

ASSOCIATION OF BAY AREA GOVERNMENTS

Finance Authority for Nonprofit Corporations



Date: February 28, 2019

To: ABAG FAN Executive Committee

From: Executive Director

Subject: **Report on ABAG FAN Portfolio for February 2019**

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

Transaction Document Amendments

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

- Bryte Gardens. Bryte Gardens bond underwent a full optional redemption. As a condition to closing, Housing and Urban Development (HUD) and the lender required that ABAG FAN agree to modify the Regulatory Agreement to include HUD Rider Language. ABAG FAN exercised its option to pre-pay approximately \$53,000 of the remaining future project monitoring fees. In addition, ABAG FAN charged the obligor a \$10,000 amendment fee.
- ABAG FAN Drug Abuse Alternative Center. On July 2, 2018, an optional redemption in the amount of \$600,000 was processed paying the bonds off entirely. Additionally, a Termination Agreement was executed which substituted the trustee and authorized full reconveyance of security on the Deed of Trust.
- Mountain View "Shorebreeze" Apartments. An amendment to the Regulatory Agreement is being drafted by Borrower's Counsel. The intent is to refinance with a private lender and fully redeem the ABAG FAN debt. Draft documents are being circulated for review by Borrower Counsel with an anticipated close date in April 2019.
- Heritage Plaza. Heritage Plaza underwent a refinancing with California Housing Finance Agency (CalHFA) as Issuer. As a condition to the termination of the existing Regulatory Agreement, the new issuer was asked to assume the ongoing housing compliance responsibilities. As such, the new regulatory agreement makes ABAG FAN a third-party beneficiary to enforce certain provisions in case there are any issues. The Internal Revenue Service (IRS) has the ability to retroactively audit the tax-exempt status of the bonds. Therefore, ABAG FAN was included as third-party beneficiary in case we need to enforce certain provisions as original issuer.
- Institute for Defense Analysis. This is a modification Agreement currently being executed to reflect an adjustment to the Bank Holder rate definition in the Loan Agreement. Borrower Counsel is still drafting an opinion stating there is no adverse change to the tax exempt status of the bonds.
- Presidio Knolls. This transaction is undergoing a refinancing. The Subordination Agreement and Amendment to Subordinate Loan Agreement were revised to reflect the

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new definition of senior loan debt since the California Municipal Finance Authority (CMFA) refinance. Presidio Knolls will pay for legal expenses required by ABAG FAN. Negotiations are still underway to amend the Subordinate Loan Agreement and related Subordination Agreement.

Housing Compliance and Financial Services Software

In 2018, the ABAG FAN Executive Committee approved staff's request to enter into a contract with Compliance Services, LLC to utilize its customized housing compliance software. The software will be used to monitor various state regulations and bond compliance requirements for the housing transactions. All of the framework for the housing properties has been uploaded into the database. Housing Compliance is assisting with the submittal of the California Debt Limit Allocation Committee (CDLAC) Certificates of Compliance due March 2019.

IRS Audits

Staff received eight IRS audit inquiries. Nixon Peabody, ABAG FAN's Bond Counsel, responded and completed seven of the audit inquiries. All seven had no change to the tax exempt status of the bonds. The following audits were closed with no change to position.

- Sharp Healthcare Series 2009 A
- Sharp Healthcare Series 2009 C
- Sharp Healthcare Series 2009 D
- Sharp Healthcare Series 2014 A
- Eskaton Properties Series 2008 A (Closed 4/12/18)
- Eskaton Properties Series 2013 A
- Orchard Glen Series 2005 A Reissuance (formerly known as Capitol Park Apartments)

Sharp Healthcare 2009 Series B has recently been submitted and currently pending IRS approval.

Wells Fargo Trustee Resignation

Two notices were received from Wells Fargo regarding their resignation as Trustee from the Bryte Gardens and Yuba Gardens transactions. Later, rescission notices were issued and Wells Fargo decided to continue on with their role as trustee. Wells Fargo then notified us that their San Francisco office would be closed with the majority of accounts being transferred to their Los Angeles and Minneapolis offices. We have been working with successor staff to update contact information for many deals during this transition period.

Recommended Action

The ABAG FAN Executive Committee is requested to accept the report.



Steve Heminger