

STAFF SUMMARY RECOMMENDATION

CHAPMAN UNIVERSITY

Resolution Number 2012-02

September 27, 2012

PRIOR AMOUNT APPROVED:	\$100,000,000
PRIOR APPROVAL DATES:	August 25, 2011
LOCATION:	Orange, CA, Orange County

Purpose of Amendment: Chapman University (“Chapman”) seeks Authority approval to amend the CEFA Series 2011 bonds (“2011 Bonds”) Indenture and Loan Agreement to add additional capital projects and the redemption of the CEFA Series 2008A, 2008B and 2008C (“2008 Bonds”) to the project description.

Background: In August 2011, the Authority approved Resolution No. 284 for the benefit of Chapman authorizing the issuance of the 2011 Bonds in an amount not to exceed \$100 million to finance and refinance the costs of acquisition, construction, expansion, equipping and improvement of certain educational facilities as well as to refund the CEFA Series 2000 (the “Original Project”). The Authority issued the 2011 Bonds on October 3, 2011.

After the issuance of the 2011 Bonds, Chapman discovered environmental contamination in a portion of the site of the Original Project that required Chapman to change its capital construction plans, leaving approximately \$80 million of the 2011 Bond proceeds unapplied to an approved capital project. The inability to use the 2011 Bond proceeds as intended raised a tax law issue.

On the advice of bond counsel for the 2011 Bonds (Orrick, Herrington & Sutcliffe), the underwriter (Wells Fargo Securities) and Chapman’s corporate counsel (Allen Matkins), it was concluded that the best approach to resolve the tax law issue was to seek permission from the Internal Revenue Service (“IRS”) to “repurpose” a portion of the 2011 Bond proceeds, revise the purposes to include additional capital projects, and to include the redemption and refunding of all of the 2008 Bonds through the IRS Voluntary Closing Agreement Program for Tax-Exempt Bonds and Tax Credit Bonds (“VCAP”) process. In April 2012, the Authority approved Resolution No. 2012-01 authorizing the VCAP request.

In August 2012, the IRS approved the VCAP request and permitted the Authority and Chapman to reallocate a portion of the 2011 Bond proceeds and allow them to be used towards additional capital projects and the redemption and refunding of the 2008 Bonds (the “New Project”). As a condition of the VCAP, the IRS required the Authority to hold a new Tax Equity and Fiscal Responsibility Act (“TEFRA”) hearing for the 2011 Bonds and the New Projects. On September 4, 2012, Chapman published notices of the TEFRA hearing in newspapers of general circulation in the City of Sacramento, the County of Sacramento, and the County of Orange. The Authority held the TEFRA hearing on September 19, 2012, at which interested persons were given an opportunity to express their views for or against the 2011 Bonds and on the nature and location of the New Project. No public comments were received at or prior to the TEFRA hearing.

At this time, in connection with the VCAP settlement, Chapman seeks Authority approval to change the project description in the 2011 Bond Indenture and Loan Agreement and to perform any other ministerial acts, which may be deemed necessary.

Pursuant to the Indenture relating to the 2011 Bonds, modifications to the Indenture and Loan Agreement must satisfy certain conditions. Conditions include a written consent of the Borrower; an opinion of bond counsel to the effect that such amendment or modification will not, in and of itself, adversely affect the tax-exempt status of interest on the Bonds; a written representation from the Borrower to the Trustee to the effect that such amendment or modification will not materially and adversely affect the interests of the holders of the Bonds; and, in the case of the Loan Agreement, written consent of the Trustee.

Recommendation

Staff anticipates all conditions will be met and recommends the Authority approve Resolution No. 2012-02.

