



375 Beale Street
Suite 700
San Francisco, California
94105

Meeting Agenda - Final

ABAG FAN Executive Committee

*Chair, Charles Lomeli, Treasurer-Tax Collector-County Clerk,
County of Solano*

Thursday, April 2, 2020

10:00 AM

Golden Gate CR 8102

ABAG Finance Authority for Nonprofit Corporations Executive Committee

The ABAG FAN Executive Committee will be meeting on April 2, 2020 at 10:00 a.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 Orders N-25-20 and N-29-20 issued by Governor Newsom, and the Guidance for Gatherings issued by the California Department of Public Health, the meeting will be conducted via webcast and teleconference for Executive Committee members. Some Executive Committee members will participate in the meeting from individual remote locations, which is in accordance with the Governor's Executive Orders. Members of the public are encouraged to watch remotely.

Persons who wish to address the ABAG FAN Executive Committee on an item to be considered at this meeting are asked to submit comments in writing at info@bayareametro.gov by 5:00 p.m. on the day before the scheduled meeting date. Due to the current circumstances there may be limited opportunity to address comments during the meeting. All comments will be submitted into the record.

The ABAG FAN Executive Committee may act on any item on the agenda.

The meeting is scheduled to begin at 10:00 a.m.

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

For information, contact Secretary at (415) 820-7913

Roster

Charles Lomeli, Treasurer-Tax Collector-County Clerk, County of Solano

Jonathan Kadlec, Assistant Auditor-Controller-Treasurer-Tax Collector, County of Sonoma

Paul McDonough, Debt Management Officer, County of Santa Clara

Russell Watts, Treasurer-Tax Collector, County of Contra Costa

1. Call to Order / Roll Call / Confirm Quorum

2. Public Comment

Information

3. Executive Committee Announcements

Information

4. Chair's Report

Information

5. Consent Calendar

- 5.a. [20-0523](#) Approval of ABAG FAN Executive Committee Minutes of January 9, 2020

Action: Approval

Presenter: Secretary

Attachments: [Item 05a Minutes 20200109 Draft.pdf](#)

6. Financial Report

- 6.a. [20-0524](#) Report on ABAG FAN Financial Statements for period ended December 31, 2019 (Unaudited)

Action: Approval

Presenter: Brian Mayhew

Attachments: [Item 06a 1 Summary Sheet Report Financial Statements v1.pdf](#)
[Item 06a 2 Attachment Report 481 budget vs act 1219.pdf](#)

7. Portfolio Update

- 7.a. [20-0526](#) Report on Portfolio Update for period ended February 2020

Action: Approval

Presenter: Brian Mayhew

Attachments: [Item 07a 1 Summary Sheet Report Portfolio v2.pdf](#)

8. ABAG FAN Successor Agency

- 8.a. [20-0525](#) Adoption of Resolution No. 2020-002 Approval of Transfer of Board Duties from ABAG Finance Authority for Nonprofit Corporations to the Advancing California Finance Authority and Related Matters Thereto

Action: Approval

Presenter: Brian Mayhew

Attachments: [Item 08a 1 Summary Sheet Adoption Resolution No 2020-002 Transfer ABAG F](#)
[Item 08a 2 Attachment A Resolution 2020 002.pdf](#)
[Item 08a 3 Attachment B Memo - Phase I Update on Successor Agency Review](#)
[Item 08a 4 Attachment C Memo - Phase II Summary and Update - Successor A](#)
[Item 08a 5 Attachment D FORM OF NOTICES - ABAG FAN.pdf](#)

9. Contracts

- 9.a. [20-0527](#) Authorization to modify and extend an existing contract with Compliance Services, LLC on a sole source basis to provide housing program compliance monitoring services in an annual amount not to exceed \$100,000 for a five year period renewable annually based on budget, pricing and continued effective service levels
- Action:** Approval
- Presenter:** Brian Mayhew
- Attachments:** [Item 09a 1 Summary Sheet Housing Compliance v2.pdf](#)
[Item 09a 2 Summary Approval HOUSING COMPLIANCE v1.pdf](#)
- 9.b. [20-0561](#) Authorization to modify and extend an existing contract with Goodwin Consulting Group and NBS Consulting on a sole source basis to provide advisory services related to the ongoing administration of five Community Facilities Districts in the ABAG FAN portfolio with an annual budget of \$40,000 for each CFD for a five year period renewable annually based on budget, pricing and continued effective service levels until the bonds on the Community Facilities Districts are fully retired
- Action:** Approval
- Presenter:** Brian Mayhew
- Attachments:** [Item 09b 1 Summary Sheet Goodwin NBS v2.pdf](#)
[Item 09b 2 Summary Approval GOODWIN NBS v1.pdf](#)

10. Adjournment

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.



Metropolitan Transportation Commission

375 Beale Street, Suite 800
San Francisco, CA 94105

Legislation Details (With Text)

File #: 20-0523 **Version:** 1 **Name:**
Type: Minutes **Status:** Committee Approval
File created: 3/5/2020 **In control:** ABAG FAN Executive Committee
On agenda: 4/2/2020 **Final action:**
Title: Approval of ABAG FAN Executive Committee Minutes of January 9, 2020
Sponsors:
Indexes:
Code sections:
Attachments: [Item 05a Minutes 20200109 Draft.pdf](#)

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

Approval of ABAG FAN Executive Committee Minutes of January 9, 2020

Secretary

Approval



375 Beale Street
Suite 700
San Francisco, California
94105

Meeting Minutes - Draft

ABAG FAN Executive Committee

*Chair, Charles Lomeli, Treasurer-Tax Collector-County Clerk,
County of Solano*

Thursday, January 9, 2020

10:00 AM

Golden Gate CR 8102

ABAG Finance Authority for Nonprofit Corporations Executive Committee

The ABAG FAN Executive Committee may act on any item on the agenda.

The meeting is scheduled to begin at 10:00 a.m.

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

For information, contact Secretary at (415) 820-7913.

Location

375 Beale Street, 8th Floor, Golden Gate Conference Room, San Francisco, California

Teleconference Locations

625 Court Street, Room B-001, Martinez, California

70 West Hedding Street, E. Wing, 2nd Floor, San Jose, California

675 Texas Street, Suite 1900, Fairfield, California

585 Fiscal Drive, Suite 100, Santa Rosa, California

Roster

Charles Lomeli, Treasurer-Tax Collector-County Clerk, County of Solano

Jonathan Kadlec, Assistant Auditor-Controller-Treasurer-Tax Collector, County of Sonoma

Paul McDonough, Debt Management Officer, County of Santa Clara

Russell Watts, Treasurer-Tax Collector, County of Contra Costa

1. Call to Order / Roll Call / Confirm Quorum

Chair Lomeli called the meeting to order at about 10:00 a.m. The following members participated by teleconference: Lomeli, McDonough, Watts.

Quorum was present.

Present: 3 - Lomeli, McDonough, and Watts

Absent: 1 - Kadlec

2. Public Comment

There was no public comment.

Kadlec joined the meeting by teleconference.

3. Executive Committee Announcements

There were no Executive Committee member announcements.

4. Chair's Report

There was no Chair's Report.

5. Consent Calendar

Upon the motion by Watts and second by McDonough, the Consent Calendar was approved. The motion passed unanimously by the following vote:

Aye: 4 - Kadlec, Lomeli, McDonough, and Watts

- 5.a. [20-0089](#) Approval of ABAG FAN Executive Committee Minutes of December 12, 2019

6. Financial Report

- 6.a. [20-0090](#) Report of ABAG FAN Financial Statements as of October 31, 2019 (Unaudited)

Upon the motion by Kadlec and second by Lomeli, the Report of ABAG FAN Financial Statements as of October 31, 2019 (Unaudited) was approved. The motion passed unanimously by the following vote:

Aye: 4 - Kadlec, Lomeli, McDonough, and Watts

7. Reissuance

- 7.a. [20-0091](#) Adoption of ABAG FAN Resolution No. 2020-001 and the Reissuance of Acacia Creek 2013A

Upon the motion by McDonough and second by Kadlec, ABAG FAN Resolution No. 2020-001 was adopted and the Reissuance of Acacia Creek 2013A was approved. The motion passed unanimously by the following vote:

Aye: 4 - Kadlec, Lomeli, McDonough, and Watts

8. Adjournment / Next Meeting

Chair Lomeli adjourned the meeting at about 10:20 a.m. The next regular meeting of the ABAG FAN Executive Committee is on February 6, 2020.



