

ORDER AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF FORT BEND COUNTY, TEXAS SENIOR LIEN TOLL ROAD REVENUE BONDS, SERIES 2016; APPROVING A THIRD SUPPLEMENT TO THE TOLL ROAD SENIOR LIEN REVENUE BOND TRUST INDENTURE, A BOND PURCHASE AGREEMENT AND OFFICIAL STATEMENT; AUTHORIZING THE EXECUTION OF DOCUMENTS AND INSTRUMENTS NECESSARY OR CONVENIENT TO CARRY OUT THE ISSUANCE, SALE, AND DELIVERY OF THE SERIES 2016 BONDS; AUTHORIZING AND RATIFYING OTHER ACTIONS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

WHEREAS, Fort Bend County, Texas, acting through its Commissioners Court (the “County”), is authorized pursuant to and in accordance with the provisions of Chapter 284, Texas Transportation Code, as amended (the “Act”), among other things to:

- (1) construct, acquire, improve, operate, maintain, or pool a project exclusively in the county, in the county and outside the county or in one or more adjacent counties;
- (2) issue tax bonds, revenue bonds, or combination tax and revenue bonds to pay the cost of the construction, acquisition, or improvement of a project; or
- (3) impose tolls or charges as otherwise authorized by the Act;

WHEREAS, the Act defines a “Project” in part as, a causeway, bridge, tunnel, turnpike, highway, ferry, or any combination of those facilities, including:

- (1) a necessary overpass, underpass, interchange, entrance plaza, toll house, service station, approach, fixture, and accessory and necessary equipment that has been designated as part of the project by order of a county;
- (2) necessary administration, storage, and other buildings that has been designated as part of the project by order of a county; and
- (3) all property rights, easements, and related interests acquired.

WHEREAS, the Act provides:

If bonds issued pursuant to the Act are payable in whole or in part from project revenue, the county shall impose tolls and charges that are, together with other money or revenues available for the project, including ad valorem tax, sufficient to:

- (1) pay the maintenance and operating expenses of the project;

- (2) pay the principal of, premium of, if any, and interest on the bonds when due;
- (3) establish a reserve for payment of bond principal, premium, and interest; and
- (4) establish an adequate fund for project depreciation and replacement.

WHEREAS, the County has previously issued its Senior Lien Toll Road Revenue Bonds, Series 2012 (the “Series 2012 Bonds”) pursuant to the Senior Lien Toll Road Revenue Bond Trust Indenture dated as of May 15, 2012 (the “Indenture”), the First Supplemental Senior Lien Toll Road Revenue Bond Trust Indenture dated as of May 15, 2012 (the “First Supplemental Indenture”), the Second Supplemental Senior Lien Toll Road Revenue Bond Trust Indenture dated as of December 1, 2014 (the “Second Supplemental Indenture”) each between the County and Wells Fargo Bank, N.A., as trustee (the “Trustee”);

WHEREAS, the County has determined to issue its Senior Lien Toll Road Revenue Bonds, Series 2016 (the “Series 2016 Bonds”) pursuant to the Indenture and the Third Supplemental Senior Lien Toll Road Revenue Bond Trust Indenture dated as of February 1, 2016 (the “Third Supplemental Indenture”) between the County and the Trustee (the Indenture, the Second Supplemental Indenture, and the Third Supplemental Indenture are referred to herein collectively as the “Senior Lien Indenture”);

WHEREAS, capitalized terms used in this Order and not otherwise defined shall have the meaning given to such terms in the Senior Lien Indenture;

WHEREAS, the proceeds of the Series 2016 Bonds will be applied for the purposes set forth in the Third Supplemental Indenture, which include paying Costs of the Project (collectively, the “2016 Project”) and the costs and expenses arising in connection with their issuance;

WHEREAS, the County hereby finds and determines that the 2016 Project is necessary and useful in connection with Westpark Tollway, and the 2016 Project constitutes and is hereby designated as part of the Project;

WHEREAS, the 2016 Project is identified as constituting individual Project Segments in the Third Supplemental Indenture;

WHEREAS, the County has further determined to enter into a Bond Purchase Agreement, as of the date hereof (the “Bond Purchase Agreement”), related to the Series 2016 Bonds with Raymond James & Associates, Inc., as senior manager for a syndicate of underwriters (the “Underwriters”), setting forth certain terms and conditions upon which the Underwriters will purchase the Series 2016 Bonds from the County and the County will sell the Series 2016 Bonds to the Underwriters;

