



September 8, 2021

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Bond Anticipation Notes (Interstate 405 Improvement Project), Series 2021 Financing Documents

Overview

The Orange County Transportation Authority Board of Directors approved the issuance of Bond Anticipation Notes as a short-term interim financing to support the construction of the Interstate 405 Improvement Project, and the selection of an underwriting team. Final approval for the issuance of the Bond Anticipation Notes and the financing documents for the proposed transaction are presented for review and approval.

Recommendation

Adopt Resolution No. 2021-076, authorizing the issuance and sale of Bond Anticipation Notes (I-405 Improvement Project), Series 2021 in an aggregate principal amount not to exceed \$675 million, and the execution and delivery of related financing documents. The related financing documents include forms of the Master Indenture, First Supplemental Indenture, Standby Bond Purchase Agreement, 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 June 14, 2021, the Orange County Transportation Authority (OCTA) Board of Directors (Board) approved the issuance of Bond Anticipation Notes (Interstate 405 {I-405} Improvement Project), Series 2021 (2021 BANs) as a short-term interim financing to support the construction of the I-405 Improvement Project, and the selection of an underwriting team. Prior to execution of the transaction, staff was directed to return to the Board for approval of the financing documents required to execute the closing of the transaction.

Discussion

The United States Department of Transportation Build America Bureau Credit Programs Office (Bureau) has provided OCTA with an anticipated closing date of September 9, 2021, to reset the interest rate on OCTA's 2017 Transportation Infrastructure Finance and Innovation Act (TIFIA) Loan. Based on that anticipated closing date, staff is seeking approval of the financing documents required to issue the 2021 BANs. The savings benefit from using short-term BANs to fund eligible I-405 Project costs versus using the 2021 TIFIA Reset Loan is estimated to be approximately \$20 million.

The financing documents for the 2021 BANs have been submitted to S&P Global Ratings (S&P) and Moody's Investor Services (Moody's) for their review and ratings on the 2021 BANs. OCTA met with the rating agencies on August 19, 2021, to provide an update on OCTA and discuss the I-405 Improvement Project, and sales tax history and forecasts, in addition to the proposed financing. It is anticipated that the ratings from S&P and Moody's will be released before September 8, 2021.

Legal Documents

To proceed with the issuance and sale of the 2021 BANs, OCTA is required to execute several financing documents with related parties. A listing of the documents is provided below with an accompanying description.

Resolution - The resolution (Attachment A) is the legal document which ratifies the approval of the issuance and sale of the 2021 BANs, in an amount not to exceed \$675 million at a true interest cost not to exceed 0.75 percent per annum. The resolution also notes that in order to accomplish the issuance of the proposed 2021 BANs, OCTA has to enter into the documents summarized below:

Master and First Supplemental Indenture - The Master Indenture (Attachment B) and First Supplemental Indenture (Attachment C) are the written agreements with the trustee that specify the terms and conditions for issuing the 2021 BANs. The Indentures describe the bonds being offered, the maturity of the program, the protective covenants, the legal obligation of OCTA, the powers of the trustee, and other terms. The Indenture pledges "collateral" to the repayment of the 2021 BANs, which includes draws under the 2021 TIFIA loan agreement, any legally available funds of OCTA (with certain statutory carve-outs), and amounts provided by Orange County Local Transportation Authority (OCLTA) in connection with OCLTA's purchase of OCTA refunding bonds pursuant to the Standby Bond Purchase Agreement (see below). The trustee has the

responsibility, under the Trust Indenture Act of 1939, for ensuring that interest payments are made to registered holders of the 2021 BANs. The Indentures are an agreement between OCTA and the trustee.

Standby Bond Purchase Agreement—The Standby Bond Purchase Agreement is the agreement between OCTA and OCLTA obligating OCLTA to purchase OCTA's BANs refunding bonds, in the event the BANs trustee needs additional amounts after submitting the TIFIA loan draw request to pay off the BANs at their maturity. OCLTA agrees that, among other sources, it will use best efforts to issue Measure M2 (M2) sales tax revenue bonds, including subordinate lien M2 bonds, to finance its purchase of the OCTA refunding bonds. This document is included as Attachment D.

Purchase Contract – This is the agreement between OCTA and the underwriters, which outlines the final terms, conditions, and prices for the sale of the proposed 2021 BANs. The final pricing for the BANs will occur after ratings have been obtained and premarketing efforts completed. This document is included as Attachment E.

Preliminary Official Statement (POS) - This is the preliminary version of the official statement, which generally discloses material information about the BANs issue, including the purpose of the BANs issue, how the BANs will be repaid, and relevant financial and economic characteristics of OCTA and Orange County. It is used by underwriters to market the bonds to investors. The Board has the responsibility under federal securities laws to review the POS to make sure there are no material misstatements or omissions of material facts. This document is included as Attachment F.

Continuing Disclosure Certificate – This is the certificate prepared for the benefit of bondholders outlining the conditions that OCTA must comply with under the Securities and Exchange Commission Rule 15c2-12(b)(5). Under this rule, OCTA is required to provide certain financial information and operating data no later than six months following the end of the fiscal year and to provide notices of the occurrence of certain enumerated events if material. This information will be filed electronically on an annual basis. This document is included as Attachment G.

Cost of Issuance Expenses and Underwriting Fees

Cost of issuance expenses for debt issuances are paid at the closing of a financing transaction. These costs include legal fees, financial advisory fees, trustee fees, rating fees, digital investor roadshow, and other miscellaneous expenditures. The estimated cost of issuance expenses for the 2021 BANs will

total approximately \$500,000. In addition to these costs, the projected underwriting fees for the transaction are estimated at approximately \$500,000.

Next Steps

If the Board approves the financing documents for the proposed 2021 BANs, 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 September 13, 2021. The presentation will focus on the details of the transaction, including the legal structure. The presentation will be recorded by staff and the financing team. Investors will have the option to contact staff or the underwriting team to request additional information or follow-up meetings.

On September 20, 2021, 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.

Once the 2021 BANs are sold, staff will be provided 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 September 30, 2021. On the closing date, all legal documents are executed, and funds are exchanged between parties.

Summary

Staff is seeking approval of the financing documents required to issue the 2021 Bond Anticipation Notes.

Attachments

- A. Orange County Transportation Authority Resolution No. 2021-076
- B. Master Indenture
- C. First Supplemental Indenture
- D. Standby Bond Purchase Agreement
- E. Note Purchase Agreement
- F. Preliminary Official Statement dated September __, 2021
- G. Continuing Disclosure Certificate

Prepared by:



Robert Davis
Department Manager
Treasury and Public Finance
714-560-5675

Approved by:



Andrew Oftelie
Chief Financial Officer
Finance and Administration
714-560-5649