Metropolitan Transportation Commission

375 Beale Street, Suite 800
San Francisco, CA 94105

Legislation Details (With Text)

File #: 20-0524 **Version:** 1 **Name:**

Type: Report **Status:** Committee Approval

File created: 3/5/2020 **In control:** ABAG FAN Executive Committee

On agenda: 4/2/2020 **Final action:**

Title: Report on ABAG FAN Financial Statements for period ended December 31, 2019 (Unaudited)

Sponsors:

Indexes:

Code sections:

Attachments: [Item 06a 1 Summary Sheet Report Financial Statements v1.pdf](#)
[Item 06a 2 Attachment Report 481 budget vs act 1219.pdf](#)

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

Report on ABAG FAN Financial Statements for period ended December 31, 2019 (Unaudited)

Brian Mayhew

Approval

ABAG Finance Authority for Nonprofit Corporations

Executive Committee

April 2, 2020

Agenda Item 6.a.

Financial Statements

Subject: Report on ABAG FAN Financial Statements for period ended December 31, 2019 (Unaudited)

Background: Attached is the ABAG Finance Authority for Nonprofit Corporations (ABAG FAN) financial statement as of December 31, 2019 (Unaudited).

The report shows a deficit of \$1 million mainly due to the transfer to Association of Bay Area Governments (ABAG) Admin to retire ABAG's remaining Other Post-Employment Benefits (OPEB) costs. Other financial highlights are as follows:

Total revenue of \$562,616 is approximately 33% of the adopted budget. Interest earning of \$22,864 is 57% of its budget. Meanwhile, a loss of \$6,317 on investment revaluation (Obj 4850) is the result of year end entry posted in FY 2018-19. Total fee revenue reported for the period is \$546,069 or 50% of the budget.

Year-to-Date expenses of \$1.62 million is 53% of the adopted budget. Operating expenses before the transfer is \$618,602 which is 30% of its budget. Staff anticipates more consultant and legal expenses later in the year which will bring expenses more in line with the budget.

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

Issues: None

Recommended Action: The ABAG FAN Executive Committee is requested to approve the report on ABAG FAN financial statements for period ended December 31, 2019 (Unaudited).

Attachments: Report Financial Statements, December 2019

Reviewed:



Therese W. McMillan

Budget to Actual by Fund

Ledger: GL
Report Date: 12/31/2019
Fiscal Year: 2020

(with Encumbrances)

Period: 6
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	20,000.00	11,401.90	0.00	8,598.10
Interest Income - CalTrust	4804	20,000.00	11,462.11	0.00	8,537.89
Gain/Loss Revaluation Investmt	4850	0.00	-6,316.77	0.00	6,316.77
Financial Services Revenue	4953	20,000.00	120,000.00	0.00	-100,000.00
Administrative fees	4956	847,000.00	311,487.52	0.00	535,512.48
Project monitoring fees	4957	217,000.00	114,581.25	0.00	102,418.75
Transfers in	8401	599,824.34	0.00	0.00	599,824.34

EXPENSE ACCOUNTS

<u>Object Description</u>	<u>Object</u>	<u>Budget</u>	<u>Actual</u>	<u>Encumbrance</u>	<u>Balance</u>
Salaries	5000	340,847.00	119,942.17	0.00	220,904.83
Benefits	5099	172,376.00	139,283.78	0.00	33,092.22
Travel Expense	5100	6,000.00	65.48	0.00	5,934.52
Conference/Trning Exps & Fees	5130	3,000.00	2,000.00	0.00	1,000.00
Advertising/Public Awareness	5142	0.00	0.00	0.00	0.00
Storage Rental	5184	0.00	0.00	0.00	0.00
Memberships	5270	150.00	0.00	0.00	150.00
Subscriptions	5280	0.00	0.00	0.00	0.00
Consultant/Professional Fees	5300	670,196.00	147,743.36	497,435.14	25,017.50
Legal Fees	5340	385,180.34	25,668.00	359,512.34	0.00
Passthru/Contrib-Othr Agncies	5600	1,000,000.00	987,853.00	0.00	12,147.00
Commtee Member's Stipend	5703	0.00	1,350.00	0.00	-1,350.00
Audit	5717	117,448.00	44,448.00	0.00	73,000.00
Bank Service Charges	5750	18,720.00	3,371.04	0.00	15,348.96
Miscellaneous	5755	25,000.00	0.00	0.00	25,000.00
Indirect Costs	5763	274,512.00	146,877.49	0.00	127,634.51
Transfers out	8000	0.00	0.00	0.00	0.00
Revenue:		1,723,824.34	562,616.01	0.00	1,161,208.33
Expenses:		3,013,429.34	1,618,602.32	856,947.48	537,879.54
Net:		-1,289,605.00	-1,055,986.31	-856,947.48	623,328.79



Metropolitan Transportation Commission

375 Beale Street, Suite 800
San Francisco, CA 94105

Legislation Details (With Text)

File #: 20-0526 **Version:** 1 **Name:**
Type: Report **Status:** Committee Approval
File created: 3/5/2020 **In control:** ABAG FAN Executive Committee
On agenda: 4/2/2020 **Final action:**
Title: Report on Portfolio Update for period ended February 2020
Sponsors:
Indexes:
Code sections:
Attachments: [Item 07a 1 Summary Sheet Report Portfolio v2.pdf](#)

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

Report on Portfolio Update for period ended February 2020

Brian Mayhew

Approval

ABAG Finance Authority for Nonprofit Corporations

Executive Committee

April 2, 2020

Agenda Item 7.a.

ABAG FAN Portfolio Update

Subject: Report on Portfolio Update for period ended February 2020

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

Transaction Document Amendments

During the first half of the fiscal year, staff has worked on several amendments for the following transactions:

EQR Transfer

- Artech
- Berkeleyan
- Gaia
- Fine Arts
- Darling Florist

With respect to the sale and transfer of the five EQR properties, the Regulatory Agreement needed to be amended to reflect rights assigned to the new purchaser. An Assignment Assumption Consent and Modification Agreement was executed to reflect this change. Although ABAG FAN attempted to have the compliance monitoring responsibilities reassigned to a new entity, it was not possible because there was no issuer apart of this refinance due to the bank purchasing the bonds. ABAG FAN confirmed they would not accelerate the prepayment of monitoring fees and an opinion was provided by bond counsel.

Tracy Gardens/Unity Estates

Borrower requested to amend the regulatory agreement to remove Section 16 which allows the issuer to lease for \$1 annually if the 40% set aside requirement of the units was not satisfied. Regulatory Agreement Amendment and Certificate of Borrower and Waiver were executed November 12, 2019. Although a transfer of compliance responsibilities was initially discussed, there would not be an entity to assume the role of issuer in this transaction. Compliance monitoring will stay with ABAG FAN.

ABAG Finance Authority for Nonprofit Corporations

Executive Committee

April 2, 2020

Agenda Item 7.a.

ABAG FAN Portfolio Update

Tara Village

Regulatory Agreement subordinated as a condition of refinancing so borrower could achieve FNMA rate lock. A side letter regarding the future responsibilities of continuing compliance covenants between ABAG FAN and borrower were executed along with Subordination Agreement on November 26, 2019.

Citibank Securitization

- Heritage Park
- Spring Villa
- Presidio El Camino

The amendments to the Funding Loan Agreements relate to a change in the transfer provisions and are being requested as part of Citibank's plans to securitize certain portions of its affordable multifamily housing tax-exempt loan portfolio and deploy freed up capacity into the origination of new affordable multifamily housing loans. These securitizations will be executed through municipal conduit issuers with Citibank selling its loans to the municipal conduit issuers who will purchase the loans with the proceeds obtained by issuing pass-through certificates secured by the loans into the municipal market.

Acacia Creek

Acacia Creek was 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 October 31, 2018. Both the Borrower and Bank of America wished to extend the put date to November 30, 2021. Extension of the put date caused a reissuance and required the ABAG FAN to approve the Second Supplement to the Indenture, Supplemental Tax Agreement, and Authorization of the Resolution. The Reissued 2013A outstanding par amount will now be \$87,235,533 with \$12,187,786 retiring borrower equity.

Housing Compliance Reporting

Housing Compliance was engaged to serve as administrator for all housing transactions that involve compliance monitoring and reporting. They are primarily responsible for submitting project status reports and continuing program compliance. ABAG FAN

ABAG Finance Authority for Nonprofit Corporations

Executive Committee

April 2, 2020

Agenda Item 7.a.

ABAG FAN Portfolio Update

continues to monitor projects within their defined Qualified Project Period. To date, all projects have submitted their compliance documents with minimal to no issues other than timing.

CFD Compliance

Assembly Bill 2109 added the requirement for the agency to prepare a Parcel Tax Report with the State Controller's Office. The Parcel Tax Reporting Requirement is part of the Special Districts Financial Transactions Report. ABAG FAN engaged their respective CFD consultants for guidance on completing the required annual compliance reports required by the California Debt and Investment Advisory Commission (CDIAC). Field Transaction Reports from the State Controller's Office were submitted timely and without incident.

Issues: None

Recommended Action: The ABAG FAN Executive Committee is requested to approve the staff report on ABAG FAN Portfolio Update for period ended February 2020.

