

THIRD SUPPLEMENTAL INDENTURE

between

ORANGE COUNTY LOCAL TRANSPORTATION AUTHORITY

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,  
as Trustee

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Dated as of February 1, 2019

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Relating to

ORANGE COUNTY LOCAL TRANSPORTATION AUTHORITY  
MEASURE M2 SALES TAX REVENUE BONDS  
(LIMITED TAX BONDS)  
SERIES 2019

(Supplementing the Indenture  
Dated as of December 1, 2010)

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### **THIRD SUPPLEMENTAL INDENTURE**

THIS THIRD SUPPLEMENTAL INDENTURE, dated as of February 1, 2019 (this “Third Supplemental Indenture”), between the ORANGE COUNTY LOCAL TRANSPORTATION AUTHORITY, a public entity duly established and existing under the laws of the State of California (the “Authority”) and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association duly organized and existing under and by virtue of the laws of the United States of America, as trustee (the “Trustee”):

#### **WITNESSETH:**

WHEREAS, this Third Supplemental Indenture is supplemental to the Master Indenture of Trust, dated as of December 1, 2010 (as supplemented and amended from time to time pursuant to its terms, the “Indenture”), between the Authority and the Trustee;

WHEREAS, the Indenture provides that the Authority may issue Bonds from time to time as authorized by a Supplemental Indenture, which Bonds are to be payable from Revenues and from such other sources as may be specified with respect to a particular Series of Bonds in the Supplemental Indenture authorizing such Series;

WHEREAS, the Authority desires to provide at this time for the issuance of a Series of Bonds to be designated “Orange County Local Transportation Authority Measure M2 Sales Tax Revenue Bonds (Limited Tax Bonds), Series 2019 (the “Series 2019 Bonds”), all for the purpose of providing funds to pay for the Costs of the Project and all as provided in this Third Supplemental Indenture; and

WHEREAS, the Authority has determined that, pursuant to Section 9.01(b)(4) and (b)(14) of the Indenture, the Authority and the Trustee are authorized to modify and amend the Indenture by this Third Supplemental Indenture to facilitate the issuance of an additional Series of Bonds pursuant to the provisions of Article III of the Indenture and to make changes to the definition of “Investment Securities”);

NOW, THEREFORE, the parties hereto hereby agree as follows:

## ARTICLE XXI DEFINITIONS; AMENDMENT TO INDENTURE

### Section 21.01. Definitions; Amendments to Definitions.

(a) Definitions. Unless the context otherwise requires, or as otherwise provided in subsection (b) of this Section, all terms that are defined in Section 1.01 of the Indenture shall have the same meanings in this Third Supplemental Indenture.

(b) Additional Definitions. Unless the context otherwise requires, the following terms shall, for all purposes of this Third Supplemental Indenture, have the following meanings:

**“Authorized Denominations”** means, with respect to Series 2019 Bonds, \$5,000 and any integral multiple thereof.

**“Continuing Disclosure Certificate”** means the Continuing Disclosure Certificate of the Authority, dated the Issue Date, relating to the Series 2019 Bonds.

**“Electronic Means”** means facsimile transmission, email transmission or other similar electronic means of communication providing evidence of transmission, including a telephone communication confirmed by any other method set forth in this definition.

**“First Supplemental Indenture”** means that certain First Supplemental Indenture by and between the Authority and the Trustee, dated as of December 1, 2010.

**“Interest Payment Date”** means, with respect to the Series 2019 Bonds, each February 15 and August 15, commencing August 15, 2019 and, in any event, the final maturity date or redemption date of each 2019 Bond.

**“Investment Securities”** Subsection 13A of the definition of “Investment Securities” set forth in the First Supplemental Indenture is amended in its entirety as follows: “any investment agreement with a financial institution or insurance company or whose obligations are guaranteed by a financial institution or insurance company which has at the date of execution thereof an outstanding issue of unsecured, uninsured and unguaranteed debt obligations or a claims paying ability rated in either of the two highest long-term rating categories from two nationally recognized rating agencies”.

**“Issue Date”** means February \_\_, 2019.

**“Project”** means the I-405 Improvement Project.

**“Record Date”** means, with respect to the Series 2019 Bonds, the first (1st) day (whether or not a Business Day) of the month in which such Interest Payment Date occurs.

**“Redemption Date”** means the date fixed for redemption of the Series 2019 Bonds subject to redemption in any notice of redemption given in accordance with the terms of the Indenture.

