



CALL AND NOTICE

CALL AND NOTICE OF A SPECIAL MEETING OF THE EXECUTIVE COMMITTEE OF THE BOARD OF DIRECTORS OF THE ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS

As Chair of the Executive Committee of the Board of Directors of the ABAG Finance Authority for Nonprofit Corporations, I am calling a special meeting of the Executive Committee as follows:

Special Meeting

Wednesday, October 26, 2017, 11:00 a.m. to 1:00 p.m.

Location:

Bay Area Metro Center
Bay Area Conference Room 6102
375 Beale Street
San Francisco, California

Teleconference Location:

County of Sonoma, County Fiscal Building, 585 Fiscal Drive, Suite 100, Santa Rosa, CA 95403

Executive Committee Members:

Charles Lomeli, Treasurer/Tax Assessor/County Clerk, County of Solano
Jonathan Kadlec, Assistant County Auditor/Controller/Treasurer/Tax Collector,
County of Sonoma
Paul McDonough, County of Santa Clara
Russell Watts, County Treasurer/Tax Collector, County of Contra Costa

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

Agenda and attachments available at <https://abag.ca.gov/meetings/financeauthority.html>

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

- 1. CALL TO ORDER / ROLL CALL / CONFIRM QUORUM**
- 2. PUBLIC COMMENT**
INFORMATION

ABAG Administrative Committee

October 18, 2017

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3. APPOINTMENT OF ACTING PRESIDENT, CHIEF FINANCIAL OFFICER, SECRETARY AND GENERAL COUNSEL

ACTION

4. REPORT ON ANALYSIS OF ABAG FAN PORTFOLIO

ACTION

5. REPORT ON JOINT POWERS AGREEMENT FOR ADVANCING CALIFORNIA FORWARD AUTHORITY (ACFA)

INFORMATION

6. ADJOURNMENT

The next meeting of the ABAG FAN Executive Committee will be announced.

Submitted:

Charles Lomeli
Chair

Date Submitted: October 24, 2017

Date Posted: October 25, 2017

ASSOCIATION OF BAY AREA GOVERNMENTS

Representing City and County Governments of the San Francisco Bay Area



ABAG

AGENDA

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

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ABAG FAN Executive Committee

October 26, 2017

Page 2

3. APPOINTMENT OF ACTING PRESIDENT, CHIEF FINANCIAL OFFICER, SECRETARY AND GENERAL COUNSEL

ACTION

Steve Heminger, MTC Executive Director, will give the staff report.

Attachment: Memo Appointment Acting President, Chief Financial Officer, Secretary and General Counsel

4. REPORT ON ANALYSIS OF ABAG FAN PORTFOLIO

ACTION

Brian Mayhew, MTC Chief Financial Officer, will give the staff report.

Attachments: Memo 2017 FAN Portfolio Analysis Update; Portfolio Review (MTC Treasury); Portfolio Overview (The PFM Group); Portfolio Review; Analysis ABAG FAN Debt Portfolio (Sperry)

5. REPORT ON JOINT POWERS AGREEMENT FOR ADVANCING CALIFORNIA FORWARD AUTHORITY (ACFA)

INFORMATION

Brian Mayhew, MTC Chief Financial Officer, will give the staff report.

Attachments: Memo New Financing JPA; Draft ACFA JPA; Presentation

6. ADJOURNMENT

The next meeting of the ABAG FAN Executive Committee will be announced.

Date Submitted: October 24, 2017

Date Posted: October 25, 2017



Date: October 24, 2017

To: Executive Committee
ABAG Finance Authority for Nonprofit Corporations ("FAN")

From: Executive Director

Subject: **Appointment of Acting President, Chief Financial Officer, Secretary and General Counsel**

Background

The FAN Bylaws were adopted on July 26, 1990 and were amended in 1991, 1992, 1995, and twice in 1996. It is our understanding that the full Board of FAN has not met since some time in the late 1990s/early 2000s due to logistics and inability to assemble a quorum. The Bylaws currently provide that the Executive Director of ABAG shall be the President of the Authority, the Financial Services Manager of ABAG shall be the Secretary of the Authority, and the Director of Finance for ABAG shall be the Chief Financial Officer of the Authority (Article VIII, Section 1). Since the ABAG staff was consolidated with the MTC staff effective July 1, 2017 pursuant to the Contract for Services between ABAG and MTC, effective May 30, 2017, the foregoing enumerated ABAG employees no longer exist. The FAN Bylaws provide that they cannot be amended by committee, and can only be amended by the FAN governing Board (Article VII, Section 1).

On March 16, 2015 the FAN Executive Committee appointed Kenneth Moy as Acting General Counsel. Mr. Moy's contract with ABAG is due to expire on January 5, 2018.

It is necessary to name current consolidated staff to function as officers for FAN and to name a new Acting General Counsel. Absent an amendment of the Bylaws, which is not feasible at the present time, the Executive Committee is requested to designate current MTC personnel to the positions of Acting President, Chief Financial Officer and Secretary, as well as name a new Acting General Counsel.

Recommended Action

The FAN Executive Committee is requested to name Steve Heminger or his designee as Acting President, Brian Mayhew as Acting Chief Financial Officer and Fred Castro as Acting Secretary of FAN and Adrienne Weil as Acting General Counsel of FAN.

Steve Heminger

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Date: October 13, 2017
To: Executive Committee
ABAG Finance Authority for Nonprofit Corporations
From: Executive Director
Subject: **2017 FAN Portfolio Analysis Update**

This item is presented as an information item. In this memorandum we will provide the Executive Committee with an update of MTC's analysis of the FAN portfolio, our findings and recommendations resulting from our analysis as well as recommendations for the future.

Current Portfolio

There are approximately 154 active issues existing under the FAN name.

Three basic teams of staff and consultants have worked for nearly 9 months to analyze the portfolio and obtain the information we have. The process of constructing the portfolio from scratch has been slow, tedious and sometimes painful. To construct a library of past FAN issues we reviewed over 256 deal binders with over 120,000 pages of information that had to be reviewed and cataloged. In addition we had to validate over 130 trust accounts to verify principal, reserve and any cash balances. The result is a complete library of FAN transactions detailing:

- Deal Name
- Issue Type
- Issue Date
- Original Par Amount
- Outstanding Par Amount
- Trust Accounts
- Administrative Responsibilities
- Compliance Responsibilities
- Most recent reporting date
- Compliance Lapses
- Fee Payments

These components are now built into our database and give us a comprehensive library as we administer the current portfolio and develop new deals.

2017 FAN Portfolio Analysis Update

October 13, 2017

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Findings: The analysis of the FAN Portfolio has been conducted in three basic parts. These reviews differed in scope and depth depending on the desired outcome:

PFM: Initial analysis conducted to evaluate future MTC risk and liability from administration of the ABAG FAN Pool

MTC Staff: Comprehensive review and analysis of every identified ABAG FAN transaction to catalog detail of the entire portfolio

Sperry Capital: Detail analysis of ABAG FAN documents with a focus on deal type, administrative responsibility and future financial options

Each level produced findings on the research and each level had slightly different findings depending on the depth of the work.

The Executive Board will receive presentations from each of the three research teams. Nevertheless, there are some universal themes:

- There was no comprehensive list of FAN issues.
- There is no evidence that ongoing administrative and compliance issues have been met on any consistent basis.
- There is no evidence showing that required disclosures have been consistently filed.
- There is no evidence that assets, proceeds or reserve funds related to any of the CFDs have been posted or reconciled in any general ledger setting.

To illustrate the last point, there is still no evidence that a recently authorized CFD refunding is posted or reconciled to any GAAP based general ledger.

The Future

Once we have the comprehensive deal library the next phase is to decide what to do, if anything with the existing portfolio. Here the options range from simple to quite complex:

Do nothing: The database is clean – collect fees and accept new deals.

Bid Portfolio: Bid to see if another conduit will accept all or components of the portfolio.

Refinance Portfolio: Many of the deals, especially public deals are beyond call dates and can be refinanced into a new conduit.

Combination: Refinance public deals, runout or bid private deals.

2017 FAN Portfolio Analysis Update

October 13, 2017

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New Conduit: Act as successor to all/some deals, refinancing the public deals offers many advantages including new documents to follow as well as additional issuance fees. Refinancing into a new conduit has the same advantages as well as potentially gaining valuable exposure and a track record to a new conduit.

The next phase of our work will focus on refinancing opportunities and options. We expect to conclude this work with formal recommendations sometime in the next three months.

Budget

Once we identify refinancing candidates we will need the staff and technical expertise to not only review transactions but administer them as well. Currently there are two full-time positions assigned to FAN work, one in Finance and one assigned to the Deputy Executive Director for Local Government Services for marketing and development. In addition, the Finance Department has two hourly employees who have assembled the FAN Library and when the research is completed will shift responsibilities to entering the information into our systems. The full-time finance position will have overall responsibility for administering the portfolio, reconciling the data and working on compliance issues.

This staffing is adequate until we get to processing actual transactions. The skill set necessary to assemble and manage a financial team is quite different. Initially Brian Mayhew and Susan Woo will handle the deal management but ultimately it may take another staff professional.

I propose to use existing resources for legal and financial support. These resources are:

Financial Advisor

PFM – transition and document review
Sperry Capital – financial advisor and credit analysis

Legal Support

Bill Donovan – Special JPA Support Counsel
Chuck Wolf – (Nixon Peabody) Issuer Counsel

To pay for these professionals we propose \$100,000 in retainers. After start up procedures are completed we believe legal and financial support will be reimbursable through individual deals.

Finally we will need to assemble the deal teams. Here we propose to issue a request for qualifications to establish a list of legal, financial and underwriting firms qualified to present transactions to the new and existing financing authorities. Anyone on the qualified list will be able to present a potential financing to the authority. Costs for qualified firms will be covered from completed transactions.

2017 FAN Portfolio Analysis Update

October 13, 2017

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A breakdown of costs is approximately \$1.4 million.

Existing Staff (2)	\$360,000
Hourly Staff	\$200,000
Senior Consultant	\$200,000
Overhead	\$280,000
Financial Advisors	\$200,000
Legal	\$200,000
	<hr/>
Total Cost	<u>\$1,440,000</u>

There will be additional costs for materials, supplies, travel and training as well as trustee, treasury and banking fees. These costs will be presented along with any potential budget modification as we move into the next phase.



Steve Heminger



Metropolitan Transportation Commission ABAG Finance Authority for Non-Profit Corporations Portfolio Overview

October 12, 2016

Presented by
The PFM Group

50 California Street
Suite 2300
San Francisco, California 94311

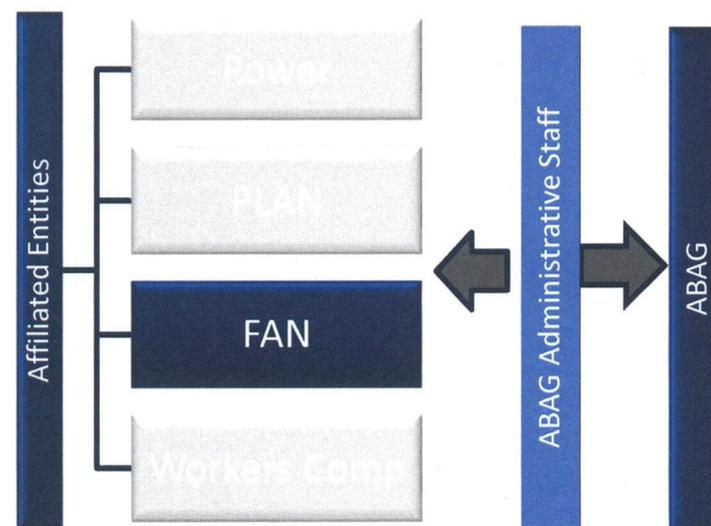


PFM ABAG Portfolio Analysis -

- **Goal**
 - Identify liabilities and negative implications of MTC assumption of FAN portfolio
- **Portfolio Overview**
 - 156 series of bonds identified with \$2.7 billion of par
 - Housing, health care, education, cultural institutions
- **Findings**
 - Significant information - sale type, disclosure responsibility, amortization and interest rate type could not be confirmed with documents on hand or through public databases
 - Fees on outstanding transactions did not conform to published formulas and little information on fee basis was available
 - Lack of information to determine liability, except in limited cases
- **Recommended strategy**
 - Freeze new issuance until sufficient information on current portfolio is obtained
 - Reduce portfolio risk – refunding, potentially through another conduit
 - Transfer portfolio outright to another conduit agency

As part of our ABAG merger analysis, PFM was also tasked with review of the ABAG Finance Authority

- MTC sought to better understand the operations of the ABAG FAN, its portfolio, fees and charges, and any liabilities that may transfer to MTC in a merger
- Association of Bay Area Governments Finance Authority for Non-Profit Corporations (FAN)
 - ABAG FAN is one of ABAG’s affiliated entities
 - FAN has provided conduit financing to various public and private organizations throughout the State of California since 1978
 - FAN helps ABAG members provide for construction of affordable, multi-family housing; hospitals and medical clinics; transit systems; schools; non-profit cultural institutions; water and wastewater systems; and other local member-owned infrastructure projects.
 - Key Benefits include:
 - Low-cost for conduit-financing services
 - Operates under strict accounting and administrative controls
 - Staffed by experienced industry professionals
 - On-line application process.
- ABAG FAN Portfolio
 - 156 Series of bonds outstanding; approximately \$2.6 billion in par
 - Publicly offered and privately placed transactions
 - Sectors financed include housing, senior housing, healthcare, education, and cultural institutions
 - Fees levied on initial borrowing and annually until final maturity
- After acquiring a better understanding of ABAG FAN, MTC’s goal is to limit liabilities that may accrue to MTC as a result of the merger and develop a plan for the future of the ABAG FAN



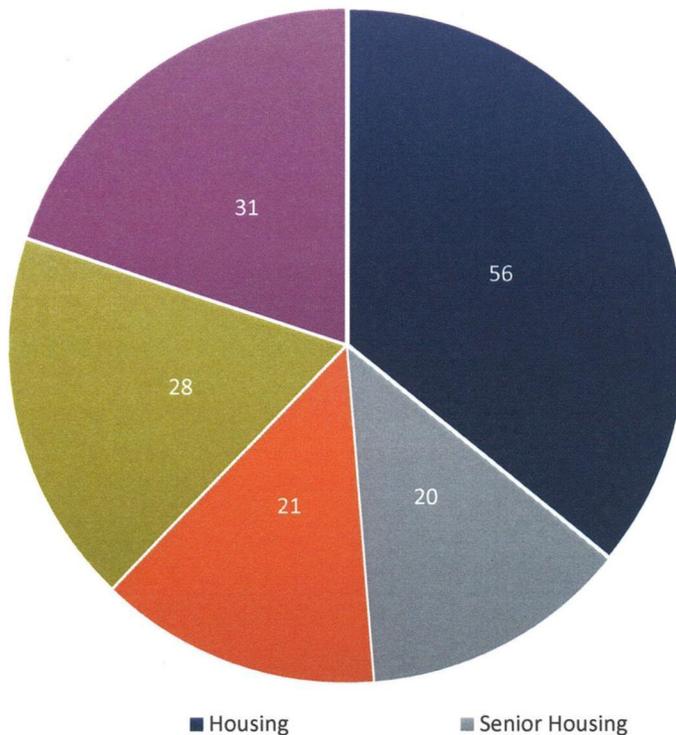
PFM began gathering public information and working with ABAG staff to construct the portfolio details

- First step was to identify portfolio holdings
 - ABAG had little easily accessible internal information, but recently-hired staff are conducting a records search
 - PFM utilized public sources including EMMA and Bloomberg and cross-referenced the ABAG website and other ABAG information
- Portfolio holding information was gathered to support detailed analysis
 - Information included: sector, call date, maturity schedule, fixed or variable rate, credit enhancement, disclosure obligation, fees and fee structure
- Goal of portfolio analysis is three-fold
 - Identify ABAG liabilities in the portfolio and any potential negative implications for MTC
 - Develop portfolio management strategies, including staffing needs and whether or not to engage in new business
 - Analyze the fee policy, ensure that it was being properly assessed and identify portfolio revenue contribution to ABAG and FAN operations and staffing
- As substantial information remains unknown, continued analysis will be essential to achieving the goals of the portfolio analysis

