



# 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, December 12, 2017, 10:00 a.m.

### Location:

Bay Area Metro Center  
Farallon Conference Room 8206  
375 Beale Street  
San Francisco, California

### Teleconference Locations:

County of Solano, County Government Center, 675 Texas Street, Suite 1900, Fairfield, California  
County of Sonoma, County Fiscal Building, 585 Fiscal Drive, Suite 100, Santa Rosa, California  
County of Santa Clara County, County Government Center, 70 West Hedding Street, E. Wing, 2nd Floor, San Jose, California  
County of Contra Costa, 625 Court Street, Room 100/102, Martinez, California

### 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 the special meeting 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**

**ABAG FAN Executive Committee**

December 12, 2017

Page 2

**2. PUBLIC COMMENT**

INFORMATION

**3. EXECUTIVE COMMITTEE ANNOUNCEMENTS**

INFORMATION

**4. APPROVAL OF EXECUTIVE COMMITTEE SUMMARY MINUTES OF MEETINGS HELD ON OCTOBER 26, 2017 AND NOVEMBER 8, 2017**

ACTION

**5. ADOPTION OF RESOLUTION NO. 17-05 AUTHORIZING VARIABLE RATE REFUNDING REVENUE BONDS (ACACIA CREEK AT UNION CITY) SERIES 2013A**

ACTION

**6. ADJOURNMENT**

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

Submitted:

/s/ Charles Lomeli

Chair

Date Submitted: December 7, 2017

Date Posted: December 9, 2017



# AGENDA

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

Special Meeting

Tuesday, December 12, 2017, 10:00 a.m.

Location:

Bay Area Metro Center  
Farallon Conference Room 8206  
375 Beale Street  
San Francisco, California

Teleconference Locations:

County of Solano, County Government Center, 675 Texas Street, Suite 1900, Fairfield,  
California

County of Sonoma, County Fiscal Building, 585 Fiscal Drive, Suite 100, Santa Rosa, California  
County of Santa Clara County, County Government Center, 70 West Hedding Street, E. Wing,  
2nd Floor, San Jose, California

County of Contra Costa, 625 Court Street, Room 100/102, Martinez, California

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
- 3. EXECUTIVE COMMITTEE ANNOUNCEMENTS**  
INFORMATION

**ABAG FAN Executive Committee**

December 12, 2017

Page 2

**4. APPROVAL OF EXECUTIVE COMMITTEE SUMMARY MINUTES OF MEETINGS HELD ON OCTOBER 26, 2017 AND NOVEMBER 8, 2017**

ACTION

*Attachments: Summary Minutes of October 26, 2017; Summary Minutes of November 8, 2017*

**5. ADOPTION OF RESOLUTION NO. 17-05 AUTHORIZING VARIABLE RATE REFUNDING REVENUE BONDS (ACACIA CREEK AT UNION CITY) SERIES 2013A**

ACTION

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

*Attachment: Memo Acacia Creek*

**6. ADJOURNMENT**

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

Date Submitted: December 7, 2017

Date Posted: December 9, 2017

# SUMMARY MINUTES (DRAFT)

ABAG Finance Authority for Nonprofit Corporation  
Executive Committee  
Wednesday, October 26, 2017  
Bay Area Metro Center  
375 Beale Street  
Bay Area Conference Room 6102  
San Francisco, California

## 1. CALL TO ORDER / ROLL CALL / CONFIRM QUORUM

ABAG Finance Authority for Nonprofit Corporations Executive Committee Chair Charles Lomeli, Treasurer/Tax Assessor/County Clerk, County of Solano, called the special meeting to order at about 11:00 a.m.

The clerk was directed conduct a roll call of members.

A quorum was present at about 11:07 a.m.