**“Redemption Price”** means, with respect to any Series 2019 Bond or a portion thereof, 100% of the principal amount thereof to be redeemed payable upon redemption thereof pursuant to such Bond or this Third Supplemental Indenture.

**“Third Supplemental Indenture”** means this Third Supplemental Indenture, between the Authority and the Trustee, as amended and supplemented from time to time.

**“2019 Bonds Tax Certificate”** means the Tax Certificate executed on behalf of the Authority in connection with the issuance of the Series 2019 Bonds.

**“2019 Costs of Issuance Account”** means the 2019 Costs of Issuance Account established pursuant to Section 24.03.

**“2019 Project Fund”** means the 2019 Project Fund established pursuant to Section 24.02.

## **ARTICLE XXII FINDINGS, DETERMINATIONS AND DIRECTIONS**

**Section 22.02. Findings and Determinations.** The Authority hereby finds and determines that the Series 2019 Bonds shall be issued pursuant to Article III and upon the issuance of the Series 2019 Bonds, any and all acts, conditions and things required to exist, to happen and to be performed, precedent to and in the issuance thereof, will exist, will have happened and will have been performed, in due time, form and manner, as required by the Constitution and statutes of the State.

**Section 22.03. Recital in Bonds.** There shall be included in each of the definitive Series 2019 Bonds, and also in each of the temporary Series 2019 Bonds, if any are issued, a certification and recital that any and all acts, conditions and things required to exist, to happen and to be performed, precedent to and in the incurring of the indebtedness evidenced by that Series 2019 Bond, and in the issuing of that Series 2019 Bond, exist, have happened and have been performed in due time, form and manner, as required by the Constitution and statutes of the State and the Act, and that said Series 2019 Bonds, together with all other indebtedness of the Authority payable out of Revenues, is within every debt and other limit prescribed by the Constitution and statutes of the State and the Act, and that such certification and recital shall be in such form as is set forth in the form of the Series 2019 Bond attached hereto as Exhibit A.

**Section 22.04. Effect of Findings and Recital.** From and after the issuance of the Series 2019 Bonds, the findings and determinations herein shall be conclusive evidence of the existence of the facts so found and determined in any action or proceeding in any court in which the validity of the Series 2019 Bonds is at issue.

## **ARTICLE XXIII AUTHORIZATION AND REDEMPTION OF SERIES 2019 BONDS**

**Section 23.01. Principal Amount, Designation and Series.** Pursuant to the provisions of the Indenture and the provisions of the Act, one Series of Bonds entitled to the benefit, protection and security of such provisions is hereby authorized in the aggregate principal amount

of \$\_\_\_\_,\_\_\_\_,000. Such Bonds shall be designated as, and shall be distinguished from the Bonds of all other Series by the title, “Orange County Transportation Authority Measure M2 Sales Tax Revenue Bonds (Limited Tax Bonds), Series 2019.”

At any time after the execution and delivery of this Third Supplemental Indenture, the Authority may execute and, upon the Order of the Authority, the Trustee shall authenticate and deliver the Series 2019 Bonds in the aggregate principal amount set forth above.

**Section 23.02. Purpose and Application of Proceeds.** The Series 2019 Bonds are issued for the purpose of financing and/or reimbursing the Authority for its prior payment of, the Costs of the Project. In addition, a portion of the proceeds will be applied to pay Costs of Issuance of the Series 2019 Bonds. The net proceeds from the sale of the Series 2019 Bonds in the amount of \$\_\_\_\_\_ shall be received by the Trustee, and the Trustee shall deposit such funds as follows:

(a) \$\_\_\_\_\_ of the proceeds of the Series 2019 Bonds shall be deposited in the 2019 Project Fund; and

(b) \$\_\_\_\_\_ of the proceeds of the Series 2019 Bonds shall be deposited in the 2019 Costs of Issuance Account.

**Section 23.03. Form, Denomination, and Numbers.** The Series 2019 Bonds shall be issued as fully registered bonds without coupons in book-entry form and in Authorized Denominations and shall be numbered from one upward in consecutive numerical order preceded by the letter “R” prefixed to the number. The Series 2019 Bonds and the certificate of authentication shall be substantially in the form attached hereto as Exhibit A, which form is hereby approved and adopted as the form of the Series 2019 Bonds and as the form of the certificate of authentication as such form shall be completed based on the terms of the Series 2019 Bonds set forth herein.

