) any act or omission of the Institute 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 Institute to the Issuer and the Trustee hereunder, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Issuer 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 Series 2016B Bonds;
- (vi) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in any offering or disclosure document or disclosure or continuing disclosure document for the Series 2016B Bonds or any of the documents relating to the Series 2016B Bonds, or any omission or alleged omission from any offering or disclosure document or disclosure or continuing disclosure document for the Series 2016B 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 Series 2016B Bonds, or allegations that interest on the Series 2016B Bonds is taxable or any regulatory audit or inquiry regarding whether interest on the Series 2016B Bonds is taxable; and
- (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 Series 2016B 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 Issuer or the Program Participants or any of their 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 hereunder, the Institute, 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 Institute 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 Institute 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.

(b) The rights of any persons to indemnity under the Loan Agreement and rights to payment of fees and reimbursement of expenses pursuant to Section 8.8(e), Section 10.4 and Section 8.2 of 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 described in this section shall survive the termination of the Loan Agreement.

(c) Notwithstanding any other provisions of the Loan Agreement, the obligations of the Institute pursuant to the provisions under this heading shall remain in full force and effect after the termination of the Loan Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters described in the Loan Agreement may be brought and payment in full or the satisfaction of such claim, cause of action or prosecution relating to the matters described in the Loan Agreement and the payment of all expenses and charges incurred by the Issuer, the Trustee or their respective members, directors, officers, agents and employees, relating to the enforcement of the provisions specified in the Loan Agreement.

(d) In the event of any claim against the Issuer, the Trustee or any Paying Agent or their respective members, directors, officers, agents or employees by any employee or contractor of the Institute or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the Institute under the Loan Agreement shall not be limited in any way by any limitation on the amount or type of damages, compensation, disability benefits or other employee benefit acts.

(e) The Trustee and each Paying Agent shall be third party beneficiaries of the Institute's obligations under this heading. *(Section 8.2)*

### **Right to Inspect Facilities**

The Issuer and the Trustee and the duly authorized agents of either of them shall have the right at all reasonable times upon prior written notice to the Institute to inspect the Facilities. *(Section 8.3)*

### **Institute to Maintain Its Existence**

The Institute agrees that during the Loan Term (a) it will maintain its existence as an education corporation constituting an Exempt Organization subject to service of process within the State; (b) it will preserve its status as an organization described in Section 501(c)(3) of the Code; (c) it will operate the Facilities as an institution of higher education which, together with other available funds, will be sufficient in each fiscal year to provide funds for the following: (1) the payment by the Institute of all of its expenses for the operation, maintenance and repair of its facilities, including the Facilities in such year; (2) the payment of all amounts due under the Loan Agreement in such year; and (3) the payment of all indebtedness and all other obligations of the Institute due in such year; and (e) it will not perform any act, enter into any agreement, or use or permit the Project to be used in any manner or for any unrelated trade or business as described in Section 513(a) of the Code, which could adversely affect the exemption of interest on the Series 2016B Bonds from federal income taxes pursuant to Section 103 and 145 of the Code except as provided in the Tax Regulatory Agreement. Except as permitted by the Tax Regulatory Agreement, prior to the Institute performing any act, entering into any agreement or using or permitting the Facilities to be used in any manner that would constitute an unrelated trade or business within the meaning of Section 513(a) of the Code, the Institute shall provide written notice to the Issuer and the Trustee and the Issuer and the Trustee shall receive an opinion of counsel satisfactory to each of them to the effect that such contemplated act, agreement or use will not adversely affect the exemption of interest on the Bonds for federal income tax purposes. *(Section 8.4)*

## **Qualification in State**

The Institute throughout the Loan Term shall continue to be duly authorized to do business in the State as an institution of higher education. (*Section 8.5*)

## **Agreement to Provide Information**

The Institute agrees within a reasonable period of time following a written request by the Issuer to provide and certify or cause to be provided and certified such information concerning the Institute, its finances, its operations and its affairs necessary to enable the Issuer to make any report required by law, governmental regulation or any of the Issuer Documents or Institute Documents. (*Section 8.6*)

## **Books of Record and Account; Financial Statements**

The Institute at all times agrees to maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles, of all transactions and events relating to the business and affairs of the Institute. (*Section 8.7*)

## **Compliance with Orders, Ordinances, Etc.**

(a) The Institute, throughout the Loan Term, agrees that it will promptly comply, and take all reasonable steps to cause any tenant or occupant of the Facilities to comply, with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Facilities or any part thereof or to the renovation, construction and equipping thereof, or to any use, manner of use or condition of the Facilities or any part thereof, of all federal, state, county, municipal and other governments, departments, commissions, boards, courts, authorities, officials and officers having jurisdiction of the Facilities or any part thereof, or to the renovation, construction, equipping and furnishing thereof, or to any use, manner of use or condition of the Facilities or any part thereof and of all companies or associations insuring the premises.

(b) The Institute shall keep or cause the Facilities to be kept free of Hazardous Substances, except in compliance with applicable law. Without limiting the foregoing, the Institute shall not cause or permit the Facilities to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Substances, except in compliance with all applicable federal, state and local laws, regulations and permits, nor shall the Institute cause or permit, as a result of any intentional or unintentional act or omission on the part of the Institute or any contractor, subcontractor, tenant or subtenant, a release of Hazardous Substances onto the Facilities or onto any other property. The Institute shall comply with and shall take all reasonable steps to ensure compliance by all contractors, subcontractors, tenants and subtenants with all applicable federal, state and local laws, ordinances, rules and regulations, whenever and by whomever triggered, and shall obtain and comply with, and shall take all reasonable steps to ensure that all contractors, subcontractors, tenants and subtenants obtain and comply with, any and all approvals, registrations or permits required thereunder. The Institute shall (a) conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Substances, on, from, or affecting the Facilities (i) in accordance with all applicable federal, state, and local laws, ordinances, rules, regulations, and policies, (ii) to the reasonable satisfaction of the Trustee and the Issuer, and (iii) in accordance with the orders and directives of all federal, state, and local governmental authorities; and (b) defend, indemnify, and hold harmless the Trustee and the Issuer, their employees, agents, officers, and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to (i) the presence, disposal, release, or threatened release of any Hazardous Substances which are on, from or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise, (ii) any bodily injury, personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Substances, (iii) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Substances, and/or (iv) any violation of laws, orders, regulations, requirements, or demands of government authorities, or any policies or requirements of the Trustee and the Issuer, which are based upon or in any way related to such Hazardous Substances, including, without limitation, reasonable attorney and consultant fees, reasonable investigation and laboratory fees, court costs, and reasonable litigation expenses. The

provisions under this heading shall be in addition to any and all other obligations and liabilities the Institute may have to the Trustee at common law, and shall survive the transactions contemplated in the Loan Agreement.

(c) Notwithstanding the provisions of subsections (a) and (b) above, the Institute may in good faith contest the validity or the applicability of any requirement of the nature referred to in such subsections (a) and (b) by appropriate legal proceedings conducted in good faith and with due diligence. In such event, the Institute may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom, unless the Issuer or the Trustee shall notify the Institute that by failure to comply with such requirement or requirements, the Facilities or any part thereof may be subject to loss, penalty or forfeiture, in which event the Institute shall promptly take such action with respect thereto or provide such security as shall be satisfactory to the Trustee and to the Issuer. If at any time the then existing use or occupancy of the Facilities shall, pursuant to any zoning or other law, ordinance or regulation, be permitted only so long as such use or occupancy shall continue, the Institute shall use all reasonable efforts to not cause or permit such use or occupancy to be discontinued without the prior written consent of the Issuer and the Trustee.

(d) Notwithstanding the provisions of under this heading, if, because of a breach or violation of the provisions of subsections (a) or (b) above (without giving effect to subsection (c) above), either the Issuer, the Trustee, or any of their respective members, directors, officers, agents, or employees, shall be threatened with a fine, liability, expense or imprisonment, then, upon notice from the Issuer or the Trustee, the Institute shall immediately provide legal protection and/or pay amounts necessary in the opinion of the Issuer or the Trustee, as the case may be, and their respective members, directors, officers, agents and employees deem sufficient, to the extent permitted by applicable law, to remove the threat of such fine, liability, expense or imprisonment.

(e) Notwithstanding any provisions of under this heading, the Trustee and the Issuer retain the right to defend themselves in any action or actions which are based upon or in any way related to such Hazardous Substances. In any such defense of themselves, the Trustee and the Issuer shall each select their own counsel, and any and all reasonable costs of such defense, including, without limitation, reasonable attorney and consultant fees, reasonable investigation and laboratory fees, court costs, and reasonable litigation expenses, shall be paid by the Institute. *(Section 8.8)*

### **Discharge of Liens and Encumbrances**

(a) The Institute, throughout the Loan Term, shall not permit or create or suffer to be permitted or created any Lien, except for Permitted Encumbrances, upon the Facilities, the Pledged Real Property and the Pledged Revenues or any part thereof by reason of any labor, services or materials rendered or supplied or claimed to be rendered or supplied with respect to the Facilities or any part thereof.

(b) Notwithstanding the provisions of subsection (a) above, the Institute may in good faith contest any such Lien. In such event, the Institute may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the Issuer or the Trustee shall notify the Institute that by nonpayment of any such item or items, the lien of the Deed of Trust may be materially endangered, the Facilities, the Pledged Real Property or any part thereof may be subject to loss or forfeiture, in which event the Institute shall promptly secure payment of all such unpaid items by filing a bond, in form and substance satisfactory to the Issuer, thereby causing such Lien to be removed or by taking such other actions as may be satisfactory to the Issuer to protect its interests. Mechanics' Liens shall be discharged or bonded within ninety (90) days following the Institute's receipt of notice of the filing or perfection thereof. *(Section 8.9)*

### **Additional Encumbrances and Indebtedness**

The Institute may incur additional Long-Term Indebtedness or request the Issuer to issue one or more series of Additional Bonds under the Indenture, provided that (i) all terms and conditions for the incurrence of such additional Indebtedness or Additional Bonds under the Indenture have been satisfied, (ii) the Institute maintains a long-term debt rating not lower than Baa3 or BBB- from at least one rating agency and (iii) (a) such additional Indebtedness is less than or equal to ten percent (10%) of the Institute's unrestricted and temporarily restricted net assets, or (b) the Institute provides to the Trustee a certificate containing pro forma calculations demonstrating that

the Debt Service Coverage Covenant and the Available Assets to Debt Ratio each would have been met in the most recently completed fiscal year taking into account the proposed additional Indebtedness. (*Section 8.13*)

### **Certain Additional Covenants**

(a) The Institute agrees to furnish to the Issuer and the Trustee, as soon as available and in any event within one hundred fifty (150) days after the close of each fiscal year of the Institute, a copy of the annual audited financial statements of the Institute, including statements of financial position as of the end of such year, and the related statement of activities for such fiscal year, prepared in accordance with generally accepted accounting principles, audited by a firm of independent certified public accountants. Simultaneously therewith, the Institute shall provide to the Issuer and the Trustee a certificate of an Authorized Officer of the Institute stating whether at the immediately preceding Testing Date the Institute had met the Debt Service Coverage Ratio and the Available Assets to Debt Ratio and setting for the calculations upon which such statements are based.

