



**February 12, 2025**

**To:** Finance and Administration Committee

**From:** Darrell E. Johnson, Chief Executive Officer

**Subject:** Approval of Refunding the Measure M2 Sales Tax Revenue Bonds, Series 2010 A Build America Bonds

**Overview**

On October 14, 2024, the Orange County Transportation Authority Board of Directors directed staff to pursue refunding of the Orange County Local Transportation Authority Measure M2 Sales Tax Series 2010 A Revenue Bonds. Board of Directors' approval is necessary to finalize the refunding and to provide the draft financing documents required to complete the transaction.

**Recommendation**

Adopt Resolution No. 2025-008 authorizing the issuance and sale of Orange County Local Transportation Authority Measure M2 Sales Tax Revenue Refunding Bonds, Series 2025 in an aggregate principal amount not to exceed \$270 million, the execution and delivery of a Fourth Supplemental Indenture, a Purchase Contract, an Official Statement, and a Continuing Disclosure Certificate, and taking all other actions necessary in connection with the proposed transaction.

**Background**

In 2010, the Orange County Local Transportation Authority (OCLTA) issued \$293,540,000 Measure M2 (M2) Sales Tax Revenue Bonds, Series 2010 A bonds (Series 2010 A bonds). The Series 2010 A bonds were issued to fund critical transportation and infrastructure projects in Orange County and were issued under the American Recovery and Reinvestment Act of 2009 Build America Bond (BAB) Program. The BAB Program offered a 35 percent federal subsidy on taxable bond interest payments, making the taxable debt financially attractive to issuers by offsetting higher interest rates typically associated with taxable bonds. Additionally, BABs appealed to a broader range of investors, including those who do not benefit from tax-exempt income, which was crucial

for raising funds amidst economic uncertainties at that time following the Great Recession.

Beginning in March 2013, the 35 percent taxable interest rate subsidy was reduced due to sequestration provisions in the Budget Control Act of 2011 (subsequent to OCTA issuing in 2010). The subsidy is currently set at 33.005 percent through 2031. In 2022, there were concerns that the subsidy might be eliminated in its entirety due to the pandemic and federal deficit issues. Currently, there is no permanent solution to end the reduction to the interest rate subsidy creating uncertainty that the entire subsidy could be further reduced or eliminated altogether.

To manage the uncertainty of federal subsidy payments used to offset the cost of taxable interest payments, in October 2024, staff received approval from the Orange County Transportation Authority (OCTA) Board of Directors (Board) to refund the 2010 Series A bonds through the issuance of tax-exempt sales tax revenue refunding bonds subject to achieving a net neutral present value debt service cost. Following Board approval, staff immediately took steps to assemble a financing team and develop the financing documents for the refunding.

### ***Discussion***

The OCLTA currently has \$250,000,000 in outstanding Series 2010 A bonds. The proposed refunding will refund the Series 2010 A bonds by exercising the BAB Extraordinary Optional Redemption provision and issuing tax-exempt sales tax revenue refunding bonds.

### **Transaction Overview**

The plan of finance for the proposed refunding includes a single fixed-rate, tax-exempt refunding in the amount of \$245,480,000, which is the amount anticipated to be outstanding at the time of issuance. The new bonds (Series 2025 bonds) will be structured to achieve level annual debt service with a final maturity on February 15, 2041 (consistent with the final maturity of the existing 2010 Series A bonds). The Series 2025 bonds will be issued under the OCLTA's sales tax revenue bond credit, which pledges M2 sales tax revenues as defined in the Master Indenture and currently carries ratings of AA+ (Fitch Ratings) and AA+ (S&P Global Ratings). Bank of America, which was selected through a competitive procurement, will serve as Senior Manager on the proposed transaction. The Senior Manager serves as representative of the underwriting syndicate and will lead the co-managing underwriter team in pricing and selling the Series 2025 bonds.