**Section 23.04. Date, Maturities and Interest Rates.** The Series 2019 Bonds shall be dated their Issue Date and shall bear interest from that date payable on each Interest Payment Date. The Series 2019 Bonds shall be issued in the aggregate principal amount of \_\_\_\_\_ and shall mature on the following dates and in the following amounts (subject to the right of prior redemption set forth in Section 23.05(a) and the requirement of mandatory sinking fund redemption set forth in Section 23.06(a)) and shall bear interest at the following rates per annum:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
<u>(February 15)</u>		

Interest on the Series 2019 Bonds shall be computed on the basis of a 360-day year comprised of twelve 30 day months.

Each Series 2019 Bond shall be payable as provided in Section 2.10, including Section 2.10(e), or, in the event the use of the Depository is discontinued, the principal of each Series 2019 Bond shall be payable in lawful money of the United States of America upon surrender thereof at the Corporate Trust Office of the Trustee, and the interest on each Series 2019 Bond shall be payable in lawful money of the United States of America by the Trustee to the Holder thereof as of the close of business on the Record Date, such interest to be paid by the Trustee to such Holder in immediately available funds (by wire transfer or by deposit to the account of the Holder if such account is maintained with the Trustee), according to the instructions given by such Holder to the Trustee or, in the event no such instructions have been given, by check mailed by first class mail to the Holder at such Holder's address as it appears as of the Record Date on the bond registration books kept by the Trustee.

**Section 23.05. Optional Redemption of the Series 2019 Bonds.**

(a) Optional Redemption of the Series 2019 Bonds.

The Series 2019 Bonds maturing on or before February 15, 20\_\_ shall not subject to optional redemption prior to their stated maturity dates. The Series 2019 Bonds maturing on or after February 15, 20\_\_ shall be subject to redemption prior to their respective stated maturity dates, at the option of the Authority, from any source of available funds, as a whole or in part (and if in part, in such order of maturity as the Authority shall specify) on any date at a Redemption Price equal to 100% of the principal amount of the Series 2019 Bonds to be redeemed, together with accrued interest to the date fixed for redemption without premium.



(b) Sufficient Funds Required for Optional Redemption. Any optional redemption of Series 2019 Bonds and notice thereof may be conditional and rescinded and cancelled pursuant to the provisions of Section 4.02 if for any reason on the date fixed for redemption moneys are not available in the Redemption Fund or otherwise held in trust for such purpose in an amount sufficient to pay in full on said date the principal of and interest, due on the Series 2019 Bonds called for redemption.

(c) Notice of Optional Redemption; Rescission. Any notice of optional redemption of the Series 2019 Bonds shall be delivered in accordance with Section 4.02 and may be rescinded as provided in Section 4.02.

**Section 23.06. Mandatory Redemption of Series 2019 Bonds From Mandatory Sinking Account Payments.**

(a) Mandatory Redemption of Series 2019 Bonds. The Series 2019 Bonds maturing on February 15, 20\_\_ are Term Bonds and are subject to mandatory redemption from Mandatory Sinking Account Payments for such Series 2019 Bonds, on each date a Mandatory Sinking Account Payment for such Series 2019 Bonds is due, and in the principal amount equal to the Mandatory Sinking Account Payment due on such date at a Redemption Price equal to the principal amount thereof, plus accrued interest to the redemption date, without premium.

Mandatory Sinking Account Payments for Series 2019 Bonds that are Term Bonds shall be due in such amounts and on such dates as follows:

<b>Series 2019 Bonds</b>			
<i>Redemption Date (February 15)</i>	<i>Mandatory Sinking Account Payment</i>	<i>Redemption Date (February 15)</i>	<i>Mandatory Sinking Account Payment</i>

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† Final Maturity

**Section 23.07. Tax Covenants for Series 2019 Bonds.**

(a) The Authority will not take or permit to be taken any action or actions, which would cause any such Series 2019 Bonds to be an “arbitrage bond” within the meaning of Section 148 of the Code or “federally guaranteed” within the meaning of Section 149(b) of the Code and any such applicable regulations promulgated from time to time thereunder. The Authority will observe and not violate the requirements of Section 148 of the Code and any such applicable regulations. The Authority will comply with all requirements of Sections 148 and 149(b) of the Code to the extent applicable to the Series 2019 Bonds.

(b) The Authority will comply with the provisions and procedures of the 2019 Bonds Tax Certificate.

