

*In the opinion of Harris Beach PLLC, Bond Counsel to the Issuer, based on existing statutes, regulations, court decisions and administrative rulings, and assuming compliance with the tax covenants described herein, interest on the Series 2013A 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"). Furthermore, Bond Counsel is of the opinion that interest on the Series 2013A Bonds is not an "item of tax preference" for purposes of the federal alternative minimum tax imposed on individuals and corporations. Interest on the Series 2013A Bonds is, however, included in the computation of "adjusted current earnings" for purposes of calculating the federal alternative minimum tax imposed on certain corporations. Bond Counsel is further of the opinion that, based on existing statutes, interest on the Series 2013A Bonds is exempt from personal income taxes imposed by the State of New York and any political subdivision thereof. Interest on the Series 2013B Bonds is not so exempt. See "TAX MATTERS" in this Official Statement.*

**\$18,200,000**

**MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION**  
**REVENUE REFUNDING BONDS**

**Nazareth**  
**COLLEGE**

**(NAZARETH COLLEGE OF ROCHESTER PROJECT), SERIES 2013**

**consisting of:**

**\$13,905,000 TAX-EXEMPT REVENUE REFUNDING BONDS, SERIES 2013A**

**\$4,295,000 TAXABLE REVENUE REFUNDING BONDS, SERIES 2013B**

**Dated: Date of Delivery**

**Due: October 1 (as shown on the inside cover)**

The Monroe County Industrial Development Corporation Revenue Bonds (Nazareth College of Rochester Project), Series 2013 consisting of the Tax-Exempt Revenue Refunding Bonds, Series 2013A (the "Series 2013A Bonds") and the Taxable Revenue Refunding Bonds, Series 2013B (the "Series 2013B Bonds", and collectively with the Series 2013A Bonds, the "Series 2013 Bonds") will be issued pursuant to an Indenture of Trust, dated as of June 1, 2013 (the "Indenture"), by and between the Monroe County Industrial Development Corporation (the "Issuer") and Manufacturers and Traders Trust Company, as trustee (the "Trustee") and are payable from and secured by (i) a pledge and assignment to the Trustee of certain payments to be made under a Loan Agreement, dated as of June 1, 2013 (the "Loan Agreement") by and between the Issuer and Nazareth College of Rochester (the "College"), (ii) a security interest in and lien on the Pledged Revenues (as hereinafter defined) pursuant to a certain Pledge and Security Agreement, dated as of June 1, 2013, by and between the College and the Trustee (the "Pledge and Security Agreement"), and (iii) the respective funds and accounts (except the Rebate Fund) held by the Trustee under the Indenture. The security interest in and lien on the Pledged Revenues granted pursuant to the Pledge and Security Agreement is on a parity basis with the Series 2011 Revenue Pledge and the Series 2008 Revenue Pledge (each, as defined herein). See "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2013 BONDS."

**The Series 2013 Bonds are subject to redemption prior to maturity as described herein under the heading "THE SERIES 2013 BONDS — Redemption Prior to Maturity".**

The proceeds of the sale of the Series 2013A Bonds will provide funds which, together with any other available funds, will be used to (A) refund the outstanding County of Monroe Industrial Development Agency ("COMIDA") Civic Facility Revenue Bonds (Nazareth College of Rochester Project), Series 2001 and (B) pay certain costs of issuance of the Series 2013A Bonds. The proceeds of the sale of the Series 2013B Bonds will provide funds which, together with any other available funds, will be used to (A) refund the outstanding COMIDA Fixed Rate Civic Facility Revenue Refunding Bonds (Nazareth College of Rochester Project), Series 2004A and (B) pay certain costs of issuance of the Series 2013B Bonds. See "PLAN OF REFUNDING" herein.

The Series 2013 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, which will act as Securities Depository (as defined herein) for the Series 2013 Bonds. Individual purchases will be made in book-entry form only, in the principal amount of \$5,000 or any integral multiple of \$5,000 in excess thereof. Purchasers will not receive certificates representing their ownership interest in the Series 2013 Bonds. Interest on the Series 2013 Bonds will be payable on October 1, 2013, and semi-annually thereafter on April 1 and October 1 in each year until maturity.

The Series 2013 Bonds are special and limited obligations of the Issuer and do not constitute a debt or pledge of the faith and credit of the Issuer, the State of New York, Monroe County or any taxing authority or political subdivision thereof for the payment of the principal or redemption price thereof or interest thereon. The Issuer has no taxing authority.

The Series 2013 Bonds are offered when, as and if issued and received by the Underwriters and subject to the receipt of the approving opinion as to the validity of the Series 2013 Bonds of Harris Beach PLLC, Rochester, New York, Bond Counsel. Certain legal matters will be passed upon for the College by its counsel, Nixon Peabody LLP, Rochester, New York. Certain legal matters will be passed upon for the Issuer by its counsel, Harris Beach PLLC, Rochester, New York. Certain legal matters will be passed upon for the Underwriters by their counsel, Bond, Schoeneck & King, PLLC, Syracuse, New York. It is anticipated that the Series 2013 Bonds will be available for delivery in New York, New York, or as may be agreed upon, on or about June 13, 2013.

**BofA Merrill Lynch**

**M&T Securities, Inc.**

**MATURITIES, PRINCIPAL AMOUNTS, INTEREST RATES, YIELDS AND CUSIP NUMBERS**

**\$13,905,000 TAX-EXEMPT REVENUE REFUNDING BONDS, SERIES 2013A**

<u>Maturity (October 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>CUSIP<sup>†</sup></u>
2013	\$465,000	3.000%	0.900%	61075TEZ7
2014	500,000	4.000	1.030	61075TFA1
2015	520,000	4.000	1.320	61075TFB9
2016	540,000	5.000	1.620	61075TFC7
2017	570,000	5.000	1.960	61075TFD5
2018	590,000	4.000	2.210	61075TFE3
2019	620,000	5.000	2.580	61075TFF0
2020	650,000	5.000	2.870	61075TFG8
2021	680,000	4.000	3.180	61075TFH6
2022	715,000	5.000	3.450	61075TFJ2
2023	745,000	5.000	3.590	61075TFK9
2024	780,000	5.000	3.700*	61075TFL7
2025	820,000	5.000	3.810*	61075TFM5
2026	855,000	4.000	4.050	61075TFN3
2027	895,000	4.125	4.240	61075TFP8
2028	930,000	4.250	4.310	61075TFQ6
2029	970,000	4.250	4.380	61075TFR4
2030	1,010,000	4.250	4.450	61075TFS2
2031	1,050,000	4.375	4.510	61075TFT0

**\$4,295,000 TAXABLE REVENUE REFUNDING BONDS, SERIES 2013B**

<u>Maturity (October 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>CUSIP<sup>†</sup></u>
2013	\$685,000	0.900%	0.900%	61075TFU7
2014	700,000	1.200	1.200	61075TFV5
2015	715,000	1.550	1.550	61075TFW3
2016	725,000	1.840	1.840	61075TFX1
2017	740,000	2.370	2.370	61075TFY9
2018	730,000	2.620	2.620	61075TFZ6

\* Priced to par call on October 1, 2023.

† 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 College, 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 2013 Bonds may be changed during the term of the Series 2013 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 College, 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.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITERS MAY OVER-ALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SERIES 2013 BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

THE ORDER AND PLACEMENT OF MATERIALS IN THIS OFFICIAL STATEMENT, INCLUDING THE APPENDICES, IS NOT TO BE DEEMED TO BE A DETERMINATION OF RELEVANCE, MATERIALITY OR IMPORTANCE, AND THIS OFFICIAL STATEMENT, INCLUDING THE APPENDICES, MUST BE CONSIDERED IN ITS ENTIRETY. THE OFFERING OF THE SERIES 2013 BONDS IS MADE ONLY BY MEANS OF THIS ENTIRE OFFICIAL STATEMENT.

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No dealer, broker, salesperson or other person has been authorized by the Issuer, the College or the Underwriters to give any information or to make any representations with respect to the Series 2013 Bonds, other than those contained in this Official Statement, and if given or made, such other information or representations must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, and there shall not be any sale of the Series 2013 Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. The information set forth herein has been obtained from the Issuer, the College, The Depository Trust Company and other sources that are believed to be reliable, but is not guaranteed as to accuracy or completeness by, and is not to be construed as a representation by the Issuer (except for the statements under the captions “INTRODUCTION – The Issuer”, “THE ISSUER” and “LITIGATION – The Issuer” (only insofar as such information pertains to the Issuer)) or the Underwriters. The information 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 matters described herein since the date hereof.

The Underwriters have provided the following sentence for inclusion in the Official Statement. The Underwriters have reviewed the information in this Official Statement in accordance with, and as part of, their responsibilities to investors under the federal securities law as applied to the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information.

The Series 2013 Bonds are not and will not be registered under the Securities Act of 1933, as amended, or under any state securities laws, and the Indenture has not been and will not be qualified under the Trust Indenture Act of 1939 because of available exemptions therefrom. Neither the Securities and Exchange Commission nor any federal, state, municipal or other governmental agency will pass upon the accuracy, completeness or adequacy of this Official Statement.

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

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### Note Regarding Forward Looking Statements

If and when included in this Official Statement, the words “expects”, “forecasts”, “projects”, “intends”, “anticipates”, “estimates”, “assumes”, and analogous expressions are intended to identify forward-looking statements and such statements inherently are subject to a variety of risks and uncertainties that could cause actual results to differ materially from those that have been projected. Such risks and uncertainties include, among others, changes in economic conditions and various other events, conditions and circumstances, many of which are beyond the control of the College or the Issuer. Such forward-looking statements speak only as of the date of this Official Statement. The College and the Issuer disclaim any obligation or undertaking to release publicly any updates or revisions to any forward-looking statement contained herein to reflect any changes in the College’s or the Issuer’s expectations with regard thereto or any change in events, conditions or circumstances on which any such statement is based.

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**OFFICIAL STATEMENT**

**of the**

**MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION**

**Relating to**

**\$18,200,000**

**REVENUE REFUNDING BONDS (NAZARETH COLLEGE OF ROCHESTER PROJECT),  
SERIES 2013**

**consisting of:**

**\$13,905,000 TAX-EXEMPT REVENUE REFUNDING BONDS, SERIES 2013A**

**\$4,295,000 TAXABLE REVENUE REFUNDING BONDS, SERIES 2013B**

**INTRODUCTION**

The purpose of this Official Statement, including the cover page and the appendices attached hereto, is to provide information in connection with the issuance by the Monroe County Industrial Development Corporation (the “Issuer”) of its \$18,200,000 Revenue Refunding Bonds (Nazareth College of Rochester Project), Series 2013 consisting of the \$13,905,000 Tax-Exempt Revenue Refunding Bonds, Series 2013A (the “Series 2013A Bonds”) and the \$4,295,000 Taxable Revenue Refunding Bonds, Series 2013B (the “Series 2013B Bonds”, and collectively with the Series 2013A Bonds, the “Series 2013 Bonds”). The following is a brief description of certain information concerning the Series 2013 Bonds, the Issuer and Nazareth College of Rochester (the “College”). A more complete description of such information and additional information that may affect decisions to invest in the Series 2013 Bonds is contained throughout this Official Statement, which should be read in its entirety. Capitalized terms used in this Official Statement shall have the meanings specified in Appendix C attached hereto. Terms not otherwise defined in this Official Statement have the meanings provided in the specific documents.

**Purpose of the Issue**

The Series 2013A Bonds are being issued to provide funds which, together with any other available funds, will be used to (A) refund the outstanding County of Monroe Industrial Development Agency (“COMIDA”) Civic Facility Revenue Bonds (Nazareth College of Rochester Project), Series 2001 (the “Series 2001 Bonds”), and (B) pay certain costs of issuance of the Series 2013A Bonds. The Series 2013B Bonds are being issued to provide funds which, together with any other available funds, will be used to (A) refund the outstanding COMIDA Fixed Rate Civic Facility Revenue Refunding Bonds (Nazareth College of Rochester Project), Series 2004A (the “Series 2004A Bonds”) and (B) pay certain costs of issuance of the Series 2013B Bonds. See “PLAN OF REFUNDING” herein.

**Authorization of the Series 2013 Bonds**

The Series 2013 Bonds are authorized to be issued pursuant to a resolution of the Issuer adopted on May 21, 2013 (the “Resolution”). The Series 2013 Bonds will be issued under an Indenture of Trust, dated as of June 1, 2013 (the “Indenture”), by and between the Issuer and Manufacturers and Traders Trust Company, as trustee (the “Trustee”). See “THE SERIES 2013 BONDS” herein.

**The Issuer**

The Issuer is a not-for-profit corporation constituting a local development corporation duly organized and existing under the laws of the State of New York. See “THE ISSUER” herein.

## **The College**

The College is an independent, co-educational college with liberal arts and sciences and professional programs of study at the undergraduate and graduate levels. See “The College” herein.

## **Limited Obligations of the Issuer**

THE SERIES 2013 BONDS ARE SPECIAL AND LIMITED OBLIGATIONS OF THE ISSUER. THE ISSUER IS OBLIGATED TO PAY PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE SERIES 2013 BONDS SOLELY FROM THE TRUST ESTATE UNDER THE TERMS OF THE INDENTURE AND AVAILABLE FOR SUCH PAYMENT. THE SERIES 2013 BONDS ARE NOT A DEBT OF THE STATE OF NEW YORK, OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING MONROE COUNTY, NEW YORK, AND NEITHER THE STATE OF NEW YORK NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING MONROE COUNTY, NEW YORK, SHALL BE LIABLE THEREON. THE SERIES 2013 BONDS SHALL NOT BE PAYABLE FROM ANY OTHER FUNDS OF THE ISSUER. THE ISSUER HAS NO TAXING POWERS.

## **The Pledged Revenues**

The Series 2013 Bonds are secured in part by a security interest in and lien on the Pledged Revenues pursuant to the Pledge and Security Agreement, dated as of June 1, 2013, by and between the College and the Trustee (the “Pledge and Security Agreement”). The lien on the Pledged Revenues granted pursuant to the Pledge and Security Agreement is on a parity basis with the Series 2008 Revenue Pledge and Series 2011 Revenue Pledge. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2013 BONDS” herein.

## **General**

The Series 2013 Bonds will be issued as “book-entry-only” obligations to be held by The Depository Trust Company, as depository (the “Depository”) for the Series 2013 Bonds. See “BOOK-ENTRY-ONLY SYSTEM” herein.

The Series 2013 Bonds will be equally and ratably secured as to principal, premium, if any, and interest by the Indenture. The Indenture constitutes a first lien on the Trust Estate (as defined in the Indenture).

The Series 2013 Bonds will be special and limited obligations of the Issuer. The principal, Redemption Price of and interest on the Series 2013 Bonds are payable solely from the revenues received by the Issuer pursuant to the Loan Agreement (other than with respect to the Unassigned Rights) and the Pledge and Security Agreement and all funds and accounts (excluding the Rebate Fund) established by the Indenture. Pursuant to the Loan Agreement between the College and the Issuer, the College is obligated to make payments equal to debt service on the Series 2013 Bonds. The aforementioned revenues consist of the payments required to be made by the College under the Loan Agreement with respect to the Series 2013 Bonds on account of the principal, Redemption Price of and interest on the Series 2013 Bonds.

To secure the Series 2013 Bonds, the Issuer will execute and deliver to the Trustee a Pledge and Assignment with an Acknowledgement thereof by the College, dated as of June 1, 2013, from the Issuer to the Trustee (the “Assignment”), which Assignment will assign to the Trustee certain of the Issuer’s rights (except the Unassigned Rights) under the Loan Agreement. Pursuant to the Assignment, loan payments made by the College under the Loan Agreement are to be paid directly to the Trustee.

The purchase of the Series 2013 Bonds involves a degree of risk. Prospective purchasers should carefully consider the entire Official Statement, including the material under the caption “BONDHOLDERS’ RISKS” herein.



The Series 2013 Bonds will be sold and delivered by the Issuer to Merrill Lynch, Pierce, Fenner & Smith Incorporated, as representative, and M&T Securities, Inc., as underwriters (the “Underwriters”), pursuant to a bond purchase contract (the “Bond Purchase Contract”) by and among the Issuer, the College, and the Underwriters. See “UNDERWRITING” herein.

The following summaries are not comprehensive or definitive. All references to the Series 2013 Bonds, the Indenture, the Loan Agreement, the Assignment and the Pledge and Security Agreement are qualified in their entirety by the definitive forms thereof. Copies of the documents are available for inspection at the principal corporate trust office of the Trustee currently located at One M&T Plaza, 7<sup>th</sup> Floor, Buffalo, New York 14203.

## **THE SERIES 2013 BONDS**

### **Authorization**

The Series 2013 Bonds are authorized to be issued pursuant to Section 1411 of the Not-for-Profit Corporation Law of the State of New York (the “State”), as amended (the “Act”), the Issuer’s Certificate of Incorporation (the “Certificate”), and the Resolution.

### **General**

The Series 2013 Bonds will mature on October 1 of the years and in the amounts shown on the inside cover hereof. The Series 2013 Bonds will bear interest payable on October 1, 2013, and semi-annually thereafter on each April 1 and October 1 at the rates per annum set forth on the inside cover hereof. The Series 2013 Bonds shall be issued without coupons in the denomination of \$5,000, or any integral multiple of \$5,000 in excess thereof.

The Series 2013 Bonds will be issued on fully registered form and when issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York (“DTC”). DTC will act as the securities depository (the “Securities Depository”) for the Series 2013 Bonds. Purchasers will not receive certificates representing their interest in the Series 2013 Bonds. See “Book-Entry Only System” below.

Subject to the provisions of the Indenture, the principal of and premium, if any, on the Series 2013 Bonds shall be payable in lawful money of the United States of America at the Office of the Trustee, or of its successor in trust. Interest on Series 2013 Bonds due on any Bond Payment Date shall be payable to the Person in whose name such Bond is registered at the close of business on the Regular Record Date with respect to such Bond Payment Date, irrespective of any transfer or exchange of such Bond subsequent to such Regular Record Date and prior to such Bond Payment Date, unless the Issuer shall default in the payment of interest due on such Bond Payment Date. In the event of any such default, such defaulted interest shall be payable to the Person in whose name such bond is registered at the close of business on a Special Record Date for the payment of such defaulted interest established by notice mailed by the Trustee to the Owners of Series 2013 Bonds not less than fifteen (15) days preceding such Special Record Date. Such notices shall be mailed to the Persons in whose name the Series 2013 Bonds are registered at the close of business on the fifth (5<sup>th</sup>) day preceding the date of mailing. Payment of interest on the Series 2013 Bonds will be made by (i) check or draft mailed to the address of the Person in whose name such Series 2013 Bonds are registered, as such address appears on the registration books maintained by the Trustee, or (ii) at such other address furnished to the Trustee in writing by the Holder at least five (5) Business Days prior to the date of payment, or at the election of an Owner of at least \$1,000,000 aggregate principal amount of Series 2013 Bonds, by bank wire transfer to a bank account maintained by such Owner in the United States of America designated in written instructions delivered to the Trustee at least five (5) Business Days prior to the date of such payment, which written instructions may relate to multiple Bond Payment Dates.

## Redemption Prior to Maturity

Optional Redemption. The Series 2013A Bonds maturing on or after October 1, 2024 are subject to redemption by the Issuer at the option of the College on or after October 1, 2023, in whole or in part at any time, at a Redemption Price equal to 100% of the principal amount being redeemed, plus accrued interest, if any, to the Redemption Date.

The Series 2013B Bonds are subject to redemption by the Issuer at the option of the College, in whole or in part at any time, at the Make-Whole Redemption Price. The “Make-Whole Redemption Price” is the greater of (i) 100% of the principal amount of the Series 2013B Bonds to be redeemed and (ii) the sum of the present value of the remaining scheduled payments of principal and interest to the maturity date of the Series 2013B Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the Redemption Date, discounted to the Redemption Date on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate (as defined in the Indenture) plus thirty (30) basis points, plus accrued and unpaid interest on the Series 2013B Bonds to be redeemed on the Redemption Date. The Trustee may retain, at the expense of the College, an independent accounting firm or financial advisor to determine the Make-Whole Redemption Price and perform all actions and make all calculations required to determine the Make-Whole Redemption Price. The Trustee, the Issuer and the College may conclusively rely on such accounting firm’s or financial advisor’s calculations in connection with, and determination of, the Make-Whole Redemption Price, and neither the Trustee nor the Issuer nor the College will have any liability for their reliance.

The Trustee will call Series 2013 Bonds for redemption upon receipt of notice from the Issuer, or the College on behalf of the Issuer, directing such redemption, which notice shall be sent to the Trustee at least thirty (30) days prior to the Redemption Date or such fewer number of days as shall be acceptable to the Trustee and shall specify (i) the principal amount of Series 2013 Bonds so to be called for redemption, and (ii) the applicable Redemption Price.

Extraordinary Redemption Without Premium. The Series 2013 Bonds are subject to redemption prior to maturity, at the option of the Issuer exercised at the direction of the College (which option shall be exercised upon the giving of notice by the College to the Issuer and the Trustee of its intention to prepay all amounts due under the Loan Agreement), as a whole, on any date, at a Redemption Price equal to one hundred percent (100%) of the unpaid principal amount thereof, plus accrued interest to the date of redemption, if one or more of the following events shall have occurred:

(i) Damage or destruction of all or any part (if damage or destruction of such part causes the College to be impracticable to continue to carry out its normal operations) of the College’s operating assets as evidenced by an opinion of an Independent Engineer filed with the Issuer and the Trustee that (a) the damaged or destroyed operating asset(s) cannot be reasonably restored within a period of one (1) year from the date of such damage or destruction to the condition thereof immediately preceding such damage or destruction, (b) the College is thereby prevented or likely to be prevented from carrying on its normal operations for a period of one (1) year from the date of such damage or destruction, or (c) the restoration cost of such assets would exceed the total amount of all insurance proceeds, including any deductible amount, in respect of such damage or destruction; or

(ii) Title to, or the temporary use of, all or substantially all of the College’s operating assets shall have been taken or condemned by a competent authority which taking or condemnation results, or is likely to result, in the College being thereby prevented or likely to be prevented from carrying on its normal operations for a period of one (1) year from the date of such taking or condemnation, as evidenced by an opinion of an Independent Engineer filed with the Issuer and the Trustee; or

(iii) As a result of changes in the Constitution of the United States of America or of the State of New York or of legislative or executive action of said State or any political subdivision

thereof or of the United States of America or by final decree or judgment of any court after the contest thereof by the College, the Loan Agreement becomes void or unenforceable or impossible of performance in accordance with the intent and purpose of the parties as expressed therein or unreasonable burdens or excessive liabilities are imposed upon the College by reason of its operations.

If the Series 2013 Bonds are to be redeemed in whole as a result of the occurrence of any of the events described above, the College is required under the Loan Agreement to deliver to the Issuer and the Trustee a certificate of an Authorized Representative of the College stating that, as a result of the occurrence of the event giving rise to such redemption, the College has discontinued, or at the earliest practicable date will discontinue, its operation of the Facility for its intended purposes.

### **Notice of Redemption**

When Series 2013 Bonds are to be redeemed, the Trustee shall give notice of the redemption of the Series 2013 Bonds in the name of the Issuer stating: (1) the Series 2013 Bonds to be redeemed; (2) the Redemption Date; (3) that such Series 2013 Bonds will be redeemed at the Office of the Trustee; (4) that on the Redemption Date there shall become due and payable upon each Series 2013 Bond to be redeemed the Redemption Price thereof (except in the case of a mandatory sinking fund redemption of Series 2013A Bonds without premium, in which case the principal will be due and payable on the Redemption Date and the interest will be paid on such date as provided in Article II of the Indenture); and (5) that from and after the Redemption Date interest thereon shall cease to accrue. With respect to any optional redemption under the Indenture, any such notice of redemption will state that the redemption is conditioned upon receipt by the Trustee, on or prior to the Redemption Date, of moneys sufficient, together with any other moneys held by the Trustee and available therefor, to pay on the Redemption Date the Redemption Price of the Bonds to be redeemed, and that if such moneys are not received on or prior to the Redemption Date such notice will be of no force or effect and such Bonds will not be required to be redeemed. The Trustee shall mail a copy of such notice postage prepaid, not less than thirty (30) days nor more than sixty (60) days prior to the Redemption Date, to each Holder at the address of such Holder appearing on the registration books of the Issuer, maintained by the Trustee, as Bond Registrar. Such mailing shall not be a condition precedent to such redemption, and failure to so mail any such notice to any of such Holders shall not affect the validity of the proceedings for the redemption of the Series 2013 Bonds.

### **Partial Redemption of Series 2013 Bonds**

Upon surrender of any Series 2013 Bond for redemption in part only, the Issuer shall execute and the Trustee shall authenticate and deliver to the Holder thereof a new Series 2013 Bond or Series 2013 Bonds in an aggregate principal amount equal to the unredeemed portion of the Series 2013 Bond surrendered.

### **Selection of Bonds for Redemption**

If less than all Series 2013 Bonds of a series are to be redeemed, the Series 2013 Bonds of such series to be called for redemption shall be selected by lot.

### **Book Entry Only System**

Unless otherwise noted, the description that follows of the procedures and record keeping with respect to beneficial ownership interests in the Series 2013 Bonds, payment of interest and other payments on the Series 2013 Bonds to DTC Participants or Beneficial Owners of the Series 2013 Bonds, confirmation and transfer of beneficial ownership interests in the Series 2013 Bonds and other bond-related transactions by and between DTC, the DTC Participants and Beneficial Owners of the Series 2013 Bonds is based solely on information furnished by DTC for inclusion in this Official Statement. Accordingly, the Issuer, the College, the Trustee and the Underwriters do not and cannot make any representations concerning these matters.

The Depository Trust Company (“DTC”), New York, NY, will act as Securities Depository for the Series 2013 Bonds. The Series 2013 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 Bond certificate will be issued for each issue of the Series 2013 Bonds, each in the aggregate principal amount of such issue, 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 instrument 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 Standard & Poor’s highest rating: AAA. 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) and [www.dtc.org](http://www.dtc.org).

Purchases of the Series 2013 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2013 Bonds on DTC’s records. The ownership interest of each actual purchaser of each Series 2013 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 2013 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 2013 Bonds, except in the event that use of the book-entry system for the Series 2013 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2013 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 2013 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 2013 Bonds; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Series 2013 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. Beneficial Owners of Series 2013 Bonds may wish to take certain steps to augment transmission to them of notices of significant events with respect to the

Series 2013 Bonds, such as redemptions, tenders, defaults, and proposed amendments to the security documents. For example, Beneficial Owners of Series 2013 Bonds may wish to ascertain that the nominee holding the Series 2013 Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of the notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Series 2013 Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to the Series 2013 Bonds unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to 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 the Series 2013 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and dividend payments on the Series 2013 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 Issuer or Trustee on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC nor its nominee, Trustee, or 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 Issuer or 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 2013 Bonds at any time by giving reasonable notice to Issuer or Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, then the Series 2013 Bonds shall no longer be restricted to being registered in the name of the Nominee, but shall be registered in whatever name or names Owners transferring or exchanging Series 2013 Bonds shall designate, in accordance with the provisions of the Indenture.

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 2013 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 Issuer believes to be reliable, but Issuer takes no responsibility for the accuracy thereof.

NEITHER THE ISSUER, THE COLLEGE, THE UNDERWRITERS NOR 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 2013 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 BONDOWNERS; (4) THE SELECTION OF THE BENEFICIAL OWNERS TO RECEIVE PAYMENT IN THE EVENT OF ANY PARTIAL REDEMPTION OF THE

SERIES 2013 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 2013 BONDS, AS NOMINEE OF DTC, REFERENCES HEREIN TO THE BONDOWNERS OR REGISTERED HOLDERS OF THE SERIES 2013 BONDS SHALL MEAN CEDE & CO. AND SHALL NOT MEAN THE BENEFICIAL OWNERS OF THE SERIES 2013 BONDS.

### **Additional Bonds and Other Permitted Indebtedness**

#### Additional Bonds

In accordance with the Indenture, the Issuer may issue Additional Bonds under the Indenture from time to time on a pari passu basis with the Series 2013 Bonds to (1) pay the cost of completing the Facility (or completing an addition thereto as provided in the Indenture) or to reimburse expenditures of the College for any such costs, (2) pay the cost of Capital Additions or to reimburse expenditures of the College for any such cost, (3) pay the cost of refunding through redemption of any Outstanding Bonds issued under the Indenture and subject to such redemption, or (4) pay the cost of any additional project approved by the Issuer.

Pursuant to the Indenture, prior to issuance of any such Additional Bonds, the College must deliver to the Trustee certain items, including, but not limited to, a certificate of an Authorized Representative of the College evidencing the College's Unrestricted Net Assets plus Temporarily Restricted Net Assets less Net Investment in Plant, all as shown on the College's most recent audited financial statements, will be at a level at least equal to one times (1.00x) its outstanding Indebtedness and proposed Indebtedness. For a complete list of conditions precedent to the issuance of Additional Bonds, see "APPENDIX D – Summary of Certain Provisions of the Indenture" herein. Subject to compliance with the terms of the Pledge and Security Agreement, such Additional Bonds may be secured on a parity basis with the Lien on the Pledged Revenues granted by the Pledge and Security Agreement, the Series 2008 Revenue Pledge and the Series 2011 Revenue Pledge.

#### Parity Obligations

Pursuant to the Pledge and Security Agreement, the College may issue, incur or assume Indebtedness secured by a Lien on Pledged Revenues, which in the event of any default and acceleration or claim on the Pledged Revenues is pari passu with the Lien on the Pledged Revenues granted by the Pledge and Security Agreement, the Series 2008 Revenue Pledge and the Series 2011 Revenue Pledge, provided (1) such Indebtedness refunds or refinances all or a portion of any Indebtedness then outstanding, or (2) the College provides to the Trustee a certificate of an Authorized Representative of the College evidencing the College's Unrestricted Net Assets plus Temporarily Restricted Net Assets less Net Investment in Plant, all as shown on the College's most recent audited financial statements, will be at a level at least equal to one times (1.00x) its outstanding Indebtedness and proposed Indebtedness. See "APPENDIX F – Summary of Certain Provisions of the Pledge and Security Agreement" herein. All Parity Obligations will also constitute additional Indebtedness as described in the next paragraph.

#### Additional Indebtedness

Pursuant to the Loan Agreement, the College may issue, incur or assume Indebtedness, provided (1) such Indebtedness refunds or refinances all or a portion of any Indebtedness then outstanding, or (2) the College provides to the Trustee a certificate of an Authorized Representative of the College evidencing the College's Unrestricted Net Assets plus Temporarily Restricted Net Assets less Net Investment in Plant, all as shown on the College's most recent audited financial statements, will be at a level at least equal to one times (1.00x) its outstanding Indebtedness and proposed Indebtedness. See "APPENDIX E – Summary of Certain Provisions of the Loan Agreement and the Pledge and Assignment" herein. Subject to compliance with the terms of the Pledge and Security Agreement, such

additional Indebtedness may be secured on a parity basis with the Lien on the Pledged Revenues granted by the Pledge and Security Agreement, the Series 2008 Revenue Pledge and the Series 2011 Revenue Pledge.

## **SECURITY AND SOURCE OF PAYMENT FOR THE SERIES 2013 BONDS**

### **Payment of the Series 2013 Bonds**

The Series 2013 Bonds will be special and limited obligations of the Issuer. The principal, Redemption Price of and interest on the Series 2013 Bonds are payable solely from the revenues received by the Issuer pursuant to the Loan Agreement (other than with respect to the Unassigned Rights) and the Pledge and Security Agreement and all funds and accounts (excluding the Rebate Fund) established by the Indenture. Pursuant to the Loan Agreement between the College and the Issuer, the College is obligated to make payments equal to debt service on the Series 2013 Bonds. The aforementioned revenues consist of the payments required to be made by the College under the Loan Agreement with respect to the Series 2013 Bonds on account of the principal, Redemption Price of and interest on the Series 2013 Bonds. Pursuant to the Assignment, loan payments made by the College under the Loan Agreement are to be paid directly to the Trustee.

### **Security for the Series 2013 Bonds**

#### General

The Series 2013 Bonds will be secured by (1) all moneys and securities held from time to time by the Trustee for the Owners of the Series 2013 Bonds pursuant to the Indenture, including all Series 2013 Bond proceeds prior to disbursement pursuant to the terms of such Indenture (excluding monies held in the Rebate Fund), and (2) the Loan Agreement, as assigned to the Trustee (except the Unassigned Rights) pursuant to the terms of the Assignment.

#### The Pledge and Security Agreement

The payment obligation of the College under the Loan Agreement is secured by a pledge and security interest in the Pledged Revenues of the College pursuant to the Pledge and Security Agreement. The Pledged Revenues consist of all receipts, revenues, income, installment payments and other moneys received by or on behalf of the College, and all rights to receive the same whether in the form of accounts receivable, general intangibles, contract rights, chattel paper, instruments or other rights and the proceeds thereof, and any insurance proceeds and condemnation awards therefrom to the extent legally available therefor. The Lien on the Pledged Revenues granted pursuant to the Pledge and Security Agreement is on a parity basis with the Series 2008 Revenue Pledge and the Series 2011 Revenue Pledge. See “BONDHOLDERS’ RISKS” and “APPENDIX F - Summary of Certain Provisions of the Pledge and Security Agreement” herein.

### **Financial Covenants**

#### Expendable Resources Ratio

The College has covenanted in the Loan Agreement to maintain during each Fiscal Year Unrestricted Net Assets plus Temporarily Restricted Net Assets less Net Investment in Plant at a level at least equal to one times (1.00x) its outstanding Indebtedness, commencing with the Fiscal Year ending on June 30, 2014. Notwithstanding the preceding sentence, the Expendable Resources ratio requirement will be deemed satisfied if on or prior to each Reporting Date (as defined herein) commencing with the Fiscal Year ending on June 30, 2016, the College files with the Trustee a certificate of an Authorized Representative of the College stating whether at any of the two (2) out of the three (3) immediately preceding Testing Dates the Expendable Resources ratio requirement was satisfied and setting forth the calculations upon which such statement is based.

If the College fails to comply with the Expendable Resources ratio requirement in any two (2) out of the three (3) immediately preceding Testing Dates, the College within ninety (90) days of the Reporting Date will prepare a preliminary report making recommendations with respect to its rates, operations, management and other matters as will enable the College to comply with such covenants within a reasonable period. Such report will be reviewed by the Board of Trustees within sixty (60) days of receipt of such report and will issue a final report setting forth in reasonable detail the steps the College proposes to take in response to the preliminary report. The College will deliver to the Issuer and the Trustee within forty-five (45) days of completion a copy of the final report.

If the College fails to comply with the Expendable Resources ratio requirement in any three (3) out of the four (4) immediately preceding Testing Dates, the College will engage within sixty (60) days of the Reporting Date related to such failure a Management Consultant to review the rates, operations and management of the College and any other matter deemed appropriate and to make such recommendations with respect to such rates, operations, management and other matters as will enable the College to comply with such covenants within a reasonable period. The College will immediately notify the Issuer and the Trustee of such engagement.

Whenever a Management Consultant is required to be engaged by the College pursuant to the Loan Agreement, copies of the report and recommendations of such Management Consultant will be filed with the Issuer, the Trustee, the Board of Trustees of the College and an Authorized Representative of the College no later than one hundred twenty (120) days following the date of the engagement of such Management Consultant. The College will, to the extent feasible and in its discretion, promptly upon its receipt of such recommendations, and subject to applicable requirements or restrictions imposed by law, regulation or College contractual agreements, revise its tuition, fees and charges, its methods of operation or collections or its debt and investment management and will take such other action in response to such recommendations. The College will deliver to the Issuer and the Trustee within forty-five (45) days of receipt of such Management Consultant's report:

- (i) a report setting forth in reasonable detail the steps the College proposes to take in response to the recommendations of such Management Consultant; and
- (ii) a certified copy of a resolution adopted by the Board of Trustees of the College accepting both the Management Consultant's report and the report prepared by the College as required above; and
- (iii) the College will thereafter provide semi-annual reports demonstrating the progress made by the College in response to the recommendations of the Management Consultant.

If the College complies in all material respects with procedures set forth above, the College will be deemed to have complied with the Expendable Resources ratio requirement. At such time as the College is back in actual compliance with the Expendable Resources ratio requirement, it will no longer need to provide the semi-annual reports described in subparagraph (iii) above.

#### Negative Pledge

The College has covenanted in the Loan Agreement that it shall not create or suffer to be created or exist upon any portion of the Facility, any Lien, other than Permitted Encumbrances.

#### Additional Indebtedness

The College, under the Loan Agreement, may issue, incur or assume Indebtedness, provided (1) such Indebtedness refunds or refinances all or a portion of any Indebtedness then outstanding, or (2) the College provides to the Trustee a certificate of an Authorized Representative of the College evidencing the College's Unrestricted Net Assets plus Temporarily Restricted Net Assets less Net Investment in



Plant, all as shown on the College's most recent audited financial statements, will be at a level at least equal to one times (1.00x) its outstanding Indebtedness and proposed Indebtedness.

### **THE ISSUER**

The Issuer is a not-for-profit corporation constituting a local development corporation duly organized and existing under Section 1411 of the Not-for-Profit Corporation Law of the State, as amended (the "Act"), having an office for the transaction of business at 50 W. Main Street, Suite 8100, Rochester, New York 14614. The Issuer has the authority and power to own, lease and sell personal and real property for the purposes of, among other things, acquiring, constructing and equipping certain projects exclusively in furtherance of the charitable or public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, by encouraging the development of, or retention of, an industry in the community or area, and lessening the burdens of government and acting in the public interest. The Act further authorizes the Issuer to issue its bonds and to loan the proceeds thereof for the purpose of carrying out any of its corporate purposes and, as security for the payment of the principal and redemption price of and interest on any such bonds so issued and any agreements made in connection therewith, to pledge certain revenues and receipts to secure the payment of such bonds and interest thereon.

The Issuer has no power of taxation.

The Series 2013 Bonds are special and limited obligations of the Issuer, payable solely as provided in the Indenture.

