

Orange County Local Transportation Authority, Resolution No. 2019-008

RESOLUTION OF THE ORANGE COUNTY LOCAL TRANSPORTATION AUTHORITY AUTHORIZING THE ISSUANCE AND SALE OF MEASURE M2 SALES TAX REVENUE BONDS (LIMITED TAX BONDS), SERIES 2019, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$ ____ MILLION, THE EXECUTION AND DELIVERY OF A SUPPLEMENTAL INDENTURE, A PURCHASE CONTRACT, AN OFFICIAL STATEMENT AND A CONTINUING DISCLOSURE CERTIFICATE, AND THE TAKING OF ALL OTHER ACTIONS NECESSARY IN CONNECTION THEREWITH.

WHEREAS, the Orange County Local Transportation Authority (the "Authority") is a local transportation authority duly organized and existing under the Local Transportation Authority and Improvement Act, being Division 19 of the Public Utilities Code of the State of California (Section 180000 *et seq.*) (the "Act");

WHEREAS, the Authority is authorized pursuant to the Act to, among other things, and with voter approval, levy a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the California Revenue and Taxation Code (the "Sales Tax Law") and to issue limited tax bonds payable from the proceeds of such tax;

WHEREAS, the Authority adopted Ordinance No. 3, named the "Renewed Measure M Transportation Ordinance and Investment Plan" (as amended pursuant to its terms, the "Ordinance") on July 24, 2006, pursuant to the provisions of the Act, which Ordinance provides for the imposition of a retail transactions and use tax (the "Sales Tax") applicable in the incorporated and unincorporated territory of the County of Orange (the "County") in accordance with the provisions of the Sales Tax Law at the rate of one-half of one percent (1/2%) for a period of thirty (30) years;

WHEREAS, by its terms, the Ordinance became effective on November 8, 2006, the day after the election at which the proposition imposing the Sales Tax was approved by more than two-thirds of the electors voting on the measure;

WHEREAS, collection of the Sales Tax commenced on April 1, 2011;

WHEREAS, the Ordinance empowers the Authority to issue, from time to time, on or before commencement of the collection of the Sales Tax, bonds, or other evidences of indebtedness in order to finance and refinance improvements authorized by the Ordinance;

WHEREAS, the Authority is authorized by the Act to issue from time to time limited tax bonds (defined to include indebtedness and securities of any kind or class, including commercial paper notes), secured and payable in whole or in part from revenues of the Sales Tax (the "Sales Tax Revenues");

WHEREAS, the Authority entered into a Master Indenture of Trust ("Master Indenture") and a First Supplemental Indenture ("First Supplemental Indenture") each dated as of December 1, 2010 and each with The Bank of New York Mellon Trust Company, N.A., as trustee ("Trustee");

WHEREAS, pursuant to the Master Indenture and the First Supplemental Indenture and a resolution adopted by the Board of Directors of the Authority (the “Board”) on November 22, 2010, the Authority issued \$293,540,000 aggregate principal amount of Measure M2 Sales Tax Revenue Bonds (Limited Tax Bonds), 2010 Series A (Taxable Build America Bonds) (“2010 Series A Bonds”);

WHEREAS, in order to finance: (i) the costs of the transportation improvements and facilities outlined in the expenditure plan described in the Ordinance and known as the I-405 Improvement Project (the “Project”), including all costs and estimated costs incidental to, or connected with, the Project, including, without limitation, engineering, planning, inspection costs, program management costs and expenses and land acquisition related thereto; (ii) the refunding and defeasance of a portion of the principal of the 2010 Series A Bonds; and (iii) expenses of all proceedings for the authorization, issuance and sale of the sales tax revenue bonds, including legal, trustee, financial consultant, trustee and other fees, the Authority proposes to authorize the issuance of a series of sales tax revenue bonds designated as the Orange County Local Transportation Authority Measure M2 Sales Tax Revenue Bonds (Limited Tax Bonds), Series 2019 (the “Series 2019 Bonds”), such Series 2019 Bonds to be issued in an aggregate principal amount not to exceed (\$____,000,000), which is the estimated cost of accomplishing the above-described purposes for which the Series 2019 Bonds are to be issued pursuant to the provisions of the Act and the Ordinance;

WHEREAS, the Board finds that the scope of planned expenditures for the Project makes “pay as you go” financing unfeasible;

WHEREAS, such Series 2019 Bonds will be issued pursuant to the Master Indenture as heretofore amended and supplemented, and as further amended and supplemented by a Third Supplemental Indenture thereto (the “Third Supplemental Indenture”), which is proposed to be entered into between the Authority and the Trustee;

WHEREAS, there has been prepared and presented to the Board a proposed form of Third Supplemental Indenture;

WHEREAS, in order to set forth the terms of sale of the Series 2019 Bonds, the Authority proposes to enter into a purchase contract (the “Purchase Contract”) with Merrill Lynch Pierce Fenner & Smith Incorporated, acting on behalf of itself and as representative of the other underwriters identified therein (collectively, the “Underwriters”) with respect to the Series 2019 Bonds;