(b) The Institute shall deliver to the Issuer and the Trustee with each delivery of annual financial statements required by subsection (a) above, a certificate of an Authorized Representative of the Institute as to whether or not, as of the close of such preceding fiscal year of the Institute, and at all times during such fiscal year, the Institute was in compliance in all material respects with all the provisions which related to the Institute in the Bond Documents, and if such Authorized Representative of the Institute shall have obtained knowledge of any default in such compliance or notice of such default, such Authorized Representative of the Institute shall disclose in such certificate, such default or defaults or notice thereof and the nature thereof, whether or not the same shall constitute an Event of Default under the Loan Agreement, and any action proposed to be taken by the Institute with respect thereto.

(c) The Institute shall immediately notify the Issuer and the Trustee of the occurrence of any default or any event which with notice and/or lapse of time would constitute a default under the Loan Agreement or any of the other Bond Documents. Any notice required to be given pursuant to this subsection shall be signed by an Authorized Representative of the Institute and set forth a description of the default and the steps, if any, being taken to cure said default. If no steps have been taken, the Institute shall state this fact on the notice.

(d) The Institute will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such further acts, instruments, conveyances, transfers and assurances, at the sole cost and expense of the Institute, as the Issuer or the Trustee deems necessary or advisable for the implementation, effectuation, correction, confirmation or perfection of the Loan Agreement and any rights of the Issuer or the Trustee under the Loan Agreement or under the Indenture.

(e) The Institute shall furnish to the Issuer and the Trustee notice of the commencement of any proceeding by or against the Institute commenced under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an “**Insolvency Proceeding**”).

(f) The Institute covenants and agrees to pay and indemnify the Issuer, the Program Participants and the Trustee against all reasonable fees, costs and charges, including reasonable fees and expenses of attorneys, accountants, consultants and other experts, incurred in good faith (and with respect to the Trustee, without negligence) and arising out of or in connection with this Loan Agreement, Institute Documents, the Series 2016B Bonds or the Indenture. These obligations and those in Section 8.2 shall remain valid and in effect notwithstanding repayment of the loan hereunder or the Series 2016B Bonds or termination of the Loan Agreement or the Indenture.

(g) The Trustee shall be under no obligation to review the financial statements received under the provisions under this heading for content and shall not be deemed to have knowledge of the contents thereof. (*Section 8.14*)

### **Continuing Disclosure Agreement**

The Institute has executed and delivered to the Trustee and DAC a Continuing Disclosure Agreement, dated the date of initial delivery of the Series 2016B Bonds. The Institute covenants and agrees with the holders

from time to time of the Series 2016B Bonds that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement, as amended from time to time, applicable to it. Notwithstanding any other provision of the Loan Agreement, failure of the Institute to comply with the Continuing Disclosure Agreement shall not be considered a default or an event of default under the Loan Agreement and the rights and remedies provided by the Loan Agreement upon the occurrence of such a default or an event of default shall not apply to any such failure, but the Continuing Disclosure Agreement may be enforced only as provided therein. *(Section 8.15)*

### **Securities Law Status**

The Institute affirmatively represents, warrants and covenants that, as of the date of the Loan Agreement, it is an organization organized and operated: (i) exclusively for civic or charitable purposes; (ii) not for pecuniary profit; and (iii) no part of the net earnings of which inure to the benefit of any person, private stockholder or individual, all within the meaning, respectively, of the Securities Act of 1933, as amended, and of the Securities Exchange Act of 1934, as amended. The Institute agrees that it shall not perform any act nor enter into any agreement which shall change such status as set forth under this heading. *(Section 8.16)*

### **Rebate Covenant**

The Institute covenants to make, or cause to be made, any and all payments required to be made to the United States Department of the Treasury in connection with the Series 2016B Bonds pursuant to Section 148(f) of the Code and to comply with instructions received from Bond Counsel pursuant to the certification with respect to the making of any such payments. *(Section 8.17)*

### **Financial Covenants**

(a) Debt Service Coverage Ratio. The Institute covenants that it shall charge and maintain during each fiscal year, student tuition fees, and other charges sufficient to provide a debt service coverage ratio as of the last day of each Fiscal Year (a “**Testing Date**”) of at least 1.25:1.00. If (a) on any two consecutive Testing Dates, the Institute does not satisfy the coverage requirement, or (b) on any Testing Date, the coverage falls below 1.00:1.00, the Trustee may require the Institute to retain a Management Consultant to make recommendations that will enable the Institute to comply with the debt service coverage requirement. Compliance with the Debt Service Coverage Ratio covenant shall be tested annually commencing with the Fiscal Year ending May 31, 2017, on the basis of the Institute’s audited financial statements required pursuant to the Loan Agreement. Failure to maintain the required Debt Service Coverage Ratio, however, shall not be an Event of Default under the Loan Agreement.

(b) Available Assets to Debt Ratio. The Institute covenants that it shall maintain a ratio of Available Assets to Long-Term Indebtedness at least equal to 0.65:1 as of each Testing Date. Compliance with the Available Assets to Debt Ratio Covenant shall be tested annually commencing with the Fiscal Year ending May 31, 2017, on the basis of the Institute’s audited financial statements required pursuant to the Loan Agreement. If on any Testing Date the Institute does not satisfy the Available Assets to Debt Ratio requirement described above, or the percentage decline in the Available Assets to Debt Ratio from the Fiscal Year two years prior to the current Fiscal Year to the current Fiscal Year is fifty percent (50%) or greater, the Trustee may require the Institute to retain a Management Consultant. Failure to maintain the required Available Assets to Debt Ratio, however, shall not be an Event of Default under the Loan Agreement. *(Section 8.19)*

### **Security in Pledged Revenues**

As security for the payment of all liabilities and the performance of all obligations of the Institute pursuant to the Loan Agreement, the Institute does continuously pledge, grant a security interest in, and assign to the Issuer the Pledged Revenues and any deposit account of the Institute that may contain Pledged Revenues, together with the Institute’s right to receive and collect the Pledged Revenues and the proceeds of the Pledged Revenues and of such right. This pledge, grant of security interest in and assignment of the Pledged Revenues shall be subordinate only to the Prior Pledges.

The Institute represents and warrants that no part of the Pledged Revenues or any right to receive or collect the same or the proceeds thereof is subject to any lien, pledge, security interest or assignment, other than Prior Pledges, and that the Pledged Revenues assigned pursuant to the Loan Agreement are legally available to provide security for the Institute's performance under the Loan Agreement. The Institute agrees that it shall not create or permit the creation of any pledge, assignment, encumbrance, restriction, security interest in or other commitment of or with respect to the Pledged Revenues which is prior or equal to the pledge made by the provisions under this heading. *(Section 8.20)*

### **Special Services Covenant**

The Institute shall maintain the education facilities providing educational services to students within the territorial limits of the Program Participants, as long as any Series 2016B Bonds remain Outstanding; provided, however, the Issuer, upon review of such facts as it deems relevant, may, from time to time, allow the Institute to provide alternative services which provide public benefit to the Program Participants and their residents, or deem this special services covenant to be satisfied in whole or in part. Failure to comply with the provisions of the Loan Agreement shall not constitute an Event of Default but shall be enforceable solely by the Issuer by such action, at law or in equity, as the Issuer in its sole discretion shall deem appropriate. Section 8.21 of the Loan Agreement shall not be enforceable by the Trustee, any Bondholder, the Program Participants, any resident of the Program Participants or by any other Person other than the Issuer. *(Section 8.21)*

### **Non-Liability of the Issuer**

The Issuer shall not be obligated to pay the principal (or Redemption Price) of or interest on the Series 2016B Bonds, except from Loan Payments and other moneys and assets received by the Trustee pursuant to the Loan Agreement. Neither the faith and credit nor the taxing power of the State or any political subdivision thereof (including the Program Participants), nor the faith and credit of the Issuer is pledged to the payment of the principal (or Redemption Price) of or interest on the Series 2016B Bonds. The Issuer shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with the Loan Agreement, the Series 2016B Bonds or the Indenture, except only to the extent amounts are received for the payment thereof from the Institute under the Loan Agreement.

The Institute acknowledges that the Issuer's sole source of moneys to repay the Series 2016B Bonds (whether by maturity, redemption, acceleration or otherwise) will be provided by the payments made by the Institute to the Trustee pursuant to the Loan Agreement, together with amounts on deposit in and investment income on certain funds and accounts held by the Trustee under the Indenture, and though the Loan Agreement agrees that if the payments to be made under the Loan Agreement shall ever prove insufficient to pay all principal (or Redemption Price) of and interest on the Series 2016B Bonds as the same shall become due (whether by maturity, redemption, acceleration or otherwise), then upon notice from the Trustee, the Institute shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal (or Redemption Price) or interest, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Trustee, the Institute, the Issuer or any third party, subject to any right of reimbursement from the Trustee, the Issuer or any such third party, as the case may be, therefor.