THE SERIES 2013 BONDS ARE NEITHER A GENERAL OBLIGATION OF THE ISSUER, NOR A DEBT OR INDEBTEDNESS OF MONROE COUNTY OR THE STATE OF NEW YORK AND NEITHER MONROE COUNTY NOR THE STATE OF NEW YORK WILL BE LIABLE THEREON.

### **THE COLLEGE**

Nazareth College of Rochester is an independent, co-educational college with liberal arts and sciences and professional programs of study at the undergraduate and graduate levels.

Current total enrollment is 2,910 students, including 1,962 full-time and 133 part-time undergraduates and 815 full and part-time graduate students. The College has an undergraduate student-faculty ratio of 10:1. Approximately 90% of the College's faculty members hold the highest professional degree in their field.

The College is situated on 150 acres in Pittsford, New York, seven miles from Rochester, which is located on Lake Ontario between Buffalo and Syracuse. The campus consists of 23 buildings, including 11 residence halls, a 2,200 seat stadium and all-weather track, and the Arts Center.

The College is governed by a self-perpetuating Board of Trustees. The by-laws of the College provide that the Board of Trustees shall consist of not more than 35 persons and not less than 5 persons, including the President of the College. The term of office of each member, other than the President of the College, is 3 years. See "APPENDIX A – Certain Information Concerning the College" and "APPENDIX B – Audited Financial Statements of the College."

### **PLAN OF REFUNDING**

The proceeds of the Series 2013A Bonds, together with any other available funds, will be used for (A) the refunding of the outstanding principal amount of the County of Monroe Industrial Development Agency ("COMIDA") Civic Facility Revenue Bonds (Nazareth College of Rochester Project), Series

2001 (the “Series 2001 Bonds”) issued for the benefit of the College, the proceeds of which were applied to (i) fund the acquisition of approximately 73 acres of land including certain existing facilities thereof and the construction and equipping of Portka Hall, an approximately 128-bed residence hall located on the College’s campus located at 4245 East Avenue, Town of Pittsford, Monroe County (the “Campus”) (collectively, the “2013A Facility”), (ii) pay for certain costs of issuance in connection with the issuance of the Series 2001 Bonds and (iii) fund the purchase of a surety bond to satisfy the debt service reserve fund requirement as security for the Series 2001 Bonds and (B) paying certain costs and expenses incidental to the issuance of the Series 2013A Bonds.

The proceeds of the Series 2013B Bonds, together with any other available funds, will be used for (A) the refunding of the outstanding principal amount of the COMIDA Fixed Rate Civic Facility Revenue Refunding Bonds (Nazareth College of Rochester Project), Series 2004A (the “Series 2004A Bonds”, and collectively with the Series 2001 Bonds, the “Prior Bonds”) issued for the benefit of the College, the proceeds of which were applied to (i) refund the outstanding principal balance of the COMIDA Civic Facility Revenue Bonds (Nazareth College of Rochester Project), Series 1995 (the “Series 1995 Bonds”), which Series 1995 Bonds were applied in connection with the acquisition, construction and equipping of the addition to the Lorette Wilmot Library and the addition to Carroll Hall (collectively, the “2013B Facility”, and collectively with the 2013A Facility, the “Facility”), (ii) pay for certain costs of issuance in connection with the issuance of the Series 2004A Bonds and (iii) fund the purchase of a surety bond to satisfy the debt service reserve fund requirement as security for the Series 2004A Bonds and (B) paying certain costs and expenses incidental to the issuance of the Series 2013B Bonds.

## SOURCES AND USES OF BOND PROCEEDS

Proceeds of the Series 2013 Bonds are to be applied as follows:

<b>Sources of Funds:</b>	<u>Series 2013A</u>	<u>Series 2013B</u>	<u>Total</u>
Par Amount	\$13,905,000.00	\$4,295,000.00	\$18,200,000.00
Original Issue Premium (net)	720,806.30	--	720,806.30
Series 2001 Bond Fund	3.70	--	3.70
Series 2004A Bond Fund	--	0.72	0.72
College Equity Contribution	<u>11,046.80</u>	<u>--</u>	<u>11,046.80</u>
<b>Total Sources of Funds</b>	<b>\$14,636,856.80</b>	<b>\$4,295,000.72</b>	<b>\$18,931,857.52</b>
<b>Uses of Funds:</b>			
Transfer to trustee for Refunding of Series 2001 Bonds (including amount from Series 2001 Bond Fund)	\$14,193,725.42	\$ --	\$14,193,725.42
Transfer to trustee for Refunding of Series 2004A Bonds (including amount from Series 2004A Bond Fund)	--	4,153,225.00	4,153,225.00
Estimated Costs of Issuance <sup>(1)</sup>	442,612.92	139,761.65	582,374.57
Rounding Amount	<u>518.46</u>	<u>2,014.07</u>	<u>2,532.53</u>
<b>Total Uses of Funds</b>	<b><u>\$14,636,856.80</u></b>	<b><u>\$4,295,000.72</u></b>	<b><u>\$18,931,857.52</u></b>

(1) Includes Issuer's Fee, Underwriters' Discount, printing costs, fees and expenses of the Trustee, fees of the rating agencies, legal fees and costs and other miscellaneous costs of issuance.

## **BONDHOLDERS' RISKS**

*The following is a discussion of certain risks that could affect payments to be made with respect to the Series 2013 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 2013 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 2013 Bonds are payable from payments to be made by the College under the Loan Agreement. The ability of the College to comply with its obligations under the Loan Agreement depends primarily upon the ability of the College 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 College 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 College will covenant under the Loan Agreement to make all such payments when due. There are certain risks, however, which might prevent the College 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 2013 Bonds should bear in mind that the occurrence of any number of events could adversely affect the ability of the College to generate such revenues. Future economic, demographic and other conditions, including the demand for educational services, the ability of the College to provide the services required by students, economic developments in the Rochester, New York area and competition from other educational institutions, together with changes in costs, may adversely affect revenues and expenses and, consequently, the ability of the College to provide for payments. The future financial condition of the College 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. Approximately 97% of the College's undergraduate students receive some form of financial assistance from the College. 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 College.

### **Investment Income**

The College's endowment funds are professionally managed by outside asset management firms. The Investment Committee of the Board of Trustees periodically review the asset allocation of the investment pool in the context of the primary financial objective to provide funds for the current and future operations of the College. An equally important objective is the financial goal of preserving and enhancing the endowment fund's inflation-adjusted purchasing power, while providing a relatively predictable, stable and continuous stream of income. Although the unrestricted portion of the College's endowment funds and the payout therefrom are available for debt service payments on the Series 2013 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 College 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.

### **Risks as Employer**

The College is a major employer, combining a complex mix of tenured and untenured 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 College 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 College. 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 College 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 College could result in loss of tax exemption of interest on the Series 2013A Bonds and defaults in covenants regarding the Series 2013A Bonds and other related tax exempt debt would likely be triggered. The maintenance by the College 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 Bonds**

Additional Bonds may be issued under the Indenture and secured on a parity with the Series 2013 Bonds. See “APPENDIX D - Summary of Certain Provisions of The Indenture.”

### **Outstanding Parity Obligations**

The security interest in and lien on the Pledged Revenues granted pursuant to the Pledge and Security Agreement is on a parity basis with the Series 2008 Revenue Pledge and Series 2011 Revenue Pledge. Although the Series 2013 Bonds are secured in part by the assignment to the Trustee of a security interest in the College’s Pledged Revenues, the obligations of the College with respect to the \$9,030,000 COMIDA Variable Rate Civic Facility Revenue Bonds (Nazareth College of Rochester Project), Series 2008 (the “Series 2008 Bonds”) to JPMorgan Chase Bank, N.A. (the “Series 2008 Bank”) the provider of a letter of credit (the “Series 2008 Letter of Credit”) securing the Series 2008 Bonds or any successors thereto, have a *pari passu* interest in the Pledged Revenues in the event of a distribution to the College’s creditors in a bankruptcy, liquidation, reorganization or similar proceeding relating to the College or its property. The Series 2008 Letter of Credit securing the Series 2008 Bonds is secured by, among other things, a lien on and security interest in the Pledged Revenues on an equal and ratable basis with the Series 2011 Bonds (as defined below) and the Series 2013 Bonds. The obligations of the College with

respect to the \$23,765,000 Monroe County Industrial Development Corporation Tax-Exempt Revenue Bonds (Nazareth College of Rochester Project), Series 2011 (the “Series 2011 Bonds”) also have a pari passu interest in the Pledge Revenues in the event of a distribution to the College’s creditors in a bankruptcy, liquidation, reorganization or similar proceeding relating to the College or its property. Upon the occurrence of an event of default and acceleration under any of the Financing Documents related to the Series 2013 Bonds, the Series 2008 Bonds, the Series 2011 Bonds or any additional Parity Obligations that may be issued in the future, any distribution of Pledged Revenues to Holders of the Series 2013 Bonds shall be equal and ratable to the Series 2008 Bonds, the Series 2011 Bonds and any Parity Obligations hereafter issued, respectively.

### **Financial Covenants Imposed by Terms of the College’s Indebtedness**

Certain of the College’s debt instruments, including, but not limited to, the Series 2008 Bonds, the Series 2011 Bonds, and the Series 2013 Bonds, contain various covenants that include the requirement that the College maintain certain specified financial ratios. The College’s ability to meet such financial ratios may be affected by events beyond its control. A breach of any of these financial covenants could, if not waived by the credit support provider, if any, result in a default under certain of the College’s debt instruments, including the Loan Agreement. Upon the occurrence of an event of default under the various debt instruments, the lenders or the trustees thereunder could elect to declare all amounts outstanding thereunder, together with accrued interest, to be immediately due and payable. If the College was unable to repay those amounts, such lenders or trustees could proceed against the collateral granted to them to secure that indebtedness. If such lenders or trustees accelerate the payment, there can be no assurance that the assets of the College would be sufficient to repay in full such indebtedness and the other indebtedness of the College, including the payments required to be made under the Loan Agreement which secures the Series 2013 Bonds.

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

The obligation of the College 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. The College may file for the reduction of its debts in a proceeding under the federal Bankruptcy Code, which could include provisions modifying, eliminating or altering the rights of creditors generally, or any class of them, secured or unsecured. If the College 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 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 statutes for the ability of the State 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 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.

## **Secondary Market for the Series 2013 Bonds**

There can be no assurance that there will be a secondary market for purchase or sale of the Series 2013 Bonds. From time to time there may be no market for the Series 2013 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 College's capabilities and the financial condition and results of operations of the College.

### **CONTINUING DISCLOSURE OBLIGATIONS**

The Issuer has determined that no financial or operating data concerning the Issuer is material to any decision to purchase, hold or sell the Series 2013 Bonds and the Issuer will not provide any such information. In accordance with the requirements of Rule 15c2-12 (the "Rule") promulgated by the Securities and Exchange Commission, the College has undertaken all responsibilities for any continuing disclosure to Bondholders as provided below, and the Issuer shall have no liability with respect to such disclosures.

The College has covenanted for the benefit of Bondholders to provide certain financial information and operating data relating to the College by not later than one hundred eighty (180) days after the close of its fiscal year in each year commencing June 30, 2013 (the "Annual Report"), and to provide notices of the occurrence of certain enumerated events. The Annual Report will be filed with the Electronic Municipal Market Access ("EMMA") system of the Municipal Securities Rulemaking Board ("MSRB") or any other entity designated or authorized by the Commission to receive reports pursuant to the Rule. The specific nature of the information to be contained in the Annual Report or the notices of enumerated events, and the circumstances under which changes to this continued disclosure undertaking may be made, are contained in the Continuing Disclosure Agreement, a copy of which is attached hereto as Exhibit H. This undertaking has been made in order to assist the Underwriters in complying with Securities and Exchange Commission Rule 15c2-12(b)(5).

In connection with the issuance of the Series 2001, Series 2004A and Series 2011 Bonds, the College entered into similar continuing disclosure undertakings to provide, or to cause the dissemination agent designated in the applicable continuing disclosure undertaking (the "Dissemination Agent") to provide, to the MSRB for posting on EMMA, certain financial information, operating data and notice of certain listed events in accordance with the terms of such undertakings, including, for each fiscal year, the College's annual audited financial statements and updates of certain information contained in Appendix A of the Official Statement for the Series 2001, Series 2004A and Series 2011 Bonds.

The College submitted all required information to the Dissemination Agent on a timely basis. However, the Dissemination Agent failed to file with the MSRB: (a) the College's audited financial statements for the fiscal year ended June 30, 2010 for the Series 2001 Bonds and (b) required operating data for fiscal years ended June 30, 2009, 2010 and 2011 for the Series 2001 Bonds and required operating data for fiscal years ended June 30, 2010 and 2011 for the Series 2004A Bonds. In addition, the Dissemination Agent filed with the MSRB, but not on a timely basis: (a) the College's audited financial statements for the fiscal year ended June 30, 2008 for the Series 2001 and Series 2004A Bonds and the College's audited financial statements for the fiscal year ended June 30, 2012 for the Series 2011 Bonds and (b) required operating data for the fiscal year ended June 30, 2008 for the Series 2001 and Series 2004A Bonds and required operating data for the fiscal year ended June 30, 2012 for the Series 2011 Bonds.

In connection with the anticipated issuance of the Series 2013 Bonds, the College discovered the aforementioned failures by the Dissemination Agent to file certain of the College's audited financial statements and operating data and has now caused the Dissemination Agent to file all missing information with the MSRB for posting on EMMA. All annual financial statements, operating data and event notices posted on EMMA are current as of the date of this Official Statement.

The College has engaged a new dissemination agent, Digital Assurance Certification, L.L.C., to file on a timely basis all financial information, operating data and notice of certain listed events described in the continuing disclosure undertakings for the Series 2001 Bonds, the Series 2004A Bonds, the Series 2011 Bonds and the Series 2013 Bonds. In addition, the College has put in place internal procedures, to be overseen by the Controller of the College, intended to ensure that all required information is provided to the MSRB for posting on EMMA on a timely basis in accordance with the Rule.

## **TAX MATTERS**

### **Series 2013A Bonds – Federal Income Taxes**

In the opinion of Harris Beach PLLC, Bond Counsel to the Issuer, and subject to the limitations set forth below, under existing statutes, regulations, administrative rulings and court decisions as of the date of such opinion, interest on the Series 2013A Bonds is excluded from gross income for federal income tax purposes, pursuant to Section 103 of the Internal Revenue Code of 1986 (the “Code”). Furthermore, Bond Counsel is of the opinion that interest in the Series 2013A Bonds is not an “item of tax preference” for purposes of computing the federal alternative minimum tax imposed on individuals and corporations. However, interest on the Series 2013A Bonds is included in “adjusted current earnings” for purposes of calculating the federal alternative minimum tax imposed on certain corporations. Corporate purchasers of the Series 2013A Bonds should consult with their tax advisors regarding the computation of any alternative minimum tax liability.

The difference between the principal amount of the Series 2013A Bonds maturing on October 1 in the years 2026 through 2031, inclusive, (collectively, the “Discount Bonds”) and the initial offering price to the public (excluding bond houses, brokers and other intermediaries, or similar persons acting in the same capacity of underwriters or wholesalers), at which price a substantial amount of such Discount Bonds of the same maturity is first sold, constitutes original issue discount, which is not included in gross income for federal income tax purposes to the same extent as interest on the Discount Bonds. The Code provides that the amount of original issue discount accrues in accordance with a constant interest method based on the compounding of interest, and that the basis of a Discount Bond acquired at such initial offering price by an initial purchaser of such an owner’s adjusted basis for purposes of determining an owner’s gain or loss on the disposition of a Discount Bond will be increased by the amount of such accrued original issue discount. A portion of the original issue discount that accrues in each year to an owner of a Discount Bond that is a corporation will be included in the calculation of such corporation’s federal alternative minimum tax liability. Consequently, a corporate owner of any Discount Bond should be aware that the accrual of original issue discount in each year may result in a federal alternative minimum tax liability, even though the owner of such Discount Bond has not received cash attributable to such original issue discount in such year.

The Series 2013A Bonds maturing on October 1 in the years 2013 through 2025, inclusive, (collectively, the “Premium Bonds”) are being offered at prices in excess of their principal amounts. As a result of the tax cost reduction requirements of the Code relating to amortization of bond premium, under certain circumstances, an initial owner of Premium Bonds may realize a taxable gain upon disposition of such Premium Bonds even though they are sold or redeemed for an amount equal to such owner’s original cost of acquiring such Premium Bonds. Owners of the Premium Bonds are advised that they should consult with their own advisors with respect to the tax consequences of owning such Premium Bonds.

The Code establishes certain requirements that must be met at and subsequent to the issuance and delivery of the Series 2013A Bonds in order that interest on the Series 2013A Bonds be and remain excluded from gross income for federal income tax purposes, pursuant to Section 103 of the Code. These continuing requirements include certain restrictions and prohibitions on the use of the proceeds of the Series 2013A Bonds and the Series 2013A Project, restrictions on the investment of proceeds and other amounts and the rebate to the United States of certain earnings in respect of such investments. Failure to comply with such continuing requirements may cause the interest on the Series 2013A Bonds to be included in gross income for federal income tax purposes retroactive to the date of issue of the Series



2013A Bonds, irrespective of the date on which such noncompliance occurs. In the Indenture, the Loan Agreement, the Tax Compliance Agreement, and accompanying documents, the Issuer and the College have covenanted to comply with certain procedures, and have made certain representations and certifications, designed to assure compliance with the requirements of the Code. The opinion of Bond Counsel described above is made in reliance upon, and assumes continuing compliance with, such covenants and procedures and the continuing accuracy, in all material respects, of such representations and certifications.

Bond Counsel expresses no opinion regarding any other federal income tax consequences related to the ownership or disposition of, or the receipt or accrual of interest on, the Series 2013A Bonds. The proposed form of opinion of Bond Counsel is attached to hereto as Appendix G.

In addition to the matters referred to in the preceding paragraphs, prospective purchasers of the Series 2013A Bonds should be aware that the accrual or receipt of interest on the Series 2013A Bonds may otherwise affect the federal income tax liability of the recipient. The extent of these other tax consequences may depend upon the recipient's particular tax status or other items of income or deduction. Bond Counsel expresses no opinion regarding any such consequences. Examples of such other federal income tax consequences of acquiring or holding the Series 2013A Bonds include, without limitation, that (i) with respect to certain insurance companies, the Code reduces the deduction for loss reserves by a portion of the sum of certain items, including interest on the Series 2013A Bonds, (ii) interest on the Series 2013A Bonds earned by certain foreign corporations doing business in the United States may be subject to a branch profits tax imposed by the Code, (iii) passive investment income, including interest on the Series 2013A Bonds, may be subject to federal income taxation under the Code for certain S corporations that have certain earnings and profits, and (iv) the Code requires recipients of certain Social Security and certain other federal retirement benefits to take into account, in determining gross income, receipts or accruals of interest on the Series 2013A Bonds. In addition, the Code denies the interest deduction for indebtedness incurred or continued by a taxpayer, including, without limitation, banks, thrift companies, and certain other financial companies to purchase or carry tax-exempt obligations, such as the Series 2013A Bonds. The foregoing is not intended as an exhaustive list of potential tax consequences. Prospective purchasers should consult their tax advisors regarding any possible collateral consequences with respect to the Series 2013A Bonds.

### **Series 2013A Bonds – State Income Taxes**

In the opinion of Bond Counsel, under existing statutes as of the date of the issuance of the Series 2013A Bonds, interest on the Series 2013A Bonds is exempt from personal income taxes imposed by the State of New York and any political subdivision thereof.

However, noncompliance with any of the federal income tax requirements set forth above resulting in the interest on the Series 2013A Bonds being included in gross income for federal tax purposes would also cause such interest to be subject to personal income taxes imposed by the State of New York or any political subdivision thereof.

Bond Counsel expresses no opinion regarding any other state or local tax consequences related to the ownership or disposition of, or the receipt or accrual of interest on, the Series 2013A Bonds.

Interest on the Series 2013A Bonds may or may not be subject to state or local income taxes in jurisdictions other than the State of New York under applicable state or local tax laws. Bond Counsel expresses no opinion as to the tax treatment of the Series 2013A Bonds under the laws of such other state or local jurisdictions. Each purchaser of the Series 2013A Bonds should consult his or her own tax advisor regarding the taxable status of the Series 2013A Bonds in a particular jurisdiction other than the State of New York.

## **Series 2013A Bonds – Other Considerations**

Bond Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or omitted) or any events occurring (or not occurring) after the date of issuance of the Series 2013A Bonds may adversely affect the value of, or the tax status of interest on, the Series 2013A Bonds.

Certain requirements and procedures contained in or referred to in the Indenture, the Loan Agreement, the Tax Compliance Agreement, and other relevant documents may be changed, and certain actions may be taken or omitted subsequent to the date of issue, under the circumstances and subject to the terms and conditions set forth in such documents or certificates, upon the advice of or with the approving opinion of a nationally recognized bond counsel. Bond Counsel expresses no opinion as to any federal, state or local tax consequences with respect to the Series 2013A Bonds, or the interest thereon, if such change occurs or action is taken or omitted upon the advice or approval of bond counsel other than Harris Beach PLLC.

No assurance can be given that any future legislation or governmental actions, including amendments to the Code or State income tax laws, regulations, administrative rulings, or court decisions, will not, directly or indirectly, cause interest on the Series 2013A Bonds to be subject to federal, State or local income taxation, or otherwise prevent Bondholders from realizing the full current benefit of the tax status of such interest. Further, no assurance can be given that the introduction or enactment of any such future legislation, or any judicial decision or action of the Internal Revenue Service or any State taxing authority, including, but not limited to, the promulgation of a regulation or ruling, or the selection of the Series 2013A Bonds for audit examination, or the course or result of an audit examination of the Series 2013A Bonds or of obligations which present similar tax issues, will not affect the market price, value or marketability of the Series 2013A Bonds. For example, President Obama has released various 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 2013A Bonds) for taxpayers whose income exceeds certain threshold levels. No prediction is made as to whether any such proposals will be enacted. Prospective purchasers of the Series 2013A Bonds should consult their own tax advisors regarding the foregoing matters.

All quotations from and summaries and explanations of provisions of law do not purport to be complete, and reference is made to such laws for full and complete statements of their provisions.

ALL PROSPECTIVE PURCHASERS OF THE SERIES 2013A BONDS SHOULD CONSULT WITH THEIR TAX ADVISORS IN ORDER TO UNDERSTAND THE IMPLICATIONS OF THE CODE AS TO THESE AND OTHER FEDERAL AND STATE TAX CONSEQUENCES, AS WELL AS ANY LOCAL TAX CONSEQUENCES, OF PURCHASING OR HOLDING THE SERIES 2013A BONDS.

## **Series 2013B Bonds – General**

The following discussion summarizes certain United States (“U.S.”) federal tax considerations generally applicable to holders of the Series 2013B Bonds that acquire the Series 2013B Bonds in the initial offering. The discussion below is based upon laws, regulations, rulings, and decisions in effect and available on the date hereof, all of which are subject to change, and any such change could have retroactive effect. Prospective investors should also note that no rulings have been or are expected to be sought from the Internal Revenue Service (the “IRS”) with respect to any of the U.S. federal income tax consequences discussed below, and no assurance can be given that the IRS will not take contrary positions. Further, the following discussion does not deal with all U.S. federal income tax consequences applicable to any given investor, nor does it address the U.S. federal income tax considerations applicable to categories of investors some of which may be subject to special taxing rules (regardless of whether or not such persons constitute U.S. Holders), such as certain U.S. expatriates, financial institutions, real estate investment trusts, regulated investment companies, insurance companies, tax-exempt organizations, dealers or traders in securities or currencies, partnerships, S corporations, estates and trusts, persons

holding the Series 2013B Bonds as a hedge against currency risks or as a position in a “straddle” for tax purposes, or investors whose “functional currency” is not the U.S. dollar. Furthermore, it does not address (i) alternative minimum tax consequences or (ii) the indirect effects on persons who hold equity interests in a holder. In addition, this summary generally is limited to investors that acquire the Series 2013B Bonds pursuant to this initial offering for the issue price that is applicable to such Series 2013B Bonds (i.e., the price at which a substantial amount of the Series 2013B Bonds are sold to the public) and who will hold the Series 2013B Bonds as “capital assets” within the meaning of Section 1221 of the Code.

As used herein, “U.S. Holder” means a beneficial owner of a Series 2013B Bond that for U.S. federal income tax purposes is an individual citizen or resident of the United States, a corporation or other entity taxable as a corporation created or organized in or under the laws of the United States or any state thereof (including the District of Columbia), an estate the income of which is subject to U.S. federal income taxation regardless of its source or a trust where a court within the United States is able to exercise primary supervision over the administration of the trust and one or more United States persons (as defined in the Code) have the authority to control all substantial decisions of the trust (or a trust that has made a valid election under U.S. Treasury Regulations to be treated as a domestic trust).

As used herein, “Non-U.S. Holder” generally means a beneficial owner of a Series 2013B Bond (other than a partnership) that is not a U.S. Holder. If a partnership holds Series 2013B Bonds, the tax treatment of such partnership or a partner in such partnership generally will depend upon the status of the partner and upon the activities of the partnership. Partnerships holding Series 2013B Bonds, and partners in such partnerships, should consult their own tax advisors regarding the tax consequences of an investment in the Series 2013B Bonds (including their status as U.S. Holders or Non-U.S. Holders).

#### *U.S. Holders*

*Interest on Series 2013B Bonds.* Payments of interest on the Series 2013B Bonds will be included in gross income for U.S. federal income tax purposes by a U.S. Holder as ordinary income at the time the interest is paid or accrued in accordance with the U.S. Holder’s regular method of accounting for tax purposes, provided such interest is “qualified stated interest,” as defined below.

*Disposition of Series 2013B Bonds.* Except as discussed above, upon the sale, exchange, redemption or retirement of a Series 2013B Bond, a U.S. Holder generally will recognize taxable gain or loss equal to the difference between the amount realized on the sale, exchange, redemption or retirement (other than amounts representing accrued and unpaid interest) of such Series 2013B Bond and such U.S. Holder’s adjusted tax basis in such Bond. A U.S. Holder’s adjusted tax basis in a Series 2013B Bond generally will equal such U.S. Holder’s initial investment in the Series 2013B Bond increased by accrued market discount, if any, if the U.S. Holder has included such market discount in income, and decreased by the amount of any payments, other than qualified stated interest payments, received and amortizable bond premium taken with respect to such Series 2013B Bond. Such gain or loss generally will be long-term capital gain or loss if the Series 2013B Bond has been held by the U.S. Holder at the time of disposition for more than one year. If the U.S. holder is an individual, long-term capital gain will be subject to reduced rates of taxation. The deductibility of capital losses is subject to certain limitations.

#### *Non-U.S. Holders*

A Non-U.S. Holder who is an individual or corporation (or an entity treated as a corporation for U.S. federal income tax purposes) holding Series 2013B Bonds on its own behalf will not be subject to U.S. federal income tax on payments of principal of, or premium (if any), or interest (including original issue discount, if any) on Series 2013B Bonds, unless the Non-U.S. Holder is a bank receiving interest described in Section 881(c)(3)(A) of the Code. To qualify for the exemption from taxation, the Withholding Agent, as defined below, must have received a statement from the individual or corporation that:

- is signed under penalties of perjury by the beneficial owner of the Series 2013B Bonds,
- certifies that the owner is not a U.S. holder, and
- provides the beneficial owner's name and permanent residence address.

A "Withholding Agent" is the last U.S. payor (or non-U.S. payor who is a qualified intermediary, U.S. branch of a foreign person or withholding foreign partnership) in the chain of payment prior to payment to a non-U.S. holder (which itself is not a Withholding Agent). Generally, this statement is made on an IRS Form W-8BEN ("W-8BEN"), which is effective for the remainder of the year of signature plus three full calendar years thereafter, unless a change in circumstances makes any information on the form incorrect. Notwithstanding the preceding sentence, a Form W-8BEN with a U.S. taxpayer identification number will remain effective until a change in circumstances makes any information on the form incorrect, provided the Withholding Agent reports at least annually to the beneficial owner on IRS Form 1042-S. The beneficial owner must inform the Withholding Agent within 30 days of any change and furnish a new Form W-8BEN. A Non-U.S. Holder that is not an individual or corporation (or an entity treated as a corporation for U.S. federal income tax purposes) holding Series 2013B Bonds on its own behalf may have substantially increased reporting requirements. In particular, in the case of Series 2013B Bonds held by a foreign partnership or foreign trust, the partners or beneficiaries rather than the partnership or trust will be required to provide the certification discussed above, and the partnership or trust will be required to provide certain additional information.

A Non-U.S. Holder of Series 2013B Bonds whose income from such Series 2013B Bonds is effectively connected with the conduct of a U.S. trade or business generally will be taxed as if the holder were a U.S. Holder, provided the holder furnishes to the Withholding Agent a Form W-8ECI.

Certain securities clearing organizations, and other entities that are not beneficial owners may be able to provide a signed statement to the Withholding Agent. In that case, however, the signed statement may require a copy of the beneficial owner's Form W-8BEN (or substitute form).

Generally, a Non-U.S. Holder will not be subject to U.S. federal income tax on any amount that constitutes capital gain upon retirement or disposition of Series 2013B Bonds, unless the Non-U.S. Holder is an individual who is present in the United States for 183 days or more in the taxable year of the retirement or disposition of such Series 2013B Bonds, and that gain is derived from sources within the United States. Certain other exceptions may apply, and a Non-U.S. Holder in these circumstances should consult his tax advisor.

Series 2013B Bonds will not be includible in the estate of a Non-U.S. Holder unless, at the time of the decedent's death, income from such Series 2013B Bonds was effectively connected with the conduct by the decedent of a trade or business in the United States.

#### *Information Reporting and Backup Withholding*

Backup withholding of U.S. federal income tax may apply to payments made in respect of the Series 2013B Bonds to registered owners who are not "exempt recipients" and who fail to provide certain identifying information (such as the registered owner's taxpayer identification number) in the required manner. Generally, individuals are not exempt recipients, whereas corporations and certain other entities generally are exempt recipients. Payments made in respect of the Series 2013B Bonds to a U.S. Holder must be reported to the IRS, unless U.S. Holder is an exempt recipient or establishes an exemption. Compliance with the identification procedures described in the preceding section would establish an exemption from backup withholding for those Non-U.S. Holders who are not exempt recipients.

In addition, upon the sale of a Series 2013B Bond to (or through a broker, the broker must report the sale and withhold the entire purchase price, unless either (i) the broker determines that the seller is a corporation or other exempt recipient or (ii) the seller certifies that such seller is a Non-U.S. Holder (and

certain other conditions are met). Certification of the registered owner's Non-U.S. status would be made normally on an IRS Form W-8BEN under penalties of perjury, although in certain cases it may be possible to submit other documentary evidence.

### *Defeasance*

Under the terms of the Indenture, the Series 2013B Bonds may be legally defeased prior to their stated maturity. Prospective purchasers of Series 2013B Bonds should be aware that, for U.S. federal income tax purposes, any such legal defeasance will be treated as a taxable exchange of such Series 2013B Bonds on which gain or loss, if any, will be recognized without any corresponding receipt of cash. In addition, after a legal defeasance, the timing and character of amounts includable in gross income by a holder of Series 2013B Bonds could differ from the timing and character of the amounts that would have been includable in gross income in respect of such Series 2013B Bonds had the legal defeasance not occurred. Prospective purchasers of the Series 2013B Bonds should consult their own tax advisors with respect to the more detailed consequences to them of a legal defeasance, including the applicability and effect of tax laws other than U.S. federal income tax laws.

### **Series 2013B Bonds – IRS Circular 230 Disclosure**

The advice under this TAX MATTERS concerning certain federal income tax consequences of the acquisition, ownership and disposition of the Series 2013B Bonds, was written to support the marketing of the Series 2013B Bonds. To ensure compliance with requirements imposed by the Internal Revenue Service, Bond Counsel informs you that (i) any federal tax advice contained in this Official Statement (including any Appendices) or in writings furnished by Bond Counsel is not intended to be used, and cannot be used by any bondholder, for the purpose of avoiding penalties that may be imposed on the bondholder under the Code, and (ii) each bondholder should seek advice based on such bondholder's particular circumstances from an independent tax advisor.

### **INDEPENDENT AUDITORS**

The financial statements for the College as of and for the years ended June 30, 2012 and 2011, 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.

### **RATINGS**

Moody's Investors Service, Inc. ("Moody's") and Standard & Poor's Ratings Services, a Division of The McGraw-Hill Companies, Inc. ("S&P"), have assigned ratings of "Baa2" and "BBB+," respectively, to the Series 2013 Bonds. Such ratings reflect only the views of such organization and any desired explanation of the significance of such ratings should be obtained from the respective rating agency. There is no assurance that such ratings will prevail for any given period of time or that they will not be revised downward or withdrawn entirely by any or all of such rating agencies if, in the judgment of any or all of them, circumstances so warrant. Any such downward revision or withdrawal of such rating or ratings may have an adverse effect on the market price of the Series 2013 Bonds.

### **LITIGATION**

#### **The Issuer**

There is not now pending nor, to the knowledge of the Issuer threatened, any litigation questioning or affecting the validity of the Series 2013 Bonds or the proceedings or authority under which the Series 2013 Bonds were issued. Neither the creation, organization or existence of the Issuer nor the title of any of the present members or other officers of the Issuer 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 Issuer to execute and deliver the Indenture or the Loan Agreement.

## **The College**

There is not now pending nor, to the knowledge of the College, threatened any litigation restraining or enjoining the execution or delivery of the Financing Documents to which the College 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 College nor the title of any of the present members or other officers of the College 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 College to enter into the Financing Documents to which the College is a party or which would have a material adverse effect on the ability of the College to meet its obligations under the Loan Agreement.

## **LEGAL MATTERS**

All legal matters incident to the authorization and validity of the Series 2013 Bonds are subject to the approval of Harris Beach PLLC, Bond Counsel, whose approving opinion will be delivered with the issuance of Series 2013 Bonds. Certain legal matters will be passed upon for the Issuer by Harris Beach, PLLC. Certain legal matters will be passed upon for the College by Nixon Peabody LLP. Certain legal matters will be passed upon for the Underwriters by Bond, Schoeneck & King, PLLC.

## **UNDERWRITING**

Merrill Lynch, Pierce, Fenner & Smith Incorporated and M&T Securities, Inc. (the "Underwriters") have agreed, subject to certain conditions, to purchase the Series 2013 Bonds from the Issuer. The Underwriters' obligations are subject to certain conditions precedent, and, if these conditions are met, the Underwriters will be obligated to purchase all the Series 2013 Bonds if any of the Series 2013 Bonds are delivered at a purchase price of \$18,830,458.29 which represents the par amount of the Series 2013 Bonds plus a net original issue premium of \$720,806.30 less the Underwriters' Discount of \$90,348.01. The Series 2013 Bonds may be offered and sold to certain dealers (including dealers depositing such Bonds into unit investment trusts, certain of which may be sponsored or managed by an Underwriter) at prices lower than the public offering prices as set forth on the inside cover page hereof. The initial public offering prices may be changed from time to time by the Underwriters.

The Underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, principal investment, hedging, financing and brokerage activities. The Underwriters and their respective affiliates may have, from time to time, performed and may in the future perform, various investment banking services for the College or the Issuer, for which they may 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 accounts and for the accounts of its 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 College or the Issuer.

The Underwriters' retained Bond, Schoeneck & King, PLLC, to serve as Underwriters' counsel on the recommendation of the College due, among other factors, to Bond, Schoeneck & King, PLLC's understanding of, and past performance in transactions with, the College and the Issuer.

## **VERIFICATION OF MATHEMATICAL COMPUTATIONS**

Causey Demgen & Moore P.C., a firm of independent public accountants, will deliver its report indicating that it has verified the mathematical accuracy of the computations in the schedules provided by the Underwriter. Included in the scope of its verification report will be a verification of the mathematical accuracy of the computations of the adequacy of the cash deposited with the trustee for the advance

refunding of the Series 2004A Bonds and paying of the interest and redemption price coming due on the Series 2004A Bonds on or prior to their respective redemption dates.

### **CERTAIN RELATIONSHIPS**

Two members of the College's Board of Directors and one member of the Issuer's Board of Directors are employees of Merrill Lynch, Pierce, Fenner & Smith Incorporated, one of the Underwriters for the Series 2013 Bonds.

### **MISCELLANEOUS**

All the summaries of the provisions of the Series 2013 Bonds, the Indenture, the Loan Agreement, the Assignment, the Pledge and Security Agreement and the Continuing Disclosure Agreement set forth herein and all other summaries and references to such other materials not purporting to be quoted in full, are only brief outlines of certain provisions thereof and are made subject to all of the detailed provisions thereof, to which reference is hereby made for further information, and do not purport to be complete statements of any or of all such provisions of such documents.

All estimates and assumptions herein have been made on the best information available and are believed to be reliable, but no representations whatsoever are made that such estimates or assumptions are correct or will be realized. So far as any statements herein involve matters of opinion, whether or not expressly so stated, they are intended merely as such and not as representations of fact. Neither this Official Statement nor any statement which may have been made orally or in writing with regard to the Series 2013 Bonds is to be construed as a contract with the holders of the Series 2013 Bonds.

The information set forth in this Official Statement, and that which follows in the Appendices, should not be construed as representing all the conditions affecting the Issuer, the College or the Series 2013 Bonds.

The Issuer has not assisted in the preparation of this Official Statement, except for the statements under the captions "INTRODUCTION – The Issuer", "THE ISSUER" and "LITIGATION – The Issuer" herein and, except for those sections, the Issuer is not responsible for any statements made in this Official Statement. Except for the authorization, execution, and delivery of documents to which it is a party that are required to effect the issuance of the Series 2013 Bonds, and Issuer assumes no responsibility for the disclosures set forth in this Official Statement.

The Issuer and the College have authorized the execution and distribution of this Official Statement.

**MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION**

By: /s/ Judith A. Seil  
Title: Executive Director

**NAZARETH COLLEGE OF ROCHESTER**

By: /s/ Margaret Cass Ferber  
Title: Vice President for Finance and Treasurer



## APPENDIX A

### CERTAIN INFORMATION CONCERNING THE COLLEGE

#### THE COLLEGE

##### General

Nazareth College of Rochester (the “College” or “Nazareth”) is an independent, co-educational college with liberal arts and sciences and professional programs of study at the undergraduate and graduate levels.

Current total enrollment is 2,910 students, including 1,962 full-time and 133 part-time undergraduates and 815 full and part-time graduate students. The College has an undergraduate student-faculty ratio of 10:1. Approximately 90% of the College’s full-time faculty members hold the highest professional degree in their field.

##### Mission

The mission of Nazareth is to provide a learning community that educates students in the liberal arts, sciences, visual and performing arts, and professional fields, fostering commitment to a life informed by intellectual, ethical, spiritual, and aesthetic values; to develop skills necessary for the pursuit of meaningful careers; and to inspire dedication to the ideal of service to their communities. Nazareth seeks students who want to make a difference in their own world and the world around them, and encourages them to develop the understanding, commitment, and confidence to lead fully informed and actively engaged lives.

##### Vision

Nazareth will be nationally and internationally recognized as a comprehensive educational institution, which provides its students with transformational experiences and integrates liberal arts, sciences, visual and performing arts, and professional education at the undergraduate and graduate levels and which places special value on student success, diversity, inclusion, civic engagement, and making a difference in local and global communities.

##### Strategic Plan

A renewed strategic planning process was initiated in January 2010. The trustees, faculty, staff and students were encouraged to participate in the *Naz 2020: Vision for the Future* to respond to factors that will affect the College over the next decade. In April 2012, the plan was endorsed, in principle by the Board of Trustees. Below is a list of goals the plan wishes to accomplish.

1. Nazareth will strengthen its position as a New American College, committed to providing the highest quality educational experiences that prepare students to live and work as world citizens and that are marked by: (1) strategic and purposeful integration of education in the liberal arts and sciences with professional studies; (2) community engagement and experiential learning opportunities; and (3) development of a global perspective.
2. Nazareth will implement a comprehensive plan that focuses on the intentional development of the whole student and prepares students to work and live as leaders in pluralistic environments.
3. Nazareth will employ a sustainable model for financing an education, which reduces costs through strategic deployment and redeployment of human, physical, virtual and financial resources as well as through collaborations and partnerships.
4. Nazareth will achieve a total undergraduate and graduate student body size of between 3,100 and 3,200 FTE, preserving close personal attention to our students and enhancing excellence and diversity within the student body.

5. Nazareth will increase the visibility and reputation of the College in order to achieve enrollment and fundraising targets.

An implementation plan for the *Naz 2020* strategic plan is under development and its presentation to the Board of Trustees is anticipated in summer/fall of 2013.

### **Campaign for College and Community**

Nazareth College is in the sixth year of the Campaign for College and Community, a comprehensive campaign focusing on capital improvements, an increased endowment fund and annual fund. The College launched the comprehensive campaign to not just defend, but extend the institution's ability to provide upstate New York with innovative academic and community programs. The comprehensive campaign is designed to support the initiatives outlined in the strategic plan described above, by focusing on new and upgraded facilities for math and science, health and human services, and the visual and performing arts programs, and increased support for scholarships, the endowment, and the annual fund.

In April 2013, the College announced the Wellness and Rehabilitation Institute at Nazareth College. The \$16.5 million Institute, planned to open in summer 2015, will physically expand the existing educational and clinical facilities of the School of Health and Human Services at the College, which is dedicated to physical therapy, nursing, occupational therapy, speech language pathology, social work, creative arts therapy (music and art) as well as pre-medical and pre-dental studies. The Institute will serve as a national model for healthcare education for hand-on training of the next generation of nurses and allied health professionals, while providing clinical facilities that serve the greater Rochester and western New York area. Major gifts of \$6.5 million have already been committed to the Institute which is expected to be fully funded by gifts and internal funding.

The College celebrated the grand opening of Peckham Hall, the 74,000 square foot home of the Integrated Center for Math and Science in September 2012. Peckham Hall houses laboratories, state-of-the-art equipment and smart classrooms to accommodate a growing student body and complement new teaching methods. The facility contains updated computer technology and offers an environment for interdisciplinary study and student interaction. The space is designed to encourage collaboration among students and faculty, including open areas for group study and reference materials adjacent to faculty offices.

The College completed a major renovation of its Arts Center with a gala opening for donors and the community in September 2009.

Philanthropic fundraising continues in all priorities of the comprehensive campaign including health and human, the arts, the endowment, and the annual fund.

### **Undergraduate Education Programs**

The College offers 52 undergraduate majors and 51 undergraduate minors. The College's largest undergraduate majors are in the areas of health sciences, psychology, inclusive education, nursing, business administration, and communication science & disorders.

Other majors include English, history, art, music, foreign languages and literature, social work, mathematics, biology, biochemistry, sociology/anthropology, theatre arts, chemistry, philosophy, religious studies, information technology, accounting, marketing, international business, economics, peace and justice, communication and rhetoric, musical theater, acting, Asian studies, and technical production. Students preparing for teaching careers can major in one of the liberal arts or sciences, and then complete course work in a professional studies sequence for certification.

The College's current core curriculum provides a common learning experience for all undergraduates in the various disciplines of liberal study, fine arts, history, literature, mathematics, philosophy, religious studies, science, and the social sciences. It also incorporates technical literacy, global studies, science laboratory courses, and both formal and informal writing infused throughout the curriculum. A new core curriculum was approved by the faculty

in April 2010 with a target implementation date of fall 2013. The 2010 core responds to the changes in the context of liberal education since the current core was developed in 1988. Key aspects of the 2010 core include a set of integrative courses relating to a topic chosen by the student and culminating in an integrative seminar. Vertical integration will be reinforced by the use of electronic portfolios. A new addition to the core is an expectation that each student will engage in and reflect on an internship/practicum, service, service learning, research, or study abroad opportunity in the major or as an elective.

The College's Honors Program gives those students seeking extraordinary academic achievements the chance to enrich their educational experience through additional courses, interdisciplinary seminars and professional lectures, among other opportunities. Over the course of their time at Nazareth, honors students develop their intellectual prowess to the highest potential, culminating in a senior thesis and special recognition at graduation. Aspects of the program also benefit the entire College. Through its Distinguished Lecturer Series, which brings outstanding men and women of accomplishment to speak on campus, the Honors Program promotes, recognizes and applauds high standards of intellectual achievement.

Nazareth has had considerable success in helping students receive Fulbright grants, and was ranked first by the Chronicle of Higher Education as the top producer of Fulbright Awards for U.S. students at Master's Institutions on the 2012-2013 list. Nazareth graduates have received 39 grants, with students going to 18 countries, including Argentina (3), Australia (2), Belgium (2), Colombia (2), Egypt, France (2), Finland, Sri Lanka, Nepal, Germany (10), India, Israel, South Korea (6), New Zealand, Slovak Republic, Spain (2), Sweden and Venezuela.

### **Graduate Studies Program**

The College offers graduate programs in 18 areas of study, including one six-year program leading to the B.S. in Health Science and Doctor of Physical Therapy. Nazareth and The College at Brockport (State University of New York), jointly offer the Greater Rochester Collaborative Master of Social Work Program.

Occupational Therapy, Creative Arts Therapy, Human Resource Management, Management, Accounting, and Speech-Language Pathology are offered within the Master of Science degree. Nursing Education Certification Program offers nurses who already possess a master's degree or those pursuing a master's degree the opportunity to enhance their ability to teach in a variety of health care settings. Programs available within the Master of Science in Education are Art Education, Higher Education Student Affairs Administration, Educational Technology, Inclusive Education Programs (Early Childhood, Childhood, and Adolescence), Literacy Education, Music Education, and Teaching English to Speakers of Other Languages. Liberal Studies and American Studies are offered as a Master of Arts degree.

### **Recognition**

Nazareth College is one of the nation's leading institutions for undergraduate education, according to *The Princeton Review* and is featured in *The Best 377 Colleges: 2013 Edition*. In addition, *U.S. News & World Report* ranks Nazareth in the top tier of colleges and universities in the category of Best Regional Universities-North in its 2013 *America's Best Colleges* guide. Nazareth joined The New American College and Universities (NAC&U) in July 2011. NAC&U is a national consortium of twenty selective, small to mid-size independent colleges and universities dedicated to the purposeful integration of liberal education, professional studies and civic engagement.

In 2013, Nazareth College was named a Presidential Awardee in the President's Higher Education Community Service Honor Roll. The distinction is the highest honor a college or university can receive for its commitment to volunteering, service-learning, and civic engagement. One of only 5 colleges selected, Nazareth was cited for its achievements in the special focus area of early childhood education, which aligns with the President's education and innovation priorities. Each year since the Honor Roll's inception in 2006, Nazareth has been named to this prestigious list, twice making the "with distinction" category.

The College is not only recognized for the premier education it provides to its students, but also for its quality workplace environment. Nazareth was one of just 97 colleges ranked nationwide and the only Rochester area college named to *The Chronicle of Higher Education's* 2010 Great Colleges to Work For.

Nazareth's strong cultures of service and community prepare students to be engaged citizens. The *Carnegie Foundation for the Advancement of Teaching* selected Nazareth to be included in its *2008 Community Engagement Classification*. More than 95% of Nazareth students engage in community service locally, nationally, and globally; devoting over 550,000 hours in 2012. Nazareth is one of the few schools to have an on-campus Center for Civic Engagement, which encompasses the department of community service, Center for Service Learning, and the professional internship program. In fulfilling its mission, the Center prepares students to make a difference in their own world and the world around them, and encourages them to develop the understanding, commitment, and confidence to lead fully informed and actively engaged lives.

## **Accreditation**

The College is accredited by the Middle States Association of Colleges and Secondary Schools and is registered under the Board of Regents of the University of the State of New York. Various programs are accredited by:

- ❖ Council on Social Work Education
- ❖ Commission on Collegiate Nursing Education
- ❖ National Association of Schools of Music
- ❖ Council on Academic Accreditation in Audiology and Speech-Language Pathology
- ❖ International Assembly Collegiate Business Education (Candidate for accreditation)
- ❖ American Chemical Society
- ❖ American Art Therapy Association
- ❖ Teacher Education Accreditation Council
- ❖ Commission on Accreditation in Physical Therapy Education
- ❖ Accreditation Council for Occupational Therapy Education (Developing Program Status)
- ❖ American Occupational Therapy Association
- ❖ American Physical Therapy Association
- ❖ American Speech Language-Hearing Association

The College also holds membership in:

- ❖ American Council on Education
- ❖ Association of American Colleges and Universities
- ❖ Campus Compact: The Project for Public and Community Service
- ❖ National League for Nursing
- ❖ American Association of Colleges of Nursing
- ❖ The National Association of Independent Colleges and Universities
- ❖ Society for the Arts in Health Care
- ❖ The Association of Schools of Allied Health Professions
- ❖ Association for Prevention Teaching and Research
- ❖ The New American Colleges and Universities

## **Facilities and Services**

The College is situated on 150 acres in Pittsford, New York, seven miles from Rochester, which is located on Lake Ontario between Buffalo and Syracuse. The campus consists of 26 buildings, including 11 residence halls, a 2,200-seat stadium and all-weather track, and the Arts Center.

The School of Health and Human Services has developed into an educational environment that emphasizes inter-professional collaboration in both learning and delivery of services. Nazareth is the only Rochester-area College to offer a unique array of allied health professional programs in conjunction with nursing, music therapy, and art therapy, and it's on-campus clinics and community outreach programs serve approximately 3,700 each year.

Students also benefit from educational partnerships with leading non-profits in off-campus outreach and field practice locations. The School of Education operates a reading clinic on-campus where elementary and secondary students, as well as adults from the community, may receive support in learning to read and write.

In fall 2012 a new academic building, Peckham Hall home of the Integrated Center for Math and Science, opened. It will play an instrumental role in leading the way for Nazareth students to receive the very best in math and science education, enabling the College to increase the number of students who pursue majors in science and math fields, as well as those who pursue careers as health and human service professionals and teachers of math and science.

## **Administration**

The President of the College is appointed by the Board of Trustees and, as chief executive officer, is principally responsible for the administration of the College. All other senior executive officers are nominated by the President and appointed by the Board of Trustees. The senior executive officers are listed below:

### ***Mr. Daan Braveman, President***

Mr. Braveman joined Nazareth in July 2005. Prior to that Mr. Braveman was Dean of the Syracuse University College of Law, which he joined in 1977. In addition, Mr. Braveman was a law clerk to Justice Samuel J. Roberts of the Pennsylvania Supreme Court and an attorney for the Greater Upstate Law Project. He received his Bachelor of Arts Degree from the University of Rochester and juris doctorate from the University of Pennsylvania.

### ***Mr. Thomas K. DaRin, Vice President for Enrollment Management***

Mr. DaRin started at Nazareth College in 1987 as Director of Admissions. Mr. DaRin was appointed Dean of Admissions in 1995 and Vice President for Enrollment Management in 2000. He previously worked in admissions at Long Island University C.W. Post and Southampton Campuses. He holds his Bachelor of Science Degree from the State University of New York at Cortland, and Masters Degrees from the State University of New York at Cortland and Syracuse University.

### ***Ms. Margaret Cass Ferber, Vice President for Finance and Treasurer***

Ms. Ferber joined the College in December 2003. She most recently served as Associate Vice President for Finance and Treasurer of Rochester Institute of Technology. She worked previously in Coopers & Lybrand's Higher Education Consulting Practice, and at Wheaton College and the University of Rochester. Ms. Ferber received her B.S. in Accounting from Binghamton University, magna cum laude, and her M.B.A. from Boston University, with honors.

### ***Ms. Kelly Gagan, Vice President for Institutional Advancement***

Ms. Gagan joined Nazareth in September 2000 as the Director of Development. She was appointed Associate Vice President of Advancement in October 2005 and Vice President for Institutional Advancement in July 2006. Before coming to Nazareth, Ms. Gagan was Senior Associate Director at the Carter Center in Atlanta, Georgia. Ms. Gagan holds a B.A. in English from LeMoyne College.

### ***Dr. Sara Varhus, Vice President for Academic Affairs***

Dr. Varhus was appointed Vice President for Academic Affairs in January 2007, and previously served as the Dean of the College of Arts and Sciences at the State University of New York at Oswego. Dr. Varhus holds her Bachelor's in English and History from Rockford College, and Master's and Doctorate in English from the University of Rochester.

***Mr. Kevin Worthen, Vice President for Student Development***

Mr. Worthen joined the College in July 2009. His career began at Lafayette College in 1989 where Mr. Worthen served in numerous student development positions, most recently as Dean of Students. Mr. Worthen received his Bachelor's Degree in Psychology from The College of William and Mary in Virginia and his Master's in College Student Personnel from the University of Tennessee, Knoxville. He has completed coursework for his Doctorate of Education in Administration and Leadership from a joint program with Indiana University of Pennsylvania and East Stroudsburg University.

**Governance**

The College is governed by a self-perpetuating Board of Trustees. The bylaws of the College provide that the Board of Trustees shall consist of not more than 35 persons and not less than 5 persons. Among the members shall be the President of the College. The term of office of each member, other than the President of the College, is 3 years. A Trustee may be re-elected for successive terms. After 3 full terms as Trustee the individual may be elected as Trustee Emeritus. A person elected Trustee Emeritus shall continue to be a member of the Board and to participate therein, but without vote on issues presented to the full Board.

Both the full Board and the Executive Committee meet four (4) times per year. Board Committees meet on a regular basis and as business warrants. There are 10 Board Committees: Academic Affairs; Audit; Buildings and Grounds; Executive; Finance; Institutional Advancement; Investment; Student Enrollment; Trustees Student Life; and Trusteeship.

## The Board of Trustees \*

Ms. Jackie Aab Rochester, New York	Mrs. Jane L. Glazer QCI Director Rochester, New York	Mr. Richard Pierpont Symantec Corporation Victor, New York	<u>Staff:</u> Mr. Craig J. Zicari Esq. Secretary to the College Harter, Secrest & Emery LLP Rochester, New York
Ms. Susan Acker Merrill Lynch Pittsford, New York	Mr. Warren Hern Unity Health System Rochester, NY	Mr. James P. Sessler JPS Holdings, LLC Cazenovia, New York	Mr. Joseph G. Casion Esq. Attorney for the College Harter, Secrest & Emery LLP Rochester, New York
Mr. Jack Allocco Composer Rolling Hills, California	Mr. Brian Hickey M&T Bank Rochester, New York	Ms. Lori VanDusen LVW Advisors Pittsford, New York	Ms. Patricia Genthner Associate to the President Nazareth College Rochester, New York
Mr. Daan Braveman Nazareth College, President Rochester, New York	Ms. Bridgette Hobart Paradigm Technology Consulting, LLC E. Windsor, New Jersey	Mr. David Vigen ESL Federal Credit Union ( <i>retired</i> ) Middlesex, New York	Ms. Cathleen Stevens Executive Assistant to the President Nazareth College Rochester, New York
Mr. Stephen Brown The Brown Group Pittsford, New York	Mr. Thomas Ioele Employee Relations Associates Rochester, New York	Mr. Thomas Wilmot Sr. Wilmorite Management Group Rochester, New York	
Mr. Jeffrey Burke OptiCool Technologies, Inc Webster, NY	Mr. Richard Kaplan Torvec Rochester, New York	Mr. Frank York Global Communications ( <i>retired</i> ) Pittsford, New York	
Mr. James Costanza, <i>Chair</i> Costanza Enterprises, Inc. Rochester, New York	Dr. Cynthia Reddeck-LiDestri LiDestri Foods, Inc. Fairport, New York		
Mr. John Drain Hearst Television New York, New York	Mrs. Judy Wilmot Linehan Community Volunteer Pittsford, New York	* As of April 2013	
Ms. Lauren Dixon Dixon Schwabl Advertising Victor, New York	Dr. Elizabeth McAnarney University of Rochester Rochester, New York		
Mr. Steve Dubnik Ariston Global Management Pittsford, New York	Mrs. Kim McCluski Essential Strategies Pittsford, New York		
Mr. Emil Duda Lifetime Healthcare ( <i>retired</i> ) Rochester, New York	Mary Louise Mitchell, S.S.J. Sisters of St. Joseph of Rochester Rochester, New York		
Mr. Sergio Esteban LaBella Associates P.C. Rochester, New York	Mr. Robert Morgan Morgan Management LLC Pittsford, New York		
Mr. Timothy Fournier Conifer Realty LLC Rochester, New York	Mr. Stephen Natapow Natapow Management Group Rochester, New York		
Mr. Andrew Gallina Gallina Development Corp. Rochester, New York	Mr. Larry Peckham LPA Software, Inc./Xelus ( <i>retired</i> ) Webster, New York		

**Emeritus Trustees \***

Seraphine Herbst, SSJ  
School of the Holy Childhood (*retired*)  
Rochester, New York

Dr. Patricia Schoelles, S.S.J.  
St. Bernard's School of Theology  
Rochester, New York

Mr. Stephen Kelbley  
Springs Industries, Inc. (*retired*)  
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Norman Spindelman, Esq.  
Fix, Spindelman, Brovitz & Goldman PC  
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Mr. William Konar  
William B. Konar Enterprises (*retired*)  
Pittsford, New York

Mr. Fred Strauss  
Manufacturers Hanover of Central NY (*retired*)  
Rochester, New York

Mr. David Metz  
Eastman Kodak Company (*retired*)  
Pittsford, New York

Mrs. M. Colleen Wilmot  
Community Volunteer  
Pittsford, New York

Ms. Eileen Pinto  
Eileen Pinto & Assoc  
St. Paul, Minnesota

Ms. Anne Sevier-Buckingham  
Rochester Telephone (*retired*)  
Rochester, New York

\* As of April 2013



## OPERATING INFORMATION

### Applications and Admissions

Identified in the table below are the numbers of freshman year applications received for admission to the College the past five academic years. Also included are the number of applications accepted and the number of full-time freshman year enrollments.

#### First Year Full-Time Applications and Enrollment

	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
<b>Applicants</b>	2,181	2,221	2,518	2,976	3,110
<b>Acceptances</b>	1,624	1,710	1,819	2,081	2,212
<b>Selectivity Ratio</b>	74.5%	76.9%	72.2%	69.9%	71.2%
<b>Matriculation</b>	471	492	467	439	472
<b>Matriculation Rate</b>	29.0%	28.8%	25.7%	21.1%	21.4%

#### Median Combined SAT Scores\*

	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
Median Combined SAT	1,160	1,160	1,160	1,160	1,130

\* Beginning with the class entering fall 2007 submission of SAT scores is optional.

#### Entering Class Rank

	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
Top 10%	30.0%	31.0%	29.0%	28.0%	25.0%
Top 25%	67.0%	64.0%	57.0%	62.0%	58.0%
GPA mean	3.30	3.37	3.32	3.46	3.45

#### Geographic Profile of Entering Freshmen By Percentage of Class

	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
New York State	91.5%	91.0%	91.1%	90.7%	87.3%
Other United States	7.7%	8.1%	8.0%	7.5%	11.6%
Foreign	0.8%	0.9%	0.9%	1.8%	1.1%
Total	100.0%	100.0%	100.0%	100.0%	100.0%

### Competition

The College competes for admission with a number of top-ranked national and regional colleges and universities. Based on overlapping applications, the College believes that its most significant competitors are Ithaca College, St. John Fisher College, Le Moyne College, SUNY Fredonia and SUNY Brockport.

## Transfers

Transfer students make up an important part of the College's total enrollment. The following table reflects transfer applications and acceptances over the last five years:

	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
Applications	411	422	480	525	595
Admits	277	245	293	291	356
% Accepted	67.4%	58.1%	61.0%	55.4%	59.8%
Enrolled	152	154	163	139	164
Yield	54.9%	62.9%	55.6%	47.8%	46.1%

## Graduate

Graduate enrollment is a vital part of the College's budget as revenue from graduate programs accounts for approximately one-third of total net tuition revenue. The following table reflects graduate applications and acceptances over the last five years:

	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
Applications	791	874	923	910	1041
Admits	564	595	561	475	474
% Accepted	71.3%	68.1%	60.8%	56.0%	45.6%
Enrolled	333	364	329	280	269
Yield	59.0%	61.2%	58.6%	58.9%	56.8%

## Student Enrollment

The College has averaged a full-time equivalent ("FTE") enrollment of approximately 2,854 students for the past five years. The following table provides the undergraduate and graduate headcounts, and totals for full-time equivalent (FTE) students.

	<u>Full-time</u>		<u>Part-time</u>		<u>Total FTE *</u>
	<u>Undergraduate</u>	<u>Graduate</u>	<u>Undergraduate</u>	<u>Graduate</u>	
2008-09	2,035	451	161	611	2,913
2009-10	2,070	485	157	595	2,972
2010-11	2,058	473	181	553	2,918
2011-12	2,017	432	155	498	2,806
2012-13	1,962	403	133	412	2,662

\*Based on fall Census data.

## Student Diversity

The College continues to diversify its student body and encourages a community in which the diversity of all is respected. Further, the College is committed to providing the support necessary for students with diverse needs. The percent of full-time undergraduate minority enrollment has increased from 9.4% in fall 2008 to 12% in fall 2012. Part-time undergraduate minority enrollment has decreased from a high of 22.7% in fall 2010 to 15% in fall 2012. Graduate minority enrollment has increased from 8.8% in fall 2008 to 10.9% in fall 2012. The number of

first-time full-time freshmen who are minority students has increased over the past five years from 8.5% in fall 2008 to 12.5% in fall 2012.

*Note: In 2009, the Federal guidelines for ethnicity were changed, and all incoming students were coded using the new guidelines. All data prior to 2009 was coded using the former Federal guidelines.*

The College's undergraduate minority applications totaled 19.5% for fall 2012 compared to an all-time high of 20.9% in fall 2011. Currently, 13.1% of admitted students are minority students and the acceptance rate for minority students for fall 2012 was 49%.

### Retention

The below chart represents the percentage of fall freshmen continuing to their sophomore, junior and/or senior year. Continuation rate is the percentage of students in a given cohort who are enrolled the next fall term, but have not yet graduated. For example, 81.8% of the freshmen cohort for 2011-12 returned as sophomores in 2012-13.

#### Fall Freshman Continuation Rates

<u>Cohort</u>	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>
Freshman to Sophomore	81.4%	86.0%	81.1%	82.4%	81.8%
Freshman to Junior	71.8%	79.6%	75.6%	73.0%	-
Freshman to Senior	68.1%	76.0%	72.1%	-	-

### Graduation

The College has seen an increase in the undergraduate degrees awarded over the last five years due to larger incoming classes as well as continued efforts to retain and graduate students. The number of graduate degrees awarded has fluctuated recently due to changes in the New York State teaching certification requirements in addition to continuous changes in the graduate student population.

#### Degrees Conferred by College

	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>
Undergraduate Degrees	516	505	510	510	553
Graduate Degrees	413	372	399	408	384
Doctoral Degrees	-	6	40	34	36
Total	<u>929</u>	<u>883</u>	<u>949</u>	<u>952</u>	<u>973</u>

**Tuition and Fees**

Tuition and fees, net of scholarships and grants, and room and board account for approximately 90% of the College's operating revenue in fiscal year 2012. Tuition, room and board charges, and activity fees for the last five years are listed below:

**Student Charges – Full-Time Undergraduates**

	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
Full-Time Tuition	\$23,046	\$24,082	\$25,046	\$26,048	\$27,090
Room	5,486	5,732	5,962	6,200	6,448
Board	4,376	4,572	4,754	4,944	5,140
Fees	<u>1,030</u>	<u>1,054</u>	<u>1,138</u>	<u>1,174</u>	<u>1,240</u>
Total	<u>\$33,938</u>	<u>\$35,440</u>	<u>\$36,900</u>	<u>\$38,366</u>	<u>\$39,918</u>

**Student Charges – Part-Time Undergraduates and Graduates\***

	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
Part-Time Undergraduate	\$549	\$574	\$597	\$621	\$646
Graduate – General	657	683	710	738	768
Graduate – MSW~	516	560	589	603	638
Graduate – DPT (Full-time)^	27,508	28,746	29,896	31,092	32,640
Graduate – DPT^	917	958	996	1,036	1,088

\* Per credit hour rates unless noted otherwise

~ Masters in Social Work

^ Doctor of Physical Therapy

**Student Financial Aid**

In the 2011-12 academic year the College administered a student aid program under which approximately 97% of the undergraduates received aid. This program was comprised of the following components:

**Sources of Undergraduate Scholarship and Grant Aid**

	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>
Scholarships (Undergraduate and Graduate)	\$15,489,346	\$15,745,250	\$17,451,037	\$18,631,658	\$18,625,249
Supplemental Educational Opportunity Grants	231,547	212,322	189,174	178,174	140,087
Educational Opportunity Program	175,380	1,474,369	1,880,449	1,815,152	2,171,309
PELL	1,571,656	1,877,170	2,825,372	3,069,029	2,650,115
Federal ACG	-	150,325	166,789	154,933	-
Federal SMART	-	60,000	114,500	140,500	-
Federal TEACH	-	150,500	423,000	462,000	417,762
Total	<u>\$17,467,929</u>	<u>\$19,669,936</u>	<u>\$23,050,321</u>	<u>\$24,181,446</u>	<u>\$24,004,522</u>

Undergraduate scholarships were provided to students in amounts from \$1,000 to \$26,048 per year, and were awarded primarily based on merit, but used to meet need whenever possible. In addition to the above programs, students at the College are eligible for Perkins loans (NDSL), Stafford loans (DL) and, if residents of New York State, the Tuition Assistance Program (TAP). Students may also seek outside private sources for borrowing.

The College also benefits from New York’s Bundy Aid Program, which pays aid, unrestricted as to use, to certain institutions of higher education based on the number of academic degrees conferred each year. For the 2011-12 fiscal year, the College received \$268,503 from the program based on 510 undergraduate, 408 graduate and 34 doctorate degrees awarded in 2011. Future payments by the State are dependent on the enactment of annual appropriations and the ability of the State to pay the sums appropriated.

## Faculty

Total full-time faculty members currently employed by the College as of fall 2012 numbered 175; 59% of the full-time faculty members hold tenure. The majority of the College's full-time faculty are appointed within one of the three principal academic ranks: Professor, Associate Professor and Assistant Professor. The student/faculty ratio is 10:1. The following table sets forth the faculty profile for the past four academic years and the current year.

### Faculty Profile

	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
Total Full-Time Faculty	165	164	163	176	175
Percent Tenure	56%	55%	59%	54%	59%
Percent Holding Terminal Degrees	89%	89%	93%	94%	90%
Student/Faculty Ratio	12:1	12:1	11:1	10:1	10:1

## Faculty Diversity

The Office of Multicultural Affairs, established in 1991, plays a key role in efforts related to diversity and inclusivity issues, and assisting in establishing realistic goals for the institution. The faculty and administration have worked diligently to have a more diverse faculty, staff and student body through their recruiting and advertising efforts. These efforts have been met with some success as is indicated by the following figures:

### Faculty

	<u>Fall 2008</u>	<u>Fall 2009</u>	<u>Fall 2010</u>	<u>Fall 2011</u>	<u>Fall 2012</u>
Full-Time	165	164	163	156	175
Male	65	62	60	64	67
Female	100	102	103	92	108
Minority	22	20	22	18	23
Percent minority	13.3%	12.1%	13.5%	11.5%	13.2%

Further, Nazareth's current faculty includes individuals whose national origin is Argentina, Costa Rica, Bangladesh, Kenya, Dominican Republic, Jordan, Canada, India, China, France, Italy, Hong Kong, Sri Lanka, Iran, and Sweden.

## FINANCIAL INFORMATION

### Accounting Matters

The College operates on a fiscal year ending June 30. The Accounting Standard Codification 958, *Financial Statements of Not-For-Profit Organizations*, establishes standards for external financial statements provided by a not-for-profit organization. The purpose of ASC 958 is to present the statements of the College as a whole and to present balances and transactions according to the existence or absence of donor-imposed restrictions. The College prepares its financial statements in accordance with ASC 958 and breaks down its net assets into three classifications: permanently restricted, temporarily restricted and unrestricted.

Permanently restricted net assets are net assets subject to donor-imposed stipulations that they be maintained permanently by the College. Generally, the donors of these assets permit the College to use all or part of

the income earned on related investments for general or specific purposes. This category consists primarily of the corpus of gifts of the restricted endowment fund. Restricted endowment funds are subject to the restrictions of gift instruments requiring in perpetuity that the principal be invested and that only capital gains and income may be utilized. The College adopted the New York Uniform Prudent Management of Institutional Funds Act that was enacted in New York State in September 2010.

Temporarily restricted net assets are net assets subject to donor-imposed stipulations that may be met by actions of the College and/or the passage of time. This category consists of specifically restricted contributions, earnings, and capital gains.

Unrestricted net assets are net assets not subject to donor-imposed stipulations. Generally, this represents all other net assets not specifically restricted under permanently or temporarily restricted net assets.

The financial statements as of June 30, 2012 and 2011 and for the years then ended have been audited by KPMG LLP, independent accountants, as stated in their report. The College received an unqualified audit opinion for both years.

### **Financial Management Discussion**

The College has a long history of fiscal responsibility, efficient controls, and balanced budgets. As a matter of practice, the College constructs an annual operating budget in which projected expenditures plus provisions for (i) debt service on long-term debt, (ii) a capital budget allocation for physical plant renewals and replacements, and (iii) planned contingencies are balanced by an equivalent or greater amount of projected revenues. The most recent operating budget prepared had the key objectives of (i) maximizing support for the strategic goals and academic mission of the College within realistic constraints of the resources available, and (ii) evidencing effective stewardship by establishing a sustainable financial model that enables the College to provide high quality and innovative education at a cost that ensures access for its students. The College is focused on these goals as it strives to meet the comprehensive campaign goal and achieve the goals put forth in the *Naz 2020* strategic plan.

The fiscal year 2014 operating budget approved by the Board of Trustees totals \$71.8 million. It reflects the recognition of the economic environment and related enrollment challenges. Both revenue expectations and expenditure commitments have been reduced from prior budgeted levels. Enrollment levels have declined recently due to economic conditions, particularly related to the School of Education and teacher demand. The College recognizes it is highly enrollment dependent as 94% of the budgeted operating revenues are from tuition, fees, room and board. New and creative thinking regarding deployment of human, financial, technological, and physical resources is critical to implementation of the *Naz 2020* strategic plan and the College's future.

The College commits significant resources to providing unrestricted financial aid to its students, and will grow its commitment in this area in FY14. The financial aid budget has grown approximately \$4.8 million, or 26.8%, over the last five budget years to \$22.8 million in fiscal year 2014, and the overall undergraduate discount rate has increased from 38.5% to 40.6%. This continues to be an area that is reviewed and managed carefully both on a continuous basis during the academic year and annually at budget time.

In addition to net tuition and fees revenue, the College has had steady revenue streams from philanthropic gifts and federal, state, and private grants.

Total operating revenue has increased 13.4% from \$64 million in fiscal year 2008 to \$72.5 million in fiscal year 2012.

The College has experienced operating budget surpluses that have allowed it to complete one-time projects as well as explore new initiatives. If it is determined that new initiatives are strategic in nature and should be incorporated into the operating budget it is done so during the next budget cycle. The operating budget surpluses over the last five years are as follows:

<u>Fiscal Year</u>	<u>Operating Budget Surplus</u>
2007-08	\$2,679,000
2008-09	1,885,000
2009-10	3,619,000
2010-11	1,520,000
2011-12	462,000

For longer-term financial planning, the College utilizes a financial projection model (Future Perfect) that enables the College to view the financial impact of changes in key variables such as enrollment, cost of attendance, endowment return and spending rates, salaries and benefits, staffing levels, student financial aid, and various expense components. The model also allows for the bundling of variables to form a project, such as a faculty workload initiative, comprehensive campaign or construction project. The project can then be turned 'on' to see the financial impact as well as the effect on certain other variables. Management reviews and studies the effects of major initiatives in this model and presents the results to the trustees prior to approving any major construction initiatives.

The campus has experienced significant construction and renovation over the last five years, with one of the College's largest construction projects to date having just been completed. In fall 2008, the College completed construction of a new 150-bed residence hall that houses predominately freshmen and sophomores. This construction project totaled \$8.5 million and was funded entirely through tax-exempt debt. The College's Arts Center and theatre underwent significant renovations during fiscal year 2009, and in fall 2009 the newly renovated Arts Center was opened. The total project cost \$9.2 million and was funded almost entirely from private philanthropy and government grants. Internal funding for the project amounted to \$1 million.

In August 2012 Nazareth completed construction of Peckham Hall, home to a 74,000 square foot Integrated Center for Math and Science. The total project cost was approximately \$30 million, of which \$15 million was financed by the Series 2011 bonds. Peckham Hall houses the math and science departments and includes classrooms that incorporate the latest teaching technology, research labs, administrative support space, group study areas, and future data center for the College. Community support for this project was strong and the design was a collaborative effort between faculty, staff, administrators, trustees, and students. This facility will not only benefit those students majoring in the sciences, mathematics, and health and human service areas and those preparing to be math and science educators, but will also benefit all Nazareth students through the core curriculum.

### **Historical Operating Results**

Set forth below is a summary of the College's unrestricted operating surplus available for debt service for the fiscal years indicated:

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Change in unrestricted net assets	\$(160,035)	\$(7,296,092)	\$5,068,333	\$6,175,842	\$(1,488,951)
Less excess (or plus deficiency) of total unrestricted investment return over unrestricted spending policy	2,718,771	10,255,396	(2,181,526)	(5,179,447)	\$(1,545,759)
Net asset reclassification of endowment funds for adoption of ASC 958-205	-	-	-	3,173,101	-
Other	<u>(402,597)</u>	<u>110,124</u>	<u>2,997,016</u>	<u>(256,232)</u>	<u>(98,387)</u>
Unrestricted operating surplus	2,156,139	3,069,428	5,883,823	3,913,264	155,195
Plus depreciation	4,767,318	5,237,761	5,893,341	6,612,608	6,813,493
Plus interest expense	<u>1,425,023</u>	<u>1,745,721</u>	<u>1,421,999</u>	<u>1,478,045</u>	<u>1,458,012</u>
Unrestricted operating surplus available for debt service	<u>\$8,348,480</u>	<u>\$10,052,910</u>	<u>\$13,199,163</u>	<u>\$12,003,917</u>	<u>\$8,426,700</u>



## Gifts and Grants

The Division of Institutional Advancement is responsible for developing and executing plans for fund raising to support scholarships, capital expenditures and the operating budget of the College. Sources of gifts are alumni, corporations, foundations, faculty, staff and friends.

The following tabulation shows the total amounts of private gifts, grants and contracts, and bequests received by the College and their allocations during the fiscal year indicated:

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Unrestricted	\$836,189	\$1,639,739	\$898,720	\$638,102	\$1,121,665
Temporarily restricted	2,089,283	1,069,003	4,009,494	3,924,808	4,000,423
Permanently restricted	<u>714,661</u>	<u>449,491</u>	<u>437,160</u>	<u>635,892</u>	<u>1,422,126</u>
	<u>\$3,640,133</u>	<u>\$3,158,233</u>	<u>\$5,345,374</u>	<u>\$5,198,802</u>	<u>\$6,544,214</u>

## Net Assets

The College's endowment assets and other investments are included as part of the College's net assets in its financial statements. By the nature of restrictions placed on some funds by donors, certain net assets are expendable while others cannot be expended. The following table reflects the College's total net assets and expendable net assets as of June 30 for the years indicated.