WHEREAS, the Commissioners Court of the County has been presented with, has considered and desires to ratify and approve the use in the public offering of the Series 2016 Bonds, a Preliminary Official Statement (the “Preliminary Official Statement”), and desires to authorize the preparation and use of a final Official Statement (the “Official Statement”) pertaining to the Series 2016 Bonds;

WHEREAS, the Commissioners Court of the County confirms its obligation under the Indenture to levy ad valorem taxes within the limits prescribed by law, to pay the operation costs of the Project and for such other purposes as required by the Indenture, if necessary;

WHEREAS, the Commissioners Court of the County desires to ratify certain other actions heretofore taken with respect to the Series 2016 Bonds and the 2016 Project;

WHEREAS, the Commissioners Court of the County has examined the Third Supplemental Indenture, the Bond Purchase Agreement, and the Preliminary Official Statement, all of which are attached to and comprise a part of this Order, and has found the form and substance of such documents to be satisfactory and proper and the recitals contained therein to be true, correct and complete; and has determined to authorize the issuance of the Series 2016 Bonds, the execution and delivery of such documents, and the taking of such other actions as may be necessary or convenient in connection therewith; and

THEREFORE, BE IT ORDERED, ADJUDGED AND DECREED BY THE COMMISSIONERS COURT OF FORT BEND COUNTY, TEXAS:

ARTICLE I.

THE SERIES 2016 BONDS

Section 1.1. Sale, Execution, and Delivery of the Series 2016 Bonds. That the issuance of the Series 2016 Bonds is hereby authorized, under and in accordance with the Senior Lien Indenture, and that, upon execution and delivery of the Third Supplemental Indenture, the officers of the County are each hereby authorized to execute, attest, and affix the County's seal to the Series 2016 Bonds and to deliver the Series 2016 Bonds to the Attorney General of the State of Texas for approval, the Comptroller of Public Accounts for registration and the Trustee or authenticating agent for authentication, and thereafter to deliver such Series 2016 Bonds to the Underwriters pursuant to the Bond Purchase Agreement.

Section 1.2. Approval, Execution, and Delivery of Indenture. That the Third Supplemental Indenture attached as Exhibit "A" is hereby approved and the officers of the County are each hereby authorized to execute, attest, and affix the County's seal to the Third Supplemental Indenture, and to deliver the Indenture and Third Supplemental Indenture to the Trustee and the Underwriters.

Section 1.3. Approval, Execution, and Delivery of the Bond Purchase Agreement. That the sale of the Series 2016 Bonds to the Underwriters is hereby approved and the officers of the County are each hereby authorized to execute, attest, and affix the County's seal to the Bond Purchase Agreement and to deliver the Bond Purchase Agreement to the Underwriters in substantially the form attached as Exhibit "B."

Section 1.4. Approval, Execution, Use, and Distribution of the Official Statement. That the Preliminary Official Statement and the use and distribution by the Underwriters of the Preliminary Official Statement, in accordance with the terms, conditions and limitations contained therein, are hereby approved, ratified, confirmed, and authorized and it is hereby deemed to be "final" as of its date for purposes of compliance with Rule 15c2-12 of the United

States Securities and Exchange Commission, except for the omission of no more than the information permitted by such Rule; that the preparation and distribution by the Underwriters of a final Official Statement in substantially the same form as the Preliminary Official Statement, together with such additions, deletions and modifications as shall be necessary and desirable or consistent with the terms of this Order and the Senior Lien Indenture, is hereby authorized; that the officers of the County are each hereby authorized to execute the Official Statement; and that the use and distribution of the Official Statement by the Underwriters is hereby approved and authorized, subject to the terms, conditions and limitations contained therein and further subject to such amendments or additions thereto as may be required by the Bond Purchase Agreement and as may be approved by the County Judge of the County.

Section 1.5. Approval of Requests for Rating from Rating Agencies. That the action of the County Judge and the County's consultants in seeking ratings from Moody's Investors Service, Inc. and Fitch Ratings, Inc. is hereby ratified and confirmed.

ARTICLE II.

MAINTENANCE TAX

That a special fund, designated as FORT BEND COUNTY, TEXAS SENIOR LIEN TOLL ROAD REVENUE BOND MAINTENANCE TAX FUND (the "Tax Fund"), has been created under the Indenture, and the proceeds from all taxes levied, assessed and collected for and on account of the Series 2016 Bonds shall be credited to the Tax Fund. While the Series 2016 Bonds or any part of the principal thereof or interest thereon remain outstanding and unpaid, the County shall in each year levy, assess and collect an annual maintenance tax on all taxable property within the County fully sufficient in each such year (taking into account delinquencies and costs of collection) to produce maintenance tax revenues which shall be sufficient to (a) pay as they become due all Project Expenses, as defined in the Indenture, for which there are insufficient available Revenues, as defined in the Indenture, or (b) produce maintenance tax revenues for the Project equal to the amounts budgeted for such purpose in such year by the County, whichever is greater. In determining each year the rate at which such tax should be levied in order to be sufficient to pay the aforesaid interest and provide for the aforesaid principal payments, the County may consider the availability of other funds available for such purpose as provided in the Indenture, as amended and supplemented by the First Supplemental Indenture, the Second Supplemental Indenture, Third Supplemental Indenture, and any other supplemental indenture.