### Members Present

Charles Lomeli, Treasurer/Tax Assessor/County Clerk, County of Solano  
Paul McDonough, County of Santa Clara  
Russell Watts, County Treasurer/Tax Collector, County of Contra Costa

### Members Participating by Teleconference

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

### Staff Present

Steve Heminger, MTC Executive Director  
Adrienne Weil, MTC General Counsel  
Alix Bockelman, MTC Deputy Executive Director, Policy  
Andrew Fremier, MTC Deputy Executive Director, Operations  
Brian Mayhew, MTC Chief Financial Officer  
Brad Paul, MTC Deputy Executive Director, Local Government Services  
Kenneth Moy, ABAG Counsel

## 2. PUBLIC COMMENT

There was no public comment.

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

Steve Heminger, MTC Executive Director, gave the staff report on the appointment of Acting President, Chief Financial Officer, Secretary, and General Counsel of the ABAG Finance Authority for Nonprofit Corporations (FAN).

Kenneth Moy, ABAG Counsel, stated his concerns about the appointment of the Secretary and General Counsel of FAN.

Chair Lomeli recognized a motion by Russell Watts, which was seconded by Paul McDonough, to approve the staff report and to appoint Steve Heminger, MTC Executive

Director, as Acting President; Brian Mayhew, MTC Chief Financial Officer, as Acting Chief Financial Officer; Fred Castro, ABAG Clerk of the Board, as Acting Secretary; and Adrienne Weil, MTC General Counsel, as Acting General Counsel of the ABAG Finance Authority for Nonprofit Corporations

There was no discussion.

There was no public comment.

The clerk was directed to conduct a roll call vote.

The aye votes were: Lomeli, Kadlec, McDonough, Long.

The nay votes were: None.

Abstentions were: None.

Absent were: None.

The motion passed unanimously.

#### **4. REPORT ON ANALYSIS OF ABAG FAN PORTFOLIO**

Brian Mayhew, MTC Chief Financial Officer, will give the staff report which included an update of the Metropolitan Transportation Commission staff analysis of the ABAG FAN portfolio, findings, recommendations based on the staff analysis, refinancing opportunities and options, transaction review and administration, and legal and financial support.

Sue Woo, MTC Finance, gave a presentation on the ABAG FAN Portfolio Review.

Sarah Hollenbeck and Robert Rich, PFM Group, gave a presentation on the ABAG FAN Portfolio Overview.

James Martling and Jason Wong, Sperry Capital, gave a presentation of the ABAG FAN Analysis of ABAG FAN Debt Portfolio.

Members discussed the report and presentations.

Chair Lomeli recognized a motion by Jonathan Kadlec, which was seconded by McDonough, to accept the staff report.

There was no discussion.

There was no public comment.

The clerk was directed to conduct a roll call vote.

The aye votes were: Lomeli, Kadlec, McDonough, Long.

The nay votes were: None.

Abstentions were: None.

Absent were: None.

The motion passed unanimously.

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

Brian Mayhew, MTC Chief Financial Officer, will give the staff report on the final draft of the Joint Powers Agreement between the Association of Bay Area Governments and the ABAG Finance Authority for Nonprofit Corporations creating the Advancing California Finance Authority. A resolution adopting the JPA will be presented for approval by the Executive Committee in November.

Members discussed the final draft Joint Powers Agreement.

**6. ADJOURNMENT**

Chair Lomeli adjourned the meeting at about 1:05 p.m.

The next regular meeting will be announced.

Submitted:

/s/ Fred Castro, Clerk of the Board

Date Submitted: December 6, 2017

Approved:

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# SUMMARY MINUTES (DRAFT)

ABAG Finance Authority for Nonprofit Corporation  
Executive Committee  
Wednesday, November 8, 2017  
Bay Area Metro Center  
375 Beale Street  
Bay Area Conference Room 6102  
San Francisco, California

## 1. CALL TO ORDER / ROLL CALL / CONFIRM QUORUM

ABAG Finance Authority for Nonprofit Corporations Executive Committee Chair Charles Lomeli, Treasurer/Tax Assessor/County Clerk, County of Solano, called the meeting to order at about 1:31 p.m.

The clerk was directed conduct a roll call of members.

A quorum was present at about 1:00 p.m.

### Members Participating by Teleconference

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

### Staff Present

Brian Mayhew, MTC Chief Financial Officer  
Brad Paul, MTC Deputy Executive Director, Local Government Services  
Cindi Segal, MTC Deputy General Counsel

## 2. PUBLIC COMMENT

There was no public comment.