Attachments: None

Reviewed:


Therese W. McMillan



Metropolitan Transportation Commission

375 Beale Street, Suite 800
San Francisco, CA 94105

Legislation Details (With Text)

File #:	20-0525	Version:	1	Name:	
Type:	Report	Status:		Committee Approval	
File created:	3/5/2020	In control:		ABAG FAN Executive Committee	
On agenda:	4/2/2020	Final action:			
Title:	Adoption of Resolution No. 2020-002 Approval of Transfer of Board Duties from ABAG Finance Authority for Nonprofit Corporations to the Advancing California Finance Authority and Related Matters Thereto				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Item 08a 1 Summary Sheet Adoption Resolution No 2020-002 Transfer ABAG FAN to ACFA v2.pdf Item 08a 2 Attachment A Resolution 2020 002.pdf Item 08a 3 Attachment B Memo - Phase I Update on Successor Agency Review 4835-3527-4911 Item 08a 4 Attachment C Memo - Phase II Summary and Update - Successor Agency 4836-8952-9515 Item 08a 5 Attachment D FORM OF NOTICES - ABAG FAN.pdf				

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

Adoption of Resolution No. 2020-002 Approval of Transfer of Board Duties from ABAG Finance Authority for Nonprofit Corporations to the Advancing California Finance Authority and Related Matters Thereto

Brian Mayhew

Approval

ABAG Finance Authority for Nonprofit Corporations

Executive Committee

April 2, 2020

Agenda Item 8.a.

Transfer of Board Duties from ABAG FAN to ACFA

Subject: Adoption of Resolution No. 2020-002 Approval of Transfer of Board Duties from ABAG Finance Authority for Nonprofit Corporations to the Advancing California Finance Authority and Related Matters Thereto

Background: Staff requests that the ABAG FAN Executive Committee adopt Resolution 2020-002 (Attachment A) approving the transfer of administrative responsibilities from ABAG Finance Authority for Nonprofit Corporations (ABAG FAN) to Advancing California Finance Authority (ACFA). The proposed transfer and transition plan were documented in the Phase I memo dated August 12, 21019 and the Phase II memo dated November 1, 2019 by Nixon Peabody (Attachments B and C).

For the Phase I review, Nixon Peabody placed the transactions into three main categories based on publicly traded or privately placed transactions and whether they were issued pursuant to a Loan Agreement or Trust Indenture. Based on Phase I preliminary document review, Nixon Peabody confirmed that the primary debt documents of the transactions reviewed had existing language authorizing assignment to a successor agency. The transaction sampling size was then expanded.

During the Phase II review, Nixon Peabody analyzed the ABAG FAN's revised and amended Joint Powers Agreement, reviewed a larger sample of transaction documents, and conducted legal analysis to see if ACFA could be appointed as successor agency. Based on this review, the administrative responsibilities can be transferred to ACFA pursuant to Article VI, Clause L, of the Joint Powers Agreement.

In Phase III, Nixon Peabody plans to draft the necessary amendments and notice requirements for the transactions that require consent (Attachment D). Notices will also be sent to other parties, including rating agencies, swap parties, credit enhancement providers, as well as privately placed transactions.

Phase III includes:

- Obtaining borrower consent. All parties must consent to the ACFA successorship.
- Draft amendments along with any prerequisite notices.

ABAG Finance Authority for Nonprofit Corporations

Executive Committee

April 2, 2020

Agenda Item 8.a.

Transfer of Board Duties from ABAG FAN to ACFA

- Draft notices to rating agencies, swap counterparties, and credit enhancement providers.

The ABAG Executive Board is scheduled to meet on April 16, 2020 to consider adoption of a resolution approving the transfer ABAG FAN responsibilities to ACFA.

The ABAG FAN will not be dissolved; but, the responsibilities of the Executive Committee will be transferred to ACFA.

The estimated completion date for successorship transfer is June 30, 2020.

Issues: None

Recommended Action: The ABAG FAN Executive Committee is requested to adopt Resolution No. 2020-002.

Attachments:

- A. Resolution No. 2020-002
- B. Successor Agency Phase I Memo
- C. Successor Agency Phase II Memo
- D. Draft Form of Notices

Reviewed:



Therese W. McMillan

**ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS
EXECUTIVE COMMITTEE OF THE BOARD OF DIRECTORS**

RESOLUTION NO. 2020-002

**APPROVAL OF TRANSFER OF BOARD DUTIES TO THE ADVANCING
CALIFORNIA FINANCE AUTHORITY AND RELATED MATTERS
THERETO**

WHEREAS, pursuant to the provisions of the California Joint Exercise of Powers Act, consisting of Sections 6500 through 6599.3 of the California Government Code, as amended from time to time (the “Joint Powers Act”), several California cities and counties entered into a joint exercise of powers agreement (the “ABAG FAN Agreement”) pursuant to which the ABAG Finance Authority for Nonprofit Corporations (“ABAG FAN”) was organized; and

WHEREAS, the Association of Bay Area Governments (“ABAG”) and ABAG FAN, each a “public agency” within the meaning of Section 6500 of the Joint Powers Act, have, pursuant to the Joint Powers Act, entered into a Joint Exercise of Powers Agreement, which created the Advancing California Finance Authority (the “Financing Authority”); and

WHEREAS, pursuant to Article VI(L) of the ABAG FAN Agreement, ABAG FAN has the power to assign, delegate or contract with a third party to perform any of the duties of the ABAG FAN Board of Directors (the “ABAG FAN Board”), including but not limited to, acting as administrator for ABAG FAN; and

WHEREAS, ABAG FAN requested its counsel, Nixon Peabody LLP, to review certain transactions for any requirements or limitations imposed on the transfer of the board duties; and

WHEREAS, Nixon Peabody LLP has provided a memorandum summarizing the review of the transactions; and

WHEREAS, ABAG FAN has determined that it is in the public interest of the area and persons served by them to, among other things, transfer to the Financing Authority all administrative duties of the ABAG FAN Board established for the purposes set forth in the ABAG FAN Agreement; and

WHEREAS, there has been prepared and presented to this meeting proposed forms of the notices to swap parties, credit enhancement providers, purchasers, rating agencies, and the Electronic Municipal Market Access website (“EMMA”) of the Municipal Securities Rulemaking Board (the “MSRB”), borrowers and others to inform such relevant parties of ABAG FAN’s transfer of ABAG FAN Board duties to the Financing Authority (each a “Notice” and collectively, the “Notices”), attached hereto as Attachment A to this Resolution; and

WHEREAS, there has been prepared and presented to this meeting a proposed form of the amendment to Trust Indenture (the “Form Amendment to Trust Indenture”), attached hereto as Attachment B to this Resolution; and

WHEREAS, there has been prepared and presented to this meeting a proposed form of amendment to loan agreement (the “Form Amendment to the Loan Agreement”), attached hereto as Attachment C to this Resolution; and

**ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS
EXECUTIVE COMMITTEE OF THE BOARD OF DIRECTORS
RESOLUTION NO. 2020-002**

WHEREAS, all acts, conditions and things required by the Constitution and the laws of the State of California to exist, to have happened and to have been performed in connection with the approval of the Notices, Form Amendment to Trust Indenture and the Form Amendment to the Loan Agreement authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and ABAG FAN is now duly authorized and empowered, pursuant to each and every requirement of law, to approve the Notices, Form Amendment to Trust Indenture and the Form Amendment to the Loan Agreement; now, therefore, be it

RESOLVED, that ABAG FAN specifically finds and declares that the statements, findings and determinations of ABAG FAN set forth in the preambles above are true and correct; and be it further

RESOLVED, that ABAG FAN hereby approves the transfer of ABAG FAN Board duties and responsibilities as administrator to the Financing Authority; and be it further

RESOLVED, the proposed form of the Notices, attached hereto as Attachment A, is hereby approved. The President or Chief Financial Officer of ABAG FAN (each an "Authorized Officer") is hereby authorized and directed, for and on behalf of the ABAG FAN, to execute and deliver the Notices in substantially said form, with such changes and insertions therein, as may be necessary to cause the same to carry out the intent of this Resolution and as such Authorized Officer, with the advice of counsel to ABAG FAN, may approve, such approval to be conclusively evidenced by the execution and delivery thereof; and be it further

RESOLVED, the proposed form of the Form Amendment to Trust Indenture, attached hereto as Attachment B, is hereby approved. Any Authorized Officer is hereby authorized and directed, for and on behalf of the ABAG FAN, to execute and deliver the Form Amendment to Trust Indenture in substantially said form, with such changes and insertions therein, as may be necessary to cause the same to carry out the intent of this Resolution and as such Authorized Officer, with the advice of counsel to ABAG FAN, may approve, such approval to be conclusively evidenced by the execution and delivery thereof; and be it further

