



CSCDA
CALIFORNIA STATEWIDE COMMUNITIES
DEVELOPMENT AUTHORITY



**AGENDA OF THE
ADJOURNED MEETING OF THE
CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY**

June 30, 2015

10:00 a.m.

**League of California Cities
1400 K Street, 3rd Floor
Sacramento, California**

709 Portwalk Place,
Redwood City, CA 94061

3252 Southern Hills Drive
Fairfield, CA 94534

County of Monterey
168 West Alisal Street
Salinas, CA 93901

- I. Call the Roll (alternates designate which member they are representing).
- II. Closed Session. Conference with Legal Counsel—Initiation of Litigation. Government Code Section 54956.9(d)(4). One Case.
- III. Consideration of the Minutes of the June 18, 2015 Special Meeting and the June 24, 2015 Regular Adjourned Meeting.
- IV. Staff Updates.
- V. Consideration of Agreement between California Statewide Communities Development Authority and HB Capital Resources, Ltd. And its assignees.

This ___ page agenda was posted at 1100 K Street, Sacramento, California on _____, 2015 at __: __ m,
Signed _____ . Please fax signed page to (925) 933-8457.

VI. Public Comment.

VII. Adjourn.

**SPECIAL MEETING OF THE
CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY (CSCDA)**

California State Association of Counties
1100 K Street, Sacramento, California

June 18, 2015

MINUTES

Commission Chair Larry Combs called the meeting to order at 10:47 a.m.

I. Roll Call Stands from CSCDA Regular Meeting

Commission members present: Larry Combs, Kevin O'Rourke and Dan Harrison.
Commission members participating by conference telephone: Tim Snellings and Alternate Commissioner Ron Holly representing Commissioner Dan Mierzwa.

CSCDA Executive Director Catherine Bando present.

Others present: Caitlin Lanctot, GPM Municipal Advisors; Norman Coppinger, League of California Cities; Graham Knaus, California State Association of Counties; Laura Labanieh, CSAC Finance Corporation; James Hamill, Bridge Strategic Partners; and Mark Paxson, State Treasurer's Office. Mercedes Baumbach and Scott Carper, GPM Municipal Advisors; Brandon Dias, Trish Eichar and Erin Pham, Orrick Herrington & Sutcliffe; Trisha Ortiz, Richards Watson & Gershon, participated by conference telephone.

II. Approval of Consent Calendar

The commission approved by consent:

1. Approval of the following:
 - a. Wells Fargo Corporate Trust Services Invoice #1184340 for \$900.00 for trustee fees related to CSCDA CRA/ERAF Program Series 2005.
 - b. East Miles Community Services District as a program participant.
 - c. Wells Fargo Corporate Trust Services Invoice #1201637 for \$3,000.00 for trustee fees related to SCIP revenue Bonds 2007A.

Motion by O'Rourke; second by Holly; unanimously approved by roll-call vote.

III. Public Comments

No public comments were made.

IV. Adjournment

Commission Chair Combs adjourned the meeting at 10:48 a.m.

Submitted by: Norman Coppinger, Assistant to the Secretary

*Continuation of the June 18, 2015 regular meeting of the commission is scheduled for
Wednesday, June 24, 2015, at 10:00 a.m.
in the League of California Cities Office at 1400 K Street, Sacramento, CA.*

**CONTINUATION OF THE ADJOURNED JUNE 18, 2015 REGULAR MEETING OF THE
CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY
(CSCDA)**

League of California Cities
1400 K Street, Sacramento, California

June 24, 2015

MINUTES

Commission chair Larry Combs called the meeting to order at 10:03 am.

I. Roll Call.

Commission members present: Larry Combs, Terry Schutten, and Dan Harrison. Kevin O'Rourke, Irwin Bornstein, and alternate commissioner Brian Moura (unable to vote because cities are fully represented) participated by conference telephone.

CSCDA Executive Director, Catherine Bando was present.

Others present included: Perry Stottlemeyer and Norman Coppinger, League of California Cities; Graham Knaus, California State Association of Counties; Laura Labanieh, CSAC Finance Corporation; Greg Stepanicich, Richards Watson & Gershon; James Hamill and Jon Penkower, Bridge Strategic Partners; and Mark Paxson, State Treasurer's Office. Caitlin Lanctot, GPM Municipal Advisors; and Pamela Uyehara, US Bank participated by conference telephone.

II. Approval of minutes—June 18, 2015.

The commission approved the minutes for the regular meeting held June 18, 2015.

Motion to approve by Harrison; second by Schutten; unanimously approved by roll-call vote.