## 3. ADOPTION OF RESOLUTION AUTHORIZING THE JOINT POWERS AGREEMENT CREATING THE ADVANCING CALIFORNIA FINANCE AUTHORITY (ACFA)

Brian Mayhew, MTC Chief Financial Officer, gave a staff report on the Joint Powers Agreement creating the Advancing California Finance Authority (ACFA). He reported on the federal tax reform bill and its impact on 501(c)(3) financing.

Chair Lomeli recognized a motion by Russell Watts, which was seconded by Paul McDonough, to adopt the Joint Powers Agreement creating the Advancing California Finance Authority.

There was no discussion.

There was no public comment.

The clerk was directed to conduct a roll call vote.

The aye votes were: Lomeli, Kadlec, McDonough, Long.

The nay votes were: None.

Abstentions were: None.

Absent were: None.

The motion passed unanimously.

**4. ADJOURNMENT**

Chair Lomeli adjourned the meeting at about 1:45 p.m.

The next regular meeting will be announced.

Submitted:

/s/ Fred Castro, Clerk of the Board

Date Submitted: December 6, 2017

Approved:



To: FAN Executive Committee

Subject: Approval of attached Resolution authorizing execution and delivery of the Second Supplemental Indenture relating to the Acacia Creek refunding

Recommendation

Staff recommends the Executive Committee approve the attached Resolution authorizing execution and delivery of the Second Supplemental Indenture relating to the Acacia Creek refunding bonds.

Background

The original proceeds of \$99.4 million were issued by the FAN in 2013 and used by the Acacia at Union City Corporation to refund their outstanding 2008 bonds the proceeds of which were used to finance the acquisition, construction and delivery of the senior housing project.

The 2013 bonds were placed with Banc of America Public Capital Corp. The corporation now wishes to extend the index term and the bank wishes to add a component to the interest calculation method to reflect potential change to the value of tax exemption as a result of the tax reform law. Both will be achieved with the Second Supplemental Indenture.

All other terms of the issuance documents will remain as approved. As such, given the relatively minor nature of this change described in the brief memorandum prepared by Sperry Capital as financial advisor, staff sees no need for additional credit analysis. Lawyers representing the corporation and Nixon Peabody representing FAN are satisfied with the form of the Second Supplemental Indenture as prepared and presented.

Based on an issuance size of \$99.4 million proposed fees are as follows:

- Legal – Nixon Peabody \$10,000
- Financial Advisor - Sperry Capital \$7,500
- FAN – issuance \$25,000
- Other costs - \$1,000

These costs will cover administrative issuance costs. All other costs will be consistent with the published fee schedule. Closing is expected before 12/31 to accommodate potential restrictions in the tax reform act.

Recommendation

Staff recommends the Executive Committee approve the attached Resolution authorizing execution and delivery of the Second Supplemental Indenture relating to the Acacia Creek refunding bonds.



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Steve Heminger  
Executive Director

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Date: November 28, 2017  
To: Brian Mayhew, MTC  
Sue Woo, MTC  
From: Jim Martling, Sperry Capital  
Jason Wong, Sperry Capital  
Subject: ABAG Finance Authority – Acacia Creek

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Yesterday, Nixon Peabody (Chuck Wolf and Angelica Valencia) and Sperry Capital (Jim Martling and Jason Wong) had a conference call with Foley & Lardner (Mark Schieble) to discuss the Acacia Creek reissuance transaction. Below is a summary of our conversation.

In 2013, Masonic Homes of California (“Borrower”) entered into approximately \$100 million direct placement with Banc of America Public Capital Corporation (“BAPCC”) for the Acacia Creek project. The interest rate on the bonds were priced at 67% of LIBOR plus a fixed spread. BAPCC committed to hold the bonds for five years.

In 2015, BAPCC contacted the Borrower to extend the holding period for five years until 2020.