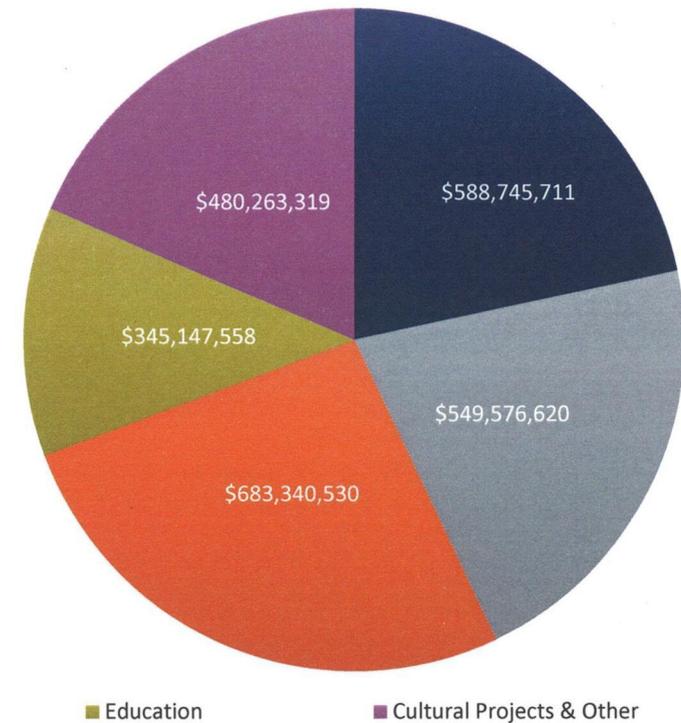
Portfolio composition is heavily weighted toward housing

Sector Mix

Bond Series



Par Outstanding

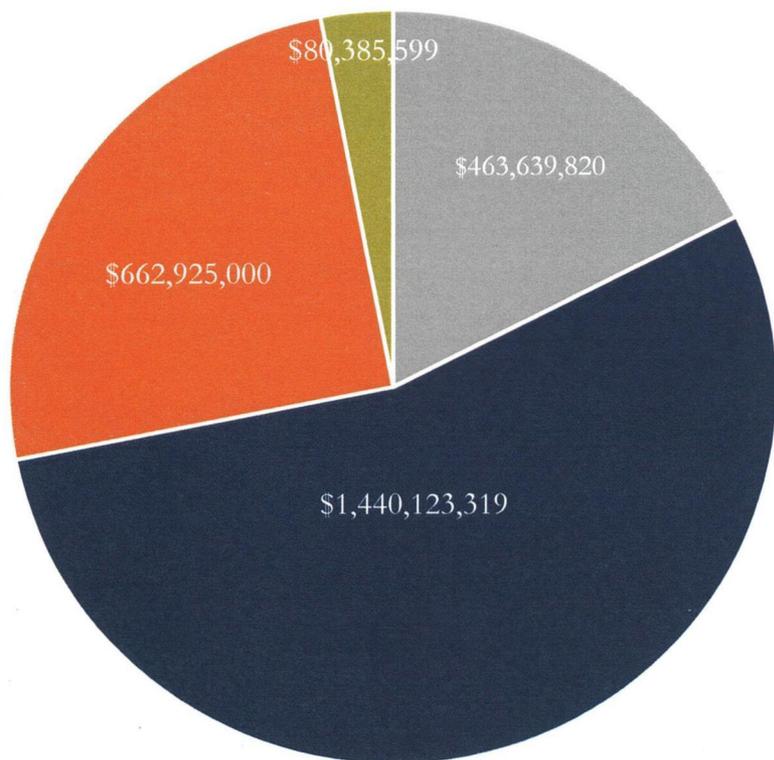


Total Bond Series: 156
 Total Outstanding Par: \$2,647,073,738

(Non-FAN transactions total approximately \$67MM in ten series)

Portfolio is predominately rated and enhanced by a diverse mix of credit providers

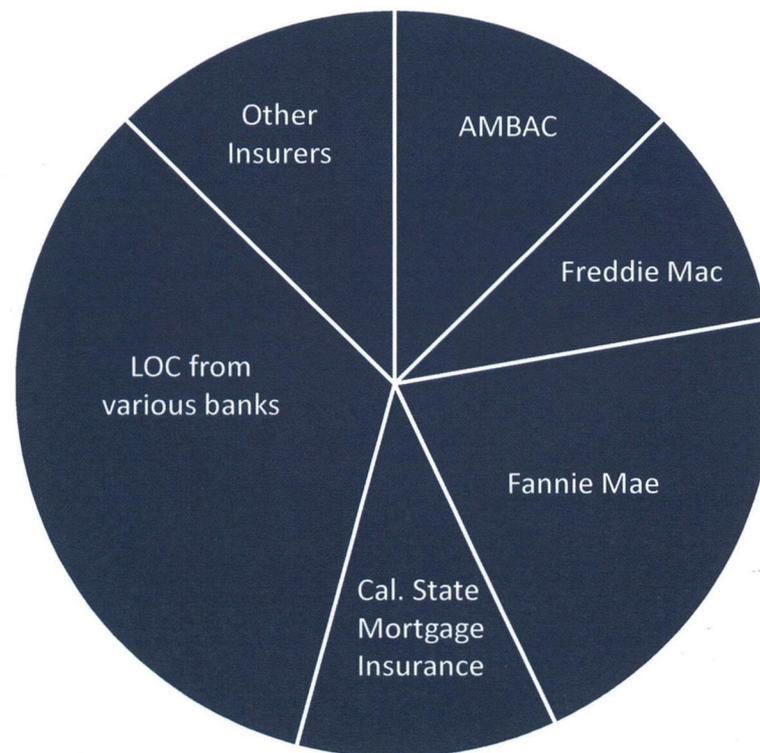
Rating & Enhancement



■ Neither ■ Enhanced & Rated ■ Rated ■ Unknown

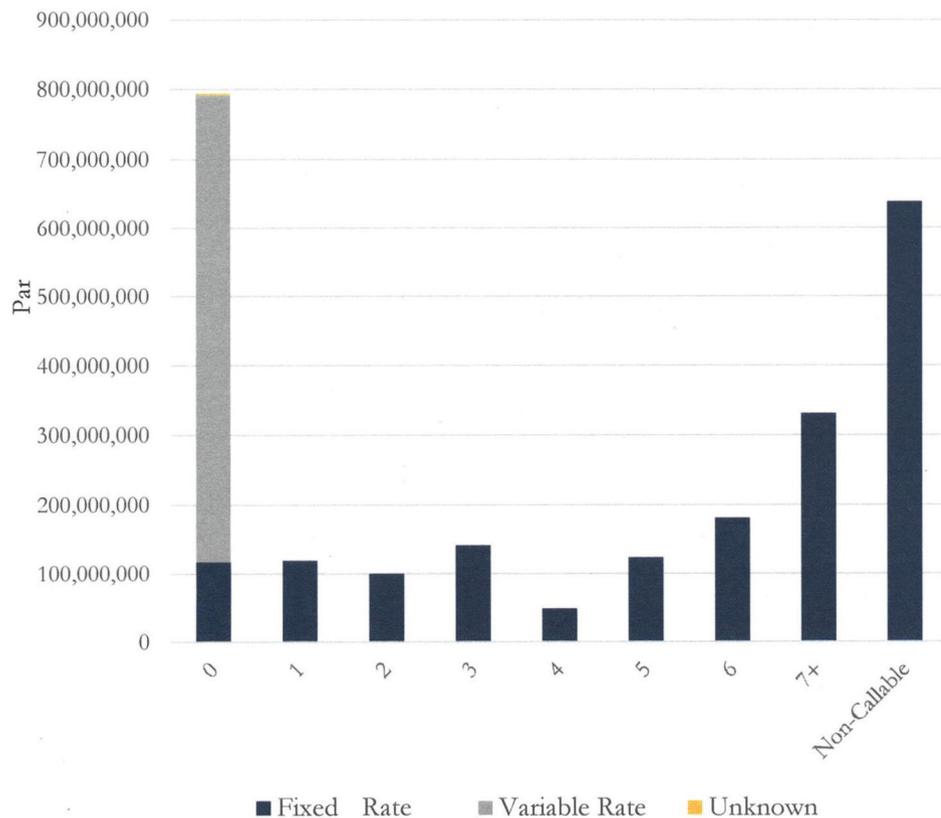
Unknown represents transactions for which no rating information was available

Enhancement Provider

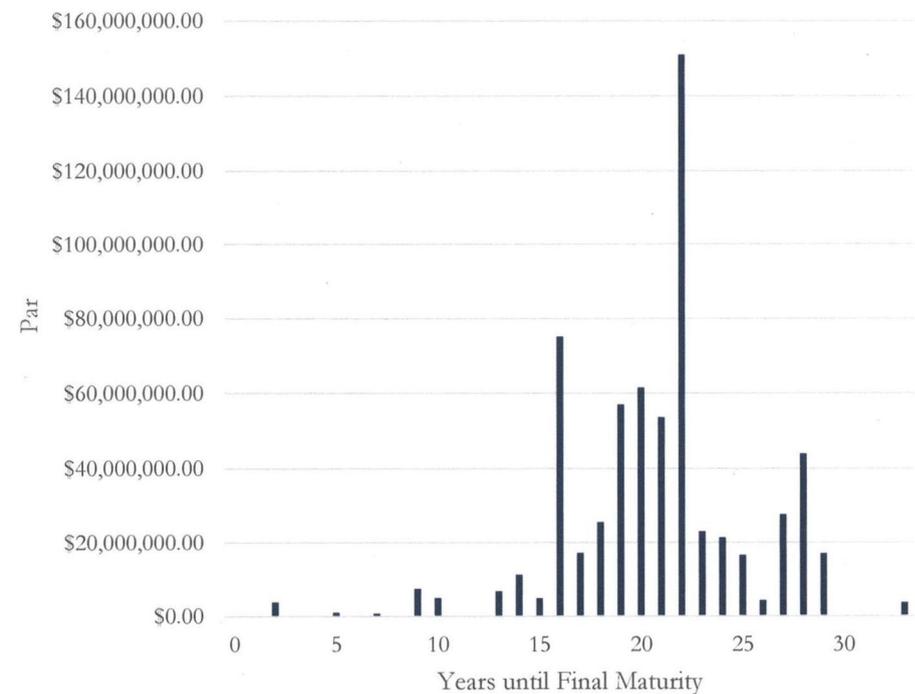


Over 60% of the portfolio is callable within seven years

Callability



Non-Callable Maturities

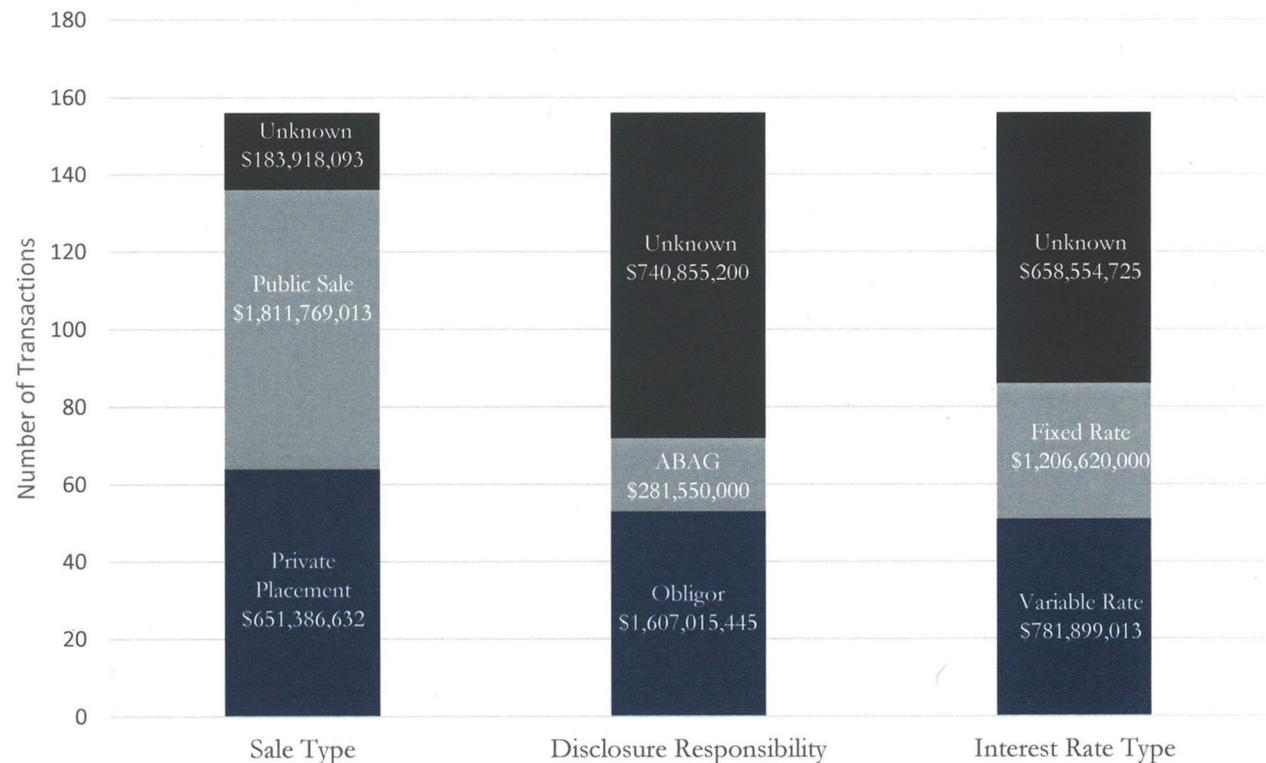


(1) Approx. \$172mm of outstanding par has no public information regarding call dates

The portfolio continues to have major unknown elements

- Portfolio holdings lacking information need to be further researched to determine ABAG liability for continuing disclosure and other characteristics
- Windemere Ranch transaction is one example of ABAG not meeting its continuing disclosure obligation
 - Page 6 of the Windemere Ranch Official Statement for the Senior Series 2014-A stated that ABAG failed to meet its continuing disclosure responsibilities
 - Page 6 also stated that ABAG and FAN were developing procedures to address future lapses
- Fee information remains lacking and fees on outstanding transactions are not conforming to currently published formulas
 - Additional information has been requested

Transaction Characteristics



Transaction fee arrangements are contained in individual transaction documents which must be reviewed

- ABAG provided PFM with overall fee revenue for the past seven years
 - ABAG associated staff are allocated at full salary and benefits plus 44.5% overhead charge
 - Expenses of ABAG FAN were not available

ABAG FAN Revenue⁽¹⁾

ACCOUNT NAME	Acct. Code	2010	2011	2012	2013	2014	2015	2016
Service Contract Revenue	42008	\$12,649	\$2,998	\$0	\$0	\$0	-\$19,734	\$0
Financial Services Revenue	42020	41,727	47,602	31,027	34,589	31,381	142,270	53,798
Billed reimbursement from Trustees	42021	79,000	121,000	109,400	81,000	76,500	33,000	22,750
Grant Revenue	42000	0	0	0	0	0	75,000	0
Interest Income	42007	0	0	0	0	0	69,450	1,850
Contribution Revenue	48004	0	0	0	0	0	105,000	0
Webhosting and Development Fees	42024	<u>1,326,775</u>	<u>1,147,226</u>	<u>1,123,314</u>	<u>1,066,129</u>	<u>1,204,100</u>	<u>1,002,512</u>	<u>731,133</u>
Total		\$1,460,150	\$1,318,826	\$1,263,741	\$1,181,719	\$1,311,981	\$1,407,498	\$809,530
Salaries and Benefits Equivalent ⁽²⁾		\$1,010,484	\$912,682	\$874,561	\$817,799	\$907,945	\$974,047	\$560,229

⁽¹⁾ As provided PFM by ABAG

⁽²⁾ calculated based on 144.5% salaries, benefits and overhead charges provide by ABAG

- Information regarding fees for individual portfolio series are still being gathered and evaluated
- Published fee formulae and actual fees assessed are not equal in some cases as fees were negotiated and terms contained in individual transaction documents

No immediate concerns regarding MTC liability for ABAG FAN

- Post-merger risks are being evaluated and at this time are unknown
 - Dependent upon extent of ABAG FAN responsibilities with respect to continuing disclosure, which remains under evaluation
- Strategies are being developed to potentially reduce portfolio under ABAG administration through refundings
- ABAG has new and capable staff overseeing FAN administration
 - Working with PFM to assess portfolio and develop information sources and documentation for all transactions
- Revenue provided by ABAG appears adequate to address staffing needs
 - Individual transaction assessments are being examined by both PFM and ABAG staff
 - Consistency and transparency in fees will give confidence to both actual and budgeted results
 - Expenses require evaluation
- MTC and its legal advisors are evaluating potential strategies with respect to assumption of ABAG FAN portfolio by another conduit agency
 - Outright takeover of ABAG portfolio by another conduit without refinancing is likely not legally permitted
 - Dissolution of ABAG FAN appears to be restricted by transaction documents and may also not be legally permitted while these portfolio obligations are outstanding
- MTC and PFM are discussing and evaluating potential strategies with respect to third-party management of the ABAG FAN

PFM can work with MTC to craft an ABAG portfolio management strategy

- Goals for portfolio outcomes must be established and may include:
 - Freezing new issuance of either new money or refunding bonds
 - Reducing portfolio exposure to only transactions for which ABAG has no continuing disclosure responsibility
 - Refund those callable bonds with continuing disclosure responsibilities through another conduit agency
 - Engage a third-party to administer remaining continuing disclosure responsibilities
 - Refine procedures to guarantee continuing disclosure responsibilities are met
 - Reducing overall portfolio size by refunding all callable bonds that generate savings as soon as possible through another conduit agency
 - Fee analysis may be an important component as portfolio size is reduced
 - Allow all bonds without continuing disclosure responsibilities to run to maturity
- An implementation plan to meet refunding goals can then be developed
 - Begin in-depth analysis of refunding candidates
 - Develop eligibility, timing and savings
 - Contact original underwriter and obligor
 - Identify refunding conduit issuer
- Identify conduit replacement or firm to manage ABAG portfolio continuing disclosure responsibilities
 - Other agency, private party
 - Review legal limitations on outright takeover of portfolio
- Conduct further fee analysis to determine the correct revenue to be generated by outstanding portfolio
- Evaluate future need for ABAG FAN as a conduit issuer

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ABAG FAN PORTFOLIO REVIEW

(October 2017)

In April, the MTC Treasury Department utilized two MTC staff members and two temporary staff members to sort through the ABAG FAN portfolio. The MTC staff has returned to their day to day tasks and is currently working on the year-end close. The two temporary staff members continue to work on the portfolio.