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Total Net Assets	\$132,356,774	\$123,668,484	\$130,599,055	\$144,080,751	\$144,244,700
Less: Permanently restricted	12,412,737	12,900,172	13,286,689	13,689,338	15,109,914
Less: Net Investment in Plant	<u>59,472,327</u>	<u>71,495,139</u>	<u>73,115,221</u>	<u>78,251,354</u>	<u>80,199,321</u>
Expendable Net Assets	\$ <u>60,471,710</u>	\$ <u>39,273,173</u>	\$ <u>44,197,145</u>	\$ <u>52,140,059</u>	\$ <u>48,935,465</u>

## Endowment Assets and Other Investments

The market value of the College's endowment assets and other investment assets as of June 30, for the years indicated, is summarized in the table below. Endowment assets include cash and investments. The Board of Trustees of the College approves the spending rate, which has historically been between 5.0% and 5.4% and based on the 12-quarter moving average of the market value of the endowment. While quasi-endowment assets can be utilized by the College, if necessary, for operating expenditures at the discretion of the Board of Trustees, the assets contributed to the College as true endowment cannot be so utilized.

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
True Endowment	\$19,425,411	\$14,628,472	\$15,663,141	\$18,736,533	\$19,171,599
Quasi Endowment	40,772,359	30,651,369	33,002,227	37,978,247	36,415,364
Other	<u>336,460</u>	<u>333,500</u>	<u>121,452</u>	<u>170,888</u>	<u>6,667</u>
<b>Total</b>	<u>\$60,534,230</u>	<u>\$45,613,341</u>	<u>\$48,786,820</u>	<u>\$56,885,668</u>	<u>\$55,953,630</u>

As of March 31, 2013 the market value of the College's endowment portfolio was \$60.0 million, up from a low of \$41.8 million on March 31, 2009. The portfolio increased 9.2% for the one year ending March 31, 2013 and had a three-year gain of 8.0%, five-year gain of 3.7%, and ten-year gain of 8.9%.

### Investment Policy and Allocation

The College's Board of Trustees, acting principally through its Investment Committee, oversees the investment of the College's endowment assets including establishing and updating the College's investment policy and monitoring its endowment investment activities.

The financial objective of the endowment portfolio is to provide a sustainable level of revenue distribution in support of the College's operating budget while preserving the purchasing power of the remaining invested assets. The endowment portfolio is expected to attain average annual investment returns (net of fees), which exceed the appropriate composite benchmark over a three to five year period.

Nazareth's investment policy is based upon modern portfolio theory, which holds that diversification across asset classes (and across securities within asset classes) serves to reduce overall portfolio volatility. The portfolio's asset allocation is constructed to reflect its long-term time horizon. The use of diversification within the portfolio is designed to provide reasonable assurance that no single security or class of securities will have a disproportionate impact on the performance of the total endowment.

The College's June 30<sup>th</sup> one-year endowment performance has beat the National Association of College and University Business Officers (NACUBO) equal-weighted mean two of the past five years.

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Nazareth College	-3.0%	-20.9%	12.1%	21.7%	-1.1%
NACUBO Equal Weighted Mean	-2.9%	-18.7%	11.9%	19.2%	-0.3%

The table below summarizes the College's investment allocation parameters established by its investment policy and lists the actual asset allocations as of March 31, 2013.

	<u>Approved Allocation Targets</u>	<u>% Allocations As of 3/31/13</u>
Fixed Income	10.0%	9.0%
International Equities	30.0	32.2
Domestic Equities – Large Cap	12.0	12.3
Domestic Equities – Medium/Small Cap	8.0	8.6
Absolute Return Funds	15.0	14.3
Directional Hedge Funds	15.0	14.5
Real Assets	<u>10.0</u>	<u>9.1</u>
	<u>100.0%</u>	<u>100.0%</u>

## Indebtedness of the College

As of June 30, 2012, the College had \$50,281,050 in long-term debt, inclusive of any bond premium or discount, comprised of \$14,436,200 of outstanding Series 2001 Bonds (to be refunded by the Series 2013A Bonds), \$4,580,000 of outstanding Series 2004A Bonds (to be refunded by the Series 2013B Bonds), \$8,240,000 of outstanding Series 2008 Bonds, and \$23,024,850 of outstanding Series 2011 Bonds.

The following table sets forth the College's fiscal year debt service requirements after the issuance of the Series 2013 Bonds:

<b>Fiscal Year Ending</b>	<b>Series 2008 Debt Service<sup>1</sup></b>	<b>Series 2011 Debt Service</b>	<b>Series 2013A Debt Service</b>	<b>Series 2013B Debt Service</b>	<b>Total Debt Service</b>
6/30/14	\$567,004	\$1,848,063	\$ 952,650	\$742,439	\$4,110,156
6/30/15	568,127	1,844,563	1,094,331	765,287	4,272,308
6/30/16	568,788	2,039,738	1,093,931	770,545	4,473,002
6/30/17	564,039	1,847,988	1,090,031	768,334	4,270,392
6/30/18	564,008	1,845,763	1,092,281	767,895	4,269,947
6/30/19	563,515	1,852,763	1,086,231	739,563	4,242,072
6/30/20	562,560	1,848,663	1,088,931		3,500,154
6/30/21	561,143	1,843,163	1,087,181		3,491,487
6/30/22	559,265	1,844,719	1,087,331		3,491,315
6/30/23	556,925	1,141,750	1,090,856		2,789,531
6/30/24	559,071	1,141,000	1,084,356		2,784,427
6/30/25	555,577	1,139,250	1,081,231		2,776,058
6/30/26	556,569	1,141,375	1,081,231		2,779,175
6/30/27	551,919	1,142,250	1,078,631		2,772,800
6/30/28	551,757	1,141,225	1,083,072		2,776,054
6/30/29	550,902	1,143,137	1,079,850		2,773,889
6/30/30	549,354	1,143,475	1,079,475		2,772,304
6/30/31	547,114	1,142,237	1,077,400		2,766,751
6/30/32	544,181	1,139,425	1,072,969		2,756,575
6/30/33	545,504	1,139,062			1,684,566
6/30/34	540,954	1,140,838			1,681,792
6/30/35	540,661	1,140,413			1,681,074
6/30/36	534,495	1,142,650			1,677,145
6/30/37	532,585	1,142,412			1,674,997
6/30/38	534,501	1,139,700			1,674,201
6/30/39		1,139,375			1,139,375
6/30/40		1,141,163			1,141,163
6/30/41		1,139,925			1,139,925
6/30/42		1,140,525			1,140,525
<b>TOTAL<sup>2</sup></b>	<b>\$ 13,830,518</b>	<b>\$39,636,606</b>	<b>\$ 20,481,972</b>	<b>\$4,554,062</b>	<b>\$78,503,159</b>

<sup>1</sup> Debt service is calculated based on a fixed swap rate of 3.768% plus estimated cost of liquidity and remarketing fees.

<sup>2</sup> Columns may not add due to rounding.

## **Insurance**

The College maintains insurance of such type, against such risks and in such amounts (and subject to reasonable deductible provisions) as are customarily carried by private colleges and universities located in the State of New York. Insurance coverages include property coverage for buildings and contents in the amount of \$232,307,842 and business interruption; boiler and machinery coverage; general liability covering claims for bodily injury, property damage, personal and advertising injury, and including healthcare-related professional liability coverage; automobile liability and physical damage coverage; excess umbrella liability coverage; commercial crime coverage; pension and welfare fiduciary liability coverage, board of trustees liability coverage, including employment practices liability; and media liability coverage. In addition, the College, as a member of the New York College and University Risk Management Group, is a qualified self-insurer under the New York Workers' Compensation Law. The College regularly monitors its insurance and risk management program in order to maintain appropriate coverage at a reasonable cost.

## **Labor Relations**

The College has no collective bargaining contracts with any employees.

## **Retirement Plans**

The College participates in defined contribution pension plans for faculty, administrative, support staff and other employees. Costs expensed under the plans were \$2,257,369 in fiscal 2012 and were funded on a current basis. All funded payments are vested immediately and used to purchase annuity contracts to provide pension benefits. There are no unfunded past service costs under the plans.

## **Post-Retirement Benefits**

The College has a postretirement medical and life insurance plan available to faculty, administration, and staff who meet certain service, age, and eligibility requirements. The College elected to recognize its transition obligation upon the adoption of Accounting Standards Codification 715 *Employers' Accounting for Postretirement Benefits Other Than Pensions*. The accrued postretirement benefit obligation as of June 30, 2012 was \$11,901,476.

## **Litigation**

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

**APPENDIX B**

**AUDITED FINANCIAL STATEMENTS OF THE COLLEGE  
FOR YEARS ENDED JUNE 30, 2012 AND 2011**

(see attached)

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**NAZARETH COLLEGE OF ROCHESTER**

Financial Statements

June 30, 2012 and 2011

(With Independent Auditors' Report Thereon)

**NAZARETH COLLEGE OF ROCHESTER**

June 30, 2012 and 2011

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KPMG LLP  
515 Broadway  
Albany, NY 12207-2974

## Independent Auditors' Report

The Board of Trustees  
Nazareth College of Rochester:

We have audited the accompanying statements of financial position of Nazareth College of Rochester (the College) as of June 30, 2012 and 2011, and the related statements of activities and cash flows for the years then ended. These financial statements are the responsibility of the College's management. Our responsibility is to express an opinion on these financial statements based on our audits.

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

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Nazareth College of Rochester as of June 30, 2012 and 2011, and the changes in its net assets and its cash flows for the years then ended, in conformity with U.S. generally accepted accounting principles.

**KPMG LLP**

November 21, 2012

**NAZARETH COLLEGE OF ROCHESTER**

Statements of Financial Position

June 30, 2012 and 2011

<b>Assets</b>	<b>2012</b>	<b>2011</b>
Cash and cash equivalents	\$ 22,455,069	21,221,213
Student accounts receivable, net	2,500,295	2,716,540
Interest and other receivables	638,044	1,419,402
Contributions receivable, net	6,172,620	4,605,695
Investments held for long-term purposes	54,650,899	56,552,423
Net notes receivable	1,716,986	1,847,797
Other assets	3,925,674	1,902,324
Property, plant and equipment, net	130,480,371	112,588,115
Total assets	\$ 222,539,958	202,853,509
<b>Liabilities and Net Assets</b>		
Liabilities:		
Accounts payable	\$ 4,175,676	4,194,542
Line of credit payable	—	5,925,000
Accrued expenses	7,186,090	5,490,497
Deferred revenues	1,585,911	1,607,766
Asset retirement obligation	1,808,569	1,707,114
Accrued postretirement benefit costs	11,901,476	10,038,142
Long-term debt	50,281,050	28,411,761
Government loan program refundable advances	1,376,486	1,397,936
Total liabilities	78,315,258	58,772,758
Net assets:		
Unrestricted	116,851,521	118,340,472
Temporarily restricted	12,263,265	12,050,941
Permanently restricted	15,109,914	13,689,338
Total net assets	144,224,700	144,080,751
Total liabilities and net assets	\$ 222,539,958	202,853,509

See accompanying notes to financial statements.

NAZARETH COLLEGE OF ROCHESTER

Statement of Activities

Year ended June 30, 2012

(with summarized information for the year ended June 30, 2011)

	2012			2011 Total
	Unrestricted	Temporarily restricted	Permanently restricted	
Operating revenue:				
Educational and general:				
Tuition and fees	\$ 71,534,551	—	—	71,534,551
Less scholarships and grants	(20,936,645)	—	—	(20,936,645)
	50,597,906	—	—	50,597,906
Federal grants and contracts	1,352,441	—	—	1,352,441
State of New York grants and contracts	840,698	1,350	—	842,048
Private gifts, grants, and contracts	1,103,420	435,804	—	1,539,224
Arts Center programs	420,431	48,987	—	469,418
Investment income and gains	21,890	—	—	21,890
Long-term investment return allocated for operations	1,841,669	750,819	—	2,592,488
Other revenues	516,328	130,051	—	646,379
Net assets released from restrictions	1,308,804	(1,308,804)	—	—
Total educational and general	58,003,587	58,207	—	58,061,794
Auxiliary enterprises	14,468,796	—	—	14,468,796
Total operating revenue	72,472,383	58,207	—	72,530,590
Operating expenses:				
Educational and general:				
Instruction	30,246,766	—	—	30,246,766
Arts Center programs	1,943,859	—	—	1,943,859
Academic support	6,416,112	—	—	6,416,112
Student services	9,836,281	—	—	9,836,281
Institutional support	11,180,369	—	—	11,180,369
Total educational and general	59,623,387	—	—	59,623,387
Auxiliary enterprises	12,693,801	—	—	12,693,801
Total operating expenses	72,317,188	—	—	72,317,188
Change in net assets from operating activities	155,195	58,207	—	213,402
Nonoperating activities:				
Long-term investment activities:				
Interest and dividends	518,866	100,175	—	619,041
Net realized and unrealized (loss)gain	(222,956)	(115,570)	(2,380)	(340,906)
Total long-term investment activities	295,910	(15,395)	(2,380)	278,135
Long-term investment return allocated for operations	(1,841,669)	(750,819)	—	(2,592,488)
Capital gifts	18,245	3,564,619	1,422,126	5,004,990
Other income (loss)	(1,336,246)	8,382	830	(1,327,034)
Postretirement-related changes other than net periodic benefit cost	(1,433,056)	—	—	(1,433,056)
Net assets released from restrictions	2,652,670	(2,652,670)	—	—
Change in net assets from nonoperating activities	(1,644,146)	154,117	1,420,576	(69,453)
Change in net assets	(1,488,951)	212,324	1,420,576	143,949
Net assets at beginning of year	118,340,472	12,050,941	13,689,338	144,080,751
Net assets at end of year	\$ 116,851,521	12,263,265	15,109,914	144,224,700

See accompanying notes to financial statements.

NAZARETH COLLEGE OF ROCHESTER

Statement of Activities

Year ended June 30, 2011

	2011			Total
	Unrestricted	Temporarily restricted	Permanently restricted	
Operating revenue:				
Educational and general:				
Tuition and fees	\$ 71,694,323	—	—	71,694,323
Less scholarships and grants	(20,354,984)	—	—	(20,354,984)
Net tuition and fees	51,339,339	—	—	51,339,339
Federal grants and contracts	1,691,590	—	—	1,691,590
State of New York grants and contracts	741,213	—	—	741,213
Private gifts, grants, and contracts	489,610	667,836	—	1,157,446
Arts Center programs	533,768	52,194	—	585,962
Investment income and gains	28,597	—	—	28,597
Long-term investment return allocated for operations	1,779,406	1,104,543	—	2,883,949
Other revenues	275,552	457,762	—	733,314
Net assets released from restriction	4,489,856	(4,489,856)	—	—
Total educational and general	61,368,931	(2,207,521)	—	59,161,410
Auxiliary enterprises	13,963,926	—	—	13,963,926
Total operating revenue	75,332,857	(2,207,521)	—	73,125,336
Operating expenses:				
Educational and general:				
Instruction	29,820,516	—	—	29,820,516
Arts Center programs	2,072,216	—	—	2,072,216
Academic support	6,468,561	—	—	6,468,561
Student services	9,430,124	—	—	9,430,124
Institutional support	11,069,043	—	—	11,069,043
Total educational and general	58,860,460	—	—	58,860,460
Auxiliary enterprises	12,559,133	—	—	12,559,133
Total operating expenses	71,419,593	—	—	71,419,593
Change in net assets from operating activities	3,913,264	(2,207,521)	—	1,705,743
Nonoperating activities:				
Long-term investment activities:				
Interest and dividends	616,259	188,287	—	804,546
Net realized and unrealized gains	6,342,594	3,129,110	824	9,472,528
Total long-term investment activities	6,958,853	3,317,397	824	10,277,074
Long-term investment return allocated for operations	(1,779,406)	(1,104,543)	—	(2,883,949)
Capital gifts	148,492	3,256,972	635,892	4,041,356
Other (loss) income	(97,674)	17,799	(9,067)	(88,942)
Postretirement-related changes other than net periodic benefit cost	430,414	—	—	430,414
Net assets released from restriction and changed restrictions	(225,000)	450,000	(225,000)	—
Change in net assets from nonoperating activities	5,435,679	5,937,625	402,649	11,775,953
Change in net assets before net asset reclassification of endowment funds for adoption of ASC 958-205	9,348,943	3,730,104	402,649	13,481,696
Net asset reclassification of endowment funds for adoption of ASC 958-205	(3,173,101)	3,173,101	—	—
Increase in net assets	6,175,842	6,903,205	402,649	13,481,696
Net assets at beginning of year	112,164,630	5,147,736	13,286,689	130,599,055
Net assets at end of year	\$ 118,340,472	12,050,941	13,689,338	144,080,751

See accompanying notes to financial statements.

**NAZARETH COLLEGE OF ROCHESTER**

Statements of Cash Flows

Years ended June 30, 2012 and 2011

	<b>2012</b>	<b>2011</b>
Cash flows from operating activities:		
Change in net assets	\$ 143,949	13,481,696
Adjustments to reconcile change in net assets to net cash provided by operating activities:		
Depreciation expense	6,813,493	6,612,608
Accretion expense	101,494	97,500
Capital gifts	(3,366,463)	(4,041,356)
Remediation payment	(39)	(721)
Bond discount/(premium) amortization	6,859	(560)
Postretirement related changes other than net periodic benefit cost	1,433,056	(430,414)
Change in fair value of interest rate swap	1,231,708	(98,191)
Net realized and unrealized losses (gains) on investments	340,906	(9,472,528)
Loss on disposal of assets	65,862	—
Changes in net assets and liabilities that provide (use) cash:		
Student accounts receivable	216,245	504,331
Interest and other receivables	781,358	614,649
Contributions receivable	(1,566,925)	(823,552)
Other assets	(355,507)	74,339
Accounts payable	(18,866)	396,230
Accrued expenses	463,885	(216,892)
Deferred revenues	(21,855)	(484,057)
Accrued postretirement benefit costs	430,278	450,053
Net cash provided by operating activities	6,699,438	6,663,135
Cash flows from investing activities:		
Purchases and construction of property, plant and equipment, net of construction costs payable	(24,771,611)	(9,155,728)
Purchases of investments	(17,807,431)	(10,484,292)
Proceeds from the sales of investments	19,368,049	12,128,511
Decrease in notes receivable	130,811	114,274
Net cash used in investing activities	(23,080,182)	(7,397,235)
Cash flows from financing activities:		
Principal repayments on line of credit	(5,925,000)	—
Principal repayments on long-term debt	(1,680,000)	(1,120,453)
Proceeds from long-term debt	23,542,430	—
Capital gifts	3,366,463	4,041,356
Payment of bond issuance costs	(647,870)	—
Deposit in debt service reserve	(1,019,973)	—
Decrease in government loan program refundable advances	(21,450)	(26,004)
Net cash provided by financing activities	17,614,600	2,894,899
Net change in cash and cash equivalents	1,233,856	2,160,799
Cash and cash equivalents at beginning of year	21,221,213	19,060,414
Cash and cash equivalents at end of year	\$ 22,455,069	21,221,213
Supplemental disclosure of cash flow information:		
Cash paid for interest	\$ 1,393,645	1,520,473
Non-cash investing activities:		
Change in construction cost payables	3,391,262	1,472,000

See accompanying notes to financial statements.

## NAZARETH COLLEGE OF ROCHESTER

### Notes to Financial Statements

June 30, 2012 and 2011

#### (1) Organization and Summary of Significant Accounting Policies

##### (a) Organization

Nazareth College of Rochester (the College) is a private, coeducational, comprehensive college founded in 1924, located on a 148-acre campus in suburban Rochester, New York. Its mission is to provide a learning community that educates students in the liberal arts, sciences, visual and performing arts, and in professional fields, fostering commitment to a life informed by intellectual, ethical, spiritual, and aesthetic values; to develop skills necessary for the pursuit of meaningful careers; and to inspire dedication to the ideal of service to their communities. The College offers undergraduate and graduate programs, and is primarily funded by tuition and other student fees charged for programs offered.

##### (b) Basis of Presentation

The College's financial statements have been prepared on the accrual basis of accounting in accordance with U.S. generally accepted accounting principles (GAAP), and are presented in accordance with Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) Topic 958, *Not-for-Profit Entities*, which addresses the presentation of financial statements for not-for-profit entities. In accordance with ASC 958, net assets and changes therein, are classified based on the existence or absence of donor-imposed restrictions. Accordingly, the net assets of the College are classified as follows:

*Unrestricted net assets* are not subject to donor stipulations restricting their use, but may be designated for specific purposes by the College.

*Temporarily restricted net assets* are subject to donor stipulations that expire by the passage of time or can be fulfilled by actions pursuant to the stipulations. When a donor restriction expires temporarily restricted net assets are reclassified to unrestricted net assets and reported in the statement of activities as net assets released from restrictions.

*Permanently restricted net assets* are subject to donor stipulations requiring that they be maintained permanently.

The College presents all net assets released from restrictions for operations and capital within the change in net assets from operating activities in the accompanying Statement of Activities.

##### (c) Revenue Recognition

Tuition revenue for the fall, spring, and summer sessions is recognized in the fiscal year in which it is applicable.

##### (d) Contributions

Contributions, including unconditional pledges, are recognized as revenues when donors' commitments are received. Conditional pledges become unconditional and are recognized as revenues when the conditions are substantially met. Unconditional pledges, net of an allowance for uncollectible amounts, are reported at their estimated fair values, and are classified as either permanently restricted or temporarily restricted. The College expended approximately \$2,960,000

## NAZARETH COLLEGE OF ROCHESTER

### Notes to Financial Statements

June 30, 2012 and 2011

and \$3,100,000 for Institutional Advancement for the years ended June 30, 2012 and 2011, respectively.

**(e) Grants and Contracts**

Revenue from grants and contracts is generally recognized as earned, that is, as the related costs are incurred under the grant or contract agreements. Amounts received in advance are reported as deferred revenues.

**(f) Accounts and Student Loans Receivable**

Student accounts and loans receivable are reported net of allowance for doubtful accounts. This allowance provides for accounts and loans estimated to be uncollectible. The College extends credit, primarily to students, in the form of loans and accounts receivable for educational expenses. Loans to students are expected to be collected over an average of 10 years with interest rates averaging 5%. Loans to students are recorded at their current unpaid principal balance.

Allowances for doubtful accounts are recorded and represent the amounts that, in the opinion of management of the College, are necessary to account for probable losses related to current receivables. Allowances are determined based upon numerous considerations, including economic conditions, the specific composition of the receivable balances, 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 loans and accounts receivable.

Student accounts receivable are net of an allowance of \$146,483 and \$112,735 at June 30, 2012 and 2011, respectively. Loans to students are net of an allowance of \$133,580 at June 30, 2012 and 2011.

**(g) Cash and Cash Equivalents**

Cash and cash equivalents include cash on deposit with financial institutions and other highly liquid investments, primarily cash management funds.

**(h) Investments**

Investments are reported at fair value. If an investment is held directly by the College and an active market with quoted prices exists, the College 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 College also holds shares or units in alternative investment funds involving hedge funds and real estate 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 which 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.

**NAZARETH COLLEGE OF ROCHESTER**

Notes to Financial Statements

June 30, 2012 and 2011

The College utilizes the net asset value (NAV) reported by each of the alternative 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 College's interests in the funds. Furthermore, changes to the liquidity provisions of the funds may significantly impact the fair value of the College'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 College accounts for investment sales and purchases on a trade-date basis.

The College may invest in various types of investment securities. Investment securities are exposed to various risks, such as interest rate, market, and credit. Major U.S. and foreign equity and fixed income indices have experienced volatility and, in some cases, significant declines. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the value of investments in the near term would materially affect the amounts reported in the Statements of Financial Position and the Statement of Activities.

**(i) Property, Plant, and Equipment**

Property, plant, and equipment are stated at cost less accumulated depreciation. Expenditures for maintenance, repairs, and renewals of relatively minor items are not capitalized.

Depreciation is computed using the straight-line method over the estimated useful lives of the assets. The estimated useful lives used in computing depreciation are as follows:

Buildings	50 years
Property improvements	10 – 25 years
Library books	20 years
Furniture and equipment	10 years
Vehicles	4 years
Computers	4 years

Temporary restrictions on gifts to acquire long-lived assets are considered met in the period in which the assets are acquired or placed into service.

**(j) Deferred Financing Costs**

Deferred financing costs represent costs incurred in connection with the issuance of the College's long-term debt and are included in other assets in the Statements of Financial Position. These costs, which approximated \$1,708,000 and \$1,172,000 as of June 30, 2012 and 2011, respectively, are being amortized over the life of the related debt.



## NAZARETH COLLEGE OF ROCHESTER

### Notes to Financial Statements

June 30, 2012 and 2011

**(k) Interest Rate Swap Agreement**

The College accounts for its interest rate swap transactions in accordance with ASC 815, *Derivatives and Hedging*. The College 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 agreement in place (note 8c) is not designated as a hedge of cash flows related to the corresponding debt agreement. The fair value of the interest rate swap is recognized as either an asset or liability. Gains and losses on settlements and changes in the fair value of the interest rate swap transactions are reflected in the Statement of Activities.

**(l) Income Taxes**

The Internal Revenue Service has determined and informed the College by a letter dated June 8, 1973 that the College is generally exempt from income taxes, under Section 501(a) of the Internal Revenue Code, as an organization described in Section 501(c)(3). Management does not believe that any circumstances arising after the date of the Internal Revenue Service determination letter will affect the tax-exempt status of the College.

The College recognizes the effect of income tax positions only if those positions are more likely than not of being sustained. Recognized income tax positions are measured at the largest amount that is greater than 50% likely of being realized. Changes in recognition or measurement are reflected in the period in which the change in judgment occurs. The College believes it has no significant uncertain tax positions.

**(m) Nonoperating Activities**

Long-term investment activities, net of long-term investment return allocated for operations, capital gifts restricted or designated for long-term investments, and postretirement-related changes other than net periodic benefit cost are considered nonoperating activities in the accompanying Statements of Activities. Long-term investment return is allocated for operations in accordance with the College's spending policy for investments held for endowment and similar purposes, as more fully discussed in note 6.

**(n) Functional Expenses**

Expenses are reported in the Statement of Activities in categories recommended by the National Association of College and University Business Officers. The College's primary programs are Instruction and Art Center programs. Expenses reported as academic support, student services, and auxiliary enterprises are incurred in support of these primary programs. Institutional support represents supporting services expenses.

**(o) Asset Retirement Obligation**

Asset retirement obligations (AROs) are legal obligations associated with the retirement of long-lived assets. These liabilities are initially recorded at fair value and the related asset retirement costs are capitalized by increasing the carrying amount of the related assets by the same amount as the liability. Asset retirement costs are subsequently depreciated over the useful lives of the related assets. Subsequent to initial recognition, the College records period-to-period changes in the ARO

# NAZARETH COLLEGE OF ROCHESTER

## Notes to Financial Statements

June 30, 2012 and 2011

liability resulting from the passage of time as occupancy expense. Upon settlement of the obligation, any difference between the actual cost to settle the ARO and the liability recorded is recognized as a gain or loss in the Statement of Activities.

Portions of the College's buildings were constructed at a time when certain asbestos-based materials were commonly in use, which are no longer used for this purpose. Current regulations require that whenever renovations are made to an area of the facility, any of these materials that will be exposed during the process must be removed and disposed of in accordance with the appropriate regulatory requirements.

Amounts related to the ARO at June 30, 2012 and 2011 are as follows:

	<u>2012</u>	<u>2011</u>
Asset retirement obligation at beginning of year	\$ 1,707,114	1,610,335
Accretion expense	101,494	97,500
Remediation payment	(39)	(721)
Asset retirement obligation at end of year	<u>\$ 1,808,569</u>	<u>1,707,114</u>

**(p) Use of Estimates**

The preparation of financial statements in conformity 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 revenues and expenses during the reporting period. Actual results could differ from those estimates.

**(2) Contributions Receivable**

Contributions, including unconditional promises to donate to the College in the future, are recognized when received. Contributions receivable represent the net realizable value of future cash flows at June 30, 2012 and 2011. Contributions to be received after one year are discounted at an appropriate discount rate, ranging from 1.7% to 4.0%, commensurate with the risks involved. The allowance for uncollectible contributions receivable is based on actual write-offs, prior collection history, and type of contribution.

**NAZARETH COLLEGE OF ROCHESTER**

Notes to Financial Statements

June 30, 2012 and 2011

Contributions receivable, net, are summarized as follows at June 30, 2012 and 2011:

	<b>2012</b>	<b>2011</b>
Unconditional promises expected to be collected in:		
Less than one year	\$ 2,306,457	2,256,356
One year to five years	4,670,852	3,554,064
	6,977,309	5,810,420
Less unamortized discount	(356,134)	(772,188)
Less allowance for uncollectible contributions	(448,555)	(432,537)
Contributions receivable, net	\$ 6,172,620	4,605,695

**(3) Scholarships and Grants**

The College awarded a total of \$20,936,645 and \$20,354,984 in scholarships and grants during 2012 and 2011, respectively. Of these amounts, \$973,897 and \$720,218 were specifically funded by the state of New York or private gifts or grants, or by investment income and gains earned on investments held for endowment and similar purposes and utilized under the College's total return spending policy in 2012 and 2011, respectively. The College's total return spending policy is more fully discussed in note 6.

**(4) Pell Grant and New York State Tuition Assistance Program**

Activities of the Federal Pell (Pell) and Teacher Education Assistance for College and Higher Education (TEACH) Grants, and New York State Tuition Assistance Program (NYS TAP) are not reflected in the College's financial statements. In 2011 the Federal Academic Competitiveness (ACG), National Science and Mathematics Access to Retain Talent (SMART), which expired after the 2010-2011 academic year, were also not reflected in the College's financial statements. The federal and state assistance for students noted above is summarized as follows for the years ended June 30, 2012 and 2011:

	<b>2012</b>	<b>2011</b>
Pell	\$ 2,650,115	3,069,029
ACG	—	154,933
SMART	—	140,500
TEACH	417,762	462,000
NYS TAP	2,155,571	2,273,564

**(5) Investments Held for Long-Term Purposes**

The assets held for endowment and similar purposes, include accumulated principal of permanently restricted endowment gifts and other assets designated by the board of trustees to function as quasi-endowment, including accumulated appreciation resulting from investment of such funds. Substantially, all assets held for endowment and similar purposes are pooled on a fair value basis, with each individual fund subscribing to or disposing of units on the basis of the value per unit at fair value determined on a quarterly basis.

## NAZARETH COLLEGE OF ROCHESTER

### Notes to Financial Statements

June 30, 2012 and 2011

The total interest and dividend income earned on investments, net of investment management, and custodial fees of \$518,878 and \$457,045 in 2012 and 2011, respectively, was \$619,251 and \$804,463 in 2012 and 2011, respectively.

**(a) Fair Value Measurements**

FASB ASC Topic 820, *Fair Value Measurements*, establishes a framework for measuring fair value and a hierarchy that priorities inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to measurements involving significant unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy are as follows:

- Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets and liabilities that the College 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. Assets classified as Level 3 include the College's alternative investments (hedge funds).

The College utilized the NAV reported by the alternative investments that may be classified as Level 2 or Level 3, as a practical expedient for measuring and reporting their fair values in the accompanying financial statements. With respect to investments reported at NAV as a practical expedient, classification in Level 2 or 3 is based on the College's ability to redeem its interest at or near the date of the statement of financial positions, and if the interest can be redeemed in the near term, the investment is classified in Level 2. The investments in these partnerships and funds may include certain private instruments that do not trade in public markets and, therefore, may be subject to greater liquidity risk. As of June 30, 2012 and June 30, 2011, the College had no specific plans or intentions to sell investments at amounts different than NAV.

In certain cases, the inputs used to measure fair value may fall into different levels of fair value hierarchy. In such cases, the College categorizes such investments 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 are not necessarily an indicator of the risk associated with investing in those investments or a reflection on the liquidity of each funds underlying assets and liabilities.

## NAZARETH COLLEGE OF ROCHESTER

### Notes to Financial Statements

June 30, 2012 and 2011

The following tables present the College's investments at June 30, 2012 and 2011 that are measured at fair value on a recurring basis:

		2012					
		Level 1	Level 2	Level 3	Total	Redemption frequency	Days' notice
Investments:							
Domestic equities:							
Large capitalization							
stocks	\$	6,449,462	—	122,296	6,571,758	Daily	Same day
Medium/small							
capitalization stocks		4,307,004	—	—	4,307,004	Daily	Same day
International equities:							
Developed markets		9,425	11,784,860	—	11,794,285	Daily/Monthly	Same day/10 days
Emerging markets		4,313,132	—	—	4,313,132	Daily	Same day
Fixed income:							
Domestic		408,705	—	131,763	540,468	Daily	Same day
Global		—	5,908,225	—	5,908,225	Monthly	10 days
Alternative instruments:							
Absolute return funds		—	—	7,841,179	7,841,179	Semiannual	90 days
Directional hedge funds		—	—	8,173,559	8,173,559	Annual	60 days
Real assets		—	5,185,967	15,322	5,201,289	Daily – not applicable	2 days – not applicable
Total							
investments	\$	<u>15,487,728</u>	<u>22,879,052</u>	<u>16,284,119</u>	<u>54,650,899</u>		
2011							
		Level 1	Level 2	Level 3	Total	Redemption frequency	Days' notice
Investments:							
Domestic equities:							
Large capitalization							
stocks	\$	9,681,929	107,009	—	9,788,938	Daily	Same day
Medium/small							
capitalization stocks		7,274,681	—	—	7,274,681	Daily	Same day
International equities:							
Developed markets		11,002	8,531,997	—	8,542,999	Daily	Same day
Emerging markets		3,064,551	—	—	3,064,551	Daily	Same day
Fixed income:							
Domestic		383,910	105,578	—	489,488	Daily	Same day
Global		—	5,698,167	—	5,698,167	Monthly	10 days
Alternative instruments:							
Absolute return funds		—	—	7,931,449	7,931,449	Semiannual	90 days
Directional hedge funds		—	—	8,236,985	8,236,985	Annual	60 days
Real assets		—	4,590,433	934,732	5,525,165	Daily – not applicable	2 days – not applicable
Total							
investments	\$	<u>20,416,073</u>	<u>19,033,184</u>	<u>17,103,166</u>	<u>56,552,423</u>		

The following is a reconciliation of Level 3 assets for which significant unobservable inputs were used to determine fair value. No significant transfers occurred between Level 2 and Level 3 for the

**NAZARETH COLLEGE OF ROCHESTER**

Notes to Financial Statements

June 30, 2012 and 2011

years ended June 30, 2012 and 2011. The table represents the activity of Level 3 securities held as of and for the years ended June 30, 2012 and 2011:

	<u>Absolute return funds</u>	<u>Directional hedge funds</u>	<u>Real assets</u>	<u>Total</u>
Fair value, June 30, 2010	\$ 8,169,888	7,677,916	1,752,680	17,600,484
Purchases	—	—	3,374	3,374
Redemptions	(850,000)	(450,000)	(1,129,505)	(2,429,505)
Investment return	611,561	1,009,069	308,183	1,928,813
Fair value, June 30, 2011	7,931,449	8,236,985	934,732	17,103,166
Purchases	—	—	256,661	256,661
Redemptions	—	—	(935,585)	(935,585)
Investment return	(90,270)	(63,426)	13,573	(140,123)
Fair value, June 30, 2012	<u>\$ 7,841,179</u>	<u>8,173,559</u>	<u>269,381</u>	<u>16,284,119</u>

**(b) Liquidity**

The following presents the fair value of the College's investments as of June 30, 2012 by redemption period:

Investments redemption period:	
Daily	\$ 26,710,010
Monthly	11,662,746
Semiannual	7,841,179
Annual	8,436,309
Illiquid (locked up)	<u>655</u>
Total	<u>\$ 54,650,899</u>

The limitations and restrictions on the College's ability to redeem or sell these investments vary by investment and range from required notice periods (generally 30 to 180 days after initial lockup periods) for certain funds.

Substantially all of the College's investments are available to the redeemed in fiscal year 2013. In addition, the College does not have any unfunded commitments as of June 30, 2013.

**(6) Endowment**

In September 2010, New York State enacted the New York Uniform Prudent Management of Institutional Funds Act (NYPMIFA). The College has interpreted NYPMIFA as allowing the College to spend or accumulate the amount of an endowment fund that the College 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 College 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

## NAZARETH COLLEGE OF ROCHESTER

### Notes to Financial Statements

June 30, 2012 and 2011

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. ASC 958-205, *Not-for-Profit Entities – Presentation of Financial Statements*, 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 College's Board of Trustees in a manner consistent with the standard of prudence prescribed by NYPMIFA.

The College's endowment consists of 185 individual funds established for a variety of purposes including both donor-restricted endowment funds and funds designated by the board of trustees to function as endowments. Net assets associated with endowment funds, including funds designated by the board of trustees to function as endowments, are classified and reported based on the existence or absence of donor-imposed restrictions.