III. Staff Updates.

Executive Director Bando mentioned that agenda item VI will be pulled from today's agenda.

IV. Approve the CSCDA bank account administration and disbursement policy.

Executive Director Bando explained the purpose of the policy is to identify:

- Program Management/Administration Agreements with HB Capital Resources (HBCR), Bridge Strategic Partners (BSP), California State Association of Counties (CSAC) and League of California Cities (League);
- sources of CSCDA funds, to establish the names of the various bank accounts, and to establish authorization procedures for disbursement of funds;
- cash receipts, which are administration fees, issuance fees and various deposits;

- CSCDA's accounts and sub-accounts;
- individuals within HBCR, BSP, CSAC and League with authority to view CSCDA's accounts and sub-accounts;
- that CSCDA's Institutional trust accounts and sub-accounts are maintained with US Bank;
- expenses are first paid from the Professional Services Reserve Sub-Account, which is funded from 5% of Administrative Fees received by CSCDA;
- CSAC and League are foregoing Administrative and Issuances Fees to \$300,000 to establish and fund an Operating Sub-Account, which will be used to the extent funds in the Professional Services Reserve Sub-Account are insufficient; and
- to the extent the operating sub-account falls below \$300,000, 5% of CSAC and League's share of net issuance fees will be allocated to the operating sub-account until the balance of \$300,000 is restored.

Executive director Bando outlined the approval and disbursement of funds process, whereby requests for disbursement are primarily generated by the program managers (HBCR and BSP) and then submitted to CSAC and the League for approval. Once approved, the requests for disbursement will be distributed to an authorized signatory (the Executive Director and four officers). It was noted i) CDLAC forfeitures and performance deposit refunds require no approval and are submitted directly to an authorized signatory; ii) the Executive Director may not act as an authorized signatory for disbursements made to the Executive Director; and iii) if approved by the Commission, the new policy would be effective June 25, 2015.

Motion to approve the policy, as recommended by Executive Director Bando, by Bornstein; second by Schutten; unanimously approved by roll-call vote.

V. Approval of intellectual property license, royalty and administrative agreement by and among the California Statewide Communities Development Authority, the California State Association of Counties (CSAC) and the League of California Cities, and acknowledgement of an assignment of contract between CSAC and CSAC Finance Corporation.

Executive Director Bando explained that CSCDA and the associations desire to adopt a new agreement that fully reflects the sponsorship, licensing of intellectual property, financial and administrative relationship, and the duties among the parties that will supersede and replace the former agreements. The new agreement establishes the terms for the use of the League and CSAC trademarks, identifies the services the League and CSAC will provide to CSCDA and defines compensation for same.

Commissioner Bornstein pointed out that section 4.1.1 discusses distribution of fees to Strategic Bridge Partners, but does not address fees to HB Capital.

Executive Director Bando recommends that the Commission approve the agreement, subject to clarification to section 4.1.1 with respect to payments that will be made to HB Capital.

Motion to approve the agreement, as recommended by Executive Director Bando and subject to revision/clarification of section 4.1.1 with respect to payments to HB Capital, by O'Rourke; second by Harrison; unanimously approved by roll-call vote.

VI. Consideration of first amendment to services agreement by and between Bridge Strategic Partners and California Statewide Communities Development Authority dated December 4, 2014.

Item VI. consideration of first amendment to services agreement by and between Bridge Strategic Partners and California Statewide Communities Development Authority dated December 4, 2014 was pulled from the agenda.

VII. Approval of agreement between California Statewide Communities Development Authority and HB Capital Resources, Ltd. and its assignees.

Commission chair Larry Combs indicated additional time was required to review the agreement between CSCDA and HB Capital Resources, Ltd. and asked for a motion to continue this item to the CSCDA meeting to be held at the League of California Cities, 1400 K Street, Sacramento, California, on June 30, 2015.

Motion to continue this item until 10 a.m. on Tuesday, June 30 by O'Rourke; second by Schutten; unanimously approved by roll-call vote.

VIII. Public comment.

None.

IX. Adjournment.

At 10:23 am, the commission approved a motion to "Adjourn to Continue the Meeting" to 10:00 am on June 30, 2015, at the League of California Cities, 1400 K Street, Sacramento, California.