Notwithstanding any provisions of this Section 23.07 or the 2019 Bonds Tax Certificate, if the Authority shall provide to the Trustee an Opinion of Bond Counsel to the effect that any specified action required under this Section 23.07 is no longer required, the Trustee and the Authority may conclusively rely on such opinion in complying with the requirements of this Section 23.07, and, notwithstanding any other provision of this Indenture or the 2019 Bonds Tax Certificate, the covenants hereunder shall be deemed to be modified to that extent.

**Section 23.08. Tax Reporting Obligations.**

(a) Any transferor of the Series 2019 Bonds shall also provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Internal Revenue Code Section 6045. The Trustee may rely on the information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

(b) In connection with any proposed transfer of the Series 2019 Bonds outside the book-entry only system, the Authority or DTC shall provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Internal Revenue Code Section 6045. The Trustee may rely on the information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

**ARTICLE XXIV  
ESTABLISHMENT OF FUNDS AND ACCOUNTS  
AND APPLICATION THEREOF**

**Section 24.01. Funds and Accounts.** The following funds and accounts are hereby established in connection with the Series 2019 Bonds:

(a) To ensure the proper application of such portion of proceeds from the sale of the Series 2019 Bonds to be applied to pay Costs of the Project, there is hereby established the 2019 Project Fund, such fund to be held by the Trustee.

(b) To ensure the proper application of such portion of proceeds from the sale of the Series 2019 Bonds to be applied to pay Costs of Issuance of the Series 2019 Bonds, there is hereby established the 2019 Costs of Issuance Account, such account to be established within the 2019 Project Fund and held by the Trustee.

**Section 24.02. 2019 Project Fund.** The monies set aside and placed in the 2019 Project Fund shall remain therein until from time to time expended for the purpose of paying the Costs of the Project to be financed or reimbursed from the proceeds of the Series 2019 Bonds and shall not be used for any other purpose whatsoever.

(a) Before any payment from the 2019 Project Fund shall be made by the Trustee, the Authority shall file or cause to be filed with the Trustee a Requisition of the Authority, such Requisition to be signed by an Authorized Representative and to include: (i) the item number of such payment; (ii) the name and address of the person to whom each such payment is due, which

may be the Authority in the case of reimbursement for costs theretofore paid by the Authority; (iii) the respective amounts to be paid; (iv) the purpose by general classification for which each obligation to be paid was incurred; (v) that obligations in the stated amounts have been incurred by the Authority and are presently due and payable and that each item thereof is a proper charge against the 2019 Project Fund, and has not been previously paid from said fund; and (vi) that there has not been filed with or served upon the Authority notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the amounts payable to any of the persons named in such Requisition, which has not been released or will not be released simultaneously with the payment of such obligation, other than materialmen's or mechanics' liens accruing by mere operation of law.

(b) When the Authority determines that the portion of the Project funded with the Series 2019 Bonds has been completed, a Certificate of the Authority shall be delivered to the Trustee by the Authority stating: (i) the fact and date of such completion; (ii) that all of the costs thereof have been determined and paid (or that all of such costs have been paid less specified claims that are subject to dispute and for which a retention in the 2019 Project Fund is to be maintained in the full amount of such claims until such dispute is resolved); and (iii) that the Trustee is to transfer the remaining balance in the 2019 Project Fund, less the amount of any such retention, to the Revenue Fund or, if so directed by the Authority, to the Rebate Fund.

**Section 24.03. 2019 Costs of Issuance Account.** All money on deposit in the 2019 Costs of Issuance shall be applied solely for the payment of authorized Costs of Issuance. Before any payment from the 2019 Costs of Issuance Account shall be made by the Trustee, the Authority shall file or cause to be filed with the Trustee a Requisition of the Authority on which the Trustee may conclusively rely, such Requisition to be signed by an Authorized Representative and to include: (i) the item number of such payment; (ii) the name and address of the person to whom each such payment is due, which may be the Authority in the case of reimbursement for costs theretofore paid by the Authority; (iii) the respective amounts to be paid; (iv) the purpose by general classification for which each obligation to be paid was incurred; (v) that obligations in the stated amounts have been incurred by the Authority and are presently due and payable and that each item thereof is a proper charge against the 2019 Costs of Issuance Account and has not been previously paid from said account.

Any amounts remaining in the 2019 Costs of Issuance Account one hundred eighty (180) days after the date of issuance of the Series 2019 Bonds shall be transferred to the 2019 Project Fund.