The following is a summary of the College's endowment net asset composition excluding pledge receivable, by type of fund as of June 30, 2012 and 2011:

		<b>2012</b>			
		<b>Unrestricted</b>	<b>Temporarily restricted</b>	<b>Permanently restricted</b>	<b>Total</b>
	\$	—	4,719,303	14,452,296	19,171,599
Donor-restricted endowment funds		36,415,364	—	—	36,415,364
Board-designated endowment funds		6,667	—	—	6,667
Other endowment assets					
Total endowed net assets	\$	36,422,031	4,719,303	14,452,296	55,593,630
		<b>2011</b>			
		<b>Unrestricted</b>	<b>Temporarily restricted</b>	<b>Permanently restricted</b>	<b>Total</b>
	\$	—	5,447,930	13,288,603	18,736,533
Donor-restricted endowment funds		37,978,247	—	—	37,978,247
Board-designated endowment funds		170,888	—	—	170,888
Other endowment assets					
Total endowed net assets	\$	38,149,135	5,447,930	13,288,603	56,885,668

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Notes to Financial Statements

June 30, 2012 and 2011

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 June 30, 2012 and 2011:

	<b>2012</b>			
	<b>Unrestricted</b>	<b>Temporarily restricted</b>	<b>Permanently restricted</b>	<b>Total</b>
Endowment net assets, beginning of year	\$ 38,149,135	5,447,930	13,288,603	56,885,668
Investment return:				
Interest and dividends	518,866	100,385	—	619,251
Net depreciation	<u>(222,956)</u>	<u>(115,570)</u>	<u>—</u>	<u>(338,526)</u>
Total investment return	295,910	(15,185)	—	280,725
Appropriation of endowment assets for expenditure	(1,841,669)	(750,819)	—	(2,592,488)
Contributions	—	—	1,422,126	1,422,126
Other changes	<u>(181,345)</u>	<u>37,377</u>	<u>(258,433)</u>	<u>(402,401)</u>
Endowment net assets, end of year	\$ <u>36,422,031</u>	<u>4,719,303</u>	<u>14,452,296</u>	<u>55,593,630</u>
	<b>2011</b>			
	<b>Unrestricted</b>	<b>Temporarily restricted</b>	<b>Permanently restricted</b>	<b>Total</b>
Endowment net assets, beginning of year	\$ 36,172,641	—	12,614,179	48,786,820
Investment return:				
Interest and dividends	616,259	188,204	—	804,463
Net appreciation	<u>3,151,430</u>	<u>6,320,274</u>	<u>—</u>	<u>9,471,704</u>
Total investment return	3,767,689	6,508,478	—	10,276,167
Net assets released from restriction	3,129,106	(3,129,106)	—	—
Appropriation of endowment assets for expenditure	(1,779,406)	(1,104,543)	—	(2,883,949)
Contributions	—	—	635,892	635,892
Other changes	32,206	—	38,532	70,738
Reclassification for adoption of ASC 958-205	<u>(3,173,101)</u>	<u>3,173,101</u>	<u>—</u>	<u>—</u>
Endowment net assets, end of year	\$ <u>38,149,135</u>	<u>5,447,930</u>	<u>13,288,603</u>	<u>56,885,668</u>

In addition to the associated endowment investments maintained by the college included as part of cash and cash equivalents on the accompanying Statements of Financial Position, are endowment assets of \$1,639,295 and \$796,008 as of June 30, 2012 and 2011 respectively.



## NAZARETH COLLEGE OF ROCHESTER

### Notes to Financial Statements

June 30, 2012 and 2011

**(a) Funds with Deficiencies**

From time to time, the fair value of assets associated with individual donor-restricted endowment funds may fall below the level that the donor requires the College to retain as a fund of perpetual duration. Deficiencies of this nature that are reported in unrestricted net assets were \$47,266 and \$14,403 as of June 30, 2012 and 2011, respectively. These deficiencies resulted from unfavorable market fluctuations that occurred shortly after the investment of new permanently restricted contributions and continued appropriation for certain programs that were deemed prudent by the board of trustees. Subsequent gains that restore the fair value of the assets of the endowment fund to the required level will be classified as an increase in unrestricted net assets.

**(b) Spending Policy**

Spending to support programs from assets held for endowment and similar purposes is under a total return policy. The board of trustees approved the spending rate to be 5.4% for fiscal years 2012 and 2011. Amounts utilized under this policy are reported as long-term investment return allocated for operations in the accompanying Statement of Activities. To the extent the total return requirement for the current year is not fulfilled by interest and dividends, the College utilizes realized appreciation of assets held for endowment and similar purposes. To the extent that the total return requirement for the current year is exceeded by interest and dividends, the College reinvests the excess income in its assets held for endowment and similar purposes. Unspent net realized and unrealized gains and losses, which are recognized as either unrestricted, temporarily restricted, or permanently restricted, dependent upon donor stipulations, are also maintained within the portfolio of endowment and other assets held for similar purposes.

**(c) Return Objectives and Risk Parameters**

The College has adopted investment and spending policies for endowment assets that attempt to provide a sustainable level of revenue distribution in support of the College's operating budget while preserving the purchasing power of the remaining invested assets. Endowment assets include those assets of donor-designated funds that the College must hold in perpetuity as well as board-designated funds. Under this policy, as approved by the board of trustees, the endowment assets are expected to generate long-term average annual real returns, net of fees and expenses, which meet or exceed the endowment's authorized distribution to the College operating budget, thereby maintaining the purchasing power of the endowment assets. The financial objective over three to five years is to provide an average annual real return at least equal to 5.5%.

**(d) Strategies Employed for Achieving Objectives**

To satisfy its long-term rate-of-return objectives, the College relies on a total return policy in which investment returns are achieved through both capital appreciation (realized and unrealized) and current yield (interest and dividends). The College targets a diversified asset allocation that places emphasis on investments in equities, bonds, real assets, and alternative strategies in a 50-10-10-30 percentage ratio to achieve its long-term return objectives within prudent risk constraints.

**NAZARETH COLLEGE OF ROCHESTER**

Notes to Financial Statements

June 30, 2012 and 2011

**(7) Property, Plant, and Equipment**

Property, plant, and equipment consist of the following at June 30, 2012 and 2011:

	<b>2012</b>	<b>2011</b>
Land	\$ 8,232,974	8,232,974
Buildings	68,079,864	68,079,918
Property improvements	66,724,577	65,436,347
Library books	15,283,920	14,580,461
Furniture and equipment	11,319,573	10,835,488
Vehicles	506,443	447,995
Computers	9,317,643	8,811,098
Construction in progress	27,441,557	6,418,897
	206,906,551	182,843,178
Less accumulated depreciation	(76,426,180)	(70,255,063)
Property, plant, and equipment, net	\$ 130,480,371	112,588,115

Within construction in progress capitalized interest for the years ended June 30, 2012 and 2011 was approximately \$800,000 and \$0, respectively.

**(8) Long-Term Debt**

Long-term debt, inclusive of any bond premium or discount, consists of the following at June 30, 2012 and 2011:

	<b>2012</b>	<b>2011</b>
Bonds payable – COMIDA:		
Civic Facility Revenue Bonds – 01(a)	\$ 14,436,200	14,851,761
Bonds payable – COMIDA:		
Civic Facility Revenue Bonds – 04(b)	4,580,000	5,145,000
Bonds payable – COMIDA:		
Civic Facility Revenue Bonds – 08(c)	8,240,000	8,415,000
Bonds payable – MCIDC:		
Tax-Exempt Revenue Bonds – 11(d)	23,024,850	—
Total long-term debt	\$ 50,281,050	28,411,761

**(a) COMIDA Civic Facility Revenue Bonds – 01**

During 2002, the College entered into an agreement with the County of Monroe Industrial Development Agency (COMIDA) whereby COMIDA issued \$17,985,000 of insured civic facility revenue bonds to primarily finance the following: (1) the acquisition of approximately 73 acres of land and facilities located thereon and (2) construction of a 128-bed residence building. Additionally, the bond proceeds were used to finance the purchase of a surety bond for deposit to the debt service reserve fund and to pay certain costs of issuance of the bonds. Interest is payable semiannually.

## NAZARETH COLLEGE OF ROCHESTER

### Notes to Financial Statements

June 30, 2012 and 2011

Interest rates vary from 4.125% to 5.25%. The bonds mature at various dates through 2031, with optional early redemption by the College on certain bonds beginning in October 2011.

As security for its obligation under the agreement, the College has granted a mortgage on the facilities, together with a pledge of rents and other proceeds of the facilities.

**(b) *COMIDA Civic Facility Revenue Bonds – 04***

During 2005, the College entered into an agreement with COMIDA whereby COMIDA issued \$16,375,000 in insured civic facility revenue bonds to refinance the Series 1995 COMIDA Civic Facility Revenue Bonds. Additionally, the bond proceeds were used to pay certain costs of issuance of the bonds. Interest is payable semiannually. Interest rates vary from 3.5% to 4.0%. The bonds mature on various dates through 2022, with optional early redemption by the College on certain bonds beginning in 2015.

As security for its obligation under the agreement, the College has granted a mortgage on the facilities, together with a pledge of rents and other proceeds from the facilities.

**(c) *COMIDA Civic Facility Revenue Bonds – 08***

During 2008, the College entered into an agreement with COMIDA whereby COMIDA issued \$9,030,000 in civic facility revenue bonds to primarily finance the following: (1) the construction of a three-story approximately 45,000 square foot residence hall to house approximately 150 students and (2) site improvements and expansion of a parking lot. Additionally, the bond proceeds were used to pay certain costs of issuance of the bonds. Interest is payable semiannually with variable interest rates. The bonds mature at various dates through 2038, with optional early redemption by the College on certain bonds beginning in 2019.

As security for its obligation under the agreement, the College has granted a mortgage on certain facilities.

Effective February 1, 2008, the College entered into an interest rate swap agreement that terminates April 1, 2038 to exchange the variable rate debt on these COMIDA bonds, for a fixed-rate obligation without the exchange of the underlying principal amount. Under the terms of the interest rate swap agreement, the counterparty pays the College a variable interest rate equal to the SIFMA – Municipal Swap Index. The College will pay the counterparty a fixed rate of 3.768% on the bonds based on a notional balance of \$8,240,000 as of June 30, 2012.

The College records at fair value of the swap liability of \$1,900,223 and \$668,515 as of June 30, 2012 and 2011, respectively, within accrued expenses on the Statement of Financial Position, and classifies it in Level 2 of the fair value hierarchy. The change in the fair value of the swap of (\$1,231,708) and \$98,191 for the years ended June 30, 2012 and 2011, respectively, are included in other (loss) income in the Statement of Activities.

The continued effectiveness of the swap will be contingent upon the ability of the counterparty to meet its contractual obligations under the agreement.

## NAZARETH COLLEGE OF ROCHESTER

### Notes to Financial Statements

June 30, 2012 and 2011

**(d) MCIDC Tax-Exempt Revenue Bonds – 11**

During fiscal year 2012, the College entered into an agreement with the Monroe County Industrial Development Corporation (MCIDC) whereby MCIDC issued Tax-Exempt Revenue Bonds, Series 2011, in the amount of \$23,765,000 for the purpose of financing or refinancing a certain project consisting of: (A) (i) the construction and equipping of an approximately 74,000 square foot four-story building to house the College's math and science departments together with ancillary and related facilities and improvements, and related pedestrian walkways, parking, site improvements, and landscaping improvements; (ii) the renovation and equipping of the approximately 7,234 square feet of space currently used as science labs for reuse as office space and/or other instructional purposes; and (iii) the acquisition and installation of certain items of machinery, equipment, fixtures, furniture, and other incidental tangible personal property for the above-mentioned project facility and improvements; and (B) the refinancing of an existing bank line of credit, the proceeds of which were applied to refinance the COMIDA Variable Rate Demand Civic Facility Revenue Refunding Bonds, Series 2004B issued to refinance the Series 1998 COMIDA Civic Facility Revenue Bonds. Additionally, the bond proceeds were used to fund a debt service reserve fund, capitalized interest and to pay certain costs of issuance of the bonds. Interest is payable semi-annually. Interest rates vary from 3.0% to 5.5%. Bond discount was \$222,569. The bonds mature on various dates through 2042, with optional early redemption by the College on certain bonds beginning in 2021.

As security for its obligation under the agreement at June 30, 2012, the College has a debt service reserve fund of approximately \$1,020,000 included in other assets on the 2012 Statement of Financial Position. The College granted a negative pledge on the project facility, and security interest in pledged receivables.

On August 9, 2011, the College paid off the line-of-credit balance of \$5,925,000 with proceeds from the Series 2011 tax-exempt revenue bonds.

As a condition of these borrowings, the College is subject to various covenants that include maintaining specified financial ratios. At June 30, 2012, the College was not in compliance with certain covenants for the COMIDA Civic Facility Revenue Bonds – 01 and 08. By letters dated November 21, 2012 and November 1, 2012 the bond insurer and the bank, respectively, have granted waivers covering the financial covenants that existed at June 30, 2012 through June 30, 2014, and June 30, 2013, respectively.

**NAZARETH COLLEGE OF ROCHESTER**

Notes to Financial Statements

June 30, 2012 and 2011

**Required Future Principal and Interest Payments**

Required future principal and anticipated interest payments on the College's long-term debt are summarized as follows:

	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
Year ending June 30:			
2013	\$ 1,968,141	2,285,366	4,253,507
2014	2,043,141	2,213,555	4,256,696
2015	2,123,141	2,129,151	4,252,292
2016	2,413,141	2,037,509	4,450,650
2017	2,308,141	1,944,708	4,252,849
Thereafter	39,425,345	21,750,363	61,175,708
	<u>\$ 50,281,050</u>	<u>32,360,652</u>	<u>82,641,702</u>

The College incurred interest expense of approximately \$1,669,000 and \$1,675,000 for the years ended June 30, 2012 and 2011, respectively.

**Fair Value**

The fair value of the College's long-term debt is approximately \$50,207,000 and \$28,343,000 at June 30, 2012 and 2011, respectively. The estimated fair value of the debt is based on quoted market prices for similar issues currently available.

**(9) Benefit Plans**

The College participates in defined contribution pension plans for faculty, administrative, support staff, and other employees. Expenses under the plans were \$2,257,369 and \$2,196,634 in 2012 and 2011, respectively, and were funded on a current basis. All funded payments are vested immediately and used to purchase annuity contracts to provide pension benefits. There are no unfunded past service costs under the plans.

The College also provides certain healthcare and life insurance benefits to retired employees and their eligible dependents under a defined benefit plan covering many retirees and employees. The College accrues the cost of those retiree health and life insurance benefits during the working careers of active employees. The College's postretirement plan is not funded.

The changes in the unrecognized amounts recorded in net assets for the years ended June 30, 2012 and 2011 are presented as separate line items within nonoperating activities on the Statement of Activities.

**NAZARETH COLLEGE OF ROCHESTER**

Notes to Financial Statements

June 30, 2012 and 2011

A summary of the postretirement plan's funded status and amounts recognized in the College's Statements of Financial Position at June 30, 2012 and 2011 is as follows:

	<u>2012</u>	<u>2011</u>
Change in benefit obligation:		
Benefit obligation at beginning of year	\$ 10,038,142	10,018,503
Service cost	50,999	61,876
Interest cost	516,799	513,047
Plan participants' contributions	67,079	59,783
Amendments	—	—
Actuarial (gain) loss	1,692,575	(152,681)
Benefits paid	<u>(464,118)</u>	<u>(462,386)</u>
Benefit obligation at end of year	\$ <u>11,901,476</u>	<u>10,038,142</u>
Change in plan assets:		
Fair value of plan assets at beginning of year	\$ —	—
Employer contribution	397,039	402,603
Plan participants' contributions	67,079	59,783
Benefits paid	<u>(464,118)</u>	<u>(462,386)</u>
Fair value of plan assets at end of year	\$ <u>—</u>	<u>—</u>
Funded status recognized in the Statements of Financial Position	\$ (11,901,476)	(10,038,142)

Amounts recorded in unrestricted net assets as of June 30, 2012 and 2011 not yet amortized as components of net periodic benefit costs are as follows:

	<u>2012</u>	<u>2011</u>
Unamortized prior service costs	\$ 356,866	525,860
Unamortized actuarial loss	<u>3,342,757</u>	<u>1,740,707</u>
Amount recognized as a reduction in unrestricted net assets	\$ <u>3,699,623</u>	<u>2,266,567</u>

A summary of the components of net periodic benefit cost for the years ended June 30, 2012 and 2011 is presented below:

	<u>2012</u>	<u>2011</u>
Service cost	\$ 50,999	61,876
Interest cost	516,799	513,047
Amortization of unrecognized prior service cost	168,994	168,994
Amortization of net loss	<u>90,525</u>	<u>108,739</u>
Net periodic benefit cost	\$ <u>827,317</u>	<u>852,656</u>

**NAZARETH COLLEGE OF ROCHESTER**

Notes to Financial Statements

June 30, 2012 and 2011

**(a) Assumptions**

A summary of the weighted average assumptions used to determine the benefit obligations at June 30, 2012 and 2011 is presented below:

	<u>2012</u>	<u>2011</u>
Discount rate	3.80%	5.30%
Rate of compensation increase	3.00	3.00

A summary of the weighted average assumptions used to determine net periodic benefit cost for the years ended June 30, 2012 and 2011 is presented below:

	<u>2012</u>	<u>2011</u>
Discount rate	5.30%	5.25%
Rate of compensation increase	3.00	3.00

A summary of the assumed healthcare cost trend rates at June 30, 2012 is presented below:

	<u>Pre-65 medical trend rates</u>	<u>Post-65 medical trend rates</u>	<u>Medicare advantage medical trend rates</u>	<u>Prescription drugs trend rates</u>
Healthcare cost trend rate for next year	9.0%	7.5%	9.0%	8.0%
Rate to which the cost trend rate is assumed to decline (the ultimate trend rate)	5.0	5.0	5.0	5.0
Year that the rate reaches the ultimate trend rate	2020	2020	2020	2020

As of June 30, 2012 and 2011, liabilities were valued using the RP 2000 Mortality Table for Males and Females.

**NAZARETH COLLEGE OF ROCHESTER**

Notes to Financial Statements

June 30, 2012 and 2011

Assumed healthcare cost trend rates have a significant effect on the amounts reported for the healthcare plans. A one-percentage-point change in assumed healthcare cost trend rates would have the following effects as of and for the year ended June 30, 2012 and 2011:

	2012		2011	
	One- percentage- point increase	One- percentage- point decrease	One- percentage- point increase	One- percentage- point decrease
Effect on total of service and interest cost components	\$ 32,133	(45,543)	21,240	(35,986)
Effect on postretirement benefit obligation	676,929	(931,019)	374,767	(610,083)

The College did not apply for the Medicare Part D prescription drug federal subsidy; therefore, the above disclosure reflects no future subsidy payments from Medicare.

**(b) Cash Flows Contributions**

The College expects to contribute \$604,823 to its postretirement benefit plan in fiscal year 2013.

**(c) Estimated Future Benefit Payments**

The following benefit payments, which reflect expected future service, as appropriate, are expected to be paid:

	<b>Amount</b>
Years ending June 30:	
2014	\$ 592,611
2015	614,994
2016	594,806
2017	645,669
2018 – 2022	3,474,054



**NAZARETH COLLEGE OF ROCHESTER**

Notes to Financial Statements

June 30, 2012 and 2011

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

**(a) Temporarily Restricted Net Assets**

Temporarily restricted net assets at June 30, 2012 and 2011 consist of accumulated gifts and contributions restricted by donors for the following purposes:

	<b>2012</b>	<b>2011</b>
Purpose restrictions:		
Construction, renovation, and equipment, net	\$ 3,463,804	3,722,212
Instruction	1,089,202	1,063,342
Time restrictions only:		
Deferred giving arrangements	291,526	277,809
Contributions receivable, net	2,699,430	1,539,648
Unappropriated accumulated endowment returns	4,719,303	5,447,930
	\$ 12,263,265	12,050,941

**(b) Permanently Restricted Net Assets**

Permanently restricted net assets at June 30, 2012 and 2011 represent accumulated principal of endowment gifts and pledges receivable for endowment purposes, which are to be invested in perpetuity, the income and gains from which are expendable to support the following purposes:

	<b>2012</b>	<b>2011</b>
Scholarships and grants	\$ 9,951,657	9,119,210
Other restricted purposes	5,158,257	4,570,128
	\$ 15,109,914	13,689,338

**(11) Commitments and Contingencies**

**(a) Operating Leases**

The College has entered into numerous noncancelable operating lease agreements. The commitments under such lease agreements provide for minimum annual rental payments as follows:

	<b>Amount</b>
Year ending June 30:	
2013	\$ 151,394
2014	99,160
2015	57,945
2016	15,553
	\$ 324,052

## NAZARETH COLLEGE OF ROCHESTER

### Notes to Financial Statements

June 30, 2012 and 2011

Rental expense for all operating leases aggregated \$147,400 and \$184,100 for the years ended June 30, 2012 and 2011, respectively.

**(b) *Line of Credit***

The College has a \$7.5 million line of credit with Manufacturers and Traders Trust Company (M&T Bank) with no stated expiration. At June 30, 2011, \$5,925,000 was outstanding under this line of credit. The line of credit is on a demand basis with interest only due as scheduled. Amounts outstanding on the line of credit bear interest at LIBOR plus 2.2%, with a floor of 3.2%.

As discussed in note 8(d), on August 9, 2011 the College paid off the line of credit with proceeds from the Series 2011 tax-exempt revenue bonds.

**(c) *Other***

At June 30, 2012, the College has entered into construction contracts and commitments aggregating approximately \$5.0 million.

**(12) Subsequent Events**

For purposes of determining the effects of subsequent events on these financial statements, management has evaluated events subsequent to June 30, 2012 and through November 21, 2012, the date on which the financial statements were issued. There are no subsequent events having a material effect on the financial statements that need to be reported.

## APPENDIX C

### CERTAIN DEFINITIONS

“Accountant” means a nationally or regionally recognized firm of independent certified public accountants selected by the College having expertise in the particular businesses in which the College is engaged.

“Act” means Section 1411 of the Not-For-Profit Corporation Law of the State of New York as amended.

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

“Additional Bonds” means any bonds, other than the Series 2013 Bonds, issued pursuant to Section 2.13 of the Indenture.

“Annual Debt Service” means the actual sum of the principal and sinking fund installments of and interest on outstanding Long-Term Indebtedness payable during a Fiscal Year provided that (a) with respect to any Indebtedness that bears a variable rate of interest the debt service shall include any credit enhancement costs and (b) with respect to any Long-Term Indebtedness subject to an interest rate exchange agreement, the debt service shall include the net payments made to or received from the counterparty. With respect to principal and sinking fund installments paid in any Fiscal Year on outstanding Balloon Indebtedness, such debt shall be assumed to be issued on a level debt service basis with a term equaling the original term of the Indebtedness.

“Assignment” means the Pledge and Assignment.

“Authorized Investments” means any of the following: (i) Government Obligations, (ii) obligations of the Federal National Mortgage Association, (iii) obligations of the Federal Intermediate Credit Banks, (iv) obligations of the Federal Banks for Cooperatives, (v) obligations of Federal Home Land Banks, (vi) obligations of Federal Home Loan Banks, (vii) obligations of the Export-Import Bank of the United States, (viii) obligations of the U.S. Postal Service, (ix) obligations of the Government National Mortgage Association, (x) obligations of the Federal Home Loan Mortgage Corporation, (xi) obligations of the Private Export Funding Corporation, (xii) obligations of a state, territory or possession of the United States or any political subdivision of the foregoing, the interest on which is not included in gross income for federal income taxation purposes and which bear a rating in one of the two highest rating categories by a Rating Agency, (xiii) obligations described in clause (xii) above which have been advance refunded and are secured by obligations described in clause (i) above, (xiv) interest bearing accounts, interest bearing deposits or certificates of deposit issued by, or bankers’ acceptances drawn or accepted by, banks or trust companies, including the Trustee, organized under the laws of the United States or any state thereof whose long term debt and bank deposits bear ratings of “A” (or its equivalent) or better by a Rating Agency, (xv) commercial paper rated “P-1” (or its equivalent) or better by a Rating Agency or units of a commercial paper portfolio or fund comprised thereof, (xvi) notes of bank holding companies and banking institutions, organized under the laws of the United States or any state thereof, bearing a rating in one of the two highest categories by a Rating Agency, (xvii) units of a taxable government money-market portfolio restricted to obligations issued or guaranteed as to payment of principal and interest by the full faith and credit of the United States or repurchase agreements collateralized by such obligations, (xviii) certificates of deposit issued by a nationally or state-chartered bank, including the Trustee or any of its affiliates, or a savings and loan association whose long term debt

and bank deposits do not bear ratings of “A” (or its equivalent) or better by a Rating Agency; provided that the principal amount of any such certificate of deposit in excess of the amount insured by the FDIC shall be fully secured and collateralized by the pledge and deposit of securities described in (i) above with a market value equal to one hundred percent (100%) of such uninsured excess principal amount, (xix) (A) demand and time deposits in, certificates of deposits of, bankers’ acceptances issued by, or federal funds sold by any depository institution or trust company (including the Trustee) incorporated under the laws of the United States of America, any state thereof or the District of Columbia or any foreign depository institution with a branch or agency licensed under the laws of the United States of America or any state, subject to supervision and examination by Federal and/or State banking authorities and having an approved rating at the time of such investment or contractual commitment providing for such investment of “A” (or its equivalent) or better by a Rating Agency or (B) any other demand or time deposit certificate of deposit which is fully insured by the Federal Deposit Insurance Corporation or any successor therefor; (xx) investment agreements or repurchase agreements with any bank, trust company, national banking association (which may include the Trustee) or any other financial institution or insurance company or guaranteed thereby, provided that the institution providing such investment agreements or repurchase agreements shall be rated “A” (or its equivalent) or better by a Rating Agency, or the principal amount of such investment agreements or repurchase agreements then outstanding shall be fully secured and collateralized by the pledge and deposit of securities (including wireable securities) described in (i) and (ii) above with a market value equal to one hundred two percent (102%) of such principal amount, that the Trustee has a perfected first security interest in the collateral, that the Trustee or any agent has possession of the collateral, and that such obligations are free and clear of claims by third parties and (xxi) money market mutual funds with assets in excess of \$2,000,000,000 investing in obligations of the type specified in items (i) through (xii), (xv), (xvii) and (xx) above.

Any of the items described in (xiv), (xvi), (xviii), (xix) and (xx) above shall be only of institutions whose capital surplus (or in the case of financial institutions other than banks, net worth) is in excess of \$50,000,000.

“Authorized Representative” means with respect to the Issuer, its President, Vice President or Executive Director, with respect to the College, its President or its Vice President for Finance and Treasurer, and with respect to both such additional persons as, at the time, are designated to act on behalf of the Issuer or the College, as the case may be, by written certificate furnished to the Trustee and to the Issuer or the College, as the case may be, containing the specimen signature of each such person and signed on behalf of (i) the Issuer by its President, Vice President or its Executive Director, or (ii) the College by its President or its Vice President for Finance and Treasurer.

“Balloon Indebtedness” shall mean Long-Term Indebtedness of which 25% or more in principal amount matures, or is required to be purchased by the College (either automatically or at the option of the holder of such Balloon Indebtedness), or otherwise comes due in any one year.

“Bond” or “Bonds” means the Series 2013A Bonds and the Series 2013B Bonds and any Additional Bonds, authorized to be issued pursuant to this Indenture to finance all or a portion of the Cost of the Facility.

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

“Bond Fund” means the fund so designated which is created by Section 4.01 of the Indenture.

“Bondholder” or “Holder” or “Owner” means the registered owner at the time in question of any Bond, as shown on the registration books maintained by the Bond Registrar pursuant to the Indenture.

“Bond Payment Date” means any date on which a Debt Service Payment shall be payable on any of the Bonds according to their terms so long as any of the Bonds shall be Outstanding.

“Bond Proceeds” means, collectively, the Series 2013A Bond Proceeds and the Series 2013B Bond Proceeds.

“Bond Purchase Agreement” means the Bond Purchase Agreement, dated June 4, 2013, by and among the Issuer, the College and the Underwriter.

“Bond Registrar” means the Trustee, acting as such, and any successor bond registrar for the Bonds appointed pursuant to Article IX of the Indenture, their respective successors and any other corporation which may at any time be substituted in their respective places pursuant to the Indenture.

“Bond Resolution” means, collectively, the resolution adopted by the Issuer on May 21, 2013 authorizing the issuance, execution, sale and delivery of the Series 2013 Bonds and the execution and delivery of Issuer Documents, as such resolution may be amended or supplemented from time to time.

“Bond Year” means the one-year period beginning on the day after the expiration of the preceding Bond Year. The first Bond Year begins on the dated date of original issuance of the Bonds and ends one year later.

“Business Day” means a day other than a Saturday, Sunday, legal holiday or other day on which the Trustee is authorized by law or executive order to remain closed.

“Capital Additions” means all property or interests in property, real, personal and mixed (a) which constitute additions, improvements or extraordinary repairs to or replacements of all or any part of the Facility, and (b) the cost of which is properly capitalized under generally accepted accounting principles.

“Certificates of Authentication of the Trustee” and “Trustee’s Certificates of Authentication” means, collectively, the certificates executed by an authorized officer of the Trustee certifying the due authentication of the (i) Series 2013A Bonds in the aggregate principal amount of \$13,905,000 and (ii) Series 2013B Bonds in the aggregate principal amount of \$4,295,000.

“Closing” or “Closing Date” means the date of the sale and delivery of the Series 2013 Bonds and the delivery of the Financing Documents.

“Code” means the Internal Revenue Code of 1986, as amended, and the final, temporary and proposed regulations of the United States Department of the Treasury promulgated thereunder. References to Sections of the Code shall be construed also to refer to successor and renumbered sections.

“College” means Nazareth College of Rochester, a not-for-profit education corporation and organization described in Section 501(c)(3) of the Code, organized and existing under the laws of the State of New York, with an office located at 4245 East Avenue, Rochester, New York 14618 and its successors and assigns.

“College Documents” means the Loan Agreement, the Tax Compliance Agreement, the Pledge and Security Agreement and the Continuing Disclosure Agreement, the Preliminary Official Statement and the Official Statement.

“Commercial Code” shall mean the Uniform Commercial Code, as the same may from time to time be in effect in the State.

“Computation Period” means each period from the date of original issuance of the Bonds through the date on which a determination of the Rebate Amount is made.

“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 June 1, 2013, by and between the College and Digital Assurance Certification, L.L.C., as dissemination agent, as the same may be amended or supplemented from time to time.

“Contract Term” means the period commencing with the Closing Date and continuing until the principal of, premium, if any, and interest on the Bonds have been paid in full, or provision therefor has been made pursuant to Article VII of the Indenture, and all other amounts due under the Loan Agreement have been paid in full.

“Cost of the Facility” means the Project Costs.

“Debt Service Payment” means, with respect to any Bond Payment Date, (i) the interest payable on such Bond Payment Date on the Bonds Outstanding, plus (ii) the principal, if any, payable on such Bond Payment Date on the Bonds Outstanding, plus (iii) the premium, if any, payable on such Bond Payment Date on the Bonds Outstanding.

“Default Rate” means nine percent (9.00%) or the maximum rate permitted by law, that being the rate at which interest accrues on the Bonds from and after the date of occurrence of an Event of Default and for so long as such Event of Default remains in effect.

“Defeasance Obligations” shall mean (i) cash; (ii) U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series – (SLGS)); (iii) direct obligations of the U.S. Treasury which have been stripped by the U.S. Treasury; (iv) obligations of Resolution Funding Corp. (“REFCORP”) (*provided, however*, that, 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 shall qualify as Defeasance Obligations); (v) pre-refunded municipal bonds rated “Aaa” by Moody’s and “AAA” by S&P (*provided, however*, that, if such pre-funded municipal bonds are only rated by S&P, then such pre-refunded bonds shall have been pre-refunded with cash, direct U.S. or U.S. guaranteed obligations, or “AAA” rated pre-refunded municipals; and (vi) 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 or fully guaranteed certificates of beneficial ownership; (b) Farmers Home Administration (FmHA); (c) Federal Financing Bank; (d) General Services Administration; Participation Certificates; (e) U.S. Maritime Administration; Guaranteed Title XI financing; and (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.

“Depository” or “DTC” means The Depository Trust Company, New York, New York, and its successors and assigns.

“Determination of Taxability” means with respect to the Series 2013A Bonds:

(A) a final determination by any court of competent jurisdiction or a final determination by the Internal Revenue Service to which the College shall consent or from which no timely appeal shall be taken to the effect that interest on the Series 2013A Bonds is includable in the gross income of the Owner thereof for Federal income tax purposes;

(B) ninety (90) days after receipt by the Issuer, the Trustee or the College of written notice that the Internal Revenue Service has issued a “notice of deficiency” or similar notice to any present or former Holder of a Series 2013A Bond assessing a tax in respect of any interest on the Series 2013A Bonds as a result of such interest being includable in gross income for Federal income tax purposes, provided that such notice has not been withdrawn by the Internal Revenue Service and from which such Holder (or the College or the Trustee on behalf of the Holder, if allowable) has not filed a timely petition in the United States Tax Court contesting the same; or

(C) the delivery to the College, the Trustee and the Issuer of an opinion of Bond Counsel to the effect that interest on the Series 2013A Bonds is includable in the gross income of a Holder thereof for Federal income tax purposes.

Nothing in this definition of “Determination of Taxability” shall be construed to mean that the Trustee, the College or any Holder of any Series 2013A Bond shall have any obligation to contest or appeal any assertion or decision that any interest payable under the Series 2013A Bonds is subject to taxation.

Notwithstanding the foregoing, in no event shall the imposition of an alternative minimum tax or preference tax or environmental tax or branch profits tax on any Series 2013A Bondholder, the calculation of which included the interest on the Series 2013A Bonds, be considered a Determination of Taxability.

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

“Equipment” means all machinery, equipment and other tangible personal property used and to be used in connection with the Facility and refinanced with Bond Proceeds with such additions thereto and substitutions therefor as may exist from time to time.

“Event of Default” means any of those events defined as Events of Default by the Indenture or, when used with respect to the Loan Agreement, any of those events defined as Events of Default by the Loan Agreement.

“Extraordinary Services” and “Extraordinary Expenses” means all services rendered and all reasonable, out-of-pocket expenses incurred by the Trustee or any Paying Agent under the Indenture other than Ordinary Services and Ordinary Expenses including but not limited to, the services rendered and expenses reasonably incurred by the Trustee with respect to any Event of Default under the Financing Documents, or the happening of an occurrence which, with the passage of time or the giving of a notice, would ripen into an Event of Default.

“Facility” means, as applicable, the Series 2013A Facility and/or the Series 2013B Facility.

“Favorable Opinion of Bond Counsel” shall mean, with respect to any action, the occurrence of which requires such an opinion, an unqualified Opinion of Counsel, which shall be a Bond Counsel, to the effect that such action is permitted under the Act and the Indenture and will not impair the exclusion of interest on the Bonds from gross income for purposes of Federal income taxation (subject to the inclusion of any exceptions contained in the opinion delivered upon original issuance of the Bonds).

“Financing Documents” or “Bond Documents” means, collectively, the Bonds, the Indenture, the Loan Agreement, the Pledge and Assignment, the Pledge and Security Agreement, the Tax Compliance Agreement, the Continuing Disclosure Agreement, any other document or instrument executed in connection therewith to secure the College’s obligation to repay the Series 2013 Bonds or make the debt service payments due under the Loan Agreement, and any other instrument or document supplemental thereto.

“Fiscal Year” means the fiscal year of the College commencing on each July 1 and ending on June 30 of the following year.

“Fixed Interest Rate” means the interest rates on the Bonds as set forth in the Indenture, from and including the date of issuance of the Bonds, through but not including the final maturity date on the Bonds.

“Governmental Authority” means the United States, the State, and any other state or any political subdivision thereof, and any agency, department, commission, board, bureau or instrumentality of any of these, having jurisdiction over the construction, equipping, ownership, leasing, operation and/or maintenance of the Facility.

“Governmental Obligations” means (i) any bonds or other obligations of the United States of America which, as to principal and interest, constitute direct obligations of or are guaranteed by the United States of America, (ii) any bonds, debentures, participation certificates, notes or other obligations of any agency or other corporation which has been or may hereafter be created by or pursuant to an Act of Congress of the United States as an agency or instrumentality thereof, the bonds, debentures, participation certificates, notes or other obligations of which are unconditionally guaranteed by the United States of America, (iii) any bond or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any state (a) which are not callable prior to maturity or as to which irrevocable instructions have been given to the trustee or other fiduciary of such bonds or other obligations by the obligor to give due notice of redemption and to call such bonds for redemption on the date or dates specified in such instructions, (b) which are secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or bonds or other obligations of the character described in clause (i) above which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the redemption date or dates specified in the irrevocable instructions referred to in subclause (a) of this clause (iii), as appropriate, and (c) as to which the principal of and interest on the bonds and obligations of the character described in clause (i) above which have been deposited in such fund along with any cash on deposit in such fund are sufficient to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this clause (iii) on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in subclause (a) of this clause (iii), as appropriate; and (iv) any certificates or other evidences of an ownership interest in obligations of the character described in clauses (i) and (ii) above or in specific portions thereof, including, without limitation, portions consisting solely of the principal thereof or solely of the interest thereon.



“Hazardous Materials” means any flammable explosives, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum, petroleum-based products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials as set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, et seq.), Articles 15 or 27 of the New York Environmental Conservation Law, or any other applicable Environmental Law and the regulations promulgated thereunder.

“Holder” or “Holders” means the holder or holders from time to time of the Outstanding principal amount of Bonds.

“Indebtedness” shall mean without duplication, (i) all Long-Term Indebtedness of the College for borrowed moneys or which has been incurred or assumed in connection with the Project, (ii) all Long-Term Indebtedness, no matter how created, secured by the Facility or other property of the College, whether or not such indebtedness is assumed by the College, (iii) the liability of the College under any lease of real or personal property that is properly capitalized on the balance sheet of the College in accordance with generally accepted accounting principles, and (iv) any guaranty by the College of any other Person for borrowed moneys or which has been incurred or assumed by such Person in connection with the acquisition of property or the leasing of real or personal property which is properly capitalized on the balance sheet of such Person in accordance with generally accepted accounting principles, excluding Indebtedness that has been defeased.

“Indenture” means the Indenture of Trust, dated as of June 1, 2013, by and between the Issuer and the Trustee pursuant to which the Series 2013 Bonds are authorized to be issued, as may be amended or supplemented by any additional Supplemental Indenture.

“Independent Counsel” means an attorney or attorneys or firm or firms of attorneys duly admitted to practice law before the highest court in the State.

“Interest Payment Date” means each April 1 and October 1 (or the next succeeding Business Day if such first day is not a Business Day), commencing with October 1, 2013.

“Issuer” means (i) Monroe County Industrial Development Corporation and its successors and assigns and (ii) any not-for-profit corporation resulting from or surviving any consolidation or merger to which the Monroe County Industrial Development Corporation or its successors or assigns may be a party.

“Issuer Documents” means the Bonds, the Indenture, the Loan Agreement, the Pledge and Assignment and the Tax Compliance Agreement.

“Land” means the real property which is the site of the Facility.

“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 a 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” includes reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases and other similar encumbrances, including but not limited to, mechanics’, materialmen’s, warehousemen’s and carriers’ liens and other similar encumbrances affecting real property. For the purposes hereof, 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 Agreement, dated as of June 1, 2013, by and between the Issuer and the College pursuant to which the Issuer loans the proceeds of the Series 2013 Bonds to the College with the debt-service payments thereunder to be in an amount sufficient to pay, among other things, the principal of and interest on the Series 2013 Bonds.