Submitted by: Perry Stottlemeyer, League of California Cities staff

*The continuation meeting of the commission is scheduled for
Tuesday, June 30, at 10:00 a.m.
in the League of California Cities' office at 1400 K Street, Sacramento, California.*

AGREEMENT

This Agreement (hereinafter "**Agreement**"), dated as of June __, 2015, is entered into by and between California Statewide Communities Development Authority, a California joint powers authority ("**Authority**") and HB Capital Resources, Ltd., a California corporation and its assignees, including, without limitation, GPM Municipal Advisors, LLC, a California limited liability company (collectively, "**HB Capital**"). Each of Authority and HB Capital is individually referred hereto as a "**Party**" and together as the "**Parties**."

RECITALS

A. WHEREAS the Parties entered into that certain Amended and Restated Agreement for Services dated April 10, 2000 (as amended and assigned from time to time, the "**Agreement for Services**").

B. WHEREAS the Term of the Agreement for Services (as defined in Section 3 of the Agreement for Services) will expire by its terms on June 30, 2015 (the "**Termination Date**").

C. WHEREAS, the Parties wish to enter into this Agreement to set forth the terms and conditions agreed upon by Authority and HB Capital to provide for the transition by HB Capital as Program Manager to a new program manager, Bridge Strategic Partners ("**BSP**").

D. WHEREAS in connection with the termination of HB Capital's role as Program Manager, the Parties have disagreements (the "**Disputes**") regarding (i) whether HB Capital is obligated to provide any post-termination administrative services (the "**Post-Termination Services**") to Authority with respect to all bond transactions that are closed on or before the Termination Date (the "**Pre-Termination Bond Transactions**") and (ii) the obligation of Authority to pay to HB Capital, without providing any Post-Termination Services, post-termination administrative fees related to the Pre-Termination Bond Transactions as described in the Agreement for Services (the "**Post-Termination Fees**").

E. WHEREAS the Parties, in part, wish to enter into this Agreement to set forth the terms and conditions agreed upon by Authority and HB Capital to determine, confirm and resolve the Disputes regarding the Post-Termination Services and the Post-Termination Fees.

F. WHEREAS, the Parties also wish to confirm and agree that HB Capital will provide compliance monitoring services after the end of the Term for affordable housing projects financed in Pre-Termination Bond Transactions ("**Post-Termination Compliance Monitoring Services**") and receive under this Agreement the compliance monitoring fees described and set forth in the Agreement for Services and the Amendments thereto (the "**Compliance Monitoring Fees**") for those services.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. **TERMINATION OF HB CAPITAL**. The parties acknowledge and agree that HB Capital's role as Program Manager shall terminate as of the Termination Date and that except for the Post-Termination Administrative Services and the Post-Termination Compliance Monitoring Services (collectively, the "**Post-Termination Services**") described herein, on and after the Termination Date, HB Capital shall have no further obligations under or relating to the Agreement for Services.

2. **POST-TERMINATION SERVICES**. The Parties hereby agree that notwithstanding anything to the contrary in the Agreement for Services, HB Capital or one or more of its subsidiaries, affiliates or associated companies, as HB Capital may determine, shall provide the following Post-Termination Services to Authority in connection with the Pre-Termination Bond Transactions:

- a. Provide for the collection and reporting of annual administrative fees for the Pre-Termination Bond Transactions.
- b. Provide an accounting of all annual administrative fee activity related to Pre-Termination Bond transactions to Authority and/or its permitted assignees that are reasonably necessary for Authority's reporting purposes.
- c. Provide information requested by Authority's auditor and available to HB Capital in the normal course of an audit related to the Pre-Termination Bond Transactions. Any such information requests shall be at the sole and exclusive expense of HB Capital.
- d. Notify Authority on a monthly-basis of bond refunding activity related to the Pre-Termination Bond Transactions for such calendar month. The form and methods of such notifications shall be approved by Authority and HB Capital. HB Capital shall refer any proposed bond refunding on Pre-Termination Bond Transactions to Authority and shall not solicit the refunding of any Pre-Termination Bond Transaction on behalf of any other financing issuer other than Authority..
- e. Perform compliance monitoring services for all Authority affordable housing projects in monitoring by HB Capital on the Termination Date. This includes: (i) continuing to make use of the FOCUS compliance monitoring system available (or any successor products that HB Capital may so choose in the future) for use by all Authority borrowers required to submit compliance reporting activities with respect to Pre-Termination Bond Transactions; and (ii) handling regulatory reporting requirements for such projects on behalf of Authority or providing such information to the party(ies) otherwise so engaged by Authority.
- f. Facilitate post-issuance finance restructuring, workouts or other necessary Authority approvals related to the Pre-Termination Bond Transactions pursuant to

applicable provisions of the documents evidencing the Pre-Termination Bond Transactions in coordination with Authority's Executive Director or such other person as the Authority may designate.

