



375 Beale Street
Suite 700
San Francisco, California
94105

Meeting Agenda - Final

ABAG ACFA Governing Board

Chair, Karen Mitchoff, Supervisor, County of Contra Costa
Vice Chair, Jesse Arreguin, Mayor, City of Berkeley

Thursday, September 16, 2021

5:15 PM

Board Room - 1st Floor (REMOTE)

Advancing California Finance Authority Governing Board

The ACFA Governing Board will be meeting on September 16, 2021, 5:15 p.m., in the Bay Area Metro Center (Remotely). In light of Governor Newsom's State of Emergency declaration regarding the COVID-19 outbreak and in accordance with Executive Order N-29-20 issued by Governor Newsom on March 17, 2020 and the Guidance for Gatherings issued by the California Department of Public Health, the meeting will be conducted via webcast, teleconference, and Zoom for committee, commission, or board members who will participate in the meeting from individual remote locations.

A Zoom panelist link for meeting participants will be sent separately to committee, commission, or board members.

The meeting webcast will be available at: <https://abag.ca.gov/meetings-events/live-webcasts>

Members of the public are encouraged to participate remotely via Zoom at the following link or phone number:

Please click the link below to join the webinar:

<https://bayareametro.zoom.us/j/81241520966>

Or One tap mobile :

US: +14086380968,,81241520966# or +16699006833,,81241520966#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 408 638 0968 or +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or +1 312 626 6799 or +1 646 876 9923 or +1 301 715 8592 or 877 853 5247 (Toll Free) or 888 788 0099 (Toll Free) or 833 548 0276 (Toll Free) or 833 548 0282 (Toll Free)

Webinar ID: 812 4152 0966

Detailed instructions on participating via Zoom are available at:

<https://abag.ca.gov/zoom-information>

Committee members and members of the public participating by Zoom wishing to speak should use the "raise hand" feature or dial "*9".

In order to get the full Zoom experience, please make sure your application is up to date.

Members of the public may participate by phone or Zoom or may submit comments by email at info@bayareametro.gov by 5:00 p.m. the day before the scheduled meeting date. Please include the committee or board meeting name in the subject line. Due to the current circumstances there may be limited opportunity to address comments during the meeting. All comments received will be submitted into the record.

The ACFA Governing Board may act on any item on the agenda.

The meeting is scheduled to begin at 5:15 p.m.,
or immediately following the preceding ABAG committee meeting.

Agenda, roster, and webcast available at <http://abag.ca.gov>

For information, contact Clerk of the Board at (415) 820-7913.

Roster

Karen Mitchoff, Supervisor, County of Contra Costa—Chair

Jesse Arreguin, Mayor, City of Berkeley—Vice Chair

Cindy Chavez, Supervisor, County of Santa Clara

Belia Ramos, Supervisor, County of Napa

1. Call to Order / Roll Call / Confirm Quorum

2. Public Comment

Information

3. Governing Board Announcements

Information

4. Governing Board Chair's Report

- 4.a. [21-1112](#) ACFA Governing Board Chair's Report for September 16, 2021

Action: Information

Presenter: Karen Mitchoff

5. Executive Director's Report

- 5.a. [21-1113](#) Executive Director's Report for September 16, 2021

Action: Information

Presenter: Therese McMillan

6. Consent Calendar

- 6.a. [21-1114](#) Approval of ACFA Governing Board Minutes of May 20, 2021

Action: Approval

Presenter: Secretary

Attachments: [06a ACFA GB Minutes 20210520 Draft.pdf](#)

- 6.b. [21-1116](#) Report on ABAG FAN Contracts and Purchase Requisitions between \$20,000 and \$200,000 from April 2021 to June 2021

Action: Information

Presenter: Brian Mayhew

Attachments: [06b Summary Sheet FAN Contracts Between 20K and 200K v2.pdf](#)

7. ABAG Finance Authority for Nonprofit Corporations

- 7.a. [21-1115](#) Report on ABAG FAN Financial Statements as of June 30, 2021 (Unaudited)

Action: Approval

Presenter: Brian Mayhew

Attachments: [07a 1 Summary Sheet FAN Financial Statements v2.pdf](#)
[07a 2 Attachment Budget to Actual Report.pdf](#)

- 7.b. [21-1132](#) Report on ABAG FAN Portfolio as of July 2021

Action: Approval

Presenter: Brian Mayhew

Attachments: [07b 1 Summary Sheet Report FAN Portfolio v2.pdf](#)
[07b 2 Attachment ABAG FAN Notice regarding trustee transfer 4823-5370-9025](#)

- 7.c. [21-1133](#) Report on Santa Cruz Montessori Default Notice

Action: Information

Presenter: Brian Mayhew

Attachments: [07c 1 Summary Sheet FAN Santa Cruz Montessori v2.pdf](#)
[07c 2 Attachment Santa Cruz Montessori Default Notice.pdf](#)

8. Adjournment / Next Meeting

The next regular meeting of the ACFA Governing Board is on November 18, 2021.