The Institute acknowledges that the Program Participants shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with, the Series 2016B Bonds. *(Section 8.22)*

### **Assignment, Leasing and Subleasing**

(a) The Loan Agreement may not be assigned, in whole or in part, and except in the ordinary course of the operations of the Institute, the Facilities may not be leased, in whole or in part, without the prior written consent of the Issuer in each instance except as provided in the Tax Regulatory Agreement. Any permitted assignment or lease shall be on the following conditions:

- (i) no assignment or lease shall relieve the Institute from primary liability for any of its obligations under the Loan Agreement or under any other of the Institute Documents;
- (ii) the assignee or lessee (in the discretion of the Issuer) shall assume the obligations of the Institute under the Loan Agreement to the extent of the interest assigned or leased, shall be jointly and severally liable with the Institute for the performance thereof and shall be subject to service of process in the State of California;
- (iii) the Institute shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to the Issuer and to the Trustee a true and complete copy of such assignment or lease and the instrument of assumption;
- (iv) neither the validity nor the enforceability of the Series 2016B Bonds or any Bond Document shall be adversely affected thereby;
- (v) the exclusion of the interest on the Series 2016B Bonds from gross income for Federal income tax purposes will not be adversely affected; and
- (vi) the assignee or lessee (in the discretion of the Issuer) shall be an Exempt Organization and shall utilize the Facilities substantially in the same manner as the Institute.

(b) To establish the purported effective date of any assignment or lease pursuant to subsection (a) above, the Institute, at its sole cost, shall furnish the Trustee or the Issuer, as appropriate, with an opinion, in form and substance satisfactory to the Trustee or the Issuer, as appropriate, (i) of Bond Counsel as to items (v) and (vi) above, and (ii) of Independent Counsel as to items (i), (ii) and (iv) above. *(Section 9.3)*

#### **Merger of Issuer**

(a) Nothing contained in the Loan Agreement shall prevent the consolidation of the Issuer with, or merger of the Issuer into, or transfer of its interest, if any, in the entire Project to any other public benefit corporation, joint powers authority or political subdivision which has the legal authority to enter into the Loan Agreement, provided that:

- (i) upon any such consolidation, merger or transfer, the due and punctual performance and observance of all the agreements and conditions of the Loan Agreement to be kept and performed by the Issuer shall be expressly assumed in writing by the public benefit corporation joint powers authority or political subdivision resulting from such consolidation or surviving such merger or to which the Issuer's interest in the Project shall be transferred; and
- (ii) the exclusion of the interest on the Series 2016B Bonds from gross income for federal income tax purposes shall not be adversely affected thereby.

(b) Within thirty (30) days after the consummation of any such consolidation, merger or transfer of interest, the Issuer shall give notice thereof in reasonable detail to the Institute and the Trustee and shall furnish to the Institute and the Trustee (i) a favorable opinion of Independent Counsel as to compliance with the provisions of subsection (a)(i) above, and (ii) a favorable opinion of Bond Counsel opining as to compliance with the provisions of subsection (a)(ii) above. The Issuer promptly shall furnish such additional information with respect to any such transaction as the Institute or the Trustee may reasonably request. *(Section 9.5)*

## Events of Default Defined

- (a) The following shall be “Events of Default” under the Loan Agreement:
- (i) the failure by the Institute to pay or cause to be paid on the date due, the amounts specified to be paid pursuant to subsections (a), (b) and (c) under the heading “Loan Payments and Other Amounts Payable”;
  - (ii) the failure by the Institute to observe and perform any covenant contained in Sections 6.3, 6.4, 6.5, 8.2, 8.4, 8.5, 8.6, 8.8, 8.13, 8.14 and 9.3 of the Loan Agreement;
  - (iii) any representation or warranty of the Institute in the Loan Agreement or in the Bond Purchase Agreement shall prove to have been false or misleading in any material respect and the same shall have a materially adverse effect upon the Institute, the Project, or the exclusion of interest on the Series 2016B Bonds from gross income for federal income tax purposes;
  - (iv) the failure by the Institute to observe and perform any covenant, condition or agreement under the Loan Agreement on its part to be observed or performed (except obligations referred to in subsections (a)(i), (ii) or (iii) above) for a period of thirty (30) days after receiving written notice, specifying such failure and requesting that it be remedied, given to the Institute by the Issuer or the Trustee; provided, however, that if such default cannot be cured within thirty (30) days but the Institute is proceeding diligently and in good faith to cure such default, then the Institute shall be permitted an additional ninety (90) days within which to remedy the default;
  - (v) the dissolution or liquidation of the Institute; or the failure by the Institute to release, stay, discharge, lift or bond within sixty (60) days any execution, garnishment, judgment or attachment of such consequence as may impair its ability to carry on its operations; or the failure by the Institute generally to pay its debts as they become due; or an assignment by the Institute for the benefit of creditors; the commencement by the Institute (as the debtor) of a case in Bankruptcy or any proceeding under any other insolvency law; or the commencement of a case in Bankruptcy or any proceeding under any other insolvency law against the Institute (as the debtor) and a court having jurisdiction in the premises enters a decree or order for relief against the Institute as the debtor in such case or proceeding, or such case or proceeding is consented to by the Institute or remains undismissed for sixty (60) days, or the Institute consents to or admits the material allegations against it in any such case or proceeding; or a trustee, receiver or agent (however named) is appointed or authorized to take charge of substantially all of the property of the Institute for the purpose of enforcing a lien against such Property or for the purpose of general administration of such Property for the benefit of creditors (the term “dissolution or liquidation of the Institute” as used in this subsection shall not be construed to include any transaction permitted by the Loan Agreement);
  - (vi) an Event of Default under or a default on the part of the Institute of its obligations under the Indenture or the Loan Agreement shall have occurred and be continuing;
  - (vii) the invalidity, illegality or unenforceability of any of the Bond Documents, provided the same does not permit the Issuer or the Trustee, as the case may be, to recognize the material benefits of the respective documents; or
  - (viii) an Event of Default under the Deed of Trust has occurred and is continuing.
- (b) Notwithstanding the provisions of subsection (a) above, if by reason of force majeure any party to the Loan Agreement shall be unable in whole or in part to carry out its obligations under the Loan Agreement (other



than its obligations under subsections (a), (b), (c) or (e) under the heading “Loan Payments and Other Amounts Payable”) and if such party shall give notice and full particulars of such force majeure in writing to the other party and to the Trustee, within a reasonable time after the occurrence of the event or cause relied upon, such obligations under the Loan Agreement of the party giving such notice (and only such obligations), so far as they are affected by such force majeure, shall be suspended during continuance of the inability, which shall include a reasonable time for the removal of the effect thereof. The term “force majeure” as used in the Loan Agreement shall include, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, acts, priorities or orders of any kind of the government of the United States of America or of the State or any of their departments, agencies, governmental subdivisions, or officials, any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accident to machinery, transmission pipes or canals, shortages of labor or materials or delays of carriers, partial or entire failure of utilities, shortage of energy or any other cause or event not reasonably within the control of the party claiming such inability and not due to its fault. The party claiming such inability shall remove the cause for the same with all reasonable promptness. It is agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the party having difficulty, and the party having difficulty shall not be required to settle any strike, lockout and other industrial disturbances by acceding to the demands of the opposing party or parties. (*Section 10.1*)

## Remedies on Default

(a) Whenever any Event of Default shall have occurred and be continuing, the Issuer or the Trustee may take, to the extent permitted by law, any one or more of the following remedial steps:

- (i) declare, by written notice to the Institute, to be immediately due and payable, whereupon the same shall become immediately due and payable: (A) all unpaid Loan Payments payable pursuant to subsection (a) under the heading “Loan Payments and Other Amounts Payable” and pursuant to the Promissory Note in amount equal to the aggregate unpaid principal balance of all Series 2016B Bonds together with all interest which has accrued and will accrue thereon to the date of payment and all premium, if any, and (B) all other payments due under the Loan Agreement; provided, however, that if an Event of Default specified in subsection (a)(v) under the heading “Events of Default Defined” shall have occurred, such Loan Payments and other payments due under the Loan Agreement shall become immediately due and payable without notice to the Institute or the taking of any other action by the Trustee;
- (ii) (a) apply any undisbursed money in the Project Fund and Renewal Fund to the payment of the costs and expenses incurred in connection with the enforcement of the rights and remedies of the Trustee and the Issuer, and (b) apply any undisbursed monies in the Project Fund, the Renewal Fund, and any other Fund or Account under the Indenture (other than those sums attributable to Unassigned Rights and except for the monies and investments from time to time in the Rebate Fund) to the payment of the outstanding principal amount of the Series 2016B Bonds and premium, if any, and accrued and unpaid interest on the Bonds;
- (iii) direct the Trustee to foreclose on the Deed of Trust or otherwise realize upon or seize the Trust Estate; or
- (iv) take any other action at law or in equity that may appear necessary or desirable to collect the payments then due or thereafter to become due under the Loan Agreement and to enforce the obligations, agreements or covenants of the Institute under the Loan Agreement.

(b) Reserved.

(c) Any sums payable to the Issuer as a consequence of any action taken pursuant to the provisions under this heading (other than those sums attributable to Unassigned Rights and except for the moneys and

investments from time to time in the Rebate Fund) shall be paid to the Trustee and applied to the payment of the Series 2016B Bonds.

(d) No action taken pursuant to the provisions under this heading shall relieve the Institute from its obligation to make all payments required by the provisions under the heading “Loan Payments and Other Amounts Payable” and pursuant to the Promissory Note.

(e) Exercise of remedies under Deed of Trust.

(f) The Issuer shall have all of the rights, powers and remedies of a secured party under the Uniform Commercial Code of California, including, without limitation, the right to seize or otherwise dispose of any or all of the Collateral described in the Loan Agreement, and to receive the payment of or take possession of the Collateral or the proceeds thereof. Upon the occurrence and during the continuation of an Event of Default by the Institute under the Loan Agreement, the Institute agrees that it will not commingle any moneys or other proceeds received by it in connection with any Collateral with any other moneys, funds or accounts of the Institute. *(Section 10.2)*

### **Remedies Cumulative**

No remedy conferred upon or reserved to the Issuer or the Trustee in the Loan Agreement is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under the Loan Agreement or now or hereafter existing at law or in equity. No delay 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 and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee, as appropriate, to exercise any remedy reserved to it in the Loan Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required in the Loan Agreement. *(Section 10.3)*

### **Agreement to Pay Attorneys’ Fees and Expenses**

(a) In the event the Institute should default under any of the provisions of the Loan Agreement and the Issuer should employ attorneys or incur other expenses for the collection of amounts payable under the Loan Agreement or the enforcement of performance or observance of any obligations or agreements on the part of the Institute contained in the Loan Agreement, the Institute shall, on demand therefor, pay to the Issuer the reasonable fees of such attorneys and such other reasonable out-of-pocket expenses so incurred.