In 2017, BAPCC approached the Borrower to extend the holding period three additional years until 2023. However, since the adjustment modification is based on the highest marginal tax rate, Foley & Lardner (“Bond Counsel”) believes the modification is outside the four corners of the Indenture and considers it a reissuance. Documentation would include modifying the Indenture and Continuing Covenant Agreement (which ABAG FAN is not a party to) and preparing a Resolution authorizing the issuance of the bonds. Changes will only occur on the tax-exempt portion. The taxable loan will not be affected.

**Next Steps**

- Schedule Executive Committee meeting next month to approve the transaction;
- Proposed ABAG FAN fee schedule; and
- Determine new terms and conditions, if any, on documentation

**RESOLUTION NO. — 17-\_\_\_**  
**ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS**  
**EXECUTIVE COMMITTEE OF THE BOARD OF DIRECTORS**  
**(ACACIA CREEK AT UNION CITY)**

**A RESOLUTION AUTHORIZING EXECUTION AND DELIVERY OF A  
SECOND SUPPLEMENTAL INDENTURE RELATING TO THE  
AUTHORITY'S OUTSTANDING REFUNDING REVENUE BONDS ISSUED  
FOR THE BENEFIT OF ACACIA CREEK, A MASONIC SENIOR LIVING  
COMMUNITY AT UNION CITY, A CALIFORNIA NONPROFIT PUBLIC  
BENEFIT CORPORATION**

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

WHEREAS, the Agreement was entered into in order to enable the Authority to assist nonprofit corporations and other entities to obtain financing for projects and purposes serving the public interest;

WHEREAS, pursuant to the provisions of the Act and the Agreement, the Authority may issue revenue bonds to finance and/or refinance the acquisition, construction, improvement, furnishing and equipping of health care facilities, including continuing care retirement community facilities;

WHEREAS, pursuant to a Bond Indenture dated as of October 1, 2013 (the "Indenture"), between the Authority and Wells Fargo Bank, National Association, as trustee (the "Trustee"), the Authority issued its ABAG Finance Authority For Nonprofit Corporations Variable Rate Refunding Revenue Bonds (Acacia Creek at Union City) Series 2013A (the "2013 Bonds") dated their date of original issuance, in the aggregate principal amount of \$99,423,319 and, pursuant to a Loan Agreement dated as of October 1, 2013 between the Authority and Acacia Creek, A Masonic Senior Living Community at Union City, a California nonprofit public benefit corporation (the "Corporation"), the Authority loaned the proceeds thereof to the Corporation to, among other things, refund all or any portion of the Authority's Variable Rate Revenue Bonds (Acacia Creek at Union City Project) Series 2008A the proceeds of which were used to finance the acquisition, construction and equipping of a continuing care retirement community consisting of approximately 152 independent living units (including two cottages) on ground leased from Masonic Homes of California, a California nonprofit public benefit in Union City, California;

WHEREAS, in order to induce Banc of America Public Capital Corp (the "Purchaser") to extend the period for which it will hold the 2013 Bonds, the Corporation is requesting the assistance of the Authority to amend the Indenture relating to the determination of the Indexed Put Rate to take into account changes in the Purchaser's marginal federal income tax rate;

WHEREAS, a proposed form of Second Supplemental Bond Indenture has been filed with the Secretary of the Authority;

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

**Section 1.** The Authority finds that it is in the public interest to assist the Corporation in amending the Indenture to induce the Purchaser to extend the period it will hold the 2013 Bonds.

**Section 2.** The Authority hereby approves amending the Indenture.

**Section 3.** The proposed form of Second Supplemental Bond Indenture, on file with the Secretary of the Authority, is hereby approved. The President, Secretary or Chief Financial Officer of the Authority, or the designee of any of them, acting alone, is hereby authorized and directed, for and on behalf of the Authority, to execute and deliver the Second Supplemental Bond Indenture in substantially said form, with such changes and insertions therein, as may be necessary to cause the same to carry out the intent of this Resolution and as such signatory, with the advice of bond counsel and counsel to the Authority, may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

**Section 4.** The President, Secretary, Chief Financial Officer, and other appropriate officers and agents of the Authority, acting alone, are hereby authorized and directed for and in the name and on behalf of the Authority, to execute and deliver any and all documents and to do any and all things and take any and all actions which may be necessary or advisable, in their discretion, to effectuate the actions which the Authority has approved in this Resolution.