Public Comment: The public is encouraged to comment on agenda items at Committee meetings by completing a request-to-speak card (available from staff) and passing it to the Committee secretary. Public comment may be limited by any of the procedures set forth in Section 3.09 of MTC's Procedures Manual (Resolution No. 1058, Revised) if, in the chair's judgment, it is necessary to maintain the orderly flow of business.

Meeting Conduct: If this meeting is willfully interrupted or disrupted by one or more persons rendering orderly conduct of the meeting unfeasible, the Chair may order the removal of individuals who are willfully disrupting the meeting. Such individuals may be arrested. If order cannot be restored by such removal, the members of the Committee may direct that the meeting room be cleared (except for representatives of the press or other news media not participating in the disturbance), and the session may continue.

Record of Meeting: Committee meetings are recorded. Copies of recordings are available at a nominal charge, or recordings may be listened to at MTC offices by appointment. Audiocasts are maintained on MTC's Web site (mtc.ca.gov) for public review for at least one year.

Accessibility and Title VI: MTC provides services/accommodations upon request to persons with disabilities and individuals who are limited-English proficient who wish to address Commission matters. For accommodations or translations assistance, please call 415.778.6757 or 415.778.6769 for TDD/TTY. We require three working days' notice to accommodate your request.

可及性和法令第六章: MTC 根據要求向希望來委員會討論有關事宜的殘疾人士及英語有限者提供服務/方便。需要便利設施或翻譯協助者, 請致電 415.778.6757 或 415.778.6769 TDD / TTY。我們要求您在三個工作日前告知, 以滿足您的要求。

Acceso y el Titulo VI: La MTC puede proveer asistencia/facilitar la comunicación a las personas discapacitadas y los individuos con conocimiento limitado del inglés quienes quieran dirigirse a la Comisión. Para solicitar asistencia, por favor llame al número 415.778.6757 o al 415.778.6769 para TDD/TTY. Requerimos que solicite asistencia con tres días hábiles de anticipación para poderle proveer asistencia.

Attachments are sent to Committee members, key staff and others as appropriate. Copies will be available at the meeting.

All items on the agenda are subject to action and/or change by the Committee. Actions recommended by staff are subject to change by the Committee.

Legislation Details (With Text)

File #: 21-1112 **Version:** 1 **Name:**

Type: Report **Status:** Informational

File created: 8/16/2021 **In control:** ABAG ACFA Governing Board

On agenda: 9/16/2021 **Final action:**

Title: ACFA Governing Board Chair's Report for September 16, 2021

Sponsors:

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

ACFA Governing Board Chair's Report for September 16, 2021

Karen Mitchoff

Information

Legislation Details (With Text)

File #: 21-1113 **Version:** 1 **Name:**

Type: Report **Status:** Informational

File created: 8/16/2021 **In control:** ABAG ACFA Governing Board

On agenda: 9/16/2021 **Final action:**

Title: Executive Director's Report for September 16, 2021

Sponsors:

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Executive Director's Report for September 16, 2021

Therese McMillan

Information

Legislation Details (With Text)

File #: 21-1114 **Version:** 1 **Name:**

Type: Report **Status:** Consent

File created: 8/16/2021 **In control:** ABAG ACFA Governing Board

On agenda: 9/16/2021 **Final action:**

Title: Approval of ACFA Governing Board Minutes of May 20, 2021

Sponsors:

Indexes:

Code sections:

Attachments: [06a ACFA GB Minutes 20210520 Draft.pdf](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Approval of ACFA Governing Board Minutes of May 20, 2021

Secretary

Approval



375 Beale Street
Suite 700
San Francisco, California
94105

Meeting Minutes - Draft

ABAG ACFA Governing Board

Chair, Karen Mitchoff, Supervisor, County of Contra Costa
Vice Chair, Jesse Arreguin, Mayor, City of Berkeley

Thursday, May 20, 2021

5:15 PM

Board Room - 1st Floor (REMOTE)

Advancing California Finance Authority Governing Board

The ACFA Governing Board may act on any item on the agenda.