(b) In the event the Institute should default under any of the provisions of the Loan Agreement and the Trustee should employ attorneys or incur other expenses for the collection of amounts payable under the Loan Agreement or the enforcement of performance or observance of any obligations or agreements on the part of the Institute contained in the Loan Agreement, the Institute shall, on demand therefor, pay to the Trustee the reasonable fees of such attorneys and such other reasonable out-of-pocket expenses so incurred. *(Section 10.4)*

### **No Additional Waiver Implied by One Waiver**

In the event any agreement contained in the Loan Agreement should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach under the Loan Agreement. *(Section 10.5)*

### **Early Termination of Loan Agreement**

The Institute shall have the option to terminate the Loan Agreement at any time that the Series 2016B Bonds are subject to redemption in whole under the Indenture and upon filing with the Issuer and the Trustee a certificate signed by an Authorized Representative of the Institute stating the Institute’s intention to do so pursuant to the Loan Agreement and the date upon which such payment shall be made (which date shall not be less than forty-five (45) nor more than ninety (90) days from the date such certificate is filed) and upon compliance with the requirements set forth under the heading “Conditions to Early Termination of Loan Agreement”. *(Section 11.1)*

### **Conditions to Early Termination of Loan Agreement**

In the event the Institute exercises its option to terminate the Loan Agreement in accordance with the provisions of under the heading “Early Termination of Loan Agreement”, the Institute shall make the following payments:

(a) To the Trustee for the account of the Issuer: an amount certified by the Trustee which, when added to the total amount on deposit with the Trustee for the account of the Issuer and the Institute and available for such purpose, will be sufficient to pay the principal of, Redemption Price of, and interest to maturity or the earliest practicable redemption date, as the case may be, on the Series 2016B Bonds, all expenses of redemption and the Trustee’s fees and expenses.

(b) To the Issuer: an amount certified by the Issuer sufficient to pay all unpaid fees and expenses of the Issuer incurred under the Bond Documents.

(c) To the appropriate Person: an amount sufficient to pay all other fees, expenses or charges, if any, due and payable or to become due and payable under the Bond Documents. (*Section 11.2*)

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## **APPENDIX D**

### **FORM OF CONTINUING DISCLOSURE AGREEMENT**

#### **AGREEMENT TO PROVIDE CONTINUING DISCLOSURE**

#### **CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY REVENUE BONDS, SERIES 2016B (THE CULINARY INSTITUTE OF AMERICA PROJECT)**

This AGREEMENT TO PROVIDE CONTINUING DISCLOSURE (the “Disclosure Agreement”), dated as of \_\_\_\_\_ 1, 2016, is executed and delivered by The Culinary Institute of America (the “Obligated Person”), The Bank of New York Mellon, as Trustee (the “Trustee”) and Digital Assurance Certification, L.L.C. (“DAC”), as exclusive Disclosure Dissemination Agent (the “Disclosure Dissemination Agent”) for the benefit of the Holders (hereinafter defined) of the Bonds (hereinafter defined) and in order to provide certain continuing disclosure with respect to the Bonds in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time (the “Rule”).

The services provided under this Disclosure Agreement solely relate to the execution of instructions received from the parties hereto through use of the DAC system and are not intended to constitute “advice” within the meaning of the United States Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Act”). DAC will not provide any advice or recommendation to the Issuer, the Obligated Person or anyone on the Issuer’s or the Obligated Person’s behalf regarding the “issuance of municipal securities” or any “municipal financial product” as defined in the Act and nothing in this Disclosure Agreement shall be interpreted to the contrary.

**SECTION 1. Definitions.** Capitalized terms not otherwise defined in this Disclosure Agreement shall have the meaning assigned in the Rule or, to the extent not in conflict with the Rule, in the Resolution (hereinafter defined). The capitalized terms shall have the following meanings:

“Annual Filing Date” means the date, set in Sections 2(a) and 2(f), by which the Annual Report is to be filed with the MSRB.

“Annual Financial Information” means annual financial information as such term is used in paragraph (b)(5)(i) of the Rule and specified in Section 3(a) of this Disclosure Agreement.

“Annual Report” means an Annual Report described in and consistent with Section 3 of this Disclosure Agreement.

“Audited Financial Statements” means the financial statements (if any) of the Obligated Person for the prior fiscal year, certified by an independent auditor as prepared in accordance with generally accepted accounting principles or otherwise, as such term is used in paragraph (b)(5)(i) of the Rule and specified in Section 3(b) of this Disclosure Agreement.

“Bonds” means the bonds as listed on the attached Exhibit A, with the 9-digit CUSIP numbers relating thereto.

“Certification” means a written certification of compliance signed by the Disclosure Representative stating that the Annual Report, Audited Financial Statements, Voluntary Financial Disclosure, Notice Event notice, Failure to File Event notice or Voluntary Event Disclosure delivered to the Disclosure Dissemination Agent is the Annual Report, Audited Financial Statements, Voluntary Financial Disclosure, Notice Event notice, Failure to File Event notice or Voluntary Event Disclosure required to be or voluntarily submitted to the MSRB under this Disclosure Agreement. A Certification shall accompany each such document submitted to the Disclosure Dissemination Agent by the Obligated Person and include the full name of the Bonds and the 9-digit CUSIP numbers for all Bonds to which the document applies.

“Disclosure Dissemination Agent” means Digital Assurance Certification, L.L.C., acting in its capacity as Disclosure Dissemination Agent hereunder, or any successor Disclosure Dissemination Agent designated in writing by the Issuer pursuant to Section 9 hereof.

“Disclosure Representative” means the chief financial officer of the Obligated Person or his or her designee, or such other person as the Obligated Person shall designate in writing to the Disclosure Dissemination Agent from time to time as the person responsible for providing Information to the Disclosure Dissemination Agent.

“Failure to File Event” means the Obligated Person’s failure to file an Annual Report on or before the Annual Filing Date.

“Force Majeure Event” means: (i) acts of God, war or terrorist action; (ii) failure or shut-down of the Electronic Municipal Market Access System maintained by the MSRB; or (iii) to the extent beyond the Disclosure Dissemination Agent’s reasonable control, interruptions in telecommunications or utilities services, failure, malfunction or error of any telecommunications, computer or other electrical, mechanical or technological application, service or system, computer virus, interruptions in Internet service or telephone service (including due to a virus, electrical delivery problem or similar occurrence) that affect Internet users generally, or in the local area in which the Disclosure Dissemination Agent or the MSRB is located, or acts of any government, regulatory or any other competent authority the effect of which is to prohibit the Disclosure Dissemination Agent from performance of its obligations under this Disclosure Agreement.

“Holder” means any person (a) having 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) treated as the owner of any Bonds for federal income tax purposes.

“Indenture” means the Indenture of Trust, dated as of August 1, 2016, by and between the Issuer and the Trustee.

“Information” means collectively, the Annual Reports, the Audited Financial Statements (if any), the Notice Event notices, the Failure to File Event notices, the Voluntary Event Disclosures and the Voluntary Financial Disclosures.

“Issuer” means the California Statewide Communities Development Authority, as conduit issuer of the Bonds.

“MSRB” means the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the United States Securities Exchange Act of 1934, as amended.

“Notice Event” means any of the events enumerated in paragraph (b)(5)(i)(C) of the Rule and listed in Section 4(a) of this Disclosure Agreement.

“Obligated Person” means any person who is either generally or through an enterprise, fund, or account of such person committed by contract or other arrangement to support payment of all, or part of the obligations on the Bonds (other than providers of municipal bond insurance, letters of credit, or other liquidity facilities), as shown on Exhibit A.

“Official Statement” means that Official Statement prepared by the Obligated Person in connection with the Bonds, as listed on Exhibit A.

“Trustee” means The Bank of New York Mellon and its successors and assigns.

“Voluntary Event Disclosure” means information of the category specified in any of subsections (e)(vi)(1) through (e)(vi)(11) of Section 2 of this Disclosure Agreement that is accompanied by a Certification of the

Disclosure Representative containing the information prescribed by Section 7(a) of this Disclosure Agreement.

“Voluntary Financial Disclosure” means information of the category specified in any of subsections (e)(vii)(1) through (e)(vii)(9) of Section 2 of this Disclosure Agreement that is accompanied by a Certification of the Disclosure Representative containing the information prescribed by Section 7(b) of this Disclosure Agreement.

**SECTION 2. Provision of Annual Reports.**

(a) The Obligated Person shall provide, annually, an electronic copy of the Annual Report and Certification to the Disclosure Dissemination Agent, together with a copy for the Trustee, not later than 150 days after the end of each fiscal year of the Obligated Person (or any time thereafter following a Failure to File Event as described in this Section), commencing with the fiscal year ending May 31, 2016, such date and each anniversary thereof, the “Annual Filing Date.” Promptly upon receipt of an electronic copy of the Annual Report and the Certification, the Disclosure Dissemination Agent shall provide the Annual Report to the MSRB through its Electronic Municipal Market Access (“EMMA”) System for municipal securities disclosures. The Annual Financial Information and Audited Financial Statements may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 3 of this Disclosure Agreement.

(b) If on the fifteenth (15th) day prior to the Annual Filing Date, the Disclosure Dissemination Agent has not received a copy of the Annual Report and Certification, the Disclosure Dissemination Agent shall contact the Disclosure Representative by telephone and in writing (which may be by e-mail), to remind the Obligated Person of its undertaking to provide the Annual Report pursuant to Section 2(a). Upon such reminder, the Disclosure Representative shall, not later than two (2) business days prior to the Annual Filing Date, either: (i) provide the Disclosure Dissemination Agent with an electronic copy of the Annual Financial Information, Audited Financial Statements, if available, and unaudited financial statements, if audited financial statements are not available in accordance with subsection (d) below and the Certification, or (ii) instruct the Disclosure Dissemination Agent in writing, with a copy to the Trustee, that a Failure to File Event may occur, state the date by which the Annual Financial Information and Audited Financial Statements for such year are expected to be provided, and, at the election of the Obligated Person, instruct the Disclosure Dissemination Agent to send a notice to the MSRB in substantially the form attached as Exhibit B on the Annual Filing Date, accompanied by a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-1.