RESOLVED, the proposed form of the Form Amendment to the Loan Agreement, attached hereto as Attachment C, is hereby approved. Any Authorized Officer is hereby authorized and directed, for and on behalf of the ABAG FAN, to execute and deliver the Form Amendment to the Loan Agreement in substantially said form, with such changes and insertions therein, as may be necessary to cause the same to carry out the intent of this Resolution and as such Authorized Officer, with the advice of counsel to ABAG FAN, may approve, such approval to be conclusively evidenced by the execution and delivery thereof; and be it further

RESOLVED, the Authorized Officers, ABAG FAN Board members, and other appropriate officers and agents of ABAG FAN are hereby authorized and directed, for and in the name on behalf of ABAG FAN, to administer the Notices, Form Amendment to Trust Indenture and the Form Amendment to the Loan Agreement, including making any amendments and modifications thereto, to execute and deliver any and all documents, including, without limitation, any all documents and certificates to be executed in connection with the transfer of ABAG FAN Board duties and responsibilities as administrator to the Financing Authority, and to do any and all things and take any and all actions which may be necessary or advisable, in their

**ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS
EXECUTIVE COMMITTEE OF THE BOARD OF DIRECTORS
RESOLUTION NO. 2020-002**

discretion, to effectuate the actions which ABAG FAN has approved in this Resolution; and be it further

RESOLVED, all actions heretofore taken by an Authorized Officer, ABAG FAN Board members, and other appropriate officers and agents of ABAG FAN with respect to the transfer of ABAG FAN Board duties and responsibilities as administrator to the Financing Authority are hereby ratified, confirmed and approved.

RESOLVED, that this Resolution shall take effect from and after its adoption.

PASSED AND ADOPTED this 2nd day of April, 2020.

ABAG FINANCE AUTHORITY FOR
NONPROFIT CORPORATIONS

By:

Charles Lomeli, Chair
ABAG Finance Authority for Nonprofit
Corporations

The above resolution was adopted by the ABAG Finance Authority for Nonprofit Corporations Executive Committee at a properly noticed regular meeting held on April 2, 2020 in San Francisco, California at which a quorum was present and acting throughout

Frederick Castro, Secretary
ABAG Finance Authority for Nonprofit
Corporations

**ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS
EXECUTIVE COMMITTEE OF THE BOARD OF DIRECTORS
RESOLUTION NO. 2020-002**

ATTACHMENT A

Form of Notices
(see attachments)

**ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS
EXECUTIVE COMMITTEE OF THE BOARD OF DIRECTORS
RESOLUTION NO. 2020-002**

ATTACHMENT B

Form of Amendment to Trust Indenture
(see attachment)

**ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS
EXECUTIVE COMMITTEE OF THE BOARD OF DIRECTORS
RESOLUTION NO. 2020-002**

ATTACHMENT C

Form of Amendment to the Loan Agreement
(see attachment)



MEMORANDUM

TO: Brian Mayhew, Susan Woo, Catherine Cam and Nicholas Mar **FROM:** Rudy Salo and Angelica Valencia

RE: ABAG FAN – Successor Agency **DATE:** August 12, 2019

You asked us to prepare an update on the Phase I review of documentation as to the possibility of appointing a successor agency for ABAG Finance Authority for Nonprofit Corporations (the “Authority”). Additionally, you also asked us to provide a plan for Phase II of the review. Below please find an update on Phase I and a plan for Phase II.

Phase I

Phase I involved the review of 10 transactions, which included community facilities districts, private placements and public offerings. The transactions reviewed generally fell into 3 categories. The publicly traded bonds issued pursuant to an indenture, privately placed loans issued pursuant to a loan agreement and the privately placed loans evidenced by bonds issued pursuant to an indenture.

Publicly traded bonds issued pursuant to an indenture

The transactions with publicly traded bonds issued pursuant to an indenture generally included a provision in the indenture that addressed the issue of a successor to the Authority. The successor provision provides that references to the Authority in the Indenture (typically Section 9.4) are deemed to include the Authority’s successor. Therefore, we believe we can argue that such provision already put bondholders on notice that there may someday be a successor or assign to the Authority. The loan agreements relating to the publicly-traded transactions we reviewed included “successors or assigns” in the definition of Authority. An issue in these transactions, however, is that such language was not consistently used in every single bond document. We would argue that since most of the “primary” documents included “successor or assign” language such language was sufficient to provide notice to the bondholder.

Privately Placed Loans issued pursuant to a Loan Agreement

In private bank deal transactions with a master loan agreement rather than an indenture, the Authority is generally defined to include “successors or assigns”. Additionally, the loan agreements contain a “survivability” provision that provides that the limitations of liability, indemnities and waivers shall continue in full force and effect and shall be enforceable by the Authority or its successors or assigns. Several of the other documents in such transactions also included language that the Authority

included any successors and assigns. Therefore, we believe we can argue that such provisions already placed the parties on notice that there may someday be a successor or assign to the Authority. Similar to the issue in publicly traded deals, not all the documents include successor or assign language. However, we would argue once again that since most of the “primary” documents included “successor or assign” language such language was sufficient to provide notice to the bondholder.

Privately Placed Loans evidenced by Bonds issued under an Indenture

During the course of the review, we discovered that two transactions (with the same documentation) restricts assignment. The Loan Agreement in the Drew School transaction (2014 and 2015) prohibits the Authority from assigning its rights under the documents. However, there is a provision in the indenture that permits an amendment to provide for a successor authority without the consent of US Bank as the Bond Purchaser, but we will need to obtain the consent of the borrower. We believe we should be able to amend the documents to provide for a successor authority by working with the Borrower.

Recommendations

For the transactions that are publicly traded (and don’t have insurance, credit enhancement or swaps) we recommend providing notice of the appointment of a successor for the Authority based upon Section 9.4 of the applicable indentures. The notice can be general as to the appointment and should be provided after we obtain any necessary consents as described in Phase II. The transactions that have insurance, credit enhancement or swaps would be part of the Phase II review. Those transactions would require additional review (see Phase II) since they might require consents from or notices to other parties. We are also recommending review of all loans with US Bank to confirm which US Bank transactions have similar restrictions as Drew School. Such transactions will likely require amendments to the Indenture similar to the Drew School. We believe that the implementation could be relatively straight forward, but will not know for sure until we begin Phase II.

Phase II

For Phase II, we are proposing reviewing the following additional transactions:

- 1) All community facilities district transactions and confirm composition of the community facilities district,
- 2) Insured transactions or transactions that have credit enhancement to confirm whether consent (or notice) is required,
- 3) All US Bank direct purchase deals to confirm whether other transactions contain a similar provision as Drew School,
- 4) All transactions containing swaps, along with swap documentation, and
- 5) Per Brian’s suggestion, 15% of the remaining transactions.

The 15% of the remaining transactions will be randomly selected and will include publicly traded transactions and private placement transactions. The expectation is that enough of the transactions will

be reviewed even with the smaller sample that we would be able to address any potential issues from the sample reviewed. However, should new issues be discovered while reviewing the 15%, the number of transactions could be expanded.

Additionally, we will have to confer with tax counsel to ensure that there are no tax issues and discuss any potential continuing disclosure issues due to the appointment of a successor. If any issues arise, we will immediately confer with the Authority and will have a suggested approach. While we did some very preliminary and more global legal research into the successor issue, we would have to do further research into appointment of a successor under California law.

Once we complete Phase II, we will work with the Agency to prepare and provide the requisite amendments, notices and obtain consent as necessary based on the review. Once the necessary amendments are executed, notices are provided and consents obtained, the Authority should have a board meeting and formally appoint its successor. At this point, we will have to provide notice to the publicly traded transactions subject to continuing disclosure requirements. Some notices will be mandatory and some will be voluntary.

Cost

For Phase II, we will continue to use a blended rate of \$600 per hour. The amount of time spent on reviewing the documents depends on the complexity of each underlying transaction, so we expect that on average the document reviewing will be approximately 4.5 hours per transaction. Also, there are 5 outstanding community facilities district transactions, each of which will need to be reviewed and have more documents than other deals. It is still not known how many transactions include insurers, swaps or US Bank as a bond purchaser. However, we are proposing a cap of \$250,000 for Phase II since we will be reviewing a portion of the transactions instead of all the transactions.



MEMORANDUM

TO: Brian Mayhew, Susan Woo, Catherine Cam and Nicholas Mar **FROM:** Rudy Salo and Angelica Valencia

RE: ABAG FAN – Successor Agency Phase II Review **DATE:** November 1, 2019

Summary

Pursuant to your request to assist you with determining whether there are any legal or transaction-based impediments to ABAG Finance Authority for Nonprofit Corporations (the “Authority”) appointing Advancing California Finance Authority (the “ACFA”) as a successor agency, we have taken a multi-step approach to review outstanding Authority obligations and address potential issues.

In Phase I, we reviewed ten initial transactions to determine whether there were any provisions prohibiting the Authority from consummating any assignments. On August 12, 2019, we submitted a memorandum with respect to the review of the initial ten transactions (“August 12 Memo”). Within the August 12 Memo we summarized the general results of the initial review and outlined the next step of the review (“Phase II”).