The meeting is scheduled to begin at 5:15 p.m.,
or immediately following the preceding ABAG committee meeting.

Agenda, roster, and webcast available at <http://abag.ca.gov>
For information, contact Clerk of the Board at (415) 820-7913.

Roster

Karen Mitchoff, Supervisor, County of Contra Costa—Chair
Jesse Arreguin, Mayor, City of Berkeley—Vice Chair
Cindy Chavez, Supervisor, County of Santa Clara
Belia Ramos, Supervisor, County of Napa

1. Call to Order / Roll Call / Confirm Quorum

Chair Mitchoff called the meeting to order at about 5:15 p.m. Quorum was present.

Present: 3 - Arreguin, Mitchoff, and Ramos

Absent: 1 - Chavez

2. Public Comment

3. Governing Board Announcements

4. Governing Board Chair's Report

4.a. [21-0710](#) ACFA Governing Board Chair's Report for May 20, 2021

5. Executive Director's Report

5.a. [21-0711](#) Executive Director's Report for May 20, 2021

6. Consent Calendar

Upon the motion by Arreguin and second by Ramos, the ACFA Governing Board approved the Consent Calendar. The motion passed unanimously by the following vote:

Aye: 3 - Arreguin, Mitchoff, and Ramos

Absent: 1 - Chavez

- 6.a. [21-0712](#) Approval of ACFA Governing Board Minutes of March 18, 2021

7. ABAG Finance Authority for Nonprofit Corporations

- 7.a. [21-0713](#) Report on ABAG FAN Financial Statements for period ended March 31, 2021 (Unaudited)

Brian Mayhew gave the report noting a system error in the reporting.

Upon the motion by Arreguin and second by Ramos, the ACFA Governing Board accepted the staff report on ABAG FAN Financial Statements for period ended March 31, 2021 (Unaudited) noting the staff report regarding a system error. The motion passed unanimously by the following vote:

Aye: 3 - Arreguin, Mitchoff, and Ramos

Absent: 1 - Chavez

- 7.b. [21-0714](#) Report on ABAG FAN Contracts and Purchase Requisitions between \$20,000 and \$50,000 from January to March 2021

Brian Mayhew gave the report.

Upon the motion by Ramos and second by Arreguin, the ACFA Governing Board accepted the staff report on ABAG FAN Contracts and Purchase Requisitions between \$20,000 and \$50,000 from January to March 2021. The motion passed unanimously by the following vote:

Aye: 3 - Arreguin, Mitchoff, and Ramos

Absent: 1 - Chavez

- 7.c. [21-0807](#) Approval of ABAG Finance Authority for Nonprofit Corporations (FAN) Operating Budget for Fiscal Year 2021-22

Brian Mayhew gave the report.

Upon the motion by Arreguin and second by Ramos, the ACFA Governing Board approved the ABAG Finance Authority for Nonprofit Corporations (FAN) Operating Budget for Fiscal Year 2021-22. The motion passed unanimously by the following vote:

Aye: 3 - Arreguin, Mitchoff, and Ramos

Absent: 1 - Chavez

8. Adjournment / Next Meeting

Chair Mitchoff adjourned the meeting at about 5:28 p.m. The next regular meeting of the ACFA Governing Board is on July 15, 2021.

Legislation Details (With Text)

File #: 21-1116 **Version:** 1 **Name:**

Type: Report **Status:** Consent

File created: 8/16/2021 **In control:** ABAG ACFA Governing Board

On agenda: 9/16/2021 **Final action:**

Title: Report on ABAG FAN Contracts and Purchase Requisitions between \$20,000 and \$200,000 from April 2021 to June 2021

Sponsors:

Indexes:

Code sections:

Attachments: [06b Summary Sheet FAN Contracts Between 20K and 200K v2.pdf](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Report on ABAG FAN Contracts and Purchase Requisitions between \$20,000 and \$200,000 from April 2021 to June 2021

Brian Mayhew

Information

Advancing California Finance Authority

Governing Board

September 16, 2021

Agenda Item 6.b.

ABAG FAN Contracts and Purchase Requisitions

Subject: Report on ABAG FAN Contracts and Purchase Requisitions between \$20,000 and \$200,000 from April 2021 to June 2021

Background: The ACFA Governing Board has directed staff to report on contracts and purchase orders between \$20,000 and \$200,000 approved by the Executive Director.

