

## **Additional Back-up Material for Agenda Item 33 Board of Directors Meeting March 6, 2013**

### **Location:**

**San Bernardino Associated Governments  
Santa Fe Depot – SANBAG Lobby 1<sup>st</sup> Floor  
1170 W. 3<sup>rd</sup> Street, San Bernardino, CA**

- 33. Public hearing to consider resolutions related to formation, financing, and judicial validation of a Property Assessed Clean Energy (PACE) Program in San Bernardino County (to be known as the HERO Program).**
1. Hold a public hearing with regard to the HERO Program, the extent of the Program Area, the terms and conditions of the draft Assessment Contracts, and the proposed financing provisions of the HERO Program
  2. Adopt Resolution No. 13-044 that confirms the Program Report relating to the financing of the installation of distributed generation renewable energy sources, energy efficiency and water efficiency improvements, and electric vehicle charging infrastructure through the use of voluntary assessment contracts (commonly known as a PACE Program and to be called the HERO Program).
  3. Adopt Resolution No. 13-045 authorizing issuance of the limited obligation improvement bonds and approving the form of the master and supplemental indentures.
  4. Adopt Resolution No. 13-046 authorizing judicial validation proceedings relating to the issuance and sale of limited obligation improvement bonds pertaining to the HERO Program. **Duane Baker**

***A copy of the following is being provided as a reference: 1. Master Indenture for SANBAG Limited Obligation Improvement Bonds for the SANBAG HERO Program; 2. Program Report for the SANBAG HERO Program; 3. Residential Handbook for the SANBAG HERO Program; and 4. Commercial Handbook for the SANBAG HERO Program.***

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**MASTER INDENTURE**

**by and between**

**SAN BERNARDINO ASSOCIATED GOVERNMENTS**

**and**

**[TRUSTEE], as Trustee**

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

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## **MASTER INDENTURE**

**THIS MASTER INDENTURE** (this “Master Indenture”) is made and entered into and dated as of [Dated Date], by and between the San Bernardino Associated Governments, a joint exercise of powers authority duly organized and existing under the Joint Exercise of Powers Act (the “Act”) being Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (commencing with Section 6500) and a Joint Exercise of Powers Agreement originally made and entered into as of October 17, 1975 (the “Joint Exercise of Powers Agreement”), as further amended to date, (“SANBAG”), and [Trustee], a national banking association duly organized and existing under the laws of the United States of America (the “Trustee”),

### **RECITALS:**

WHEREAS, on February 6, 2013, the Board of Directors of the San Bernardino Associated Governments (the “Board of Directors”) adopted Resolution No. 13-038, entitled “Resolution of the Board of the San Bernardino Associated Governments Declaring its Intention to Finance Distributed Generation Renewable Energy Sources, Energy and Water Efficiency Improvements and Electric Vehicle Charging Infrastructure Through the Use of Voluntary Contractual Assessments Pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code and Setting a Public Hearing Thereon” (the “Resolution of Intention”), to initiate proceedings pursuant to Chapter 29 of Part 3 of Division 7 of the Streets & Highways Code of the State of California (“Chapter 29”), the Joint Exercise of Powers Agreement of the San Bernardino Associated Governments (“SANBAG”), originally made and entered October 17, 1975, as further amended to date, and each separate Memorandum of Understanding by and between SANBAG and each of the Participating Parties (defined herein) entered into for the implementation of a property assessed clean energy (“PACE”) program to finance the installation of distributed generation renewable energy sources, energy or water efficiency improvements or electric vehicle charging infrastructure, SANBAG proposes to establish a voluntary contractual assessment program, to be known as the SANBAG HERO Program (the “HERO Program”), to assist property owners within the jurisdictional boundaries of each Participating Party with the cost of installing distributed generation renewable energy sources, energy or water efficient improvements or electric vehicle charging infrastructure (the “Authorized Improvements”) that are permanently fixed to their property; and

WHEREAS, by the Resolution of Intention, the Board of Directors provided that one or more series of limited obligation improvement bonds would be issued under the Improvement Bond Act of 1915, Division 10 of the Streets and Highways Code of California (the “Bond Act”) and Chapter 29 or other financing relationships would be entered; and

WHEREAS, on March 6, 2013, after holding a duly noticed public hearing at which interested persons were allowed to object to or inquire about the proposed Program or any of its particulars, the Board of Directors adopted Resolution No. 13-044, entitled “Resolution Confirming Report Relating to the Financing of the Installation of Distributed Generation Renewable Energy Sources, Energy Efficiency and Water Efficiency Improvements and Electric Vehicle Charging Infrastructure and Approving and Ordering Other Related Matters,” (the “Resolution Confirming Program Report”), pursuant to which the Board of Directors, among

other things, (i) confirmed and approved a report (the “ Program Report”) addressing all of the matters set forth in Section 5898.22 of Chapter 29, (ii) established the Program and (iii) approved the form and authorized execution of agreements (“Assessment Contracts”) with the owners of property located within the boundaries of the territory within which voluntary contractual assessments may be offered (the “Program Area”) to provide for the levy of such voluntary contractual assessments (the “Contractual Assessments”) to finance installation of Authorized Improvements (as defined in the Resolution Confirming Program Report); and

WHEREAS, pursuant to Chapter 29 and the Resolution Confirming Program Report, SANBAG is authorized to (i) enter into Contractual Assessments to finance the installation of Authorized Improvements on parcels in the Program Area that are deemed “Residential” as such term is defined in the Program Report (“Residential Parcels”) and (ii) enter into Contractual Assessments to finance the installation of Authorized Improvements on parcels in the Program Area that are deemed “Commercial” as such term is defined in the Program Report (“Commercial Parcels”); and

WHEREAS, under Chapter 29 and the Bond Act, on March 6, 2013, the Board of Directors adopted its Resolution No. 13-045, entitled “Resolution of the Board of the San Bernardino Associated Governments Authorizing Issuance of the Limited Obligation Improvement Bonds, Approving and Directing the Execution of Related Documents and Approving Related Actions” (the “Resolution of Issuance”), pursuant to which the Board of Directors(a) authorized the issuance of one or more Series of limited obligation improvement bonds (each such Series of bonds referred to as a “Series”) pursuant to Chapter 29 and the Improvement Bond Act of 1915, being Division 10 of the Streets & Highways Code of California (the “Bond Act”), upon the security of voluntary contractual assessments levied on Residential Parcels only (“Residential Property Bonds”) and one or more series of such limited obligation improvement bonds to be issued upon the security of voluntary contractual assessments levied on Commercial Parcels only (“Commercial Property Bonds”), (b) provided that each such Series of the Limited Obligation Improvement Bonds would be issued pursuant to a Master Indenture (each, a “Master Indenture”), as supplemented by one or more Supplemental Indentures (each, a “Supplemental Indenture”); and

WHEREAS, it is in the public interest and for the benefit of SANBAG and the owners of the Bonds that SANBAG enter into this Master Indenture to provide for the issuance of Bonds to finance such Improvements, the disbursement of proceeds of such Bonds, the disposition of the Assessments (as defined herein) securing such Bonds and the administration and payment of the Bonds; and

WHEREAS, SANBAG has determined that all things necessary to cause the Bonds, when authenticated by the Trustee and issued as provided in the Bond Act, the Resolution of Issuance, and this Master Indenture, to be legal, valid and binding limited obligations in accordance with their terms, and all things necessary to cause the creation, authorization, execution and delivery of this Master Indenture and the creation, authorization, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, in consideration of the covenants and provisions herein set forth and for other valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

## ARTICLE 1

### STATUTORY AUTHORITY AND DEFINITIONS

**Section 1.1 Authority for this Master Indenture.** This Master Indenture is entered into under Chapter 29, the Bond Act and the Resolutions of Issuance (defined below).

**Section 1.2 Definitions.** Unless the context otherwise requires, the terms defined in this Section 1.2 will, for all purposes of this Master Indenture, of any Supplemental Indenture (as herein defined), and of any certificate, opinion or other document herein mentioned, have the meanings herein specified.

**“Accredited Investor”** shall have the meaning given such term in Section 230.501 of Regulation D promulgated under the United States Securities Act of 1933, as amended.

**“Administrative Expense Fund”** means the fund designated “SANBAG Limited Obligation Improvement Bonds (Residential Property Tranche) Administrative Expense Fund” by such name established and administered pursuant to Section 4.5 for each Series of Bonds and further designated by such Series.

**“Administrative Expenses”** means costs directly related to the administration of the Bonds and the Assessments, as determined by SANBAG in its sole discretion, including but not limited to: the actual costs of preparing the Annual Assessment Installment collection schedules (whether by an employee of SANBAG or a consultant or both) and the actual costs of collecting the Assessment installments (whether by SANBAG or otherwise); the actual costs of remitting the Assessment installments to the Trustee; actual costs of the Trustee (including reasonable expenses of its legal counsel) in the discharge of its duties under the Indenture; the actual costs of SANBAG or its designee of complying with the disclosure provisions of Chapter 29, the Bond Act, federal securities laws, as applicable, and the Indenture, including those related to public inquiries regarding the Assessments and disclosures to Owners of the Bonds; the actual costs of SANBAG or its designee related to an appeal or challenge of the Assessment; an allocable share of the salaries of SANBAG staff directly related to the foregoing and a proportionate amount of SANBAG general administrative overhead related thereto. Administrative Expenses shall also include amounts advanced by SANBAG for any administrative purpose relating to the Bonds and the Assessments, including costs related to prepayments of Assessments and the costs of prosecuting foreclosure of delinquent Assessment installments.

**“Annual Assessment Administrative Fee”** means, as to each Participating Parcel, the annual administrative fee due and payable each tax year (each such tax year being the period from July 1st through the following June 30th) pursuant to the Assessment Contract pertaining to such Participating Parcel, that shall be collected on the property tax bill pertaining to such Participating Parcel.

**“Annual Assessment Installment”** means, as to each Participating Parcel, the annual

portion of the principal amount of the Assessment, together with the annual interest on the Assessment, due and payable each tax year (each such tax year being the period from July 1st through the following June 30th) pursuant to the Assessment Contract pertaining to such Participating Parcel, that shall be collected on the property tax bill pertaining to such Participating Parcel.

**“Assessment”** or **“Assessments”** means the unpaid contractual assessment(s) levied on the Participating Parcels pursuant to an Assessment Contract or Assessment Contracts that will be represented by the Bonds, but does not include either (i) penalties or (ii) interest on delinquent contractual assessments in excess of the interest rate of the Bonds.

**“Assessment Contract”** means a contract between SANBAG and the owner of a Participating Parcel pursuant to which the owner agrees to pay the Assessment and SANBAG agrees to finance the installation of the applicable Improvements on the Participating Parcel.

**“Auditor”** means the auditor/controller or tax collector of the County, or such other official of the County who is responsible for preparing real property tax bills.

**“Authorized Denominations”** means (i) \$5,000 and any integral multiple thereof; provided, however, that each one or more Bonds of each Series may be in an odd amount as determined by SANBAG and (ii) in the event a Bond or a Series of Bonds are purchased by an Accredited Investor in reliance on the exemption set forth in Section (d)(1)(i) of Securities and Exchange Executive Commission Rule 15c2-12, the entire principal amount of such Bond or Series of the Bonds.

**“Authorized Representative”** means the SANBAG Executive Director, the Program Administrator, or such other representative of SANBAG authorized by an Authorized Representative in an Officer’s Certificate.

**“Board of Directors”** means the Board of Directors of SANBAG.

**“Bond”** or **“Bonds”** means all Series of the San Bernardino Associated Governments Limited Obligation Improvement Bonds (SANBAG HERO Program) (Residential Property Tranche) authorized, executed and delivered under the Indenture and any Supplement Indenture pertaining to such Bond or Bonds.

**“Bond Act”** means the Improvement Bond Act of 1915, as amended, being Division 10 of the California Streets and Highways Code.

**“Bond Counsel”** means Best Best & Krieger LLP, and its successors, or any other attorney or firm of bond counsel selected by SANBAG.

**“Bond Register”** means the books maintained by the Trustee pursuant to Section 2.7 for the registration and transfer of ownership of the Bonds.

**“Bond Year”** means, with respect to any Bond, the twelve-month period beginning on September 3 in each year and ending on September 2 in the following year except that (i) the

first Bond Year will begin on the date of delivery of such Bond and end on the next September 2, and (ii) the last Bond Year may end on a prior redemption date.

**“Business Day”** means any day other than (i) a Saturday or a Sunday or (ii) a day on which banking institutions in California or in the state in which the Trustee has its principal corporate trust office are authorized or obligated by law or executive order to be closed.

**“Capitalized Interest Account”** means the account by that name within each Redemption Fund and designated “SANBAG Limited Obligation Improvement Bonds SANBAG HERO Program (Residential Property Tranche)” established and administered under Section 4.1 hereof for each Series of Bonds and further designated by such Series.

**“Chapter 29”** means Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code.

**“Closing Date”** shall, as to a Bond, mean the date of initial issuance and delivery of such Bond pursuant to the Supplemental Indenture applicable to such Bond.

**“Collateral”** means any revenues, moneys, accounts receivable, contractual rights to payment, and other rights to payment of whatever kind, subject to the pledge provided for in this indenture.

**“Costs of Issuance Fund”** means the fund by such name established and administered pursuant to Section 4.3 for each Series of Bonds and further designated by such Series.

**“County”** means the County of San Bernardino, California.

**“Debt Service”** means, for each Bond Year, as to each Outstanding Bond the sum of (i) the interest due on such Bond in such Bond Year, assuming that such Bond is retired as scheduled, and (ii) the principal amount of such Bond due in such Bond Year.

**“Event of Default”** means any event described as an Event of Default in Section 9.1.

**“Federal Securities”** means any of the following which are non-callable and which at the time of investment are legal investments under the laws of the State of California for funds held by the Trustee:

(i) direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the United States Department of the Treasury) and obligations, the timely payment of principal of and interest on which are, directly or indirectly, fully and unconditionally guaranteed by the United States of America, including, without limitation, such of the foregoing which are commonly referred to as stripped obligations and coupons (each, a “United States Treasury Obligation”); or

(ii) any of the following obligations of the following agencies of the United States of America:

(a) direct obligations of the Export-Import Bank,

- (b) certificates of beneficial ownership issued by the Farmers Home Administration,
- (c) participation certificates issued by the General Services Administration
- (d) mortgage-backed bonds or pass-through obligations issued and guaranteed by the Government National Mortgage Association,
- (e) project notes issued by the United States Department of Housing and Urban Development, and
- (f) public housing notes and bonds guaranteed by the United States of America.

**“Improvements”** means the distributed generation renewable energy, energy efficiency and water efficiency improvements and electric vehicle charging infrastructure to be installed on the Participating Parcels pursuant to the Assessment Contacts.

**“Indenture”** means the Master Indenture, as it may be amended or supplemented from time to time by any Supplemental Indenture executed under the provisions of the Master Indenture.

**“Interest Payment Date”** means March 2 and September 2 of each year, commencing on the date designated in the Supplemental Bond Indenture for the applicable Bond or Bonds.

**“Investor Letter”** means a letter substantially in the form set forth in Exhibit C to this Indenture.

**“Master Indenture”** means this Master Indenture dated as of [Dated Date], between SANBAG and the Trustee.

**“Maximum Annual Debt Service”** means the largest Debt Service for any Bond Year after the calculation is made through the final maturity date of any Outstanding Bond.

**“Member Agency”** means each party to SANBAG determined pursuant to Section 2.1 of the Joint Exercise of Powers Agreement.

**“Non-Completion Assessment”** shall have the meaning given such term in the Program Report.

**“Officer’s Certificate”** or **“Certificate of SANBAG”** means a written certificate of SANBAG signed by an Authorized Representative of SANBAG.