PHASE I

Find the physical/electronic transaction files and organize in alpha order using consultant's list ("List") provided to MTC Staff.

- ◆ 256 documentation binders shelved in alpha order in one location - **COMPLETED**
- ◆ 123 project files in electronic format saved in one location- **COMPLETED**
- ◆ 2 project files missing – **CLOSED**

Review documents and extract financial information utilizing the List.

- ◆ The list included the following:
 - 140 FAN conduit financing transactions:
 - 118 projects have associated annual fees and/or project monitoring fees; the list was cross referenced to the ABAG FAN invoice binder – **COMPLETED**
 - 22 projects on the list have no associated fee billings and have no supporting documents to confirm transaction status (active/terminated)
 - Confirm billing information, initial/outstanding par **IN PROGRESS**
 - 9 ABAG/ABAG Finance Corp transactions
 - ❖ Observation: The ABAG FAN staff had no knowledge that these transactions existed.
 - 5 Community Financing Districts (CFDs) and reassessment districts.

PHASE II (IN PROGRESS)

Review transactions:

- Observation: The ABAG FAN's housing transaction monitoring fees include ongoing compliance responsibilities. The MTC Staff is unsure of what compliance requirements have been performed since there is limited documentation of compliance activities.
 - Sperry Capital was contracted to assist with compiling a list of compliance activities required by the ABAG FAN for each transaction and to compare the findings against the documentation on file.
 - Current affordable housing project monitoring fees are billed at \$4,000 per annum. The ABAG FAN fee schedule (refer to Attachment A1) posted on the website reflects a \$5,000 fee minimum per annum.
- Observation: As referenced above, a couple of transactions on the list have no transaction files in either physical or electronic formats.
 - Lifelong Medical Center- ABAG FAN staff found the Official Statement but not the original bond documents. ABAG FAN staff indicated that there was no outstanding principal balance on the account and has stopped billing; however, there is no record on file to confirm the zero balance.
 - OakCreek II – Staff was not able to locate files. ABAG FAN staff had contacted bond counsel and received no response. ABAG FAN staff later provided the Certificate of Borrower and Direction of Borrower indicating that ABAG FAN had been released of all ongoing housing compliance responsibility in 2015. ABAG FAN has stopped billing both annual and project monitoring fees.
- Observation: The invoicing method is not consistent throughout the portfolio. Some invoices are billed based on total issuance par amount while others are billed based on series par amount.
 - Example 1: New De Young issued one bond with two sub-series and was invoiced by the sub-series on two separate invoices.

- Example 2: Orchard Glen Apartments contains two sub-series and was billed on one combined invoice.
- Observation (Fees): There are 28 transactions with billing discrepancies. The invoiced amounts and or billing cycle differ from the obligors' respective fee agreements (refer to Attachment A2) within the transcripts and the schedule posted on ABAG FAN's website (refer to Attachment A1). In all cases, there was no evidence of an amendment to the fee agreements in the transcripts.
- Approximately eight transactions appear to have fees incorrectly capped at \$10,000. Their fee agreements include a calculation based on a percentage of the original par and would have generated a larger fee if the formula was applied in the billing. Please refer to Attachment A3 –SHARP Healthcare as an example. The fee agreement states the fee to be calculated at 2 basis points of original par of \$140 million. The annual fee would be \$28,000 versus the capped fee of \$10,000.
 - Fees have not been collected for the Insured NonProfits Program Financing No. 1 since 2002. ABAG FAN staff believed that the project was fully refunded; however, the trustee has advised ABAG FAN staff that there is an outstanding balance of \$380,000. ABAG FAN is waiving the fee on this account. There is nothing in the file to support the waiving of the fee.
 - Fee arrangements are not consistent. Some fee agreements include calculations based on original par while others are based on outstanding balances. Furthermore, some of the fee agreements do not reconcile to the Fee Schedule posted on the website. It is unclear if this Fee Schedule superseded previous fee schedules since MTC staff was not able to locate previous schedules. There is no mention of a fee cap referenced in annual fee in the agreements or on the website. MTC staff cannot confirm calculations utilizing the amortized balances since ABAG FAN does not maintain payment records or amortization schedules. Instead, ABAG FAN relies on an outside source (trustee and/or the borrower) to confirm the outstanding balances that are used to calculate fees.
 - A number of the transactions have agreements with fee calculations based on outstanding balances and not on original par. These transactions will result in less fee income once the loans start to amortize. Please note that as the fee revenue declines, the amount of work associated with administering the loan remains the same.

- To date, there is an approximate variance of \$465,000 (in obligors' favor) between what was billed and what is in the fee agreements. If staff continues to follow current billing protocol with all transactions intact, there would be an estimated \$2 million fee variance in obligors' favor (refer to Attachment A4).
- Observation: The MTC Staff is collecting current amortization schedules from trustees or borrowers in order to confirm outstanding principal balances. **IN PROGRESS**
- Observation: The ABAG FAN staff notified the MTC staff of a payment default in August. The default occurred in March. The ABAG FAN staff discovered the default incident when inquiring about a late fee payment.
 - The ABAG FAN staff was working with trustee to research why he was not notified of the default in March. The ABAG FAN staff has since left the agency and did not provided any update to the incident.
 - Possible reason for the lack of communication could be that the trustees and obligors were not notified of the move from Oakland to San Francisco. There was no evidence of notices sent out to the trustees or obligors when the ABAG FAN relocated from Oakland to San Francisco. As such, the trustee would only have the Oakland contact information.

Community Financing Districts (CFDs)

ABAG FAN issued 5 CFDs and reassessment districts. They are SF Mint Plaza, SF Rincon Hill 690 & 942 Market Street, and two Windemere Ranch districts.

- Observation: None of these transactions have been recorded on ABAG FAN's books. According to ABAG FAN staff, neither ABAG FAN nor the obligors record the debt on their respective books.
- Observation: The MTC staff identified 63 trustee accounts (refer to Attachment A5) that are not recorded on the ABAG FAN's general ledger.
- Observation: CFDs carry the most risk in terms of compliance responsibilities within the ABAG FAN portfolio, but they do not generate any annual fee revenue. ABAG FAN is reimbursed for the expenses associated with administering the transactions. That means

for every dollar expended, there is one dollar reimbursed resulting in a zero sum gain for the ABAG FAN.

- Observation: The dissemination and the continuing disclosure responsibilities have been outsourced to consultants NBS and Goodwin.
 - The MTC staff is uncertain if the consultants are also contracted to provide compliance under SB 1029.
- Observation: Proceeds disbursed by the City and County of San Francisco CFDs are currently deposited into the ABAG FAN bank account. The ABAG FAN staff notifies the trustee of the amount received and then makes a payment to the trustee. The ABAG FAN staff should never have the ability to do the following with the CFD proceeds:
 - Receive the funds
 - Inform the trustee the amount of funds
 - Direct the funds to another account
- The MTC staff will work with legal team to prepare an amendment to remove the MTC staff as the funds intercept and direct the CFDs to deposit the funds directly with the trustee as a means of internal control.

Internal Controls:

- Observation: One of the accounting controls implemented by the ABAG FAN staff includes having ABAG FAN staff copy the monthly/quarterly bank statement activities onto one spreadsheet and then summarize the activities onto a different spreadsheet. That summary is then presented to the board. As noted above, the bank activities do not reconcile to any internal accounting records.

Notices:

- Observation: There is no evidence of notices posted on EMMA or evidence of notices mailed to trustees or obligors regarding the address or contact change when the ABAG FAN relocated from Oakland to San Francisco.
- Observation: There is no evidence of notices posted on EMMA or evidence of notices in the files with regards to the ABAG/MTC consolidation.

- Observation: The 2014 embezzlement incident related to the Windemere Ranch account was not noted in their recent Refunding Offering Statement (refer to Attachment A6).

- The MTC Staff compiled a list of the notices sections from each of the transactions.
COMPLETED
 - The MTC Staff is unsure if any notices are required relating to the move, the consolidation and the embezzlement incident.
 - The MTC Staff will consult with the legal team regarding the required notices.
 - The embezzlement incident is noted in the fiscal year 2016 audit.

Banking:

- Observation: Signers on the bank accounts still included Ezra Rapport whom retired over a year ago.
 - The ABAG FAN staff removed his signature when it was brought to their attention.

- An ABAG FAN temp was granted bank access to all the bank accounts.
 - The temp's access was removed after the transition.

Recommendations

Based on the observations and issues listed above, staff would recommend the following:

- (1) Staff continue to retain the two temporary staff members to assist with gathering, reviewing, and researching information.

- (2) Staff use the executed fee agreements on file for future billings since there were no amendments to the agreements.

- (3) Staff contract with a financial advisor for the following:
 - a. to review bond documents for ongoing compliance requirements
 - b. identify the responsibilities of each party
 - c. provide a list of refundable candidates

d. provide portfolio strategy

In progress: Staff contracted Sperry Capital to assist with the above task items.

- (4) Meet with NBS and Goodwin and review their CFD contractual responsibilities
- (5) Staff contract with an accounting firm to identify the accounting and auditing responsibilities and roles of each party and to establish and document accounting and internal controls procedures.
- (6) Staff contract with legal counsel to determine next steps with regards to notices and compliance requirements.

Fee Schedule			
Type Of Project	Issuance Fees Up to \$20 Million Par	Issuance Fees Over \$20 Million Par	Annual Fee
Application Fee \$2,500 & Minimum \$10,000 Issuance Fee			\$2,500 min /\$5,000 Affordable Housing
Nonprofit Corporations - Private School, Healthcare	10 bps	\$30,000 + 3 bps over \$20 million	2 bps
Affordable Housing	10 bps	\$30,000 + 3 bps over \$20 million	5 bps
General Government or School District Transaction	5 bps	\$25,000 + 1.5 bps over \$20 million	2 bps
Essential Service Utility - Water, Sewer, Electric	5 bps	\$25,000 + 1.5 bps over \$20 million	2 bps
Special Tax / Assessment	40 bps	\$30,000 + 50 bps over \$20 million	5 bps
Other Financing	Contact Us		

Notes:

- An application fee of \$2,500 is required for each transaction and should be included when an application is submitted. The application fee is applied to the issuance fee at closing. Checks should be payable to: ABAG Finance Authority.
- Annual Fees, which include compliance monitoring, are due in advance for each year and are based on par amount outstanding on the anniversary of the closing date for each transaction.
- Minimum Annual Fee is \$2,500.
- Minimum Annual Fee for Affordable Housing transactions is \$5,000 per year.
- In addition to the above fees, the applicant will be responsible for all costs of issuance.

List of Billing/Fee Issues

	<u>Invoice Description</u>	<u>Invoiced</u>	<u>Fee Agreement Description</u>	<u>Fee Agreement</u>
ANNUAL ADMINISTRATION FEES				
Fee schedule formula discrepancy				
1.	Belovida Santa Clara	0.05% of outstanding par \$410	0.05% of original par	\$2,763
Billing calculation discrepancies				
2.	Episcopal Senior Communities 2011	0.02% of original par up to \$10,000 \$10,000	0.02% of original par with no cap	\$12,440
3.	Episcopal Senior Communities 2012	0.02% of original par up to \$10,000 \$10,000	0.02% of original par with no cap	\$25,496
4.	Jackson Laboratory 2012	0.02% of original par up to \$10,000 \$10,000	0.02% of original par with no cap	\$12,058
5.	Lakeside Village Apartments	0.02% of original par up to \$10,000 \$10,000	0.02% of original par with no cap	\$18,200
6.	Potrero Launch Apartments 2009 Series A-1 & 2010 Series B	0.02% of original par up to \$10,000 \$10,000	0.02% of original par with no cap	\$11,517
7.	Sharp Healthcare 2009B	0.02% of original par up to \$10,000 \$10,000	0.02% of original par with no cap	\$28,000
8.	Sharp Healthcare 2011	0.02% of original par up to \$10,000 \$10,000	0.02% of original par with no cap	\$15,542
9.	Sharp Healthcare 2014	0.02% of original par up to \$10,000 \$10,000	0.02% of original par with no cap	\$31,897
Incorrect billing description with cap (no variance to calculations)				
10.	Kings Garden Apartments	0.05% of original par up to \$10,000 \$3,351	0.05% of original par	
11.	Terracina at Springlake Family Apartments, Series 2006A-2	0.05% of original par up to \$10,000 \$8,500	0.05% of original par	
12.	Tracy Garden Village Apartments	0.05% of original par up to \$10,000 \$2,500	0.02% of original par	
13.	Valley Christian Schools	0.02% of original par up to \$10,000 \$4,000	0.02% of original par	
14.	Vintage Oak Senior Apartments	0.05% of original par up to \$10,000 \$7,760	0.05% of original par	
15.	Sharp Healthcare 2012	0.02% of original par up to \$10,000 \$9,333	0.02% of original par	
16.	Sharp Healthcare 2009A	0.02% of outstanding par up to \$10,000 \$6,702	0.02% of outstanding par	
Incorrect billing description/calculation				
17.	Casa de las Campanas	0.02% of original par up to \$10,000 \$10,000	Flat fee of \$10,000	
18.	Children's Hospital & Research Center	0.02% of outstanding par \$10,576	Flat fee of \$10,000	\$10,000
Miscellaneous				
19.	Wildhorse Family Apartments	Bills annually \$1,794	Bill monthly in equal payments	
PROJECT MONITORING FEES				
Incorrect invoice description/calculation				
20.	Summit Rose Apartment Project	1/8 of 1% (0.0125%) original par up to \$4,000 \$4,000	Fee of \$4,000	
21.	Wildhorse Family Apartments (653.75/mo, bill montly, =7,845/yr)	1/8 of 1% (0.0125%) original par up to \$4,000 \$4,000	\$653.75/mo. = \$7,845/yr	\$7,845
* 22.	Oak Park Apartments	1/8 of 1% (0.0125%) original par up to \$4,000 \$956 Calculated based on \$765,000 (Amended Formula)	1/8 of 1% (0.0125%) original par up to \$4,000 Original Agreement Par (\$4,450,000)	*
Billing Cycle				
23.	Wildhorse Family Apartments	Annual Coverage	June 1 - May 31	Annual Coverage July 1 - June 30
24.	Acacia Creek at Union City, series 2013	Annual Coverage	January 1 - December 31	Annual Coverage September 1 - August 31
25.	Harker School 2007	Annual Coverage	August 1 - July 31	Annual Coverage January 1 - December 31
26.	Mountain View Apartments	Annual Coverage	July 1 - June 30	Annual Coverage August 1 - July 31
27.	Palo Alto Gardens Apartments	Annual Coverage	April 29 - April 28	Annual Coverage April 1 - March 31
28.	West Oakland Health Council	Annual Coverage	July 1 - June 30	Annual Coverage June 1 - May 31