“Long-Term Indebtedness” means all indebtedness having an original maturity of greater than one (1) year or indebtedness on which the College has an option to extend the maturity thereof for a period of greater than one (1) year beyond the date of the original incurrence thereof.

“Loss Event” means in the event that at any time during the term of the Loan Agreement, the whole or part of the Facility shall be damaged or destroyed, or the whole or any part of the Facility shall be taken or condemned by a competent authority for any public use or purpose, or by agreement between the Issuer and those authorized to exercise such right, or if the temporary use of the Facility or any part thereof shall be so taken by condemnation or agreement.

“Management Consultant” means a nationally recognized accounting or management consulting firm or other similar firm, experienced in reviewing and assessing the operations of institutions of higher education.

“Maximum Annual Debt Service” means on any date, the greatest amount required in the then current or future Fiscal Year of Annual Debt Service solely with respect to the Series 2013 Bonds.

“Net Investment in Plant” shall have the meaning ascribed to such term under generally accepted accounting principles.

“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 and disbursements and Trustee’s fees and disbursements) incurred in obtaining such gross proceeds.

“Office of the Trustee” means the corporate trust officers of the Trustee located at One M&T Plaza, 7<sup>th</sup> Floor, Buffalo, New York 14203.

“Official Statement” means the Official Statement of the Issuer, dated the date thereof, with respect to the offering and sale of the Series 2013 Bonds.

“Opinion of Counsel” shall mean a written opinion of counsel who may (except as otherwise expressly provided in the Loan Agreement or any other Financing Document) be counsel for the College or the Issuer and who shall be acceptable to the Trustee.

“Ordinary Services” and “Ordinary Expenses” means those services normally rendered and those reasonable, out-of-pocket expenses normally incurred by a trustee or paying agent under instruments similar to the Indenture, including reasonable fees and disbursements of counsel to the Trustee.

“Outstanding” or “Bonds Outstanding” or “Outstanding Bonds” means when used with reference to a Bond or Bonds, as of any particular date, all Bonds which have been issued, executed, authenticated and delivered under the Indenture, except:

(i) Bonds cancelled by the Trustee because of payment or redemption prior to maturity or surrendered to the Trustee under the Indenture for cancellation;

(ii) any Bond (or portion of a Bond) for the payment or redemption of which there has been separately set aside and held in the Bond Fund either:

(A) moneys and/or

(B) Defeasance Obligations in such principal amounts, of such maturities, bearing such interest and otherwise having such terms and qualifications as shall be necessary to provide moneys,

in an amount sufficient to effect payment of the principal or applicable Redemption Price of such Bond, together with accrued interest on such Bond to the payment or redemption date, which payment or redemption date shall be specified in irrevocable instructions given to the Trustee to apply such moneys and/or Defeasance Obligations to such payment on the date so specified, provided, that, if such Bond or portion thereof is to be redeemed, notice of such redemption shall have been given as provided in the Indenture or provision satisfactory to the Trustee shall have been made for the giving of such notice; and

(iii) Bonds in exchange for or in lieu of which other Bonds shall have been authenticated and delivered under Article IV of the Indenture,

provided, however, that, in determining whether the Holders of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under the Indenture, such Bonds including Series 2013 Bonds owned by the College or any affiliate of the College shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded. Bonds which have been pledged in good faith to a Person may be regarded as Outstanding for such purposes if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the College or any affiliate of the College.

"Parity Obligations" means Indebtedness of the College incurred in accordance with the Pledge and Security Agreement including obligations of the College to one or more commercial banks or financial institutions obligated to contribute to making loans, purchasing bonds or otherwise making funds available as security for the payment of the principal and interest when due on Indebtedness of the College incurred in accordance with the Pledge and Security Agreement.

"Participant" means any of those brokers, dealers, banks and other financial institutions from time to time for which the Depository holds Bonds as securities depository.

"Paying Agent" means the Trustee, acting as such, and any additional paying agent for the Bonds appointed pursuant to Article IX of 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 Pledge and Assignment, the Pledge and Security Agreement, the Indenture and any other Financing Document;

(ii) liens for real estate taxes, assessments, levies and other governmental charges, the payment of which is not in default;

(iii) utility, access and other easements and rights-of-way restrictions and exceptions that an Authorized Representative of the College certifies to the Issuer and the Trustee will not interfere with or impair the College's use of the Facility as provided in the Loan Agreement;

(iv) such minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on title as normally exist with respect to property similar in character to the Facility and as do not, either singly or in the aggregate, materially impair the property affected thereby for the purpose for which it is owned by the College;

(v) any mechanic's, workmen's, repairmen's, materialmen's, contractors', warehousemen's, carriers', suppliers' or vendors' lien or right in respect thereof if payment is not yet due and payable, or are insured over, or which are not delinquent, or the amount or validity of which, are being contested and execution thereon is stayed or has been due for less than 90 days;

(vi) any mortgage, lien, security interest or other encumbrance which exists in favor of the Trustee;

(vii) any lien on Property, Plant or Equipment not in violation of the Loan Agreement;

(viii) such other liens and exceptions to title that do not materially impair the value of the Facility as approved in writing by the Trustee;

(ix) deposits, endorsements, guaranties, and other encumbrances incurred in the ordinary course of business and which do not secure Indebtedness;

(x) liens granted on a parity or subordinate basis with the Liens granted to the Trustee as security for the Bonds to secure indebtedness incurred or permitted pursuant to the Loan Agreement;

(xi) Liens to secure Indebtedness permitted to be incurred pursuant to the Loan Agreement;

(xii) any Lien permitted under the Pledge and Security Agreement; and

(xiii) those Liens on the Facility in existence as of the date of the Indenture.

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

“Pledge and Assignment” means the Pledge and Assignment, dated as of June 1, 2013, by and between the Issuer and the Trustee, pursuant to which the Issuer assigns to the Trustee substantially all of its rights under the Loan Agreement (except the Unassigned Rights).

“Pledge and Security Agreement” means the Pledge and Security Agreement, dated as of June 1, 2013, by and between the College and the Trustee, as amended or supplemented from time to time.

“Pledged Revenues” shall mean all receipts, revenues, income, installment payments and other moneys received by or on behalf of the College, and all rights to receive the same whether in the form of accounts receivable, general intangibles, contract rights, chattel paper, instruments or other rights and the proceeds thereof, and any insurance proceeds and condemnation awards therefrom to the extent legally available therefor.

“Preliminary Official Statement” means the Preliminary Official Statement of the Issuer, dated the date thereof, with respect to the offering and sale of the 2013 Bonds.

“Prior Bonds” means, collectively, the Series 2001 Bonds and the Series 2004A Bonds.

“Project” means, collectively, the Series 2013A Project and the Series 2013B Project.

“Project Costs” means, collectively, the Series 2013A Project Costs and the Series 2013B Project Costs.

“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.

“Property, Plant and Equipment” shall mean all property of the College that is considered net property, plant and equipment under generally accepted accounting principles.

“Rating Agency” means any nationally recognized securities rating agency.

“Rebate Amount” means with respect to the Series 2013A Bonds, the amount computed as described in the Tax Compliance Agreement.

“Rebate Fund” means the fund so designated pursuant to Section 4.01 of the Indenture.

“Record Date” means, with respect to the Series 2013A Bonds, the Regular Record Date or the Special Record Date, as the case may be.

“Redemption Date” means the date determined by the Trustee, following receipt by the Trustee of notice from the Issuer or the College, on behalf of the Issuer, pursuant to the Indenture as of the date as of which a redemption shall be effective.

“Redemption Price” means, when used with respect to a Bond, the principal amount thereof plus the applicable redemption premium, if any, payable thereon, plus accrued interest to the Redemption Date.

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

“Renewal Fund” means the fund so designated and created pursuant to Section 4.01 of the Indenture.

“Reporting Date” means the reporting date of compliance with the Loan Agreement, such date being no later than one hundred fifty (150) days following the end of each Fiscal Year.

“Request for Disbursement” means a request for disbursement by the College to the Trustee substantially in the form of Exhibit B attached to the Indenture.

“Reserved Rights” means the Unassigned Rights.

“Revenue Fund” means the fund so designated and created pursuant to the Pledge and Security Agreement.

“Seller” means a Person or other entity directly related to the physical acquisition, construction or equipping of the Facility.

“SEQR Act” means the State Environmental Quality Review Act, as amended and the regulations thereunder.

“Series 2001 Bonds” shall have the meaning assigned to such in term in the WHEREAS paragraphs of the Indenture.

“Series 2004A Bonds” shall have the meaning assigned to such in term in the WHEREAS paragraphs of the Indenture.

“Series 2008 Bonds” means the County of Monroe Industrial Development Agency’s \$9,030,000 original principal amount County of Monroe Industrial Development Agency Variable Rate Demand Civic Facility Revenue Bonds (Nazareth College of Rochester Project), Series 2008.

“Series 2008 Letter of Credit and Reimbursement Agreement” means that certain Letter of Credit and Reimbursement Agreement, dated as of January 1, 2008, as the same may be amended or supplemented, by and between the College and JPMorgan Chase Bank, N.A.

“Series 2008 Revenue Pledge” means the security interest in Gross Revenues (as defined in the Series 2008 Letter of Credit and Reimbursement Agreement) of the College granted by the College to JPMorgan Chase Bank, N.A. under the terms of the Series 2008 Letter of Credit and Reimbursement Agreement.

“Series 2011 Bonds” means the Issuer’s \$23,765,000 Tax-Exempt Revenue Bonds (Nazareth College of Rochester Project), Series 2013.

“Series 2011 Pledge and Security Agreement” means the Pledge and Security Agreement, dated as of July 1, 2011, from the College to Manufacturers and Traders Trust Company, as trustee, as amended or supplemented from time to time, and executed in connection with the issuance of the Series 2011 Bonds.

“Series 2011 Revenue Pledge” means the security interest in Pledged Revenues (as defined in the Series 2011 Pledge and Security Agreement) of the College granted by the College to Manufacturers and Traders Trust Company, as trustee, under the terms of the Series 2011 Pledge and Security Agreement.

“Series 2013 Bonds” means, collectively, the Series 2013A Bonds and the Series 2013B Bonds.

“Series 2013A Bond Account” means the account so designated and created pursuant to the Indenture.

“Series 2013A Bonds” means the Issuer’s \$13,905,000 original principal amount Monroe County Industrial Development Corporation Tax-Exempt Revenue Refunding Bonds (Nazareth College of Rochester Project), Series 2013A.

“Series 2013A Bond Proceeds” means the sum of the face amount of the Series 2013A Bonds plus accrued interest, if any, premium, if any, less the sum of the original issue discount plus the underwriter’s spread or similar discount, if any.

“Series 2013A Earning Account” means the account so designated and created pursuant to the Indenture.

“Series 2013A Facility” shall have the meaning assigned to such in term in the WHEREAS paragraphs of the Indenture.

“Series 2013A Project” shall have the meaning assigned to such term in the WHEREAS paragraphs of the Indenture.

“Series 2013A Project Account” means the account so designated and created pursuant to the Indenture.

“Series 2013A Project Costs” shall have the meaning assigned to such term in the WHEREAS paragraphs of the Indenture.

“Series 2013A Renewal Account” means the account so designated and created pursuant to the Indenture.

“Series 2013B Bond Account” means the account so designated and created pursuant to the Indenture.

“Series 2013B Bonds” means the Issuer’s \$4,295,000 original principal amount Monroe County Industrial Development Corporation Taxable Revenue Refunding Bonds (Nazareth College of Rochester Project), Series 2013B.

“Series 2013B Bond Proceeds” means the sum of the face amount of the Series 2013B Bonds plus accrued interest, if any, premium, if any, less the sum of the original issue discount plus the underwriter’s spread or similar discount, if any.

“Series 2013B Earning Account” means the account so designated and created pursuant to the Indenture.

“Series 2013B Facility” shall have the meaning assigned to such in term in the WHEREAS paragraphs of the Indenture.

“Series 2013B Project” shall have the meaning assigned to such term in the WHEREAS paragraphs of the Indenture.

“Series 2013B Project Account” means the account so designated and created pursuant to the Indenture.

“Series 2013B Project Costs” shall have the meaning assigned to such term in the WHEREAS paragraphs of the Indenture.

“Series 2013B Renewal Account” means the account so designated and created pursuant to the Indenture.

“Special Record Date” means a date for the payment of interest on the Bonds after an Event of Default has occurred fixed by the Trustee pursuant to Section 2.03(b) of the Indenture.

“State” means the State of New York.

“Subordinated Indebtedness” means any indebtedness of the College that is not secured by any Lien on the Pledged Revenues, or that is secured by a Lien upon the Pledged Revenues that is by its terms expressly subordinated to the Lien on the Pledged Revenues created by the Pledge and Security Agreement.

“Supplemental Indenture” means any indenture supplemental to or amendatory of the Indenture, which may be executed by the Issuer and the Trustee in accordance with Article X of the Indenture.

“Tax Compliance Agreement” means, with respect to the Series 2013A Bonds, the Tax Compliance Agreement, dated the Closing Date, by and between the Issuer and the College, as the same may be amended, modified or supplemented from time to time in accordance with the terms thereof and the Indenture.

“Tax-Exempt Organization” means any corporation (or other entity) determined by the Internal Revenue Service to be exempt from taxation for federal income tax purposes.

“Tax Incidence Date” means, with respect to the Series 2013A Bonds, the date as of which interest on the Series 2013A Bonds first becomes taxable as a result of the occurrence of a Determination of Taxability.

“Taxable Rate” means, with respect to the Series 2013A Bonds, the lesser of thirteen percent (13%) per annum or the maximum rate permitted by law, that being the rate at which interest accrues on the Series 2013A Bonds from and after the Tax Incidence Date.

“Temporarily Restricted Net Assets” shall have the meaning as ascribed to such term under generally accepted accounting principles.

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

“Trustee” means Manufacturers and Traders Trust Company, a banking corporation organized and existing under the laws of the State of New York, as Trustee under the Indenture, 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 such under the Indenture.

“Trust Estate” means all Property which may from time to time become subject to the Lien of the Indenture.

“Unassigned Rights” shall mean collectively:

(i) the right of the Issuer in its own behalf to receive all Opinions of Counsel, reports, financial statements, certificates, insurance policies, binders or certificates, or other notices or communications required to be delivered to the Issuer under the Loan Agreement;

(ii) the right of the Issuer to grant or withhold any consents or approvals required of the Issuer under the Loan Agreement;



(iii) the right of the Issuer to enforce, in its own behalf, the obligation of the College to complete the Project;

(iv) the right of the Issuer, in its own behalf (or on behalf of the appropriate taxing authorities), to enforce, receive amounts payable under or otherwise exercise its rights under Sections 1.5, 2.1, 2.2, 3.1, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 5.1, 6.1, 6.2, 6.3, 6.5, 6.6, 6.10, 6.11, 6.13, 6.18, 6.19, 7.7, 8.1, 8.2, 8.4, 9.3, 9.10, 9.13, 9.17, 9.18 and 9.19 of the Loan Agreement; and

(v) the right of the Issuer, in its own behalf, to declare an Event of Default under Section 7.1 of the Loan Agreement with respect to any of the Unassigned Rights.

“Underwriter” means, collectively, Merrill Lynch, Pierce, Fenner & Smith Incorporated, acting on behalf of itself and M&T Securities, Inc., and their respective successors or assigns.

“Unrestricted Net Assets” shall have the meaning as ascribed to such term under generally accepted accounting principles.

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## APPENDIX D

### SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE

*The following description of certain provisions of the Indenture is only a brief outline of some of the provisions thereof, and does not purport to summarize or describe all of the provisions thereof. Reference is made to the Indenture for details of the provisions thereof.*

All terms not otherwise defined below shall have the meaning given to such terms in Appendix C attached to the Official Statement.

#### **Delivery of Bonds**

Upon the execution and delivery of the Indenture, the Issuer shall execute and deliver the Series 2013 Bonds to the Trustee and the Trustee shall authenticate the Series 2013 Bonds and deliver them upon receipt of the Bond Proceeds in accordance with the directions of the Issuer and the provisions of the Indenture. (Section 2.07)

#### **Additional Bonds**

(a) The Issuer may issue Additional Bonds under the Indenture from time to time on a *pari passu* basis with the Series 2013 Bonds issued under the Indenture for any of the purposes listed below:

(1) To pay the cost of completing the Facility or completing an addition thereto based on the original general design and scope of the Facility or such addition thereto set forth in the original plans and specifications therefor, with such changes as may have become necessary to carry out such original design, or to reimburse expenditures of the College for any such costs;

(2) To pay the cost of Capital Additions or to reimburse expenditures of the College for any such cost;

(3) To pay the cost of refunding through redemption of any Outstanding Bonds issued under the Indenture and subject to such redemption; or

(4) To pay the cost of any additional project approved by the Issuer.

(b) In any such event the Trustee shall, at the written request of the Issuer, authenticate the Additional Bonds and deliver them as specified in the request, but only upon receipt of:

(1) (A) a Supplemental Indenture setting forth the terms of the Additional Bonds and, for Additional Bonds described in subsection (a)(2) or (4) above, describing the Capital Additions to become part of the Facility; and (B) a supplement to the Loan Agreement providing for additional Debt Service Payments to be made by the College sufficient to cover the debt service due on the Additional Bonds.

(2) For Additional Bonds described in subsection (a)(1), (a)(2) or (a)(4) above, a certificate signed by the chief executive officer or chief financial officer of the College stating that the proceeds of the Additional Bonds plus other amounts, if any, available to the College for

the purpose will be sufficient to pay the cost thereof; and (ii) payments and additional payments, if any, scheduled to be paid by the College under the Loan Agreement will be adequate to satisfy all of the Debt Service Payments required to be made on the Bonds to remain Outstanding during the remaining life thereof; provided, however, such Additional Bonds shall not be issued to cure any deficiencies existing on the date of such certification in any funds required to be maintained under the Indenture;

(3) For Additional Bonds described in subsection (a)(1) above, (i) a certificate of the College stating (A) the estimated cost of completion of the addition to the Facility and (B) that all approvals required for completion of the addition to the Facility have been obtained, other than building permits for any portions of such addition to the Facility which, based on consultations with the College and contractor or other construction manager, will be obtained in due course so as not to interrupt or delay construction of such addition to the Facility and other than licenses or permits required for occupancy or operation of such addition to the Facility upon its completion;

(4) for Additional Bonds described in subsection (a)(3) above, (A) a certificate of an Authorized Representative of the College that notice of redemption of the Bonds to be refunded has been given or that provisions have been made therefor, and (B) a certificate of an Accountant stating that the proceeds of the Additional Bonds plus the other amounts, if any, stated to be available for the purpose, will be sufficient to accomplish the purpose of the refunding and to pay the cost of refunding, which shall be itemized in reasonable detail;

(5) for any Additional Bonds, a certified resolution of the Issuer (A) stating the purpose of the issue, (B) establishing the series of Additional Bonds to be issued and providing the terms and form of Additional Bonds thereof and directing the payments to be made into the funds established under the Indenture, (C) authorizing the execution and delivery of the Additional Bonds to be issued and (D) authorizing redemption of any previously issued Bonds which are to be refunded;

(6) for any Additional Bonds, a certificate of an Authorized Representative of the College stating (A) that no Event of Default under the Indenture or under the Loan Agreement has occurred and is continuing (except, in the case of Additional Bonds described in subsection (a)(1) above, for an Event of Default, if any, resulting from non-completion of an addition to the Facility) and (B) that the proceeds of the Additional Bonds plus other amounts, if any, stated to be available for that purpose will be sufficient to pay the costs for which the Additional Bonds are being issued, which shall be itemized in reasonable detail;

(7) for any Additional Bonds, a certified resolution of the Board of Trustees of the College (A) approving the issuance of the Additional Bonds and the terms thereof, (B) authorizing the execution of any required amendments or supplements to the Indenture and the Loan Agreement, (C) for Additional Bonds described in subsection (a) (1) or (2) above, approving plans and specifications for the Facility or an addition thereto, and (D) for Additional Bonds described in subsection (a)(3) above, authorizing redemption of the Bonds to be refunded;

(8) for any Additional Bonds, an opinion or opinions of Bond Counsel to the effect that (A) the purpose of the Additional Bonds is one for which Additional Bonds may be issued under Indenture, (B) all conditions prescribed herein as precedent to the issuance of the Additional Bonds have been fulfilled, (C) the Additional Bonds have been validly authorized and executed and when authenticated and delivered pursuant to the request of the Issuer will be valid, legally binding, special obligations of the Issuer, and are entitled to the benefit and security of the Indenture, (D) all consents of any regulatory bodies required as a condition to the valid issuance

of the Additional Bonds have been obtained and (E) issuance of such Additional Bonds will not adversely affect the tax status of Outstanding Bonds;

(9) for any Additional Bonds, a certificate of an Authorized Representative of the College evidencing the College's Unrestricted Net Assets plus Temporarily Restricted Net Assets less Net Investment in Plant, all as shown on the College's most recent audited financial statements, will be at a level at least equal to one times (1.00x) its outstanding Indebtedness and proposed Indebtedness; and.

(10) for Additional Bonds described in Subsection (a)(1), (a)(2) or (a)(4) above, an opinion of Independent Counsel to the College reasonably acceptable to the Issuer. (Section 2.13)

### **Establishment of Funds and Accounts; Application of Series 2013 Bond Proceeds and Allocation Thereof**

In connection with the Series 2013 Bonds, the Indenture requires the establishment of the following trust funds and accounts with the Trustee: (i) the Project Fund within which there shall be two (2) accounts: (1) the Series 2013A Project Account and (2) the Series 2013B Project Account, (ii) the Bond Fund, within which there shall be two (2) accounts: (1) the Series 2013A Bond Account and (2) the Series 2013B Bond Account, (iii) the Renewal Fund, within which there shall be two (2) accounts: (1) the Series 2013A Renewal Account and (2) the Series 2013B Renewal Account, (iv) the Rebate Fund, within which there shall be two (2) accounts: (1) the Principal Account and (2) the Earnings Account and (v) the Earnings Fund, within which there shall be two (2) accounts: (1) the Series 2013A Earnings Account and (2) the Series 2013B Earnings Account. Upon the receipt of the proceeds of the Bonds, the Trustee shall deposit such proceeds as follows: (a) in the (1) Series 2013A Bond Account: all accrued interest, if any, paid by the purchaser of the Series 2013A Bonds and (2) Series 2013B Bond Account: all accrued interest, if any, paid by the purchaser of the Series 2013B Bonds and (b) in the (1) Series 2013A Project Account: the balance of the proceeds received from the sale of the Series 2013A Bonds and (2) Series 2013B Project Account: the balance of the proceeds received from the sale of the Series 2013B Bonds. (Section 4.01 and 4.02)

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

Moneys in the Project Fund shall be applied and expended by the Trustee in accordance with the Loan Agreement and the Indenture. The Trustee is authorized and directed to issue its checks or make wire transfers for each disbursement from the applicable account of the Project Fund upon being furnished certain documents required by the Indenture. If an Event of Default shall occur under the Indenture and the Outstanding principal amount of the Bonds shall be declared due and payable, the entire balance remaining in the applicable account of the Project Fund, after making any required transfer to the Rebate Fund, shall be transferred to the applicable account of the Bond Fund. (Section 4.04)

### **Payments into the Bond Fund; Use of Moneys in the Bond Fund**

The Trustee shall deposit into the Bond Fund: (i) the accrued interest, if any, on the Bonds as provided in the Indenture, (ii) any and all debt service payments received by the Trustee under the Loan Agreement, (iii) the balance of the Project Fund, the Renewal Fund, the Earnings Fund and the Rebate Fund to the extent specified in the Indenture, (iv) the amount of net income or gain received from investment of moneys in the Bond Fund and (v) all other moneys received by the Trustee pursuant to any of the provisions of the Loan Agreement or the Indenture which, by the terms of the Loan Agreement and

the Indenture are required to be or which are accompanied by directions that such moneys are to be paid into the Bond Fund. (Section 4.05)

So long as there remain any Bonds Outstanding, moneys in the Bond Fund shall be used solely for the payment, when due, of the Debt Service Payments on the Bonds or for the redemption of the Bonds as provided in the Indenture. (Section 4.06)

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

The Net Proceeds resulting from any casualty insurance proceeds or Condemnation award with respect to the Facility deposited or delivered to the Trustee pursuant to the Loan Agreement 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. The Trustee is authorized under the Indenture to apply the amounts in the Renewal Fund to the payment (or reimbursement to the extent the same have been paid by or on behalf of the College or the Issuer) of the costs required for the rebuilding, replacement, repair and restoration of the Facility upon written instructions from the College. The Trustee is further authorized and directed to issue its checks for each disbursement from the Renewal Fund upon a requisition submitted to the Trustee, signed by an Authorized Representative of the College. (Section 4.07)

#### **Payments Into Earnings Fund; Application of Earnings Fund**

All investment income or earnings on amounts held in the applicable accounts of Project Fund, the Renewal Fund, the Earnings Fund or any other special fund held with respect to the Bonds under any of the Financing Documents (other than the Rebate Fund or the Bond Fund) shall be deposited upon receipt by the Trustee into the applicable account of the Earnings Fund. Within thirty (30) days after the end of each Bond Year, or such later date that the Trustee receives the written certificate required to be delivered by or on behalf of the College pursuant to the Indenture and the Tax Compliance Agreement, the Trustee shall withdraw from the Series 2013A Earnings Account of the Earnings Fund an amount equal to the difference, if any, between the Rebate Amount set forth in such certificate and the amount then on deposit in the Rebate Fund. Any amounts remaining in the Series 2013A Earnings Account of the Earnings Fund following such transfer shall be transferred to the funds, as specifically directed by the College, which were the sources of the earnings deposited into the Series 2013A Earnings Account of the Earnings Fund. 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 applicable earnings account of the Earnings Fund, after making the transfer to the Rebate Fund required under the Tax Compliance Agreement and the Indenture with respect to the Series 2013A Bonds, shall be transferred to the applicable account of the Bond Fund and applied in accordance with the Indenture. (Section 4.08)

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

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, the Owner of any Series 2013A Bond or any other Person.

The Trustee, upon the receipt of a certification of the Rebate Amount from an Authorized Representative of the College, in accordance with the Tax Compliance Agreement, shall deposit in the Rebate Fund Principal Account within thirty (30) days after the end of each Bond Year, or such later date that the Trustee receives such certification from the College, an amount such that the amount held in the Rebate Fund Principal Account after such deposit is equal to the Rebate Amount calculated as of the last

day of the prior Bond Year. If there has been delivered to the Trustee a certification of the Rebate Amount in conjunction with the completion of the Series 2013A Facility pursuant to the Tax Compliance Agreement at any time during a Bond Year the Trustee shall deposit in the Rebate Fund Principal Account within thirty (30) days of the date of completion or restoration of the Series 2013A Facility, or such later date that the Trustee receives such certification from the College, an amount such that the amount held in the Rebate Fund Principal Account after such deposit is equal to the Rebate Amount calculated at the date of completion or restoration of the Series 2013A Facility. The amounts deposited in the Rebate Fund Principal Account pursuant to the Indenture shall be withdrawn from the Series 2013A Earnings Account of Earnings Fund, to the extent of any moneys therein, and then, to the extent of any deficiency, from such fund or funds as are designated by the College to the Issuer and the Trustee in writing.

In the event that on the first day of any Bond Year the amount on deposit in the Rebate Fund Principal Account exceeds the Rebate Amount, the Trustee, upon the receipt of written instructions from an Authorized Representative of the College, shall withdraw such excess amount and deposit it in the applicable account of the Bond Fund.

The Trustee, upon the receipt of written instructions from an Authorized Representative of the College, 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 (5<sup>th</sup>) Bond Year and after every fifth (5<sup>th</sup>) Bond Year thereafter, an amount equal to ninety percent (90%) of the balance, if any, in the Rebate Fund Principal Account and the total amount on the Rebate Fund Earnings Account as of the date of such payment and (ii) in accordance with the Indenture, not later than thirty (30) days after the date on which all Series 2013A Bonds have been paid in full, the balance in the Rebate Fund. (Section 4.09)

### **Investment of Moneys**

Moneys held in any fund established by the Indenture (other than the Bond Fund) shall be invested and reinvested by the Trustee in Authorized Investments, pursuant to direction by the Authorized Representative of the College. Moneys held in the Bond Fund shall be invested and reinvested, pursuant to direction by the Authorized Representative of the College, only in Governmental Obligations maturing as needed. (Section 4.11)

### **Payment to College Upon Payment of the Bonds**

Except as otherwise specifically provided in the Indenture, after payment in full of (1) the principal of, premium, if any, and interest on all the Bonds (or after provision for the payment thereof has been made in accordance with the Indenture), (2) the fees, charges and expenses of the Trustee and Paying Agent and (3) all other amounts required to be paid under the Indenture and the Loan Agreement, and provided that all moneys required to be paid into the Rebate Fund have been paid or adequately provided for, all amounts remaining in any fund established pursuant to the Indenture (except the Rebate Fund) or otherwise held by the Trustee and by any additional Paying Agent for the account of the Issuer or the College under the Indenture or the Loan Agreement shall be paid to the College. (Section 4.12)

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

In any case where a Bond Payment Date shall not be a Business Day, then payment of the principal of, premium, if any, and interest on the Bonds need not be made on such date but may 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 5.14)

## **Priority Rights of Trustee**

The rights and privileges of the College set forth in the Loan Agreement are specifically made subject and subordinate to the rights and privileges under the Financing Documents of the Trustee and the Holders of the Bonds. (Section 6.01)

## **Defeasance of Bonds**

Any Outstanding Bond 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, the Indenture if: (i) there shall have been irrevocably deposited with the Trustee sufficient Defeasance Obligations, in accordance with the Indenture, which will, without further investment, be sufficient, together with other amounts held for such payment, to pay the principal of the Bonds when due or to redeem the Bonds at the Redemption Price, if any, in accordance with the Indenture (ii) in the event such Bonds are to be redeemed prior to maturity in accordance with the Indenture, 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 shall have been duly given or provisions 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 Agents with respect to the Bonds, (iv) the Issuer shall have been reimbursed for all of its expenses under the Financing Documents and (v) all other payments required to be made under the Loan Agreement and the Indenture with respect to the Bonds shall have been made or provided for. At such time as a Bond shall be deemed to be paid, under the Indenture, as aforesaid, such Bond shall no longer be secured by or entitled to the benefit of the Indenture, except for the purposes of any such payment from such moneys or Defeasance Obligations.

For the purpose of the paragraph above, the Trustee shall be deemed to hold sufficient moneys to pay the principal of an Outstanding Bond not then due or to redeem Outstanding Bonds prior to the maturity thereof only if there shall be on deposit with the Trustee for such purpose Defeasance Obligations maturing or redeemable at the option of the holder thereof not later than (i) the maturity date of such Bonds, or (ii) the first date following the date on which such Bonds are to be redeemed pursuant to the Indenture (whichever may first occur), or both cash and such Defeasance Obligations, in an amount which, together with income to be earned on such Defeasance Obligations (without reinvestment) prior to such maturity date or Redemption Date, equals the principal due on such Bond, together with the premium, if any, due thereon and all interest thereon which has accrued and which will accrue to such maturity date or Redemption Date. In addition to the foregoing, the Issuer shall cause to be delivered to the Trustee, at the expense of the College, (i) a certificate or report from an Accountant verifying that the cash or Defeasance Obligations held by the Trustee meet the requirements under the Indenture, (ii) an escrow deposit or other similar agreement (“Escrow Agreement”), (iii) an Opinion of Counsel to the effect that the Series 2013 Bonds are no longer Outstanding under the Indenture and (iv) a certificate of discharge of the Trustee with respect to the Bonds.

Upon the defeasance of all Outstanding Bond in accordance with the Indenture, the Trustee shall hold in trust, for the benefit of the Holders of such Bonds, all such moneys and/or Defeasance Obligations and shall make no other or different investment of such moneys and/or Defeasance 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, and the terms “Event of Default” or “Default” shall mean, when they are used in the Indenture, any one or more of the following events:



(a) A default in the due and punctual payment of the interest on any Bond, irrespective of notice; or

(b) A default in the due and punctual payment of the principal or Redemption Price of any Bond, whether at the stated maturity thereof, upon proceedings for redemption thereof (except with respect to a proposed optional redemption as provided in the Indenture for which the notice of redemption shall no longer be of force or effect in accordance with the Indenture), or upon the maturity thereof by declaration or otherwise; or

(c) (i) Subject to clause (ii) below, the failure by the Issuer to observe and perform any covenant, condition or agreement under the Indenture on its part to be observed or performed (except obligations referred to in (a) and (b) above) for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Issuer and the College by the Trustee or by the Holders of not less than fifty-one percent (51%) of the aggregate principal amount of Outstanding Bonds;

(ii) If the covenant, condition, or agreement which the Issuer has failed to observe or perform is of such a nature that it cannot reasonably be fully cured within such thirty (30) days, the Issuer shall not be in default if the Issuer commences a cure within such thirty (30) days and thereafter diligently proceeds with all action required to complete the cure, and, in any event, completes such cure within sixty (60) days of such written notice from the Trustee or the Holders of not less than fifty-one percent (51%) of the aggregate principal amount of the Bonds Outstanding, unless the Trustee or the Holders of not less than fifty-one percent (51%) of the aggregate principal amount of the Outstanding Bonds shall give their written consent to a longer period; or

(d) The occurrence and continuance of an “Event of Default” under the Loan Agreement; or

(e) The occurrence and continuance of an “Event of Default” under the Pledge and Security Agreement. (Section 8.01)

### **Acceleration**

Upon the occurrence and continuance of an Event of Default under the Indenture, the Trustee may, and upon the written request of the Holders of not less than fifty-one percent (51%) of the aggregate principal amount of the Outstanding Bonds shall, by written notice delivered to the Issuer and the College declare all Bonds Outstanding immediately due and payable, and such Bonds shall become immediately due and payable, anything in the Bonds or in the Indenture to the contrary notwithstanding. (Section 8.02)

### **Enforcement of Remedies**

In the event the Bonds are declared immediately due and payable, the Trustee may, and upon the written request of the Holders as set forth in the Indenture shall, proceed forthwith to protect and enforce its rights and the rights of the Holders under the Act, the Bonds, the Indenture and the Loan Agreement by such suits, actions or proceedings as the Trustee, being advised by counsel, shall deem necessary or expedient. Upon the occurrence and continuance of any Event of Default, and upon being provided with the security and indemnity if so required pursuant to the Indenture, the Trustee shall exercise such of the rights and powers vested in the Trustee by the Indenture and use the same degree of care and skill in their exercise as a prudent man would exercise or use in the circumstances in the conduct of his own affairs.

The Trustee may sue for, enforce payment of and receive any amounts due or becoming due from the Issuer or the College for the payment of the principal, premium, if any, and interest on the Outstanding Bonds under any of the provisions of the Indenture, the Bonds or the Loan Agreement without prejudice to any other right or remedy of the Trustee or of the Holders.

Notwithstanding anything to the contrary contained in the foregoing paragraph, upon the occurrence and continuance of any Event of Default the Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the principal of, premium, if any, on and interest on the Bonds then Outstanding and to enforce and compel the performance of the duties and obligations of the Issuer and the College under the Financing Documents.

Regardless of the happening of an Event of Default, the Trustee, if requested in writing by the Holders of not less than fifty-one percent (51%) in the aggregate principal amount of the Outstanding Bonds may, and if provided with the security and indemnity required under the Indenture shall, institute and maintain such suits and proceedings as it may be advised by such Holders shall be necessary or expedient to prevent any impairment of the Trust Estate by any acts which may be unlawful or in violation of the Indenture or of any resolution authorizing the Bonds, or to preserve or protect the interests of the Holders, provided that such request is in accordance with law and the provisions of the Indenture and, in the sole judgment of the Trustee, is not unduly prejudicial to the interests of the Holders not making such request. (Section 8.03)

### **Application of Moneys**

The Net Proceeds received by the Trustee pursuant to any right given or action taken under the provisions of and in accordance with the Indenture shall be deposited in the Bond Fund in accordance with the Indenture.

All moneys in the Bond Fund following the occurrence of an Event of Default shall be applied to the payment of the reasonable fees and expenses of the Issuer and the Trustee and then:

(i) Unless the principal of all the 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 of interest, to the Persons entitled thereto without any discrimination or preference.

SECOND - To the payment of the unpaid principal or Redemption Price of any of the Bonds which shall have become due (other than 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.

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

(ii) If the principal of all the Bonds shall have become due by declaration or otherwise, to the payment of the principal and interest (at the rate or rates expressed thereon) then due and unpaid upon all of the 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 Bond, ratably according to the amounts due respectively for principal and interest, to the Persons entitled thereto without discrimination or preference.

(iii) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of the Indenture then, subject to the provisions of the Indenture, in the event that the principal of all the Bonds shall later become due by declaration or otherwise, the moneys shall be applied in accordance with the provisions of the Indenture. (Section 8.05)

### **Individual Holder Action Restricted**

No Holder of any Bond shall have any right to institute any suit, action, or proceeding in equity or law for the enforcement of the Indenture or for the execution of any trust under the Indenture or for any remedy under the Indenture unless:

(i) an Event of Default has occurred of which the Trustee has been notified as provided in the Indenture or of which under the Indenture the Trustee is deemed to have notice; and

(ii) the Holders of at least fifty-one percent (51%) in aggregate principal amount of Bonds Outstanding shall have made written request to the Trustee to proceed to exercise the powers granted in the Indenture or to institute such action, suit or proceeding in its own name; and

(iii) such Holders shall have offered the Trustee indemnity as provided in the Indenture; and

(iv) the Trustee shall have failed or refused to exercise the powers granted under the Indenture or to institute such action, suit or proceedings in its own name for a period of sixty (60) days after receipt by it of such request and offer of indemnity.