WHEREAS, there has been prepared and presented to the Board a proposed form of Purchase Contract;

WHEREAS, in order to provide information about the Series 2019 Bonds and related matters to purchasers and potential purchasers of the Series 2019 Bonds, the Authority proposes to execute and deliver an official statement (the “Official Statement”);

WHEREAS, there has been presented to the Board a proposed form of Official Statement in preliminary form;

WHEREAS, there has been prepared and presented to the Authority a proposed form of Continuing Disclosure Certificate (the “Continuing Disclosure Certificate”) to be executed and delivered by the Authority to assist the Underwriters in satisfying their obligations under Rule 15c2-12 promulgated by the Securities and Exchange Commission;

WHEREAS, the Authority has been presented with the form of the Third Supplemental Indenture, the Purchase Contract, the Official Statement in preliminary form, and the Continuing Disclosure Certificate relating to the financing described herein (the “Financing”) and the Authority has examined and approved each document and desires to authorize and direct the execution of such documents as are specified herein and such other documents as are necessary in connection with the Financing and to authorize and direct the consummation of the Financing;

WHEREAS, in order to accomplish the foregoing, it will be necessary for the Authority to enter into and deliver or approve the following documents, instruments and agreements, forms of which have been prepared and presented to this meeting:

- (1) Third Supplemental Indenture;
- (2) Purchase Contract;
- (3) Continuing Disclosure Certificate; and
- (4) Official Statement;

WHEREAS, the Board desires to authorize the issuance of the Series 2019 Bonds in an aggregate principal amount not to exceed \$____,000,000 outstanding at any one time, to authorize and direct the execution and delivery or approval of each of the above-identified documents, instruments and agreements and the issuance and sale of the Series 2019 Bonds pursuant thereto, and to authorize the taking of such other actions as shall be necessary to consummate the Financing;

WHEREAS, Nossaman LLP, is serving as bond counsel (“Bond Counsel”) to the Authority in connection with the Financing;

WHEREAS, the Authority has full legal right, power and authority under the laws of the State of California to enter into the transactions hereinafter authorized;

NOW THEREFORE, THE ORANGE COUNTY LOCAL TRANSPORTATION AUTHORITY DECLARES:

Section 1. Recitals. The Authority finds and determines that the foregoing recitals are true and correct.

Section 2. Approval of the Series 2019 Bonds. The issuance by the Authority of the Series 2019 Bonds, in accordance with the provisions set forth in the Master Indenture (as amended and supplemented, including as amended and supplemented by the Third Supplemental Indenture, hereinafter collectively referred to as the “Indenture”), in one or more series, in an aggregate principal amount not to exceed dollars \$____,000,000 outstanding at any one time is

hereby approved; provided, however, that all Series 2019 Bonds shall be retired or redeemed before the date of termination of the Sales Tax.

Section 3. Approval of the Third Supplemental Indenture. The proposed form of the Third Supplemental Indenture presented to this meeting and the terms and conditions thereof are hereby approved. The date or dates, maturity dates, interest rate or rates not to exceed ___% per annum with respect to the Series 2019 Bonds, denomination (which shall not be less than \$5,000 and in integral multiples of \$5,000 in excess thereof), forms, registration and exchange privileges, place or places of payment, terms of redemption, if any, offering price and other terms of the Series 2019 Bonds shall be as provided in said Third Supplemental Indenture, as finally executed and delivered.

The Chairman, Vice Chairman, Chief Executive Officer, Executive Director of Finance and Administration/Treasurer, and Director of Finance and Administration of the Authority (each, an "Authorized Officer of the Authority"), acting alone, is hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver a Third Supplemental Indenture, in substantially said form, with such changes therein as the Authorized Officer of the Authority executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 4. Approval of the Official Statement. The proposed form of the Official Statement describing the Series 2019 Bonds and related matters, submitted to the Authority, is hereby approved. An Authorized Officer of the Authority is hereby authorized and directed to execute and deliver the final Official Statement in substantially such form, and with such additions thereto or changes therein, as an Authorized Officer of the Authority, with the advice of Bond Counsel, shall approve, such approval to be conclusively evidenced by the execution and delivery of the Official Statement; and an Authorized Officer of the Authority is hereby authorized and directed to execute and deliver a certificate confirming that the Official Statement in preliminary form is "deemed final" by the Authority for purposes of Securities and Exchange Commission Rule 15c2-12. The distribution by the Underwriters of copies of the Official Statement in final form to all actual purchasers of the Series 2019 Bonds and the distribution by the Underwriters of the Official Statement in preliminary form to potential purchasers of the Series 2019 Bonds are hereby authorized and approved.