(c) If the Disclosure Dissemination Agent has not received an Annual Report and Certification by 6:00 p.m. Eastern time on the Annual Filing Date (or, if such Annual Filing Date falls on a Saturday, Sunday or holiday, then the first business day thereafter) for the Annual Report, a Failure to File Event shall have occurred and the Obligated Person hereby irrevocably directs the Disclosure Dissemination Agent to immediately send a notice to the MSRB in substantially the form attached as Exhibit B without reference to the anticipated filing date for the Annual Report, accompanied by a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-1.

(d) If Audited Financial Statements of the Obligated Person are prepared but not available prior to the Annual Filing Date, the Obligated Person shall provide unaudited financial statements for filing prior to the Annual Filing Date in accordance with Section 3(b) hereof and, when the Audited Financial Statements are available, provide in a timely manner an electronic copy to the Disclosure Dissemination Agent, accompanied by a Certification, together with a copy for the Trustee, for filing with the MSRB.

(e) The Disclosure Dissemination Agent shall:

- (i) verify the filing specifications of the MSRB each year prior to the Annual Filing Date;
- (ii) upon receipt, promptly file each Annual Report received under Section 2(a) and 2(b) with the MSRB;

- (iii) upon receipt, promptly file each Audited Financial Statement received under Section 2(d) with the MSRB;
- (iv) upon receipt, promptly file the text of each Notice Event received under Sections 4(a) and 4(b)(ii) with the MSRB, identifying the Notice Event as instructed pursuant to Section 4(a) or 4(b)(ii) (being any of the categories set forth below) when filing pursuant to the Section 4(c) of this Disclosure Agreement:
  - 1. Principal and interest payment delinquencies;
  - 2. Non-Payment related defaults, if material;
  - 3. Unscheduled draws on debt service reserves reflecting financial difficulties;
  - 4. Unscheduled draws on credit enhancements reflecting financial difficulties;
  - 5. Substitution of credit or liquidity providers, or their failure to perform;
  - 6. Adverse tax opinions, IRS notices or events affecting the tax status of the securities;
  - 7. Modifications to rights of securities holders, if material;
  - 8. Bond calls, if material;
  - 9. Defeasances;
  - 10. Release, substitution, or sale of property securing repayment of the securities, if material;
  - 11. Ratings changes;
  - 12. Tender offers;
  - 13. Bankruptcy, insolvency, receivership or similar event of the Obligated Person;
  - 14. Merger, consolidation, or acquisition of the Obligated Person, if material; and
  - 15. Appointment of a successor or additional trustee, or the change of name of a trustee, if material;
- (v) upon receipt (or irrevocable direction pursuant to Section 2(c) of this Disclosure Agreement, as applicable), promptly file a completed copy of Exhibit B to this Disclosure Agreement with the MSRB, identifying the filing as “Failure to provide annual financial information as required” when filing pursuant to Section 2(b)(ii) or Section 2(c) of this Disclosure Agreement;
- (vi) upon receipt, promptly file the text of each Voluntary Event Disclosure received under Section 7(a) with the MSRB, identifying the Voluntary Event Disclosure as instructed by the Issuer or the Obligated Person pursuant to Section 7(a) (being any of the categories set forth below) when filing pursuant to Section 7(a) of this Disclosure Agreement:
  - 1. “amendment to continuing disclosure undertaking;”
  - 2. “change in obligated person;”



3. “notice to investors pursuant to bond documents;”
4. “certain communications from the Internal Revenue Service;”
5. “secondary market purchases;”
6. “bid for auction rate or other securities;”
7. “capital or other financing plan;”
8. “litigation/enforcement action;”
9. “change of tender agent, remarketing agent, or other on-going party;”
10. “derivative or other similar transaction;” and
11. “other event-based disclosures;”

(vii) upon receipt, promptly file the text of each Voluntary Financial Disclosure received under Section 7(b) with the MSRB, identifying the Voluntary Financial Disclosure as instructed by the Issuer or the Obligated Person pursuant to Section 7(b) (being any of the categories set forth below) when filing pursuant to Section 7(b) of this Disclosure Agreement:

1. “quarterly/monthly financial information;”
2. “change in fiscal year/timing of annual disclosure;”
3. “change in accounting standard;”
4. “interim/additional financial information/operating data;”
5. “budget;”
6. “investment/debt/financial policy;”
7. “information provided to rating agency, credit/liquidity provider or other third party;”
8. “consultant reports;” and
9. “other financial/operating data;”

(viii) provide the Obligated Person and the Issuer evidence of the filings of each of the above when made, which shall be by means of the DAC system, for so long as DAC is the Disclosure Dissemination Agent under this Disclosure Agreement.

(f) The Obligated Person may adjust the Annual Filing Date upon change of its fiscal year by providing written notice of such change and the new Annual Filing Date to the Disclosure Dissemination Agent, the Trustee and the MSRB, provided that the period between the existing Annual Filing Date and new Annual Filing Date shall not exceed one year.

(g) Any Information received by the Disclosure Dissemination Agent before 6:00 p.m. Eastern time on any business day that it is required to file with the MSRB pursuant to the terms of this Disclosure Agreement and that is accompanied by a Certification and all other information required by the terms of this Disclosure Agreement

will be filed by the Disclosure Dissemination Agent with the MSRB no later than 11:59 p.m. Eastern time on the same business day; provided, however, the Disclosure Dissemination Agent shall have no liability for any delay in filing with the MSRB if such delay is caused by a Force Majeure Event provided that the Disclosure Dissemination Agent uses reasonable efforts to make any such filing as soon as possible.

### SECTION 3. Content of Annual Reports.

Each Annual Report shall contain:

(a) Annual Financial Information with respect to the Obligated Person which shall include operating data and financial information of the type included in the Official Statement for the Bonds as described in “APPENDIX A-CERTAIN INFORMATION CONCERNING THE INSTITUTE” under the headings “GENERAL INFORMATION”, “OPERATING INFORMATION” and “ANNUAL FINANCIAL STATEMENT INFORMATION” relating to: (1) *student admissions*, similar to that set forth under the heading “ADMISSION STATISTICS,” (2) *student enrollment*, similar to that set forth under the headings “ENROLLMENT SUMMARY” and “CONTINUING EDUCATION,” (3) *tuition and other student charges*, similar to that set forth under the heading “STUDENT CHARGES FOR DEGREE PROGRAMS,” (4) *financial aid*, similar to that set forth under the heading “SOURCES OF SCHOLARSHIP AND GRANT AID,” (5) *faculty*, similar to that set forth under the heading “FACULTY PROFILE,” (6) *graduation statistics*, similar to that set forth under the headings “DEGREES CONFERRED BY THE CIA” and “RETENTION,” (7) *employee relations*, including material information about union contracts and, unless such information is included in the audited financial statements of the institution, post retirement benefits and pension plans; (8) *restricted and designated net assets and investments and cash equivalents*, unless such information is included in the audited financial statements of the Institution; (9) *investment in plant*, unless such information is included in the audited financial statements of the Institution; and (10) *outstanding long-term indebtedness*, ] unless such information is included in the Audited Financial Statements; together with a narrative explanation as may be necessary to avoid misunderstanding regarding the presentation of such Annual Financial Information concerning the Obligated Person; and

(b) Audited Financial Statements prepared in accordance with generally accepted accounting principles (“GAAP”) OR alternate accounting principles as described in the Official Statement will be included in the Annual Report. If Audited Financial Statements are not available, then the Obligated Person shall be in compliance under this Disclosure Agreement if unaudited financial statements, prepared in accordance with GAAP or alternate accounting principles as described in the Official Statement, are included in the Annual Report. Audited Financial Statements (if any) will be provided pursuant to Section 2(d).

Any or all of the items listed above may be included by specific reference from other documents, including official statements of debt issues with respect to which the Obligated Person is an “obligated person” (as defined by the Rule), which have been previously filed the Securities and Exchange Commission or available from the MSRB Internet Website. If the document incorporated by reference is a Final Official Statement, it must be available from the MSRB. The Obligated Person will clearly identify each such document so incorporated by reference.

Any Annual Financial Information containing modified operating data or financial information shall include an explanation, in narrative form, of such modifications.

### SECTION 4. Reporting of Notice Events.

(a) The occurrence of any of the following events with respect to the Bonds constitutes a Notice Event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;

4.       Unscheduled draws on credit enhancements reflecting financial difficulties;
5.       Substitution of credit or liquidity providers, or their failure to perform;
6.       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 and determinations with respect to the tax status of the securities or other material events affecting the tax status of the securities;
7.       Modification to rights of the security holders, if material;
8.       Bond calls, if material;
9.       Defeasances;
10.      Release, substitution, or sale of property securing repayment of the Bonds, if material;
11.      Rating changes;
12.      Tender Offers;
13.      Bankruptcy, insolvency, receivership or similar event of the Obligated Person;

**Note to subsection (a)(13) of this Section 4:** For the purposes of the event described in subsection (a)(13) of this Section 4, the event is considered to occur when any of the following occur: 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 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.

14.      The consummation of a merger, consolidation or acquisition involving the 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, if material; and
15.      Appointment of a successor or additional trustee or the change of name of a trustee, if material.

The Obligated Person shall, in a timely manner not in excess of ten business days after its occurrence, notify the Trustee and the Disclosure Dissemination Agent in writing upon the occurrence of a Notice Event. Upon actual knowledge of the occurrence of a Notice Event, the Trustee shall promptly notify the Obligated Person and also may notify the Disclosure Dissemination Agent in writing of the occurrence of such Notice Event. Each such notice shall instruct the Disclosure Dissemination Agent to report the occurrence pursuant to subsection (c) and shall be accompanied by a Certification. Such notice or Certification shall identify the Notice Event that has occurred (which shall be any of the categories set forth in Section 2(e)(iv) of this Disclosure Agreement), include the desired text of the disclosure, the written authorization for the Disclosure Dissemination Agent to disseminate such information, and identify the desired date for the Disclosure Dissemination Agent to disseminate the information (provided that such date is not later than the tenth business day after the occurrence of the Notice Event).

