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- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
 - San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies
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Revised Supplemental Material for Agenda Item No. 11

Board of Directors

September 3, 2014

10:00 a.m.

LOCATION:

**San Bernardino Associated Governments
Santa Fe Depot - SANBAG Lobby 1st Floor
1170 W. 3rd Street, San Bernardino, CA**

CONSENT CALENDAR

Council of Governments

11. Amendments to Contracts Related to Administration of the HERO Program

That the Board approve:

- A. Amending Contract No. C12141 with The PFM Group to reduce the residential per assessment closing fee from \$150.00 to \$125.00 and to expand the commercial per assessment closing fee schedule for financial management and program management services for the HERO Program.
- B. Amending Contract No. C12245 with Best Best & Krieger, LLP to reduce the per assessment closing fee from 1.00% to 0.965% for legal services for the operation of the HERO Program.
- C. Amending Contract No. C12247 with David Taussig & Associates to increase the per assessment closing fee from 0.40% to 0.52% for special tax consultant and assessment engineering services related to the HERO Program.
- D. Amending Contract No. C12248 with Westhoff, Cone & Holmstedt to decrease the per assessment closing fee from 0.35% to 0.20% for placement agent services related to the HERO Program.
- E. Amending Contract No. C14052 with Samas Capital, LLC to increase the commercial per assessment closing fee from 2.40% to 2.99% for implementation and administration of financing mechanisms for the commercial HERO Program.
- F. Amending Contract No. C14053 with Renovate America, Inc. to increase the residential per assessment closing fee from 2.50% to 3.10% for implementation and administration of financing mechanisms for the residential HERO Program.
- G. Amending Contract No. C14054 the Master Bond Purchase Agreement with Renovate America, Inc. to reflect the amended fee schedules.
- H. Amending Contract No. C14055 the Master Bond Purchase Agreement with SAMAS Capital, LLC to reflect the amended fee schedules.
- I. Increasing SANBAG's program sponsor fee for residential program administration from 1.33% to 1.765%. **Duane Baker**

Language was added to Contract No. C14054-01 to make payment responsibilities clearer and more defined. The changes are underlined and noted in red.

CONTRACT NO. C 14054-01

**SAN BERNARDINO ASSOCIATED GOVERNMENTS
LIMITED OBLIGATION IMPROVEMENT BONDS
SANBAG HERO PROGRAM
(First Residential Property Tranche)**

**First Amendment to
Master Bond Purchase Agreement**

THIS FIRST AMENDMENT TO MASTER BOND PURCHASE AGREEMENT, dated as of September 3, 2014 (the "First Amendment"), is entered into by and between the SAN BERNARDINO ASSOCIATED GOVERNMENTS ("SANBAG") and RENOVATE AMERICA, INC. ("Purchaser") to amend that certain Master Bond Purchase Agreement, dated as of October 2, 2013 (the "Master BPA"), entered into by and between SANBAG and Purchaser. Capitalized terms not otherwise defined herein shall have the meanings given such terms in the Master BPA.

RECITALS:

- A. SANBAG and Purchaser entered into the Master BPA for the purpose of establishing the terms and conditions pursuant to which Purchaser agreed to purchase, or cause its designee to purchase, all (but less than all) of the Improvement Bonds, from SANBAG and SANBAG agreed to sell to Purchaser, when as and if issued, all (but not less than all) of the Improvement Bonds in an aggregate principal amount not to exceed \$300,000,000.
- B. Clause. (d) of Section 2 of the Master BPA specified the Purchase Price of the Improvement Bond or Series of Improvement Bonds.
- C. Clause (a) of Section 6 of the Master BPA specified certain costs of issuance of the Improvement Bonds.
- D. As a result of experience of the operation of the Program since the Master BPA was entered into and the determination of the Board of Directors of SANBAG to enroll the Program in the California Alternative Energy and Transportation Financing Authority ("CAETFA") PACE Loss Reserve Program, SANBAG and Purchaser have determined that it is necessary in the best interests of the Program to modify such costs of issuance to reflect such operational experience and to include in the costs of issuance for all Improvement Bonds issued after the date of enrollment (the "Enrollment Date") the CAETFA administrative fee equal to 0.25% of the principal amount of each assessment levied pursuant to the Assessment Contracts entered into subsequent to the Enrollment Date.
- E. SANBAG and Purchaser desire to amend clause (d) of Section 2 of the Master BPA to reflect the revisions in the costs of issuance for the purposes specified in recital D above.