- g. As requested by Authority, HB Capital shall cooperate in the preparation of the Authority's annual budget with respect to the services it is providing under this Agreement, including providing estimates of annual administrative fees to be received during the budget year from Pre-Termination Bond Transactions.

3. **EXCLUSIONS TO POST-TERMINATION SERVICES.** For clarification, the Post-Termination Services to be performed by HB Capital and/or its subsidiaries, affiliates or associated companies related to the Pre-Termination Bond Transactions shall specifically exclude (and HB Capital and its subsidiaries, affiliates or associated companies, shall not be required to perform):

- a. Preparation of financial statements for Authority, the California Statewide Communities Development Corporation ("**CSCDC**"), California Statewide Finance Authority ("**CSFA**") and any of their related parties regardless of whether or not such financial statements relate to the Pre-Termination Bond Transactions.
- b. Management of audits for Authority, CSCDC, CSFA and any of their related parties.
- c. Provision of any information technology services, systems, or other related tools unless separately agreed upon by the Parties in writing.
- d. Management of any Internal Revenue Service inquiries or inquiries from other authorities regardless of whether or not such inquiries relate to the Pre-Termination Bond Transactions. However, HB Capital shall cooperate with and provide documents within its possession to the Internal Revenue Service or other authorities if requested to do so by the Authority's Executive Director with respect to Pre-Termination Bond Transactions.
- e. No issuance or administration services shall be required to be performed by HB Capital after the Termination Date with respect to applications and programs not closed by HB Capital prior to the Termination Date.
- f. Other services not specifically enumerated in Section 2 above unless later agreed upon by the Parties in writing.

4. **ON-GOING OBLIGATIONS OF AUTHORITY POST-TERMINATION DATE.** Authority shall promptly pay and continue to pay HB Capital, without deduction or offset except as provided by Section 7.f., and throughout the entire financing term of each project that is the subject of a Pre-Termination Bond Transaction, and for so long as any bonds or other obligations (or any portion thereof) relating to the Pre-Termination Bond Transactions remain unpaid or otherwise remain outstanding, the Post-Termination Fees described in Section 2 and Exhibit B of the Agreement for Services for all the Pre-Termination Bond Transactions. As to any Pre-

Termination Bond Transactions that are refunded after the Termination Date, no issuance or annual administrative fees will be paid to HB Capital for any refunded bonds that are processed by the Authority's program manager at that time. Authority will continue to fund under this Agreement the payment of fees payable to Compliance Services, LLC for Post-Termination Compliance Monitoring Services set forth in Section 2.e. above from administrative fee collections received by Authority in the amounts described and set forth in the Agreement for Services and the Amendments thereto. All Post-Termination Fees due to HB Capital will be paid from the then existing trust account established by Authority subject to the reserve requirements set forth in Section 7.a of this Agreement.

The Post-Termination Fees paid pursuant to this Agreement shall be the sole and exclusive compensation paid to HB Capital by Authority after the termination of the Agreement for Services. HB Capital shall not be entitled to be reimbursed for any expenses it incurs in providing Post-Termination Services other than the payment of the Post-Termination Fees it is entitled to receive under this Agreement

5. **RELEASE OF CLAIMS.**

- a. **Release by Authority.** Effective upon execution of this Agreement, Authority, on behalf of itself and its, commissioners, and Executive Director, hereby releases, acquits and forever discharges HB Capital and its subsidiaries and assignees, and each of their directors, officers, members, owners, partners, and managers (collectively the "**HB Capital Releasees**") for any and all claims, demands, losses, liabilities, causes of action, obligations and claims for damages, lawsuits, costs, attorneys' fees and expenses of every kind and nature whatsoever, known or unknown, anticipated or unanticipated, fixed or contingent, which Authority may have, or may hereafter claim to have, against HB Capital Releasees (or any of them) pertaining to or arising out of the Disputes or any acts or omissions giving rise to the Disputes, including, without limitation, any claim by Authority that HB Capital is not entitled to the Post-Termination Fees as provided in this Agreement and the Agreement for Services. Authority agrees that this Agreement is a fair and just compromise of Authority's claims (if any), and specifically, Authority agrees that this Agreement and release of claims fairly and accurately represents and protects its interests. Nothing contained in this Agreement, including the releases contained herein, is meant to release and shall not affect, in any way, the Post-Termination Service obligations set forth in Sections 2 and 3 above or the other obligations of HB Capital set forth in this Agreement.
- b. **Release by HB Capital.** Effective upon execution of this Agreement, HB Capital, on behalf of itself and its subsidiaries and assignees, and their directors, officers, members, owners, partners, and managers, hereby releases, acquits and forever discharges Authority, its sponsors, commissioners, and Executive Director (collectively the "**Authority Releasees**") for any and all claims, demands, losses, liabilities, causes of action, obligations and claims for damages, lawsuits, costs, attorneys' fees and expenses of every kind and nature whatsoever, known or unknown, anticipated or unanticipated, fixed or contingent, which HB Capital