### BAB Extraordinary Optional Redemption

The Series 2010 A bond documents allow for an "extraordinary optional redemption" if Congress enacts a law that reduces the amount of the federal subsidy payments. OCTA staff and legal counsel have determined that the reduction in federal subsidy payments due to sequestration (discussed above) qualifies as such an event. This provision enables the bonds to be redeemed and refunded at a more favorable cost compared to the non-extraordinary optional redemption alternative. Over the course of 2024, various other municipal issuers have employed similar language to refund their BABs.

### Savings Estimates

Based on the above transaction parameters and market conditions as of January 21, 2025, the preliminary estimated savings results for a tax-exempt refunding of the outstanding Series 2010 A bonds achieve present value savings of \$4.2 million or 1.71 percent of refunded Series 2010 A bonds par amount.

While OCTA's debt policy generally requires a three percent savings threshold, the October 2024 Board approval provides staff with the authority to move forward with the refunding transaction if the present value savings are net neutral or greater since a refunding of the Series 2010 A bonds would eliminate the reliance on the federal subsidy that has been reduced in the past and could be further reduced or eliminated altogether in the future. The current estimated net present value percentage savings estimate of 1.71 percent exceeds the Board-approved net neutral debt service threshold. Further, refunding the Series 2010 A bonds also offers OCTA future refinancing flexibility through the issuance of tax-exempt bonds that include a standard ten-year par call provision.

### Required Public Notice – California Government Code Section 5852.1

Pursuant to California Government Code Section 5852.1, the issuance of bonds with a term greater than 13 months requires that the governing body of a public entity obtain and disclose specified information regarding the bonds in a meeting open to the public. Specifically, the following information related to the proposed financing is required under California Government Code:

1. True Interest Cost (TIC) of the Series 2025 bonds;
2. Finance charge of the Series 2025 Bonds Cost of Issuance (COI), including amounts paid to legal and municipal advisors, rating agencies, underwriters, and other parties necessary to complete the financing;

3. Amount of proceeds received from the sale of the Series 2025 bonds less COI (proceeds amount); and
4. Total principal and interest payments on the Series 2025 bonds (total debt service)

1. TIC	2. COI	3. Proceeds Amount	4. Total Debt Service
3.4%	\$ 901,225	\$ 265,827,210	\$ 348,183,926

The amounts described above are good faith estimates provided by KNN Public Finance, the municipal advisor for this transaction, and are subject to change at the time of issuance of the Series 2025 bonds. Final interest rates and debt payments will depend on market conditions at the time of sale and final terms of the Series 2025 bonds will be specified in the Fourth Supplemental Indenture (as further described below).

#### Financing Documents

To proceed with the sale of the Series 2025 bonds, the Board must approve and adopt Resolution 2025-008 (Attachment A) that, among other things, incorporates and approves the related financing documents, which are all attached to this report. A brief description of the financing documents in connection with the issuance of the Series 2025 bonds is provided below; however, such documents do contain placeholders for dates, dollar amounts, rates, appendices, etc. that can only be completed once the transaction has been executed and all terms finalized.

#### Resolution

The legal document which authorizes the issuance and sale of the Series 2025 bonds, in an amount not to exceed \$270 million provided that the net present value of debt service with respect to the Series 2025 bonds shall be no greater than the net present value of debt service with respect to the 2010 Series A bonds. The Resolution also approves and delegates to authorized officers of the OCLTA the execution and delivery of certain financing documents to accomplish the issuance of the proposed Series 2025 bonds.

#### Fourth Supplemental Indenture (Attachment B)

The written agreement between the OCLTA and the trustee on behalf of the bondholders that specifies the terms and conditions for issuing the Series 2025 bonds. The Fourth Supplemental Indenture (along with the Master Indenture) describes the bonds being offered, the maturity of the sales tax program, the

protective covenants, the legal obligations of the OCLTA, the powers and responsibilities of the trustee (including ensuring that interest and principal payments are made to registered holders of the Series 2025 bonds), and other terms.