From April 2021 to June 2021, ABAG Finance Authority for Nonprofit Corporations (FAN) had the following contracts and purchase requisitions between \$20,000 and \$200,000:

Purchase Requisitions

None


Contracts

None

Issues: None

Recommended Action: Information

Attachments: None

Reviewed: 
Therese W. McMillan

Legislation Details (With Text)

File #: 21-1115 **Version:** 1 **Name:**

Type: Report **Status:** Committee Approval

File created: 8/16/2021 **In control:** ABAG ACFA Governing Board

On agenda: 9/16/2021 **Final action:**

Title: Report on ABAG FAN Financial Statements as of June 30, 2021 (Unaudited)

Sponsors:

Indexes:

Code sections:

Attachments: [07a 1 Summary Sheet FAN Financial Statements v2.pdf](#)
[07a 2 Attachnent Budget to Actual Report.pdf](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Report on ABAG FAN Financial Statements as of June 30, 2021 (Unaudited)

Brian Mayhew

Approval

Advancing California Finance Authority

Governing Board

September 16, 2021

Agenda Item 7.a.

ABAG FAN Financial Statements

Subject: Report on ABAG FAN Financial Statements as of June 30, 2021 (Unaudited)

Background: The ABAG Finance Authority for Nonprofit Corporations (FAN) ended the Fiscal Year 2020-21 with a \$118,570 surplus. The preliminary (unaudited) revenue for the year was \$840,407 with total expenditures of \$721,837.

Attached for your information is the budget-to-actual report for ABAG FAN as of the end of June 2021. The financial information is preliminary, unaudited and subjected to change.

The report is showing a surplus of \$118,570 at the end of the fiscal year reporting period.

Total revenue of \$840,407 is 90% of the adopted budget. Total fee revenue is \$824,365 or 91% of the budget. As more of the portfolios reach maturity, the fees generated will decrease. Although the fee revenue is less than the FY 2021 budget estimate, the related expenses are also lower than their respective budgets.

Total expenses are \$721,837, 79% of the adopted budget. Most of the expenses are related to consulting and legal fees which were lower than expected because of the reduction administrative and issuance costs.

If you have any questions about this report, please contact Brian Mayhew at (415) 778-6730.

Issues: None

Recommended Action: The ACFA Governing Board is requested to approve the staff report on ABAG FAN Financial Statements as of June 30, 2021 (Unaudited).

Attachments: ABAG FAN Financial Statements

Reviewed:



Therese W. McMillan

Ledger: GL
 Report Date: 06/30/2021
 Fiscal Year: 2021

Budget to Actual by Fund
(with Encumbrances)

Period: 12
 Budget Version: WK
 Budget Level: OB

Fund 481 ABAG FAN

REVENUE ACCOUNTS

<u>Object Description</u>	<u>Object</u>	<u>Budget</u>	<u>Actual</u>	<u>Encumbrance</u>	<u>Balance</u>
Int Income - LAIF	4801	15,000.00	16,042.04	0.00	-1,042.04
Interest Income - CalTrust	4804	15,000.00	0.00	0.00	15,000.00
Gain/Loss Revaluation Investmt	4850	0.00	0.00	0.00	0.00
Gain/loss on Investments	4855	0.00	0.00	0.00	0.00
Miscellaneous	4950	260,051.00	50,993.56	0.00	209,057.44
Financial Services Revenue	4953	50,000.00	60,000.00	0.00	-10,000.00
Administrative fees	4956	390,208.00	519,763.90	0.00	-129,555.90
Project monitoring fees	4957	205,608.00	193,607.50	0.00	12,000.50
Transfers in	8401	0.00	0.00	0.00	0.00

EXPENSE ACCOUNTS

<u>Object Description</u>	<u>Object</u>	<u>Budget</u>	<u>Actual</u>	<u>Encumbrance</u>	<u>Balance</u>
Salaries	5000	114,709.00	103,812.14	0.00	10,896.86
Benefits - Vacation and Sick	5065	0.00	1,735.75	0.00	-1,735.75
Benefits - Holidays	5067	0.00	1,787.71	0.00	-1,787.71
Benefits	5099	55,889.00	72,759.88	0.00	-16,870.88
Travel Expense	5100	5,000.00	0.00	0.00	5,000.00
Transit Tickets	5101	0.00	0.00	0.00	0.00
Conference/Trning Exps & Fees	5130	10,000.00	0.00	0.00	10,000.00
Advertising/Public Awareness	5142	600.00	0.00	0.00	600.00
Storage Rental	5184	0.00	0.00	0.00	0.00
Memberships	5270	0.00	0.00	0.00	0.00
Subscriptions	5280	0.00	0.00	0.00	0.00
Consultant/Professional Fees	5300	422,671.00	177,560.91	180,722.79	64,387.30
Legal Fees	5340	50,000.00	178,403.00	220,479.34	-348,882.34
Passthru/Contrib-Othr Agncies	5600	0.00	0.00	0.00	0.00
Commtee Member's Stipend	5703	4,500.00	2,100.00	0.00	2,400.00
Audit	5717	125,000.00	73,702.00	51,350.00	-52.00
Bank Service Charges	5750	18,750.00	7,000.46	0.00	11,749.54
Miscellaneous	5755	12,650.00	14.50	0.00	12,635.50
Indirect Costs	5763	96,661.00	102,960.70	0.00	-6,299.70
Transfers out	8000	0.00	0.00	0.00	0.00
Revenue:		935,867.00	840,407.00	0.00	95,460.00
Expenses:		916,430.00	721,837.05	452,552.13	-257,959.18
Net:		19,437.00	118,569.95	-452,552.13	353,419.18