may have, or may hereafter claim to have, against Authority Releasees (or any of them) pertaining to or arising out of the Disputes or any acts or omissions giving rise to the Disputes, including any claims against the Authority Releasees related to the Proposal to Provide Program Origination, Program Development and Management Services to Authority dated June 24, 2014 (the “**RFP**”), the Amended and Restated Request for Proposal to Provide Program Origination, Program Development and Management Services to Authority dated September 23, 2014 (the “**Amended RFP**”) or any modification thereof. The release provided herein by HB Capital also shall apply to any claims or causes of action that it may have arising from Authority entering into a new program manager agreement with BSP. HB Capital agrees that this Agreement is a fair and just compromise of HB Capital’s claims (if any), and specifically, HB Capital agrees that this Agreement and release of claims fairly and accurately represents and protects its interests. Nothing contained in this Agreement, including the releases contained herein, is meant to release and shall not affect, in any way, the on-going obligations of Authority contained in this Agreement, including without limitation the payment obligations of Authority contained in Section 4 above.

- c. **Release of Unknown Claims.** Each of Authority and HB Capital are aware that they may hereafter discover claims or facts in addition to or different from those that they each know or believe to be true with respect to the matters released herein. Nevertheless, except for the on-going obligations as contained in this Agreement, it is each party’s intention to fully, finally, and forever settle and release the matters and claims described in this Section 5, which do now exist, may exist, or heretofore have existed. In furtherance of such intention, the releases given herein shall be and remain in effect as a full and complete release of all such matters and claims notwithstanding the discovery or existence of an additional or different matters or claims or facts relative thereto. Accordingly, each of Authority and HB Capital specifically each waive the benefit of the provisions of Section 1542 of the Civil Code of the State of California, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Each of Authority and HB Capital hereby confirm that they will not sue any of the HB Releasees or the Authority Releasees, respectively, for any of the matters and claims that are released in this Agreement.

6. **OBLIGATIONS OF THE PARTIES PRIOR TO THE TERMINATION DATE WITH REGARD TO TRANSITION.** Notwithstanding anything to the contrary in the Agreement for Services, the Parties agree as follows:

- a. **Communications.** During the period from the date of this Agreement through the close of business on June 30, 2015 (the “**Transition Period**”), prior to widely distributing a material communication relating to the HB Capital’s transition to Authority borrowers or other interested persons, Authority and HB Capital will provide drafts to each other for review at least twenty four (24) hours prior to making such communication. Comments on such communication will be reasonably considered by the respective Parties. In the event Authority and HB Capital cannot agree on the content of or other aspects of communications to Authority borrowers or other interested parties, each Party will have the right to communicate separately with such borrowers and interested parties, without coordination with or approval by the other Party. All communications by each Party regarding the transition of program manager services from HB Capital to BSP will be factually accurate. HB Capital will not post any communications relating to the program manager transition on the Authority website (the “**Website**”) without the approval of the Authority Executive Director. These obligations will terminate upon the Termination Date.
- b. **Information Technology Matters.** Authority has retained PMC as an information technology consultant to review the existing Authority Website and the continued operation of a Website for Authority after the Termination Date. Based on this review by PMC, the Authority has hired PMC during the Transition Period to rebuild a Website for Authority. HB Capital has delivered to Authority in an electronic format acceptable all existing content, graphics, images (other than images licensed to HB Capital that are not transferable) and branding owned by HB Capital from the existing Website. The costs of PMC in rebuilding the Authority Website and making it fully operational shall be paid by Authority from the Reserve Fund. Authority and HB Capital shall cooperate in good faith in the establishment of a new Authority Website. Effective as of the close of business on June 30, 2015, the existing Authority Website shall be shut down and replaced by the rebuilt Website.
- c. **Domain Names and Telephone Numbers.** HB Capital shall transfer to Authority (or BSP if directed by Authority) all Authority related domain names by no later than the Termination Date, including but not limited to cacommunities.org, cscda.org and cscdcnewmarkets.org (along with any related domain name extensions, “**Transferred Domain Names**”). After the Termination Date, HB Capital shall not use in any manner any of the Transferred Domain Names or other domain names that reference Authority in any manner. Prior to the Termination Date, HB Capital shall shut down its CSCDA Twitter account which will be re-established by the Authority. After the Termination Date, Authority shall promptly forward any e-mails or other written communications it receives related to Pre-Termination Bond Transactions to HB Capital. After the Termination Date, HB Capital shall promptly forward to the Authority any emails or other written communications that were intended to be directed to the Authority. Authority shall take all necessary steps to ensure that, after the Termination Date, (i) neither Authority nor any Authority program manager shall replicate or use any of the e-mail addresses heretofore used by HB