During our Phase II review, we analyzed the Authority’s Joint Powers Agreement, dated as of the April 1, 1990, as revised and amended (the “JPA Agreement”), reviewed a larger sample of transaction documents, and conducted legal analysis to determine whether the ACFA can be appointed as a successor agency.

We are happy to report that so far through two phases of review, we have reviewed the primary documentation for 65 transactions and we have not found any transactions or issues that cannot be addressed either through an amendment, a consent or a discussion with necessary parties.

Below please find an update on the analysis with respect to the possibility of appointing ACFA and our recommendations for implementing the appointment of ACFA (i.e., Phase III).

Phase II Review

1. Analysis of the JPA Agreement

The Authority is a joint exercise of powers authority organized and operating under the provisions of Chapter 5 of Division 7 of Title (commencing with Section 6500) of the Government Code of the State of California (the “Act”) and created pursuant to the JPA Agreement.

While the Act codifies the rules of creation, administration and powers of joint powers authorities, it leaves a substantial portion of the powers and rules of joint powers authorities to be established within a joint powers authority agreement. Article VI, clause L of the JPA Agreement provides that the Board of Directors of the Authority (the “Board”) has the power to assign, delegate or contract with a Member Entity (as defined in the JPA Agreement) or *a third party* (emphasis added) to perform any of the duties of the Board, including but not limited to, acting as an administrator for the Authority. This provision will serve as our ultimate guide in the appointment of ACFA as the successor to the Board’s duties and to act as an administrator of the Authority.

In Phase III, we will prepare a resolution of the Board whereby it will appoint ACFA to take on the responsibilities, duties and obligations of the Authority’s Board and as administrator of the Authority pursuant to Article VI, clause L of the JPA Agreement.

We note, however, that the Authority itself will not be dissolved, but its responsibilities (including its Board responsibilities) will be transferred to the ACFA. This is because Article XXI of the JPA Agreement provides that the JPA Agreement cannot be terminated until all the principal of and interest on the Authority’s revenue bonds and other evidence of indebtedness have been paid in full, and two-thirds of the Member Entities have consented in writing to its termination. If the Authority is concerned with whether it will ever obtain the two-thirds consent of its Member Entities, perhaps it should explore getting an advance consent of such Member Entities now so that once all debt has been paid in full, the Authority can then terminate.

2. Phase II Document Review

During Phase II, we reviewed 54 transactions, of which 3¹ transactions were community facilities districts, 5 contained swap documentation (but three had terminations), 7² deals involved US Bank as a direct purchaser and 24³ of deals had credit enhancement. We also reviewed California case law for any cases addressing the appointment of a successor to joint powers authority. We can report that the California case law we researched did not result in any divergence of our current plan to appointment ACFA as a successor agency. We also conferred with our tax counsel, Travis Gibbs, and based on the authority that is provided in the JPA Agreement to appoint a successor administrator, he doesn’t expect any issues from a tax perspective. Below is a brief summary of our findings from the transactions we reviewed during Phase II.

¹ There are five community facilities districts (see footnote 4), however, two of the community facilities districts transactions were reviewed as part of Phase I.

² There are twelve transactions that had U.S. Bank as the original holder, however, three of those transactions are expected to get paid this year (Tara Village Apartments, Tracy Village Apartments and Unity Estates) and two were reviewed as part of Phase I. For purposes of the review, we did not include the three transactions that will be repaid this year. During the repayment of those transactions, we need to make sure that the Regulatory Agreement amendments, which will continue to be outstanding, reflect the language of successors and assigns.

³ There were 27 transactions with some form of credit enhancement or insurance. Two were reviewed as part of Phase I and we were unable to track documents on the Insured Nonprofit Program Financing #2 Big Valley Medical Services. The Windemere Ranch Infrastructure Financing Program that took place in 2017 isn’t included in the count of 27, since we were already including it as part of the community facilities districts.

a. Community Facilities Districts⁴

Generally, the Board is the legislative body of the community facilities districts which it has established and acts on behalf of the community facilities districts. Any obligations (including obligations of the Board) that the Authority has with respect to the community facilities districts it created must also be managed by ACFA as the appointed successor pursuant to Article VI, clause L.

Additionally, several of the establishing documents (such as the community facilities district agreements) include provisions providing that the agreements are binding on the Authority and its successors and assigns. Therefore, we believe such provision already put bondholders on notice that the Authority may appoint a successor in the future, which was always contemplated in Article VI, clause L of the JPA Agreement.

Also, the indentures of the community facilities districts generally included a provision that addressed the issue of a successor to the Authority. The successor provision provides that references to the Authority in the respective indenture are deemed to include the Authority's successor. Certain documents also included references to successors and assigns when defining the Authority. While such use was not consistent in all the documents, we would argue that the language in the primary documents provided sufficient notice to the bondholders.

As a part of the Phase III implementation, we recommend providing notice to each of the parties to the respective community facilities district agreements⁵, borrowers and other relevant parties with respect to the appointment of ACFA as a successor to the Board pursuant to Article VI, clause L of the JPA Agreement and that ACFA will be acting as an administrator on behalf of the Board.

⁴ The community facilities districts include: (i) the ABAG Finance Authority for Nonprofit Corporations Community Facilities District No. 2006-1 (San Francisco Rincon Hill), (ii) ABAG Finance Authority for Nonprofit Corporations Community Facilities District No. 2004-1 (Seismic Safety Improvements – 690 and 942 Market Street Project), (iii) ABAG Finance Authority for Nonprofit Corporations Community Facilities District No. 2006-2 (San Francisco Mint Plaza Area), (iv) and 2 transaction that were Windemere Ranch Infrastructure Financing Program (one in 2014 and another in 2017). On May 24, 2014, the Board of Directors adopted a resolution creating the ABAG Finance Authority for Nonprofit Corporations Community Facilities District No. 2004-2 (Windemere Ranch). Association of Bay Area Governments also established a Windemere Ranch Reassessment District on May 20, 1999. In the Windemere Ranch transaction that closed in August 2014 (the “2014 Windemere Transaction”), the Authority issued bonds to refund a portion of Windemere bonds issued in 2007. The 2007 Windemere Ranch bonds were issued to finance the acquisition of certain Association of Bay Area Governments Windemere Ranch Reassessment District bonds and ABAG Finance Authority for Nonprofit Corporations Community Facilities District No. 2004-2 (Windemere Ranch) bonds. Revenues used for the payment of the 2014 Windemere Ranch Transaction bonds is primarily the amounts received as payments of debt service on the certain Association of Bay Area Governments Windemere Ranch Reassessment District bonds and ABAG Finance Authority for Nonprofit Corporations Community Facilities District No. 2004-2 (Windemere Ranch) bonds. The 2017 Windemere Ranch bonds were issued to refund certain 2007 Windemere Ranch bonds. The security for the 2017 Windemere Ranch bonds was the debt service payment on certain Windemere Ranch Reassessment District bonds and Community Facilities District No. 2004-2 (Windemere Ranch) bonds.

⁵ The Windemere Ranch and Communities Facilities District No. 2004-1 (Seismic Safety Improvements – 690 and 942 Market Street Project) transactions contain some of the formation documents. We would like to request a copy of the all the formation documents if they are available.

b. Swaps

In connection with certain bonds that the Authority issued on behalf of various borrowers, interest rate swap agreements and related documentation were executed for the purpose of hedging interest rate risk (the “Swap Documents”). The Authority is not a party to any Swap Documents; however, there are provisions in the Swap Documents that could affect whether we need to obtain consent from the swap parties.

For example, the California Alumni Association Swap Documents contain a provision that if there is any amendment, supplement or modification or waiver of any of the “Incorporated Provisions” without the prior consent of the other swap party, then such amendment, supplement, modification or waiver will have no force or effect with respect to the Swap Documents. As defined in the Swap Documents, “Incorporated Provisions” includes each provision in the letter of credit reimbursement agreement and the security agreement. The Authority is not a party to the letter of credit reimbursement agreement or the security agreement. We believe that the appointment of ACFA as the administrator of the Authority’s Board has no effect on the underlying documents or any “Incorporated Provisions,” though we will want to confirm this by conferring with the swap parties, and if any amendments are necessary in Phase III for any transactions that have Swap Documents to obtain any consents from the swap parties, if necessary. As an aside, Rudy Salo represents Bank of America, N.A. in connection with the California Alumni Association, and he will be able to confer with them quickly during Phase III.

The California Alumni Association Swap Documents also contain a termination event for a modification to the letter of credit and reimbursement agreement and the security agreement in such a way as to adversely affect any of Bank of America’s rights or obligations or impact the ability of the California Alumni Association to perform its obligation without the consent of Bank of America. We believe that the appointment of a successor to the Authority’s Board of Directors should not materially adversely affect Bank of America’s rights or the California Alumni Association’s ability to perform its obligations.