Legislation Details (With Text)

File #: 21-1132 **Version:** 1 **Name:**
Type: Report **Status:** Committee Approval
File created: 8/23/2021 **In control:** ABAG ACFA Governing Board
On agenda: 9/16/2021 **Final action:**
Title: Report on ABAG FAN Portfolio as of July 2021

Sponsors:

Indexes:

Code sections:

Attachments: [07b 1 Summary Sheet Report FAN Portfolio v2.pdf](#)
[07b 2 Attachment ABAG FAN Notice regarding trustee transfer 4823-5370-9025 v1.pdf](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Report on ABAG FAN Portfolio as of July 2021

Brian Mayhew

Approval

Advancing California Finance Authority

Governing Board

September 16, 2021

Agenda Item 7.b.

ABAG FAN Portfolio

Subject: Report on ABAG FAN Portfolio as of July 2021

Background: This report provides an update of ABAG Finance Authority for Nonprofit Corporations' (FAN) existing debt portfolio.

Transaction Document Amendments

Over the past few months, staff has been working on several amendments for the following transactions:

Acacia Creek. Acacia Creek is a \$99,423,319 privately placed housing transaction with Bank of America issued in 2013. The bonds were initially scheduled for a put date of 10/31/2018. Both the Borrower and Bank of America wanted to extend the put date to 11/30/2021. The bonds have a final maturity of 7/1/2038. The request was to propose a new rate and to amend the indenture to permit the current bond holder to hold the bonds until 12/16/21. Extension of the put date caused a reissuance and required the Authority to approve the Second Supplement to the Indenture, Supplemental Tax Agreement, and Authorization of the Resolution.

Acton Courtyard. EQR-Acton Berkley Limited Partnership (the "Owner") entered into a Real Estate Sale Agreement (the "Sale Contract") with Avanath Acton, LP, a Delaware limited partnership (as assignee of Avanath Investments, LLC) (the "Buyer") for the sale of the Acton Courtyard Apartments (the "Project"). The Project is currently financed with the above-referenced bonds (the "Bonds"), which will be paid off in whole on the closing date. It is anticipated that the Buyer will assume the Owner's obligations under that certain Amended and Restated Regulatory and Declaration of Restrictive Covenants dated as of March 1, 2010 (the "Regulatory Agreement") with respect to periods from and after the transfer.

Amber Court. This development was the recipient of tax-exempt bond proceeds from a December 2002 bond issuance by the ABAG Finance Authority for Nonprofit Corporations. Pursuant to the definition of "Qualified Project Period", the Regulatory Agreement expires upon the latest of: (1) repayment of all bond proceeds; (2) the end of any project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, as amended, or (3) December 1, 2020. All of the conditions for expiration of the

Advancing California Finance Authority

Governing Board

September 16, 2021

Agenda Item 7.b.

ABAG FAN Portfolio

Regulatory Agreement have occurred, and therefore the Qualified Project Period has expired. The General Partner requested that the Issuer execute a Termination Agreement with respect to the Bonds. The documents were executed on 5/12/21.

Park Day School. Park Day School amendment eliminated the prepayment date in 2024 and included provisions to set interest rates in 2031 and 2041. The maturity date remained the same. This transaction constitutes a reissuance for tax purposes. A draft of the Second Amendment to the Loan Agreement, IRS Form 8038 for reissuance, 1st Supplement to Tax Regulatory Agreement, along with Amendment Special Counsel Opinion was submitted to the CFO to execute.