No one or more Holders of Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the security of the Indenture or to enforce any right thereunder except in the manner provided in the Indenture and for the equal benefit of the Owners of all Bonds Outstanding. (Section 8.09)

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

Without the consent of or notice to any of the Holders, 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:

(a) In connection with the issuance of Additional Bonds, to set forth such matters as are specifically required or permitted under the Indenture;

(b) To cure any ambiguity or formal defect or omission in the Indenture;

(c) To grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Holders or the Trustee;

- (d) To add to the covenants and agreements of the Issuer in the Indenture, other covenants and agreements to be observed by the Issuer;
- (e) To more precisely identify the Trust Estate;
- (f) To subject to the Lien of the Indenture additional revenue, receipts, Property or collateral;
- (g) To evidence the appointment of a successor Trustee;
- (h) To preserve the tax-exempt status of the Series 2013A Bonds;
- (i) In connection with the issuance by the Issuer of Parity Obligations (as defined in the Pledge and Security Agreement) in accordance with the Pledge and Security Agreement; or
- (j) To effect any other change in the Indenture which, in the judgment of the Trustee is not to the prejudice of the Trustee or the Holders. (Section 10.01)

### **Supplemental Indentures Requiring Consent of Holders**

Except as provided in the Indenture, the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Outstanding Bonds 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 Bonds; provided, however, that nothing contained in the Indenture shall permit: (i) a change in the terms of redemption or maturity of the principal or the time of payment of interest on any Outstanding Bond or a reduction in the principal amount of or premium, if any, on any Outstanding Bond or the rate of interest thereon, without the consent of the Holder of such Bond, 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 Holder of all Outstanding Bonds, or (iii) the creation of a preference or priority of any Bond or Bonds over any other Bond or Bonds, without the consent of the Holder of all Outstanding Bonds, or (iv) a reduction in the aggregate principal amount of the Bonds required for consent to such Supplemental Indenture, without the consent of the Holder of all Outstanding Bonds.

If at any time the Issuer shall request the Trustee to enter into a Supplemental Indenture for any of the purposes as provided in the Indenture, the Trustee, upon being satisfactorily indemnified with respect to expenses, shall cause notice to be given as set forth in the Indenture; provided, however, that the failure to give such notice or any defect therein shall not affect the validity of any proceeding taken pursuant to the Indenture.

If the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof, as provided by the Indenture, no Holder of any Bond 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. (Section 10.02)

### **Amendments to Loan Agreement**

Without the consent of or notice to the Holders, the Issuer and the College may enter into, and the Trustee may consent to, any amendment, change or modification of the Loan Agreement as may be required (i) by the provisions thereof or of the Indenture, (ii) for the purpose of curing any ambiguity or formal defect or omission therein, (iii) for the purpose of issuing Additional Bonds under the Indenture; (iv) in connection with the description of the Facility, (v) in order to preserve the tax-exempt status of the Series 2013A Bonds, (vi) in connection with the issuance of Parity Obligations (as defined in the Pledge and Security Agreement) in accordance with the Pledge and Security Agreement or (vii) in connection with any other change therein, which, in the sole judgment of the Trustee based on an opinion of Independent Counsel, does not adversely affect the interests of the Trustee or the Holders. Except for amendments, changes or modifications as provided in the Indenture, neither the Issuer nor the Trustee shall consent to any amendment, change or modification of the Loan Agreement without notice thereof being given to the Holders in the manner provided in the Indenture and the written approval or consent of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Outstanding Bonds 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 under the Indenture without the consent of the Holders of all Outstanding Bonds. (Section 11.01)

### **Amendments to Pledge and Security Agreement**

Without the consent of or notice to the Holders, the Issuer and the College may enter into, and the Trustee may consent to, any amendment, change or modification of the Pledge and Security Agreement as may be required (i) by the provisions thereof or of the Indenture, (ii) for the purpose of curing any ambiguity or formal defect or omission therein, (iii) for the purpose of issuing Additional Bonds under the Indenture, (iv) in connection with the description of the Facility, (v) in order to preserve the tax-exempt status of the Series 2013A Bonds, (vi) in connection with the issuance of Parity Obligations (as defined in the Pledge and Security Agreement) in accordance with the Pledge and Security Agreement or (vii) in connection with any other change therein, which, in the sole judgment of the Trustee based on an opinion of Independent Counsel, does not adversely affect the interests of the Trustee or the Holders. Except for amendments, changes or modifications as provided in the Indenture, neither the Issuer nor the Trustee shall consent to any amendment, change or modification of the Pledge and Security Agreement without notice thereof being given to the Holders in the manner provided in the Indenture and the written approval or consent of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Outstanding Bonds 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 Holders of all Outstanding Bonds. (Section 11.02)

### **Amendments to Tax Compliance Agreement**

Without the consent of or notice to the Holders of the Series 2013A Bonds, the Issuer and the College may enter into, and the Trustee may consent to, any amendment, change or modification of the Tax Compliance Agreement as may be required (i) by the provisions thereof or of the Indenture, (ii) for the purpose of curing any ambiguity or formal defect or omission therein, (iii) for the purpose of issuing Additional Bonds under the Indenture, (iv) in connection with the description of the Series 2013A Facility, (v) in order to preserve the tax-exempt status of the Series 2013A Bonds, or (vi) in connection with any other change therein, which, in the sole judgment of the Trustee based on an opinion of Independent Counsel, does not adversely affect the interests of the Trustee or the Holders of the Series 2013A Bonds. Except for amendments, changes or modifications as provided in the Indenture, neither the Issuer nor the Trustee shall consent to any amendment, change or modification of the Tax Compliance Agreement without notice thereof being given to the Holders of the Series 2013A Bonds in the manner

provided in the Indenture and the written approval or consent of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Outstanding Series 2013A Bonds 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 Holders of all Outstanding Series 2013A Bonds. (Section 11.03)

## APPENDIX E

### SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT AND PLEDGE AND ASSIGNMENT

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

*The following description of certain provisions of the Loan Agreement is only a brief outline of some of the provisions thereof, and does not purport to summarize or describe all of the provisions thereof. Reference is made to the Loan Agreement for details of the provisions thereof.*

All terms not otherwise defined below shall have the meaning given to such terms in Appendix C attached to the Official Statement.

#### **Completion by College**

The College unconditionally covenants and agrees under the Loan Agreement that, to the extent the Series 2013 Bond proceeds are insufficient to complete the Project (refund and pay in full the Prior Bonds and pay certain costs of issuance in connection with the Series 2013 Bonds), it will complete the Project, or cause the Project to be completed. In the event that moneys in the Project Fund are not sufficient to pay the costs of the Project, the College shall pay that portion of such costs of the Project as may be in excess of the moneys therefor in said Project Fund and shall not be entitled to any reimbursement therefor from the Issuer, the Trustee or the Holders of any of the Bonds (except from the proceeds of Additional Bonds which may be issued for that purpose), nor shall the College be entitled to any diminution of the debt service payments payable or other payments to be made under the Loan Agreement. (Section 2.2)

#### **Issuance of Series 2013 Bonds**

On the Closing Date, the Trustee shall deposit the proceeds of the Series 2013 Bonds in the Project Fund (i) upon receipt of the Series 2013 Bonds and (ii) subject to the terms and conditions of the Indenture. Additional Bonds may be issued and purchased from time to time, as set forth in the Indenture on a pari passu basis with the Series 2013 Bonds. Each series of Additional Bonds shall be issued only for the purpose provided in the Supplemental Indenture executed in connection therewith.

The Issuer agrees to loan the proceeds of the Series 2013 Bonds to the College and the College agrees to pay to the Trustee the principal of and interest on the Series 2013 Bonds and all other amounts due under the Loan Agreement in accordance with the terms of the Loan Agreement, the Indenture and the Series 2013 Bonds. (Section 3.1)

#### **Payment Provisions; Pledge of Loan Agreement**

The College covenants to make debt service payments for and in respect of the Series 2013 Bonds pursuant to the Loan Agreement, which the Issuer agrees shall be paid by the College directly to the Trustee on each Bond Payment Date for deposit in the Bond Fund in an amount equal to the sum of (i) with respect to interest due and payable on the Series 2013 Bonds, an amount equal to the interest next becoming due and payable on the Series 2013 Bonds on the immediately succeeding Interest Payment Date (less any amount available in the Project Fund for transfer to the Bond Fund), (ii) the principal amount of the Bonds then Outstanding which will become due on the immediately succeeding Interest Payment Date (whether at maturity or by redemption or acceleration as provided in the Indenture), and

(iii) the principal of and redemption premium, if any, including sinking fund installments, on the Bonds to be redeemed which will become due on the immediately succeeding redemption date together with accrued interest to the date of redemption.

In addition, the College shall pay, as an additional payment, within fifteen (15) days after receipt of an invoice setting forth the nature and payee of each such expense and demand for payment therefor, the expenses payable by the Issuer to the Trustee pursuant to and under the Indenture (Section 3.2)

### **Obligation of College Unconditional**

The obligations of the College to pay debt service payments and all other payments provided for in the Loan Agreement and to maintain the Facility in accordance with the Loan Agreement constitute a general obligation of the College and shall be absolute and unconditional, irrespective of any defense or any rights of set-off, recoupment or counterclaim or deduction and without any rights of suspension, deferment, diminution or reduction it might otherwise have against the Issuer, the Trustee or the Holder of any Series 2013 Bond and the obligation of the College shall arise whether or not the Project has been completed as provided in the Loan Agreement. (Section 3.3)

### **Alterations and Improvements**

During the term of the Loan Agreement, the College will keep the Facility in good and safe operating order and condition, ordinary wear and tear excepted, will occupy, use and operate the Facility in the manner for which it was designed and intended and contemplated by the Loan Agreement, and will make all replacements, renewals and repairs thereto (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen).

The College shall not create, permit or suffer to exist any mortgage, encumbrance, lien, security interest, claim or charge against the Facility or any part thereof, or the interest of the College in the Facility, or the Loan Agreement except for Permitted Encumbrances. (Section 4.1)

### **Taxes, Assessments and Charges**

The College shall pay, when the same shall become due, all taxes and assessments, general and specific, if any, levied and assessed upon or against the Facility, any estate or interest of the College in the Facility, or the payments under the Loan Agreement during the term of the Loan Agreement and all water and sewer charges, special district charges, assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen, ordinary or extraordinary, under any present or future law, and charges for public or private utilities or other charges incurred in the occupancy, use, operation, maintenance or upkeep of the Facility. (Section 4.3)

### **Insurance**

At all times throughout the term of the Loan Agreement including, without limitation, during any period of construction or renovation of the Facility, the College, in accordance with the Loan Agreement, shall maintain insurance with insurance companies licensed to do business in the State (or authorized in the State under the Federal Liability Risk Retention Act), against such risks, loss, damage and liability (including liability to third parties) and for such amounts as are customarily insured against by other enterprises of like size and type as that of the College. (Section 4.4)



## **Damage, Destruction and Condemnation**

In the event that at any time during the term of the Loan Agreement, the whole or part of the Facility shall be damaged or destroyed, or the whole or any part of the Facility shall be taken or condemned by a competent authority for any public use or purpose, or by agreement between the Issuer and those authorized to exercise such right, or if the temporary use of the Facility or any part thereof shall be so taken by condemnation or agreement (a "Loss Event"): (i) the Issuer shall have no obligation to rebuild, replace, repair or restore the Facility, (ii) there shall be no abatement, postponement or reduction in the debt service payments or other amounts payable by the College under the Loan Agreement, and (iii) the College will promptly give written notice of such Loss Event to the Issuer and the Trustee, generally describing the nature and extent thereof.

Upon the occurrence of a Loss Event, any Net Proceeds derived therefrom shall be paid to the College and the College shall either: (i) at its own cost and expense (except to the extent paid from the Net Proceeds deposited in the Renewal Fund as provided in the Loan Agreement and the Indenture), promptly and diligently rebuild, replace, repair or restore the Facility to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent value, operating efficiency and function, regardless of whether or not the Net Proceeds derived from the Loss Event shall be sufficient to pay the cost thereof, and the College shall not, by reason of payment of any such excess costs, be entitled to any reimbursement from the Issuer, the Trustee or any Bondholder, nor shall the debt service payments or other amounts payable by the College under the Loan Agreement be abated, postponed or reduced, or (ii) if, to the extent and upon the conditions permitted to do so under the Loan Agreement and under the Indenture, exercise its option to make advance debt service payments to redeem the Series 2013 Bonds in whole; provided, however, that, any Net Proceeds derived from a Loss Event affecting the Facility shall be paid to the Trustee and deposited in the Renewal Fund and the College shall elect to comply with either clause (i) or clause (ii) above.

Notwithstanding the foregoing, if all or substantially all of the Facility shall be taken or condemned, or if the taking or condemnation renders the Facility unsuitable for use by the College as contemplated by the Loan Agreement, the College shall exercise its option to terminate the Loan Agreement pursuant to the Loan Agreement, and the amount of the Net Proceeds so recovered shall be transferred from the Renewal Fund and deposited in the Bond Fund, and the College shall thereupon pay to the Trustee for deposit in the Bond Fund an amount which, when added to any amounts then in the Bond Fund and available for that purpose, shall be sufficient to retire and redeem the Series 2013 Bonds in whole at the earliest possible date (including, without limitation, principal and interest to the maturity or redemption date and redemption premium, if any), and to pay the expenses of redemption, the fees and expenses of the Issuer, the Bond Registrar, the Trustee and the Paying Agent, together with all other amounts due under the Indenture and under the Loan Agreement, and such amount shall be applied, together with such other available moneys in such Bond Fund, if applicable, to such redemption or retirement of the Bonds on said redemption or maturity date.

The College shall be entitled to any insurance proceeds or condemnation award, compensation or damages attributable to improvements, machinery, equipment or other property installed on or about the Facility but which, at the time of such damage or taking, is not part of the Facility and is owned by the College. (Section 5.1)

## **Restrictions on College**

The College agrees that at all times during the term of the Loan Agreement it will (i) maintain its existence, (ii) continue to be a not-for-profit corporation and a Tax-Exempt Organization subject to service of process in the State and either organized under the laws of the State, or organized under the laws of any other state of the United States and duly qualified to do business in the State, (iii) not, unless

otherwise permitted by the terms of the Loan Agreement, sell, transfer, pledge or otherwise encumber all or substantially all of the assets which constitute the Series 2013A Facility; and (iv) not, unless otherwise permitted by the terms of the Loan Agreement, liquidate, wind-up or dissolve or otherwise dispose of all or substantially all of its property, business or assets remaining after the execution and delivery of the Loan Agreement. (Section 6.1)

### **Indemnity**

The College shall at all times protect and hold the Issuer, the Trustee, the Bond Registrar and the Paying Agent, and any of their respective directors, members, officers, employees, servants or agents (excluding for this purpose the College, which is not obligated by the Loan Agreement to indemnify its own employees or affiliate individuals) or any of such Persons and persons under the control or supervision of any of such Persons (collectively, the “Indemnified Parties”) harmless of, from and against any and all claims (whether in tort, contract or otherwise), taxes (of any kind and by whomsoever imposed), demands, penalties, fines, liabilities, lawsuits, actions, proceedings, settlements, costs and expenses (collectively, “Claims”) of any kind for losses, damage, injury and liability (collectively, “Liability”) of every kind and nature and however caused (except, with respect to any Indemnified Party, Liability arising from the gross negligence or willful misconduct of such Indemnified Party), arising during the period commencing from the date the Issuer adopted the inducement resolution for the Project, and continuing throughout the term of the Loan Agreement and for the relevant statute of limitations thereafter for any Claim arising during such term (subject to the Loan Agreement), upon or about the Facility or resulting from, arising out of, or in any way connected with the events described in the Loan Agreement. (Section 6.2)

### **Notice by the College**

The College shall promptly notify the Issuer and the Trustee of the occurrence of any Event of Default or any event which with notice and/or lapse of time would constitute an Event of Default under any Financing Document of which it has knowledge. Any notice required to be given pursuant to this subsection shall be signed by an Authorized Representative of the College 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 College shall state this fact on the notice. (Section 6.6)

### **Expendable Resources Ratio**

(a) The College covenants to maintain during each Fiscal Year Unrestricted Net Assets plus Temporarily Restricted Net Assets less Net Investment in Plant at a level at least equal to one times (1.00x) its outstanding Indebtedness, commencing with the Fiscal Year ending on June 30, 2014. Notwithstanding the preceding sentence, the Expendable Resources ratio requirement shall be deemed satisfied if on or prior to each Reporting Date commencing with the Fiscal Year ending on June 30, 2016, the College shall file with the Trustee a certificate of an Authorized Representative of the College stating whether at any of the two (2) out of the three (3) immediately preceding Testing Dates the Expendable Resources ratio requirement was satisfied and setting forth the calculations upon which such statement is based.

(b) If the College fails to comply with the Expendable Resources ratio requirement in any two (2) out of the three (3) immediately preceding Testing Dates, the College within ninety (90) days of the Reporting Date will prepare a preliminary report making recommendations with respect to its rates, operations, management and other matters as will enable the College to comply with such covenants within a reasonable period. Such report will be reviewed by the Board of Trustees within sixty (60) days of receipt of such report and will issue a final report setting forth in reasonable detail the steps the

College proposes to take in response to the preliminary report. The College shall deliver to the Issuer and the Trustee within forty-five (45) days of completion a copy of the final report.

(c) If the College fails to comply with the Expendable Resources ratio requirement in any three (3) out of the four (4) immediately preceding Testing Dates, the College shall engage within sixty (60) days of the Reporting Date related to such failure, at the College's expense, a Management Consultant to review the rates, operations and management of the College and any other matter deemed appropriate and to make such recommendations with respect to such rates, operations, management and other matters as will enable the College to comply with such covenants within a reasonable period. The College shall immediately notify an Authorized Representative of the Issuer and the Trustee of such engagement.

(d) Whenever a Management Consultant is required to be engaged by the College pursuant to the Loan Agreement, copies of the report and recommendations of such Management Consultant shall be filed with the Issuer, the Trustee, the Board of Trustees of the College and an Authorized Representative of the College no later than one hundred twenty (120) days following the date of the engagement of such Management Consultant. The College shall, to the extent feasible and in its discretion, promptly upon its receipt of such recommendations, and subject to applicable requirements or restrictions imposed by law, regulation or College contractual agreements, revise its tuition, fees and charges, its methods of operation or collections or its debt and investment management and shall take such other action in response to such recommendations. The College shall deliver to the Issuer and the Trustee within forty-five (45) days of receipt of such Management Consultant's report:

(i) a report setting forth in reasonable detail the steps the College proposes to take in response to the recommendations of such Management Consultant; and

(ii) a certified copy of a resolution adopted by the Board of Trustees of the College accepting both the Management Consultant's report and the report prepared by the College as required in subsection (i) hereof; and

(iii) The College shall thereafter provide semiannual reports demonstrating the progress made by the College in response to the recommendations of the Management Consultant.

(e) If the College complies in all material respects with procedures set forth in subsections (b) through (d) above, the College will be deemed to have complied with the Expendable Resources ratio requirement.

(f) At such time as the College is back in actual compliance with the Expendable Resources ratio requirement, the provisions requiring semiannual reports under subsection (d)(iii) above shall no longer apply. (Section 6.20)

### **Additional Indebtedness**

The College may issue, incur or assume Indebtedness, provided (1) such Indebtedness refunds or refinances all or a portion of any Indebtedness then outstanding or (2) the College provides to the Trustee a certificate of an Authorized Representative of the College evidencing the College's Unrestricted Net Assets plus Temporarily Restricted Net Assets less Net Investment in Plant, all as shown on the College's most recent audited financial statements, will be at a level at least equal to one times (1.00x) its outstanding Indebtedness and proposed Indebtedness. (Section 6.21)

## **Negative Pledge**

The College covenants under the Loan Agreement that it shall not create or suffer to be created or exist upon any portion of the Facility, any Lien, other than Permitted Encumbrances. (Section 6.23)

## **Events of Default**

Any one or more of the following events shall constitute an “Event of Default” under the Loan Agreement: (a) failure of the College to pay any debt service payment that has become due and payable by the terms of the Loan Agreement which results in a default in the due and punctual payment of the principal of, redemption premium, if any, or interest on any Bond; (b) failure of the College to pay any amount (except as set forth in the Loan Agreement) that has become due and payable or to observe and perform any covenant, condition or agreement on its part to be performed under the Loan Agreement, and continuance of such failure for a period of thirty (30) days after receipt by the College of written notice from the Issuer, the Trustee, or the Holders of more than twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding, specifying the nature of such default; (c) failure of the College to observe and perform any covenant, condition or agreement under the Loan Agreement on its part to be performed (except as set forth in the Loan Agreement) and (1) continuance of such failure for a period of thirty (30) days after receipt by the College of written notice specifying the nature of such default from the Issuer, the Trustee, or the Holders of more than twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding, or (2) if by reason of the nature of such default the same can be remedied, but not within the said thirty (30) days, and the College fails to proceed with reasonable diligence after receipt of said notice to cure the same or fails to continue, with reasonable diligence, its efforts to cure the same; (d) the College shall: (i) apply for or consent to the appointment of or the taking of possession by a receiver, liquidator, custodian or trustee of itself or of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts generally become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the federal Bankruptcy Code (as now or in effect after the date of the Loan Agreement), (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vi) take any action for the purpose of effecting any of the foregoing, or (vii) be adjudicated a bankrupt or insolvent by any court; (e) a proceeding or case shall be commenced, without the application or consent of the College, in any court of competent jurisdiction, seeking, (i) liquidation, reorganization, dissolution, winding-up or composition or adjustment of debts, (ii) the appointment of a trustee, receiver, liquidator, custodian or the like of the College or of all or any substantial part of its assets, (iii) similar relief under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing against the College shall be entered and continue unstayed and in effect, for a period of ninety (90) days or (iv) the College shall fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under such Bankruptcy Code; the terms “dissolution” or “liquidation” of the College as used above shall not be construed to prohibit any action otherwise permitted by the Loan Agreement; (f) any representation or warranty made (i) by or on behalf of the College in the application and related materials submitted to the Issuer or the initial purchaser(s) of the Series 2013 Bonds for approval of the Project or its financing, or (ii) by the College in the Loan Agreement or in any of the other Financing Documents or (iii) in the Bond Purchase Agreement, or (iv) in the Tax Compliance Agreement, or (v) in any report, certificate, financial statement or other instrument furnished pursuant to the Loan Agreement or any of the foregoing shall prove to be false, misleading or incorrect in any material respect as of the date made; (g) an “Event of Default” caused by the College under the Indenture or under any other Financing Document shall occur and be continuing or (h) failure of the College to observe, perform or maintain any of the covenants under Section 6.20, 6.21 and 6.23 under the Loan Agreement. (Section 7.1)

## Remedies on Default

Whenever any Event of Default referred to in the Loan Agreement shall have occurred and be continuing, the Issuer, or the Trustee where so provided, may take any one or more of the following remedial steps:

(a) the Trustee, as and to the extent provided in the Indenture, may cause all principal installments of debt service payments payable under the Loan Agreement for the remainder of the term of the Loan Agreement to be immediately due and payable, whereupon the same, together with the accrued interest thereon, shall become immediately due and payable; *provided, however*, that, upon the occurrence of an Event of Default as provided in the Loan Agreement, all principal installments of debt service payments payable under the Loan Agreement for the remainder of the term of the Loan Agreement, together with the accrued interest thereon, shall immediately become due and payable without any declaration, notice or other action of the Issuer, the Trustee, the Holders of the Bonds or any other Person being a condition to such acceleration;

(b) the Issuer, with the prior written consent of the Trustee, may terminate this Loan Agreement. No such termination of the Loan Agreement shall relieve the College of its liability and obligations under the Loan Agreement and such liability and obligations shall survive any such termination;

(c) the Issuer or the Trustee may take whatever action at law or in equity as may appear necessary or desirable to collect the debt service payments then due and thereafter to become due, or to enforce performance or observance of any obligations, agreements or covenants of the College under the Loan Agreement;

(d) the Trustee may take any action permitted under the Indenture or the Pledge and Security Agreement with respect to an Event of Default thereunder; and

(e) the Issuer, without the consent of the Trustee or any Bondholder, may proceed to enforce its Reserved Rights by bringing an action for damages, injunction or specific performance and the College under the Loan Agreement appoints the Issuer its true and lawful agent and attorney-in-fact (which appointment shall be deemed to be an agency coupled with an interest) with full power of substitution to file on its behalf all affidavits, questionnaires and other documentation necessary to accomplish such conveyance.

In the event that the College fails to make any debt service or other payment required in the Loan Agreement, the installment so in default shall continue as an obligation of the College until the amount in default shall have been fully paid. (Section 7.2)

## Remedies Cumulative

The rights and remedies of the Issuer or the Trustee under the Loan Agreement shall be cumulative and shall not exclude any other rights and remedies of the Issuer or the Trustee allowed by law with respect to any default under the Loan Agreement. (Section 7.4)

## Options

The College has the option to make advance debt service payments for the deposit in the Bond Fund to effect the retirement of the Bonds in whole or the redemption in whole or in part of the Bonds, all in accordance with the terms of the Indenture; *provided, however*, that, no partial redemption of the

Bonds may be effected through advance debt service payments under the Loan Agreement if there shall exist and be continuing an Event of Default.

The College shall have the option to terminate the Loan Agreement on any date during the term of the Loan Agreement by causing the redemption, purchase or defeasance in whole of all Outstanding Bonds in accordance with the terms set forth in the Indenture. (Section 8.1)

### **Termination of Loan Agreement**

After full payment of the Bonds or provision for the payment in full thereof having been made in accordance with the Indenture and the payment of the fees and expenses of the Issuer, the Trustee, the Bond Registrar, and the Paying Agent and all other amounts due and payable under the Loan Agreement or the Indenture, together with any amounts required to be rebated to the federal government pursuant to the Indenture or the Tax Compliance Agreement, the Loan Agreement shall terminate, subject, however, to the survival of the obligations of the College under the Loan Agreement. (Section 8.4)

### **Assignment**

The College may not at any time, except as otherwise permitted pursuant to the Loan Agreement, assign or transfer the Loan Agreement, without the prior written consent of the Issuer, and the Trustee (which consents shall not be unreasonably withheld); provided, further, that, (1) the College shall nevertheless remain liable to the Issuer for the payment of all debt service payments and for the full performance of all of the terms, covenants and conditions of the Loan Agreement and of any other Financing Document to which it shall be a party, (2) any assignee or transferee of the College in whole of the Facility shall have assumed in writing and have agreed to keep and perform all of the terms of the Loan Agreement on the part of the College to be kept and performed, shall be jointly and severally liable with the College for the performance thereof, shall be subject to service of process in the State, and, if a corporation, shall be qualified to do business in the State, (3) in the Opinion of Counsel addressed to the Issuer and Trustee, such assignment or transfer shall not legally impair in any respect the obligations of the College for the payment of all debt service payments nor for the full performance of all of the terms, covenants and conditions of the Loan Agreement or of any other Financing Document to which the College shall be a party, nor impair or limit in any respect the obligations of any obligor under any other Financing Document, (4) any assignee or transferee shall be a Tax-Exempt Organization or, if not a Tax-Exempt Organization, upon receipt of an opinion of Bond Counsel addressed to the Issuer and the Trustee as to the non-includability in gross income of interest on the Series 2013A Bonds for purposes of federal income taxation, and shall utilize the Facility in compliance with the Act, (5) such assignment or transfer shall not violate any provision of the Loan Agreement, the Indenture or any other Financing Document, (6) such assignment or transfer shall in no way diminish or impair the College's obligation to carry the insurance required under the Loan Agreement and the College shall furnish written evidence satisfactory to the Issuer and the Trustee that such insurance coverage shall in no manner be limited by reason of such assignment or transfer, (7) each such assignment or transfer contains such other provisions as the Issuer or the Trustee may reasonably require, and (8) in the opinion of Bond Counsel, such assignment or transfer shall not cause the interest on the Series 2013A Bonds to be includable on gross income for federal income taxes. The College shall furnish or cause to be furnished to the Issuer and the Trustee a copy of any such assignment or transfer in substantially final form at least thirty (30) days prior to the date of execution thereof. (Section 9.3)

**Amendments**

In accordance with the terms thereof, the Loan Agreement may be amended only with the concurring written consent of the Trustee given in accordance with the provisions of the Indenture. (Section 9.6)

**Inspection of Facility**

The College will permit the Trustee, or its duly authorized agents, at all reasonable times during normal business hours upon written notice to enter upon the Facility and to examine and inspect the Facility and exercise their rights under the Loan Agreement, under the Indenture and under the other Financing Documents with respect to the Facility. (Section 9.10)

## **SUMMARY OF CERTAIN PROVISIONS OF THE PLEDGE AND ASSIGNMENT**

*The following description of the Pledge and Assignment is only a brief outline thereof, and does not purport to summarize or describe all of the provisions thereof. Reference is made to the Pledge and Assignment for details of the provisions thereof.*

All terms not otherwise defined below shall have the meaning given to such terms in Appendix C attached to the Official Statement.

Pursuant to the Pledge and Assignment, the Issuer will grant to the Trustee a lien on and security interest in, and pledge, assign, transfer and set over to the Trustee all of the Issuer's right, title and interest in any and all moneys due or to become due to the Issuer and any and all other rights and remedies of the Issuer under or arising out of the Loan Agreement (except for Reserved Rights).



## APPENDIX F

### SUMMARY OF CERTAIN PROVISIONS OF THE PLEDGE AND SECURITY AGREEMENT

*The following description of certain provisions of the Pledge and Security Agreement is only a brief outline of some of the provisions thereof, and does not purport to summarize or describe all of the provisions thereof. Reference is made to the Pledge and Security Agreement for details of the provisions thereof.*

All terms not otherwise defined below or in the Pledge and Security Agreement shall have the meaning given to such terms in Appendix C attached to the Official Statement.

#### **Representations and Warranties of the College**

The Pledge and Security Agreement is effective to create, in favor of the Trustee, legal, valid and enforceable liens on and security interests in the Pledged Revenues and all necessary and appropriate filings having been duly effected in all appropriate public offices so that the liens and security interests created by the Pledge and Security Agreement will constitute perfected liens on and security interests in the Pledged Revenues on a *pari passu* basis with the Series 2008 Revenue Pledge, the Series 2011 Revenue Pledge and Parity Obligations as provided in the Pledge and Security Agreement. (Section 2.1)

#### **Pledge of the Pledged Revenues; Use Prior to Event of Default**

As security for the obligations of the College under the Loan Agreement and for the College's obligation with respect to the Series 2013 Bonds issued under the Indenture, the College, pursuant to the Pledge and Security Agreement, pledges, assigns, hypothecates, transfers and delivers to the Trustee, and grants to the Trustee a security interest in, all right, title and interest, whether now owned or at any time acquired after the date of the Pledge and Security Agreement, of the College in and to the Pledged Revenues. So long as no Event of Default shall have occurred and be continuing, and except as otherwise provided in the Pledge and Security Agreement, nothing contained in the Pledge and Security Agreement shall be deemed to preclude the College from possessing, and consistent with its past practices, using and disposing of the Pledged Revenues in the ordinary course of its corporate purposes. (Section 3.1)

#### **Financing Statements**

The Trustee is authorized on behalf of the College and itself to complete one or more financing statements, including continuation statements with respect to any Pledged Revenues covered by the Pledge and Security Agreement and to file the same in any appropriate office or place to the extent permitted by law. The College agrees to deposit all of its Pledged Revenues, as and when received, into one or more deposit accounts and/or securities accounts with one or more banks or other financial institutions selected by the College (each, an "Account"). The College shall apply the monies comprising Pledged Revenues in the Accounts to the making of Debt Service Payments on the Series 2013 Bonds as they become due and payable, and may withdraw monies from the Accounts for any lawful purpose. The College shall provide to the Trustee a statement identifying the name and number of any fund or account established by the College with any banking, trust or other financial institution pursuant to the Pledge and Security Agreement. (Section 3.4)

#### **No Set-Off by the College**

No set-off, counterclaim, reduction or diminution of an obligation, or any defense of any kind or nature (other than full performance by the College of the obligations under the Pledge and Security Agreement) which the College has or may have against the Trustee or any other Person, shall be available

under the Pledge and Security Agreement to the College with respect to a claim under the Pledge and Security Agreement. The College acknowledges that no oral or other agreements, understandings, representations or warranties exist with respect to the Pledge and Security Agreement or with respect to the obligations of the College under the Pledge and Security Agreement, except as specifically set forth in the Pledge and Security Agreement. (Section 3.6)

### **Parity Obligations**

The College may issue, incur or assume Indebtedness secured by a Lien on Pledged Revenues, which in the event of any default and acceleration or claim on the Pledged Revenues is pari passu with the Lien on the Pledged Revenues granted by this Pledge and Security Agreement, the Series 2008 Revenue Pledge and the Series 2011 Revenue Pledge, provided (1) such Indebtedness refunds or refinances all or a portion of any Indebtedness then outstanding or (2) the College provides to the Trustee a certificate of an Authorized Representative of the College evidencing the College's Unrestricted Net Assets plus Temporarily Restricted Net Assets less Net Investment in Plant, all as shown on the College's most recent audited financial statements, will be at a level at least equal to one times (1.00x) its outstanding Indebtedness and proposed Indebtedness. All Parity Obligations will also constitute additional Indebtedness under the Loan Agreement. (Section 3.8)

### **Events of Default Defined**

An "Event of Default" shall exist if any of the following occurs:

**COVENANTS FOR THE PAYMENT OF MONEY** - the College fails to perform or observe any covenant for the payment of money contained in the Pledge and Security Agreement within ten (10) days of demand, after written notice with respect thereto is given by the Trustee to the College;

**WARRANTIES OR REPRESENTATIONS** - any warranty, representation or other statement by or on behalf of the College contained in the Pledge and Security Agreement is false or misleading in any material respect when made;

**INVOLUNTARY BANKRUPTCY PROCEEDINGS** - a receiver, liquidator or trustee of the College or of any of its Property is appointed by court order, and such order remains in effect for more than sixty (60) days; or the College is adjudicated bankrupt or insolvent; or any of the Property of the College is sequestered by court order and such order remains in effect for more than sixty (60) days; or a petition is filed against the College under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or after the Pledge and Security Agreement is in effect, and is not dismissed within sixty (60) days after such filing;

**VOLUNTARY PETITIONS** - the College files a petition in voluntary bankruptcy or seeks relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or after the Pledge and Security Agreement is in effect, or consents to the filing of any petition against it under such law;

**ASSIGNMENTS FOR BENEFIT OF CREDITORS** - the College shall generally not pay its debts as such debts become due or admits in writing its inability to pay its debts generally as they become due, or consents to the appointment of a receiver, trustee or liquidator of all or any part of its Property; or

**DEFAULTS UNDER FINANCING DOCUMENTS** - the occurrence and continuation of an "Event of Default" under any of the other Financing Documents. (Section 4.1)

## **Remedies on Default**

If an Event of Default shall occur and be continuing, the Trustee, on behalf of the Bondholders, may exercise, in addition to all other rights and remedies granted to them in the Pledge and Security Agreement, and in any other instrument or agreement securing, evidencing or relating to the Series 2013 Bonds, all rights and remedies of a secured party under the Commercial Code. Without limiting the generality of the foregoing, the Trustee without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to in the Pledge and Security Agreement) to or upon the College or any other Person (all and each of which demands, defenses, advertisements and notices are waived under the Pledge and Security Agreement), may in such circumstances forthwith, collect, receive, appropriate and realize upon the Pledged Revenues, or any part thereof. The Trustee shall apply the net proceeds of any such collection, recovery, receipt, appropriation, realization or sale, after deducting all reasonable costs and expenses of every kind incurred therein or incidental to the care or safekeeping of any of the Pledged Revenues or in any way relating to the Pledged Revenues or the rights of the Trustee under the Pledge and Security Agreement, respectively, including, without limitation, reasonable attorneys' fees and disbursements, to the payment in whole or in part of amounts owed under the Series 2013 Bonds, in such order as the Trustee may elect, and only after such application and after the payment by the Trustee of any other amount required by any provision of law, including, without limitation, Section 9-615 the Commercial Code, need the Trustee account for the surplus, if any, to the College. To the maximum extent permitted by applicable law, the College waives all claims, damages and demands it may acquire against the Trustee arising out of the exercise of any rights under the Pledge and Security Agreement. If any notice of a proposed sale or other disposition of Pledged Revenues shall be required by law, such notice shall be deemed reasonable and proper if given at least 10 days before such sale or other disposition. The College shall remain liable for any deficiency if the proceeds of any sale of the Pledged Revenues are insufficient to pay amounts owed with respect to the Series 2013 Bonds and the reasonable fees and disbursements of any attorneys employed by the Trustee to collect such deficiency.

If an Event of Default shall have occurred and be continuing, the Trustee shall have the right (1) to notify or to require the College to notify Persons obligated on any instruments, accounts, or contracts which are part of the Pledged Revenues to make payment thereof directly to the Trustee, or as the Trustee shall direct, (2) to collect and enforce any such accounts and contracts, and (3) to compromise, settle or otherwise agree to waive, amend or modify the obligation of any account debtors or obligors under such accounts and contracts. Subject to the provisions of the Financing Documents, until such time as the Trustee elects to exercise such rights, the College, as the agent of the Trustee, shall collect and enforce all such contracts and accounts. The cost of such collection and enforcement, including attorneys' fees and expenses, shall be borne by the College, whether the same is incurred by the Trustee or the College.

If an Event of Default exists and continues the Trustee may proceed to enforce the provisions of the Pledge and Security Agreement and to exercise any other rights, powers and remedies available to it. The Trustee, in its sole discretion, shall have the right to proceed first and directly against the College under the Pledge and Security Agreement without proceeding against or exhausting any other remedies which it may have and without resorting to any other security held by the Issuer or the Trustee.

Each and every Event of Default under the Pledge and Security Agreement shall give rise to a separate cause of action under the Pledge and Security Agreement, and separate suits may be brought under the Pledge and Security Agreement by the Trustee as each cause of action arises.

The Trustee may pursue its rights and remedies under the Pledge and Security Agreement notwithstanding (1) any guaranty of or other security for the Series 2013 Bonds, and (2) any action taken

or omitted to be taken by the Trustee or any other Person to enforce any of the rights or remedies under such guaranty or with respect to any other security.