* - Pending research; missing amended agreement

ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS

and

SHARP HEALTHCARE

LOAN AGREEMENT

Dated as of July 1, 2009

relating to

\$140,000,000
ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS
REVENUE BONDS
(SHARP HEALTHCARE)
SERIES 2009B

Section 3.2 Additional Payments. In addition to Loan Repayments, the Corporation shall also pay to the Issuer or the Bond Trustee, as the case may be, "Additional Payments," as follows:

(a) All taxes and assessments of any type or character charged to the Issuer or to the Bond Trustee affecting the amount available to the Issuer or the Bond Trustee from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including taxes and assessments assessed or levied by any public agency or governmental authority of whatsoever character having power to levy taxes or assessments) but excluding franchise taxes based upon the capital and/or income of the Bond Trustee and taxes based upon or measured by the net income of the Bond Trustee; provided, however, that the Corporation shall have the right to protest any such taxes or assessments and to require the Issuer or the Bond Trustee, at the Corporation's expense, to protest and contest any such taxes or assessments levied upon them and that the Corporation shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Issuer or the Bond Trustee;

(b) All reasonable fees, charges, expenses and indemnities of the Bond Trustee hereunder and under the Bond Indenture, as and when the same become due and payable;

(c) The fees and expenses of such accountants, consultants, attorneys and other experts as may be engaged by the Issuer or the Bond Trustee to prepare audits, financial statements, reports, opinions or provide such other services required under or involving this Loan Agreement or the Bond Indenture; and

(d) The annual bond administration fee of the Issuer and the other fees, charges and expenses of the Issuer payable under or in connection with this Loan Agreement, the Bond Indenture, the Bonds or Obligation No. 24, including, without limitation, any and all expenses incurred in connection with the authorization, sale and issuance of the Bonds or in connection with any litigation which may at any time be instituted involving this Loan Agreement, Obligation No. 24, the Bond Indenture, or any of the other documents contemplated hereby or thereby; and

(e) All other reasonable and necessary fees and expenses attributable to the Bonds, this Loan Agreement, Obligation No. 24 or related documents, including without limitation all payments required pursuant to the Tax Agreement.

Such Additional Payments shall be billed to the Corporation by the Issuer or the Bond Trustee, from time to time, together with a statement certifying that the amount billed has been incurred or paid for one or more of the above items. After such a demand, amounts so billed shall be paid by the Corporation within thirty (30) days after receipt of the bill by the Corporation. Notwithstanding the foregoing, the Issuer shall not be required to submit a bill to the Corporation for payment of the Issuer's annual bond administration fee, which shall be due and payable annually in advance, and shall be collected by the Bond Trustee on each July 1,

commencing July 1, 2010, and which shall equal 0.02% of the original principal amount of Bonds issued under the Bond Indenture.

Section 3.3 Credits for Payments. The Corporation shall receive credit against its payments required to be made under Section 3.1, in addition to any credits resulting from payment or repayment from other sources, as follows:

(a) On installments of interest in an amount equal to moneys deposited in the Interest Account, which amounts are available to pay interest on the Bonds, to the extent such amounts have not previously been credited against such payments;

(b) On installments of principal in an amount equal to moneys deposited in the Principal Account, which amounts are available to pay principal of the Bonds, to the extent such amounts have not previously been credited against such payments;

(c) On installments of principal and interest in an amount equal to the principal amount of Bonds for the payment at maturity or redemption of which sufficient amounts (as determined by Section 10.03 of the Bond Indenture) in cash or United States Government Obligations are on deposit as provided in Section 10.03 of the Bond Indenture to the extent such amounts have not previously been credited against such payments, and the interest on such Bonds from and after the date fixed for payment at maturity or redemption thereof. Such credits shall be made against the installments of principal and interest which would have been used, but for such call for redemption, to pay principal of and interest on such Bonds when due; and

(d) On installments of principal and interest in an amount equal to the principal amount of Bonds acquired by the Corporation and surrendered to the Bond Trustee for cancellation or purchased by the Bond Trustee on behalf of the Corporation and surrendered to the Bond Trustee for cancellation, and the interest on such Bonds from and after the date interest thereon has been paid prior to surrender and cancellation. Such credits shall be made against the installments of principal and interest which would have been used, but for such cancellation, to pay principal of and interest on such Bonds when due.

Section 3.4 Prepayment. The Corporation shall have the right, so long as all amounts which have become due hereunder have been paid, at any time or from time to time to prepay all or any part of the Loan Repayments and the Issuer agrees that the Bond Trustee shall accept such prepayments when the same are tendered. Prepayments may be made by payments of cash, deposit of United States Government Obligations or surrender of Bonds, as contemplated by subsections 3.3(c) and (d). All such prepayments (and the additional payment of any amount necessary to pay the applicable premium, if any, payable upon the redemption of Bonds) shall be deposited upon receipt in the Optional Redemption Account (or in such other Bond Trustee escrow account as may be specified by the Corporation) and, at the request of and as determined by the Corporation, credited against payments due hereunder or used for the redemption or purchase of Outstanding Bonds in the manner and subject to the terms and conditions set forth in the Bond Indenture. Notwithstanding any such prepayment or surrender of Bonds, as long as any Bonds remain Outstanding or any Additional Payments required to be



ADMINISTRATIVE OFFICE

PHONE (415) 820-7900

BILL TO:

**Attn: Accounts Payable
SHARP HEALTHCARE**

REMIT TO:

**ATTN:
ABAG FINANCE AUTHORITY FOR NON-PROFITS
375 BEALE STREET, SUITE 700
SAN FRANCISCO CA 94105**

Invoice	
NUMBER 7015344	
DATE 07-JUL-16	PAGE 1 OF 1
PURCHASE ORDER NUMBER	
OUR REFERENCE	
SALES ORDER NUMBER	
CUSTOMER NUMBER	LOCATION NUMBER

TERMS IMMEDIATE	DUE DATE 07-JUL-16	SALES PERSON	CUSTOMER CONTACT	SHIP DATE	SHIP VIA	SHIPPING REFERENCE	
ITEM NO.	INVOICE	QUANTITY			TAX	UNIT PRICE	EXTENDED AMOUNT
		ORDERED	BACK ORD.	SHIPPED			
1	ORIGINAL ISSUE SIZE: \$140,000,000 / SHARP HEALTHCARE SERIES 2009B / DOC. REF. FOR FEE: L. A. SECT. 3.2(e) / ANNL. ADMIN. FEE FOR THE P.E. JUL-1-2017: 0.02% OF ORIGINAL PRINCIPAL, UP TO \$10,000	1		1		10,000.00	10,000.00
SPECIAL INSTRUCTIONS PMT BY WIRE:		SUBTOTAL		TAX	SHIPPING/HANDLING	TOTAL	
		10,000.00		0.00	0.00	10,000.00 Currency: USD	

Fee Variance

Project ^(A)	First Invoice Date	Final Maturity	Unbilled Revenue from Inception to June 2017	Projected Revenue Loss from July 2017 to Maturity
1. Belovida Santa Clara	8/1/2009	8/1/2040	16,471	59,562
2. Episcopal Senior Communities 2011	10/1/2012	7/1/2041	12,200	58,560
3. Episcopal Senior Communities 2012	10/1/2013	7/1/2047	61,984	464,880
4. Jackson Laboratory 2012	10/1/2013	7/1/2037	8,232	41,160
5. Lakeside Village Apartments	10/1/2012	10/1/2046	41,000	246,000
6. Potrero Launch Apartments 2009 Series A-1 & 2010 Series B	12/1/2011	1/1/2044	9,102	40,959
7. Sharp Healthcare 2009B	7/1/2010	8/1/2039	144,000	378,000
8. Sharp Healthcare 2011	2/1/2012	8/1/2030	33,252	72,046
9. Sharp Healthcare 2014	2/1/2015	8/1/2043	65,691	569,322
10. Wildhorse Family Apartments (653.75/mo, bill monthly, =7,845/yr)	7/1/1999	6/1/2031	73,055	49,985
			464,987	1,980,474

^(A) Oak Park Apartments pending research; amended agreement missing.

ABAG Trustee Accounts at Union Bank

	<u>Account Name</u>	<u>Balance as of 8/31/17</u>	<u>Notes</u>
1	ABAG FAN Series 2007 A&B Windemere Financing Revenue Fund	114,297,679.85	Refunding
2	ABAG FAN Series 2007 A&B Windemere Financing Interest Acct	0.00	
3	ABAG FAN Series 2007 A&B Windemere Financing Principal Acct	0.00	
4	ABAG FAN Series 2007 A&B Windemere Financing Redemption Acct	0.00	
5	ABAG FAN Series 2007 A Windemere Financing Reserve Fund	0.00	
6	ABAG FAN Series 2007 A Windemere Financing Senior Reserve Acct	0.00	
7	ABAG FAN Series 2007 A Windemere Financing Special Tax Senior Subaccount	2,666.83	
8	ABAG FAN Series 2007 A Windemere Financing Reassessment Senior Subaccount	3,276.51	
9	ABAG FAN Series 2007 B Windemere Financing Subordinate Reserve Acct	0.00	
10	ABAG FAN Series 2007 B Windemere Financing Special Tax Subaccount	0.00	
11	ABAG FAN Series 2007 B Windemere Financing Subordinate Reassessment Subaccount	0.01	
12	ABAG FAN Series 2007 A&B Windemere Financing Surplus Fund	106,455.37	
13	ABAG FAN Series 2007 A&B Windemere Financing Purchase Fund	0.00	
14	ABAG FAN Series 2007 A&B Windemere Ranch Special Tax Bonds Refunding	0.00	
15	ABAG FAN Series 2007 A&B Windemere Ranch Special Tax Bonds Tax Fund	0.00	
16	ABAG FAN Series 2007 A&B Windemere Ranch Special Tax Bonds Refunding Bond Fund	1,103,726.56	
17	ABAG FAN Series 2007 A&B Windemere Ranch Special Tax Bonds Refunding Prepayment Acct	18,003.99	
18	ABAG FAN Series 2007 A&B Windemere Ranch Special Tax Bonds Refunding Admin Expense Acct	0.00	
19	ABAG Limited Obligation Improvement Refunding Bonds Series 2007A Windemere Ranch	0.00	
20	ABAG Limited Obligation Improvement Refunding Bonds Series 2007A Windemere Ranch Redemption Fd	0.00	
21	ABAG FAN CFD 2004-1 (Seismic Safety Imprvmts-690&942 Mrkt St Proj) Special Tax Bonds, Series 2007A	0.00	
22	ABAG FAN CFD 2004-1 (Seismic Safety Imprvmts-690&942 Mrkt St Proj) Special Tax Bonds, Series 2007A Bond Fd	2,132.49	
23	ABAG FAN CFD 2004-1 (Seismic Safety Imprvmts-690&942 Mrkt St Proj) Special Tax Bonds, Series 2007A Special Tax Fd	702,753.31	
24	ABAG FAN CFD 2004-1 (Seismic Safety Imprvmts-690&942 Mrkt St Proj) Special Tax Bonds, Series 2007A Admin Exp Fd	0.00	
25	ABAG FAN CFD 2004-1 (Seismic Safety Imprvmts-690&942 Mrkt St Proj) Special Tax Bonds, Series 2007A Reserve Fd	1,021,989.57	
26	ABAG FAN CFD 2004-1 (Seismic Safety Imprvmts-690&942 Mrkt St Proj) Special Tax Bonds, Series 2007A Improvement Fd	6,286.27	
27	ABAG Custody Agreement Debt Service Deposit Acct	634,171.17	
28	ABAG Custody Agreement Debt Service Prepayment Acct	0.00	
29	ABAG Custody Agreement Debt Service Fee Acct	0.00	
30	ABAG FAN CFD 2006-2 (SF Mint Plaza Area) Special Tax Bonds, Series 2007A Bond Fd	4,003.08	
31	ABAG FAN CFD 2006-2 (SF Mint Plaza Area) Special Tax Bonds, Series 2007A Special Tax Fd	152,871.83	
32	ABAG FAN CFD 2006-2 (SF Mint Plaza Area) Special Tax Bonds, Series 2007A Admin Expense Fd	0.00	
33	ABAG FAN CFD 2006-2 (SF Mint Plaza Area) Special Tax Bonds, Series 2007A Admin Expense Fd	0.00	
34	ABAG FAN CFD 2006-2 (SF Mint Plaza Area) Special Tax Bonds, Series 2007A Reserve Fd	312,571.44	
35	ABAG FAN Refunding Rev Bonds, Sr Ser 2014A (Windemere Ranch Infrastructure Financing)	0.00	
36	ABAG FAN Refunding Rev Bonds, Sr Ser 2014A (Windemere Ranch Infrastructure Financing) Revenue Fd	0.00	
37	ABAG FAN Refunding Rev Bonds, Sr Ser 2014A (Windemere Ranch Infrastructure Financing) Interest Acct	0.00	
38	ABAG FAN Refunding Rev Bonds, Sr Ser 2014A (Windemere Ranch Infrastructure Financing) Principal Acct	0.00	
39	ABAG FAN Refunding Rev Bonds, Sr Ser 2014A (Windemere Ranch Infrastructure Financing) Redemption Acct	0.00	
40	ABAG FAN Refunding Rev Bonds, Sr Ser 2014A (Windemere Ranch Infrastructure Financing) 2014 Sp Tax Sr Reserve Fd	676,104.40	
41	ABAG FAN Refunding Rev Bonds, Sr Ser 2014A (Windemere Ranch Infrastructure Financing) 2014 Reassmt Sr Reserve Fd	2,189,702.91	
42	ABAG FAN Refunding Rev Bonds, Sub Ser 2017A&B	0.00	
43	ABAG FAN Refunding Rev Bonds, Sub Ser 2017A&B Revenue Fd	0.00	
44	ABAG FAN Refunding Rev Bonds, Sub Ser 2017A&B Interest Acct	0.00	
45	ABAG FAN Refunding Rev Bonds, Sub Ser 2017A&B Principal Acct	0.00	
46	ABAG FAN Refunding Rev Bonds, Sub Ser 2017A&B Redemption Acct	0.00	
47	ABAG FAN Refunding Rev Bonds, Sub Ser 2017A&B Reserve Fd	0.00	
48	ABAG FAN Refunding Rev Bonds, Sub Ser 2017A&B Surplus Fd	0.00	
49	ABAG FAN Refunding Rev Bonds, Sub Ser 2017A&B Escrow Fd	83,387,745.75	Escrow
50	ABAG FAN Refunding Rev Bonds, Sub Ser 2017A&B COI Fd	16,751.90	
51	ABAG FAN Refunding Rev Bonds, Sub Ser 2017A&B 2017A Proceeds Fd	0.00	
52	ABAG FAN Refunding Rev Bonds, Sub Ser 2017A&B 2017B Proceeds Fd	0.00	
53	ABAG FAN CFD No. 2006-1 (SF Rincon Hill) Special Tax Bonds, Ser 2006A	0.00	
54	ABAG FAN CFD No. 2006-1 (SF Rincon Hill) Special Tax Bonds, Ser 2006A Special Tax Fd	275,329.79	
55	ABAG FAN CFD No. 2006-1 (SF Rincon Hill) Special Tax Bonds, Ser 2006A Bond Fd	0.00	
56	ABAG FAN CFD No. 2006-1 (SF Rincon Hill) Special Tax Bonds, Ser 2006A Special Tax Prep Acct	0.00	
57	ABAG FAN CFD No. 2006-1 (SF Rincon Hill) Special Tax Bonds, Ser 2006A Admin Expense Fd	0.00	
58	ABAG FAN CFD No. 2006-1 (SF Rincon Hill) Special Tax Bonds, Ser 2006A Reserve Fd	555,822.86	
59	ABAG FAN CFD No. 2006-1 (SF Rincon Hill) Special Tax Bonds, Ser 2006A Improvement Fd	373,348.84	
60	ABAG FAN CFD No. 2006-1 (SF Rincon Hill) Special Tax Bonds, Ser 2006A Comm Imp Acct	0.00	
61	ABAG FAN CFD No. 2006-1 (SF Rincon Hill) Special Tax Bonds, Ser 2006A City Sub	573,288.81	
62	ABAG FAN CFD No. 2006-1 (SF Rincon Hill) Special Tax Bonds, Ser 2006A Redevelopment Agency Sub	0.00	
63	ABAG FAN CFD No. 2006-1 (SF Rincon Hill) Special Tax Bonds, Ser 2006A School Dist Sub	0.00	
	TOTAL	206,416,683.54	

NEW ISSUE-FULL BOOK ENTRY

RATINGS:

S&P: "AA" (AGM-Insured Bonds)

S&P: "A-" (Underlying)

See "MISCELLANEOUS—Ratings"

In the opinion of Quint & Thimmig LLP, Larkspur, California, Bond Counsel, subject however, to certain qualifications described in this Official Statement, under existing law, interest on the Series 2017-A Bonds is excludable from gross income of the owners thereof for federal income tax purposes and is not included as an item of tax preference in computing the federal alternative minimum tax for individuals and corporations under the Internal Revenue Code of 1986, as amended, but such interest is taken into account in computing an adjustment used in determining the federal alternative minimum tax for certain corporations. Interest on the Series 2017-B Bonds is includable in gross income of the owners thereof for federal income tax purposes. In addition, in the opinion of Bond Counsel, interest on the 2017 Subordinate Bonds is exempt from personal income taxation imposed by the State of California. See "LEGAL MATTERS—Tax Matters."

ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS

\$47,425,000

Refunding Revenue Bonds,
Subordinate Series 2017-A
(Windemere Ranch Infrastructure
Financing Program)

\$12,460,000

Taxable Refunding Revenue Bonds,
Subordinate Series 2017-B
(Windemere Ranch Infrastructure
Financing Program)

Dated: Date of Delivery

Due: September 2 as shown below

2007 and 2014 Senior Bonds. The ABAG Finance Authority for Nonprofit Corporations (the "Authority") previously issued two series of bonds, including: (i) its Revenue Bonds, Senior Series 2007-A (Windemere Ranch Infrastructure Financing Program) (the "2007 Senior Bonds") and (ii) its Refunding Revenue Bonds, Senior Series 2014-A (Windemere Ranch Infrastructure Financing Program) (the "2014 Senior Bonds"), each pursuant to an Indenture of Trust, dated as of June 1, 2007 (as amended by a First Supplemental Indenture of Trust, dated as of August 1, 2014, the "2014 Indenture"), between the Authority and MUFJ Union Bank, N.A., as trustee (the "Trustee").

2017 Subordinate Bonds. The Authority is now issuing its Refunding Revenue Bonds, Subordinate Series 2017-A (Windemere Ranch Infrastructure Financing Program) (the "2017-A Bonds") and its Taxable Refunding Revenue Bonds, Subordinate Series 2017-B (Windemere Ranch Infrastructure Financing Program) (the "2017-B Bonds," and collectively with the 2017-A Bonds, the "2017 Subordinate Bonds") pursuant to Article 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California and the 2014 Indenture, as supplemented by a Second Supplemental Indenture of Trust, dated as of June 1, 2017, between the Authority and the Trustee (the 2014 Indenture, as so amended and supplemented, being referred to herein as the "Indenture"), to (i) currently refund the outstanding 2007 Senior Bonds, (ii) to pay costs of an insurance policy for a portion of the 2017 Subordinate Bonds and a reserve fund insurance policy for the Subordinate Reserve Account, and (iii) pay the costs of issuing the 2017 Subordinate Bonds.

The 2017 Subordinate Bonds will be issued in denominations of \$5,000 or any integral multiple thereof. Interest on the 2017 Subordinate Bonds is payable semiannually on each March 2 and September 2, commencing March 2, 2018. The 2017 Subordinate Bonds will be initially issued only in book-entry form and registered to Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), which will act as securities depository of the 2017 Subordinate Bonds. Principal and interest (and premium, if any) on the 2017 Subordinate Bonds is payable by the Trustee to DTC, which remits such payments to its Participants for subsequent distribution to the registered owners of the 2017 Subordinate Bonds as shown on the Trustee's books as of the fifteenth day of the calendar month immediately preceding each interest payment date. See "THE 2017 SUBORDINATE BONDS—Book-Entry Only System" and "—General Provisions."

Security for the 2017 Subordinate Bonds. The 2017 Subordinate Bonds will be secured under the Indenture on a subordinate basis to the 2014 Senior Bonds. The 2014 Senior Bonds and the 2017 Subordinate Bonds are payable from "Revenues" pledged by the Authority pursuant to the Indenture. Revenues consist primarily of the scheduled debt service paid on the "Local Obligations." The Local Obligations are secured by a pledge of and are payable from, as applicable (i) reassessments levied in an Assessment District formed by the Association of Bay Area Governments (the "ABAG") and (ii) special taxes levied in a community facilities district formed by the Authority. The 2017 Subordinate Bonds are also secured on a subordinate basis by a lien on amounts in the Revenue Fund and by a first lien on amounts in the Subordinate Reserve Account both established and held by the Trustee under the Indenture.

Parity Bonds. The Indenture allows for the issuance of Parity Senior Bonds secured under the Indenture on a parity with the 2014 Senior Bonds, and for the issuance of Parity Subordinate Bonds secured under the Indenture on a parity with the 2017 Subordinate Bonds, but in each case only for refunding purposes. See "SECURITY FOR THE 2017 SUBORDINATE BONDS—Parity Bonds."

Redemption Prior to Maturity. The 2017 Subordinate Bonds are subject to redemption prior to maturity as described in this Official Statement. See "THE 2017 SUBORDINATE BONDS—Redemption."

The scheduled payment of principal of and interest on the 2017-A Bonds maturing on September 2 of the years 2023 through 2034, inclusive (collectively, the "Insured Bonds") when due will be guaranteed under an insurance policy to be issued concurrently with the delivery of the Insured Bonds by ASSURED GUARANTY MUNICIPAL CORP. None of the other 2017 Subordinate Bonds will be insured.



Risk Factors. The 2017 Subordinate Bonds may not be appropriate investments for certain individuals. This Official Statement includes a discussion of the risk factors that should be considered in evaluating the investment quality of the 2017 Subordinate Bonds.

Limited Obligation. The 2017 Subordinate Bonds are special obligations of the Authority payable solely from and secured solely by a pledge of the Revenues and moneys in certain funds pledged therefor under the Indenture. The 2017 Subordinate Bonds are not a debt or liability of ABAG, the State of California or any political subdivisions thereof other than the Authority and then only to the limited extent set forth in the Indenture, and neither the faith nor the credit of the Authority, ABAG or the State or any of its political subdivisions are pledged to the payment of the 2017 Subordinate Bonds and none of the Authority, ABAG, the State or any of its political subdivisions is liable therefor (except the Authority to the limited extent set forth in the Indenture), nor in any event shall the 2017 Subordinate Bonds be payable out of any funds other than those pledged pursuant to the Indenture.

Maturity Schedule
(see inside cover)

The 2017 Subordinate Bonds will be offered when, as and if issued and received by the Underwriter, subject to the approval as to their legality by Quint & Thimmig LLP, Larkspur, California, as Bond Counsel. Quint & Thimmig LLP is also acting as Disclosure Counsel to the Authority for the 2017 Subordinate Bonds. Certain legal matters will be passed upon for the Authority by Jones Hall, A Professional Law Corporation, San Francisco, California. Stradling Yocca Carlson & Rauth, a Professional Corporation, Newport Beach, California will pass upon certain legal matters for the Underwriter. It is anticipated that the 2017 Subordinate Bonds in definitive form will be available for delivery to DTC in New York, New York on or about June 29, 2017.

STIFEL

This Official Statement is dated: June 8, 2017.

Compliance by the Authority in the Past 5 Years. The Authority was responsible pursuant to continuing disclosure undertakings under the Rule to provide annual reports and notice of enumerated events with respect to several bond issues during the past five years. During that time, with respect to the continuing disclosure certificate for the 2014 Senior Bonds and the continuing disclosure certificate for the 2007 Senior Bonds and the 2007 Subordinate Bonds, the Authority substantially complied with its obligations to provide updated financial and operating data during the past five years, except that the Authority failed to provide operating data relating to the amount of prepayments for the last five years and all of the funds' and accounts' balances for its reporting requirement in 2016, file notices of rating changes for the 2007-A Bonds on two occasions and the Authority failed to file its audited financial statements on a timely basis, and without notice of late filing, with respect to its 2012 (234 days late) and 2013 (121 days late) annual disclosure reports; however, the Authority believes that the Authority's audits did not include information material to owners of the 2007 Senior Bonds, the 2007 Subordinate Bonds or the 2014 Senior Bonds. Remedial filings in respect of the aforementioned operating data and rating changes have subsequently been made.

The Authority has established enhanced internal accounting controls and procedures, implemented in fiscal year 2015-16, to ensure that they will comply in all material respects with their continuing disclosure undertakings in the future.

With respect to the Issuer Continuing Disclosure Certificate to be executed by the Authority in connection with the issuance of the 2017 Subordinate Bonds, the Authority has retained NBS as dissemination agent. NBS is the dissemination agent for the 2014 Senior Bonds and has been the dissemination agent for the 2007 Senior Bonds since 2007.

THE REFUNDING PLAN

Purpose of Issue and the Refunding Plan

General. The Authority is issuing the 2017 Subordinate Bonds to currently refund the outstanding 2007 Senior Bonds maturing on and after September 2, 2018 on September 2, 2017, and thereby defease the 2007 Senior Bonds on the date of issuance of the 2017 Subordinate Bonds. A portion of the 2017 Subordinate Bonds are being issued as the 2017-B Bonds, the interest on which is subject to federal income taxation, in order to lessen the impact of federal tax law provisions with respect to "transferred proceeds," as a portion of the escrow funded with proceeds of the 2007 Senior Bonds (which refunded certain prior bonds) remains outstanding.

Escrow Agreement; Escrow Fund. The net proceeds of the sale of the 2017 Subordinate Bonds, together with certain funds held by the Trustee with respect to the 2007 Senior Bonds (see "Estimated Sources and Uses of Funds" below), will be irrevocably deposited in an escrow fund (the "Escrow Fund") held by MUFG Union Bank, N.A., as escrow bank (the "Escrow Bank") pursuant to an Escrow Agreement, dated as of June 1, 2017, between the Authority and the Escrow Bank, and applied to pay the debt service due on the 2007 Senior Bonds on September 2, 2017 and to refund on September 2, 2017 the 2007 Senior Bonds that mature on or after September 2, 2018, at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date, without premium.

Amounts in the Escrow Fund will be held by the Escrow Bank, and will be invested in certain federal securities identified in the Escrow Agreement or will be held in cash. The sufficiency of the amounts in the Escrow Fund, and the investment earnings thereon, to defease the 2007 Senior Bonds will be verified by the Verification Agent. See "MISCELLANEOUS -

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Portfolio

Files

- Master List compiled by ABAG FAN staff; source unknown
- Total 256 binders on site
- Total 123 electronic files
- 154 transactions
 - 140 ABAG/FAN
 - ☐ 22 transactions with unknown status (active/inactive)
 - 5 Community Financing Districts (CFDs) and reassessment districts
 - 9 ABAG/ABAG Finance Corp
- 372 binders stored offsite (inactive?)

Billing discrepancies

Community Facilities Districts (CFDs) Flow of Funds

Accounting/Internal Controls

Notices

Billing Discrepancies

Billing practices do not reconcile to fee agreements

- Approximately 9 transactions are invoiced incorrectly with a fee cap
- One transaction is invoiced based on outstanding par (vs original par)
- One transaction is incorrectly invoiced based on outstanding par (vs fee cap)
- Estimated **\$465,000** variance in fees (borrower's favor) from origination of transaction to June 2017
- Projected **\$2M** variance in fees (borrower's favor) from July 2017 to maturity

Recommendation

- Invoice borrowers in accordance with the fee agreements on file
- Include a copy of the adopted fee schedule in the audit

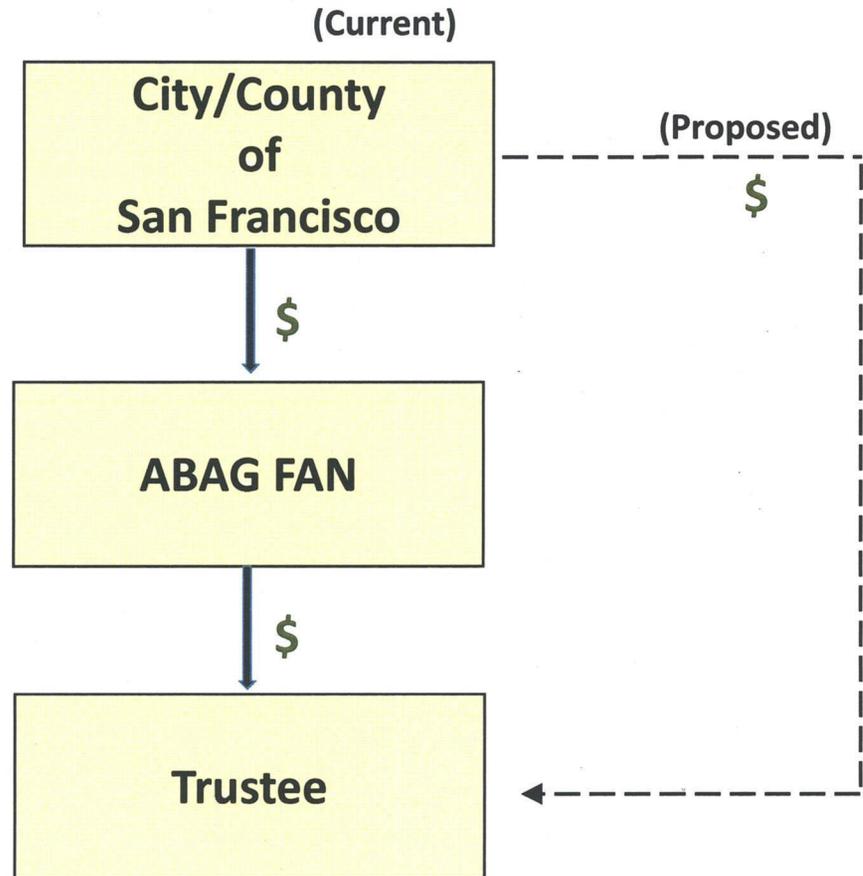
Community Facilities Districts (CFDs) Flow of Funds

FAN serves as intercept for 3 City/County of San Francisco (CCSF) CFDs

- 690 and 942 Market Street
- San Francisco Mint Plaza
- San Francisco Rincon Hill

Recommendation:

- Have CCSF send funds directly to trustee



Accounting Observations

- **CFDs are not recorded on FAN or Obligor's financials**
- **Bank activity summary presented to the board do not reconcile to ABAG/FAN internal accounting records**
- **Fee schedule is not part of audit**

Recommendation:

- **Have outside auditor review the CFDs and determine proper accounting treatment**
- **Include complete transaction list with detailed balances as a schedule in the audit**
- **Include Fee Schedule in the audit**