Eskaton 2008 Reissuance. Eskaton is a nonprofit senior living provider in northern California. The bonds are ABAG Variable Rate Demand Revenue Refunding Bonds, Series 2008A issued for Eskaton. All of the 2008A Bonds are currently held by U.S. Bank, and subject to mandatory purchase on September 3, 2020. Eskaton is working on a refinancing transaction whereby it intended to refund the 2008A Bonds, in full, on or about August 31, 2020. However, the refinancing was delayed, so Eskaton will need to extend the mandatory purchase date. This is the reason for the proposed amendment to the Bond Trust Indenture for the 2008A Bonds. Eskaton is requesting an extension of the initial bank purchase date until December 2, 2025. Issuer counsel has determined that this change, due to the long period of extension, will be a reissuance for tax purposes so there will be some tax-related documents. The proposed Second Supplemental Bond Trust Indenture was submitted together with the original Bond Trust Indenture and First Supplement from 2013. No other changes to any of the other related financings documents

Union Bank Trustee Transfer

Back in March 2021, Union Bank confirmed that they would sell their debt servicing and securities custody client portfolio to US Bank. August 2 was the final completion date. Union Bank served as Trustee on all CFD transactions in the ABAG FAN portfolio.

Effective August 2, 2021, U.S. Bank National Association will succeed as fiscal agent or trustee, as applicable, in the below referenced transactions. Staff worked with both banks to ensure

Advancing California Finance Authority

Governing Board

September 16, 2021

Agenda Item 7.b.

ABAG FAN Portfolio

smooth transition in August. See attached Notice regarding Trustee Transfer.

- SF Mint
- SF Rincon
- 690 Market Street
- Windemere CFD
- Windemere AD

Wells Fargo Bank Trustee Transfer

Wells Fargo & Co. is selling its corporate trust services business to Computershare in a \$750 million deal. Wells Fargo currently serves as Trustee for many transactions in the housing bond portfolio administered by ABAG FAN. Staff is working with both banks to ensure a smooth transition. The transition is anticipated to be in the Spring 2022.

Issues: None

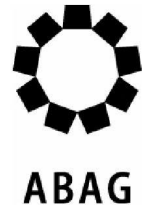
Recommended Action: The ACFA Governing Board is requested to accept the report on ABAG FAN Portfolio as of July 2021.

Attachments: Trustee Transfer Notice, Nixon Peabody

Reviewed:



Therese W. McMillan



TRUSTEE TRANSFER NOTICE

MUFG Union Bank, N.A. (“Union Bank”), served as fiscal agent pursuant to (a) the Fiscal Agent Agreement, dated as of June 1, 2007, as amended and supplemented by Supplemental Agreement No. 1 to Fiscal Agent Agreement, dated as of August 1, 2014, and Supplemental Agreement No. 2 to Fiscal Agent Agreement, dated as of June 1, 2017, each by and between the Association of Bay Area Governments and Union Bank, relating to Limited Obligation Improvement Refunding Bonds, Series 2007-A, Association of Bay Area Governments Windemere Ranch Reassessment District and (b) the Fiscal Agent Agreement, by and between ABAG Finance Authority for Nonprofit Corporations (“ABAG FAN”) and Union Bank, dated as of June 1, 2007, as supplemented and amended by Supplemental Agreement No. 1 to Fiscal Agent Agreement, dated as of August 1, 2014, and Supplemental Agreement No. 2 to Fiscal Agent Agreement, dated as of June 1, 2017, each by and between by and between ABAG FAN and Union Bank, relating to ABAG FAN Community Facilities District No. 2004-2 (Windemere Ranch) Special Tax Refunding Bonds, Series 2007A and ABAG FAN Community Facilities District No. 2004-2 (Windemere Ranch) Special Tax Bonds, Series 2007B.

Union Bank also served as trustee pursuant to (i) the Indenture by and between the ABAG FAN, on and behalf of the ABAG FAN Community Facilities District No. 2006-2 (San Francisco Mint Plaza Area), and Union Bank, dated as of October 1, 2007, relating to \$3,270,000 ABAG FAN Community Facilities District No. 2006-2 (San Francisco Mint Plaza Area) Special Tax Bonds, Series 2007A, (ii) the Indenture by and between ABAG FAN, on and behalf of the ABAG FAN Community Facilities District No. 2006-1 (San Francisco Rincon Hill), and Union Bank, dated as of June 1, 2006, relating to \$5,825,000 ABAG FAN Community Facilities District No. 2006-1 (San Francisco Rincon Hill) Special Tax Bonds, Series 2006A, (iii) the Indenture by and between ABAG FAN, for and on behalf of ABAG FAN Community Facilities District No. 2004-1 (Seismic Safety Improvements – 690 and 942 Market Street Project), and MUFG Union Bank, N.A., dated as of August 1, 2018 relating to \$9,795,000 ABAG FAN Community Facilities District