RESOLUTION NO. 2012-02

**RESOLUTION OF THE CALIFORNIA EDUCATIONAL FACILITIES AUTHORITY
APPROVING THE FIRST SUPPLEMENTAL INDENTURE AND THE FIRST
SUPPLEMENTAL LOAN AGREEMENT IN CONNECTION WITH BONDS ISSUED
FOR THE BENEFIT OF CHAPMAN UNIVERSITY**

WHEREAS, the California Educational Facilities Authority (the “Authority”), a public instrumentality of the State of California, is authorized and empowered by the provisions of the California Educational Facilities Authority Act (the “Act”) to issue revenue bonds to finance the construction, expansion, remodeling, renovation, furnishing, equipping, and acquisition of educational facilities by participating private colleges (as defined in the Act) located in the State of California (including by reimbursing expenditures made or refinancing indebtedness incurred for such purpose);

WHEREAS, the Authority has issued \$100,000,000 aggregate principal amount of California Educational Facilities Authority Revenue Bonds (Chapman University), Series 2011 (the “2011 Bonds”) for the benefit of Chapman University (the “Borrower”);

WHEREAS, on April 26, 2012, the Authority adopted Resolution No. 2012-01, which, in part, authorized the Authority to take such actions as are necessary or advisable to obtain the consent of the Internal Revenue Service (“IRS”) to the uses of proceeds of the 2011 Bonds described in Resolution No. 2012-01 and in Exhibit A attached hereto (the “New Uses”);

WHEREAS, the application of the proceeds of the 2011 Bonds to the New Uses requires amendments to the Indenture, dated as of October 1, 2011, between the Authority and Union Bank, N.A., as Trustee (the “Trustee”) relating to the 2011 Bonds (the “Indenture”) and the Loan Agreement, dated as of October 1, 2011, between the Authority and the Borrower relating to the 2011 Bonds (the “Loan Agreement”);

WHEREAS, pursuant to Section 9.01 of the Indenture, the Indenture will only be modified without consent of bondholders if (a) the Authority and the Trustee receive (i) written consent of the Borrower and (ii) an opinion of bond counsel to the effect that such amendment or modification will not, in and of itself, adversely affect the tax-exempt status of interest on the Bonds and (b) the Trustee receives a written representation from the Borrower to the effect that such amendment or modification will not materially and adversely affect the interests of the holders of the Bonds, all of which is expected to be delivered on the effective day of the First Supplemental Indenture (as defined below);

WHEREAS, pursuant to Section 6.06(b) of the Indenture, the Loan Agreement will only be amended if the Trustee provides its prior written consent to the Authority, which is expected to be delivered on the effective day of the First Supplemental Loan Agreement (as defined below);

NOW, THEREFORE, BE IT RESOLVED by the California Educational Facilities Authority as follows:

Section 1. The following documents:

(a) the First Supplemental Indenture (the “First Supplemental Indenture”), between the Authority and Union Bank, N.A., as trustee (the “Trustee”), amending the Indenture, and

(b) the First Supplemental Loan Agreement (the “First Supplemental Loan Agreement”), between the Authority and the Borrower, amending the Loan Agreement,

are hereby approved in substantially the respective forms currently on file with the Authority, in each case with such insertions and changes therein consistent with the stated terms of this Resolution as the signatory executing the same, with the advice of the Attorney General of the State of California or such other special counsel to the Authority as the Authority shall designate (the “Authority’s Counsel”), may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 2. Each officer of the Authority, acting alone, is hereby authorized and directed to perform any ministerial acts, which he or she may deem necessary or advisable in order to consummate the execution and delivery of the First Supplemental Indenture and the First Supplemental Loan Agreement and otherwise to effectuate the purposes of this Resolution, the First Supplemental Indenture and the First Supplemental Loan Agreement. The Authority hereby authorizes any and all documents to be delivered in furtherance of the foregoing purposes, including without limitation the following: (a) a tax agreement and any certificates related thereto and (b) execution of new bonds as directed in the First Supplemental Indenture, if necessary.

Section 3. The provisions of the Authority’s Resolution No. 2011-03 apply to the documents and actions not specifically approved and/or authorized in this Resolution.

Section 4. The Authority hereby approves and ratifies each and every action taken by its officers, agents and employees prior to the date hereof in furtherance of the purposes of this Resolution.