Section 5. Approval of the Purchase Contract. The proposed form of the Purchase Contract providing for the sale of the Series 2019 Bonds submitted to the Authority, and the terms and conditions thereof, are hereby approved. The Clerk of the Board is directed to file a copy of said form of the Purchase Contract with the minutes of this meeting. The sale of the Series 2019 Bonds to the Underwriters at the principal amount thereof, less an Underwriters' discount (or subject to an Underwriters' fee payable by the Authority to the Underwriters) of not to exceed ___% of such principal amount (\$___/\$1,000) in accordance with said Purchase Contract, be and is hereby authorized and approved, and an Authorized Officer of the Authority or his or her designee is authorized and directed to complete, execute and deliver the Purchase Contract in substantially such form, providing for the sale of the Series 2019 Bonds not to exceed \$___,000,000 in aggregate principal amount, with such interest rates, maturities, premiums and discounts to be specified therein, and with such additions thereto or changes

therein, as an Authorized Officer of the Authority or his or her designee, with the advice of Bond Counsel, shall approve, such approval to be conclusively evidenced by the execution and delivery of the Purchase Contract.

Section 6. Approval of the Continuing Disclosure Certificate. An Authorized Officer of the Authority is hereby authorized and directed to execute and deliver a Continuing Disclosure Certificate in substantially the form submitted to the Authority with such changes and additions as such Authorized Officer of the Authority may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 7. Delegation to Authorized Officer. All approvals, consents, directions, notices, orders, requests and other actions permitted or required by any of the documents authorized by this Resolution, including, without limitation, any of the foregoing which may be necessary or desirable in connection with any investment of proceeds of the Series 2019 Bonds, the removal or replacement of the Trustee, issuing escrow and/or investment instructions to the Trustee regarding the defeasance of a portion of the 2010 Series A Bonds or any similar action may be given or taken by an Authorized Officer of the Authority, without further authorization or direction by this Board, and each Authorized Officer of the Authority is hereby authorized and directed to give any such approval, consent, direction, notice, order, request or other action and to take any such action which such Authorized Officer of the Authority may deem necessary or desirable to further the purposes of this Resolution.

All consents, approvals, notices, orders, requests and other actions permitted or required by any of the documents authorized by this Resolution, whether before or after the issuance of the Series 2019 Bonds, which may be necessary or desirable in connection with any default under or amendment of such documents, settlements or revisions, may be taken or given by an Authorized Officer of the Authority, without further authorization by this Board, and each Authorized Officer of the Authority is hereby authorized and directed to give such consent, approval, notice, order or request and to take any such action which such officer may deem necessary or desirable to further the purposes of this Resolution and the transactions contemplated hereby, including, without limitation, finalizing the terms of optional redemption of the Series 2019 Bonds.

Section 8. Ratification of Actions; Completion of Financing. All actions heretofore taken by the officers and agents of the Authority with respect to the Financing and the issuance and sale of the Series 2019 Bonds are hereby ratified, confirmed and approved. If at the time of execution of any of the documents authorized herein, an Authorized Officer of the Authority is unavailable, such documents may be executed by another officer of the Authority designated in writing by the Chief Executive Officer of the Authority.

The proper officers and agents of the Authority are hereby authorized and directed, jointly and severally, for and in the name and on behalf of the Authority, to do any and all things and to take any and all actions and to execute and deliver any and all agreements, certificates and documents, including, without limitation, any tax certificates or agreements, any agreements for depository services, and any agreements for rebate compliance services, which they, or any of them, may deem necessary or advisable in order to consummate the Financing and the issuance

and sale of the Series 2019 Bonds and otherwise to carry out, give effect to and comply with the terms and intent of the Ordinance, this Resolution, the Series 2019 Bonds and the documents approved hereby.

Section 9. Effective Date. This Resolution shall take effect immediately upon its adoption and approval.

PASSED AND ADOPTED on _____, 2019, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Chair of the Orange County
Local Transportation Authority

This RESOLUTION was entered into
at a meeting of the Orange County
Local Transportation Authority held
_____, 2019, in Orange, California.

Attest:

Clerk of the Board

Approved as to Form

By: _____
James Donich, Esq.
General Counsel to Authority

CERTIFICATE OF THE CLERK OF THE BOARD OF THE
ORANGE COUNTY LOCAL TRANSPORTATION AUTHORITY

I, _____, Clerk of the Board of the Orange County Local Transportation Authority (the "Authority"), hereby certify that the foregoing is a full, true and correct copy of a resolution duly adopted at a meeting of the governing board of said Authority duly and regularly held in Orange, California, on _____, 2019, of which meeting all of the members of said Authority had due notice.

I further certify that I have carefully compared the foregoing copy with the original minutes of said meeting on file and of record in my office; that said copy is a full, true and correct copy of the original resolution adopted at said meeting and entered in said minutes; and that said resolution has not been amended, modified, rescinded or revoked in any manner since the date of its adoption, and the same is now in full force and effect.

I further certify that an agenda of said meeting was posted at least 72 hours before said meeting at a location in Orange, California, freely accessible to the public and a brief general description of the resolution to be adopted at said meeting appeared on said agenda.

IN WITNESS WHEREOF, I have executed this certificate hereto as of this date,
_____, 2019.

By: _____
Its: Clerk of the Board