No. 2004-1 (Seismic Safety Improvements – 690 and 942 Market Street Project) 2018 Special Tax Refunding Bonds (Taxable) and (iv) the Indenture of Trust, by and between the ABAG FAN and Union Bank, dated as of June 1, 2007, as amended and supplemented by the First Supplemental Indenture of Trust, dated as of August 1, 2014, by and between ABAG FAN and Union Bank relating to \$31,805,000 ABAG FAN Refunding Revenue Bonds, Senior Series 2014-A (Windemere Ranch Infrastructure Financing Program) and Second Supplemental Indenture of Trust, by and between ABAG FAN and Union Bank, dated as of June 1, 2017, relating to ABAG FAN Refunding Revenue Bonds, Subordinate Series 2017-A (Windemere Ranch Infrastructure Financing Program) and \$12,460,000 ABAG FAN Taxable Refunding Revenue Bonds, Subordinate Series 2017-B (Windemere Ranch Infrastructure Financing Program).

On March 15, 2021, MUFG Union Bank sold its debt servicing and securities custody client portfolio to U.S. Bank National Association. The final conversion of assets is expected to take place by the end of July 2021. Effective as of March 15, 2021, U.S. Bank National Association will succeed as fiscal agent or trustee, as applicable, in the above referenced transactions.

Legislation Details (With Text)

File #: 21-1133 **Version:** 1 **Name:**

Type: Report **Status:** Informational

File created: 8/23/2021 **In control:** ABAG ACFA Governing Board

On agenda: 9/16/2021 **Final action:**

Title: Report on Santa Cruz Montessori Default Notice

Sponsors:

Indexes:

Code sections:

Attachments: [07c 1 Summary Sheet FAN Santa Cruz Montessori v2.pdf](#)
[07c 2 Attchment Santa Cruz Montessori Default Notice.pdf](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Report on Santa Cruz Montessori Default Notice

Brian Mayhew

Information

Advancing California Finance Authority

Governing Board

September 16, 2021

Agenda Item 7.c.

Santa Cruz Montessori School

Subject: Report on Santa Cruz Montessori Default Notice

Background: Staff received a notice from US Bank lender counsel regarding Santa Cruz Montessori School was in default for not maintaining an adequate fixed charge coverage ratio of 1.0 to 1.15 on a quarterly basis through September 2020 and December 2020. Violation of these lending benchmarks caused the borrower to go into default.

Santa Cruz Montessori School is an educational facility located in Aptos, CA. This privately held US Bank bond has an outstanding balance of \$4,722,944.07 as of 9/1/21.

In the Event of Default, US Bank is entitled to the following:

(a) to declare the outstanding amount of the Obligations under this Agreement to be immediately due and payable without presentment, demand, protest, or further notice of any kind

(b) to cause a mandatory tender or acceleration of the Bonds or take such other remedial action as is provided for in the Indenture

(c) to take whatever action at law or in equity that may appear necessary or desirable to collect the amounts due and payable under the Related Documents or to enforce performance or observance of any obligation, agreement, or covenant of Santa Cruz under the Related Documents, whether for specific performance of any agreement or covenant of Santa Cruz or in aid of the execution of any power granted to the Bank in the Related Documents

(d) to place an administrative freeze on any deposit account of Santa Cruz with the Bank and

(e) to exercise, or cause to be exercised, any and all remedies as it may have under the Related Documents and as otherwise available at law and at equity.

At this time, US Bank reserves all rights and no action has been taken.

The Loan Agreement did have language that if the Bonds become subject to Rule 15c2-12, the Borrower will comply with the rule. If

Advancing California Finance Authority

Governing Board

September 16, 2021

Agenda Item 7.c.

Santa Cruz Montessori School

the bonds were to have a disclosure obligation it would be the obligation of the borrower and not ABAG FAN.