During Phase III, we recommend (as a courtesy and for administrative purposes going forward) that the Authority provide notice to the parties of all Swap Documents with regards to the appointment of ACFA pursuant to Article VI, clause L of the JPA Agreement.

c. U.S. Bank Direct Purchases

As mentioned in the August 12 Memo, the Drew School transactions contained language that restricted the Authority’s ability to assign its rights and obligations under the Indenture and Loan Agreement. Specifically, the Loan Agreement in the Drew School transactions (both 2014 and 2015) prohibits the Authority from assigning its rights under the documents. Santa Cruz Montessori also contains similar restrictions on the assignment by the Authority of its rights.⁶ However, as discussed in the August 12 Memo, we recommend amending the affected loan agreements pursuant to the amendment

⁶ The language reflected in Drew School and Santa Cruz Montessori provides that the Authority cannot assign the Loan Agreement except to the Trustee pursuant to the indenture or as may be necessary to enforce or secure the payment of bond service charges.

provisions set forth in the applicable Indenture and Loan Agreement for those transactions. Such amendments will require the consent of the respective borrower. We believe we should be able to amend the documents to provide for ACFA to become a successor by working with the respective borrowers. From our review thus far, only the Drew School transactions and Santa Cruz Montessori are the only two US Bank transactions that contain these prohibitions on assignment. We further note that we have already had preliminary discussions with the Borrower and Bond Counsel on the Santa Cruz Montessori transaction.

For the U.S. Bank transactions that do not contain the restrictive provision or that otherwise does not address an assignment by the Authority,⁷ we recommend providing a simple notice regarding appointment of ACFA pursuant to Article VI, clause L of the JPA Agreement.

*d. Additional Transactions*⁸

Generally, the primary issuing documents of transactions include successor or assigns or is silent on the issue. The primary issuing documents may define Authority to include successor or assigns or contain a provision that addresses the issue of successors by clarifying that the agreements bind and inure to the benefit of the successors and assigns. As previously discussed in the August 12 Memo, inconsistencies exist with respect to some transactions including language that directly addressed successors while other transaction documents are silent. For example, some transactions specifically included “successor and assigns” language within the definition of the Authority or language that clarified that any references to the Authority will inure to a successor or assign. While the documents within each transaction were not consistent with the treatment of successor language or provisions, we believe most of the “primary” documents included “assignment/successor” language to have provided sufficient notice to the bondholders in the extremely unlikely scenario that any bondholders complain about the assignment.

With respect to the transactions that have letter of credits, we need the current termination dates. For example, the Pathways Home Health and Hospice transactions has a letter of credit that was set to expire in October 2009, with the possibility for extensions. However, it isn’t clear what the current expiration date of the letter of credit is.

The Authority generally is not a party to the reimbursement agreements, so there are no restrictions as to the role of the Authority. However, credit providers generally request to receive notices that are provided to other parties, we would recommend that we provide notices to the credit enhancement providers of the appointment of ACFA.

⁷ The transactions include: Hayward Senior Apartments, Kings Garden, Lincoln Court, Terracina at Springlake, Vintage at Laguna and Vintage Square at Westpark.

⁸ Includes the review of 24 transactions that have credit enhancement. We were unable to track documents on the Insured Nonprofit Program Financing #2 Big Valley Medical Services.

And should there be any pushback from any party, we will argue that Article VI, clause L of the JPA Agreement provided notice to holders of the Authority's obligations that a successor or administrator can be appointed to take over the Board duties.

Recommendations for Phase III Implementation

The first step with respect to the implementation of the appointment of ACFA will be working the borrowers of the transactions that require consent. Before the Board can act to appoint ACFA, we must ensure we have consent of the required parties, including U.S. Bank. Since Rudy Salo works with U.S. Bank, he will take the lead in conferring with them.

At the same time, we will work on amendments for those transactions that require amendments. Once we have received the consent and the amendments, we will draft a resolution for the Board to make the official appointment of ACFA pursuant to Article VI, clause L of the JPA Agreement. The Board must hold a meeting in order to adopt the appointment resolution. After the appointment, we will draft notices, including those required pursuant to the continuing disclosure requirements for all publicly-issued transactions to post on EMMA. We will also draft a notice to the rating agencies, swap parties and credit enhancement providers. For the transactions that were privately-placed and don't require consent/amendments, we will prepare notices to deliver to those parties. We also note that the transactions that include regulatory agreements require written notice to the borrowers regarding the appointment of a new administrator.

Cost

For Phase III, we will continue to use a blended rate of \$600 per hour. We will draft a resolution appointing ACFA, prepare notices with respect to the appointment of ACFA to the rating agencies, swap parties, insurance and credit enhancement providers, trustees and other parties, correspond with and address any issues of the respective borrowers/direct purchasers (as necessary), draft amendments for those transactions that require amendments and draft and navigate the necessary consents. We are proposing a cap of \$200,000 for Phase III.

[ABAG FAN LETTERHEAD]

[RATING AGENCY ADDRESS]

Dated: ____, 2020

The Association of Bay Area Governments Finance Authority for Nonprofit Corporations (“ABAG FAN”) hereby gives notice as follows:

1. ABAG FAN has issued multiple series of bonds, as set forth in Exhibit A, which were rated by [NAME OF RATING AGENCY].

2. Pursuant to Article VI(L) of the Joint Powers Agreement creating the ABAG Finance Authority for Nonprofit Corporations, dated as of April 1, 1990, revised as of September 18, 1990 and June 9, 1992, as amended (the “ABAG FAN Joint Powers Agreement”), ABAG FAN has the power to assign, delegate or contract with a third party to perform any of the duties of the ABAG FAN Board of Directors (the “ABAG FAN Board”), including but not limited to, acting as an administrator for the ABAG FAN Board.

3. On ____, 2020, the ABAG FAN Board adopted Resolution No. [], approving the transfer of any and all of its duties and administrator responsibilities to Advancing California Finance Authority (the “Financing Authority”).

4. On ____, 2020, the Financing Authority’s board of directors adopted Resolution No. [], accepting the transfer of any and all duties and administrator responsibilities from the ABAG FAN Board.

5. Effective as of [INSERT DATE 60 DAYS AFTER ADOPTION OF ACFA RESOLUTION], the Financing Authority’s board of directors will assume all of ABAG FAN Board’s responsibilities and will serve as the new administrator for ABAG FAN.

Dated as of the date and year written above.

ABAG FINANCE AUTHORITY FOR NONPROFIT
CORPORATIONS

By: _____
Authorized Representative

EXHIBIT A

Bond Issue

Dated Date

CUSIP[†]

[†] CUSIP® is a registered trademark of the American Bankers Association. CUSIP data herein is provided by CUSIP Global Services (CGS), which is managed on behalf of the American Bankers Association by S&P Global Market Intelligence. This information is not intended to create a database and does not serve in any way as a substitute for the CGS database. CUSIP numbers have been assigned by an independent company not affiliated with ABAG FAN and are included solely for the convenience of the registered owners of the applicable Bonds. ABAG FAN is not responsible for the selection or uses of these CUSIP numbers, and no representation is made as to their correctness on the applicable Bonds or as included herein. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part or as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of certain maturities of the applicable Bonds.

[ABAG FAN LETTERHEAD]

[BORROWER ADDRESS]

Dated: ____, 2020

The Association of Bay Area Governments Finance Authority for Nonprofit Corporations (“ABAG FAN”) hereby gives notice as follows:

1. On ____, ABAG FAN issued \$[NAME OF BONDS], which proceeds were loaned to [NAME OF BORROWER].

2. Pursuant to Article VI(L) of the Joint Powers Agreement creating the ABAG Finance Authority for Nonprofit Corporations, dated as of April 1, 1990, revised as of September 18, 1990 and June 9, 1992, as amended (the “ABAG FAN Joint Powers Agreement”), ABAG FAN has the power to assign, delegate or contract with a third party to perform any of the duties of the ABAG FAN Board of Directors (the “ABAG FAN Board”), including but not limited to, acting as an administrator for the ABAG FAN Board.

3. On ____, 2020, the ABAG FAN Board adopted Resolution No. [], approving the transfer of any and all of its duties and administrator responsibilities to Advancing California Finance Authority (the “Financing Authority”).

4. On ____, 2020, the Financing Authority’s board of directors adopted Resolution No. [], accepting the transfer of any and all duties and administrator responsibilities from the ABAG FAN Board.

5. Effective as of [INSERT DATE 60 DAYS AFTER ADOPTION OF ACFA RESOLUTION], the Financing Authority’s board of directors will assume all of ABAG FAN Board’s responsibilities and will serve as the new administrator for ABAG FAN.

6. [Add when applicable] [ABAG FAN and [Borrower Name] entered into a [Regulatory Agreement, dated as of ____] (the “Regulatory Agreement”). Pursuant to Section ____ of the Regulatory Agreement, ABAG FAN is hereby providing notice that the Financing Authority shall be the administrator under the Regulatory Agreement.]