Section 5. This Resolution shall take effect from and after the date of adoption.

Date of Adoption: _____

EXHIBIT A

THE PROJECT

The proceeds of the Bonds will be loaned to the Borrower for the purpose of, among other things, financing and refinancing the Project, which consists of:

- (1) financing the costs of the “New Project,” which consists of:

(A) the costs of the construction, expansion, demolition, improvement, installation, rehabilitation, renovation, remodeling, furnishing and equipping of educational facilities including, but not limited to, the (a) former Filmmakers’ Village, which will generally consist of: (i) classrooms, offices, and other educational facilities and (ii) a parking garage with approximately 358 parking spaces and (iii) infrastructure improvements relating thereto, the address of which is currently 220-296 North Cypress Street, Orange, California 92866 which is bounded generally by West Palm Avenue to the north, North Cypress Street to the east, West Maple Avenue to the south and the Orange County Transportation Authority Metrolink Railroad to the west in the City of Orange (the “Filmmakers’ Village”), (b) Argyros Forum, Moulton Hall and Smith Hall (the building addresses are 386 North Center Street, 315 East Palm Avenue, and 215 East Palm Avenue, respectively), the address of which is One University Drive and bounded generally by East Walnut Avenue to the north, North Shaffer Street to the east, East Palm Avenue to the south and North Glassell Street to the west in the City of Orange (the “Orange Campus”), (c) the Marion Knott Studios, located at 283 North Cypress Street, Orange, California 92866 (the “Knott Studios”), (d) the Glassell Residential Complex, located at 342-348 North Glassell Street, Orange, California 92866, (e) the property located at 145 West Sycamore Avenue, Orange, California 92866, (f) a recreational use swimming pool located adjacent to certain residential halls in the area bounded generally by East Everett Place to the north, North Shaffer Street to the east, East Walnut Avenue to the south and North Grand Street to the west in the City of Orange (the “Residential Block”), (g) the relocated Entertainment Technology Center located at 603/607 West Palm Avenue, Orange, California 92868, (h) the facilities to be used for faculty and staff housing located at 311 North Lemon Street, Orange, California 92866 and 233 West Palm Avenue, Orange, California 92866, (i) the facility located at 544 North Cypress Street, Orange, California 92867 and (j) other related and appurtenant facilities of the Borrower,

(B) the costs of infrastructure improvements of certain facilities located at or immediately adjacent to the Filmmakers’ Village, the Orange Campus, the Knott Studios, the Residential Block, the campus facilities bounded generally by West Walnut Avenue to the north, North Parker Street to the west, West Palm Avenue to the south and the Orange County Transportation Authority Metrolink Railroad to the east in the City of Orange, the campus facilities bounded generally by West Walnut Avenue to the north, the Orange County Transportation Authority Metrolink Railroad to the west, West Palm Avenue to the south, North Glassell Street to the east in the City of Orange and the campus facilities bounded generally by West Maple Avenue to the north, the Orange County Transportation Authority Metrolink Railroad to the west, West Chapman Avenue to the south and North Cypress Street to the east in the City of Orange,

(C) the costs of acquisition, improvement, installation, rehabilitation, renovation, remodeling, furnishing and equipping of property located in (a) the approximately one-third square mile area bounded by East Mayfair Avenue to the north between North Lemon Street and North Shaffer Street, West Walnut Avenue to the north between the Orange County Transportation Authority Metrolink Railroad and North Lemon Street, the Orange County Transportation Authority Metrolink Railroad to the west, Chapman Avenue to the south and Shaffer Street to the east in the City of Orange and (b) the one-half block area bounded by 544 North Cypress Street to the north, the Orange County Transportation Authority Metrolink Railroad to the west, West Walnut Avenue to the south and North Cypress Street to the east in the City of Orange,

(D) the costs of acquisition, installation and implementation of an integrated database management system to be used throughout the facilities described herein and

(E) payment of certain expenses incurred in connection with the issuance of the Bonds. The Project will be owned and operated by the Borrower;