The foregoing rights and powers of the Trustee shall be in addition to, and not a limitation upon, any rights and powers of the Trustee given by law, by any other provisions of the Pledge and Security Agreement, by the other Financing Documents or otherwise. (Section 4.2)

### **Proceeds**

In accordance with the Pledge and Security Agreement, if an Event of Default shall occur and be continuing, (A) all Pledged Revenues received by the College consisting of cash, checks and other near-cash items shall be paid to the Trustee for application in accordance with the terms of the Financing Documents and otherwise shall be held by the College in trust for the Trustee, segregated from other funds of the College, and shall, forthwith upon receipt by the College, be turned over to the Trustee in the exact form received by the College (duly indorsed by the College to the Trustee, if required), and (B) any and all such Pledged Revenues received by the Trustee (whether from the College or otherwise) may, in the sole discretion of the Trustee, as applicable, be held by the Trustee for application against amounts owed to it and/or then or at any time thereafter may be applied by the Trustee against the Series 2013 Bonds (whether matured or unmatured), such application to be in such order as the Trustee shall elect. Any balance of such Pledged Revenues remaining after all amounts owed to the Trustee and on the Series 2013 Bonds shall have been paid in full and the Financing Documents shall have been terminated shall be paid over to the College or to whomsoever may be lawfully entitled to receive the same. (Section 4.3)

### **Appointment of Security Agent; Establishment of Revenue Fund**

As security for the prompt and complete payment of all amounts payable to the Trustee and payment when due (whether at the stated maturity, by acceleration or otherwise) of the Series 2013 Bonds, the College, pursuant to the Pledge and Security Agreement, agrees as follows:

The Trustee, pursuant to the Pledge and Security Agreement, is appointed by the College as security agent, and Trustee agrees to act as such and to accept all cash, other amounts, instruments, securities and investments to be delivered to or held by the Trustee pursuant to the terms of the Pledge and Security Agreement.

The following special, segregated and irrevocable cash collateral account is, pursuant to the Pledge and Security Agreement, established by the Trustee, which shall be maintained at all times until the termination of the Pledge and Security Agreement: the Revenue Fund. All moneys, investments and securities at any time on deposit in the Revenue Fund shall constitute trust funds to be held in the custody of the Trustee for the purposes and on the terms set forth in the Pledge and Security Agreement.

In order to secure the performance by the College of all of its covenants, agreements and obligations under the Financing Documents and the payment by the College of all amounts due on the Series 2013 Bonds, and in furtherance (and not in limitation) of the provisions of the Pledge and Security Agreement, the College, pursuant to the Pledge and Security Agreement, pledges and assigns to the Trustee, for the benefit of the Bondholders, and creates in favor of the Trustee, for the benefit of the Bondholders, a security interest in and to, the Revenue Fund, all cash, cash equivalents, instruments, investments and other securities at any time on deposit in the Revenue Fund and all proceeds of any of the foregoing. All moneys, cash equivalents, instruments, investments and securities at any time on deposit in the Revenue Fund shall constitute collateral security for the payment by the College of all amounts due under the Series 2013 Bonds and the performance and observance by the College of all the covenants and conditions contained in the Financing Documents, and shall at all times be subject to the control of the

Trustee and shall be held in the custody of the Trustee for the purposes of, and on the terms set forth in, the Pledge and Security Agreement. The College shall not have any right or power to distribute or to direct the Trustee to distribute any amounts in the Revenue Fund or any part thereof except in accordance with the provisions of the Pledge and Security Agreement.

Upon the occurrence and continuation of an Event of Default, the College shall deposit or cause all Pledged Revenues to be deposited in the Revenue Fund immediately upon receipt thereof. The money from time to time in the Revenue Fund shall be applied by the Trustee, for the purpose of making the deposits required to be made to the following Funds or accounts created under the Indenture in the following order of priority: (1) the Bond Fund; (2) such account as the College shall have established for the payment of principal or interest on Subordinated Indebtedness, if any; and (3) if, on the last Business Day of any April or October, or in the event that (a) the balance on deposit in the Bond Fund shall equal the amounts required to be paid by the College to the Trustee for deposit in the Bond Fund in respect of the principal of the Series 2013 Bonds (including mandatory redemptions or prepayments) and the interest thereon, including all payments due under Loan Agreement the for the next Bond Payment Date, and (b) the Trustee shall have received from the College sufficient moneys to permit the Trustee to make all other deposits to other funds or accounts established under the Indenture required by the Indenture to be made into such funds and accounts as of such Business Day, then the Trustee shall notify the College, and the College may withdraw free and clear of the Lien of the Pledge and Security Agreement all amounts then on deposit in the Revenue Fund that are in excess of the total of (x) the amount to be transferred from the Revenue Fund to the Bond Fund, and (y) any amounts required by the Indenture to be transferred to other funds or accounts established under the Indenture from the Revenue Fund during the current or the next ensuing calendar month.

Any deposit made into the Revenue Fund under the Pledge and Security Agreement shall be irrevocable and the amount of such deposit and any instrument or security held in the Revenue Fund under the Pledge and Security Agreement and all interest thereon shall be held in trust by the Trustee and applied solely as provided in the Pledge and Security Agreement.

Before an Event of Default, any cash held by the Trustee in the Revenue Fund shall be invested by the Trustee from time to time in Defeasance Obligations (as defined in the Indenture) as the College shall determine and specifically direct in writing. Any income or gain realized as a result of any such investment shall be held as part of the Revenue Fund and reinvested or released as provided in the Pledge and Security Agreement. Any income tax payable on account of any such income or gain shall be payable by the College as an expense of the Project. The Trustee shall have no liability for any loss, fee, tax or other charge resulting from any such investment, reinvestment or sale thereof other than by reason of their willful misconduct or gross negligence. Any such investment may be sold (without regard to maturity date) by the Trustee whenever necessary to make any withdrawal or distribution required by the Pledge and Security Agreement. The Trustee will promptly notify the College of any loss resulting from any such investment and the College shall thereupon reimburse the Revenue Fund.

Cash and Defeasance Obligations on deposit from time to time in the Revenue Fund shall be valued by the Trustee in the same manner as described in the Indenture. (Section 4.4)

### **Remedies Not Exclusive; Waiver and Notice**

No remedy conferred upon or reserved to the Trustee under the Pledge and Security Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Pledge and Security Agreement now or existing after the date of the Pledge and Security Agreement at law or in equity or by statute.

No delay or omission to exercise any right or power accruing upon the occurrence of any Event of Default under the Pledge and Security Agreement shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

In order to entitle the Trustee to exercise any remedy reserved to it in the Pledge and Security Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required in the Pledge and Security Agreement.

In the event any provision contained in the Pledge and Security Agreement shall be breached by any party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach under the Pledge and Security Agreement.

No waiver, amendment, change, alteration, release, discharge, modification or termination of the Pledge and Security Agreement shall be established by conduct, custom or course of dealing. (Section 4.5)

#### **Amendments**

No waiver, amendment, change, modification, release, discharge, alteration or termination of this Pledge and Security Agreement shall be made except upon the written consent of the College and the Trustee. (Section 5.6)

#### **Discharge of College's Obligations and Termination of The Pledge and Security Agreement**

When all amounts owed under the Series 2013 Bonds have been paid in full and the Series 2013 Bonds are no longer Outstanding, then, and only then, the Pledge and Security Agreement and the security interests created by the Pledge and Security Agreement shall be null and void and shall be released in due form, at the College's expense; otherwise, it shall remain in full force and effect. No release of the Pledge and Security Agreement, or of the Lien, security interest or assignment created and evidenced by the Pledge and Security Agreement, shall be valid unless executed by the Trustee. The Trustee, upon the College's request and at the College's expense, shall deliver to the College all documents evidencing such release. On the date of such discharge, the College shall be released from any and all conditions, terms, covenants or restrictions created or placed upon it by the Pledge and Security Agreement and the College shall not have any further obligation or liability under the Pledge and Security Agreement. (Section 5.11)

**APPENDIX G**

**FORM OF APPROVING OPINION OF BOND COUNSEL**

*Upon the delivery of the Series 2013 Bonds, Harris Beach PLLC, Bond Counsel to the Issuer, proposes to deliver its legal opinion in substantially the following form:*

\_\_\_\_\_, 2013

Monroe County Industrial Development Corporation  
8100 CityPlace  
50 West Main Street  
Rochester, New York 14614

**Re: \$18,200,000 Monroe County Industrial Development Corporation Revenue Bonds (Nazareth College of Rochester Project), Series 2013 consisting of: \$13,905,000 Tax-Exempt Revenue Refunding Bonds (Nazareth College of Rochester Project), Series 2013A and \$4,295,000 Taxable Revenue Refunding Bonds (Nazareth College of Rochester Project), Series 2013B**

Ladies and Gentlemen:

We have examined the record of proceedings in connection with the issuance by the Monroe County Industrial Development Corporation (the "Issuer") of its \$18,200,000 Monroe County Industrial Development Corporation Revenue Bonds (Nazareth College of Rochester Project), Series 2013 consisting of: \$13,905,000 Tax-Exempt Revenue Refunding Bonds (Nazareth College of Rochester Project), Series 2013A (the "Series 2013A Bonds") and \$4,295,000 Taxable Revenue Refunding Bonds (Nazareth College of Rochester Project), Series 2013B (the "Series 2013B Bonds", and collectively with the Series 2013A Bonds, the "Series 2013 Bonds" or the "Bonds"). The Bonds are authorized to be issued pursuant to (a) Section 1411 of the Not-for-Profit Corporation Law of the State of New York, (b) Resolution No. 288 of 2009 of the Monroe County Legislature (the "County Resolution"), (c) a bond resolution (the "Bond Resolution") adopted by the members of the Issuer on May 21, 2013, for the purpose of providing funds to assist in the financing of the Project (as hereinafter defined) for the benefit of Nazareth College of Rochester (the "College"), a not-for-profit education corporation organized under the Laws of the State of New York, and (d) a certain Indenture of Trust, dated as of June 1, 2013 (the "Indenture"), by and between the Issuer and Manufacturers and Traders Trust Company, as trustee (the "Trustee").

The project being financed by the Series 2013A Bonds (collectively, the "Series 2013A Project") consists of: (A) the refunding of the outstanding principal amount of the \$17,985,000 original principal amount Civic Facility Revenue Bonds (Nazareth College of Rochester Project), Series 2001 (the "Series 2001 Bonds") issued by the County of Monroe Industrial Development Agency ("COMIDA") for the benefit of the College, the proceeds of which were applied to (i) fund the acquisition of approximately 73 acres of land including certain existing facilities thereof and the construction and equipping of Portka Hall, an approximately 128-bed residence hall located on the College's campus located at 4245 East Avenue, Town of Pittsford, Monroe County (collectively, the "2013A Facility"), (ii) pay for certain costs of issuance in connection with the issuance of the Series 2001 Bonds and (iii) fund the purchase of a

surety bond to satisfy the debt service reserve fund requirement as security for the Series 2001 Bonds; and (B) paying certain costs and expenses incidental to the issuance of the Series 2013A Bonds (items (A) through (B) hereinafter referred to as the “Series 2013A Project Costs”).

The project being financed by the Series 2013B Bonds (collectively, the “Series 2013B Project”, and collectively with the Series 2013A Project, the “Project”) consists of: (A) the refunding of the outstanding principal amount of the \$8,355,000 original principal amount Fixed Rate Civic Facility Revenue Refunding Bonds (Nazareth College of Rochester Project), Series 2004A (the “Series 2004A Bonds”, and collectively with the Series 2001 Bonds, the “Prior Bonds”) issued by COMIDA for the benefit of the College, the proceeds of which were applied to (i) refund the outstanding principal balance of the COMIDA Civic Facility Revenue Bonds (Nazareth College of Rochester Project), Series 1995 (the “Series 1995 Bonds”), which Series 1995 Bonds were applied in connection with the acquisition, construction and equipping of the addition to the Lorette Wilmot Library and the addition to Carroll Hall (collectively, the “2013B Facility”, and collectively with the 2013A Facility, the “Facility”), (ii) pay for certain costs of issuance in connection with the issuance of the Series 2004A Bonds and (iii) fund the purchase of a surety bond to satisfy the debt service reserve fund requirement as security for the Series 2004A Bonds; and (B) paying certain costs and expenses incidental to the issuance of the Series 2013B Bonds (items (A) through (B) hereinafter referred to as the “Series 2013B Project Costs”, and collectively with the Series 2013A Project Costs, the “Project Costs”).

All capitalized terms, not otherwise defined herein, shall have the meaning given such terms in the Indenture.

The Bonds are being purchased by Merrill Lynch, Pierce, Fenner & Smith Incorporated (the “Representative”), acting on behalf of itself and M&T Securities, Inc. (collectively, the “Underwriter”), pursuant to a certain Bond Purchase Agreement, dated June 4, 2013, by and among the Issuer, the Representative, and the College (the “Bond Purchase Agreement”).

Under the terms of a certain Loan Agreement, dated as of June 1, 2013 (the “Loan Agreement”), between the Issuer and the College, the Issuer has loaned the proceeds of the Bonds to the College to finance a portion of the costs of the Project with the loan payments thereunder to be in an amount sufficient to pay the principal of, premium, if any, and interest on the Bonds as the same become due and payable and to make certain other payments with respect to the Bonds as described therein.

As security for the Bonds, the Issuer assigned to the Trustee all of its rights (except Reserved Rights, as defined in the Indenture) under the Loan Agreement, pursuant to the terms of a certain Pledge and Assignment, dated as of June 1, 2013, from the Issuer to the Trustee (the “Pledge and Assignment”).

As additional security for the Bonds, the College has granted to the Trustee a security interest in and lien on the Pledged Revenues (as defined in the hereinafter defined Pledge and Security Agreement) pursuant to a certain Pledge and Security Agreement, dated as of June 1, 2013, by and between the College and the Trustee (the “Pledge and Security Agreement”), such pledge of Pledged Revenues to be on a parity basis with the Series 2008 Revenue Pledge and the Series 2011 Revenue Pledge (each as defined in the Indenture).

With respect to the Series 2013A Bonds, the Issuer and the College have executed and delivered a certain Tax Compliance Agreement, dated the date hereof (the “Tax Compliance Agreement”), in which the Issuer and the College 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, and regulations of the United States Treasury Department promulgated thereunder (collectively, the “Code”).



The Bonds are dated as of their date of issuance and bear interest from that date on the unpaid principal amount at the rates set forth in, and pursuant to the terms of, the Indenture and the Bonds. The Bonds are subject to prepayment or redemption prior to maturity, in whole or in part, at such time or times, or under such circumstances and in such manner as are set forth in the Bonds and the Indenture, respectively.

As Bond Counsel, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such instruments, certificates and documents as we have deemed necessary or appropriate for the purposes of rendering the opinions set forth herein. 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, we have relied upon, and assumed the accuracy and truthfulness of, the aforesaid instruments, certificates and documents, without having conducted any independent investigation.

In rendering the opinions set forth below, we have relied upon the opinion of Nixon Peabody LLP, counsel to the College, of even date herewith, as to the matters set forth in such opinion without making any independent investigation of the factual basis therefor or the legal conclusions set forth therein.

Based upon and in reliance upon the foregoing, it is our opinion that:

(a) The Issuer is a local development corporation created pursuant to the Not-For-Profit Corporation Law of the State of New York and is duly organized and validly existing under the laws of the State.

(b) The Issuer is duly authorized and entitled by law and the County Resolution to issue, execute, sell and deliver the Bonds for the purpose of financing the Project and to execute and deliver the Financing Documents to which the Issuer is a party.

(c) The Bond Resolution has been duly and lawfully adopted by the Issuer, is in full force and effect, and is valid and legally binding upon the Issuer in accordance with its terms.

(d) The Bonds have been duly authorized, executed and delivered, have been duly issued for value by the Issuer and are valid and legally binding special obligations of the Issuer payable in accordance with their terms and are entitled to the benefit and security of the Indenture in accordance with its terms.

(e) The Bonds do not constitute a debt of Monroe County, New York or the State of New York, and neither Monroe County, New York nor the State of New York will be liable thereon.

(f) Under statutes, regulations, administrative rulings and court decisions existing as of the date hereof, interest on the Series 2013A Bonds is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Code and is not an "item of tax preference" for purposes of computing the federal alternative minimum tax imposed on individuals and corporations. Interest on the Series 2013A Bonds is, however, included in the computation of "adjusted current earnings," a portion of which is taken into account in determining the federal alternative minimum tax imposed on certain corporations.

The difference between the principal amount of the Series 2013A Bonds maturing October 1 in the years 2026 through 2031, inclusive, (collectively, the “Discount Bonds”), and the initial offering price to the public (excluding bond houses, brokers and other intermediaries, or similar persons acting in the same capacity of underwriters or wholesalers), at which price a substantial amount of such Discount Bonds of the same maturity is first sold, constitutes original issue discount, which is not included in gross income for federal income tax purposes to the same extent as interest on the Discount Bonds.

(g) Under statutes existing as of the date hereof, interest on the Series 2013A Bonds is exempt from personal income taxes imposed by the State of New York and any political subdivision thereof.

In rendering the opinions set forth in paragraph (f) and (g) above, we have relied upon, among other things, certain representations and covenants of (i) the Issuer in the Indenture, the Loan Agreement, the Tax Compliance Agreement and the General Certificate of the Issuer, dated the date hereof and (ii) the College in the Loan Agreement, the Tax Compliance Agreement and the General Certificate of the College, dated the date hereof. We call your attention to the fact that there are certain requirements contained in the Code with which the Issuer and the College must comply from and after the date of issuance of the Series 2013A Bonds in order for the interest thereon to be and remain excluded from gross income for federal income tax purposes, and consequently to remain exempt from personal income taxes imposed by the State or any political subdivision thereof. The Issuer, the College or any other Person, by failing to comply with such requirements, may cause interest on the Series 2013A Bonds to become includable in gross income for federal income tax purposes and therefore subject to personal income taxes imposed by the State and any political subdivision thereof, in each case, retroactive to the date of issuance of the Series 2013A Bonds. We render no opinion as to any federal, state or local tax consequences with respect to the Series 2013A Bonds, or the interest thereon, if any change occurs or action is taken or omitted under the Indenture, the Loan Agreement or the Tax Compliance Agreement by the Issuer or the College, or under any other relevant documents without the advice or approval of, or upon the advice or approval of any Bond Counsel other than, Harris Beach PLLC.

Except for the opinions as set forth in paragraphs (f) and (g) above, we express no opinion regarding any other federal, state or local income tax consequences arising with respect to the purchase or ownership of the Bonds.

The foregoing opinions are qualified to the extent that the enforceability of the Bond Resolution, the Bonds, any of the Financing Documents and any other document executed in connection therewith may be limited by any applicable bankruptcy, insolvency or other similar law or equitable principle now or hereafter enacted by the State of New York or the federal government or pronounced by a court having proper jurisdiction, affecting the enforcement of creditors’ rights generally.

We express no opinion as to (i) the title to the Facility; (ii) the sufficiency of the description of the Facility in the Indenture, the Loan Agreement or any other document; or (iii) the perfection or priority of any liens, charges or encumbrances on the Facility. Further, we have not been requested to examine and have not examined any documents or information relating to the Issuer or the College other than the record of proceedings hereinabove referred to, and no opinion is expressed as to any financial information, or the adequacy thereof, which has been or may be supplied to the Trustee, the Underwriter or any other person.

This opinion is given as of the date hereof, and we disclaim any obligation to update this opinion letter for events occurring after the date of this opinion letter. We express no opinion herein except as to the laws of the State of New York and the federal laws of the United States.

Very truly yours,

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## APPENDIX H

### FORM OF CONTINUING DISCLOSURE AGREEMENT

#### CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the “Disclosure Agreement”) is dated as of June 1, 2013 and is executed and delivered by Nazareth College of Rochester (the “Borrower”) and Digital Assurance Certification, L.L.C., as dissemination agent, in connection with the issuance by the Monroe County Industrial Development Corporation (the “Issuer”) of its \$18,200,000 Revenue Refunding Bonds (Nazareth College of Rochester Project), Series 2013 (the “Bonds”) consisting of the \$13,905,000 Tax-Exempt Revenue Refunding Bonds, Series 2013A, and the \$4,295,000 Taxable Revenue Refunding Bonds, Series 2013B, under an Indenture of Trust dated as of June 1, 2013 (the “Indenture”) between the Issuer and Manufacturers and Traders Trust Company, as trustee (the “Trustee”). The proceeds of the Bonds are being loaned by the Issuer to the Borrower pursuant to a Loan Agreement dated as of June 1, 2013 between the Issuer and the Borrower (the “Loan Agreement”). For valuable consideration, the receipt of which is acknowledged, the Dissemination Agent and the Borrower covenant and agree as follows:

SECTION 1. Purpose of the Disclosure Agreement. This Disclosure Agreement is being executed and delivered by the Borrower and the Dissemination Agent for the benefit of the Bondholders (defined below) and the beneficial owners of the Bonds, and in order to assist the Underwriters (defined below) in complying with the Rule (defined below). The Borrower and the Dissemination Agent acknowledge that the Issuer has undertaken no responsibility with respect to any reports, notices or disclosures provided or required under this Disclosure Agreement, and has no liability to any person, including any Holder of the Bonds, with respect to any such reports, notices or disclosures.

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

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

“Bondholder” or the term “Holder”, when used with reference to a Bond or Bonds, shall mean any person who shall be the registered owner of any Bond and any beneficial owner thereof.

“Dissemination Agent” shall mean the initial Dissemination Agent hereunder, which is Digital Assurance Certification, L.L.C., or any successor Dissemination Agent designated in writing by the Borrower and acceptable to the Issuer and which has filed with the Trustee a written acceptance of such designation.

“EMMA” shall mean the MSRB’s Electronic Municipal Market System.

“MSRB” shall mean the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act or any successor thereto or to the functions of the MSRB contemplated by this Disclosure Agreement.

“Notice Events” shall mean any of the events listed in Section 5(a) of this Disclosure Agreement.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the SEC under the Securities Exchange Act, as the same may be amended from time to time.

“SEC” shall mean the United States Securities and Exchange Commission.

“Securities Exchange Act” shall mean the Securities Exchange Act of 1934, as the same may be amended from time to time.

“Tax-exempt” shall mean that interest on the Series 2013A Bonds is excluded from gross income for federal income tax purposes, whether or not such interest is includable as an item of tax preference or otherwise includable directly or indirectly for purposes of calculating any other tax liability, including any alternative minimum tax or environmental tax.

“Underwriters” shall mean Merrill Lynch, Pierce, Fenner & Smith Incorporated and M&T Securities, Inc., the original underwriters of the Bonds required to comply with the Rule in connection with offering of the Bonds.

### SECTION 3. Provision of Annual Reports.

(a) The Borrower, commencing with the fiscal year ending June 30, 2013, shall, or shall cause the Dissemination Agent to, not later than 180 days after the end of each fiscal year, provide to the Trustee and MSRB an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement. In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Agreement; provided that the audited financial statements of the Borrower may be submitted separately from the balance of the Annual Report.

The Borrower shall:

- (i) on or prior to November 25<sup>th</sup> of each year, provide the Annual Report to the Dissemination Agent together with either (A) a letter authorizing the Dissemination Agent to file the Annual Report with the MSRB, or (B) a certificate stating that the Borrower has provided the Annual Report to the MSRB and the date on which such Annual Report was provided, and
- (ii) promptly notify the Dissemination Agent of any change in the Borrower’s fiscal year.

(b) If by November 15<sup>th</sup> the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent shall contact the Borrower to request a report regarding compliance with the provisions governing the Annual Report.

(c) If the Dissemination Agent is unable to verify that an Annual Report has been provided to the MSRB by the date required in subsection (a), the Dissemination Agent shall send a reminder notice to the Borrower and the Issuer and shall send a notice to the MSRB in substantially the form attached as Exhibit A hereto.

(d) The Dissemination Agent shall file a report with the Borrower, the Issuer and the Trustee certifying that the Borrower has filed a report (directly or through the Dissemination Agent) purporting to be an Annual Report pursuant to this Disclosure Agreement, and stating the date it was provided (if such report was provided).

SECTION 4. Content of Annual Reports. The Annual Report shall contain or incorporate by reference the following information relating to the Borrower for or as of the most recently completed fiscal year of the Borrower:

- (a) Audited financial statements;
- (b) Operating information in the form included on pages A-9 through A-14 in Appendix A of the Official Statement under the caption “OPERATING INFORMATION – Applications and Admissions, - Transfers, - Graduate, - Student Enrollment, - Retention, - Graduation, - Tuition and Fees, and - Student Financial Aid,” with comparative information for the preceding fiscal year; and
- (c) Financial information in the form included on page A-14 through A-20 in Appendix A of the Official Statement under the caption “FINANCIAL INFORMATION – Historical Operating Results, - Gifts and Grants, - Net Assets, - Endowment Assets and Other Investments, - Investment Policy and Allocation, and – Indebtedness of the College,” with comparative information for the preceding fiscal year, as applicable.

The Borrower agrees that the financial statements provided pursuant to Sections 3 and 4 of this Disclosure Agreement shall be prepared in conformity with generally accepted accounting principles (to the extent applicable), as in effect from time to time. Any or all of the items listed above may be incorporated by reference from other documents, including official statements of debt issues with respect to which the Borrower is an “obligated person” (as defined by the Rule), which have been filed with the MSRB or the SEC. If the document incorporated by reference is a final official statement, it must be available from the MSRB. The Borrower shall clearly identify each such other document so incorporated by reference.

SECTION 5. Reporting of Significant Events.

(a) This Section 5 shall govern the giving of notices of the occurrence of any of the following Notice Events:

- 1. principal or interest payment delinquencies on the Bonds;
- 2. non-payment related defaults, if material;
- 3. unscheduled draws on debt service reserves reflecting financial difficulties;
- 4. unscheduled draws on credit enhancement reflecting financial difficulties;
- 5. substitution of credit or liquidity providers or its 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 of determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- 7. modifications to the rights of the Bondowners, if material;
- 8. Bond calls, if material, and tender offers;
- 9. defeasances;

10. release, substitution or sale of property securing repayment of the Bonds, if material;
11. rating changes;
12. bankruptcy, insolvency, receivership or similar event of the Borrower;
13. the consummation of a merger, consolidation, or acquisition involving the Borrower or the sale of all or substantially all of the assets of the Borrower, 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
14. appointment of a successor or additional trustee or the change of name of a trustee, if material.

(b) Whenever the Borrower obtains knowledge of the occurrence of a Notice Event, the Borrower shall provide, in a timely manner not in excess of nine (9) Business Days after the occurrence of such Notice Event, notice of such Notice Event to the Dissemination Agent. The Dissemination Agent shall provide notice of each such Notice Event to (i) the MSRB, (ii) the Trustee and (iii) the Issuer, in each case within one (1) Business Day after receipt by the Dissemination Agent.

#### SECTION 6. Termination of Reporting Obligation.

(a) The obligations of the Borrower and the Dissemination Agent under this Disclosure Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If the Borrower's obligations under the Loan Agreement are assumed in full by some other entity, such person shall be responsible for compliance with this Disclosure Agreement in the same manner as if it were the Borrower. The original Borrower shall have no further responsibility hereunder only to the extent that the Borrower ceases to be an obligated person with respect to the Bonds within the meaning of the Rule.

(b) In addition, the Borrower's obligations under the provisions of this Disclosure Agreement shall terminate (in whole or in part, as the case may be) in the event that (i) the Borrower delivers to the Dissemination Agent, the Trustee, and the Issuer an opinion of nationally recognized bond counsel or counsel expert in federal securities laws, addressed to the Dissemination Agent, the Trustee and the Issuer, to the effect that those portions of the Rule which require the provisions of this Disclosure Agreement, or any of such provisions, do not or no longer apply to the Bonds, whether because such portions of the Rule are invalid, have been repealed, or otherwise, as shall be specified in such opinion (but such termination of the Borrower's obligations shall be effective only to the extent specifically addressed by such opinion), and (ii) the Dissemination Agent delivers copies of such opinion to (A) the MSRB, (B) the Issuer, (C) the Trustee, and (D) the Underwriters. The Dissemination Agent shall so deliver such opinion promptly.

#### SECTION 7. Dissemination Agent.

(a) The Borrower may, from time to time, appoint or engage a third-party Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge any such third party Dissemination Agent, with or without appointing a successor Dissemination Agent. If at any time there is not any other designated Dissemination Agent, the Trustee shall be the Dissemination Agent.



(b) The Dissemination Agent, or any successor thereof, may at any time resign and be discharged of its duties and obligations hereunder by giving not less than thirty (30) days written notice to the Issuer, the Borrower and the registered owners of the Bonds, specifying the date when such resignation shall take effect. Such resignation shall take effect upon the date a successor shall have been appointed by the Borrower or by a court upon the application of the Dissemination Agent.

(c) In case the Dissemination Agent, or any successor thereof, shall resign or shall be removed or shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or if a receiver, liquidator or conservator of the Dissemination Agent or of its property shall be appointed, or if any public officer shall take charge of control of the Dissemination Agent, or of its property or affairs, the Borrower shall forthwith appoint a Dissemination Agent to act. The Borrower shall give or cause to be given written notice of any such appointment to the registered owners of the Bonds (as such term is defined in the Loan Agreement), the Trustee and the Issuer.

(d) Any company into which the Dissemination Agent may be merged or with which it may be consolidated or any company resulting from any merger or consolidation to which it shall be a party or any company to which such Dissemination Agent may sell or transfer all or substantially all of its corporate trust business, shall be the successor to such Dissemination Agent, without any further act or deed.

SECTION 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Agreement, the Borrower and the Dissemination Agent may amend this Disclosure Agreement (and the Dissemination Agent shall agree to any amendment not modifying or otherwise affecting its duties, obligations or liabilities in such a way as they are expanded or increased) and any provision of this Disclosure Agreement may be waived, if all of the following conditions are satisfied: (a) such amendment is made in connection with a change in circumstances that arises, from a change in legal (including regulatory) requirements, a change in law (including rules or regulations) or in interpretations thereof, or a change in the identity, nature or status of the Borrower or the type of business conducted thereby, (b) this Disclosure Agreement as so amended would have complied with the requirements of the Rule as of the date of this Disclosure Agreement, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances, (c) the Borrower shall have delivered an opinion of counsel, addressed to the Issuer, the Borrower, the Dissemination Agent and the Trustee, to the same effect as set forth in clause (b) above, (d) either (i) the Borrower shall have delivered to the Issuer, the Trustee and the Dissemination Agent an opinion of counsel, or a determination by a person, in each case unaffiliated with the Borrower (such as bond counsel) and acceptable to the Borrower, to the effect that the amendment does not materially impair the interests of the Holders of the Bonds or (ii) the Holders of the Bonds consent to the amendment to this Disclosure Agreement pursuant to the same procedures as are required for amendments to the Indenture with consent of the Holders of the Bonds pursuant to the Indenture as in effect on the date of this Disclosure Agreement, and (e) the Borrower shall have delivered copies of such opinion(s) and amendment to the MSRB. The Dissemination Agent may rely and act upon such opinions.

SECTION 9. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the Borrower from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of the occurrence of a Notice Event, in addition to that which is required by this Disclosure Agreement. If the Borrower chooses to include any information in any Annual Report or notice of the occurrence of a Notice Event, in addition to that which is specifically required by this Disclosure Agreement, the Borrower shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report or notice of the occurrence of a Notice Event.

SECTION 10. Default. In the event of a failure of the Borrower or the Dissemination Agent to comply with any provision of this Disclosure Agreement, the Dissemination Agent may (and, at the request of any of the Holders of at least 25% of the aggregate principal amount of Outstanding Bonds who have provided security and indemnity deemed acceptable to the Dissemination Agent, shall), or any party who can establish beneficial ownership of any of the Bonds, or any Bondholder may, after providing fifteen (15) days written notice to the Borrower to give the Borrower opportunity to comply within such fifteen-day period, take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the Borrower to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the Indenture or under the Loan Agreement, and the sole remedy available to the Dissemination Agent, any beneficial owners of the Bonds or the Bondholders under this Disclosure Agreement in the event of any failure of the Borrower or the Dissemination Agent to comply with this Disclosure Agreement shall be an action to compel performance.

SECTION 11. Duties, Immunities and Liabilities of Dissemination Agent.

(a) The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement. To the extent that the Dissemination Agent is required under the terms of this Disclosure Agreement to report any information, it is only required to report information that it receives from the Borrower in the form in which it is received, and the Dissemination Agent shall be under no responsibility or duty with respect to the accuracy and content of the information which it receives from the Borrower. The Borrower agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including reasonable attorneys' fees and expenses) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the Borrower under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

(b) Unless otherwise provided by contract with the Dissemination Agent, the Borrower shall pay or cause to be paid to the Dissemination Agent after reasonable notice to the Borrower in light of the reimbursement sought to be received, reasonable reimbursement for its reasonable expenses, charges, counsel fees and expenses and other disbursements and those of its attorneys, agents, and employees, incurred in and about the performance of its powers and duties hereunder. The Borrower shall indemnify and save the Dissemination Agent harmless against any expenses and liabilities which it may incur in the exercise and performance of its powers and duties hereunder which are not due to its negligence or willful default. None of the provisions contained in this Disclosure Agreement shall require the Dissemination Agent to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers. The obligations of the Borrower under this Section to compensate the Dissemination Agent, to pay or reimburse the Dissemination Agent for expenses, disbursements, charges and counsel fees and to indemnify and hold harmless the Dissemination Agent shall survive the termination of this Disclosure Agreement.

SECTION 12. Transmission of Notices, Documents and Information. (a) Unless otherwise required by the MSRB, all notices, documents and information provided to the MSRB pursuant to this Disclosure Agreement shall be provided to EMMA, the current internet web address of which is [www.emma.msrb.org](http://www.emma.msrb.org).

(b) All notices, documents and information provided to the MSRB shall be provided in an electronic format as prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

SECTION 13. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the Issuer, the Borrower, the Trustee, the Dissemination Agent, the Underwriters, parties who can establish beneficial ownership of the Bonds and the Holders from time to time of the Bonds, and shall create no rights in any other person or entity.

SECTION 14. Disclaimer. No Annual Report or notice of a Notice Event filed by or on behalf of the Borrower under this Disclosure Agreement shall obligate the Borrower to file any information regarding matters other than those specifically described in Section 3 and Section 5 hereof, nor shall any such filing constitute a representation by the Borrower or raise any inference that no other material events have occurred with respect to the Borrower or the Bonds or that all material information regarding the Borrower or the Bonds has been disclosed. The Borrower shall have no obligation under this Disclosure Agreement to update information provided pursuant to this Disclosure Agreement except as specifically stated herein.

SECTION 15. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 16. Notices. The parties hereto may be given notices required hereunder at the addresses set forth for them in the Loan Agreement or the Indenture.

SECTION 17. Applicable Law. This Disclosure Agreement shall be governed by the laws of the State of New York, and by applicable federal laws.

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Dated as of June 1, 2013

NAZARETH COLLEGE OF ROCHESTER

By: \_\_\_\_\_  
Margaret Cass Ferber  
Vice President for Finance and Treasurer

DIGITAL ASSURANCE CERTIFICATION, L.L.C.

By: \_\_\_\_\_  
Authorized Officer

**EXHIBIT A**

NOTICE TO MSRB OF FAILURE TO FILE ANNUAL REPORT

MONROE COUNTY INDUSTRIAL DEVELOPMENT CORPORATION  
REVENUE REFUNDING BONDS  
(NAZARETH COLLEGE OF ROCHESTER PROJECT), SERIES 2013  
CONSISTING OF  
TAX-EXEMPT REVENUE REFUNDING BONDS, SERIES 2013A

<u>Bonds</u>	<u>Maturity</u>	<u>CUSIP</u>
Series 2013A	October 1, 2013	61075TEZ7
Series 2013A	October 1, 2014	61075TFA1
Series 2013A	October 1, 2015	61075TFB9
Series 2013A	October 1, 2016	61075TFC7
Series 2013A	October 1, 2017	61075TFD5
Series 2013A	October 1, 2018	61075TFE3
Series 2013A	October 1, 2019	61075TFF0
Series 2013A	October 1, 2020	61075TFG8
Series 2013A	October 1, 2021	61075TFH6
Series 2013A	October 1, 2022	61075TFJ2
Series 2013A	October 1, 2023	61075TFK9
Series 2013A	October 1, 2024	61075TFL7
Series 2013A	October 1, 2025	61075TFM5
Series 2013A	October 1, 2026	61075TFN3
Series 2013A	October 1, 2027	61075TFP8
Series 2013A	October 1, 2028	61075TFQ6
Series 2013A	October 1, 2029	61075TFR4
Series 2013A	October 1, 2030	61075TFS2
Series 2013A	October 1, 2031	61075TFT0

TAXABLE REVENUE REFUNDING BONDS, SERIES 2013B

<u>Bonds</u>	<u>Maturity</u>	<u>CUSIP</u>
Series 2013B	October 1, 2013	61075TFU7
Series 2013B	October 1, 2014	61075TFV5
Series 2013B	October 1, 2015	61075TFW3
Series 2013B	October 1, 2016	61075TFX1
Series 2013B	October 1, 2017	61075TFY9
Series 2013B	October 1, 2018	61075TFZ6

NOTICE IS HEREBY GIVEN that the Borrower has not yet provided an Annual Report with respect to the above-named Bonds as required by the Continuing Disclosure Agreement by and between Nazareth College of Rochester (the “Borrower”) and Digital Assurance Certification, L.L.C. (the “Dissemination Agent”) dated as of June 1, 2013. [The [Borrower/Dissemination Agent] has informed the Trustee that the Annual Report will be filed with MSRB by \_\_\_\_\_.]

Dated: \_\_\_\_\_

DIGITAL ASSURANCE CERTIFICATION, L.L.C., as  
Dissemination Agent

By: \_\_\_\_\_  
Name:  
Title:

cc: Nazareth College of Rochester



# Nazareth COLLEGE