Notices

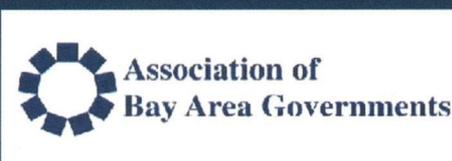
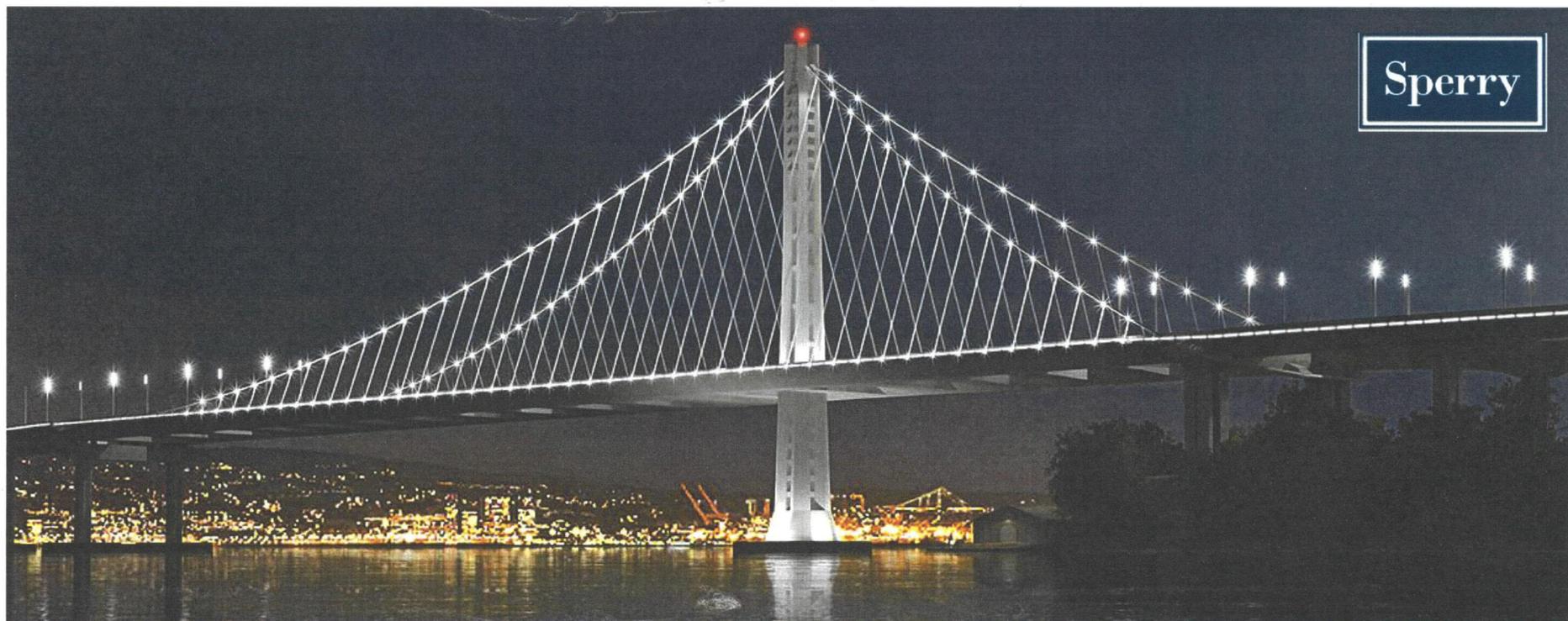
No evidence of notices posted on EMMA or evidence of correspondence noted in files for the following events:

- **Embezzlement incident (2014)**
 - incident also missing from Rule 15c-2-12 disclosure in Windemere Ranch refunding Official Statement
- **Address change and contact information regarding move from Oakland to San Francisco (2016)**
 - Air Force Village West, Inc default
- **The MTC / ABAG consolidation (2017) - CFDs**

Recommendation:

- **Consult with legal team to determine what notices are required**

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The logo for Sperry, featuring the word "Sperry" in a white serif font inside a dark blue rectangular box with a white border.

ABAG FINANCE AUTHORITY FOR NON-PROFIT CORPORATIONS ANALYSIS OF ABAG FAN DEBT PORTFOLIO

October 18, 2017

Sperry Team

Core Team

Jim Martling

Principal and Founder
Project Manager

Jason Wong

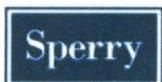
Principal Consultant
Lead Consultant

Lisa Amini

Principal Consultant
Quality Control / Quality Assurance

Krista deMello

Associate
Transaction Support



About the Firm

- Sperry Capital Inc. is an independent municipal and project finance advisory firm headquartered in Sausalito, California. Founded in 1994, Sperry's team of highly experienced professionals provides comprehensive financial advisory services for state and local government clients, non-profit corporations and private corporations.
- Sperry's advisory team brings deep knowledge and broad experience in all areas of municipal finance, project finance, and public-private partnerships (P3s) to develop the optimal solution for our clients' specific needs.

Overview

- In August 2017, Sperry Capital was hired to perform a risks and liabilities analysis on FAN's outstanding debt portfolio
- Scope of Services include:
 - Creating a master database of all outstanding debt;
 - Determining regulatory requirements, continuous disclosure requirements and ongoing monitoring compliance;
 - Identifying refunding opportunities; and
 - Providing forward options on FAN existing portfolio

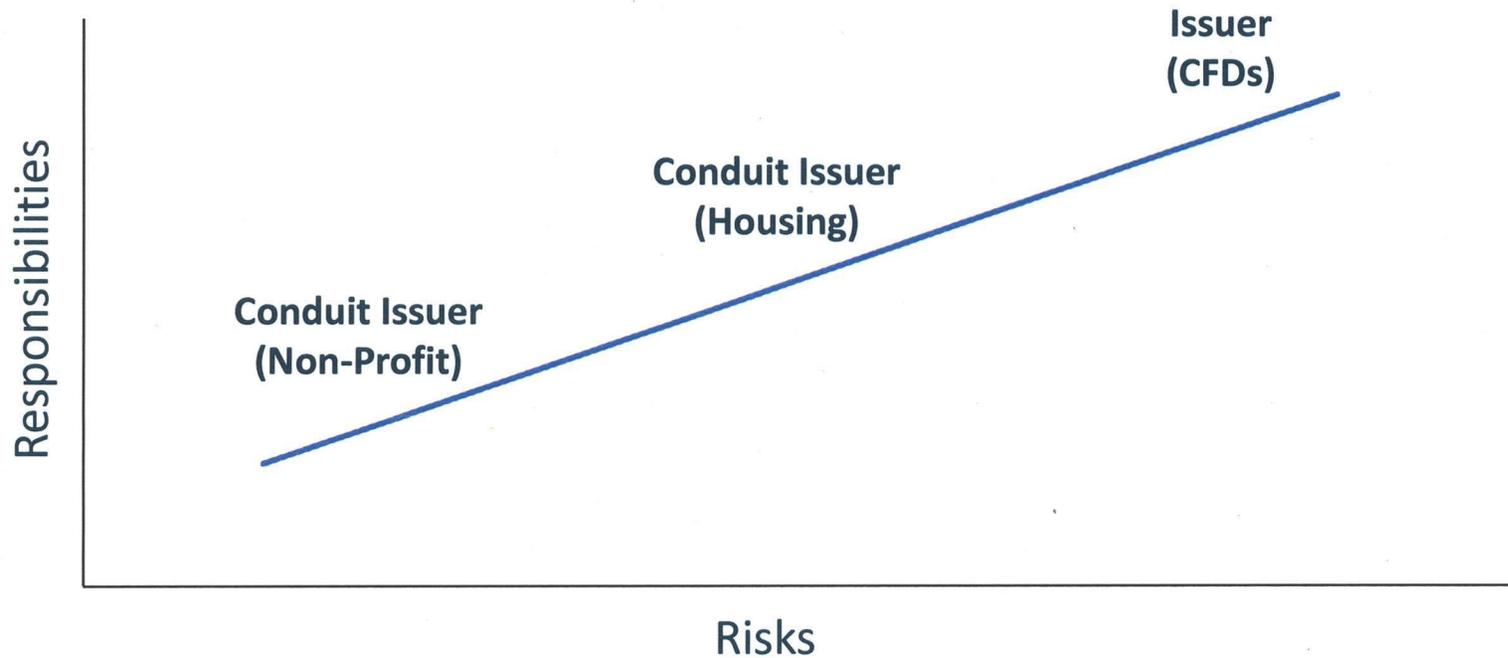


Master Database of FAN's Outstanding Debt Portfolio

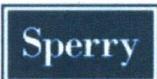
Categorized and reviewed over 150 deal transcripts

- Binder Number
- Sale Date
- Original Par Amount
- Outstanding Par as of 6/30/17
- Status
- Borrower/Obligor
- Issue Description
- Sector
- Call Feature
- Final Maturity
- CUSIP Number (Final Maturity)
- Credit Enhancement
- Ratings
- Tax Status
- Offering Type: Public/Private
- Senior Manager/Investor
- Financial Advisor
- Bond Counsel
- Trustee
- Non-Liability of the Issuer
- Annual Reporting Requirements
- Operations Reporting Requirement
- Notice of Significant Events (on EMMA)
- Date of Last EMMA Filing

Risks and Responsibilities Profile



Category	Financial Liability	Continuing Disclosure	Regulatory Requirements	Ongoing Monitoring
Conduit Issuer (Non-Profit)				
Conduit Issuer (Housing)			✓	✓
Issuer (CFDs)	✓	✓	✓	✓



Preliminary Breakdown of FAN's Outstanding Debt Portfolio

Sector	Number of Deals	Original Par Amount	Outstanding Par Amount*
Conduit Issuer (Non-Profit)			
Education	22	\$315,450,000	\$218,192,102
General Government	7	183,050,000	75,050,000
Healthcare	27	1,353,739,319	1,093,782,144
Other	12	293,091,000	199,707,688
Redevelopment Agency	3	99,110,000	22,865,000
Non-Profit Subtotal	71	\$2,244,440,319	\$1,605,596,934
Conduit Issuer (Housing)			
Housing	52	733,714,500	455,608,947
Issuer (CFDs)			
Community Facilities District	5	111,785,000	106,630,000
Total	128 *	\$3,089,939,819	\$2,171,835,881



* 26 additional deals are considered inactive and subject to trustee confirmation
 Outstanding par amount balances on 16 transactions are subject to trustee confirmation

FAN as a Conduit Issuer

- As a conduit issuer, FAN is only obligated to make payments on the bonds to the extent it receives funds from the borrower or third party (credit enhancer)
- The role of the conduit issuer is to provide tax-exemption or tax credits related to the bonds or to otherwise provide the borrower access to the municipal bond market

Sample Key Provisions / Obligations

Covenants include, but are not limited to:

Issuer	Borrower
<ul style="list-style-type: none">• Promptly pay principal and interest when due but solely from pledged and assigned funds/receipts• Not amend, modify, or terminate any terms of the Loan Agreement without consent of the Borrower• Maintain records• Do nothing to compromise tax exempt status• Provide material notices to the Trustee or Dissemination Agent	<ul style="list-style-type: none">• Continuing disclosure requirements, if required• Provide financial and operational information• Maintain certain debt service coverage ratio and liquidity ratio such as cash days on hand• Do nothing to compromise tax exempt status• Provide material notices to the Trustee or Dissemination Agent

Regulatory Requirements and Ongoing Compliance (Housing)

- Requirements for the Issuer include, but not limited to:
 - Appointed as administrator or program monitor to verify compliance with terms of the Regulatory Agreement;
 - Comply with all material provisions of the Act (Chapter 5 of Division 7 of Title 1 of Government Code), Housing Law (Chapter 7 of Part 5 of Division 31 of the Health and Safety Code), Regulations and Code;
 - Maintain records to ensure the Project meets low income tenant requirements; and
 - Submit annually a certification of compliance to the California Debt Limit Allocation Committee

Regulatory Requirements and Ongoing Compliance (Housing)

- Requirements for the Borrower include, but not limited to:
 - Own, manage and operate the project as a “qualified residential rental project”;
 - Comply with CDLAC requirements, including reporting requirements, for low income tenants;
 - Obtain, complete and maintain on file Income Certifications for low income tenants (prior to occupancy and annually thereafter) and make good faith efforts to verify such information;
 - Maintain complete and accurate records of low income units;
 - Prepare and submit to Issuer (or Administrator) annually by specified date a Certificate of Continuing Program Compliance; and
 - Comply with requirements of the Section 52080 of the California Health and Safety Code

FAN Created Four Community Facilities Districts and One Reassessment District

- The Chief Financial Officer is responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel number and will be responsible for estimating future special tax
- The Chief Financial Officer is responsible to provide all necessary information to the auditor/tax collector of the County and to effect proper billing and collection of the special tax, so that the special tax shall be levied and collected in sufficient amounts to satisfy the financial obligations and administrative costs of the District
- FAN is responsible for annual continuous disclosure requirements



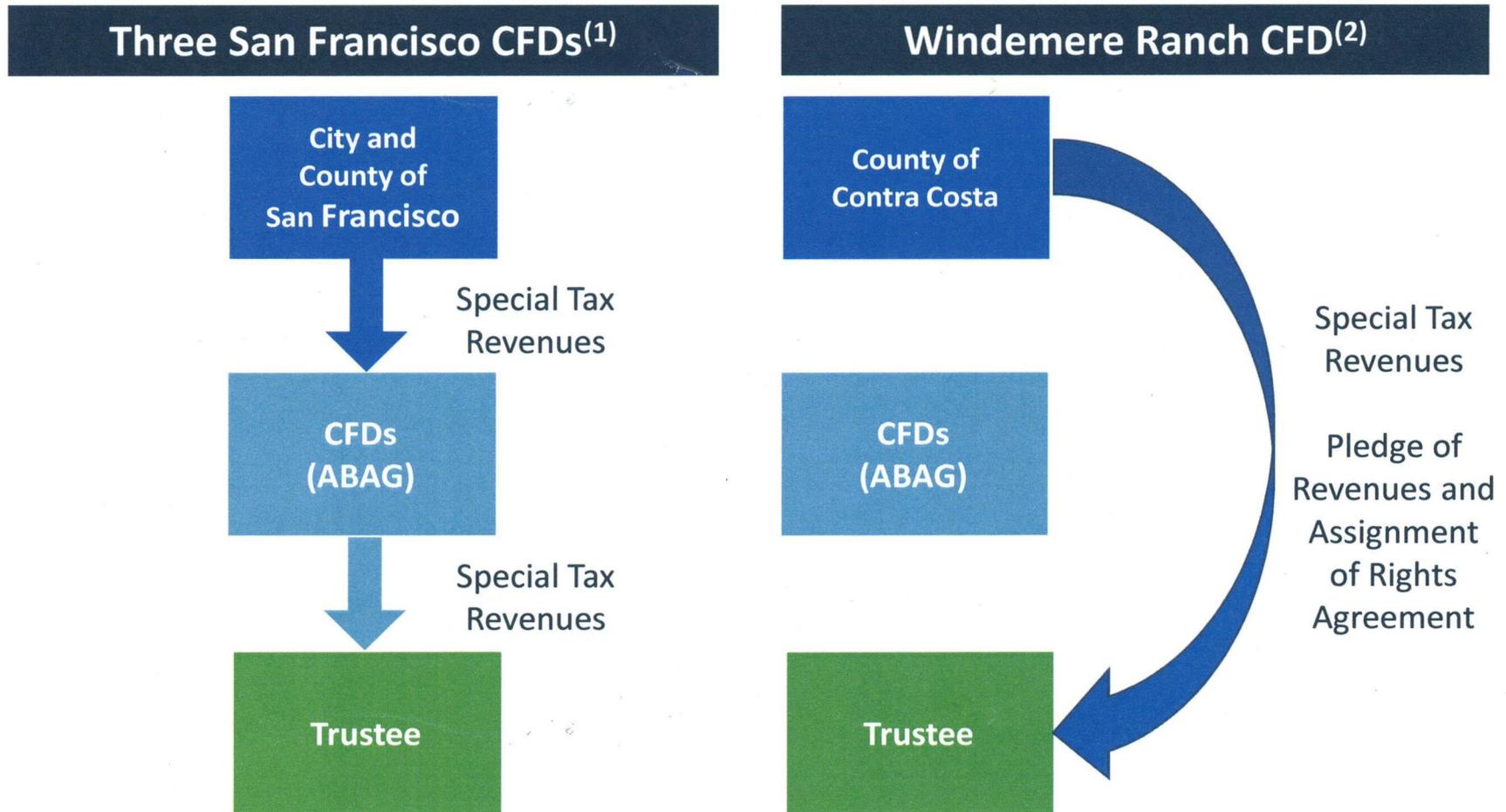
Operations and Accounting

- FAN has retained Goodwin Consulting Group and NBS to assist in the preparation of the Rate and Method of Apportionment of Special Tax and the filing of the Annual Report



- The Trustee has been retained to keep proper books of record and accounts relating to the proceeds of Bonds, the Revenues, the Local Obligations and all funds and accounts established pursuant to the Indenture.