**Section 5.** All actions heretofore taken by the Chair, Vice Chair, Secretary, President, Chief Financial Officer and other appropriate officers and agents of the Authority with respect to the effectuation of the actions which the Authority has approved in this Resolution are hereby ratified, confirmed and approved.

**Section 6.** All approvals, consents, directions, notices, orders, requests and other actions permitted or required by any of the documents authorized by this Resolution, including, without limitation, any of the foregoing which may be necessary or desirable in connection with any amendment of such documents, may be given or taken by the Issuer Representative (as such term is defined in the Indenture) of the Authority without further authorization by the Authority, and the Issuer Representative is hereby authorized and directed to give any such approval, consent, direction, notice, order or request and to take any such action which such Issuer Representative, with the advice of bond counsel and counsel to the Authority, may deem necessary or desirable to further the purposes of this Resolution.

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

PASSED AND ADOPTED this 12<sup>th</sup> day of December, 2017.

ABAG FINANCE AUTHORITY FOR  
NONPROFIT CORPORATIONS

By: \_\_\_\_\_

Charles Lomeli, Chair  
ABAG Finance Authority  
For Nonprofit Corporations  
Executive Committee

ATTEST:

By: \_\_\_\_\_

Frederick Castro, Secretary  
ABAG Finance Authority  
For Nonprofit Corporations  
Executive Committee

I, the undersigned, the duly appointed, and qualified Secretary of the ABAG Finance Authority For Nonprofit Corporations Executive Committee, do hereby certify that the foregoing resolution was duly adopted by the Executive Committee of the Board of Directors of said Authority at a duly called meeting of the Executive Committee held in accordance with law on 12 December 2017.

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Frederick Castro, Secretary  
ABAG Finance Authority  
For Nonprofit Corporations  
Executive Committee

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**SECOND SUPPLEMENTAL BOND INDENTURE**

**Dated as of December 1, 2017**

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**Between**

**ABAG FINANCE AUTHORITY FOR NONPROFIT  
CORPORATIONS**

**And**

**WELLS FARGO BANK, NATIONAL ASSOCIATION  
as Bond Trustee**

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**Supplementing the Bond Indenture dated as of October 1, 2013  
Relating to the  
\$99,423,319  
ABAG Finance Authority for Nonprofit Corporations  
Variable Rate Refunding Revenue Bonds  
(Acacia Creek at Union City)  
Series 2013A**

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## SECOND SUPPLEMENTAL BOND INDENTURE

**This SECOND SUPPLEMENTAL BOND INDENTURE** dated as of December 1, 2017 (the “*Second Supplemental Bond Indenture*”), between **ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS**, a joint exercise of powers agency organized and existing under the laws of the State, and its successors and assigns (the “*Issuer*”), and **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association, qualified to accept and administer the trusts hereunder, as trustee (the “*Bond Trustee*”);

WHEREAS, the Issuer has issued its ABAG Finance Authority for Nonprofit Corporations Variable Rate Refunding Revenue Bonds (Acacia Creek at Union City), Series 2013A (the “*Bonds*”) in the original aggregate principal amount of Ninety-Nine Million Four Hundred Twenty-Three Thousand Three Hundred Nineteen Dollars (\$99,423,319) pursuant to that certain Bond Indenture dated as of October 1, 2013 (the “*Bond Indenture*”), for the purposes set forth therein;

WHEREAS, the Bond Indenture provides that interest on the Bonds will bear interest at an Indexed Put Rate for an Indexed Put Rate Period, each such period ending on an Indexed Put Date;

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

WHEREAS, pursuant to a First Supplemental Bond Indenture dated as of April 1, 2015, a new Indexed Put Rate Period with an Indexed Put Date of March 31, 2020, was established, without adjustment of the Applicable Factor or the Applicable Spread;

