

RESOLUTION NO. 2020-001
ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS
EXECUTIVE COMMITTEE OF THE BOARD OF DIRECTORS

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A SECOND SUPPLEMENTAL BOND INDENTURE SUPPLEMENTING THE BOND INDENTURE DATED AS OF OCTOBER 1, 2013, WHICH PROVIDED FOR THE ISSUANCE AND DELIVERY OF REFUNDING REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT OF \$99,423,319, FOR THE BENEFIT OF ACACIA CREEK, A MASONIC SENIOR LIVING COMMUNITY AT UNION CITY, A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION, AS PREVIOUSLY SUPPLEMENTED BY A FIRST SUPPLEMENTAL BOND INDENTURE DATED AS OF APRIL 1, 2015, AND CERTAIN OTHER MATTERS RELATING THERETO

WHEREAS, pursuant to the provisions of the Joint Powers Act, comprising Chapter 5 of Division 7 of Title 1 (commencing with Section 6500) of the California Government Code (the “*Act*”), certain California cities and counties entered into a joint exercise of powers agreement, dated as of April 1, 1990 and revised as of September 18, 1990 and June 9, 1992 (the “*Agreement*”), pursuant to which the ABAG Finance Authority For Nonprofit Corporations (the “*Authority*”) was organized;

WHEREAS, pursuant to the provisions of the Act and the Agreement, and a Bond Indenture (the “*Bond Indenture*”) dated as of October 1, 2013, between the Authority and Wells Fargo Bank, National Association, as trustee (the “*Trustee*”), the Authority previously issued its ABAG Finance Authority For Nonprofit Corporations Variable Rate Refunding Revenue Bonds (Acacia Creek at Union City) Series 2013A (the “*Bonds*”) dated their date of original issuance, in the aggregate principal amount of \$99,423,319, and loaned the proceeds thereof to Acacia Creek, A Masonic Senior Living Community at Union City, a California nonprofit public benefit corporation (the “*Borrower*”), for the purposes set forth in the Bond Indenture;

WHEREAS, the Bond Indenture provides that interest on the Bonds will bear interest at an “Indexed Put Rate” (equal to the London Inter-bank Offered Rate as of a specified time, multiplied by an “Applicable Factor” to which is added an “Applicable Spread”) for a specified period (an “*Indexed Put Rate Period*”) ending on a specified date (an “*Indexed Put Date*”):

WHEREAS, Section 202(b)(7) of the Bond Indenture provides that not later than ninety (90) days prior to any Indexed Put Date, the Borrower may provide written notice to the purchaser of the Bonds, Banc of America Public Capital Corp (the “*Purchaser*”), of its desire for the Purchaser to continue to hold the Bonds for a new Indexed Put Rate Period, after which the Purchaser will make reasonable efforts to respond to such request after receipt of all information necessary to permit the Purchaser to make an informed credit decision;

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WHEREAS, a First Supplemental Bond Indenture dated April 1, 2015, by and between the Authority and the Trustee previously extended the initial Indexed Put Date from October 31, 2018, to March 31, 2020, without adjustment of the Indexed Put Rate;

WHEREAS, the Borrower and the Purchaser, after discussion and a review of relevant credit information, now desire to establish a new Indexed Put Rate Period with an Indexed Put Date of January 7, 2022, without adjustment of the current Applicable Factor or the Applicable Spread until March 31, 2020, and, from and including April 1, 2020, with an Applicable Factor of 80% and an applicable Spread of 35 basis points (0.35%), all as modified by a “Margin Rate Factor,” and subject to further adjustment based on the credit rating for the Bonds and other factors;

WHEREAS, to document and evidence the New Indexed Put Rate Date, it is proposed that the Authority and the Bond Trustee execute and deliver a Second Supplemental Bond Indenture;

WHEREAS, Foley & Lardner, LLP, bond counsel to the Authority, has advised that the changes proposed by the Second Supplemental Bond Indenture should be regarded as a reissuance of the Bonds for federal income tax purposes; and

WHEREAS, there has been filed with the Secretary of the Authority a form of Second Supplemental Bond Indenture and a form of Supplemental Tax Agreement by and between the Authority and the Borrower;

NOW THEREFORE, BE IT RESOLVED by the Executive Committee of the Board of Directors of the ABAG Finance Authority For Nonprofit Corporations, as follows:

Section 1. The Authority hereby approves the proposed forms of Second Supplemental Bond Indenture and Supplemental Tax Agreement on file with the Secretary of the Authority.

Section 2. The appropriate officers of the Authority, or the designee of any of them, acting alone, are each hereby authorized and directed, for and on behalf of the Authority, to execute and deliver the Second Supplemental Bond Indenture and the Supplemental Tax Agreement in substantially the forms filed with the Secretary, 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 signatory, with the advice of bond counsel and counsel to the Authority, may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. The appropriate officers and agents of the Authority, acting alone, are each hereby authorized and directed for and in the name of and on behalf of the Authority, to execute and deliver any and all other documents, and to do any and all things and take any and all actions that may be necessary or advisable, in their discretion, to effectuate the actions that the Authority has approved in this Resolution.

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Section 4. All actions heretofore taken by the officers and agents of the Authority with respect to the execution and delivery of the Second Supplemental Bond Indenture and the Supplemental Tax Agreement and the transactions contemplated thereby are hereby ratified, confirmed and approved.

Section 5. All approvals, consents, directions, notices, orders, requests and other actions permitted, required or contemplated by this Resolution, including, without limitation, any of the foregoing which may be necessary or desirable in connection with any amendment of such documents, may be given or taken by the Issuer Representative (as such term is defined in the Bond Indenture) of the Authority without further authorization by the Authority, and the Issuer Representative is hereby authorized and directed to give any such approval, consent, direction, notice, order or request and to take any such action which such Issuer Representative, with the advice of bond counsel and counsel to the Authority, may deem necessary or desirable to further the purposes of this Resolution.

Section 6. Notwithstanding the above, all of the foregoing approvals, authorizations, directions, ratifications and confirmations shall be contingent and dependent on the Purchaser's written consent to the execution and delivery of the Second Supplemental Bond Indenture.

Section 7. This Resolution shall take effect from and after its adoption.

PASSED AND ADOPTED this 9th day of January, 2020.

ABAG FINANCE AUTHORITY FOR
NONPROFIT CORPORATIONS

By:

Charles Lomeli, Chair
ABAG Finance Authority for Nonprofit
Corporations

ATTEST:

Frederick Castro, Secretary
ABAG Finance Authority for Nonprofit Corporations

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I, the undersigned, the duly appointed, and qualified Secretary of ABAG Finance Authority for Nonprofit Corporations, do hereby certify that the foregoing resolution was duly adopted by the Executive Committee of the Board of Directors of said Authority at a duly called meeting of the Executive Committee held in accordance with law on January 9, 2020.

Frederick Castro, Secretary
ABAG Finance Authority for Nonprofit
Corporations