(b)       The Disclosure Dissemination Agent is under no obligation to notify the Obligated Person or the Disclosure Representative of an event that may constitute a Notice Event. In the event the Disclosure Dissemination

Agent so notifies the Obligated Person or the Disclosure Representative, such notified party will within two business days of receipt of such notice (but in any event not later than the tenth business day after the occurrence of the Notice Event, if the Obligated Person determines that a Notice Event has occurred), instruct the Disclosure Dissemination Agent that (i) a Notice Event has not occurred and no filing is to be made or (ii) a Notice Event has occurred and the Disclosure Dissemination Agent is to report the occurrence pursuant to subsection (c) of this Section 4, together with a Certification. Such Certification shall identify the Notice Event that has occurred (which shall be any of the categories set forth in Section 2(e)(iv) of this Disclosure Agreement), include the text of the disclosure that the Obligated Person desires to make, contain the written authorization of the Obligated Person for the Disclosure Dissemination Agent to disseminate such information, and identify the date the Obligated Person desires for the Disclosure Dissemination Agent to disseminate the information (provided that such date is not later than the tenth business day after the occurrence of the Notice Event).

(c) If the Disclosure Dissemination Agent has been instructed as prescribed in subsection (a) or as prescribed in subsection (b) of this Section 4 to report the occurrence of a Notice Event, the Disclosure Dissemination Agent shall promptly file a notice of such occurrence with MSRB, in accordance with Section 2(e)(iv) hereof. This notice will be filed with a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-1.

#### SECTION 5. CUSIP Numbers.

Whenever providing information to the Disclosure Dissemination Agent, including but not limited to Annual Reports, documents incorporated by reference in the Annual Reports, Audited Financial Statements, Notice Event notices and Voluntary Event Disclosure, the Obligated Person shall indicate the full name of the Bonds and the 9-digit CUSIP numbers for the Bonds as to which the provided information relates.

#### SECTION 6. Additional Disclosure Obligations.

The Obligated Person acknowledges and understands that other state and federal laws, including but not limited to the United States Securities Act of 1933, as amended, and Rule 10b-5 promulgated under the United States Securities Exchange Act of 1934, as amended, may apply to the Obligated Person, and that the duties and responsibilities of the Disclosure Dissemination Agent under this Disclosure Agreement do not extend to providing legal advice regarding such laws. The Obligated Person acknowledges and understands that the duties of the Disclosure Dissemination Agent relate exclusively to execution of the mechanical tasks of disseminating information as described in this Disclosure Agreement.

#### SECTION 7. Voluntary Filing.

(a) The Obligated Person, may instruct the Disclosure Dissemination Agent to file Voluntary Event Disclosure with the MSRB from time to time pursuant to a Certification of the Disclosure Representative. Such Certification shall identify the Voluntary Event Disclosure (which shall be any of the categories set forth in Section 2(e)(vi) of this Disclosure Agreement), include the text of the disclosure that Obligated Person desires to make, and identify the date the Obligated Person desires for the Disclosure Dissemination Agent to disseminate the information. If the Disclosure Dissemination Agent has been instructed by the Obligated Person as prescribed in this Section 7(a) to file a Voluntary Event Disclosure, the Disclosure Dissemination Agent shall promptly file such Voluntary Event Disclosure with the MSRB in accordance with Section 2(e)(vi) hereof. This notice will be filed with a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-2.

(b) The Obligated Person, may instruct the Disclosure Dissemination Agent to file Voluntary Financial Disclosure with the MSRB from time to time pursuant to a Certification of the Disclosure Representative. Such Certification shall identify the Voluntary Financial Disclosure (which shall be any of the categories set forth in Section 2(e)(vii) of this Disclosure Agreement), include the desired text of the disclosure, contain the written authorization for the Disclosure Dissemination Agent to disseminate such information, if applicable, and identify the desired date for the Disclosure Dissemination Agent to disseminate the information. If the Disclosure Dissemination Agent has been instructed by the Obligated Person as prescribed in this Section 7(b) to file a Voluntary Financial Disclosure, the Disclosure Dissemination Agent shall promptly file such Voluntary Financial Disclosure with the

MSRB in accordance with Section 2(e)(vii) hereof. This notice will be filed with a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-3.

(c) The parties hereto acknowledge that the Obligated Person is not obligated pursuant to the terms of this Disclosure Agreement to file any Voluntary Event Disclosure pursuant to Section 7(a) hereof or to file any Voluntary Financial Disclosure pursuant to Section 7(b) hereof.

(d) Nothing in this Disclosure Agreement shall be deemed to prevent the Obligated Person, from disseminating any other information through the Disclosure Dissemination Agent using the means of dissemination set forth in this Section 7, or including any other information in any Annual Report, Failure to File Event notice or Notice Event notice in addition to that which is specifically required by this Disclosure Agreement. If the Obligated Person chooses to include any information in any Annual Report, Failure to File Event notice or Notice Event notice in addition to that which is specifically required by this Disclosure Agreement or to file Voluntary Event Disclosure or Voluntary Financial Disclosure, the Obligated Person shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report, Voluntary Financial Disclosure, Voluntary Event Disclosure, Failure to File Event Notice or Notice Event notice.

#### SECTION 8. Termination of Reporting Obligation.

The obligations of the Obligated Person and the Disclosure Dissemination Agent under this Disclosure Agreement shall terminate with respect to the Bonds upon the legal defeasance, prior redemption or payment in full of all of the Bonds, when the Obligated Person is no longer an Obligated Person with respect to the Bonds, or upon delivery by the Disclosure Representative to the Disclosure Dissemination Agent of an opinion of nationally recognized bond counsel to the effect that continuing disclosure is no longer required.

#### SECTION 9. Disclosure Dissemination Agent.

The Obligated Person has appointed DAC as exclusive Disclosure Dissemination Agent under this Disclosure Agreement pursuant to the Disclosure Dissemination Agreement. The Obligated Person may, upon thirty days written notice to the Disclosure Dissemination Agent and the Trustee, replace or appoint a successor Disclosure Dissemination Agent. Upon termination of DAC's services as Disclosure Dissemination Agent, whether by notice of the Obligated Person or DAC, the Obligated Person agrees to appoint a successor Disclosure Dissemination Agent or, alternatively, agrees to assume all responsibilities of the Disclosure Dissemination Agent under this Disclosure Agreement for the benefit of the Holders of the Bonds. Notwithstanding any replacement or appointment of a successor, the Obligated Person shall remain liable until payment in full for any and all sums owed and payable to the Disclosure Dissemination Agent. The Disclosure Dissemination Agent may resign at any time by providing thirty days' prior written notice to the Obligated Person.

#### SECTION 10. Remedies in Event of Default.

In the event of a failure of the Obligated Person or the Disclosure Dissemination Agent to comply with any provision of this Disclosure Agreement, the Holders' rights to enforce the provisions of this Disclosure Agreement shall be limited solely to a right, by action in mandamus or for specific performance, to compel performance of the parties' obligation under this Disclosure Agreement. Any failure by a party to perform in accordance with this Disclosure Agreement shall not constitute a default on the Bonds or under any other document relating to the Bonds, and all rights and remedies shall be limited to those expressly stated herein.

#### SECTION 11. Duties, Immunities and Liabilities of Disclosure Dissemination Agent.

(a) The Disclosure Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement. The Disclosure Dissemination Agent's obligation to deliver the information at the times and with the contents described herein shall be limited to the extent the Obligated Person has provided such information to the Disclosure Dissemination Agent as provided in this Disclosure Agreement. The Disclosure Dissemination Agent shall have no duty with respect to the content of any disclosures or notice made pursuant to the terms hereof. The Disclosure Dissemination Agent shall have no duty or obligation to review or verify any Information, or any other information, disclosures or notices provided to it by the Obligated Person and shall not be deemed to be acting

in any fiduciary capacity for the Issuer, the Obligated Person, the Holders of the Bonds or any other party. The Disclosure Dissemination Agent shall have no responsibility for the Obligated Person's failure to report to the Disclosure Dissemination Agent a Notice Event or a duty to determine the materiality thereof. The Disclosure Dissemination Agent shall have no duty to determine or liability for failing to determine whether the Obligated Person has complied with this Disclosure Agreement. The Disclosure Dissemination Agent may conclusively rely upon certifications of the Issuer or the Obligated Person at all times.

THE OBLIGATED PERSON AGREES TO INDEMNIFY AND SAVE THE DISCLOSURE DISSEMINATION AGENT, THE ISSUER AND THE TRUSTEE AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, HARMLESS AGAINST ANY LOSS, EXPENSE AND LIABILITY WHICH THEY MAY INCUR ARISING OUT OF OR IN THE EXERCISE OR PERFORMANCE OF THEIR POWERS AND DUTIES HEREUNDER, INCLUDING THE COSTS AND EXPENSES (INCLUDING ATTORNEYS FEES) OF DEFENDING AGAINST ANY CLAIM OF LIABILITY, BUT EXCLUDING LOSSES, EXPENSES AND LIABILITIES DUE TO THE DISCLOSURE DISSEMINATION AGENT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AND THE TRUSTEE'S (AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS') NEGLIGENCE OR WILLFUL MISCONDUCT.

The obligations of the Obligated Person under this Section shall survive resignation or removal of the Disclosure Dissemination Agent and defeasance, redemption or payment of the Bonds.

(b) The Disclosure Dissemination Agent may, from time to time, consult with legal counsel (either in-house or external) of its own choosing in the event of any disagreement or controversy, or question or doubt as to the construction of any of the provisions hereof or its respective duties hereunder, and neither of them shall incur any liability and shall be fully protected in acting in good faith upon the advice of such legal counsel. The fees and expenses of such counsel shall be payable by the Obligated Person.

(c) All documents, reports, notices, statements, information and other materials provided to the MSRB under this Disclosure Agreement shall be provided in an electronic format through the EMMA System and accompanied by identifying information as prescribed by the MSRB.

#### SECTION 12. No Trustee Responsibility.

The Obligated Person and the Disclosure Dissemination Agent acknowledge that the Trustee has undertaken any responsibility, and shall not be required to undertake any responsibility, with respect to any reports, notices or disclosures required by or provided pursuant to this Disclosure Agreement other than those notices required under Section 4(b) hereof, and shall have no liability to any person, including any Holder of the Bonds, with respect to any such reports, notices or disclosures other than those notices required under said Section 4(b). The Issuer (as conduit issuer) is not, for purposes of and within the meaning of the Rule, (i) committed by contract or other arrangement to support payment of all, or part of, the obligations on the Bonds, or (ii) a person for whom annual financial information and notices of material events will be provided. The Trustee shall be indemnified and held harmless in connection with this Disclosure Agreement to the same extent provided in the Indenture for matters arising thereunder.