Capital employees or representatives that include the name (or abbreviated portions thereof) of such employee or representative and any of the Transferred Domain Names except to the extent it is necessary to set-up and provide an auto-reply message described below, and (ii) the HB Capital e-mail addresses associated with the Transferred Domain Names listed on **Exhibit A** are disabled or otherwise blocked, so that Authority does not receive e-mail communications to such e-mail addresses and senders receive a standard reply message stating that the Authority has changed program managers and that this particular email is undeliverable. The standard reply message also may contain the contact information for BSP. After the Termination Date, HB Capital may continue to use its telephone numbers that it has previously used as HB Capital provided that these numbers are identified as the personal telephone numbers of HB Capital and do not refer in any manner to Authority or Authority's programs or operations. Although HB Capital is transferring the cacommunities.org domain name to Authority, Authority agrees that HB Capital may use the billing@cacommunities.org email address solely for purposes of performing Post-Termination billing services for Authority.

- d. **Transfer of Documents and Records.** HB Capital will comply with its obligations under Section 3.5 of the Agreement for Services and prior to the Termination Date, will download bond documents, billing and accounting information, and other information in its possession necessary for continued provision of services to Authority clients, to an electronic data base for transmission to Authority or BSP, as Authority directs. HB Capital shall retain copies of the bond documents relating to the Pre-Termination Bond Transactions to perform the on-going Post-Termination Services. In the event that Authority requests a copy of any such bond-related document, HB Capital will promptly comply with Authority's request.
- e. **Insurance.** Prior to June 30, 2015, HB Capital will transition Commission and Board of Director Member Directors and Officers insurance responsibilities (including broker/underwriter contact information) to Authority and/or BSP.
- f. **Bond Deposits.** For each new bond application that has been submitted by HB Capital prior to the Termination Date, a \$5,000 deposit has been made that would otherwise be applied to the issuance fee when the bond transaction closes. If HB Capital's share of a deposit was transferred to HB Capital for a transaction that has not closed by the Termination Date, any such deposit amounts shall be returned to Authority by no later than June 30, 2015.
- g. **Bank Accounts.** Prior to the Termination Date, Authority will instruct U.S. Bank to update the funds transfer authorization and signature authority on all accounts, including but not limited to the Reserve Fund, CSCDA Issuance Fees and Deposits Account, CSCDA Annual Administration Fees Account, CDLAC Deposits Account, CSCDC Issuance Fees and Deposits Account, SCIP and CFD Accounts, and CSFA Accounts, to remove HB Capital and replace it with such

entity or entities as determined by Authority. HB Capital shall provide any required approvals or authorizations necessary to implement this subsection (g).

- h. **Logos and Trademarks.** HB Capital shall transfer to Authority ownership of all registered trademarks for the following Authority related names or marks: **[List trademarks.]** HB Capital also shall provide to Authority and BSP copies of all Authority related logos (including all logo formats possessed by HB Capital and for every Authority program including those of entities related to Authority such as CSCDC).
- i. **California Statewide Communities Development Corporation (“CSCDC”).** HB Capital shall provide to Authority (or BSP if directed by Authority) all original and electronic CSCDC related documents in its possession, except that HB Capital may maintain copies of any documents necessary to perform its Post-Termination Services as set forth in this Agreement. HB Capital shall pay all CSCDC related invoices received prior to the Termination Date from third party professionals from the CSCDC administrative fee account or the Reserve Fund, as applicable. After the Termination Date, HB Capital shall have no further administrative responsibilities related to CSCDC and shall not receive any future issuance or administrative fees.

7. **OTHER PROVISIONS.**

- a. **Reserve Fund.** After the Termination Date, 5% of all annual administrative fees received from the Pre-Termination Bond Transactions will continue to be paid into the Reserve Fund from the Authority’s custody accounts (currently held at U.S. Bank) into which annual administrative fees from all closed bond transactions are initially deposited after receipt. Such payment into the Reserve Fund from the Pre-Termination Bond Transactions will be required only to the extent such payments are required to maintain a \$500,000 balance in the Reserve Fund. Prior to the distribution of the remaining annual administrative fees from Pre-Termination Bond Transactions to HB Capital and the League of California Cities and CSAC, any housing compliance fees shall first be paid to Compliance Services, LLC. Amounts in the Reserve Fund shall continue to be used only for the purposes for which the Reserve Fund has been used prior to the Termination Date including without limitation litigation, insurance, charitable contributions, legislative representation expenses, administrative expenses and marketing expenses and such purposes shall not be expanded without the prior written consent of HB Capital. HB Capital’s consent, shall not be required, however, for any other reserve or special funds established by Authority for any purpose that do not use annual administrative fees from Pre-Termination Bond Transactions. Upon request by HB Capital made not more than once quarterly, Authority shall provide to HB Capital a detailed list of payments into and payments from the Reserve Fund for the prior quarter and otherwise cooperate with HB Capital so that HB Capital can confirm compliance with the provisions of this Section 6.f. At such time as all outstanding bonds issued in Pre-Termination Bond Transactions have been paid off or otherwise no longer remain outstanding

(“Final Payment Date”), that portion of the Reserve Fund on the Final Payment Date attributed to fees that HB Capital would otherwise receive but for the required payments into the Reserve Fund shall be promptly transferred and returned to HB Capital.

- b. **No Current Breach.** The Parties hereby acknowledge and confirm that there is no current breach under the Agreement for Services on the part of Authority or HB Capital (or any of the entities included within the definition of “HB Capital” hereunder.)
- c. **Third Party Beneficiaries.** Except for subsidiaries, affiliates or associated companies of HB Capital, and except for the related entities of Authority such as CSCDC, there are no third party beneficiaries to this Agreement. Neither BSP nor any of its owners, members, employees, agents or representatives are third party beneficiaries of this Agreement or any of the provisions hereof.
- d. **Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of California without giving effect to principles of conflicts of law.
- e. **Remedy Upon Breach by Authority.** Any failure of Authority to pay HB Capital any Post-Termination Fees as provided in Section 4 above (On-Going Obligations of Authority Post-Termination Date) shall be a material breach of this Agreement. In the event of such a breach, and subject to the provisions of Section 7.h. below, HB Capital may bring an action at law or in equity, as provided in Section 7.i. below, or in any State or Federal Court located in California, to recover any monies due, and the Authority shall be responsible for pre-judgment interest on any amount which the Authority has improperly failed to pay as determined by a final judgment resulting from arbitration or a court proceeding.
- f. **Remedy Upon Breach by HB Capital.** Any failure of HB Capital to perform in any material respect the Post-Termination Services, as set forth in Section 2 above, shall be a breach of this Agreement. In the event of such a breach, and subject to the cure right described below in this Section 7.f. and to the provisions of Section 7.h. below, Authority may bring an action at law or in equity, as provided in Section 7.i. below, or in any State or Federal Court located in California to make a claim for damages. Notwithstanding any such claimed breach or the awarding of any right to damages by any arbitrator or court, Authority shall not stop or attempt to offset against the continuous payment of on-going Post-Termination Fees due and owing, as provided for in Section 4 above, except that if such breach is not cured within the cure period described below in this Section 7.f., Authority may deduct any costs incurred by Authority to hire any other person or firm to perform any Post-Termination Services not properly performed by HB Capital.

Prior to making a deduction against the Post-Termination Fees as provided above, Authority shall provide written notice to HB Capital of its failure to perform services specifying the specific services that HB Capital has failed to properly perform. HB Capital shall be given 30 days to cure the failure to perform. If the failure of performance has not been cured within such cure period, Authority shall provide written notice of its intent to make a deduction against Post-Termination Fees to HB Capital setting forth the failure of performance with specificity and the costs proposed to be deducted. After Authority provides written notice, Authority shall make no deductions for 60 days to allow HB Capital to challenge such deduction by seeking expedited arbitration pursuant to Section 7.i. of this Agreement.

Notwithstanding the Post-Termination Fees payment obligations of Authority provided by this Agreement, in the event of a final court judgment entered against the Authority for damages and the final resolution of any appeals of any final judgment, that cannot be fully paid from the Authority's reserves, Authority shall be authorized to give priority to the payment of such judgment to avoid a default over any payment obligation for Post-Termination Fees or any other fees payable to any other party.

- g. **Conflict Between Agreements.** If there is any conflict between the provisions of this Agreement and the Agreement for Services, the terms of this Agreement shall govern. On the Termination Date, the Agreement for Services and all amendments thereto shall terminate and be superseded in its entirety by this Agreement.
- h. **Dispute Resolution.** The Parties shall notify each other within a commercially reasonable timeframe and as promptly as possible regarding any conflicts or disputes arising out of this Agreement or in the interpretation of the provisions of this Agreement. The Parties will attempt to resolve all such conflicts or disputes as promptly as possible and in good faith before initiating any formal proceedings to resolve a dispute arising out of or relating to this Agreement. The representatives will furnish to each other non-privileged information with respect to the dispute that the Parties believe to be appropriate and germane. Formal proceedings for the resolution of the dispute may not be commenced until the earlier of: (i) the designated representatives conclude that resolution through continued negotiation does not appear likely; or (ii) thirty (30) calendar days have passed since the initial request to negotiate the dispute was made; provided, however, that a Party may file earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or to apply for interim or equitable relief. Discussions and correspondence among the representatives for purposes of these negotiations will be treated as confidential information developed for purposes of settlement, exempt from discovery and production, and will not be admissible in subsequent proceedings between the Parties. Documents identified in or provided with such communications that are not prepared for purposes of the negotiations, are not so

exempted and may, if otherwise admissible, be admitted in evidence in such subsequent proceeding.

- i. **Arbitration.** Except as provided in Section 7.e. or Section 7.f. above, any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in San Francisco, California before one arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those Rules or such other arbitrator mutually agreed upon by the Parties. Judgment on the award may be entered in any court having jurisdiction. Either Party will have the right to apply at any time to a judicial authority for appropriate injunctive or other interim or provisional relief, and will not by doing so be deemed to have breached its agreement to arbitrate or to have affected the powers reserved to the arbitrators. The cost of the arbitration (not the legal fees incurred by each Party) shall be shared equally by the Parties.
- j. **Attorneys Fees.** In the event either Party engages the services of any attorneys for the purpose of enforcing this Agreement, or any provision hereof, the prevailing Party shall be entitled to recover its reasonable expenses and costs in enforcing this Agreement, including attorneys' fees.
- k. **Counterparts.** This Agreement may be executed in any number of counterparts, each such counterpart hereto to be deemed an original instrument, but all such counterparts together to constitute but one agreement. Any signature page delivered by facsimile or e-mail (PDF) shall be binding to the same extent as an original signature page. Any Party who delivers a facsimile or e-mail (PDF) signature page agrees to later deliver an original counterpart to the other Party.
- l. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties relating to the matters contemplated hereby and thereby and supersedes all prior written agreements and understandings between the Parties relating to the matters contemplated hereby and thereby.
- m. **Amendments.** This Agreement may only be amended in writing executed by all of the Parties hereto.
- n. **Assignment.** This Agreement may not be assigned by either Party unless such assignment is approved by the other Party. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their permitted assigns.
- o. **Agreement Jointly Drafted.** The Parties have participated jointly in the drafting of this Agreement. If an ambiguity or question of intent or interpretation should arise, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or burdening any Party by virtue of the authorship of any of the provisions of this Agreement.

- p. **Severability.** The provisions of this Agreement are hereby declared to be severable, and if any provisions of this Agreement or the application of any such provision to any person or circumstance is declared invalid by a court of law for any reason, such declaration shall not affect the validity of the remaining portions of this Agreement.
- q. **Notice.** All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the second day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses set forth below (or to such other address that may be designated by a Party from time to time in accordance with this Section).

AUTHORITY

California Statewide Communities
Development Authority

Attention: Executive Director

HB CAPITAL

HB Capital Resources, Ltd.
2999 Oak Road, Suite 710
Walnut Creek, CA

Attention: _____

Fax: _____

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly signed by their respective officers to be effective as of [_____].

California Statewide Communities Development Authority, a California joint powers authority

HB Capital Resources, Ltd., a California corporation

By: _____
Name: Larry Combs

Chair of the Commission _____
Title

By: _____
Name: Kevin O'Rourke

Vice-Chair of the Commission _____
Title

GPM Municipal Advisors, LLC, a California limited liability company

California Statewide Communities Development Authority, a California joint powers authority

By: _____
Name:

Title

By: _____
Name: Kevin O'Rourke

Vice-Chair of the Commission _____
Title

HB Bond Administration 1987, LLC, a California limited liability company

By: _____
Name:

Title

HB Bond Administration 2004, LLC, a California limited liability company

By: _____
Name:

Title

Compliance Services, LLC, a California limited liability company

By: _____
Name:

Title

EXHIBIT A

**HB CAPITAL E-MAIL ADDRESSES ASSOCIATED WITH TRANSFERRED DOMAIN
NAMES**