**“Outstanding”** when used as of any particular time with reference to Bonds, means, subject to the provisions of Section 8.3, all Bonds except:

- (i) Bonds canceled by the Trustee or surrendered to the Trustee for cancellation;
- (ii) Bonds paid or deemed to have been paid within the meaning of Article 10:

(iii) Bonds in lieu of or in substitution for which other Bonds have been authorized, executed, issued and delivered by SANBAG pursuant to the Indenture.

**“Owner” or “Bond Owner”** means the registered owner of any Outstanding Bond as shown on the Bond Register of the Trustee under Section 2.7.

**“Participating Parcel”** means a Residential Parcel located within the Program Area that is subject to the lien of an Assessment pursuant to an Assessment Contract financing the installation of Improvements pursuant to the Program.

**“Permitted Investments”** means any of the investments listed in Exhibit B attached hereto and incorporated herein by this reference.

**“Prepayment Account”** means the account within the Redemption Fund and designated “SANBAG Limited Obligation Improvement Bonds (Residential Property Tranche) Prepayment Account,” established and administered under Section 4.1 hereof.

**“Prepayments”** means prepayments of Assessments received by SANBAG, less any administrative fees or penalties collected as part of any such prepayment of Assessments.

**“Principal Office”** means the corporate trust office of the Trustee in \_\_\_\_\_, California, located at such address as will be specified in a written notice by the Trustee to SANBAG under Section 10.6 hereof or such other office of the Trustee designated for payment, transfer or exchange of the Bonds.

**“Program”** means the SANBAG HERO Program as established by the Resolution Confirming Program Report, as such Program may be changed from time to time in accordance with the provisions of Chapter 29.

**“Program Area”** means the area designated as part of the Program, the boundaries of which are as shown in the Program Report.

**“Program Fund”** means the fund designated “SANBAG Limited Obligation Improvement Bonds (SANBAG HERO Program) (Residential Property Bonds) by such name established and administered pursuant to Section 4.3 for each Series of Bonds and further designated by such Series.

**“Program Report”** means the SANBAG HERO Program Report dated March \_\_, 2013 as approved pursuant to the Resolution Confirming Program Report, as such Program Report may be further changed from time to time pursuant to Chapter 29 and to the provisions of such Program Report.

**“Purchaser”** shall mean Renovate America, Inc., or its successor or assignee as the initial purchaser of each Bond issued hereunder.

**“Record Date”** means the 15th day of the calendar month immediately preceding the applicable Interest Payment Date, and any date established by the Trustee as a Record Date for the payment of defaulted interest on any Bond.

**“Redemption Fund”** means the fund designated “SANBAG Limited Obligation Improvement Bonds (Residential Property Tranche) Redemption Fund,” established and administered under Section 4.1 for each Series of Bonds and further designated by such Series.

**“Reserve Fund”** means a common fund designated “SANBAG Limited Obligation Improvement Bonds (Commercial Property Tranche) by such name established and administered under Section 4.2 for the benefit of all Bonds issued pursuant to this Indenture.

**“Reserve Fund Cap”** means, as of the date of calculation, that amount equal to ten percent (10%) of the Outstanding principal amount of all Bonds.

**“Reserve Fund Deposit”** means, as to any Bond on the Closing Date thereof, \_\_\_\_\_ percent (\_\_\_\_%) of the original principal amount of such Bond.

**“Reserve Fund Surplus”** means, as of September 3rd of any Bond Year, the amount by which the moneys on deposit in the Reserve Fund exceed the Reserve Fund Cap.

**“Residential”** shall have the meaning given such term in the Program Report.

**“Residential Parcel”** shall mean any parcel of Residential property.

**“Resolution Confirming Program Report”** means Resolution No. 13-044 adopted by the Board of Directors on March 6, 2013.

**“Resolution of Intention”** means Resolution No. 13-038 adopted by the Board of Directors on February 6, 2013.

**“Resolution of Issuance”** means Resolution No. 13-045 adopted by the Board of Directors on March 6, 2013.

**“SANBAG”** means the San Bernardino Associated Governments, a public entity duly organized and existing under the Constitution and laws of the State of California.

**“SANBAG Counsel”** means the attorney or firm of attorneys serving as general counsel to SANBAG.

**“Series”** means a Bond or Bonds designated as a series.

**“Supplemental Indenture”** means an agreement the execution of which is authorized by a resolution which has been duly adopted by the Board of Directors and which agreement is amendatory of or supplemental to this Master Indenture (as previously amended or supplemented), but only if and to the extent that such agreement is specifically authorized hereunder.

**“Teeter Plan”** means the alternative procedure for the distribution of property taxes and assessments adopted by the County pursuant to Revenue and Taxation Code sections 4701 through 4717.

**“Trustee”** means [Trustee], its successors and assigns, and any other corporation or association which may at any time be substituted in its place, as provided in Section 7.1 hereof.

**“Written Request”** means a written request signed in the name of SANBAG by an Authorized Representative.

### **Section 1.3 Interpretation.**

1.3.1 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 include the neuter, masculine or feminine gender, as appropriate.

1.3.2 Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

1.3.3 All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of the Indenture; the words “herein,” “hereof,” “hereby,” “hereunder” and other words of similar import refer to the Indenture as a whole and not to any particular Article, Section or subdivision hereof.

**Section 1.4 Indenture Constitutes Contract.** The provisions, covenants and agreements herein set forth to be performed by or on behalf of SANBAG shall be for the equal benefit, protection, and security of the Owners from time to time. In consideration of the acceptance of the Bonds by the Owners thereof, the Indenture shall be deemed to be and shall constitute a contract between SANBAG and the Owners; and the covenants and agreements herein set forth to be performed by SANBAG shall be for the equal and proportionate benefit, security, and protection of all Owners without preference, priority or distinction as to security or otherwise of any of the Bonds over any of the others by reason of the number or date thereof or the time of sale, execution, or delivery thereof, or otherwise for any cause whatsoever, except as expressly provided therein or herein.

## **ARTICLE 2**

### **THE BONDS**

**Section 2.1 Bonds Authorized.** SANBAG hereby authorizes the issuance of the Bonds in Authorized Denominations under and subject to the terms of the Resolutions of Issuance, the Indenture, Chapter 29, the Bond Act and other applicable laws of the State of California. Pursuant to the Resolutions of Issuance, the Authorized Representatives of SANBAG are authorized and directed to deliver any and all documents and instruments necessary to cause the issuance of the Bonds in accordance with the provisions of Chapter 29, the Bond Act, the Resolutions of Issuance, the Indenture and any applicable Supplemental Indentures.

### **Section 2.2 Procedures for Issuance of Bonds.**

2.2.1 General. SANBAG may at any time issue Bonds in Authorized Denominations payable from Assessments and secured by first priority liens upon such Assessments on the Participating Parcels and the funds pledged hereunder for the payment of the Bonds, but only subject to the following specific conditions, which are hereby made conditions precedent to the issuance of such Bonds:

(a) All the requirements of Section 3.3 have been met.

(b) The issuance of such Bonds has been duly authorized pursuant to the Bond Act and all applicable laws, and the issuance of the Bonds has been provided for by a Supplemental Indenture, in substantially the form attached hereto as Exhibit A, duly executed by SANBAG and the Trustee.

2.2.2 Payment of Interest. Interest on the Bonds will be computed on the basis of a 360-day year of twelve 30-day calendar months, and will be payable on each Interest Payment Date. Each Bond will bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless authenticated on a day during the period from the sixteenth day of the month next preceding an Interest Payment Date to such Interest Payment Date, both days inclusive, in which event such Bond will bear interest from such Interest Payment Date; or unless they are authenticated on a day on or before the fifteenth day of the month next preceding the first Interest Payment Date, in which event such Bond will bear interest from the Closing Date of such Bond. Notwithstanding the foregoing, if interest on any Bond is in default at the time of authentication thereof, such Bond will bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

2.2.3 Method of Payment. Interest on the Bonds (including the final interest payment upon maturity or earlier redemption) is payable in lawful money of the United States of America by check of the Trustee mailed on the applicable Interest Payment Date by first class mail to the registered Owner thereof at such registered Owner's address as it appears on the Bond Register maintained by the Trustee at the close of business on the Record Date preceding the Interest Payment Date (or by wire transfer made on such Interest Payment Date upon the written instructions of any Owner of [\$1,000,000 or more in aggregate principal amount of the Bonds *or* a Bond] delivered to the Trustee prior to the applicable Record Date).

The principal of the Bonds and any premium on the Bonds are payable in lawful money of the United States of America upon surrender of the Bonds at the Principal Office of the Trustee. Notwithstanding the forgoing, principal of a Bond may be paid in installments thereof as provided for in the Supplemental Indenture with respect to such Bond without the surrender of such Bond as provided for in the preceding sentence. All Bonds paid by the Trustee under this Section will be canceled by the Trustee. The Trustee will destroy the canceled Bonds and, upon request of SANBAG, issue a certificate of destruction of such Bonds to SANBAG.

### **Section 2.3 Redemption.**

2.3.1 General. The Supplemental Indenture with respect to any Bond or Bonds may provide that all or a portion of such Bond is or such Bonds are subject to optional or mandatory redemption prior to maturity pursuant to the terms thereof.

All Bonds will be subject to mandatory redemption from amounts received by SANBAG as Prepayments as provided in the applicable Supplemental Indenture.

The provisions of Part 11.1 of the Bond Act are applicable to the advance payment of Assessments and to the calling of any applicable Bond or Bonds. SANBAG will advise the Trustee of such provisions to the extent not specified herein.

Whenever less than all of the Outstanding Bonds issued as a Series of Bonds are called for redemption, the Trustee will select Bonds for redemption among maturities in such a way that the ratio of Outstanding Bonds to issued Bonds will be approximately the same in each maturity insofar as possible, and such that the remaining Assessments will be sufficient on a timely basis to pay the aggregate Debt Service on the Bonds. Within each maturity of such a Series, the Trustee will select Bonds for retirement by lot.

2.3.2 Notice to Trustee. SANBAG will give the Trustee written notice of the aggregate amount of any Bond to be redeemed pursuant to a Supplemental Indenture not less than 60 days prior to the applicable redemption date.

2.3.3 Redemption Procedure by Trustee.

(a) Mailing of Notice. If any Bond is designated for redemption under the terms of a Supplemental Indenture, the Trustee will cause notice of any redemption to be mailed by first class mail to the Owners of such Bond, at the address of such Owner appearing on the Bond Register in the Principal Office of the Trustee, at least 30 days but no more than 60 days before the date designated for redemption.

Any failure to so mail any redemption notice, or the failure of any person or entity to receive any such redemption notice, or any defect in any notice of redemption, will not affect the validity of the proceedings for the redemption of such Bond.

(b) Contents of Notice. Such notice will state the following:

- (i) the redemption date,
- (ii) the redemption price,
- (iii) the date of issue of such Bond,

(iv) if less than all of the then Outstanding Bonds of a Series of Bonds are to be called for redemption, the Bond numbers of the Bonds to be redeemed (by designating the Bonds number of each Bond to be redeemed or by stating that all Bonds between two designated Bond numbers, both inclusive, are to be redeemed) or that all of the Bonds of one or more maturities have been called for redemption,

(v) as to any Bond called in part, the principal amount thereof to be redeemed, and

(vi) that such Bond must be then surrendered at the Principal Office of the Trustee for redemption at the redemption price; provided, however, that if such a Bond is to be called in part and is owned by a single Owner, such notice shall state that such Bond shall not be surrendered and that the reduction in the principal amount of such Bond and the corresponding reductions in the principal and interest installments resulting from such redemption shall be recorded by the Trustee in the Bond Register, and

(vii) that further interest on the Bond (or portion thereof) called for redemption will not accrue from and after the redemption date.

(c) Rescission of Redemption. SANBAG may provide conditional notice of redemption that is subject to receipt of sufficient funds to accomplish the redemption and it may rescind any notice of optional redemption by written notice to the Trustee given no less than five (5) days prior to the date fixed for redemption. Any notice of redemption will be cancelled and annulled if for any reason adequate funds are not on deposit in the Redemption Fund on the redemption date, and such cancellation will not constitute an Event of Default hereunder. The Trustee will mail notice of rescission of redemption in the same manner notice of redemption was originally provided.

(d) Identification of Bond Redeemed. Upon the payment of the redemption price of any Bond being redeemed, each check or other transfer of funds issued for such purpose will, to the extent practicable, bear the Bond number identifying, by issue and maturity, the Bond being redeemed with the proceeds of such check or other transfer.

(e) Redemption of Bond in Part. Upon surrender of a Bond redeemed in part only, SANBAG will execute and the Trustee will authenticate and deliver to the registered Owner, at the expense of SANBAG, a new Bond, of the same Series and maturity, of Authorized Denominations in aggregate principal amount equal to the unredeemed portion of the Bond. Notwithstanding the foregoing, if a Bond redeemed in part only is owned by a single Owner, such Bond shall not be surrendered and the reduction in the principal amount of such Bond and the corresponding reductions in the principal and interest installments resulting from such redemption shall be recorded by the Trustee in the Bond Register.

2.3.4 Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the principal of, and interest and any premium on, any Bond or portion of such Bond so called for redemption have been deposited in the Redemption Fund on the date fixed for redemption, then such Bond or portion of such Bond so called for redemption will become due and payable at the redemption price specified in the redemption notice, and such Bond or portion of such Bond will be defeased and will cease to be entitled to any benefit or security under the Indenture other than the right to receive payment of the redemption price, and no interest will accrue thereon on or after the redemption date specified in such notice.

All Bonds redeemed by the Trustee pursuant to this Section 2.3 will be canceled by the Trustee. The Trustee will destroy the canceled Bonds and, upon request of SANBAG, issue a certificate of destruction of such Bonds to SANBAG.

**Section 2.4 Execution of Bonds.** The Bonds of each Series will be executed on behalf of SANBAG by the manual or facsimile signature of the Treasurer and attested by the manual or facsimile signature of the Secretary of the Board of Directors. If any officer whose signature appears on any Bond ceases to be such officer before delivery of such Bond to the Owner, such signature will nevertheless be as effective as if the officer had remained in office until the delivery of such Bond to the Owner. Any Bond may be signed and attested on behalf of SANBAG by such persons who, as of the actual date of the execution of such Bond will be the proper officers of SANBAG although at the nominal date of such Bond any such person will not have been such officer of SANBAG.

Only such Bonds as bear thereon a certificate of authentication in substantially the form set forth in the applicable Supplemental Indenture, manually executed and dated by the Trustee, will be valid or obligatory for any purpose or entitled to the benefits of the Indenture, and such certificate of authentication of the Trustee will be conclusive evidence that the Bonds registered hereunder have been duly authenticated, registered and delivered hereunder and are entitled to the benefits of the Indenture.

**Section 2.5 Transfer of Bonds.** The Bonds shall be sold and/or transferred only to Accredited Investors who execute and deliver an Investor Letter to the Trustee. Any Bond may, in accordance with its terms, be transferred, upon the Bond Register under Section 2.7 hereof by the person in whose name it is registered, in person or by such person's duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a duly written instrument of transfer in a form acceptable to the Trustee and an Investor Letter executed by the transferee of such Bond. The cost for any services rendered or any expenses incurred by the Trustee in connection with any such transfer will be paid by SANBAG. The Trustee will collect from the Owner requesting such transfer any tax or other governmental charge required to be paid with respect to such transfer.

Whenever any Bond is surrendered for transfer, SANBAG will execute and the Trustee will authenticate and deliver a new Bond of the same Series, for like aggregate principal amount, maturity, and interest rate in Authorized Denominations. Neither SANBAG nor the Trustee will be required to make such transfer of any Bond in the time period beginning on or after a Record Date and ending before the next ensuing Interest Payment Date.

**Section 2.6 Exchange of Bonds.** Any Bond may be exchanged at the Principal Office of the Trustee for a like aggregate principal amount of Authorized Denominations and of the same Series and maturity. The cost for any services rendered or any expenses incurred by the Trustee in connection with any such exchange will be paid by SANBAG. The Trustee will collect from the Owner requesting such exchange any tax or other governmental charge required to be paid with respect to such exchange.