Dated as of the date and year written above.

ABAG FINANCE AUTHORITY FOR NONPROFIT
CORPORATIONS

By: _____
Authorized Representative

[ABAG FAN LETTERHEAD]

[CREDIT ENHANCEMENT ADDRESS]

Dated: ____, 2020

The Association of Bay Area Governments Finance Authority for Nonprofit Corporations (“ABAG FAN”) hereby gives notice as follows:

1. On ____, ABAG FAN issued \$[NAME OF BONDS], which proceeds were loaned to [NAME OF BORROWER], which bonds were insured by []. [ADD ADDITIONAL BONDS IF NECESSARY]

2. Pursuant to Article VI(L) of the Joint Powers Agreement creating the ABAG Finance Authority for Nonprofit Corporations, dated as of April 1, 1990, revised as of September 18, 1990 and June 9, 1992, as amended (the “ABAG FAN Joint Powers Agreement”), ABAG FAN has the power to assign, delegate or contract with a third party to perform any of the duties of the ABAG FAN Board of Directors (the “ABAG FAN Board”), including but not limited to, acting as administrator for the ABAG FAN Board.

3. On ____, 2020, the ABAG FAN Board adopted Resolution No. [], approving the transfer of any and all of its duties and administrator responsibilities to Advancing California Finance Authority (the “Financing Authority”).

4. On ____, 2020, the Financing Authority’s board of directors adopted Resolution No. [], accepting the transfer of any and all duties and administrator responsibilities from the ABAG FAN Board.

5. Effective as of [INSERT DATE 60 DAYS AFTER ADOPTION OF ACFA RESOLUTION], the Financing Authority’s board of directors will assume all of ABAG FAN Board’s responsibilities and will serve as the new administrator for ABAG FAN.

Dated as of the date and year written above.

ABAG FINANCE AUTHORITY FOR NONPROFIT
CORPORATIONS

By: _____
Authorized Representative

[ABAG FAN LETTERHEAD]

[SWAP PARTIES]

Dated: ____, 2020

The Association of Bay Area Governments Finance Authority for Nonprofit Corporations (“ABAG FAN”) hereby gives notice as follows:

1. On ____, ABAG FAN issued \$[NAME OF BONDS], which proceeds were loaned to [NAME OF BORROWER].

2. [SWAP COUNTERPARTY A] and [SWAP COUNTERPARTY B] entered into an [ISDA Master Agreement, dated as of []], along with a Schedule to the ISDA Master Agreement, dated as of [], and a Confirmation, dated as of [], collectively, the “Swap Documents”/[NAME OF SWAP DOCUMENTS].

3. Pursuant to Article VI(L) of the Joint Powers Agreement creating the ABAG Finance Authority for Nonprofit Corporations, dated as of April 1, 1990, revised as of September 18, 1990 and June 9, 1992, as amended (the “ABAG FAN Joint Powers Agreement”), ABAG FAN has the power to assign, delegate or contract with a third party to perform any of the duties of the ABAG FAN Board of Directors (the “ABAG FAN Board”), including but not limited to, acting as administrator for the ABAG FAN Board.

4. On ____, 2020, the ABAG FAN Board adopted Resolution No. [], approving the transfer of any and all of its duties and administrator responsibilities to Advancing California Finance Authority (the “Financing Authority”).

5. On ____, 2020, the Financing Authority’s board of directors adopted Resolution No. [], accepting the transfer of any and all duties and administrator responsibilities from the ABAG FAN Board.

6. Effective as of [INSERT DATE 60 DAYS AFTER ADOPTION OF ACFA RESOLUTION], the Financing Authority’s board of directors will assume all of ABAG FAN Board’s responsibilities and will serve as the new administrator for ABAG FAN.

Dated as of the date and year written above.

ABAG FINANCE AUTHORITY FOR NONPROFIT
CORPORATIONS

By: _____
Authorized Representative

ASSOCIATION OF BAY AREA GOVERNMENTS
FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS
(In Connection with Certain Issuances of Bonds with base CUSIP numbers
_____)

VOLUNTARY EVENT NOTICE
(NOTICE TO MUNICIPAL SECURITIES RULEMAKING BOARD)

Dated: _____, 2020

The Association of Bay Area Governments Finance Authority for Nonprofit Corporations (“ABAG FAN”) hereby gives notice as follows:

1. Pursuant to Article VI(L) of the Joint Powers Agreement creating the ABAG Finance Authority for Nonprofit Corporations, dated as of April 1, 1990, revised as of September 18, 1990 and June 9, 1992, as amended (the “ABAG FAN Joint Powers Agreement”), ABAG FAN has the power to assign, delegate or contract with a third party to perform any of the duties of the ABAG FAN Board of Directors (the “ABAG FAN Board”), including but not limited to, acting as administrator for the ABAG FAN Board.

2. On _____, 2020, the ABAG FAN Board adopted Resolution No. [], approving the transfer of any and all of its duties and administrator responsibilities to Advancing California Finance Authority (the “Financing Authority”).

3. On _____, 2020, the Financing Authority’s board of directors adopted Resolution No. [], accepting the transfer of any and all duties and administrator responsibilities from the ABAG FAN Board.

4. Effective as of [INSERT DATE 60 DAYS AFTER ADOPTION OF ACFA RESOLUTION], the Financing Authority’s board of directors will assume all of ABAG FAN Board’s responsibilities and will serve as the new administrator for ABAG FAN.

5. The transfer of such duties from ABAG FAN to the Financing Authority is applicable to the issuance of all currently outstanding ABAG FAN bonds with base CUSIP number of [] (the “Bonds”).

ABAG FAN delivers this Voluntary Event Notice (Notice to Municipal Securities Rulemaking Board) to the Electronic Municipal Market Access site of the Municipal Securities Rulemaking Board pursuant to its obligations under certain continuing disclosure agreements and certificates in connection with the Bonds.

Dated as of the date and year written above.

ABAG FINANCE AUTHORITY FOR NONPROFIT
CORPORATIONS

By: _____
Authorized Representative

[ABAG FAN LETTERHEAD]

[TRUSTEE/PAYING AGENT ADDRESS]

Dated: ____, 2020

The Association of Bay Area Governments Finance Authority for Nonprofit Corporations (“ABAG FAN”) hereby gives notice as follows:

1. On ____, ABAG FAN issued \$[NAME OF BONDS], pursuant to [TRUST AGREEMENT/ISSUING AGREEMENT], by and between ABAG FAN and [NAME OF TRUSTEE]. [ADD INFORMATION REGARDING PAYING AGENT, IF ANY]

2. Pursuant to Article VI(L) of the Joint Powers Agreement creating the ABAG Finance Authority for Nonprofit Corporations, dated as of April 1, 1990, revised as of September 18, 1990 and June 9, 1992, as amended (the “ABAG FAN Joint Powers Agreement”), ABAG FAN has the power to assign, delegate or contract with a third party to perform any of the duties of the ABAG FAN Board of Directors (the “ABAG FAN Board”), including but not limited to, acting as an administrator for the ABAG FAN Board.

3. On ____, 2020, the ABAG FAN Board adopted Resolution No. [], approving the transfer of any and all of its duties and administrator responsibilities to Advancing California Finance Authority (the “Financing Authority”).

4. On ____, 2020, the Financing Authority’s board of directors adopted Resolution No. [], accepting the transfer of any and all duties and administrator responsibilities from the ABAG FAN Board.

5. Effective as of [INSERT DATE 60 DAYS AFTER ADOPTION OF ACFA RESOLUTION], the Financing Authority’s board of directors will assume all of ABAG FAN Board’s responsibilities and will serve as the new administrator for ABAG FAN.

Dated as of the date and year written above.

ABAG FINANCE AUTHORITY FOR NONPROFIT
CORPORATIONS

By: _____
Authorized Representative



ABAG

Metropolitan Transportation Commission

375 Beale Street, Suite 800
San Francisco, CA 94105

Legislation Details (With Text)

File #: 20-0527 **Version:** 1 **Name:**

Type: Report **Status:** Committee Approval

File created: 3/5/2020 **In control:** ABAG FAN Executive Committee

On agenda: 4/2/2020 **Final action:**

Title: Authorization to modify and extend an existing contract with Compliance Services, LLC on a sole source basis to provide housing program compliance monitoring services in an annual amount not to exceed \$100,000 for a five year period renewable annually based on budget, pricing and continued effective service levels

Sponsors:

Indexes:

Code sections:

Attachments: [Item 09a 1 Summary Sheet Housing Compliance v2.pdf](#)
[Item 09a 2 Summary Approval HOUSING COMPLIANCE v1.pdf](#)

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

Authorization to modify and extend an existing contract with Compliance Services, LLC on a sole source basis to provide housing program compliance monitoring services in an annual amount not to exceed \$100,000 for a five year period renewable annually based on budget, pricing and continued effective service levels

Brian Mayhew

Approval

ABAG Finance Authority for Nonprofit Corporations

Executive Committee

April 2, 2020

Agenda Item 9.a.