F. SANBAG and Purchaser desire to amend clause (a) of Section 6 of the Master BPA to reflect the revisions in the costs of issuance for the purposes specified in recital D above.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained and for other valuable consideration, the receipt of which is hereby acknowledged, SANBAG and Purchaser do hereby covenant and agree as follows:

1. Amendment of Clause (d) of Section 2 of the Master BPA. Clause (d) of Section 2 of the Master BPA is hereby amended in its entirety to read as follows:

“(d) The “Purchase Price” of an Improvement Bond or Series of Improvement Bonds shall be either (a) a sum equal to the principal amount of such Improvement Bond or Series of Improvement Bonds (the “Par Purchase Amount”) or (b) a sum equal to the principal amount of such Improvement Bond less an amount equal to three and one tenth percent (3.10%) of the principal amount of such Improvement Bond or Series of Improvement Bonds (the “Discounted Purchase Price Amount”). The Purchase Price for an Improvement Bond or Series of Improvement Bonds shall be presumed to be the Par Purchase Price Amount unless Purchaser has provided written instructions at least five (5) Business Days prior to the Closing Date to the Trustee, Bond Counsel (defined below) and The PFM Group, the Program manager to SANBAG, that the Purchase Price of such Improvement Bond or Series of Improvement Bonds shall be the Discounted Purchase Price Amount.

2. Amendment of Clause (a) of Section 6 of the Master BPA. Clause (a) of Section 6 of the Master BPA is hereby amended in its entirety to read as follows:

“(a) The Purchaser shall be under no obligation to pay, and SANBAG shall pay or cause to be paid (out of the proceeds of each Improvement Bond or Series of Improvement Bonds issued after the effective date of First Amendment) all expenses incidental to the performance of SANBAG’s obligations hereunder in the following amounts or percentages of the principal amount of each such Improvement Bond or the assessment levied pursuant to each Assessment Contract, as applicable, securing each such Improvement Bond:

(i) 1.765% of the principal amount of each Improvement Bond (less the amount payable to Public Financial Management, LLC, pursuant to sub clause (ii) below) payable to SANBAG as issuer of each such Improvement Bond;

(ii) \$125 for each Assessment securing each such Improvement Bond payable to Public Financial Management, LLC, as Program Manager, from the amount otherwise payable to SANBAG pursuant to sub clause (i) above;

(iii) 0.2% of the principal amount of each Improvement Bond payable to Westhoff, Cone and Holmstedt, as placement agent (the "Placement Agent");

(iv) 0.52% of the principal amount of each Improvement Bond payable to David Taussig & Associates as assessment administrator;

(v) 0.965% of the principal amount of each Improvement Bond payable to Best Best & Krieger as bond counsel;

(vi) \$750 for each such Improvement Bond payable to Deutsche Bank National Trust Company, as trustee for each Bond, from the amount otherwise payable to Renovate America, Inc., pursuant to sub clause (ix) below;

(vii) 0.25% of the principal amount of each Assessment securing each such Improvement Bond payable to the California Alternative Energy and Transportation Financing Authority ("CAEFTA") as the administrative fee applicable to such Assessment for the enrollment of the Assessment Contract pursuant to which such Assessment was levied in the CAETFA PACE Loss Reserve Program; and

(viii) 0.15% of the principal amount of each Assessment to fund a reserve, and/or pay insurance premium and/or other credit enhancement fees in order to provide additional security to the Purchaser of the Improvement Bonds. Such amounts will be defined in the supplemental Indenture associated with each sale of Improvement Bonds.

(ix) 3.10% of the principal amount of each Improvement Bond (less the amount payable pursuant to sub clause (vi) above to Deutsche Bank National Trust Company) payable to Renovate America, Inc., in payment for the provision by Renovate America, Inc., of its Residential HERO Program Administrative Services as defined in and payable pursuant to Contract #C 14053 by and between SANBAG and Renovate America, Inc. for Services to assist in the Implementation and Administration of Financing Mechanisms for the SANBAG HERO Program, a Property Assessed Clean Energy (PACE) Program for Residential Properties in Participating Cities and San Bernardino County ("Contract #C 14053"); and in payment for the provision by Renovate America, Inc. of its Residential HERO Program Funding pertaining to each such Improvement Bond."

2. Effect on Remaining Terms and Conditions of the Master BPA. Except as expressly provided for in 1 and 2 above, the terms and conditions of the Master BPA shall remain in full force and effect.

3. Authority to Enter First Amendment. SANBAG and Purchaser have all requisite power and authority to execute, deliver, and perform the First Amendment. Each Party warrants that the individuals who have signed this First Amendment have the legal power, right, and authority to make this First Amendment and bind each respective Party.

4. Effective Date. This First Amendment shall become effective and binding upon the respective parties hereto upon the execution or acceptance hereof by SANBAG and shall be valid and enforceable as of the time of such acceptance.

5. Counterparts. This First Amendment may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Master BPA as of the date first written above.

SAN BERNARDINO ASSOCIATED
GOVERNMENTS

RENOVATE AMERICA, INC.

By: _____
Title: L. Dennis Michael, President

By: _____
Title: J.P. McNeill, Chief Executive Officer

APPROVED AS TO FORM:

By: _____
Eileen Monaghan Teichert
General Counsel

CONCURRENCE:

By: _____
Jeffery Hill
Contract Administrator