Neither SANBAG nor the Trustee will be required to make such exchange of any Bond in the time period beginning on or after a Record Date and ending before the next ensuing Interest Payment Date.

**Section 2.7 Bond Register.** The Trustee will keep, or cause to be kept, at its Principal Office the Bond Register for the registration and transfer of the Bonds. The Bond Register will

show the Series number, date, maturity amount, rate of interest and last registered Owner of each Bond and will at all times be open to inspection by SANBAG and each Bond Owner during regular business hours on any Business Day, upon reasonable notice; and, upon presentation for such purpose, the Trustee will, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, the ownership of the Bonds as provided herein.

**Section 2.8 Temporary Bonds.** The Bonds may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, will be of Authorized Denominations, and may contain such reference to any of the provisions of the Indenture as may be appropriate. Every temporary Bond will be executed by SANBAG and authenticated by the Trustee upon the same conditions and in substantially the same manner as the definitive Bonds. If SANBAG issues temporary Bonds it will execute and furnish definitive Bonds without delay and thereupon the temporary Bonds will be surrendered, for cancellation, in exchange for the definitive Bonds at the Principal Office of the Trustee or at such other location as the Trustee will designate, and the Trustee will authenticate and deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of Authorized Denominations. Until so exchanged, the temporary Bonds will be entitled to the same benefits under the Indenture as definitive Bonds authenticated and delivered hereunder.

**Section 2.9 Bonds Mutilated, Lost, Destroyed or Stolen.** If any Bond becomes mutilated, SANBAG, at the expense of the Owner of that Bond, will execute, and the Trustee will authenticate and deliver, a new Bond of like tenor and principal amount in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee will be canceled by it and destroyed by the Trustee who will, upon request of SANBAG, deliver a certificate of destruction thereof to SANBAG.

If any Bond is lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence be satisfactory to the Trustee and indemnity satisfactory to the Trustee will be given, SANBAG, at the expense of the Owner, will execute, and the Trustee will authenticate and deliver, a new Bond of like tenor and principal amount in lieu of and in substitution for the Bond so lost, destroyed or stolen. SANBAG may require payment of a sum not exceeding the actual cost of preparing each new Bond delivered under this Section 2.9 and of the expenses which may be incurred by SANBAG and the Trustee for the preparation, execution, authentication and delivery. Any Bond delivered under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen will constitute an original additional contractual obligation on the part of SANBAG whether or not the Bond so alleged to be lost, destroyed or stolen is at any time enforceable by anyone, and will be equally and proportionately entitled to the benefits of the Indenture with all other Bonds issued under the Indenture.

### ARTICLE 3

#### SECURITY; ISSUANCE OF BONDS

**Section 3.1 Security for the Bonds; Pledge of Assessments and Funds.** SANBAG hereby grants, assigns, conveys, pledges, charges and transfers to the Trustee, for the equal and ratable benefit of the Bond Owners, a first priority security interest (which security interest will be effected and perfected in the manner and to the extent herein provided) in and to the Assessment securing each Bond and all moneys (except amounts required hereunder to be deposited into the Administrative Expense Fund) received by SANBAG, credited to or deposited in the Redemption Fund (including the Capitalized Interest Account and the Prepayment Account therein), or received or held by any other person that is required to credit to or deposit such monies in the Redemption Fund by the terms of this Indenture (the Assessment and all such monies collectively referred to as the "Collateral"), in each case, derived from the installments of such Assessment, the prepayment of such Assessment, the foreclosure on a Participating Parcel on which an Assessment has been levied, or payments pursuant to the County's Teeter Plan (as more fully described in Section 5.2).

Each Assessment and all moneys that have been or pursuant to the terms of this Indenture should have been deposited into the Redemption Fund derived from the Annual Assessment Installments, the prepayment of such Assessment, the foreclosure on a Participating Parcel on which an Assessment has been levied or payments pursuant to the County's Teeter Plan (as more fully described in Section 5.2) with respect to such Assessment are hereby dedicated to the payment of the principal of, and interest and any premium on, the Bond secured by such Assessment as provided herein and in the Bond Act until such Bond has been paid and retired or until moneys or Federal Securities have been set aside irrevocably for that purpose in accordance with Article 10 hereof.

Amounts on deposit in the Reserve Fund shall be considered as Collateral pledged to payment of Debt Service on the applicable Bond or series of Bonds and shall be used only for such purpose.

**Section 3.2 Limited Obligation.** All obligations of SANBAG under the Indenture, the applicable Supplemental Indenture and each Bond are not general obligations of SANBAG, but are limited obligations, payable solely from the Assessment or Assessments securing such Bond and the funds pledged therefor hereunder. Neither the faith and credit of SANBAG, the members of SANBAG, the County nor of the State of California or any political subdivision thereof, is pledged to the payment of the Bonds.

Each Bond is a "Limited Obligation Improvement Bond" under section 8769 of the Bond Act and is payable solely from and secured solely by the Assessment or Assessments securing such Bond and the funds pledged therefore hereunder. Notwithstanding any other provision of the Indenture, neither SANBAG nor any of its Member Agencies is obligated to advance available surplus funds from the SANBAG treasury or the treasury of any Member Agency to cure any deficiency in the Redemption Fund.

**Section 3.3 Requirements for Issuance of Bonds.** Each Bond issued under a Supplemental Indenture will constitute a Bond hereunder and will be secured by a first priority lien on the Assessment or Assessments securing the payment of such Bond and funds pledged for the payment of such Bond hereunder. SANBAG may issue a Bond subject to the following specific conditions precedent:

(a) Compliance. SANBAG will be in compliance with all covenants set forth in the Indenture, and issuance of such Bond will not cause SANBAG to exceed the bonded indebtedness limit established for the Program or the maximum Bond authorization set forth in Resolution of Issuance or the applicable Supplemental Resolution of Issuance.

(b) Payment Dates. The Supplemental Indenture providing for the issuance of such Bond will provide that interest thereon will be payable on the Interest Payment Dates, and principal thereof will be payable on the same date in any year in which principal is payable on any outstanding Series of Bonds.

(c) Separate Funds. The Supplemental Indenture providing for the issuance of such a Bond may provide for the establishment of separate funds and accounts. Further, the Trustee may establish subaccounts within any of the funds or accounts established under this Indenture at the written request of SANBAG or if the Trustee determines in its sole discretion that such subaccounts are beneficial for record-keeping purposes.

(d) Reserve Fund Deposit. The Supplemental Indenture providing for the issuance of a Bond shall provide for a deposit into the Reserve Fund of an amount equal to the Reserve Fund Deposit applicable to such Bond. The amount deposited into the Reserve Fund pursuant to any such Supplemental Indenture shall be available to pay debt service for the Outstanding Bonds as provided for in Section 4.2, including the Bond issued pursuant to such Supplemental Indenture.

(e) Value. For each Participating Parcel, the Participating Parcel Value of such parcel shall not be less than the minimum required value as determined pursuant to the Program requirements set forth in the Program Report.

(f) Coverage. The aggregate Annual Assessment Installments payable under each applicable Assessment Contract or Assessment Contracts specified in such Supplemental Indenture shall, in aggregate, be at least 100% of the cumulative Debt Service on such proposed Bond through the final maturity date of such proposed Bond and the Annual Administrative Fee shall be sufficient to pay the total anticipated Administrative Expenses through the final maturity date of such proposed Bond.

In addition, the scheduled Annual Assessment Installments payable under the applicable Assessment Contract or Assessment Contracts specified in such Supplemental Indenture in each Bond Year through the final maturity date of such proposed Bond shall be at least 100% of the Debt Service on such proposed Bond for such Bond Year and the Annual Administrative Fee shall be sufficient to pay the anticipated Administrative Expenses for such Bond Year.

(g) Notice of Assessment. A notice of assessment shall have been duly recorded against each Participating Parcel pursuant to the Bond Act and Chapter 29 and there shall have been created a perfected first priority security interest in and to the Assessment levied against each such Participating Parcel and the other Collateral pledged for the payment of each Bond pursuant to the applicable Assessment Contract, the Bond Act, Chapter 29 and this Indenture.

(h) Certificates. SANBAG will deliver to the Trustee an Officer's Certificate certifying that the conditions precedent to the issuance of such Bond set forth in paragraphs (a) through (e) of this Section 3.3 have been satisfied.

(i) Opinion of Bond Counsel. On the Closing Date of each Bond, SANBAG will deliver an opinion or opinions of Bond Counsel addressed to SANBAG and the Trustee in form and substance mutually agreed upon by Bond Counsel and the Purchaser. Bond Counsel shall either address each such opinion to the Purchaser or shall, on the Closing Date, provide a reliance letter addressed to the Purchaser indicating to the Purchaser that Bond Counsel has delivered such opinion or opinions to SANBAG and the Trustee on such date and that the Purchaser may rely upon such opinions as if they had been addressed to the Purchaser.

(j) Investor Letter. An Investor Letter pertaining to such Bond has been received by the Trustee.

Notwithstanding the foregoing, SANBAG may issue a Series of Bonds as refunding bonds without the need to satisfy the requirements of paragraphs (d) or (e) above, and, in connection therewith, the Officer's Certificate in paragraph (h) above need not make reference to said paragraphs (e) and (f).

**Section 3.4 No Acceleration.** The principal of the Bonds will not be subject to acceleration hereunder. Nothing in this Section 3.4 will in any way prohibit the redemption of Bonds under Section 2.3 hereof, or the defeasance of the Bonds and discharge of the Indenture under Article 10 hereof or the powers or remedies conferred upon the Owners elsewhere in the Indenture or by Chapter 29 or the Bond Act.

**Section 3.5 Refunding of Bonds.** Any Bond or Bonds may be refunded by SANBAG pursuant to Divisions 11 or 11.5 of the California Streets and Highways Code upon the conditions as set forth in appropriate proceedings therefor. This Section will not apply to or in any manner limit advancement of the maturity of any Bond or Bonds as provided in Parts 8, 9, 11, or 11.1 of the Bond Act, nor will this Section apply to or in any manner limit the redemption and payment of any Bond pursuant to subsequent proceedings providing for the payment of amounts to eliminate previously imposed fixed lien assessments, including the Assessment or Assessments securing such Bond. In the event that any Bond or Bonds are refunded by SANBAG pursuant to this Section 3.5 or for any other reason, nothing contained herein shall limit or eliminate the requirement that such Bond or Bonds be repaid at par plus such mandatory prepayment redemption premium as may be set forth in the Supplemental Indenture governing such Bond or Bonds together with accrued interest to the redemption date of such Bond or Bonds.

**Section 3.6 Indenture for Benefit of Bond Owners.** The provisions, covenants and agreements herein set forth to be performed by or on behalf of SANBAG will be for the benefit, protection and security of the registered owner of each Bond.

## ARTICLE 4

### FUNDS AND ACCOUNTS

## **Section 4.1 Redemption Fund.**

4.1.1 Establishment of Redemption Fund. A Redemption Fund shall be established for each Series as a separate fund to be held by the Trustee for the benefit of the Owners of the Bonds. Within each Redemption Fund, the Trustee will establish a Capitalized Interest Sub-Account, to the credit of which a deposit shall be made pursuant to the provisions of the applicable Supplemental Indenture from the proceeds of the applicable Series to pay interest on such Bond or Bonds. Deposits will be made to each Redemption Fund to the credit of the applicable Bond or Bonds as required by paragraph (a) of Section 5.1, and any other amounts required to be deposited therein by the Indenture, the applicable Supplemental Indenture or the Bond Act. Moneys held in a Redemption Fund representing (a) capitalized interest on the Bond or Bonds of a Series, (b) the Annual Assessment Installments received by SANBAG for such Bond or Bonds, (c) any Prepayment of an Assessment securing such Bond and/or any prepayment premium on such Bond or Bonds (d) any amount transferred from the Reserve Fund to the Prepayment Account maintained within the Redemption Fund pursuant to Section 4.2.3 with respect to such Bonds, (e) any proceeds of a foreclosure proceeding conducted pursuant to Section 5.2 against a Participating Parcel on which an Assessment has been levied (excluding amounts identified as representing attorney's fees and costs incurred by SANBAG or such other person in prosecuting such foreclosure proceeding initiated pursuant to Section 5.2) and (f) any amounts paid pursuant to the County's Teeter Plan with respect to the applicable Assessment will be held by the Trustee for the benefit of the Owner of such Bond, will be disbursed for the payment of the principal of and interest and any premium on, such Bond as provided below.

Within each Redemption Fund there is hereby established the Prepayment Account, which will be used exclusively for the administration of any Prepayments pursuant to Section 8767 of the Bond Act to assure the timely redemption of the Bond or Bonds to which such Prepayment is applicable. If all of the Assessments are paid in full, the Prepayment Account will be closed.

4.1.2 Disbursements. On or before each Interest Payment Date, the Trustee will withdraw from the funds on deposit in each Redemption Fund and credited to each applicable Bond or Bonds and pay to the Owner of such Bond or Bonds the principal of, and interest and any premium then due and payable on, such Bond or Bonds. Interest on such Bond or Bonds shall first be paid from any moneys on deposit in the Capitalized Interest Account credited to such Bond or Bonds. If all capitalized interest payable on such Bond or Bonds has been paid and moneys remain on deposit in the Capitalized Interest Account credited to such Bond or Bonds, the Trustee shall transfer such moneys to the applicable Redemption Fund to the credit of such Bond or Bonds. SANBAG shall provide or cause to be provided to the Trustee written information, upon which the Trustee may conclusively rely, as to amounts that are for the credit of each Bond or Bonds for purposes of this Indenture. Funds on deposit in a Redemption Fund and credited to a Bond or Bonds shall not be used to pay the principal of, interest or any premium on, any other Bond or Bonds.

If there are insufficient funds in a Redemption Fund credited to a Bond to pay to the Owner of a Bond the principal of, and interest and any premium then due and payable on, such Bond, the Trustee will apply the available funds first to the payment of interest on such

Bond, then to the payment of principal due on such Bond, and then to payment of principal due on such Bond by reason of such Bond called for optional redemption or mandatory redemption.

On each September 2, the Trustee will use any amounts remaining in a Redemption Fund credited to a Bond after payment of interest on such Bond through such September 2 and the payment of principal due on such Bond through such September 2 for the following purposes in the following priority: (i) during any period of time in which the amounts representing Annual Assessment Installments were not paid by the County pursuant to the Teeter Plan, any amount remaining in such Redemption Fund credited to such Bond and representing penalties and interest on such Bond received as a result of the delinquency in the payment of the Annual Assessment Installments shall be paid to the Owner of such Bond, (ii) to transfer such amounts for deposit into the Reserve Fund, but only to the extent necessary to increase the amount on deposit in the Reserve Fund as a result of a delinquency in the payment of such Annual Assessment Installments and (iii) to proportionately reduce the installments of such Annual Assessment Installments which are levied in the current or succeeding Bond Year upon the Participating Parcel or Participating Parcels, as applicable, to pay the principal of and interest on such Bond.

4.1.3 Investment. Moneys in a Redemption Fund (and the accounts therein) will be invested and deposited in accordance with Section 6.1. Interest earnings and profits resulting from such investment and deposit will be retained in such Redemption Fund and the accounts therein, as applicable.

4.1.4 Transfers from Reserve Fund. Amounts transferred to the Redemption Fund from a Reserve Fund will be used in accordance with Part 16 of the Bond Act as directed in an appropriate Officer's Certificate and in conformity with the terms and conditions set forth in this Indenture.

