OCTA

June 21, 2017

To: Finance and Administration Committee

From: Darrell Johnson, Chief Executive Officer

Subject: Line of Credit Financing Documents

Overview

On May 22, 2017, the Orange County Transportation Authority Board of Directors selected Bank of America, N.A., to provide a line of credit in the amount of $900 million for a period of four years. The financing documents for the line of credit are presented for review and approval.

Recommendations

A. Approve the substantially final form of the 2019 and 2021 Credit and Fee Agreements between the Orange County Local Transportation Authority, Orange County Transportation Authority and Bank of America, N.A., for a total amount of $900 million, and authorize the Chief Executive Officer to negotiate and execute final 2019 and the 2021 Credit and Fee Agreements.

B. Authorize the Chairman, Vice-Chair, Chief Executive Officer, Executive Director of Finance and Administration, and the Treasurer to sign on behalf of the Orange County Local Transportation Authority all documents related to the line of credit, including the credit agreement, fee agreement, bank note, supplemental indenture, and any certificates, notices, receipts, or agreements in connection with the foregoing.

Background

As a condition to signing the Transportation Infrastructure Finance and Innovation Act (TIFIA) Loan Agreement, the Build America Bureau Credit Programs Office (Bureau) requires that the Orange County Transportation Authority (OCTA) either issues the entire amount (approximately $900 million) of the Measure M2 (M2) debt issuances, which are planned for 2019 and 2021, or provide another acceptable form of committed funds in this amount. OCTA and its advisors developed an alternative strategy that the Bureau has stated it

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will accept, which is the execution of a Line of Credit (Line) for the entire amount of the M2 future debt issuances. Under this approach, OCTA can wait until 2019 and 2021 to issue the M2 debt as included in the preliminary finance plan, or OCTA may issue the debt earlier to eliminate the potential risk of rising interest rates.

On May 1, 2017, OCTA issued a Request for Proposals for letter or line of credit services. On May 8, 2017, the Board of Directors (Board) approved the use of a Line secured by M2 sales tax revenues in the principal amount of approximately $900 million for the funding of the project, as required by the Bureau.

On May 12, 2017, four proposals were received. An evaluation committee comprised of staff from the Finance and Administration Division, Capital Programs Division, and OCTA's Financial Advisor, Sperry Capital Inc., was formed to review all offers submitted.

On May 15, 2017, OCTA requested best and final offers from Bank of America N. A. (BANA) and JP Morgan Chase Bank. While the proposals from Citibank and Goldman Sachs were considered, neither offered a proposal nor a solution that matched the needs of OCTA.

BANA, as the winning bidder, proposed a $900 million Line secured by a subordinate pledge of M2 sales tax revenues. The Line meets the Bureau's requirements and qualifications. BANA has extensive transportation, California, and national experience providing all forms of credit, liquidity, and direct purchase bank products. BANA's credit ratings meet the requirements imposed by the Bureau and have improved and been stable over the past three years.

Discussion

The draft Credit Agreement (Attachment A) between the Orange County Local Transportation Authority, OCTA and BANA detailing the structure and terms of the Line along with a Fee Agreement (Attachment B) are provided for Board review and approval. The Line serves as a "backup" of funds if the M2 bonds are not sold in the amounts and on the dates required to fund the Interstate 405 Improvement Project. OCTA does not currently intend to drawn upon the Line. A Second Supplemental Indenture (Attachment C) to the 2010 M2 Master Indenture of Trust (Master Indenture) prepared by OCTA's bond counsel to acknowledge the subordinate pledge of M2 sales taxes to secure repayment of any loans by BANA under the Credit Agreement is also provided for review and approval.

The payment obligations owed to BANA under the Credit and Fee Agreements shall be payable and secured by a pledge of, lien on, and security interest in the M2 sales tax revenues, including earnings on such amounts, subject only to the provisions of the Master Indenture. The pledge, lien, and security interest shall be junior and subordinate only to the pledge of M2 sales tax revenues in favor of the Senior Lien Debt pursuant to the express terms of the Master Indenture and the Second Supplemental Indenture.

The Line and the proceeds of drawings under the Line, if any, shall be used to satisfy OCTA's funding requirements under the United States Department of Transportation TIFIA Loan Agreement entered into by OCTA for the Interstate 405 Improvement Project and, in any event, shall be used solely for the purposes set forth in the Master Indenture and the Local Transportation Improvement Act of the State of California.

BANA recommends that OCTA structure the transactions as two separate Credit and Fee Agreements for the 2019 and 2021 tranches. The facility fees for the BANA Line will be 26 basis points per year for the 2019 maturity and 36 basis points per year for the 2021 maturity. This translates into an annual fee of $2.84 million for the first two years and $1.8 million for the final two years. The total facility fees are projected to be approximately $9.28 million. These fees are due whether the Line is drawn upon or not. Legal fees for BANA shall be capped at $75,000 plus advance fees of $295 for each draw. OCTA must also pay a termination fee if the Line is terminated prior to July 2018 (one year after execution of the agreements).

In the event of a draw, the interest rate will be due to BANA at an interim rate of four percent plus either the greater of (i) the Prime Rate in effect at such time plus one percent, (ii) the Federal Funds Rate in effect at such time plus two percent, or (iii) the LIBOR Index Rate in effect at such time plus two percent. The interim interest rate will commence on the date of the draw for 60 days. After 60 days and assuming the draw has not been repaid, an Event of Default will occur and the interest rate on the draw would increase to four percent plus the greater of (i) the Prime Rate in effect at such time plus one percent, (ii) the Federal Funds Rate in effect at such time plus two percent, (iii) the LIBOR Index Rate in effect at such time plus two percent, or (iv) seven percent.

Summary

The Build America Bureau Credit Programs Office requires that the Measure M2 debt issuances in 2019 and 2021 be "committed" at the time of closing the proposed Transportation Infrastructure Finance and Innovation Act loan. Attached for review and approval by the Board of Directors are the financing documents associated with the Line of Credit with Bank of America, N.A. for a total amount of $900 million.

Attachments

A. 2019 and 2021 Credit Agreement by and among Orange County Local Transportation Authority, Orange County Transportation Authority, and Bank of America N.A.
B. 2019 and 2021 Fee Agreement
C. Second Supplemental Indenture between Orange County Local Transportation Authority and The Bank of New York Mellon Trust Company, N.A.

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