#### SECTION 13. Amendment; Waiver.

Notwithstanding any other provision of this Disclosure Agreement, the Obligated Person, the Trustee and the Disclosure Dissemination Agent may amend this Disclosure Agreement and any provision of this Disclosure Agreement may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to each of the Obligated Person, the Trustee and the Disclosure Dissemination Agent to the effect that such amendment or waiver does not materially impair the interests of Holders of the Bonds and would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule; provided none of the Obligated Person, the Trustee or the Disclosure Dissemination Agent shall be obligated to agree to any amendment modifying their respective duties or obligations without their consent thereto.

Notwithstanding the preceding paragraph, the Obligated Person, the Trustee and the Disclosure Dissemination Agent shall have the right to amend this Disclosure Agreement for any of the following purposes:

(i) to comply with modifications to and interpretations of the provisions of the Rule as announced by the Securities and Exchange Commission from time to time;

(ii) to add or change a dissemination agent for the information required to be provided hereby and to make any necessary or desirable provisions with respect thereto;

(iii) to evidence the succession of another person to the Obligated Person, the Trustee or the Issuer and the assumption by any such successor of the covenants of the Obligated Person, the Trustee hereunder;

(iv) to add to the covenants of the Obligated Person or the Disclosure Dissemination Agent for the benefit of the Holders, or to surrender any right or power herein conferred upon the Obligated Person, the Issuer or the Disclosure Dissemination Agent;

(v) for any purpose for which, and subject to the conditions pursuant to which, amendments may be made under the Rule, as amended or modified from time to time, or any formal authoritative interpretations thereof by the Securities and Exchange Commission.

SECTION 14. Beneficiaries.

This Disclosure Agreement shall inure solely to the benefit of the Obligated Person, the Trustee, the Disclosure Dissemination Agent, the underwriter, and the Holders from time to time of the Bonds, and shall create no rights in any other person or entity.

SECTION 15. Governing Law.

This Disclosure Agreement shall be governed by the laws of the State of New York (without regard to its conflicts of laws provisions).

SECTION 16. 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.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

The Disclosure Dissemination Agent, the Trustee and the Obligated Person have caused this Disclosure Agreement to be executed, on the date first written above, by their respective officers duly authorized.

**DIGITAL ASSURANCE CERTIFICATION, L.L.C.,**  
as Disclosure Dissemination Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**THE CULINARY INSTITUTE OF AMERICA,**  
Obligated Person

By: \_\_\_\_\_ Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_,  
as Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



## EXHIBIT A

### NAME AND CUSIP NUMBERS OF BONDS

Name of Issuer: California Statewide Communities Development Authority  
Obligated Person(s): The Culinary Institute of America  
Name of Bond Issue: Revenue Bonds, Series 2016B (The Culinary Institute of America Project)  
Date of Issuance: [ ], 2016  
Date of Official Statement: [ ], 2016

Maturity

CUSIP No.

**EXHIBIT B**

**NOTICE TO MSRB OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: California Statewide Communities Development Authority  
Obligated Person(s): The Culinary Institute of America  
Name of Bond Issue: Revenue Bonds, Series 2016B (The Culinary Institute of America Project)  
Date of Issuance: [ ], 2016

CUSIP Numbers:

NOTICE IS HEREBY GIVEN that the Obligated Person has not provided an Annual Report with respect to the above-named Bonds as required by the Agreement to Provide Continuing Disclosure, dated as of [ ], 2016, by and among the Obligated Person, The Bank of New York Mellon, as Trustee and Digital Assurance Certification, L.L.C., as Disclosure Dissemination Agent. The Obligated Person has notified the Disclosure Dissemination Agent that it anticipates that the Annual Report will be filed by \_\_\_\_\_.

Dated: \_\_\_\_\_

Digital Assurance Certification, L.L.C., as Disclosure  
Dissemination Agent, on behalf of the Obligated Person

\_\_\_\_\_

cc: Issuer  
Obligated Person

**EVENT NOTICE COVER SHEET**

This cover sheet and accompanying "event notice" will be sent to the MSRB, pursuant to Securities and Exchange Commission Rule 15c2-12(b)(5)(i)(C) and (D).

Issuer's and Obligated Person's Names:

Issuer's Six-Digit CUSIP Number:

or Nine-Digit CUSIP Number(s) of the bonds to which this event notice relates:

Number of pages attached: \_\_\_\_\_

\_\_\_\_ Description of Notice Events (Check One):

- |     |           |  |
|-----|-----------|--|
| 16. | 1. _____  | "Principal and interest payment delinquencies;"  |
| 17. | 2. _____  | "Non-Payment related defaults, if material;"   |
| 18. | 3. _____  | "Unscheduled draws on debt service reserves reflecting financial difficulties;"                      |
| 19. | 4. _____  | "Unscheduled draws on credit enhancements reflecting financial difficulties;"                        |
| 20. | 5. _____  | "Substitution of credit or liquidity providers, or their failure to perform;"                        |
| 21. | 6. _____  | "Adverse tax opinions, IRS notices or events affecting the tax status of the security;"              |
| 22. | 7. _____  | "Modifications to rights of securities holders, if material;"  |
| 23. | 8. _____  | "Bond calls, if material;"   |
| 24. | 9. _____  | "Defeasances;"   |
| 25. | 10. _____ | "Release, substitution, or sale of property securing repayment of the securities, if material;"      |
| 26. | 11. _____ | "Rating changes;"  |
| 27. | 12. _____ | "Tender offers;"   |
| 28. | 13. _____ | "Bankruptcy, insolvency, receivership or similar event of the obligated person;"                     |
| 29. | 14. _____ | "Merger, consolidation, or acquisition of the obligated person, if material;" and                    |
| 30. | 15. _____ | "Appointment of a successor or additional trustee, or the change of name of a trustee, if material." |

\_\_\_\_ Failure to provide annual financial information as required.

I hereby represent that I am authorized by the issuer or its agent to distribute this information publicly:

Signature:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Digital Assurance Certification, L.L.C.  
390 N. Orange Avenue  
Suite 1750  
Orlando, FL 32801  
407-515-1100

Date:

**VOLUNTARY EVENT DISCLOSURE COVER SHEET**

This cover sheet and accompanying "voluntary event disclosure" will be sent to the MSRB, pursuant to the Continuing Disclosure Agreement dated as of \_\_\_\_\_ by and among the Issuer, the Obligated Person, the Trustee and DAC.

Issuer's and Obligated Person's Names:

\_\_\_\_\_

Issuer's Six-Digit CUSIP Number:

\_\_\_\_\_

\_\_\_\_\_

or Nine-Digit CUSIP Number(s) of the bonds to which this notice relates:

\_\_\_\_\_

Number of pages attached: \_\_\_\_\_

\_\_\_\_\_ Description of Voluntary Event Disclosure (Check One):

- |     |     |       |   |
|-----|-----|-------|---|
| 31. | 1.  | _____ | "amendment to continuing disclosure undertaking;"                     |
| 32. | 2.  | _____ | "change in obligated person;"   |
| 33. | 3.  | _____ | "notice to investors pursuant to bond documents;"                     |
| 34. | 4.  | _____ | "certain communications from the Internal Revenue Service;"           |
| 35. | 5.  | _____ | "secondary market purchases;"   |
| 36. | 6.  | _____ | "bid for auction rate or other securities;"                           |
| 37. | 7.  | _____ | "capital or other financing plan;"                                    |
| 38. | 8.  | _____ | "litigation/enforcement action;"                                      |
| 39. | 9.  | _____ | "change of tender agent, remarketing agent, or other on-going party;" |
| 40. | 10. | _____ | "derivative or other similar transaction;" and                        |
| 41. | 11. | _____ | "other event-based disclosures."                                      |

I hereby represent that I am authorized by the issuer or its agent to distribute this information publicly:

Signature:

\_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Digital Assurance Certification, L.L.C.  
390 N. Orange Avenue  
Suite 1750  
Orlando, FL 32801  
407-515-1100

Date:

**VOLUNTARY FINANCIAL DISCLOSURE COVER SHEET**

This cover sheet and accompanying "voluntary financial disclosure" will be sent to the MSRB, pursuant to the Continuing Disclosure Agreement dated as of \_\_\_\_\_ by and among the Issuer, the Obligated Person, the Trustee and DAC.

Issuer's and Obligated Person's Names:

\_\_\_\_\_

Issuer's Six-Digit CUSIP Number:

\_\_\_\_\_

\_\_\_\_\_

or Nine-Digit CUSIP Number(s) of the bonds to which this notice relates:

\_\_\_\_\_

Number of pages attached: \_\_\_\_\_

\_\_\_\_\_ Description of Voluntary Financial Disclosure (Check One):

1. \_\_\_\_\_ "quarterly/monthly financial information;"
2. \_\_\_\_\_ "change in fiscal year/timing of annual disclosure;"
3. \_\_\_\_\_ "change in accounting standard;"
4. \_\_\_\_\_ "interim/additional financial information/operating data;"
5. \_\_\_\_\_ "budget;"
6. \_\_\_\_\_ "investment/debt/financial policy;"
7. \_\_\_\_\_ "information provided to rating agency, credit/liquidity provider or other third party;"
8. \_\_\_\_\_ "consultant reports;" and
9. \_\_\_\_\_ "other financial/operating data."

I hereby represent that I am authorized by the issuer or its agent to distribute this information publicly:

Signature:

\_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Digital Assurance Certification, L.L.C.  
390 N. Orange Avenue  
Suite 1750  
Orlando, FL 32801  
407-515-1100

Date:

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## APPENDIX E

### FORM OF APPROVING OPINION OF BOND COUNSEL

*Upon the issuance of the Series 2016B Bonds, Nixon Peabody LLP, Los Angeles, California, as Bond Counsel will deliver its Bond Counsel Opinion in substantially the same form as this Appendix.*

August 30, 2016

California Statewide Communities Development Authority  
Sacramento, California

The Bank of New York Mellon, as Trustee  
New York, New York

Re: \$12,725,000 California Statewide Communities Development Authority  
Revenue Bonds, Series 2016B  
(The Culinary Institute of America Project)

Ladies and Gentlemen:

We have acted as bond counsel to the California Statewide Communities Development Authority (the “**Authority**”), in connection with the issuance on the date hereof by the Authority of its \$12,725,000 Revenue Bonds, Series 2016B (The Culinary Institute of America Project) (the “**Series 2016B Bonds**”). The Series 2016B Bonds are authorized to be issued pursuant to:

(i) the Joint Exercise of Powers Act, constituting Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the “**Act**”),

(ii) the Bond Resolution duly adopted by the Authority on August 4, 2016 (the “**Resolution**”), and

(iii) the Indenture of Trust, dated as of August 1, 2016 (the “**Indenture**”), by and between the Authority and The Bank of New York Mellon, as trustee for the benefit of the Owners of the Series 2016B Bonds (the “**Trustee**”). The Series 2016B Bonds are being issued to finance or refinance the costs of construction, renovation and equipping of the Facilities (as defined in the Loan Agreement referenced below) (collectively, the “**Project**”).