## **Section 4.2 Reserve Fund.**

4.2.1 General. The Reserve Fund is hereby established in trust for the benefit of the Owners of all Bonds separate and distinct from the other funds and accounts established hereunder. The Reserve Fund shall be held and maintained by the Trustee. With the issuance of each Bond, the Trustee shall deposit in the Reserve Fund from the proceeds of such Bond an amount equal to the Reserve Fund Deposit applicable to such Bond. Except as provided below, all moneys in the Reserve Fund shall be used and withdrawn by the Trustee solely for the purpose of paying the interest on or the principal of any Bond in the event that insufficient moneys are available in the Redemption Fund credited to such Bond for such purpose.

4.2.2 Investment; Maintenance of Funds in the Reserve Fund. Moneys in the Reserve Fund shall be invested in Permitted Investments with a maturity of not greater than five years as directed in a Certificate of SANBAG or, in the absence of direction, the Trustee shall invest such funds in a Permitted Investment described in clause (h) of the definition. The Trustee shall retain in the Reserve Fund all earnings on amounts on deposit in the Reserve Fund.

4.2.3 Reserve Fund Cap. If the amount on deposit in the Reserve Fund on September 3rd of any Bond Year exceeds the Reserve Fund Cap, the Trustee shall, within ten

(10) Business Days of such determination, transfer the amount equal to the Reserve Fund Surplus to SANBAG for deposit in the Administrative Expense Fund.

4.2.4 Investment. Moneys in the Reserve Fund will be invested and deposited in accordance with Section 6.1. Interest earnings and profits resulting from said investment will be retained by the Trustee in the Reserve Fund and used for the purposes of the Reserve Fund.

### **Section 4.3 Program Fund.**

4.3.1 Establishment of Program Fund. A Program Fund shall be established by the Trustee for each Series of the Bonds as a separate fund to be held by the Trustee. The Trustee shall, pursuant to the provisions of the Supplemental Indenture applicable to such Series, deposit in the Program Fund the amount of the proceeds of such Series as specified in such Supplemental Indenture and shall credit such amount to such Series. Moneys in the Program Fund will be held by the Trustee and will be disbursed as provided in clause 4.3.2 of this Section.

4.3.2 Disbursement. The Trustee shall, from time to time, disburse monies from each Program Fund to pay for the costs of installing the Improvements in accordance with the Program Report and the applicable Assessment Contract or Assessment Contracts related to the Series for which such Program Fund has been established. Upon receipt of an Officer's Certificate duly executed by an Authorized Representative in substantially the form attached hereto as Exhibit D requisitioning disbursements from such Program Fund of such costs, the Trustee shall pay such costs from amounts in such Program Fund directly to the contractor or such other person, corporation or entity entitled to payment hereunder (including reimbursements, if any, to Renovate America, Inc. or such other provider of Program Administration Services as defined in SANBAG Contract No. C13\_\_). Trustee may rely on an executed Officer's Certificate containing the amounts to be paid to the designated payees and delivered to the Trustee as complete authorization for said payments, with respect to such Series. The Trustee may rely on each such certificate as sufficient evidence to the Trustee of the facts stated therein and the trustee will have no duty to confirm the accuracy of such facts.

The Trustee will maintain funds on deposit in each Program Fund credited to the Series for which such Program Fund was established until all such funds are expended or until the earlier of (a) 180 calendar days following the Closing Date or (b) the date on which the Trustee receives an Officer's Certificate notifying the Trustee that all costs to be paid from such funds have been paid, at which time the Trustee shall transfer any such funds remaining therein, including any investment earnings thereon, to the Redemption Fund applicable to such Series to make payments on such Series.

4.3.3 Investment. Moneys in each Program Fund will be invested and deposited in accordance with Section 6.1. Interest earnings and profits resulting from said investment will be retained by the Trustee in such Program Fund to be used for the purposes of such Program Fund.

### **Section 4.4 Cost of Issuance Fund.**

4.4.1 Establishment of the Costs of Issuance Fund; Deposit. A Costs of Issuance Fund shall be established by the Trustee for each Series as a separate fund to be held by the

Trustee, to the credit of which a deposit will be made from the proceeds of such Series as specified in the Supplemental Indenture applicable to such Series. Moneys in the Costs of Issuance Fund will be held in trust by the Trustee and will be disbursed as provided in subsection 4.4.2 below for the payment or reimbursement of Costs of Issuance pertaining to such Series.

4.4.2 Disbursement. Amounts in each Costs of Issuance Fund will be disbursed from time to time to pay Costs of Issuance incurred in the issuance of the Series for which such Cost of Issuance Fund was established. Upon receipt of an Officer's Certificate duly executed by an Authorized Representative in substantially the form attached hereto as Exhibit E requisitioning disbursements from such Costs of Issuance Fund, the Trustee shall pay such Costs of Issuance pursuant to this subsection 4.4.2 from amounts in such Costs of Issuance Fund directly to the designated payees and delivered to the Trustee concurrently with the delivery of such Series, or in any future such Officer's Certificate submitted by SANBAG to the Trustee. Each such certificate will be sufficient evidence to the Trustee of the facts stated therein and the Trustee will have no duty to confirm the accuracy of such facts. The Trustee will pay all Costs of Issuance after receipt of an invoice from any such payee which requests payment in an amount which is less than or equal to the amount set forth with respect to such payee pursuant to the Certificate of SANBAG requesting payment of Costs of Issuance. The Trustee will maintain the funds in each Costs of Issuance Fund for a period of six (6) months from the Closing Date of the Series for which such Costs of Issuance Fund was established and then will transfer any moneys remaining therein, including any investment earnings thereon, to the Redemption Fund established for such Series to be utilized to pay scheduled debt service on such Series.

4.4.3 Investment. Moneys in each Costs of Issuance Fund shall be invested in Permitted Investments, and earnings and profits resulting from such investment shall be credited to such Costs of Issuance Fund to be used for the purposes of such fund.

#### **Section 4.5 Administrative Expense Fund.**

4.5.1 Establishment of Administrative Expense Fund. An Administrative Expense Fund shall be established by SANBAG for each Series as a separate fund to be held by SANBAG, to the credit of which deposits of amounts representing Annual Assessment Administrative Fees will be made as required by clause (b) of Section 5.1 and as otherwise required by the Indenture or the Bond Act. Moneys in the Administrative Expense Fund shall be disbursed as provided below.

4.5.2 Disbursement. Amounts in each Administrative Expense Fund shall be used by SANBAG to pay Administrative Expenses related to the Series for which such Administrative Expense Fund was created.

4.5.3 Closing the Administrative Expense Fund. SANBAG shall close each Administrative Expense Fund following the final maturity date of the Series for which such Administrative Expense Fund was established and payment of all amounts in such Administrative Expense Fund. Upon closing such Administrative Expense Fund, any remaining funds shall be transferred to the Trustee for deposit in the Redemption Fund established for such Series.

4.5.4 Investment. Moneys in each Administrative Expense Fund shall be invested in Permitted Investments, and earnings and profits resulting from such investment shall be retained by SANBAG in such Administrative Expense Fund to be used for the purposes of such fund.

## ARTICLE 5

### COVENANTS OF SANBAG

#### **Section 5.1 Collection of Assessments and Annual Assessment Administrative Fees.**

5.1.1 Annual Assessment Installments. SANBAG will comply with all requirements of Chapter 29, the Bond Act and the Indenture to assure the timely collection of the Annual Assessment Installments for each Assessment, including, without limitation, the enforcement of delinquent Annual Assessment Installments. To that end, the following will apply:

(a) The Assessment levied on each Participating Parcel, together with the interest thereon, will be payable in the Annual Assessment Installments specified in the Assessment Contract applicable to such Participating Parcel. Each Annual Assessment Installment will be payable pro rata with and in the same manner and at the same time and in the same installments as the general taxes on real property are payable, and become delinquent at the same times and bear the same proportionate penalties and interest after delinquency as do the general taxes on real property. SANBAG shall cause sums received by the County from the collection of the Annual Assessment Installments and of the interest and penalties thereon will be transferred by the County directly to the Trustee for deposit in the Redemption Fund.

(b) SANBAG will, before the final date on which the Auditor will accept the transmission of the Annual Assessment Installments for the Participating Parcels for inclusion on the next tax roll, prepare or cause to be prepared, and will transmit to the Auditor, such data as the Auditor requires to include the Annual Assessment Installments on the next secured tax roll. SANBAG is hereby authorized to employ consultants to assist in computing the Annual Assessment Installments hereunder.

5.1.2 Annual Assessment Administrative Fee. SANBAG will comply with all requirements of Chapter 29, the Bond Act and the Indenture to assure the timely collection of the Annual Assessment Administration Fees pertaining to each Assessment Contract. Moneys representing the Annual Assessment Administrative Fees shall, immediately upon receipt thereof by SANBAG, be deposited in the Administrative Expense and shall be administered as provided for in Section 4.5.

**Section 5.2 Foreclosure.** SANBAG hereby covenants with and for the benefit of the Owners of each Bond that it will order, and cause to be commenced, and thereafter diligently prosecute an action in the superior court to foreclose the lien of any Assessment or installment thereof which has been billed, but has not been paid, pursuant to and as provided in sections

8830 and 8835, inclusive, of the Bond Act and the conditions specified in this Section 5.2. The costs of the prosecution by SANBAG or on behalf of SANBAG shall be born by SANBAG.

No later than October 1 each year, SANBAG will determine whether any single Participating Parcel is delinquent in the payment of any installment of Assessment payments and, if so, will notify SANBAG Counsel of any such delinquencies. SANBAG Counsel will commence, or cause to be commenced, the foreclosure proceedings against each such delinquent Participating Parcel, including collection actions preparatory to the filing of any complaint, but will file the complaint within 60 days. Subject to further direction from the Board of Directors, SANBAG Counsel is hereby authorized to employ counsel to conduct any such foreclosure proceedings.

However, notwithstanding the foregoing, SANBAG may elect, in its sole discretion, to defer foreclosure proceedings on any Participating Parcel if SANBAG has received funds equal to the delinquent Assessments from any other source, including but not limited to funds received pursuant to the County's Teeter Plan, and those funds are sufficient to pay all applicable Annual Assessment Installments that are due and payable, together with interest and penalties on any Annual Assessment Installments that are available to contribute toward the payment of the principal of and interest on the applicable Bond when due (including without limitation funds from the sale of the receivables associated with delinquent Assessments) and the scheduled payment of the principal of and interest on the applicable Bond is current.

Amounts collected by SANBAG or any other person under this Section 5.2 shall be held in trust by such person for the benefit of the Owner of the Bond for which an Assessment is delinquent until all such amounts have been deposited into the Redemption Fund (excluding amounts identified as representing attorney's fees and costs incurred by SANBAG or such other person in prosecuting any action initiated pursuant to this Section 5.2).

Notwithstanding the foregoing, SANBAG shall assign the causes of action and the foreclosure proceedings to a trustee upon receipt of a written request of the Owner of any Bond secured by an Assessment for which the Annual Assessment Installments are delinquent for such assignment, specification of the trustee to which such assignment is to be made and the agreement by such Owner to assume all costs and expenses of such foreclosure proceedings and the release of SANBAG of its obligations under this Section 5.2 to prosecute such foreclosure proceedings.

**Section 5.3 Punctual Payment.** SANBAG will punctually pay or cause to be paid the principal of, and interest and any premium on, each Bond when and as due in strict conformity with the terms of the Indenture, and it will faithfully observe and perform all of the conditions, covenants and requirements of the Indenture and of such Bond.

**Section 5.4 Extension of Time for Payment.** In order to prevent any accumulation of claims for interest after maturity, SANBAG will not, directly or indirectly, extend or consent to the extension of the time for the payment of any interest or principal of on any of the Bonds and will not, directly or indirectly, be a party to the approval of any such arrangement by purchasing or funding any claims for interest on or principal of any of the Bonds, or in any other manner.

**Section 5.5 Against Encumbrance.** SANBAG will not encumber, pledge or place any charge or lien upon any of the Assessments or other Collateral pledged to the Owners hereunder except for any such encumbrance, pledge or placement of a lien or charge approved in writing by the Owner of such Bond.

**Section 5.6 Books and Accounts.** SANBAG will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of SANBAG, in which complete and correct entries will be made of all transactions relating to the Assessments and the application of amounts disbursed from the funds and accounts held by SANBAG hereunder, which records will be subject to inspection by the Trustee and the Owners (who shall have no duty to inspect) upon reasonable prior notice on any Business Day.

**Section 5.7 Credit to Bonds.** SANBAG shall provide, or cause to be provided, to the Trustee written information, upon which the Trustee may conclusively rely, as to amounts that are, for the purposes of this Indenture, to be applied for the credit of an individual Bond or individual Bonds.

**Section 5.8 Protection of Security and Rights of Owners.** SANBAG will preserve and protect the first priority security interest in the Bonds and the rights of the Owners thereto, and will warrant and defend their rights to such security interest against all claims and demands of all persons. From and after the delivery of any Bond by SANBAG, such Bond will be incontestable by SANBAG.

In the event that the County files a petition pursuant to Chapter 9 of the Bankruptcy Code, being Title 11 of the United States Code, SANBAG shall, as an integral and material part of its obligations under this covenant, seek such post-petition relief as shall be necessary to (a) obtain relief from the automatic stay as to all Assessment Installments received by the County prior to the filing of such petition and held by the County at the time of filing of such petition to enable such Assessment Installments to be paid to the Trustee and (b) ensure that all Assessment Installments received by the County post-petition are timely paid to the Trustee.

**Section 5.9 Compliance with Law; Completion of Improvements.** SANBAG will comply with all state and federal laws that apply to the Program, including but not limited to, the applicable provisions of Chapter 29 and the Bond Act in providing financing for the Improvements, but SANBAG will have no obligation to advance any funds to complete the Improvements in excess of the proceeds of the applicable Bond available therefor.

**Section 5.10 Modification of or Supplement to the Program or the Program Report.** SANBAG shall not modify or supplement the Program or the Program Report so as to adversely affect any Outstanding Bonds in any material respect without the written consent of the Owners of at least 60% in the aggregate principal amount of the Bonds then Outstanding, exclusive of Bonds disqualified as provided in Section 8.3. The procedure set forth in Section 8.2 to obtain the written consent of the Owners to the modification or amendment of the Indenture shall apply to any procedure to obtain the written consent of the Owners to any modification of or supplement to the Program or the Program Report requiring such consent.

**Section 5.11 Further Assurances.** SANBAG will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of the Indenture, and for the better assuring and confirming unto the Owners of the rights and benefits provided in the Indenture.

## **ARTICLE 6**

### **INVESTMENTS; LIABILITY OF SANBAG AND ITS MEMBER AGENCIES; DEPOSIT AND INVESTMENT OF MONEYS IN FUNDS.**

#### **Section 6.1 Investments.**

The following will apply to the investment of funds held by the Trustee:

(a) Moneys in any fund or account created or established by the Indenture and held by the Trustee will be invested by the Trustee in Permitted Investments, as directed pursuant to an Officer's Certificate filed with the Trustee at least two Business Days in advance of the making of such investments. Notwithstanding the foregoing, moneys on deposit in the Redemption Fund shall be invested only in Federal Securities specified in clause (i) of the definition thereof or in Permitted Investments specified in clause (h) of the definition thereof. In the absence of any such Officer's Certificate, the Trustee shall invest any such moneys in the investments specified in clause (h) of the definition of Permitted Investments.

Obligations purchased as an investment of moneys in any fund will be deemed to be part of such fund or account, subject, however, to the requirements of the Indenture for transfer of interest earnings and profits resulting from investment of amounts in funds and accounts.

(b) The Trustee may act as principal or agent in the acquisition or disposition of any investment. The Trustee will incur no liability for losses arising from any investments made pursuant to this Section unless such losses arise as a result of the Trustee's failure to make investments as set forth in investment directions from SANBAG or as a result of such investments violating the terms of this Indenture. The Trustee will be entitled to rely upon any investment directions from SANBAG as conclusive a certification to the Trustee that the investments described therein are so authorized under the laws of the State of California.