Issues:

None


Recommended Action:

Information

Attachments:

Santa Cruz Montessori Notice of Default

Reviewed:



Therese W. McMillan

March 18, 2021

BRYAN
CAVE
LEIGHTON
PAISNER 

Wesley O. Fields
Partner
T: +1 816 391 7667
F: +1 816 855 3667
wofields@bclplaw.com

BRYAN CAVE LEIGHTON PAISNER LLP
One Kansas City Place
1200 Main Street Suite 3800
Kansas City MO 64105 2122
T: +1 816 374 3200
F: +1 816 374 3300
www.bclplaw.com

VIA FEDEX

Kim Saxton, Head of School
Santa Cruz Montessori School
6230 Soquel Drive
Aptos, California 95003

Kathleen Warfield, CFO
Santa Cruz Montessori School
6230 Soquel Drive
Aptos, California 95003

COPY

Re: Notice of Default

Dear Ms. Saxton and Ms. Warfield:

As you may know, this firm represents U.S. Bank National Association (the "**Bank**") in connection with that certain Continuing Covenant Agreement, dated as of July 1, 2013, and as amended, between Santa Cruz Montessori School, a nonprofit public benefit corporation organized under the laws of the State of California (the "**Santa Cruz**") and the Bank (the "**Agreement**"). Capitalized terms used in this letter but not defined herein shall have the meaning as provided in the Agreement.

As of the date hereof, the Bank hereby declares and notifies Santa Cruz that it is in default under the Agreement for, among other things, the following reasons:

- (a) September 30, 2020 Fixed Charge Coverage Ratio. Pursuant to Section 6.30(a) of the Agreement, Santa Cruz is required to maintain a Fixed Charge Coverage Ratio of not less than 1.15 to 1.00, measured on a quarterly basis on each March 31, June 30, September 30 and December 31. Santa Cruz failed to maintain the required Fixed Charge Coverage Ratio as of September 30, 2020 (the "**September 2020 FCC Default**").
- (b) December 31, 2020 Fixed Charge Coverage Ratio. Pursuant to Section 6.30(a) of the Agreement, Santa Cruz is required to maintain a Fixed Charge Coverage Ratio of not less than 1.15 to 1.00, measured on a quarterly basis on each March 31, June 30, September 30 and December 31. Santa Cruz failed to maintain the required Fixed Charge Coverage Ratio as of December 31, 2020 (the "**December 2020 FCC Default**" and together with the September 2020 FCC Default, the "**Events of Default**").

Pursuant to the terms of the Agreement, upon the occurrence of an Event of Default, the Bank shall have the right: (a) to declare the outstanding amount of the Obligations under this Agreement to be immediately due and payable without presentment, demand, protest or further notice of any kind; (b) to cause a mandatory tender or acceleration of the Bonds or take such other remedial action as is provided for in the Indenture; (c) to take whatever action at law or in equity that may appear necessary or desirable to collect the amounts due and payable under the Related Documents or to enforce performance or observance of any obligation, agreement or covenant of Santa Cruz under the Related Documents, whether for specific performance of any agreement or covenant of Santa Cruz or in aid of the execution of any power granted to the Bank in the Related Documents; (d) to place an administrative freeze on any deposit account of

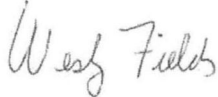
Santa Cruz with the Bank; and (e) to exercise, or cause to be exercised, any and all remedies as it may have under the Related Documents and as otherwise available at law and at equity.

The Bank hereby expressly reserves every right, power and remedy specifically provided by the Agreement, including, but not limited to the rights, powers and remedies described herein, and any related documents, now or hereafter existing at law, in equity or by statute and each and every right, power and remedy, whether specifically given by Santa Cruz or otherwise existing, which may be exercised from time to time and as often and in such order as may be deemed expedient by the Bank and the exercise or beginning of the exercise of any such right, power or remedy shall not be construed as a waiver of the right to exercise at the same time or thereafter any other right, power or remedy. Any action or inaction the Bank determines, in its sole discretion, to take from and after the occurrence of the Events of Default shall not operate as a waiver of any Event of Default or any right or remedy under the Agreement, and will not be deemed to establish a course of conduct nor justify an expectation by Santa Cruz that the Bank will take any further action or continue to not take any action and will not preclude the Bank from exercising any and all remedies available at any time thereafter.

Notwithstanding anything to the contrary contained in this letter, the Bank expressly reserves all rights and remedies available to it under the Agreement in connection with any other Event of Default that has occurred or will occur under the Agreement. Furthermore, nothing contained in this letter is intended to (a) waive or release Santa Cruz from any of its obligations under the Agreement, and/or (b) waive or estop the Bank from pursuing any of its rights or remedies under the Agreement.

Please do not hesitate to contact us with any questions.

Very truly yours,



Wesley O. Fields

WOF/ps

cc: Clark Howatt, ABAG Finance Authority for Nonprofit Corporations, *VIA Fedex*
David Jones, US Bank