Community Facilities District – Flow of Funds



(1) Indenture Section 4.06 Special Tax Fund

(2) Indenture Section 4.1 Pledge of Revenues, Assignment of Rights

Fluctuation in Special Tax Bonds?

ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS
NOTES TO BASIC FINANCIAL STATEMENTS
 For the Year Ended June 30, 2016

NOTE 4 – CONDUIT FINANCING PROGRAMS FOR ELIGIBLE ORGANIZATIONS

In its Financing Program, the Authority assists eligible organizations in obtaining financing through the issuance of tax-exempt debt.

The underlying liability for the repayment of each of these issues rests with the organization participating in that issue, and not with the Authority, which acts only as a conduit in each issue. For that reason, the Authority has not recorded a liability for these issues, which had sponsored the following outstanding balances at June 30:

Type of Financing	2016	2015
Revenue Bonds	\$2,305,169,559	\$2,469,674,888
Certificates of Participation	22,770,000	29,850,000
Qualified Zone Academy Bond	1,000,000	1,000,000
Special Tax Bonds	136,960,000	19,005,000
Equipment Leases	1,796,380	2,909,617
Total	\$2,467,695,939	\$2,522,439,505

Type of Financing	2015	2014
Revenue Bonds	\$2,469,674,888	\$2,534,270,100
Certificates of Participation	29,850,000	31,775,000
Qualified Zone Academy Bond	1,000,000	1,000,000
Special Tax Bonds	19,005,000	190,799,340
Equipment Leases	2,909,617	1,562,176
Total	\$2,522,439,505	\$2,759,406,616

Type of Financing	2013	2012
Revenue Bonds	\$2,723,000,681	\$2,845,893,988
Certificates of Participation	32,430,000	135,350,000
Qualified Zone Academy Bond	1,000,000	1,000,000
Special Tax Bonds	19,445,000	19,639,000
Equipment Leases	3,124,000	14,332,792
Total	\$2,780,999,681	\$3,016,415,781



Potential Refunding Opportunities

	Number of Deals	Original Par Amount	Outstanding Par Amount*
Private Placements	64	\$864,196,919	\$494,797,782
Variable Rate	32	883,680,000	656,870,459
Potential Refunding Opportunities	32	1,342,062,900	1,020,167,640
Total	128 *	\$3,089,939,819	\$2,171,835,881



* Outstanding par amount balances on 16 transactions are subject to trustee confirmation

Forward Options on FAN's Existing Portfolio

- Maintain Status Quo; Continue to Manage the Existing Portfolio
- Refund out bond issues that generate PV savings
- Transfer the existing portfolio to another conduit issuer
- Explore securitizing the entire portfolio in a trust or “spin-off” the portfolio

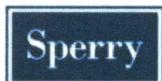
Disclosure

This material has been prepared specifically for the Association of Bay Area Governments ("ABAG") and contains indicative terms only. All material contained herein, including proposed terms, conditions and options are for discussion purposes only. The spreadsheet, supplied in good faith by Sperry Capital ("Sperry") in connection with our role as the municipal advisor to ABAG on the ABAG Debt Portfolio Project, is based upon certain factors, assumptions and information as Sperry may in its absolute discretion have considered appropriate; however, Sperry does not represent that the spreadsheet or any information derived from the spreadsheet are accurate or complete and accepts no liability in relation thereto. The spreadsheet made available to you may not be similar to the model used by Sperry for its own purposes and there is no assurance that the data inputs you use or the quantitative output you obtain from the spreadsheet will be the same as those which Sperry may use for or obtain from its own proprietary models or which you may obtain from other sources, including, but not limited to, models or valuations received from another party. Values generated through use of the data or spreadsheet may not reflect actual prices or values that would be available in the market at the time that the user may want to value, close-out or transfer the particular transaction, through any other party.

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Sperry



Date: October 13, 2017

To: Executive Committee
ABAG Finance Authority for Nonprofit Corporations

From: Executive Director

Subject: **New Financing JPA**

I have attached a relatively final draft of the new JPA between ABAG and FAN. The new JPA will be used to create the new financing authority, Advancing California Financing Authority (ACFA).

The document has been drafted through MTC's general counsel with assistance from two outside law firms and some discussion with Kenneth Moy. The document is modeled after the Bay Area Infrastructure Authority (BAIFA) which is an existing MTC/BATA JPA. As such, we are familiar with the powers, duties, reporting and audit requirements while our auditors are used to the structure.

Major components of the new JPA include:

- ABAG will be the governing and final issuing authority.
- FAN Executive Committee will serve as Credit Committee with first approval/rejection powers.
- Officers will consist of MTC Executive and Senior Management Staff.
- The Authority will have powers to finance all manner of public projects.
- All accounting, auditing, treasury and debt administration will be done through MTC finance staff.
- All funds will be received and paid by independent trustee.
- Annual, year-end ABAG contribution of surplus funds subject to financial needs of the authority (Section 8).

We present this document for your review and comment. A formal resolution adopting the JPA will be presented for your review and approval in November.

Steve Heminger

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Advancing California Finance Authority

Joint Powers Agreement ABAG and ABAG FAN

ABAG FAN Executive Committee

October 18, 2017

10/12/2017

Background

- **ABAG FAN Executive Committee has been evaluating a replacement financing conduit since the start of FY 2017**
 - Retained marketing consultant
 - Retained full time program staff
 - Presented with formal documents on June, 2017
- **Contract for Services effective July 1**
 - Operational responsibility for ABAG FAN transferred to MTC Finance operations
- **ABAG Executive Committee directed MTC staff to implement a new conduit financing authority by the end of October**
- **A draft of the new financing conduit has been prepared for Executive Committee review and consideration**
- **Final approval and implementations steps will be presented at the next meeting**

Advancing California Finance Authority (ACFA)

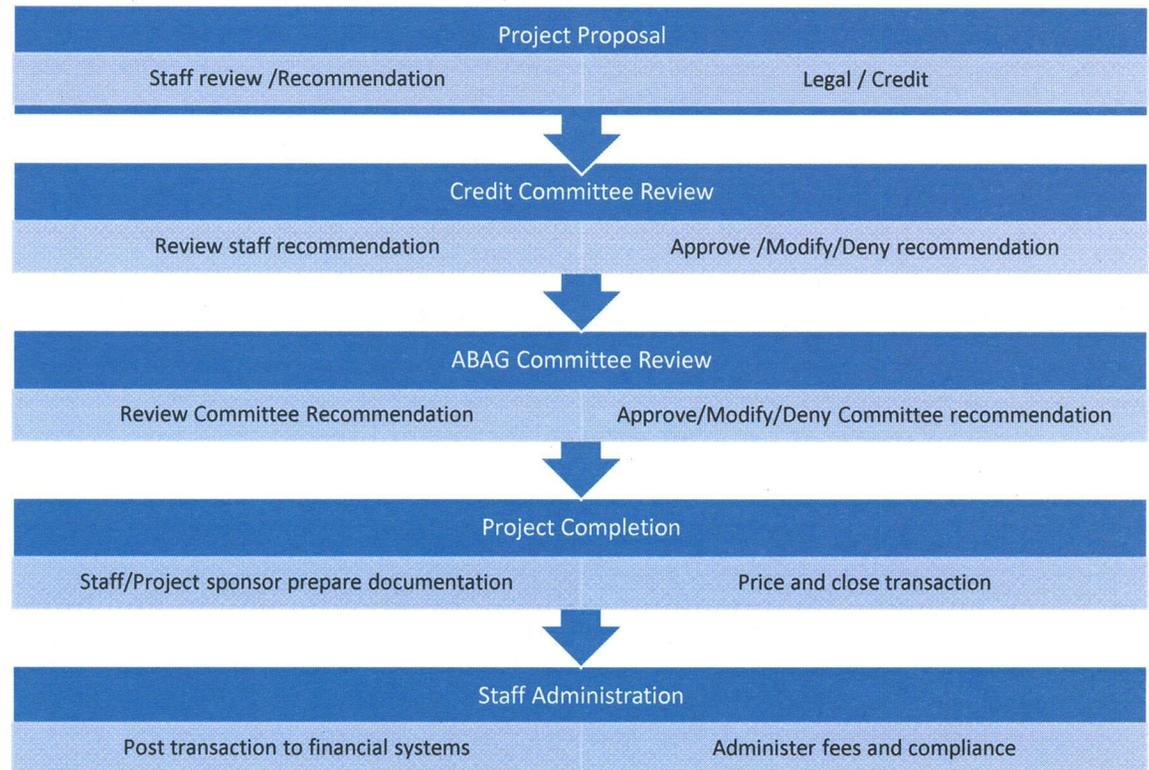
- **New JPA is between ABAG and ABAG FAN**
 - **Governing Body**
 - ABAG board members
 - Final approval of all financings
 - **Credit Committee**
 - Executive Committee of ABAG FAN
 - Review / recommendation on all applications
 - **Officers**
 - MTC Executive Director and Senior Management
 - Accounting internal controls through MTC finance
 - Annual independent audit
- **The Executive Committee will continue to maintain responsibility and meet on matters strictly related to ABAG FAN**

Powers

- **Finance projects**
 - Issue bonds
 - Incur debt, liabilities or obligations
 - Receive and pledge grants, contributions or assistance
 - Apply for letters of credit and financial guarantees
 - Assess fees for transaction, annual reporting requirements and administration
- **Adopt annual budget**
- **Annual independent audit**
- **Transaction Controls**
 - Internal review process
 - Independent Credit Committee
 - MTC establishes accounting and internal controls
 - Independent trustee processes all financial transactions
 - No funds process through MTC staff
- **Bonds are limited obligations not guarantees of the JPA or its members**

Transaction Approval Process

- **Project Selection**
 - **RFQ for Qualified representatives**
 - Legal
 - Financial
 - Advisors
 - **Qualified firms present proposals for financing assistance**
 - **Staff reviews proposals**
 - Staff – administrative responsibility
 - Financial – Credit / Structure
 - Legal – Structure, protections and reporting responsibilities
 - **Presentation to Committee**



Budget

Initial Budget Estimate

- **Staffing**

• Full time staff – existing (2)	\$360,000
• Hourly staff – existing (2)	200,000
• Senior consultant	200,000
• Financial advisor	200,000
• Legal assistance	200,000
• Overhead	<u>280,000</u>
Total	\$1,440,000

- **Additional costs will include trustee fees, compliance review and reporting and audit**
- **Will bring formal revenue/budget presentation after startup is completed**
- **Still question of who responsible for costs**

Transaction Consulting Support

- **At least at start we propose to utilize existing BATA resources**
- **Financial Advisor**
 - Sperry Capital – Credit analysis
 - PFM – Deal structure issuer support
- **Legal Advisor**
 - Nixon Peabody – Authority Counsel
 - William Donovan – Special Counsel

Timing

- **Initial JPA draft – October**
- **Approval**
 - **FAN Executive Committee – October**
 - **ABAG Committee – November**
- **Procedures**
 - **Budget – January, 2018**
 - **Qualified representative selection – January, 2018**
 - **Project advertising and review – February, 2018**

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JOINT EXERCISE OF POWERS AGREEMENT

Between

ASSOCIATION OF BAY AREA GOVERNMENTS

And

ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS

Dated as of _____, 2017

Creating the

ADVANCING CALIFORNIA FINANCE AUTHORITY

This JOINT EXERCISE OF POWERS AGREEMENT dated as of _____, 2017 (this "Agreement"), is among ASSOCIATION OF BAY AREA GOVERNMENTS ("ABAG"), ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS ("FAN"), and each "Program Member" as defined below.

WITNESSETH:

WHEREAS, ABAG is a joint exercise of powers agency created and existing under 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"), that was formed by public agencies as defined in Section 6500 of the Joint Powers Act ("public agencies"); and

WHEREAS, FAN is also a joint exercise of powers agency created and existing under the Joint Powers Act that was formed by public agencies; and

WHEREAS, Pursuant to the Joint Powers Act, ABAG and FAN are entering into this Agreement to create a joint exercise of powers agency to exercise any power common to the contracting parties; and

WHEREAS, a joint exercise of powers agency established by ABAG and FAN pursuant to the Joint Powers Act is empowered, in exercising the authorized common powers of its members and the powers separately conferred by statute upon such entity, to undertake the activities specified in this Agreement, including without limitation, the issuance of bonds, notes and any other evidence of indebtedness (including, without limitation, the instruments set forth in Section 6585(c) of the Joint Powers Act) issued or incurred by the Authority pursuant to any applicable provision of the Joint Powers Act or any other lawful authority ("Bonds"); and

WHEREAS, each of ABAG and FAN has determined that it is to its advantage and in the public interest of the area and persons served by it, to enter into this Agreement in order to create a joint exercise of powers agency (the "Authority") under the Joint Powers Act that will undertake programs and projects as herein provided by exercising the common powers of ABAG and FAN relating to such programs and projects and such other powers as are granted to the Authority by or pursuant to the Joint Powers Act and other laws; and

WHEREAS, ABAG and FAN may invite other public agencies to enter into this Agreement (each such public agency that is invited to and does enter into this Agreement is called a "Program Member");

NOW, THEREFORE, the parties to this Agreement, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

SECTION 1. PURPOSE.

This Agreement is made pursuant to the Joint Powers Act to provide for the joint exercise of powers common to ABAG, FAN, and each Program Member and the powers separately conferred by or pursuant to law upon the Authority and to obtain funding to finance and refinance capital improvements that serve the public interest in the form of grants, contributions, appropriations, loans and other assistance from the United States and from the State of California and from Bonds issued by the Authority pursuant to the Joint Powers Act and other laws. The purpose of this Agreement is to plan, develop, operate, and fund such capital improvements and to exercise such powers jointly by pooling efforts and activities to achieve those ends. This purpose will be accomplished and said powers exercised in the manner set forth in this Agreement and in accordance with the Joint Powers Act and all other applicable laws of the State of California.

SECTION 2. TERM.

This Agreement shall continue in full force and effect for a period of 50 years from such date unless extended or earlier terminated by a supplemental written agreement of ABAG, FAN, and each Program Member, provided that this Agreement shall not terminate or be terminated until the date on which: all Bonds issued by the Authority shall have been paid or deemed paid in accordance with the resolution, indenture, trust agreement or other instrument or proceeding authorizing or securing such Bonds (each such resolution, indenture, trust agreement, instrument and proceeding being herein referred to as an "Indenture"); and all other indebtedness and liabilities incurred by the Authority shall have been paid or provided for. The Authority shall cause all records regarding its formation, existence, operations and proceedings pertaining to its termination to be retained for at least six years following termination of the Authority.

SECTION 3. AUTHORITY.

A. Creation of Authority.

There is hereby created under and pursuant to the Joint Powers Act an authority and public agency, separate and apart from ABAG and FAN, to be known as the Advancing California Finance Authority ("ACFA" or the "Authority"). The Authority's debts, liabilities and obligations shall not constitute debts, liabilities or obligations of ABAG or FAN or any Program Member.

Within 30 days after the effective date of this Agreement, or any amendment hereto, the Authority will cause a notice of this Agreement or amendment to be prepared and filed with the office of the Secretary of State of the State of California and a copy of this Agreement and any amendment with the Controller of the State of California in the manner set forth in Sections 6503.5 and 6503.6, respectively, of the Joint Powers Act.

B. Governing Board

The Authority shall be administered by a governing board (the "Board"), which shall consist of the following: the President of ABAG; the Chair of ABAG's Finance Committee; and three members who are members of the Finance Committee and who are jointly appointed to the Board by the President of ABAG and the Chair of the Finance Committee. The members of the Board shall serve without compensation, but shall receive reimbursement for actual and necessary expenses incurred in connection with the performance of their duties. However, in lieu of this reimbursement for attendance at Authority or committee meetings, each member may receive a per diem of one hundred dollars (\$100), but not to exceed a combined total of five meetings in any one calendar month, plus the necessary traveling expenses as may be authorized by the Authority.

C. Meetings of Board

(1) Regular Meetings and Special Meetings. The Board shall hold at least one regular meeting each year, and, by resolution, may provide for the holding of regular meetings at more frequent intervals. The date, hour and place of each such regular meeting shall be fixed by resolution of the Board. Special meetings of the Board may be called by the chair or the vice chair of the Authority or by a majority of the members of the Board on the date and at the hour and place fixed by notice to all of the members of the Board.

(2) Legal Notice. All regular and special meetings of the Board shall be called, noticed, held and conducted subject to the provisions of the Ralph M. Brown Act (codified at California Government Code sections 54950 and following) (the "Brown Act").