WHEREAS, the Borrower and the Purchaser, after discussion and a review of relevant credit information, desire to establish a new Indexed Put Rate Period with an Indexed Put Date of December 31, 2022, and to adjust the mechanism for adjusting the interest rate on the Bonds;

WHEREAS, the Issuer and the Bond Trustee desire to enter into this Second Supplemental Bond Indenture to so establish such new Indexed Put Rate Period and interest rate setting mechanism;

WHEREAS, the Issuer has determined that all acts and proceedings required by law necessary to constitute this Second Supplemental Bond Indenture a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms have been done and taken, and the execution and delivery of this Second Supplemental Bond Indenture have been in all respects duly authorized;

NOW, THEREFORE, the Issuer covenants and agrees with the Bond Trustee, for the equal and proportionate benefit of the respective owners of the Bonds, as follows:

1. Definitions. Capitalized terms used but not otherwise defined in this First Supplemental Bond Indenture shall have the meanings ascribed to them in the Bond Indenture.

2. Interpretation.

a. Unless the context otherwise indicates, words expressed in the singular shall include the plural and vice versa and the use of the neuter, masculine or feminine gender is for convenience only and shall be deemed to mean and include the neuter, masculine or feminine gender, as appropriate.

b. Headings of section herein are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

3. Definitions

a. The definition of “LIBOR Index Rate” in the Indenture shall be changed to be as follows:

“*LIBOR Index Rate*” shall mean a per annum rate of interest equal to the product of (i) the sum of (A) the Applicable Spread plus (B) the product of the LIBOR Index multiplied by the Applicable Factor, multiplied by (ii) the Margin Rate Factor.

b. The following definitions shall be added to the Indenture:

“*Margin Rate Factor*” means the greater of (i) 1.0 and (ii) the product of (A) 1.0 minus the Maximum Federal Corporate Tax Rate, multiplied by (B) 1.54, rounded to the nearest 1/100th percent. The effective date of any change in the Margin Rate Factor shall be the effective date of the corresponding decrease or increase (as applicable) in the Maximum Federal Corporate Tax Rate.

“*Maximum Federal Corporate Tax Rate*” means the marginal federal corporate income tax rate on the highest income bracket of corporations as in effect in the United States from time to time. As of the date of this Second Supplemental Bond Indenture, the Maximum Federal Corporate Tax Rate is 35%.

4. New Indexed Put Rate Period. From and after the date hereof, there shall be an Indexed Put Rate Period having an Indexed Put Date of December 31, 2022.

5. Applicable Factor and Applicable Spread. As of the date hereof, the Applicable Factor is 67%, and the Applicable Spread is 60 basis points (0.60%).

6. Ratification of Bond Indenture. As supplemented hereby, the Bond Indenture is in all respects ratified and confirmed and the Bond Indenture and this First Supplemental Bond Indenture shall be read, taken and construed as one and the same instrument.

7. Counterparts. This First Supplemental Bond Indenture may be executed in counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

8. Governing Law. This First Supplemental Bond Indenture shall be governed by and construed in accordance with the laws of the State of California .

*[Remainder of Page Intentionally Left Blank]*

**IN WITNESS WHEREOF**, the Issuer and the Bond Trustee have caused this Second Supplemental Bond Indenture to be duly executed by their duly authorized officers, as of the day and year first above written.

**ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS**

By: \_\_\_\_\_  
Title:

**WELLS FARGO BANK, NATIONAL ASSOCIATION, as Bond Trustee**

By: \_\_\_\_\_  
Title:

**CONSENT OF PURCHASER**

Banc of America Public Capital Corp, being the Purchaser of all of the ABAG Finance Authority for Nonprofit Corporations Variable Rate Refunding Revenue Bonds (Acacia Creek at Union City), Series 2013A in the original aggregate principal amount of \$99,423,319, hereby consents to the execution and delivery of the Second Supplemental Bond Indenture to which this Consent is attached, and the establishment of a new Indexed Put Rate Period ending December 31, 2022.

**BANC OF AMERICA PUBLIC CAPITAL CORP**, as  
Purchaser

By: \_\_\_\_\_  
Its: \_\_\_\_\_

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