The Trustee will not invest any cash held by it hereunder in the absence of timely and specific written direction from SANBAG. In no event will the Trustee be responsible for the selection of investments.

(c) Investments in any and all funds and accounts may at the discretion of the Trustee be commingled in a separate fund or funds for purposes of making, holding and disposing of investments, notwithstanding provisions herein for transfer to or holding in or to the credit of particular funds or accounts of amounts received or held by the Trustee hereunder, provided that the Trustee will at all times account for such investments strictly in accordance with the funds and accounts to which they are credited and otherwise as provided in the Indenture.

(d) The Trustee will sell, or present for redemption, any investment security whenever it is necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund or account to which such investment security is credited. The Trustee will not be liable or responsible for any loss resulting from the acquisition or disposition of such investment security in accordance herewith.

SANBAG acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant SANBAG the right to receive brokerage confirmations of security transactions as they occur, SANBAG specifically waives receipt of such confirmations to the extent permitted by law. The Trustee will furnish SANBAG periodic cash transaction statements which include detail for all investment transactions made by the Trustee hereunder.

**Section 6.2 Liability of SANBAG and its Member Agencies.** SANBAG and its Member Agencies, either individually or collectively, will not be obligated to make any payments required hereunder or under any Bond, or be deemed to incur any liability hereunder or by reason hereof or arising out of any of the transactions contemplated hereby, payable from any funds or assets other than as specifically provided herein.

**Section 6.3 Employment of Agents by SANBAG.** In order to perform its duties and obligations hereunder, SANBAG may employ such persons or entities as it deems necessary or advisable. SANBAG will not be liable for any of the acts or omissions of such persons or entities employed by it with reasonable care and in good faith hereunder, and will be entitled to rely, and will be fully protected in doing so, upon the opinions, calculations, determinations and directions of such persons or entities.

## ARTICLE 7

### THE TRUSTEE

**Section 7.1 Appointment of Trustee.** [Trustee], at the Principal Office, is hereby appointed trustee and paying agent for the Bonds. The Trustee undertakes to perform such duties, and only such duties, as are specifically set forth in the Indenture, and no implied covenants or obligations will be read into the Indenture against the Trustee. With respect to the appointment of the Trustee, the following will apply:

(a) Any bank or company into which the Trustee may be merged or converted or with which it may be consolidated, or any bank or company resulting from any merger, conversion or consolidation to which it is a party, or any bank or company to which the Trustee may sell or transfer all or substantially all of its corporate trust business (if such bank or company is eligible under the following paragraph of this Section 7.1) will be the successor to such Trustee provided that such bank or company expressly assumes in writing the duties of the Trustee under the Indenture without the execution or filing of any other paper or any further act, anything herein to the contrary notwithstanding. The Trustee will give SANBAG written notice of any such succession hereunder.

(b) SANBAG may remove the Trustee initially appointed and any successor thereto, and may appoint a successor thereto, but any successor Trustee will be a national banking association or trust company having a combined capital (exclusive of borrowed capital) and surplus of at least \$75,000,000 and subject to supervision or examination by federal or state authority. If such national banking association or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section 7.1, combined capital and surplus of such national banking association or trust company will be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(c) The Trustee may at any time resign by giving written notice to SANBAG and by giving to the Owners notice by mail of such resignation. Upon receiving notice of such resignation, SANBAG will promptly appoint a successor Trustee, satisfying the requirements of Section 7.1(b) above, by an instrument in writing. Any resignation or removal of the Trustee will become effective upon acceptance of appointment by the successor Trustee.

(d) If, by reason of the judgment of any court, the Trustee is rendered unable to perform its duties hereunder, SANBAG will promptly appoint a successor Trustee by an instrument in writing.

(e) If no appointment of a successor Trustee is made pursuant to the foregoing provisions of this Section within 45 days after the Trustee has given to SANBAG written notice or after a vacancy in the office of the Trustee has occurred by reason of its inability to act, the Trustee or any Bond Owner may apply to any court of competent jurisdiction to appoint a successor Trustee. That court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Trustee that satisfies the requirements of paragraph (b) of this Section 7.1.

**Section 7.2 Liability of Trustee.** With respect to the liability of the Trustee, the following will apply:

(a) The recitals of facts, covenants and agreements herein and in the Bonds contained will be taken as statements, covenants and agreements of SANBAG, and the Trustee assumes no responsibility for the correctness of the same, makes no representations as to the validity or sufficiency of the Indenture or of the Bonds, or will incur any responsibility in respect thereof, other than in connection with the duties or obligations herein or in the Bonds assigned to or imposed upon it. The Trustee will not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct. The Trustee assumes no responsibility or liability for any information, statement or recital in any official statement or other disclosure material prepared or distributed with respect to the issuance of the Bonds.

(b) The Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of the Indenture; but in the case of any such certificates or opinions by which any provision hereof are specifically required to be furnished to

the Trustee, the Trustee will be under a duty to examine the same to determine whether or not they conform to the requirements of the Indenture on their face.

Except as provided above in this paragraph, Trustee will be fully protected and will incur no liability in acting or proceeding, or in not acting or not proceeding, in good faith, reasonably and in accordance with the terms of the Indenture, upon any resolution, order, notice, request, consent or waiver, certificate, statement, affidavit, or other paper or document which it in good faith reasonably believes to be genuine and to have been adopted or signed by the proper person or to have been prepared and furnished pursuant to any provision of the Indenture, and the Trustee will not be under any duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument.

(c) The Trustee will not be liable for any error of judgment made in good faith by a responsible officer unless it is proved that the Trustee was negligent in ascertaining the pertinent facts.

(d) No provision of the Indenture will require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers.

(e) The Trustee will be under no obligation to exercise any of the rights or powers vested in it by the Indenture at the request or direction of any of the Owners pursuant to the Indenture unless such Owners have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction.

(f) The Trustee may become the owner of the Bonds with the same rights it would have if it were not the Trustee.

(g) The Trustee will not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay (“unavoidable delay”) in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, Acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to the project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar event or occurrences beyond the control of the Trustee.

(h) The Trustee agrees to accept and act upon instructions or directions pursuant to the Indenture sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Trustee has received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate will be

amended and replaced whenever a person is to be added or deleted from the listing. If SANBAG elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions will be deemed controlling. The Trustee will not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. SANBAG agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation- the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

(i) The Trustee will have no responsibility or liability with respect to any information, statements or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of the Bonds.

(j) The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, affiliates, or receivers, and will be entitled to advice of counsel concerning all matters of trust and its duty hereunder, and the Trustee will not be answerable for the default or misconduct of any such attorney, agent, or receiver selected by it with reasonable care.

**Section 7.3 Information; Books and Accounts.** The Trustee will provide to SANBAG and the Owners of the Bonds such information relating to the Bonds and the funds and accounts maintained by the Trustee hereunder as SANBAG or such Owners may reasonably request, including but not limited to quarterly statements reporting funds held and transactions by the Trustee.

The Trustee will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the Trustee, in which complete and correct entries will be made of all transactions made by it relating to the expenditure of amounts disbursed from the Redemption Fund and the accounts therein. Such books of record and accounts will, upon reasonable notice, at all times during business hours on any Business Day be subject to the inspection of SANBAG and the Owner of any Bond as to the books of record and accounts applicable to such Bond or the Owners of not less than 10% of the principal amount of the Bonds then Outstanding, or their representatives duly authorized in writing.

**Section 7.4 Notice to Trustee.** The Trustee may conclusively rely, without undertaking any investigation or inquiry, and will be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, facsimile transmission, electronic mail, warrant, bond or other paper or document reasonably believed by it to be genuine and to have been signed or presented by the proper party or proper parties.

The Trustee may consult with counsel, who may be counsel to SANBAG, with regard to legal questions, and the written opinion of such counsel will be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

The Trustee will not be bound to recognize any person as the Owner of a Bond unless and until such person is the registered Owner of such Bond and such Bond is submitted for inspection, if required, and such Owner's title thereto satisfactorily established, if disputed.

Whenever in the administration of its duties under the Indenture the Trustee deems it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of gross negligence or willful misconduct on the part of the Trustee, be deemed to be conclusively proved and established by a certificate of an Authorized Representative of SANBAG, and such certificate will be full warrant to the Trustee for any action taken or suffered under the provisions of the Indenture or any Supplemental Indenture upon the faith thereof, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

**Section 7.5 Compensation; Indemnification.** SANBAG will pay out of any legally available funds of the Program, which shall include, but not be limited to, the proceeds of the Annual Assessment Administrative Fees deposited in the Administrative Expense Fund and the interest earnings on the investment of such proceeds, to the Trustee from time to time reasonable compensation for all services rendered as Trustee under the Indenture, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of the Trustee's in house or other attorneys and agents, incurred in and about the performance of their powers and duties under the Indenture, but the Trustee will not have a lien therefor on any funds at any time held by it under the Indenture.

SANBAG further agrees, to the extent permitted by applicable law, to indemnify and save the Trustee, its officers, employees, directors and agents harmless against any losses, expenses, costs, claims, judgments, damages, suits or liabilities which it may incur in the exercise and performance of its powers and duties hereunder (including without limitation legal fees and expenses) which are not due to its negligence or willful misconduct.

The obligation of SANBAG under this Section will survive resignation or removal of the Trustee under the Indenture and payment of the Bonds and discharge of the Indenture.

**Section 7.6 Trustee as Owner.** The Trustee may become the owner of any of the Bonds in its own or any other capacity with the same rights it would have if it were not Trustee.

## ARTICLE 8

### MODIFICATION OR AMENDMENT OF THE INDENTURE

#### Section 8.1 Conditions for Amendment.

8.1.1 Amendment with Consent of Bond Owners. The Indenture and the rights and obligations of SANBAG and of the Owner of any Bond may be modified or amended at any time by a Supplemental Indenture with the written consent of the Owners of at least 60% in

aggregate principal amount of the Bonds then Outstanding, exclusive of any such Bond disqualified as provided in Section 8.3.

No such modification or amendment may:

(a) extend the maturity of such Bond or reduce the interest rate thereon, or otherwise alter or impair the obligation of SANBAG to pay the principal of, and the interest and any premium on, such Bond, without the express consent of the Owner of such Bond, or

(b) permit the creation by SANBAG of any pledge or lien upon the Assessments or other Collateral superior to the pledge and lien created for the benefit of such Bond or on parity with the pledge and lien created for the benefit of such Bond (except as provided in Sections 2.2 and 3.3), or

(c) reduce the percentage of the ownership of such Bond required for the amendment hereof, or

(d) amend this Section 8.1.

Any such amendment may not modify any of the rights or obligations of the Trustee without its written consent.

8.1.2 Amendment without Consent of Bond Owners. The Indenture and the rights and obligations of SANBAG and of the Owner of any Bond may also be modified or amended at any time by a Supplemental Indenture, without the consent of such Owner, only to the extent permitted by law and only for any one or more of the following purposes:

(a) Additions. To add to the covenants and agreements of SANBAG contained in the Indenture, other covenants and agreements thereafter to be observed, or to limit or surrender any right or power herein reserved to or conferred upon SANBAG.

(b) Not Materially Adversely Affecting such Bond. To make modifications not adversely affecting such Outstanding Bond in any material respect, as evidenced by an opinion of Bond Counsel delivered to the Trustee, unless the requirement for such opinion of Bond Counsel is waived by the Owners of the Bonds that would be affected by such modification.

(c) Corrections. To make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in the Indenture or the Supplemental Indenture applicable to such Bond, or in regard to questions arising under the Indenture or such Supplemental Indenture, as SANBAG may deem necessary or desirable and not inconsistent with the Indenture and such Supplemental Indenture, and which will not materially adversely affect the rights of the Owner of such Bond, as evidenced by an opinion of Bond Counsel delivered to the Trustee, unless the requirement for such opinion is waived by the Owners of the Bonds that would be affected by such modification..

(d) Issuance of Bonds. To issue Bonds in accordance with the Indenture.

(e) Credit Enhancements. To provide for the delivery of credit enhancements for one or more Bonds or Series of Bonds.

**Section 8.2 Procedure for Amendment with Written Consent of Owners.** SANBAG and the Trustee may at any time adopt a Supplemental Indenture amending the provisions of any Bond or of the Indenture, to the extent that such amendment is permitted by Section 8.1, to take effect when and as provided in this Section. With respect to such Supplemental Indenture under this Section, the following will apply:

(a) A copy of such Supplemental Indenture, together with a request to Owner of the applicable Bond for the consent thereto, will be mailed by first class mail, by the Trustee to the Owner of such Bond Outstanding, but failure to mail a copy of such Supplemental Indenture and request will not affect the validity of the Supplemental Indenture when assented to as provided in this Section.

(b) Such Supplemental Indenture will not become effective unless there has been filed with the Trustee the written consents of the Owners of at least 60% in the aggregate principal amount of the Bond then Outstanding (exclusive of any Bond disqualified as provided in Section 8.3) and a notice has been mailed as described in paragraph (a) above. Each such consent will be effective only if accompanied by proof of ownership of the Bond for which such consent is given, which proof will be such as is permitted by Section 10.4.

Any such consent will be binding upon the Owner of the Bond giving such consent and on any subsequent Owner (whether or not such subsequent Owner has notice thereof) unless such consent is revoked in writing by the Owner giving such consent or a subsequent Owner by filing such revocation with the Trustee prior to the date when the notice hereinafter in this Section provided for has been mailed.

(c) After the Owners of the required percentage of Bonds shall have filed their consents to the Supplemental Indenture, the Trustee will mail a notice to such Owner in the manner described in paragraph (a) above for the mailing of the Supplemental Indenture, stating in substance that the Supplemental Indenture has been consented to by the Owner of the required percentage of Bonds and will be effective as provided in this Section; provided, however, that failure to mail copies of this notice will not affect the validity of the Supplemental Indenture or consents thereto.

Proof of the mailing of such notice will be filed with the Trustee. A record, consisting of the papers required by this Section 8.2 to be filed with the Trustee, will be proof of the matters therein stated until the contrary is proved.

The Supplemental Indenture will become effective upon the filing with the Trustee of (i) the proof of the required notice, and (ii) an approving opinion of Bond Counsel to the effect that the Supplemental Indenture complies with this Section 8.2. The Supplemental Indenture will be deemed conclusively binding (except as otherwise specifically provided in this Article) upon SANBAG and the Owners of such Bond at the expiration of 60 days after such

filing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such 60-day period.

**Section 8.3 Disqualified Bond.** Bonds owned or held for the account of SANBAG, excepting any pension or retirement fund, will not be deemed Outstanding for the purpose of any consent or other action or any calculation of Outstanding Bond provided for in this Article 8, and will not be entitled to consent to, or take any other action provided for in this Article 8; except that in determining whether the Trustee will be protected in relying upon any such approval or consent of an Owner, only Bonds which a responsible officer of the Trustee having direct responsibility for the administration of the Indenture actually knows to be owned by or held for the account of SANBAG (excepting any pension or retirement fund) will be disregarded unless all Bonds are so owned, in which case such Bonds will be considered Outstanding for the purpose of such determination.

Upon request of the Trustee, SANBAG will specify in a certificate to the Trustee those Bonds disqualified pursuant to this Section and the Trustee may conclusively rely on such certificate.

**Section 8.4 Effect of Supplemental Indenture.** From and after the time any Supplemental Indenture becomes effective pursuant to this Article 8, the Indenture will be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations under the Indenture of SANBAG and all Owners of the Bonds Outstanding will thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such Supplemental Indenture will be deemed to be part of the terms and conditions of the Indenture for any and all purposes.

**Section 8.5 Endorsement or Replacement of Bond Issued After Amendment.** SANBAG may determine that a Bond issued and delivered after the effective date of any action taken as provided in this Article 8 will bear a notation, by endorsement or otherwise, in form approved by SANBAG, as to such action. In that case, upon request of the Owner of any Bond Outstanding at such effective date and presentation of his or her Bond for that purpose at the Principal Office of the Trustee or at such other office as SANBAG may select and designate for that purpose, a suitable notation will be made on such Bond.