The Fourth Supplemental Indenture also sets forth certain amendments to the Master Indenture, including revising the conditions precedent to the issuance of additional bonds. Currently, the OCLTA may issue additional bonds should (among other conditions) M2 sales tax revenues be at least equal to 1.3 times Maximum Annual Debt Service on all Additional Bonds and Parity Obligations. The Fourth Supplemental Indenture proposes to change the condition precedent for the issuance of additional bonds to ensure that M2 sales tax revenues are at least two times Maximum Annual Debt Service on all Additional Bonds and Parity Obligations. The proposed revision to the “Additional Bonds Test” is intended to better align the OCLTA’s requirements under its legal documents within the context of its limited additional debt issuance plans between now and the term of the M2 sales tax program and provide a higher level of assurance to potential bondholders. Prior to the refunding of the Series 2010 A bonds, and based on M2 sales tax revenues pledged to bondholders in FY 2024, sales tax revenues to Maximum Annual Debt Service was over six times.

#### Purchase Contract (Attachment C)

The agreement between the OCLTA and the underwriters specifies the purchase price of the Series 2025 bonds to be paid by the underwriters, the interest rates, maturity dates, and principal amounts of the Series 2025 bonds, the date, time, and place of the closing of the issue, the parties’ representations to and agreements with each other, and the conditions which the OCLTA must satisfy before the underwriters become obligated to purchase the bonds. The final pricing for the Series 2025 bonds will occur after ratings have been obtained, the Preliminary Official Statement has been posted, and premarketing efforts completed.

#### Official Statement or Preliminary Official Statement (POS) (Attachment D)

The primary disclosure document provided to investors in marketing the Series 2025 bonds and will be circulated to potential investors prior to the pricing of the Series 2025 bonds. The POS describes the Series 2025 bonds, including sources and uses of funds, security, risk factors, and tax and other legal matters, among other information. The most recent Annual Comprehensive Financial Report of OCTA will be attached to the POS. Within seven days of the public offering, the Final Official Statement (adding certain sale results including the offering prices, interest rates, selling compensation, principal amounts, and

aggregate principal amounts) is distributed to the initial purchasers of the Series 2025 bonds.

**Continuing Disclosure Certificate (Attachment E)**

The certificate prepared for the benefit of bondholders outlining the information that OCLTA must provide to investors to comply with the Securities and Exchange Commission Rule 15c2 12(b)(5). Under this rule, OCLTA is required to provide certain annual financial information no later than December 31 of each year (the sixth month following the end of each fiscal year) and notices of the occurrence of certain enumerated events. The financial information will be filed electronically on an annual basis while any notices will be filed electronically only when an enumerated event occurs.

**Next Steps**

The requested action by the Board under this report provides the final approval necessary for the issuance and sale of the Series 2025 bonds. The table below outlines the estimated transaction timeline including the necessary OCTA approvals.

Date	Activity
02/12/2025	Finance and Administration Committee approval of the Series 2025 bonds
02/13/2025	Presentation to S&P Global Ratings
02/14/2025	Presentation to Fitch Ratings
02/24/2025	Board approval of the Series 2025 bonds
Week of February 24*	Receive ratings, Release POS, Market Series 2025 bonds
Week of March 3*	Pricing of the Series 2025 bonds
Week of March 24*	Closing of the Series 2025 bonds

*\*Preliminary and subject to change based on market conditions.*

**Summary**

Board of Directors' approval is requested for the refunding and form of the financing documents for the proposed Orange County Local Transportation Authority Measure M2 Sales Tax Revenue Refunding Bonds, Series 2025 transaction.

**Attachments**

- A. Resolution of the Orange County Local Transportation Authority Resolution No. 2025-008
- B. Fourth Supplemental Indenture
- C. Purchase Contract
- D. Preliminary Official Statement Dated\_\_\_\_, 2025
- E. Form of 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