## **ARTICLE XXV MISCELLANEOUS**

**Section 25.01. Continuing Disclosure.** The Authority covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of the Indenture, failure of the Authority to comply with the Continuing Disclosure Certificate shall not be considered an Event of Default; however, the Trustee shall, at the written request of any Participating Underwriter (as defined in the Continuing Disclosure Certificate) or of the Holders of at least twenty-five (25%) aggregate principal amount of the Series 2019 Bonds then Outstanding (but only to the extent funds in an

amount satisfactory to the Trustee have been provided to it or it has been otherwise indemnified to its satisfaction from any cost, liability, expense or additional charges and fees of the Trustee whatsoever, including, without limitation, reasonable fees and expenses of its attorneys), or any Holder or Beneficial Owner may, take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Authority to comply with its obligations under this Section.

**Section 25.02. Severability.** If any covenant, agreement or provision, or any portion thereof, contained in this Third Supplemental Indenture, or the application thereof to any person or circumstance, is held to be unconstitutional, invalid or unenforceable, the remainder of this Third Supplemental Indenture, and the application of any such covenant, agreement or provision, or portion thereof, to other Persons or circumstances, shall be deemed severable and shall not be affected thereby, and this Third Supplemental Indenture and the Series 2019 Bonds issued pursuant hereto shall remain valid, and the Holders of the Series 2019 Bonds shall retain all valid rights and benefits accorded to them under this Indenture, the Act, and the Constitution and statutes of the State.

**Section 25.03. Parties Interested Herein.** Nothing in this Third Supplemental Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Authority, the Trustee and the Holders of the Series 2019 Bonds, any right, remedy or claim under or by reason of this Third Supplemental Indenture or any covenant, condition or stipulation hereof; and all the covenants, stipulations, promises and agreements in this Third Supplemental Indenture contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Authority, the Trustee and the Holders of the Series 2019 Bonds.

**Section 25.04. Headings Not Binding.** The headings in this Third Supplemental Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Third Supplemental Indenture.

**Section 25.05. Notice Addresses.** Except as otherwise provided herein, it shall be sufficient service or giving of notice, request, complaint, demand or other paper if the same shall be duly mailed by registered or certified mail, postage prepaid, addressed to the Notice Address for the appropriate party or parties as provided in Exhibit B hereto. Any such entity by notice given hereunder may designate any different addresses to which subsequent notices, certificates or other communications shall be sent, but no notice directed to any one such entity shall be thereby required to be sent to more than two addresses. Any such communication may also be sent by Electronic Means, receipt of which shall be confirmed.

**Section 25.06. Notices to Rating Agencies.** The Trustee shall provide notice to the rating agencies of the following events with respect to the Series 2019 Bonds:

- (1) Change in Trustee;
- (2) Amendments to the Indenture; and
- (3) Redemption or defeasance of any Series 2019 Bonds.

**Section 25.07. Indenture to Remain in Effect.** Save and except as amended and supplemented by this Third Supplemental Indenture, the Indenture shall remain in full force and effect.

**Section 25.08. Effective Date of Third Supplemental Indenture.** This Third Supplemental Indenture shall take effect upon its execution and delivery.

**Section 25.09. Execution in Counterparts.** This Third Supplemental Indenture may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

**Section 25.10. Governing Law.** This Third Supplemental Indenture shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, the parties hereto have executed this Third Supplemental Indenture by their officers thereunto duly authorized as of the day and year first written above.

ORANGE COUNTY LOCAL  
TRANSPORTATION AUTHORITY

By: \_\_\_\_\_  
Executive Director of Finance and  
Administration

APPROVED AS TO FORM:

By: \_\_\_\_\_  
General Counsel

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A., as Trustee

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



**EXHIBIT A**

[FORM OF SERIES 2019 BOND]

## EXHIBIT B

### NOTICE ADDRESSES

**To the Authority:**

Orange County Local Transportation Authority  
550 S. Main St.  
P.O. Box 14184  
Orange, CA 92863-1584  
Attention: Treasury/Public Finance Department  
Telephone: (714) 560-6282  
Facsimile: (714) 560-5800

**To the Rating Agencies:**

S&P Global Ratings  
55 Water Street, 38<sup>th</sup> Floor  
New York, New York 10041  
Telephone: (212) 438-2000  
Fax: (212) 438-2157

Fitch Ratings  
33 Whitehall Street  
Reception 27<sup>th</sup> Floor  
New York, NY 10004  
Telephone:  
Fax:

**To the Trustee:**

The Bank of New York Mellon Trust Company, N.A.  
400 S. Hope St., Suite 500  
Los Angeles, CA 90071  
Attention: Corporate Trust Department  
Telephone: (213) 553-4381  
Facsimile: (213) 630-6215