SANBAG may determine that a new Bond, so modified as in the opinion of SANBAG is necessary to conform to such Owners' action, will be prepared, executed and delivered. In that case, upon request of the Owner of any Bond then Outstanding, such new Bond will be exchanged at the Principal Office of the Trustee without cost to any Owner, for the Bond then Outstanding, upon surrender of such Bond.

**Section 8.6 Amendatory Endorsement of Bonds.** The provisions of this Article 8 will not prevent any Owner from accepting any amendment as to the particular Bond held by him, provided that due notation thereof is made on such Bond.

**Section 8.7 Execution of Supplemental Indenture.** Prior to executing any Supplemental Indenture hereunder, the Trustee shall receive an opinion of Bond Counsel stating that the execution of such Supplemental Indenture is authorized and permitted by the Indenture and that all conditions precedent to the execution of such Supplemental Indenture have been met.

## **ARTICLE 9**

### **EVENTS OF DEFAULT; REMEDIES**

**Section 9.1 Events of Default.** Any one or more of the following events will constitute an "Event of Default":

(a) Default in the due and punctual payment of the principal of or redemption premium, if any, on any Bond when and as the same will become due and payable, whether at maturity as therein expressed or from mandatory redemption;

(b) Default in the due and punctual payment of the interest on any Bond when and as the same will become due and payable;

(c) Failure of the Owners of the Bonds to have a perfected first priority interest in the Assessments and the other Collateral;

(d) Default by SANBAG in the observance of any of the other agreements, conditions or covenants on its part in the Indenture or in the Bonds contained, and the continuation of such default for a period of thirty (30) days after SANBAG has been given notice in writing of such default by the Trustee or any Owner; provided, however, if in the reasonable opinion of SANBAG the failure stated in the notice can be corrected, but not within such thirty (30) day period, such failure shall not constitute an Event of Default if corrective action is instituted by SANBAG within such thirty (30) day period and SANBAG shall thereafter diligently and in good faith cure such failure within a reasonable period of time; or

(e) (e) The filing by SANBAG of a voluntary petition in bankruptcy, or failure by SANBAG promptly to lift any execution, garnishment or attachment, or adjudication of SANBAG as a bankrupt, or assignment by SANBAG for the benefit of creditors, or the entry by SANBAG an agreement of composition with creditors, or the approval by a court of competent jurisdiction of petition applicable to SANBAG in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar acts which may hereinafter be amended.

(f) If an Event of Default under clause (c) or (d) above occurs, the Trustee or an Owner or Owners shall give SANBAG notice of such Event of Default. If such Event of Default is reasonably capable of being cured within thirty (30) days from the date of such notice, SANBAG shall have such period to effect a cure prior to the exercise of remedies by the Trustee or the Owners hereunder. If the Event of Default is such that it is reasonably capable of being cured, but not within such thirty (30) day period and SANBAG (i) initiates corrective action within such thirty (30) day period, and (ii) diligently, continually, and in good faith works to effect a cure as soon as possible, then SANBAG shall have such additional time as is reasonably necessary to cure the Event of Default prior to the exercise of any remedies by the

Trustee or the Owners. However, in no event shall the Trustee or the Owners be precluded from exercising remedies if the security interest in the Collateral for the Bonds becomes or is about to become materially jeopardized by any failure to cure an Event of Default, or if the Event of Default is not cured within one hundred and twenty (120) days after the first notice of default is given..

**Section 9.2 Remedies of Owners.** Following the occurrence of an Event of Default, any Owner will have the right for the equal benefit and protection of all Owners similarly situated:

(a) By mandamus or other suit or proceeding at law or in equity to enforce his or her rights against SANBAG and any of the members, officers and employees of SANBAG, and to compel SANBAG or any such members, officers or employees to perform and carry out their duties under Chapter 29 or the Bond Act and their agreements with the Owners as provided in the Indenture; or

(b) By suit in equity to enjoin any actions or things which are unlawful or violate the rights of the Owners.

Nothing in this article or in any other provisions of the Indenture or in the Bonds will affect or impair the obligation of SANBAG, which is absolute and unconditional, to pay the interest and redemption premium (if any) on and principal of the Bonds to the respective owners of the Bonds when due, as herein provided, out of the Assessments pledged for such payment, or affect or impair the right of action, which is also absolute and unconditional, of such Owners to institute suit to enforce such payment by virtue of the contract embodied in the Bonds and in the Indenture.

A waiver by any Owner of any default or breach of duty or contract will not affect any subsequent default or breach of duty or contract, or impair any rights or remedies on any such subsequent default or breach. No delay or omission by any Owner to exercise any right or power accruing upon any default will impair any such right or power and it will not be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy conferred upon the Owners by Chapter 29 or the Bond Act or by this article may be enforced and exercised from time to time and as often as will be deemed expedient by the Owners.

If any suit, action or proceeding to enforce any right or exercise any remedy is abandoned or determined adversely to the Owners, SANBAG and the Owners will be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken. No remedy herein conferred upon or reserved to the Owners is intended to be exclusive of any other remedy. Every such remedy will be cumulative and will be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised without exhausting and without regard to any other remedy conferred by Chapter 29, the Bond Act or any other law.

In no event will the Trustee have any responsibility to cure or cause SANBAG or any other person or entity to cure an Event of Default hereunder.

**Section 9.3 Agreement to Pay Attorneys' Fees and Expenses.** In the event any party to the Indenture, other than the Trustee, should default under any of the provisions hereof and a non-defaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will, on demand therefor, pay to the non-defaulting party or parties the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting party or parties.

## ARTICLE 10

### MISCELLANEOUS

**Section 10.1 Discharge of Indenture.** Subject to the provisions of Section 2.3 hereof regarding redemption, if SANBAG pays and discharges the entire indebtedness on all or a portion of any Bond or Bonds Outstanding in any one or more of the following ways:

(a) by paying or causing to be paid the principal of and interest and any premium on, any Bond or Bonds Outstanding, as and when the same become due and payable;

(b) by depositing with the Trustee, in trust, at or before maturity, money which, together with the amounts then on deposit in the funds and accounts provided for in Section 4.1, is fully sufficient to pay such Bond or Bonds Outstanding, including all principal, interest and any applicable redemption premiums; or

(c) by irrevocably depositing with the Trustee, in trust, cash and Federal Securities in such amount as SANBAG may determine, as confirmed by an independent certified public accountant, will, together with the interest to accrue thereon and moneys then on deposit in the fund and accounts provided for in Section 4.1, be fully sufficient, without reinvestment, to pay and discharge the indebtedness on such Bond or Bonds, including all principal, interest and any applicable redemption premiums, at or before their respective maturity dates;

and if such Bond or Bonds are to be redeemed prior to the maturity thereof notice of such redemption has been given as required by the Indenture (or provision satisfactory to the Trustee has been made for the giving of such notice), then, at the election of SANBAG, and notwithstanding that any Bond or Bonds have not been surrendered for payment, the pledge of the Assessments and other Collateral provided for in the Indenture and all other obligations of SANBAG under the Indenture with respect to such Bond or Bonds Outstanding will cease and terminate, except only: (i) the obligation of SANBAG to pay or cause to be paid to the Owners of such Bond or Bonds not so surrendered and paid all sums due thereon, and (ii) the obligation of SANBAG to pay or cause to be paid all amounts owing to the Trustee pursuant to Section 7.5 hereof.

If all Bonds outstanding are discharged pursuant to this Section, thereafter Assessments will not be payable to the Trustee. Notice of election to discharge the Indenture will be filed with the Trustee.

Any funds thereafter held by the Trustee upon payment of all fees and expenses of the Trustee, which are not required for said purpose, will be paid over to SANBAG to be used by SANBAG as provided in Chapter 29 and the Bond Act.

**Section 10.2 Benefits of Indenture Limited to Parties.** Nothing in the Indenture, expressed or implied, is intended to give to any person other than SANBAG, the Trustee and the Owners, any right, remedy or claim under or by reason of the Indenture. Any covenants, stipulations, promises or agreements in the Indenture contained by and on behalf of SANBAG will be for the sole and exclusive benefit of the Owners and the Trustee.

**Section 10.3 Successor is Deemed Included in All Reference to Predecessor.** Whenever in the Master Indenture or any Supplemental Indenture either SANBAG or the Trustee is named or referred to, such reference will be deemed to include the successors or assigns thereof, and all the covenants and agreements in the Indenture contained by or on behalf of SANBAG or the Trustee will bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

**Section 10.4 Execution of Documents and Proof of Ownership by Owners.** Any request, declaration or other instrument which the Indenture may require or permit to be executed by Owners may be in one or more instruments of similar tenor, and will be executed by Owners in person or by their attorneys appointed in writing.

Except as otherwise herein expressly provided, the fact and date of the execution by any Owner or his attorney of such request, declaration or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request, declaration or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

The ownership of registered Bonds and the amount, maturity, number and date of holding the same will be proved by the registry books.

Any consent, request, declaration or other instrument or writing of the then registered Owner of any Bond will bind all future Owners of such Bond in respect of anything done or suffered to be done by SANBAG or the Trustee in good faith and in accordance therewith.

**Section 10.5 Waiver of Personal Liability.** No member, officer, agent or employee of SANBAG or officer, agent or employee of any Member Agency will be individually or personally liable for the payment of the principal of, or interest or any premium on, the Bonds; but nothing herein contained will relieve any such member, officer, agent or employee from the performance of any official duty provided by law.

**Section 10.6 NOTICES TO AND DEMAND ON SANBAG AND TRUSTEE.** All notices or communications herein required or permitted to be given to SANBAG or the Trustee shall be in writing and shall be deemed to have been sufficiently given or served for all purposes by being delivered or sent by telecopy or upon actual receipt by being deposited, postage prepaid, in a post office letter box, addressed as follows:

If to SANBAG: San Bernardino Associated Governments  
1170 West 3rd Street, 2nd Floor  
San Bernardino, California 92410  
Attention: Executive Director

If to the Trustee: [Trustee]

**Section 10.7 Partial Invalidity.** If any one or more of the provisions contained in the Indenture, the applicable Supplemental Indenture or in the applicable Bond shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in the Indenture, such Supplemental Indenture and such Bond and such invalidity, illegality or unenforceability shall not affect any other provision of the Indenture, and the Indenture shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. SANBAG hereby declares that it would have entered into the Indenture and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issuance of such Bond pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of the Indenture may be held illegal, invalid or unenforceable.

**Section 10.8 Unclaimed Moneys.** Notwithstanding any provisions of the Indenture, any moneys held by the Trustee in trust for the payment of the principal of, or interest on, any Bond and remaining unclaimed for two years after the principal of all of the Bond has become due and payable (whether at maturity or upon call for redemption or by acceleration as provided in the Indenture), if such moneys were so held at such date, or two years after the date of deposit of such moneys if deposited after said date when such Bond became due and payable, shall be repaid to SANBAG free from the trusts created by the Indenture upon receipt of an indemnification agreement acceptable to SANBAG and the Trustee indemnifying the Trustee with respect to claims of Owner of such Bond which have not yet been paid, and all liability of the Trustee with respect to such moneys shall thereupon cease; provided, however, that before the repayment of such moneys to SANBAG as aforesaid, the Trustee may (at the cost of SANBAG) first mail, by first class mail postage prepaid, to the Owners of such Bond which have not yet been paid, at the respective addresses shown on the Registration Books, a notice, in such form as may be deemed appropriate by the Trustee with respect to such Bond so payable and not presented and with respect to the provisions relating to the repayment to SANBAG of the moneys held for the payment thereof.

**Section 10.9 Applicable Law.** The Indenture will be governed by and enforced in accordance with the laws of the State of California applicable to contracts made and performed in the State of California.

**Section 10.10 Conclusive Evidence of Regularity.** The issuance of Bonds pursuant to the Indenture will constitute conclusive evidence of the regularity of all proceedings under Chapter 29 relative to their issuance and the levy of the Assessments.

**Section 10.11 Payment on Business Day.** In any case where the date of the maturity of interest or of principal (and premium, if any) of a Bond or the date fixed for redemption of a Bond or the date any action is to be taken pursuant to the Indenture is other than a Business Day, the payment of interest or principal, (and any redemption premium) or the action need not be made on such date but may be made on the next succeeding day which is a Business Day with the same force and effect as if made on the date required and no additional interest will accrue from such Interest Payment Date until such Business Day.

**Section 10.12 Counterparts.** This Master Indenture may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as SANBAG and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, SANBAG and the Trustee have caused this Master Indenture to be executed, all as of the date first written above.

**SAN BERNARDINO ASSOCIATED GOVERNMENTS**

By: \_\_\_\_\_  
Raymond Wolfe  
Its: Executive Director

[Trustee], as Trustee

By: \_\_\_\_\_  
Its: Vice President

**EXHIBIT A**

**FORM OF SUPPLEMENTAL INDENTURE**

**SUPPLEMENTAL INDENTURE SERIES NO. 20\_\_ - \_\_**

**BETWEEN THE**

**SAN BERNARDINO ASSOCIATED GOVERNMENTS**

**AND**

**[TRUSTEE],  
as Trustee**

**DATED AS OF CLOSING DATE**

**RELATING TO**

**SAN BERNARDINO ASSOCIATED GOVERNMENTS  
LIMITED OBLIGATION IMPROVEMENT BONDS  
(SANBAG HERO Program)  
(Residential Property Tranche)  
Series No. 20\_\_ - \_\_**

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## Supplemental Indenture Series No. 20\_\_ - \_\_

**This Supplemental Indenture Series No. 20\_\_ - \_\_**, dated as of Closing Date (the “Supplemental Indenture Series No. 20\_\_ - \_\_” or “Supplemental Indenture”), between the SAN BERNARDINO ASSOCIATED GOVERNMENTS (“SANBAG”), a joint exercise of powers authority duly organized and existing under the Joint Exercise of Powers Act, being Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (commencing with Section 6500) and a Joint Exercise of Powers Agreement originally made and entered into by the parties thereto as of October 17, 1975, and [TRUSTEE], as trustee (the “Trustee”), a national banking association organized and existing under the laws of the United States of America;

### BACKGROUND:

**WHEREAS**, SANBAG and the Trustee have executed and delivered a Master Indenture, dated as of [Dated Date] (the “Master Indenture”), to provide for the terms and conditions of the issuance by SANBAG of one or more series of Bonds (as defined in the Master Indenture) from time to time;

**WHEREAS**, in order to provide for the authentication and delivery of the Series No. 20\_\_ - \_\_ Bond (defined below), to establish and declare the terms and conditions upon which the Series No. 20\_\_ - \_\_ Bond is to be issued, to secure the Series No. 20\_\_ - \_\_ Bond by a lien and charge upon the Series No. 20\_\_ - \_\_ Assessment or the Series No. 20\_\_ - \_\_ Assessments and the respective funds and accounts established under the Master Indenture, the Board of Directors of SANBAG has authorized the execution and delivery of this Supplemental Indenture; and

**WHEREAS**, all acts and proceedings required by law and the Master Indenture necessary to make the Series No. 20\_\_ - \_\_ Bond, when executed by SANBAG, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal special obligations of SANBAG, and to constitute this Supplemental 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 Supplemental Indenture Series No. 20\_\_ - \_\_ have been in all respects duly authorized;

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants contained herein, the parties hereto hereby agree as follows:

### ARTICLE 11

#### DEFINITIONS; AUTHORIZATION AND PURPOSE OF SERIES NO. 20\_\_ - \_\_ BOND; EQUAL SECURITY

**Section 11.1 Definitions.** Unless the context clearly otherwise requires or unless otherwise defined in the Master Indenture, the capitalized terms in this Supplemental Indenture will have the respective meanings specified herein.

***“Interest Payment Dates”*** means March 2 and September 2 of each year, commencing, on the date set forth in Exhibit B hereto.

***“Closing Date”*** means the date of initial issuance and delivery of the Series No. 20\_\_- \_\_ Bond hereunder as set forth in Exhibit A hereto and incorporated herein by this reference.

***“Costs of Issuance”*** means all items of expense directly or indirectly payable by or reimbursable to SANBAG relating to the authorization, issuance, sale and delivery of the Series No. 20\_\_- \_\_ Bond, including but not limited to, printing expenses; rating agency fees; filing and recording fees; initial fees, expenses and charges of the Trustee and its counsel, including the Trustee’s first annual administrative fee; fees, charges and disbursements of attorneys, financing advisors, accounting firms, consultants and other professionals; fees and charges for preparation, execution and safekeeping of the Series No. 20\_\_- \_\_ Bond; and any cost, charge or fee in connection with the original issuance of the Series No. 20\_\_- \_\_ Bond.

***“Maximum Annual Debt Service”*** means the largest Debt Service on the Series No. 20\_\_- \_\_ Bond for any Bond Year.

***“Series No. 20\_\_- \_\_ Bond”*** means the Bond designated as set forth in Section 2.01(a) hereof.

***“Series No. 20\_\_- \_\_ Bond Assessment”*** or ***“Series No. 20\_\_- \_\_ Bond Assessments”*** means the Assessment levied on the Series No. 20\_\_- \_\_ Bond Participating Parcel or the Series No. 20\_\_- \_\_ Bond Participating Parcels, as applicable.

***“Series No. 20\_\_- \_\_ Bond Participating Parcel”*** or ***“Series No. 20\_\_- \_\_ Bond Participating Parcels”*** means the Participating Parcel or Participating Parcels identified in Exhibit A attached hereto.

***“Series No. 20\_\_- \_\_ Bond Reserve Fund Deposit”*** shall be an amount equal to the Reserve Fund Deposit as specified in Exhibit A to be deposited to the Reserve Fund.

**Section 11.2 Interpretation.** Section 1.3 of the Master Indenture shall govern interpretation of this Supplemental Indenture.

**Section 11.3 Authorization.** Each of the parties represents and warrants that it has full legal authority and is duly empowered to enter into this Supplemental Indenture and has taken all actions necessary to authorize the execution of this Supplemental Indenture by the officers and persons signing it.

**Section 11.4 Security.** As a Bond issued pursuant to Section 2.2 of the Master Indenture, the Series No. 20\_\_- \_\_ Bond will be secured by a lien and charge upon the Series No. 20\_\_- \_\_ Bond Assessment or the Series No. 20\_\_- \_\_ Bond Assessments, as applicable, and the respective funds and accounts established under the Master Indenture and this Supplemental Indenture securing the Series No. 20\_\_- \_\_ Bond.

## ARTICLE 12

### ISSUANCE OF SERIES NO. 20\_\_ - \_\_ BOND

#### **Section 12.1 Terms of Series No. 20\_\_ - \_\_ Bond.**

12.1.1 The Series No. 20\_\_ - \_\_ Bond authorized to be issued by SANBAG under and subject to the Bond Law and the terms of the Master Indenture, as supplemented and amended, and this Supplemental Indenture, will be designated the "San Bernardino Associated Governments, Limited Obligation Improvement Bond (SANBAG HERO Program) (First Residential Property Tranche – Phase Two) Series No. 20\_\_ - \_\_," and will be issued in the original principal amount as set forth in Exhibit A hereto.

12.1.2 The Series No. 20\_\_ - \_\_ Bond will be dated the Closing Date, issued in fully registered form without coupons, and will mature on the date and in the principal amount and will bear interest at the rates per annum (payable on each Interest Payment Date) set forth in the Exhibit B attached hereto and incorporated herein by this reference.

(c) Interest on the Series No. 20\_\_ - \_\_ Bond Interest will be computed on the basis of a 360-day year of twelve 30-day calendar months, and will be payable on each Interest Payment Date. The Series No. 20\_\_ - \_\_ Bond will bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless authenticated on a day during the period from the sixteenth day of the month next preceding a Interest Payment Date to such Interest Payment Date, both days inclusive, in which event such Bond will bear interest from such Interest Payment Date; or unless they are authenticated on a day on or before the fifteenth day of the month next preceding the first Interest Payment Date, in which event such Bond will bear interest from the Closing Date. Notwithstanding the foregoing, if interest on any Bond is in default at the time of authentication thereof, such Bond will bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

Except as otherwise set forth in this Section 2.01, Article II of the Master Indenture will govern the terms of the Series No. 20\_\_ - \_\_ Bond.

**Section 12.2 Redemption of Series No. 20\_\_ - \_\_ Bond.** The Series No. 20\_\_ - \_\_ Bond shall be subject to redemption as provided for in Exhibit B hereto.

**Section 12.3 Form of Series No. 20\_\_ - \_\_ Bond.** The Series No. 20\_\_ - \_\_ Bond, the Trustee's certificate of authentication, and the assignment to appear thereon, will be substantially in the form set forth in Exhibit B attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Supplemental Indenture, the Master Indenture, the Resolutions of Issuance and the Bond Law.

**Section 12.4 Validity of Bonds.** The validity of the authorization and issuance of the Bonds will not be dependent upon the installation of the Improvements or upon the performance by any person of such person's obligation with respect to the Improvements.

## ARTICLE 13

### ISSUANCE OF SERIES NO. 20\_\_ - \_\_ BOND; USE OF PROCEEDS

**Section 13.1 Issuance of Series No. 20\_\_ - \_\_ Bond.** Upon the execution and delivery of this Supplemental Indenture and satisfaction of the requirements for issuance of Bonds under Section 2.2 of the Master Indenture, SANBAG will execute and deliver the Series No. 20\_\_ - \_\_ Bond in the aggregate principal amount set forth in Exhibit A hereto.

**Section 13.2 Application of Proceeds of Sale of Series No. 20\_\_ - \_\_ Bond.** Upon the receipt of payment for the Series No. 20\_\_ - \_\_ Bond on the Closing Date, the Trustee will deposit the proceeds of sale thereof in the funds and accounts specified in Exhibit A hereto.

**Section 13.3 Capitalized Interest Account of the Redemption Fund.** Moneys, if any, deposited pursuant to this Supplemental Indenture in the Capitalized Interest Account of the Redemption Fund established for the Series No. 20\_\_ - \_\_ Bond will be held by the Trustee and applied pursuant to Section 4.1 of the Master Indenture to the payment of interest coming due on the Series No. 20\_\_ - \_\_ Bond until such amount is expended.

**Section 13.4 Reserve Fund.** Moneys deposited in the Reserve Fund pursuant to this Supplemental Indenture will be held by the Trustee and disbursed as provided in Section 4.2 of the Master Indenture.

**Section 13.5 Program Fund.** Moneys deposited pursuant to this Supplemental Indenture in the Program Fund established for the Series No. 20\_\_ - \_\_ Bond will be held by the Trustee and be disbursed as provided in Section 4.3.2 of the Master Indenture pursuant to an Officer's Certificate or Officer's Certificates in the form set forth in Exhibit D to the Master Indenture.

**Section 13.6 Costs of Issuance Fund.** Moneys deposited pursuant to this Supplemental Indenture in the Costs of Issuance Fund established for the Series No. 20\_\_ - \_\_ will be held by the Trustee and disbursed as provided in Section 4.4.2 of the Master Indenture pursuant to an Officer's Certificate or Officer's Certificates in the form set forth in Exhibit E to the Master Indenture.

## ARTICLE 14

### ADDITIONAL PROVISIONS

**Section 14.1 Applicable Law.** This Supplemental Indenture Series No. 20\_\_ - \_\_ will be governed by and enforced in accordance with the laws of the State of California applicable to contracts made and performed in the State of California.

**Section 14.2 Conflict with Bond Law.** In the event of a conflict between any provision of this Supplemental Indenture Series No. 20\_\_ - \_\_ with any provision of the Bond Law as in effect on the Closing Date, the provision of the Bond Law will prevail over the conflicting provision of this Supplemental Indenture Series No. 20\_\_ - \_\_.

**Section 14.3 Conclusive Evidence of Regularity.** The Series No. 20\_\_- \_\_ Bond issued pursuant to this Supplemental Indenture Series No. 20\_\_- \_\_ will constitute conclusive evidence of the regularity of all proceedings under the Bond Law relative to their issuance and the levy of the Series No. 20\_\_- \_\_ Assessments.

**Section 14.4 Confirmation of Master Indenture; Conflict With Master Indenture.** All representations, covenants, warranties and other provisions of the Master Indenture, as previously amended and supplemented, unless specifically amended, modified or supplemented by this Supplemental Indenture, are hereby confirmed as applicable to this Supplemental Indenture. In the event of any conflict between the provisions of this Supplemental Indenture and the Master Indenture, as previously amended and supplemented, the provisions of this Supplemental Indenture will govern.

**Section 14.5 Counterparts.** This Supplemental Indenture may be executed in counterparts, each of which will be deemed an original.

[The remainder of this page has been intentionally left blank.]

IN WITNESS WHEREOF, SANBAG and the Trustee have caused this Supplemental Indenture Series No. 20\_\_- \_\_ to be executed, all as of the date first written above.

SAN BERNARDINO ASSOCIATED  
GOVERNMENTS

By: \_\_\_\_\_  
Authorized Representative

[TRUSTEE], as Trustee

By: \_\_\_\_\_  
Vice President

**EXHIBIT A**

**TERMS; APPLICATION OF PROCEEDS;  
ASSESSMENTS SECURING THE SERIES NO. 20\_\_-\_\_ BOND**

**Terms:**

The terms of the Series No. 20\_\_-\_\_ Bond shall be as follows:

**Principal Amount:** \$\_\_\_\_\_

**Reserve Fund Deposit:** \$\_\_\_\_\_

**Interest Rate:** \_\_\_\_\_%

**Closing Date:** \_\_\_\_\_, 20\_\_

**First Interest Payment Date:** \_\_\_\_\_2, 20\_\_

**Maturity Date:** September 2, 20\_\_

**Application of Proceeds:**

The Trustee shall apply the proceeds of the Series No. 20\_\_-\_\_ Bond as follows:

- \$\_\_\_\_\_ shall be deposited in the Capitalized Interest Account of the applicable Redemption Fund.
- \$\_\_\_\_\_ shall be deposited in the Reserve Fund.
- \$\_\_\_\_\_ shall be deposited in the applicable Program Fund.
- \$\_\_\_\_\_ shall be deposited in the applicable Cost of Issuance Fund.
- \$\_\_\_\_\_ shall be deposited to the Reserve Fund.

[Remainder of this page intentionally left blank.]

**Assessments Securing the Series No. 20\_\_-\_\_ Bond:**

The Series No. 20\_\_-\_\_ Bond shall be secured by and shall be payable from the following Series No. 20\_\_-\_\_ Bond Assessment or Series No. 20\_\_-\_\_ Bond Assessments, as applicable, levied upon the Series No. 20\_\_-\_\_ Bond Participating Parcel or Series No. 20\_\_-\_\_ Participating Parcels, as applicable, as set forth in Exhibit C:

[The remainder of this page has been intentionally left blank.]

The preceding Terms, Application of Proceeds and Assessments Securing the Series No. 20\_\_-\_\_ Bond contained in this Exhibit A and the redemption provisions and debt service scheduled contained in Exhibit B to the Supplemental Indenture have been reviewed and accepted by the following representatives of SANBAG and [the Purchaser]..

Reviewed and Accepted:  
SANBAG

Reviewed and Accepted:  
[Purchaser]

By: \_\_\_\_\_  
Title: Authorized Representative

By: \_\_\_\_\_  
Title: Chief Financial Officer

**EXHIBIT B**

**FORM OF SERIES NO. 20\_\_ - \_\_ BOND**

**THE TRUSTEE IS PROHIBITED FROM REGISTERING THE OWNERSHIP OR TRANSFER OF OWNERSHIP OF THIS BOND TO ANY PERSON WITHOUT RECEIPT OF AN EXECUTED INVESTOR LETTER AS DEFINED IN AND ATTACHED TO THE INDENTURE DESCRIBED HEREIN.**

Number R-\_\_

\*\*\*\$\_\_\_\_\_\*\*\*

**SAN BERNARDINO ASSOCIATED GOVERNMENTS  
LIMITED OBLIGATION IMPROVEMENT BONDS  
(SANBAG HERO Program)  
(Residential Property Tranche)  
Series No. 20\_\_ - \_\_**

INTEREST RATE

\_\_\_\_\_.00%

MATURITY DATE

September 2, 20\_\_

DATED DATE

\_\_\_\_\_, 20\_\_

REGISTERED OWNER:

PRINCIPAL AMOUNT:

Under and by virtue of the Improvement Bond Act of 1915, Division 10 (commencing with Section 8500) of the Streets and Highways Code (the "Bond Law"), the San Bernardino Associated Governments (the "SANBAG"), will, out of the Redemption Fund established pursuant to a Master Indenture, dated as of [Dated Date], by and between SANBAG and [Trustee], as trustee (the "Trustee"), as supplemented and amended, including as supplemented by a Supplemental Indenture Series No. 20\_\_ - \_\_ (as amended and supplemented, the "Indenture"), pay to the registered owner named above or registered assigns, the principal installments specified below, in lawful money of the United States of America and in like manner will pay interest at the rate per annum stated above, on each March 2 and September 2 (each a "Interest Payment Date") in each year commencing on March 2, 20\_\_:

<b>Interest Payment Date</b>	<b>Principal Installment</b>	<b>Interest Installment</b>	<b>Total</b>
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Capitalized terms not otherwise defined herein shall have the meanings given such terms in the Indenture.

This Series No. 20\_\_- \_\_ Bond bears interest from the Interest Payment Date next preceding its date of authentication and registration unless it is authenticated and registered (i) prior to an Interest Payment Date and after the close of business of the 15th day of the calendar month preceding such Interest Payment Date, in which event it will bear interest from such Interest Payment Date, or (ii) prior to the close of business on the 15th day of the calendar month preceding the first Interest Payment Date above, in which event it will bear interest from its dated date (as set forth above), until payment of such principal sum has been discharged.

Interest installments on and principal installments of the Series No. 20\_\_- \_\_ Bond (including the final interest payment or earlier redemption) is payable in lawful money of the United States of America by check of the Trustee mailed on the applicable Interest Payment Date by first class mail to the registered Owner thereof at such registered Owner's address as it appears on the Bond Register maintained by the Trustee at the close of business on the Record Date preceding the Interest Payment Date (or by wire transfer made on such Interest Payment Date upon the written instructions of any Owner of \$1,000,000 or more in aggregate principal amount of the Bonds delivered to the Trustee prior to the applicable Record Date).

If the Series No. 20\_\_- \_\_ Bond is paid by the Trustee under the Indenture, such Bond

will be canceled by the Trustee. The Trustee will destroy the canceled Series No. 20\_\_- \_\_ Bond and, upon request of SANBAG, issue a certificate of destruction of such Series No. 20\_\_- \_\_ Bond to SANBAG.

The final installment of principal of the Series No. 20\_\_- \_\_ Bond will continue to bear interest after the final Interest Payment Date stated above if such principal amount has not been paid on or before such Interest Payment Date and such payment has been refused upon the sole ground that there are not sufficient moneys in the redemption fund with which to pay same. If this Series No. 20\_\_- \_\_ Bond is not presented on or before the final Interest Payment Date, interest hereon will run only until maturity.

This Series No. 20\_\_- \_\_ Bond will not be entitled to any benefit under the Bond Law or the Indenture, or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon are dated and signed by the Trustee.

This Series No. 20\_\_- \_\_ Bond is issued by the San Bernardino Associated Governments under the Bond Law and the Indenture for the purpose of providing means for paying for the Improvements described in the Indenture, and is secured by certain moneys in the redemption fund and by the unpaid portion of an Assessments made for the payment of those improvements, and, including principal and interest, is payable exclusively out of the redemption fund.

The Trustee shall not register any transfer of this Bond except to an Accredited Investor that has delivered an executed Investor Letter to the Trustee.

This Series No. 20\_\_- \_\_ Bond is transferable by the registered owner hereof, in person or by the owner's attorney duly authorized in writing, at the office of the Trustee, subject to the terms and conditions provided in the Resolution of Issuance and the Indenture, including the payment of certain charges, if any, upon surrender and cancellation of this bond. Upon such transfer, a new registered Series No. 20\_\_- \_\_ Bond, of any authorized denomination or denominations, of the same maturity, and for the same aggregate principal amount, will be issued to the transferee in exchange therefor.

Series No. 20\_\_- \_\_ Bond will be registered only in the name of an individual (including joint owners), a corporation, a partnership, or a trust.

Neither SANBAG nor the Trustee will be required to make such exchange or registration of transfer of Series No. 20\_\_- \_\_ Bond during the 15 days of the calendar month immediately preceding any Interest Payment Date.

SANBAG and the Trustee may treat the registered owner hereof as the absolute owner for all purposes, and SANBAG and the Trustee will not be affected by any notice to the contrary.

**Mandatory Prepayment Redemption.** The Series No. 20\_\_- \_\_ Bond will be redeemed and paid in advance of maturity, in whole or in part in Authorized Denominations, from amounts received by SANBAG as Prepayments, on any Interest Payment Date, by paying the principal amount thereof together with the redemption premium set forth below, plus interest to the date of redemption, unless sooner surrendered, in which event said interest will be paid to the date of payment, all in the manner and as provided in the Bond Law.

Redemption  
Dates

Redemption  
Premium (%)

This Series No. 20\_\_- \_\_ Bond is a Limited Obligation Improvement Bond because, under the Indenture, SANBAG and the Member Agencies thereof are not obligated to advance funds from the SANBAG treasury or the treasury of any such Member Agency to cover any deficiency which may occur in the redemption fund for the Series No. 20\_\_- \_\_ Bond.

[The remainder of this page has been intentionally left blank.]

IN WITNESS WHEREOF, SANBAG has caused this Series No. 20\_\_- \_\_ Bond to be executed in its name and on its behalf by the facsimile signatures of its Treasurer and the Secretary of the Board of Directors all as of the Original Issue Date identified above.

SAN BERNARDINO ASSOCIATED  
GOVERNMENTS

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

Attest:

\_\_\_\_\_  
Clerk of the Board of Directors

***CERTIFICATE OF AUTHENTICATION AND REGISTRATION***

This is the Series No. 20\_\_ - \_\_ Bond described in the within mentioned Indenture.

Dated: \_\_\_\_\_, 20\_\_

[TRUSTEE], as Trustee

By: \_\_\_\_\_  
Authorized Signatory

**ABBREVIATIONS**

The following abbreviations, when used in the inscription on the face of this bond, will be construed as though they were written out in full according to applicable laws or regulations:

TEN COM - as tenants in common

TEN ENT - as tenants by the entireties

JT TEN - as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT -

\_\_\_\_\_ (Cust)

\_\_\_\_\_ (Minor)

under Uniform Gifts to Minors Act \_\_\_\_\_

(State)

Additional abbreviations may also be used though not in the above list

**(FORM OF ASSIGNMENT)**

For value received, the undersigned do(es) hereby sell, assign and transfer unto

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within mentioned Bond and hereby irrevocably constitute(s) and appoint(s) \_\_\_\_\_, attorney, to transfer the same on the registration books of the Trustee, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed:

\_\_\_\_\_

NOTICE: The signature(s) on this assignment must correspond with the name(s) as written on the face of the registered Bond in every particular without alteration or enlargement or any change whatsoever.

**EXHIBIT C**

**ASSESSMENTS SECURING THE SERIES NO. 20\_\_-\_\_-T\_\_ BOND**

**Series No. 20\_\_-\_\_-T\_\_ Bond  
Participating Parcel(s)**

**(Name/Assessor's Parcel No.)**

## **EXHIBIT B**

### **PERMITTED INVESTMENTS**

“Permitted Investments” shall include any of the following:

- (a) Federal Securities.
- (b) Federal Housing Administration debentures.
- (c) Unsecured certificates of deposit, time deposits, demand deposits, overnight bank deposits, trust funds, trust accounts, interest-bearing deposits, interest-bearing money market accounts, and bankers’ acceptances (having maturities of not more than 30 days) of any bank (including those of the Trustee and its affiliates) the short-term obligations of which are rated “A-1” or better by S&P.
- (d) Deposits the aggregate amount of which are fully insured by the Federal Deposit Insurance Corporation (FDIC), in banks which have capital and surplus of at least \$5 million (including those of the Trustee and its affiliates).
- (e) Commercial paper (having original maturities of not more than 270 days) rated “A-1+” by S&P and “Prime-1” by Moody’s.
- (f) State Obligations, which means
  - (i) Direct general obligations of any state of the United States or any subdivision or agency thereof to which is pledged the full faith and credit of a state the unsecured general obligation debt of which is rated “A3” by Moody’s and “A” by S&P, or better, or any obligation fully and unconditionally guaranteed by any state, subdivision or agency whose unsecured general obligation debt is so rated.
  - (ii) Direct, general short-term obligations of any state agency or subdivision described in (i) above and rated “A-1+” by S&P and “Prime- 1” by Moody’s.
  - (iii) Special Revenue Bonds (as defined in the United States Bankruptcy Code) of any state, state agency or subdivision described in (i) above and rated “AA” or better by S&P and “Aa” or better by Moody’s.
- (g) Pre-refunded municipal obligations meeting the following requirements:
  - (i) the municipal obligations are (A) not subject to redemption prior to maturity or (B) the trustee for the municipal obligations has been given irrevocable instructions concerning their call and redemption and the issuer of the municipal obligations has covenanted not to redeem such municipal obligations other than as set forth in such instructions;

(ii) the municipal obligations are secured by cash or United States Treasury Obligations which may be applied only to payment of the principal of, interest and premium on such municipal obligations;

(iii) the principal of and interest on the United States Treasury Obligations (plus any cash in the escrow) has been verified by the report of independent certified public accountants to be sufficient to pay in full all principal of, interest, and premium, if any, due and to become due on the municipal obligations (“Verification”);

(iv) the cash or United States Treasury Obligations serving as security for the municipal obligations are held by an escrow agent or trustee in trust for owners of the municipal obligations;

(v) no substitution of a United States Treasury Obligation will be permitted except with another United States Treasury Obligation and upon delivery of a new Verification; and

(vi) the cash or the United States Treasury Obligations are not available to satisfy any other claims, including those by or against the trustee or escrow agent.

(h) Investments in a money market mutual fund rated “AAAm” or “AAAm-G” or better by S&P and having a rating in the highest investment category granted thereby from Moody’s, including, without limitation any mutual fund for which the Trustee or an affiliate of the Trustee serves as investment manager, administrator, shareholder servicing agent, or custodian or subcustodian, notwithstanding that (i) the Trustee or an affiliate of the Trustee receives fees from funds for services rendered, (ii) the Trustee collects fees for services rendered pursuant to the Indenture, which fees are separate from the fees received from such funds, and (iii) services performed for such funds and pursuant to the Indenture may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee.

(i) Repurchase and reverse repurchase agreements collateralized with securities described in (a) and (b) above, including those of the Trustee or any of its affiliates.

(j) California’s Local Agency Investment Fund (“LAIF”).

## EXHIBIT C

### INVESTOR LETTER

San Bernardino Associated Governments  
1170 W. 3rd Street, 2nd Floor  
San Bernardino, California 925410  
Attention: Executive Director

[Trustee]

Attention: Corporate Trust Services

Re: \$[ ]  
San Bernardino Associated Governments  
Limited Obligation Improvement Bond  
(SANBAG HERO Program)  
(Residential Property Tranche)  
Series [ ]

Ladies and Gentlemen:

The undersigned (the "Investor") proposes to purchase the above referenced limited obligation improvement bond (the "Bond") from the San Bernardino Associated Governments ("SANBAG"). Capitalized terms used in this Investor Letter and not otherwise defined herein shall have the meanings ascribed to such terms in the Master Indenture, dated as of \_\_\_\_\_, 20\_\_ (the "Master Indenture"), by and between SANBAG and [Trustee], as trustee (the "Trustee").

In connection with the sale of the Bond to the Investor, the Investor hereby makes the following representations upon which you may rely:

1. The Investor has authority to purchase the Bond and to execute this letter and any other instruments and documents required to be executed by the Investor in connection with the purchase of the Bond.

2. The Investor is an "accredited investor" under Regulation D of the Securities Act of 1933 and therefore, has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by the Bond.

3. The Bond is being acquired by the Investor for investment and not for more than one account or with a view to distribution of the Bond(s) except as provided for in paragraph 8 below. The Investor understands that it may need to bear the risks of this investment for an indefinite time, since any sale prior to maturity may not be possible.

4. The Investor understands that the Bond is not registered under the 1933 Act and that such registration is not legally required as of the date hereof; and further understands that the Bond (a) are not being registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state, (b) will not be listed in any stock or other securities exchange, (c) will not carry a rating from any rating service and (d) will be delivered in a form which may not be readily marketable.

5. The Investor understands that (a) the Bond is not secured by any pledge of any moneys received or to be received from taxation by the State of California or any political subdivision thereof and that SANBAG has no taxing power, (b) the Bond does not and will not represent or constitute a general obligation or a pledge of the faith and credit of SANBAG, the State of California or any political subdivision thereof; and (c) the liability of SANBAG with respect to the Bond is limited to pledge of the Assessment(s) and all moneys deposited in the Redemption Fund (including the Capitalized Interest Account and the Prepayment Account therein) derived from the installments of the Assessment(s) or from the prepayment of such Assessment(s) received by SANBAG as set forth in the Indenture.

6. The Investor acknowledges that its has either been supplied with or been given access to such information, to which a reasonable investor would attach significance in making investment decisions, and the Investor has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning SANBAG, the Program, the Assessment Contract, the Assessment, the Participating Parcels, the Master Indenture, the Supplemental Indenture, the Bond and the security therefor so that, as a reasonable investor, the Investor has been able to make our decision to purchase the Bond.

7. The Investor has made its own inquiry and analysis with respect to the Bond and the security therefor, and other material factors affecting the security and payment of the Bond. The Investor, with assistance of counsel, has reviewed the Bond, the Master Indenture and the Supplemental Indenture. The Investor acknowledges, consents and agrees to all terms of such documents.

8. The Investor acknowledges that it has the right to sell and transfer the Bond, in accordance with the terms of the Master Indenture and the Supplemental Indenture, subject to the delivery to the Trustee of an Investor's Letter from the transferee in the form attached to the Master Indenture as Exhibit B, with no material revisions except as may be approved in writing by SANBAG. Failure to deliver such Investor's Letter shall cause the purported transfer to be null and void.

9. The Investor understands that neither the members, directors, officers, employees or agents of SANBAG, nor any person executing the Bond, the Master Indenture or the Supplemental Indenture, shall be subject to any personal liability or accountability by reason of or in connection with the issuance, offering, execution and delivery of the Bond.

10. The Investor hereby waives the right to receive other or further information from SANBAG and its agents, representatives and attorneys and further waives any liability on the part of such parties for failure to provide such information or the failure to include such information in any of the documents, representations or certificate; provided, however, such

waiver and relief from liability shall not apply to (i) any untrue statement of a material fact or (ii) any omission of a material fact necessary to make a statement made therein not misleading in light of the circumstances under which it was made, in the Bond, the Master Indenture or the Supplemental Indenture or in any of the other information provided to the Investor by SANBAG (excepting therefrom any information provided to SANBAG or its representatives by the owner or owners of the Participating Parcel or any representative of such owner or owners).

Very truly yours,

[NAME OF INVESTOR]

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

**EXHIBIT D**

**SAN BERNARDINO ASSOCIATED GOVERNMENTS  
LIMITED OBLIGATION IMPROVEMENT BONDS  
(SANBAG HERO Program)  
(Residential Property Tranche)  
Series No. \_\_\_\_\_**

**OFFICER'S CERTIFICATE NO. \_\_ -  
REQUISITION FOR DISBURSEMENTS  
FROM THE PROGRAM FUND FOR THE COSTS OF  
INSTALLING THE IMPROVEMENTS**

The undersigned hereby states and certifies:

(i) that the undersigned is an Authorized Representative of SANBAG within the meaning of such term as set forth in the Master Indenture hereinafter defined;

(ii) that, pursuant to Section 4.3.2 of the Master Indenture, dated as of [Dated Date] (the "Master Indenture"), by and between San Bernardino Associated Governments ("SANBAG") and [Trustee], as trustee (the "Trustee"), the undersigned hereby requests that the Trustee disburse from the Program Fund established pursuant to the Master Indenture for the above referenced Series of Bonds to each of the payees designated on Attachment "A" attached hereto and incorporated herein by this reference, the respective sums set forth opposite such designated payees, in payment of actual costs of installing the Improvements; and

(iii) that the amounts to be disbursed are properly chargeable to the Program Fund.

Capitalized terms used in this Officer's Certificate shall have the meaning given such terms in the Master Indenture unless specified otherwise herein.

Dated: \_\_\_\_\_, 20\_\_

SAN BERNARDINO ASSOCIATED  
GOVERNMENTS

By: \_\_\_\_\_  
Authorized Officer

**Attachment "A"**

**OFFICER'S CERTIFICATE NO. \_\_**

**PROGRAM FUND  
FOR SERIES 20 \_\_ - \_\_  
DISBURSEMENT INFORMATION**

<u>Re :Owner/APN</u>	<u>Payee</u>	<u>Payment Instructions</u>	<u>Amount</u>

**EXHIBIT E**

**SAN BERNARDINO ASSOCIATED GOVERNMENTS  
LIMITED OBLIGATION IMPROVEMENT BONDS  
(SANBAG HERO Program)  
(Residential Property Tranche)  
Series No. 2013-\_\_-\_\_**

**OFFICER'S CERTIFICATE NO. 1 -  
REQUISITION FOR DISBURSEMENTS  
FROM THE COSTS OF ISSUANCE FUND FOR THE COSTS OF  
ISSUANCE**

The undersigned hereby states and certifies:

(i) that the undersigned is an Authorized Representative of SANBAG within the meaning of such term as set forth in the Master Indenture hereinafter defined;

(ii) that, pursuant to Section 4.4.2 of the Master Indenture, dated as of [Dated Date] (the "Master Indenture"), by and between San Bernardino Associated Governments ("SANBAG") and [Trustee], as trustee (the "Trustee"), the undersigned hereby requests that the Trustee disburse from the Costs of Issuance Fund established for the above referenced Series of Bonds pursuant to the Master Indenture to each of the payees designated on Attachment "A" attached hereto and incorporated herein by this reference, the respective sums set forth opposite such designated payees, in payment of actual Costs of Issuance; and

(iii) that the amounts to be disbursed are properly chargeable to the Costs of Issuance Fund.

Capitalized terms used in this Officer's Certificate shall have the meaning given such terms in the Master Indenture unless specified otherwise herein.

Dated: \_\_\_\_\_

SAN BERNARDINO ASSOCIATED  
GOVERNMENTS

By: \_\_\_\_\_  
Authorized Officer

**Attachment "A"**

**OFFICER'S CERTIFICATE NO. \_\_**

**COSTS OF ISSUANCE FUND  
FOR SERIES 20\_\_-\_\_  
DISBURSEMENT INFORMATION**

<u>Re :Owner/APN</u>	<u>Payee</u>	<u>Payment Instructions</u>	<u>Amount</u>