Consulting Contracts

Subject:	Authorization to modify and extend an existing contract with Housing Compliance Services, LLC on a sole source basis to provide housing program compliance monitoring services in an annual amount not to exceed \$100,000 for a five year period renewable annually based on budget, pricing and continued effective service levels
Background:	<p>Staff requests ABAG Finance Authority for Nonprofit Corporations (ABAG FAN) Executive Committee approval to extend the existing contract on a sole source basis with Housing Compliance Services, LLC (CS) to continue using its customized proprietary housing compliance software. The annual budget amount is \$60,000 through June 30, 2021. Staff requests a five year contract renewable annually based on pricing, availability of budget and satisfactory service needs.</p> <p>ABAG FAN currently has a portfolio of 61 affordable rental housing transactions, each of which require substantial monitoring to ensure compliance with state and federal laws, including IRS tax regulations, bond covenant requirements, as well as monitoring income and rental unit thresholds.</p> <p>Due to the highly specialized nature of these services, staff has been unable to locate another firm that offers the full range of similar services. Staff has worked with CS to build out the database which captures pertinent information for administering the rental unit portfolio, including historical compliance information. Prior to utilizing CS staff was not able to obtain any historical data.</p>
Issues:	None

ABAG Finance Authority for Nonprofit Corporations

Executive Committee

April 2, 2020

Agenda Item 9.a.

Consulting Contracts

Recommended Action: The ABAG FAN Executive Committee is requested to authorize the Executive Director of the Metropolitan Transportation Commission, or her designee, to negotiate and enter into an extended existing contract on a sole source basis with Housing Compliance Services, LLC to provide housing program compliance monitoring services in an annual amount not to exceed \$100,000, and to authorize a five year contract extension renewable annually based on budget, pricing and continued satisfactory service.

Attachments: Summary Approval

Reviewed:



Therese W. McMillan

**ABAG FAN EXECUTIVE COMMITTEE
SUMMARY APPROVAL**

Work Item No.:	1711
Consultant:	Housing Compliance Services LLC
Work Project Title:	Consulting Contracts
Purpose of Project:	Extension of the existing contract on a sole source basis to provide housing program compliance monitoring services.
Brief Scope of Work:	ABAG FAN currently has a portfolio of 61 affordable rental housing transactions, each of which require substantial monitoring to ensure compliance with state and federal laws, including IRS tax regulations, bond covenant requirements, as well as monitoring income and rental unit thresholds.
Project Cost Not to Exceed:	\$100,000. <i>Any unspent funds at the end of the fiscal year will carry forward to the following fiscal year.</i>
Funding Source:	ABAG Finance Authority for Nonprofit Corporations (FAN)
Fiscal Impact:	Funds are included in the FY 2020-21 FAN Budget.
Motion by Committee:	The ABAG FAN Executive Committee is requested to authorize the Executive Director of the Metropolitan Transportation Commission, or her designee, to negotiate and enter into an extended existing contract on a sole source basis with Housing Compliance Services, LLC to provide housing program compliance monitoring services in an annual amount not to exceed \$100,000, and to authorize a five year contract extension renewable annually based on budget, pricing and continued satisfactory service.
Approval:	Charles Lomeli, Chair
Approval Date:	



Metropolitan Transportation Commission

375 Beale Street, Suite 800
San Francisco, CA 94105

Legislation Details (With Text)

File #:	20-0561	Version:	1	Name:	
Type:	Report	Status:		Committee Approval	
File created:	3/19/2020	In control:		ABAG FAN Executive Committee	
On agenda:	4/2/2020	Final action:			
Title:	Authorization to modify and extend an existing contract with Goodwin Consulting Group and NBS Consulting on a sole source basis to provide advisory services related to the ongoing administration of five Community Facilities Districts in the ABAG FAN portfolio with an annual budget of \$40,000 for each CFD for a five year period renewable annually based on budget, pricing and continued effective service levels until the bonds on the Community Facilities Districts are fully retired				

Sponsors:

Indexes:

Code sections:

Attachments: [Item 09b 1 Summary Sheet Goodwin NBS v2.pdf](#)
[Item 09b 2 Summary Approval GOODWIN NBS v1.pdf](#)

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

Authorization to modify and extend an existing contract with Goodwin Consulting Group and NBS Consulting on a sole source basis to provide advisory services related to the ongoing administration of five Community Facilities Districts in the ABAG FAN portfolio with an annual budget of \$40,000 for each CFD for a five year period renewable annually based on budget, pricing and continued effective service levels until the bonds on the Community Facilities Districts are fully retired

Brian Mayhew

Approval

ABAG Finance Authority for Nonprofit Corporations

Executive Committee

April 2, 2020

Agenda Item 9.b.

Consulting Contracts

Subject: Authorization to modify and extend an existing contract with Goodwin Consulting Group and NBS Consulting on a sole source basis to provide advisory services related to the ongoing administration of five Community Facilities Districts in the ABAG FAN portfolio with an annual budget of \$40,000 for each CFD for a five year period renewable annually based on budget, pricing and continued effective service levels until the bonds on the Community Facilities Districts are fully retired

Background: Staff requests ABAG FAN Executive Committee approval to modify and extend the existing contract with Goodwin Consulting Group (Goodwin) and NBS Consulting (NBS) on a sole source basis to provide administrative services to the five (5) Community Facilities Districts (CFD) in the ABAG FAN portfolio. Staff requests a five year extension renewable annually based on budget, pricing and continued effective service levels until the bonds on the CFD's are fully retired.

Issues: ABAG Finance Authority for Nonprofit Corporations (ABAG FAN) currently administers a portfolio of five Community Facilities District transactions, each of which require substantial monitoring to ensure compliance with state and federal laws, including IRS tax and CFD compliance regulations. Both Goodwin and NBS have provided valuable, consistent services to the CFDs administered through ABAG FAN.

Both firms have special expertise in special district financing formation, annual tax administration, cost allocation plans, and fee studies. They also provide prepayment calculations, continuing disclosure, delinquency management, and covenant compliance services. The firms have also developed an intrinsic understanding of our special districts since both have provided administration for their respective districts since their inception.

The specialized nature of administering Special Districts puts these two firms in a unique position. Both manage administration and compliance, are thoroughly experienced, and provide valuable back up to step in if one firm should fail. Because of the critical nature of the tax and financial compliance requirement of special district administration, staff believes maintaining continuity of administration helps mitigate the risk of future compliance failures.

ABAG Finance Authority for Nonprofit Corporations

Executive Committee

April 2, 2020

Agenda Item 9.b.

Consulting Contracts

Recommended Action: The ABAG FAN Executive Committee is requested to authorize the Executive Director of the Metropolitan Transportation Commission, or her designee, to negotiate and enter into sole source contracts with Goodwin Consulting Group and NBS Consulting to perform advisory services related to the ongoing administration of Community Facilities Districts in the ABAG FAN portfolio with an annual budget of \$40,000 for each CFD, and to authorize a five year contract extension renewable annually based on budget, pricing and continued effective service levels until the bonds on the CFD's are fully retired.

Attachments: Summary Approval

Reviewed:



Therese W. McMillan

**ABAG FAN EXECUTIVE COMMITTEE
SUMMARY APPROVAL**

Work Item No.:	1711
Consultant:	NBS Consulting Goodwin Consulting Group
Work Project Title:	Consulting Contracts
Purpose of Project:	Extension of an existing contract with Goodwin Consulting Group and NBS Consulting on a sole source basis to provide advisory services related to the ongoing administration of five Community Facilities Districts in the ABAG FAN portfolio
Brief Scope of Work:	ABAG Finance Authority for Nonprofit Corporations (ABAG FAN) currently administers a portfolio of five Community Facilities District transactions, each of which require substantial monitoring to ensure compliance with state and federal laws, including IRS tax and CFD compliance regulations.
Project Cost Not to Exceed:	\$40,000 each CFD \$200,000 Total (5 CFDs)
Funding Source:	ABAG Finance Authority for Nonprofit Corporations (FAN)
Fiscal Impact:	Funds are included in the FY 2020-21 FAN Budget.
Motion by Committee:	The ABAG FAN Executive Committee is requested to authorize the Executive Director of the Metropolitan Transportation Commission, or her designee, to negotiate and enter into sole source contracts with Goodwin Consulting Group and NBS Consulting to perform advisory services related to the ongoing administration of Community Facilities Districts in the ABAG FAN portfolio with an annual budget of \$40,000 for each CFD, and to authorize a five year contract extension renewable annually based on budget, pricing and continued effective service levels until the bonds on the CFD's are fully retired.
Approval:	Charles Lomeli, Chair
Approval Date:	