



May 24, 2023

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: 91 Express Lanes Financing Documents

Overview

On April 24, 2023, the Orange County Transportation Authority Board of Directors directed staff to move forward with refinancing the \$71.42 million of outstanding bonds secured by revenues generated by the 91 Express Lanes. Final approval for the refinancing of the outstanding 91 Express Lanes Bonds and the form of the financing documents for the proposed transaction is presented for review and approval.

Recommendation

Adopt Resolution No. 2023-027, authorizing the issuance of Orange County Transportation Authority Senior Lien Toll Road Revenue Refunding Bonds (91 Express Lanes), Series 2023, in an aggregate principal amount not to exceed \$71.42 million, and the execution and delivery of related financing documents. The related financing documents include forms of the Second Supplemental Indenture, Purchase Contract, Preliminary Official Statement, and the form of the Continuing Disclosure Certificate, and taking all other actions necessary in connection with the proposed transaction.

Background

On April 24, 2023, the Orange County Transportation Authority (OCTA) Board of Directors (Board) directed staff to move forward with the issuance of Senior Lien Toll Road Revenue Refunding Bonds (91 Express Lanes), Series 2023 (Series 2023 Bonds), in order to refund the outstanding \$71.42 million of 91 Express Lanes Bonds issued in July 2013 (Series 2013 Bonds).

The Series 2013 Bonds are callable on August 15, 2023, and can be refunded with tax-exempt bonds. OCTA's debt policy requires that any potential refinancing produces a minimum of three percent net present value (NPV) savings.

Based on market conditions as of May 10, 2023, OCTA can conduct an economic refunding of the Series 2013 Bonds to lock in lower interest rates and achieve NPV savings of approximately \$5.6 million, or 8.7 percent, which is consistent to the savings level presented in the staff report when the Board provided authorization to pursue the refinancing on April 24, 2023.

Discussion

Since the Board directed staff to pursue the refinancing on April 24 2023, staff has been working with the financing team to develop the documents for the transaction. These documents are included as attachments to this staff report. The financing documents for the 2023 Bonds have been submitted to the rating agencies for their review and ratings. OCTA staff met with the rating agencies the week of May 15, 2023, to discuss the operating history of the 91 Express Lanes and the proposed financing transaction. It is anticipated that ratings from Moody's Investors Service, S&P Global, and Fitch Ratings will be released by June 9, 2023.

Under the current financing plan, a portion of the indenture required reserves for the Series 2013 Bonds will be released and used to reduce the principal amount of the 2023 Bonds.

Legal Documents

To proceed with the issuance and sale of the 2023 Bonds, OCTA is required to execute several financing documents with other parties to the financing. A listing of the documents is provided below with an accompanying description.

Resolution - The Resolution (Attachment A) is the legal document which authorizes the issuance and sale of the 2023 Bonds, in an amount not to exceed \$71.42 million and a true interest cost not to exceed 3.25 percent per annum. The Resolution also approves and delegates to authorized OCTA officers the execution and delivery of certain financing documents in order to accomplish the issuance of the proposed 2023 Bonds, including:

Second Supplemental Indenture - The Second Supplemental Indenture (Attachment B) is the written agreement with the trustee on behalf of the bondholders that specifies the terms and conditions for issuing the 2023 Bonds and also sets forth certain amendments to the 2013 Master Indenture. The Second Supplemental (along with the Master Indenture) describes the bonds being offered, the maturity of the program, the protective covenants, the legal obligations of OCTA, the powers of the trustee, and other terms. The trustee has the responsibility for ensuring that interest and principal payments are made to registered holders of the 2023 Bonds.

Purchase Contract – The Purchase Contract (Attachment C) is the agreement between OCTA and the underwriters that specifies the purchase price of the 2023 Bonds to be paid by the underwriters, the interest rates, maturity dates and principal amounts of the 2023 Bonds, the date, time, and place of the closing of the 2023 Bond issue, the allocation of the expenses incurred in connection with the 2023 Bond issue, the parties' representations to and agreements with each other, and the conditions which OCTA must satisfy before the underwriters become obligated to purchase the bonds. The final pricing for the 2023 Bonds will occur after ratings have been obtained, the Preliminary Official Statement (POS) has been posted, and premarketing efforts completed.

POS – The POS (Attachment D) is the preliminary version of the official statement that discloses material information about the terms of the 2023 Bonds, the plan of finance, including the purpose of the 2023 Bond issue, the security and repayment for the 2023 Bonds, the key facility and operating agreements relating to the 91 Express Lanes, information about OCTA's toll policy, historical and projected toll revenues, investment considerations, and relevant financial and economic characteristics of OCTA and the 91 Express Lanes. It is used by underwriters to market the 2023 Bonds to investors. Although OCTA has retained outside professionals and relies on staff to prepare the POS, the Board has the ultimate responsibility under federal securities laws to review the POS to make sure there are no material misstatements or omissions of material facts.

Continuing Disclosure Certificate – The Continuing Disclosure (Attachment E) is the certificate prepared for the benefit of bondholders outlining the information that OCTA must provide to investors to comply with the Securities and Exchange Commission Rule 15c2-12(b)(5). Under this rule, OCTA is required to provide certain annual financial information and operating data no later than January 15 of each year and notices of the occurrence of certain enumerated events. The financial information and operating data will be filed electronically on an annual basis while any notices will be filed electronically only when an enumerated event occurs.

Costs of Issuance and Underwriter Fees

The costs of issuance expenses for debt issuances are paid at the closing of a financing transaction. These costs include legal fees, financial advisory fees, rating fees, printing, and other miscellaneous expenditures. In addition to these costs, there are also underwriting fees for the refinancing transaction, the total costs of issuance are estimated at approximately \$486,885.

Next Steps

If the Board approves the financing documents for the proposed 2023 Bonds, the financing team will release the POS to the investment community. Investors will review the POS and determine their level of interest in the bonds and whether they require additional information from staff and the financing team. Following the release of the POS, an investor presentation will be posted online during the week of June 12, 2023. The presentation will focus on the details of the transaction, including the legal structure. Investors will have the option to contact staff or the underwriting team to request additional information or follow-up meetings.

On June 20, 2023, staff will meet with investors and answer any questions prior to pricing the transaction. Staff will meet with the financing team to review final structuring as it relates to recommended coupons and interest rate levels. Bond pricing is anticipated to occur on June 21, 2023.

Once the 2023 Bonds are sold, staff will be provided with a list of investors and presented a final spreadsheet detailing the costs of the transaction. OCTA's Chief Financial Officer will execute the purchase contract and the transaction is expected to close by June 30, 2023. On the closing date, all legal documents are executed, and funds are exchanged between parties.

Summary

The form of the financing documents for the proposed Orange County Transportation Authority Senior Lien Toll Road Revenue Refunding Bonds (91 Express Lanes), Series 2023 transaction, is presented for approval to the Finance and Administration Committee and the Board of Directors.

Attachments

- A. Orange County Transportation Authority Resolution No. 2023-027
- B. Second Supplemental Indenture
- C. Purchase Contract
- D. Preliminary Official Statement dated [], 2023
- E. Continuing Disclosure Certificate

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