(3) Minutes. The secretary of the Authority shall cause minutes of all meetings of the Board to be kept and shall, as soon as practicable after each meeting, cause a copy of the minutes to be forwarded to each member of the Board and to ABAG and FAN.

(4) Quorum. A majority of the members of the Board shall constitute a quorum for the transaction of business.

D. Officers; Duties

(1) The Chair of the ABAG Finance Committee shall be the Chair of the Authority. The President of ABAG shall be the Vice Chair of the Authority.

(2) The Chief Financial Officer of the Metropolitan Transportation Commission ("MTC") is hereby appointed as an officer of the Authority and designated as Treasurer of the Authority. The Treasurer is designated as the depository of the Authority to have custody of all the money of the Authority, from whatever source, and, as such, shall have the powers, duties and responsibilities specified in Section 6505.5 of the Joint Powers Act.

(3) The Chief Financial Officer of MTC is also hereby designated as Auditor of the Authority, and, as such, shall have the powers, duties and responsibilities specified in Section 6505 and Section 6505.5 of the Joint Powers Act. The Auditor shall draw checks to pay demands against the Authority when the demands have been approved by the Authority.

(4) The Authority shall adopt an annual operating budget by June 30th of each year for the following fiscal year. The Board may supplement, modify or amend such budget during the fiscal year as the Board determines to be necessary. As part of the budget formulation, MTC shall determine the charges, if any, to be made against the Authority for the services of the Treasurer and Auditor. In addition, MTC may provide staff for the Authority and shall determine for purposes of the Authority's budget the charges to be paid by the Authority for such services. All such charges shall be subject to the approval of the Board.

(5) The Treasurer and Auditor of the Authority is designated as the public officer who has charge of, handles, or has access to any property of the Authority, and such officer shall file an official bond as required by Section 6505.1 of the Joint Powers Act in the amount of \$100,000.

(6) The Treasurer of the Authority is hereby authorized and directed to prepare or cause to be prepared a report in writing on the first day of July, October, January, and April of each year to the Board and the Authority, which report shall describe the amount of money held by the Treasurer and Auditor of the Authority for the Authority, the amount of receipts since the last such report, and the amount paid out since the first such report.

(7) The Executive Director of MTC is hereby designated as Executive Director of the Authority.

(8) Each Deputy Executive Director of MTC is hereby designated as a Deputy Executive Director of the Authority.

(9) The General Counsel for MTC shall be and act as General Counsel to the Authority.

(10) The clerk of the executive board of ABAG is hereby designated as Secretary of the Authority.

(11) The Board may appoint such other officers and officials as may be necessary to carry out the duties and responsibilities of the Board.

E. Credit Committee.

(1) The Board shall appoint a Credit Committee consisting of the Executive Committee of FAN to review all financing applications and advise the Board as to whether the Board should grant financing assistance to applicants for financing or refinancing of capital improvements that serve the public interest. The chair and vice chair of the FAN Executive Committee shall be the chair and vice chair, respectively, of the Credit Committee. In the event the Executive Committee of FAN notifies the Board that it no longer wishes to serve as the Credit Committee to the Board, the Board may appoint a successor Credit Committee and its chair and vice chair.

(2) The date, hour and place of each regular Credit Committee meeting shall be fixed by resolution of the Credit Committee. Special meetings of the Credit Committee may be called by the chair or the vice chair of the Credit Committee on the date and at the hour and place fixed by notice to all of the members of the Credit Committee. All regular and special meetings of the Credit Committee shall be called, noticed, held and conducted subject to the provisions of the Brown Act. The Credit Committee shall cause minutes of all meetings of the Credit Committee to be kept and shall, as soon as practicable after each meeting, cause a copy of the minutes to be forwarded to each member of the Credit Committee, the officers of the Authority and ABAG and FAN.

F. Conflict of Interest Code.

MTC's conflict of interest code shall apply to the Authority and the Authority shall comply in all respects with the Fair Political Practices Act.

G. Rules and Regulations.

The Authority may adopt, from time to time, by resolution of the Board, such rules and regulations for the conduct of its meetings and affairs as the Board determines are necessary or convenient.

SECTION 4. POWERS.

The Authority shall have any and all powers that are common powers of ABAG, FAN, and the Program Members and the powers separately conferred by law upon the Authority, to plan capital improvements that serve the public interest and obtain funding to finance and refinance such capital improvements in the form of grants, contributions, appropriations, loans and other assistance from the United States and from the State of California and from Bonds issued by the Authority pursuant to the Joint Powers Act and other laws. All such powers, whether common to the Parties or separately conferred by or pursuant to law upon the Authority, are specified as powers of the Authority except any such powers which are specifically prohibited to the Authority by applicable law.

The Authority is hereby authorized, in its own name, to do all acts necessary or convenient for the exercise of its powers, including, but not limited to, any or all of the following: to sue and be sued; to make and enter into contracts; to employ agents, consultants, attorneys, accountants, and employees; to acquire, hold or dispose of property, whether real or personal, tangible or intangible, wherever located; to issue Bonds or otherwise incur debts, liabilities or obligations to the extent authorized by the Joint Powers Act, including Article 2 and Article 4 thereof, or any other applicable provision of law and to pledge any grants, contributions, appropriations, loans or other assistance or property or revenues or the rights thereto as security for such Bonds and other indebtedness; to enter into bond purchase agreements and continuing covenant agreements with respect to the issuance and sale of such Bonds and other indebtedness; to apply

for letters of credit, bond insurance, standby bond purchase agreements, or other forms of credit or liquidity support in order to secure the repayment of Bonds and enter into agreements in connection therewith; to purchase obligations of any Party or other entity as may be permitted under the Joint Powers Act; and to receive grants, contributions, appropriations, loans and other assistance from the United States and from the State of California and any other persons, firms, corporations or governmental entities. The Authority shall have all additional powers conferred under the Joint Powers Act or implied therefrom.

The Authority shall continue to exercise the powers herein conferred upon it until the end of the term of this Agreement as provided in Section 2.

SECTION 5. MANNER OF EXERCISING POWERS.

To the extent required by the Joint Powers Act, the manner in which the Authority shall exercise its powers and perform its duties is and shall be subject to the restrictions upon the manner in which ABAG could exercise such powers and perform such duties pursuant to Section 6509 of the Joint Powers Act. The manner in which the Authority shall exercise its powers and perform its duties shall not be subject to any restrictions applicable to the manner in which any other public agency could exercise such powers or perform such duties, whether such agency is a party to this Agreement or not.

SECTION 6. FISCAL YEAR.

For the purposes of this Agreement, the term "Fiscal Year" shall mean the fiscal year of the Authority being, until changed by resolution of the Board, the period from July 1 to and including the following June 30 except for the first Fiscal Year which shall be the period from the date of this Agreement to and including June 30, 2018.

SECTION 7. CONTRIBUTIONS AND ADVANCES.

Voluntary contributions or advances of funds and property may be made to the Authority by ABAG and FAN for any of the purposes of this Agreement and shall be accounted for in an appropriate Authority fund. Any such advance may, but need not, be made subject to repayment, and if made subject to repayment shall be repaid in the manner agreed upon by the contributor and the Authority at the time of making such advance. It is mutually understood and agreed that neither ABAG nor FAN has any obligation to make advances or contributions to the Authority. ABAG and FAN may allow the use of personnel, equipment or property by the Authority.

SECTION 8. DISPOSITION OF FUNDS AND OTHER ASSETS.

During the 120-day period following the end of each Fiscal Year of the Authority, ABAG may request that unencumbered funds held by the Authority at the end of that Fiscal Year be paid in whole or in part to ABAG for use in projects and programs approved by the executive board of ABAG. Such requests shall be honored by the Authority following the completion of the audit for that Fiscal Year if the Board finds and determines that the funds so requested are surplus funds that are not reasonably needed by the Authority for its projects and programs and a prudent reserve.

Upon the termination of this Agreement as set forth in Section 2, after payment of all expenses and liabilities of the Authority, including its pension obligations, and after any repayment of advances required by Section 7, all property of the Authority, both real and personal, shall be distributed to ABAG for its projects and programs.

SECTION 9. BONDS.

A. Authority to Issue Bonds.

When authorized by or pursuant to the Joint Powers Act or other applicable provisions of law and by resolution of the Board consistent with the Board's debt policy, the Authority may issue Bonds for the purpose of raising funds for the exercise of any of its powers or to otherwise carry out its purposes under this Agreement. Said Bonds shall have such terms and conditions as are authorized by the Board.

B. Bonds Limited Obligations.

The Bonds, including the principal and any purchase price thereof, and the interest and premium, if any, thereon, shall be special obligations of the Authority payable solely from, and secured solely by, the revenues, funds and other assets pledged therefor under the applicable Indenture(s) and shall not constitute a charge against the general credit of the Authority. The Bonds shall not be secured by a legal or equitable pledge of, or lien or charge upon or security interest in, any property of the Authority or any of its income or receipts except the property, income and receipts pledged therefor under the applicable Indenture(s). The Bonds shall not constitute a debt, liability or obligation of the State or any public agency thereof, including ABAG, FAN and any Program Member, other than the special obligation of the Authority as described above. Neither the faith and credit nor the taxing power of the State of California or any public agency thereof, including ABAG, FAN, and each Program Member shall be pledged to the payment of the principal or purchase price of, or the premium, if any, or interest on the Bonds nor shall the State of California or any public agency or instrumentality thereof, including ABAG, FAN, and each Program Member in any manner be obligated to make any appropriation for such payment. The Authority shall have no taxing power.

No covenant or agreement contained in any Bond or Indenture shall be deemed to be a covenant or agreement of any member of the Board or Credit Committee, officer, agent or employee of the Authority, in his or her individual capacity and no director or officer of the Authority executing a Bond shall be liable personally on such Bond or be subject to any personal liability or accountability by reason of the issuance of such Bond.

SECTION 10. INTEREST RATE SWAPS AND OTHER FINANCIAL PRODUCTS.

The Authority, when authorized by resolution of the Board, may enter into hedging or other arrangements authorized by California Government Code sections 5920-5923 on terms and conditions authorized by the Board.

SECTION 11. ACCOUNTS AND REPORTS.

A. Books and Records.

All funds of the Authority shall be strictly accounted for in books of account and financial records maintained by the Authority, including a report of all receipts and disbursements. The Authority shall establish and maintain such funds and accounts as may be required by generally accepted accounting principles and by each Indenture for outstanding Bonds (to the extent such duties are not assigned to a trustee for owners of Bonds). The books and records of the Authority shall be open to inspection at all reasonable times by ABAG, FAN, and each Program Member.

The Authority shall require that each Indenture provide that the trustee appointed thereunder shall establish suitable funds, furnish financial reports and provide suitable accounting

procedures to carry out the provisions of such Indenture. Said trustee may be given such duties in said Indenture as may be desirable to carry out the requirements of this Section.

B. Audits.

The Auditor of the Authority shall cause an independent audit to be made of the books of accounts and financial records of the Authority in compliance with the requirements of the Joint Powers Act. Any costs of the audit, including contracts with, or employment of, certified public accountants in making an audit pursuant to this Section, shall be borne by the Authority and shall be a charge against any unencumbered funds of the Authority available for that purpose.

C. Audit Reports.

Within 180 days after the close of each fiscal year the Auditor of the Authority shall file a report of the audit performed pursuant to Subsection B of this Section 11 as required by the Joint Powers Act and shall send a copy of such report to public entities and persons in accordance with the requirements of the Joint Powers Act.

SECTION 12. FUNDS.

Subject to the provisions of each Indenture for outstanding Bonds providing for a trustee to receive, have custody of and disburse funds which constitute Authority funds, the Treasurer of the Authority shall receive, have the custody of and disburse Authority funds and maintain records of accounts and disbursements in accordance with generally accepted accounting principles.

SECTION 13. NOTICES.

Notices and other communications hereunder to the parties shall be sufficient if delivered to the clerk or secretary of the governing body of each party.

SECTION 14. WITHDRAWAL AND TERMINATION

Neither ABAG nor FAN may withdraw from this Agreement prior to the end of the term of this Agreement determined in accordance with Section 2. Any Program Member may withdraw from this Agreement at any time by written notice to the Authority and thereby cease to be a Program Member. The Board may at any time terminate the membership of a Program Member by written notice to the Program Member if it determines that it is in the best interests of the Authority to do so.

SECTION 15. INDEMNIFICATION.

To the full extent permitted by law, the Board may authorize indemnification by the Authority of any person who is or was a member of the Board or Credit Committee, officer, employee or other agent of the Authority, and who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such person is or was such a member of the Board or Credit Committee, officer, employee or other agent of the Authority, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the Authority and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful and, in the case of any action by or in the right of the Authority, acted with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

SECTION 16. IMMUNITIES.

All of the privileges and immunities from liabilities, exemptions from laws, ordinances and rules, all pension, relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents, employees or other representatives of MTC, ABAG, FAN, or Program Member when performing their respective functions within the territorial limits of their public agency, shall apply to them to the same degree and extent while engaged as a director, officer, agent, employee or other representative of the Authority or while engaged in the performance of any of their functions or duties under the provisions of this Agreement whether within or outside of the boundaries of MTC, ABAG or FAN or the Program Member.

SECTION 17. COUNSEL, CONSULTANTS AND ADVISORS.

The Authority may employ the services of independent counsel, including bond and other special counsel, financing, engineering, construction, utility and other consultants and advisors, and accountants and auditors in connection with the programs undertaken pursuant to this Agreement, including the issuance of Bonds and the entry into financial products authorized by Section 10 hereof. The fees and expenses of such counsel, consultants, advisors, accountants and auditors, and the expenses of the Authority in connection with such programs and projects, shall be paid from the proceeds of Bonds or any other unencumbered funds of the Authority available for such purpose.

SECTION 18. AMENDMENTS.

This Agreement shall not be amended, modified, or altered except by a written instrument duly executed by ABAG and FAN. Any amendment to this Agreement that the Board determines may have a material adverse impact on one or more Program Members must be consented to in writing by each such Program Member to become effective.

SECTION 19. LOCAL APPROVAL AND NOTICE REQUIREMENTS.

The Authority shall comply with any local approval requirements and notice requirements made applicable to it by Section 6586.5 of the Joint Powers Act. The Authority may request a Program Member to provide one or more approvals and findings required by Section 6586.5(a), but no Program Member is obligated or required to do so.

SECTION 20. PARTIAL INVALIDITY.

If any one or more of the terms, provisions, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

SECTION 21. SUCCESSORS.

This Agreement shall be binding upon and shall inure to the benefit of the successors of ABAG, FAN, and the Program Members. Except to the extent expressly provided herein, no party to this Agreement may assign any right or obligation hereunder without the consent of the others.

SECTION 22. MISCELLANEOUS.

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Where reference is made to duties to be performed for the Authority by a public official or employee, such duties may be performed by that person's duly authorized deputy or assistant. Where reference is made to actions to be taken by ABAG or FAN or any Program Member, such action may be exercised through the officers, staff or employees of ABAG or FAN or the Program Member, as the case may be, in the manner provided by law.

The section and subsection headings herein are for convenience only and are not to be construed as modifying or governing the language in the section or subsection referred to.

This Agreement is made in the State of California, under the Constitution and laws of the state and is to be construed as a contract made and to be performed in the State of California.

This Agreement is the complete and exclusive statement of the agreement among the parties with respect to the subject matter hereof, which supersedes and merges all prior proposals, understandings, and other agreements, whether oral, written, or implied in conduct, between the parties relating to the subject matter of this Agreement.

This Agreement shall become effective and be in full force and effect and a legal, valid and binding obligation of ABAG and FAN at 9:00 a.m., California time, on the first date as of which each of ABAG and FAN has delivered to the other party an executed counterpart of this Agreement, together with a certified copy of a resolution of the governing body of such party approving this Agreement and the execution and delivery hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers thereunto duly authorized.

ASSOCIATION OF BAY AREA GOVERNMENTS

By _____
Julie Pierce, President

ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS

By _____
Charles A. Lomeli, Chair

FORM OF SIGNATURE PAGE FOR PROGRAM MEMBERS

IN WITNESS WHEREOF, the undersigned Public Agency has caused this Agreement to be executed as a Program Member by its representative thereunto duly authorized.

By _____

Name:

Title: