

### *Summary of Facts and Representations*

1. The Plan is a multiemployer defined benefit plan covering approximately 491,520 participants and beneficiaries. The fair market value of the total assets of the Plan was over \$9,700,000,000 as of December 31, 2001. The transaction that is the subject of this proposed exemption involves less than .08% of the fair market value of the total assets of the Plan.

2. The fiduciaries generally responsible for investment decisions in real estate matters on behalf of the Plan are the Trustees, John M. Grau and Jeremiah J. O'Connor (the Trustees). The Trustees were responsible for reviewing and authorizing the investment in the transaction, as detailed below. In addition, the Plan utilizes an independent outside fiduciary, CS Capital Management, Inc., to review and make recommendations regarding real estate transactions.

3. The Plan has become a limited partner in the Partnership which is leasing 2.18 acres of land (the Land) located in San Mateo County, California on which four (4) five-story apartment buildings with retail space and related improvements (the Improvements) are proposed to be built. (The Land and the Improvements are referred to collectively herein as the Project). The Project will have approximately 153 rental units, with 31 of these units (or 20%) being set aside for lower income residents. The Land is owned by San Mateo Transit District, a San Mateo County governmental agency, and is leased to the Partnership under a long term ground lease. The investment proposal involves the Partnership's continued lease of the Land and the construction of the Improvements. Because the Project will provide low income housing, the Partnership is eligible for a grant from San Mateo County and for favorable interest rates on construction and long-term financing. Some of the construction financing, which will be derived from the issuance of tax-exempt and taxable bonds, has been guaranteed, through credit enhancement and liquidity support, by a financial institution that is a party in interest to the Plan. It is the arrangement with respect to the redemption of the taxable bonds that is the subject of the proposed exemption.

4. The Partnership was formed by JSM Enterprises Inc., a commercial real estate developer based in San Jose, California (the Developer), pursuant to the laws of the State of Delaware for the sole purpose of leasing the Land and developing and operating the Project. At this time, the sole limited partner of the

Partnership is the Plan. There are two general partners of the Partnership, Colma BART Investors, L.P. (the Co-General Partner) and Affordable Housing Access, Inc. (the Managing General Partner). (The Co-General Partner and the Managing General Partner (the General Partners) are, together with the Plan, sometimes referred to collectively herein as the Partners).

5. The Project has a budget for construction of approximately \$36,373,000. Of these costs, \$25,950,000 (or 71.3% of the total project budget costs) will be funded in the form of tax-exempt bond construction financing (the Tax-Exempt Bond Financing) from the sale of tax-exempt, multi-family housing revenue, variable rate bonds (the Tax-Exempt Bonds) issued by the ABAG Finance Authority for Nonprofit Corporations (the Issuer), which is a State of California governmental entity (the proceeds of the Tax-Exempt Bond Financing would then be disbursed to the Partnership in the form of a construction loan which will convert into long-term financing). An additional \$589,000 of these costs (or 1.6% of the total project budget costs) will be funded from interest expected to be earned on the bond proceeds from the deposit of such proceeds into a guaranteed investment contract, and \$630,000 of these costs (or 1.7%) will be funded from income projected to be earned by the Project during the lease-up period. An additional \$310,000 (or .9% of the total project budget costs) will be funded by a grant from San Mateo County.

6. The remaining \$8,894,000 in project budget costs, \$1,779,000 (or 4.9% of the total project budget costs) will be funded by the Co-General Partners' capital contribution to the Partnership and \$7,115,000 (or 19.6% of the total project budget costs) will be funded by the Plan's capital contribution to the Partnership. The closing of the Co-General Partners' capital contribution occurred substantially simultaneously with the closing of the Tax-Exempt Bond Financing. As to the "timing" of the funding of the Plan's capital contribution, the parties have agreed that the Plan will not be obligated to make its capital contribution until both the Co-General Partners' capital contribution and the Tax-Exempt Bond Financing proceeds have been fully funded for project budget costs, which is expected to occur approximately fifteen (15) months from the date of the closing, or January 2004.

It is contemplated that additional construction financing will come from

the proceeds of taxable bonds in the amount of \$7,115,000 (*i.e.*, an amount identical to the amount of the Fund's capital contribution) which is issued by the Issuer (the Taxable Bonds) and loaned to the Partnership in the form of a construction loan.

7. In order to achieve a favorable rating for the Taxable Bonds, the Bank, a party in interest to the Plan, has provided a guaranty of repayment for the benefit of the bondholders in the form of a Letter of Credit, dated October 17, 2002. The Bank is a national banking association engaged in consumer banking, commercial banking and trust business and offers a wide range of banking services. The services provided by the Bank to the Plan are limited to those associated with a checking and depository account held by the Plan in connection with the distribution of benefit payments to the Plan's participants and beneficiaries. The Bank primarily provides services to the Plan by acting as the drawee with respect to checks issued by the Plan for certain benefit and other payments made by the Plan, by acting as the originating bank with respect to payments transmitted through the Automated Clearinghouse network, and by providing general depository account services with respect to these payments, such as full reconciliation of the Plan's account.

In addition, a few local branches of the Bank provide depository services for accounts established by local collection agents utilized by the Plan for the purpose of collecting contributions from local employers. In this regard, the Plan utilizes approximately 115 collection agents around the country, each of which is responsible for collecting contributions from covered employers who work in its jurisdiction and for depositing those contributions with a local bank into an account held in the Plan's name. On a regular basis, the Plan sweeps the accounts held by these banks of all the contributions that have been accumulated. A few local collection agents may use the Bank.

The Letter of Credit will be issued pursuant to a Reimbursement Agreement, dated as of October 1, 2002, by and between the Borrower and the Bank (the Reimbursement Agreement), which obligates the Partnership, among other things, to reimburse the Bank for funds advanced by the Bank under the Letter of Credit.

The proceeds of the Taxable Bonds have been deposited with Wells Fargo Bank (the Bond Trustee) pursuant to a Trust Indenture, dated as of October 1, 2002, by and between the Issuer and Wells Fargo Bank, National Association, as trustee (Indenture Agreement).