The Authority will loan the proceeds of the Series 2016B Bonds to The Culinary Institute of America (the “**Institute**”) pursuant to the terms of a Loan and Security Agreement, dated as of August 1, 2016 (the “**Loan Agreement**”), between the Authority and the Institute. The Institute has evidenced its obligations to make loan payments to the Authority by the issuance and delivery of a certain Promissory Note, dated the Closing Date (the “**Series 2016B Note**”), in the principal amount of the Series 2016B Bonds, from the Institute to the Authority and endorsed by the Authority to the Trustee. The Institute entered into a certain First Amended and Restated Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, dated as of August 1, 2016 (the “**Deed of Trust**”), from the Institute to Chicago Title Company, as trustee for the benefit of the Trustee, whereby the Institute will grant a lien and security interest in the Pledged Property described therein to secure the repayment by the Institute of the loan of the proceeds of the Series 2016B Bonds. The Authority has assigned to the Trustee as security for the Series 2016B Bonds, for the benefit of the Owners of the Series 2016B Bonds, substantially all of its rights under the Loan Agreement, except for the Authority’s Unassigned Rights, pursuant to the Indenture. The Authority and the Institute have entered into a Tax Regulatory Agreement, dated the date hereof (the “**Tax Regulatory Agreement**”), in which the Authority and the Institute have made certain representations and covenants, established certain conditions and limitations and created certain expectations, relating to compliance

with the requirements imposed by the Internal Revenue Code of 1986, as amended (the “**Code**”). J.P. Morgan Securities LLC and Barclays Bank (the “**Underwriters**”) have agreed to purchase the Series 2016B Bonds pursuant to the terms of a Bond Purchase Agreement, dated August 16, 2016 (the “**Bond Purchase Agreement**”), among the Authority, the Underwriters and the Institute.

The Series 2016B Bonds are dated August 30, 2016 (the “**Closing Date**”), and bear interest from the date thereof at the rate and pursuant to the respective terms of the Series 2016B Bonds. The Series 2016B Bonds are subject to prepayment or redemption prior to maturity, as a whole or in part, at such time or times, at such prices, under such circumstances and in such manner as is set forth in the Series 2016B Bonds and the Indenture.

As bond counsel, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such instruments, certificates and documents (including all documents constituting the Transcript of Proceedings with respect to the issuance of the Series 2016B Bonds) as we have deemed necessary or appropriate for the purposes of the opinions rendered below. In such examination, we have assumed the genuineness of all signatures, the authenticity and due execution of all documents submitted to us as originals and the conformity to the original documents of all documents submitted to us as copies. As to any facts material to our opinion, without having conducted any independent investigation, we have relied upon, and assumed the accuracy and truthfulness of, the aforesaid instruments, certificates and documents.

Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned in the Schedule of Definitions attached as Schedule A to the Indenture.

In rendering the opinions set forth below, we have relied upon, among other things, certain representations and covenants made by the parties in this transaction including: (i) the Institute in (a) the Bond Purchase Agreement, (b) the Tax Regulatory Agreement, (c) the Loan Agreement, (d) the Deed of Trust, (e) the Closing Certificate of the Institute, dated the date hereof, (f) the Bond Counsel Questionnaire submitted to us by the Institute, (g) the Continuing Disclosure Agreement, dated as of August 1, 2016 (the “**Continuing Disclosure Agreement**”) among the Institute, DAC and the Trustee, and (h) the Official Statement, dated August 16, 2016 (the “**Official Statement**”) and (ii) the Authority in (a) the Bond Purchase Agreement, (b) the Indenture, (c) the Tax Regulatory Agreement, (d) the Loan Agreement and (e) the Closing Certificate of the Authority, dated the date hereof. We call your attention to the fact that there are certain requirements with which the Authority and the Institute must comply after the date of issuance of the Series 2016B Bonds in order for the interest on the Series 2016B Bonds to remain excluded from gross income for Federal income tax purposes. Copies of the aforementioned documents are included in the Transcript of Proceedings.

In addition, in rendering the opinions set forth below, we have relied upon the opinions of counsel to the Authority, Orrick, Herrington & Sutcliffe LLP, Portland, Oregon; counsel to the Institute, Corbally, Gartland & Rappleyea LLP, Poughkeepsie, New York; and counsel to the Trustee, Hinckley, Allen & Snyder LLP, New York, New York, all of even date herewith. Copies of the aforementioned opinions are contained in the Transcript of Proceedings.

Based upon and subject to the foregoing, we are of the opinion that:

1. The Authority is a duly organized and existing joint powers agency organized under the laws of the State of California.
2. The Authority is duly authorized to issue, execute, sell and deliver the Series 2016B Bonds, for the purpose of paying the costs described above.
3. The Resolution has been duly adopted by the Authority and is in full force and effect.
4. The Indenture, the Tax Regulatory Agreement, and the Loan Agreement have been duly authorized, executed and delivered by the Authority and assuming the due authorization, execution and delivery thereof by the other parties thereto, are legal, valid and binding obligations of the Authority, enforceable against the Authority in accordance with their respective terms.



5. The Series 2016B Bonds have been duly authorized, executed and delivered by the Authority and are legal, valid and binding special obligations of the Authority payable solely from the revenues derived from the Loan Agreement, enforceable against the Authority in accordance with their respective terms.

6. The Series 2016B Bonds do not constitute a debt of the State of California or of any political subdivision thereof, other than the Authority, and neither the State of California nor any political subdivision thereof, other than the Authority, will be liable thereon.

7. The Code sets forth certain requirements which must be met subsequent to the issuance and delivery of the Series 2016B Bonds for interest thereon to be and remain excluded from gross income for Federal income tax purposes. Noncompliance with such requirements could cause the interest on the Series 2016B Bonds to be included in gross income for Federal income tax purposes retroactive to the date of issuance of the Series 2016B Bonds. Pursuant to the Indenture, the Loan Agreement and the Tax Regulatory Agreement, the Authority and the Institute have covenanted to comply with the applicable requirements of the Code in order to maintain the exclusion of the interest on the Series 2016B Bonds from gross income for Federal income tax purposes pursuant to Section 103 of the Code. In addition, the Authority and the Institute have made certain representations and certifications in the Indenture, the Loan Agreement and the Tax Regulatory Agreement. We are also relying on the opinion of Counsel to the Institute, as to all matters concerning the status of the Institute as an organization described in Section 501(c)(3) of the Code and exempt from Federal income tax under Section 501(a) of the Code. We have not independently verified the accuracy of those certifications and representations or that opinion.

Under existing law, assuming compliance with the tax covenants described herein and the accuracy of the aforementioned representations and certifications, interest on the Series 2016B Bonds is excluded from gross income for Federal income tax purposes under Section 103 of the Code. We are also of the opinion that such interest is not treated as a preference item in calculating the alternative minimum tax imposed under the Code with respect to individuals and corporations. Interest on the Series 2016B Bonds is, however, included in the adjusted current earnings of certain corporations for purposes of computing the alternative minimum tax imposed on such corporations.

8. Interest on the Series 2016B Bonds is exempt from personal income taxes of the State of California under present State law.

Except as stated in the paragraphs 7 and 8 above, we express no opinion as to any other Federal, state or local tax consequences of the ownership or disposition of the Series 2016B Bonds. Furthermore, we express no opinion as to any federal, state or local tax law consequences with respect to the Series 2016B Bonds, or the interest thereon, if any action is taken with respect to the Series 2016B Bonds or the proceeds thereof upon the advice or approval of other counsel.

The foregoing opinions are qualified to the extent that the enforceability of the Series 2016B Bonds, the Indenture, the Loan Agreement, and the Tax Regulatory Agreement may be limited by bankruptcy, insolvency or other laws or enactments now or hereafter enacted by the State of California or the United States affecting the enforcement of creditors' rights, by restrictions on the availability of equitable remedies, limitations under California law on the enforcement of remedies against public bodies, judicial discretion and to the extent, if any, that enforceability of the indemnification provisions of such documents may be limited under law. We express no opinion with respect to the availability of any specific remedy provided for in any of the bond documents.

In rendering the foregoing opinions, we are not passing upon and do not assume any responsibility for the accuracy, completeness, sufficiency or fairness of any documents, information or financial data supplied by the Authority, the Institute or the Trustee in connection with the Series 2016B Bonds, the Bond Purchase Agreement, the Indenture, the Loan Agreement, the Deed of Trust, the Tax Regulatory Agreement, the Official Statement, the Continuing Disclosure Agreement or the Project and make no representation that we have independently verified the accuracy, completeness, sufficiency or fairness of any such documents, information or financial data. In addition, we express no opinion herein with respect to the accuracy, completeness, sufficiency or fairness of the Official Statement, with respect to the Series 2016B Bonds.

We express no opinion herein with respect to the registration requirements under the Securities Act of 1933, as amended, the registration or qualification requirements under the Trust Indenture Act of 1939, as amended, the registration, qualification or other requirements of State Securities laws or the availability of exemptions therefrom.

We express no opinion as to the adequacy, perfection or priority of any security interest in any collateral securing the Series 2016B Bonds.

Furthermore, we express no opinion as to the Continuing Disclosure Agreement. We express no opinion with respect to whether the Authority and the Institute (i) have complied with the State Environmental Quality Act, (ii) have obtained any or all necessary governmental approvals, consents or permits, or (iii) have complied with other applicable laws, rules, regulations, orders and zoning and building codes, all in connection with the renovation, construction, equipping, furnishing and operation of the Facilities.

The opinions expressed herein may be relied upon solely by the addressees and may not be relied upon by any other person without our prior written consent. Our engagement concludes with the rendering of this opinion and we have no obligation to update this opinion at any time.

Very truly yours,





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