(2) refunding a portion of the Prior Bonds, the proceeds of which were used, among other things, to finance and refinance the costs of the "Prior Project," which partially consisted of:

(A) construction, improvement and equipping of a residence hall, with an address of 535 North Grand Street, Orange, California 92867, with 310 beds and infrastructure improvements related thereto;

(B) construction, improvement and equipping of a parking structure, with an address of 590 North Shaffer Street, Orange, California 92867, with 596 parking spaces and infrastructure improvements related thereto;

(C) construction, improvement and equipping of an academic and administrative building for the School of Film and Television with an attached parking lot with up to 223 parking spaces, the address of which is 283 North Cypress Street Orange, California 92866 and bounded generally by West Palm Avenue to the north, North Lemon Street to the east, West Maple Avenue to the south and North Cypress Street to the west in the City of Orange;

(D) then-existing mortgages on the following properties: 312 North Olive Street, 336 North Olive Street, 373 North Center Street, 375 North Center Street, 377 North Center Street, 415 East Walnut Avenue, 337 North Cypress Street, 420 East Walnut Avenue, 337 North Lemon Street, 323 North Center Street, 333 North Center Street, 339 North Center Street, all located in the City of Orange, and 19252 Mesa Drive located in the City of Villa Park;

(E) acquisition of properties including: 452 North Glassell Street and 423 North Center Street, 348 North Olive Street, 350 North Olive Street and 313 North Center Street, all located in the City of Orange and located in the area bounded generally by East Everett Place to the north, North Shaffer Street to the east, Maple Avenue to the south and the Orange County Transportation Authority Metrolink Railroad to the west in the City of Orange, and 190 North Cypress Street, Orange, California 92866 located in the City of Orange and bounded generally

by West Maple Avenue to the north, North Cypress Street to the east, West Chapman Avenue to the south and North Atchison Street to the west in the City of Orange; and

(F) other related and appurtenant facilities of the Borrower.

(3) refunding a portion of the Prior 2008 Bonds, the proceeds of which were used, among other things, to refinance the costs of the “Prior Project,” which partially consisted of:

(A) the California Educational Facilities Authority Variable Rate Revenue Bonds (Chapman University), 2005 Series A, which proceeds were used to finance the acquisition, construction, installation, expansion, renovation, rehabilitation, furnishing and equipping of educational facilities including but not limited to athletic facilities located at 350 East Walnut Avenue, parking facilities located at 350 East Walnut Avenue (presently addressed as 300 East Walnut Avenue), dining facilities located at 525 North Center Street, a residence hall located at 550 North Center Street, equipment and related and other infrastructure improvements, all in the City of Orange (the dining facilities and residence hall both currently comprise the Sandhu Residence & Conference Center at 571 North Grand Street),

(B) the California Educational Facilities Authority Variable Rate Revenue Bonds (Chapman University), 2005 Series B, which proceeds were used to refinance the California Educational Facilities Authority Revenue Bonds (Chapman University) Series 1996, which in turn were used to finance the following projects: (i) construction, improvement and equipping of the Business and Information Technology building located at 393 North Glassell, on the corner of Glassell Street and University Drive, (ii) construction, improvement and equipping of the School of Law building located at 370 North Glassell Street, (iii) infrastructure improvements including parking facilities on the property bounded by Sycamore Street, Orange Street, Walnut Street and Glassell Street, but excluding that portion of the property bounded by Sycamore Street, Glassell Street and Walnut Street, (iv) the acquisition of property located at 121 and 123 East Sycamore Street, and (v) the acquisition, construction and rehabilitation of other general educational facilities located on the University’s main campus at One University Drive in Orange, California; and

(C) two taxable loans which were used to finance the acquisition of land and buildings located at the following street addresses: 501, 535, 538, 545, 549, 603, 607, 611, 615, 625, 633 and 635 West Palm Avenue, 233 Lemon Street and 220, 228, 264 and 296 North Cypress Street, all in Orange, California.