ARTICLE III.

MISCELLANEOUS PROVISIONS

Section 3.1. Ratifying Other Actions. That all other actions, heretofore or hereafter taken, by the Commissioners Court of the County, the County Judge, the County Attorney, the County Treasurer, the County Auditor, the Commissioners Court Coordinator, the Director of Financial Services for the County, the Fort Bend County Toll Road Authority and its consultants and the other County officials in connection with the issuance of the Series 2016 Bonds are hereby ratified and confirmed.

Section 3.2. Authorization for Certain Other Actions. That the above named County officials are hereby authorized to take such other actions as may be necessary to meet with bond rating agencies, bond insurers and prospective bond purchasers so as to achieve the most favorable terms for the sale of the Series 2016 Bonds and to attend the closing for the Series 2016 Bonds, and to incur expenses for travel, meals, and lodging in connection therewith.

Section 3.3. Execution and Delivery of Other Documents. That the officers of the County are each hereby authorized to execute, attest, and affix the County's seal to such other agreements, advance commitment agreements, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests and other papers, including without limitation, engagement letters in the forms presented to the Commissioners Court of the County with Bracewell & Giuliani LLP as Bond Counsel, and First Southwest Company as Financial Advisor, and to take all action and to do all things whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Order, the Senior Lien Indenture, and the Bond Purchase Agreement.

Section 3.4. Exhibits Incorporated Herein. That all of the terms and provisions of the documents listed below as an exhibit shall be and are hereby approved, incorporated into and made a part of this Order for all purposes.

Exhibit "A" - Third Supplemental Indenture

Exhibit "B" - Bond Purchase Agreement

Exhibit "C" - Preliminary Official Statement

Section 3.5. Power to Revise Form of Documents. That, notwithstanding any other provision of this Order, the officers of the County are each hereby authorized to make or approve such revisions, additions, deletions, and variations to this Order and in the form of the documents attached hereto as exhibits as in the judgment of the County Judge, and in the opinion of Bond Counsel to the County, may be necessary or convenient to carry out or assist in carrying out the purposes of this Order, the Senior Lien Indenture, the Bond Purchase Agreement, the Preliminary Official Statement, the final Official Statement, or as may be required for approval of the Series 2016 Bonds by the Attorney General of Texas, by any rating agency as a condition to the granting of a rating on the Series 2016 Bonds or by a bond insurance company for the issuance of a bond insurance policy guaranteeing the scheduled payment of debt service on the Series 2016 Bonds; provided, however, that any changes to such documents resulting in substantive amendments to the terms and conditions of the Series 2016 Bonds or such documents shall be confirmed by the Commissioners Court of the County.

Section 3.6. Application of Bond Proceeds. That the proceeds of the Series 2016 Bonds shall be applied for the purposes set forth in the Third Supplemental Indenture.

Section 3.7. Effective Date. That this Order shall be in full force and effect from and upon its adoption.

Section 3.8. Notice of Meeting. That written notice of the date, hour and place of such meeting of the Commissioners Court of the County and of the subject of the Order was furnished to the Fort Bend County Clerk and posted for at least 72 hours preceding the convening of such meeting, on a bulletin board in the Fort Bend County Court House located at a place convenient to the public; that such place was readily accessible to the general public at all times from the time of such posting until the convening of such meeting, that such meeting was open to the public as required by law at all times during which the Order and the subject matter thereof was discussed, considered and formally acted upon, all as required by the Open Meetings Law, Chapter 551, Texas Government Code, as amended.

ADOPTED, PASSED, and APPROVED this ____ day of January, 2016.

FORT BEND COUNTY, TEXAS

By: _____
Robert E. Hebert
County Judge
Fort Bend County, Texas

ATTEST:

By: _____
Laura Richard,
County Clerk and Ex Officio Clerk of the
Commissioners Court Fort Bend County, Texas

(SEAL)

DRAFT

EXHIBIT A
THIRD SUPPLEMENTAL INDENTURE

DRAFT

EXHIBIT B
BOND PURCHASE AGREEMENT

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EXHIBIT C

PRELIMINARY OFFICIAL STATEMENT

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