

RESOLUTION NO. 2003-3

A RESOLUTION OF THE CALIFORNIA FISCAL RECOVERY FINANCING AUTHORITY PURSUANT TO THE CALIFORNIA FISCAL RECOVERY FINANCING ACT, AUTHORIZING THE FILING OF A VALIDATION ACTION PURSUANT TO CALIFORNIA CIVIL PROCEDURE CODE SECTION 860 *ET SEQ.*, AUTHORIZING THE ISSUANCE OF A SUMMONS AND AUTHORIZING LEGAL COUNSEL TO TAKE ALL NECESSARY ACTIONS IN CONNECTION THEREWITH

WHEREAS, the California Fiscal Recovery Financing Authority (the “**Authority**”), a public instrumentality of the State of California, is authorized by the provisions of the California Fiscal Recovery Financing Act, consisting of Title 17 of the Government Code, Section 99000, *et seq.*, enacted by Chapter 13, Statutes of 2003, First Extraordinary Session (the “**Act**”) to issue bonds and bond anticipation notes for the general purpose of funding all or a portion of the accumulated budget deficit of the State of California (the “**State**”) as of June 30, 2003, funding any necessary reserves and capitalized interest, obtaining or entering into any Ancillary Obligations (as defined in Section 99003(b) of the Act; herein, an “**Ancillary Obligation**”) and paying costs related to issuing the bonds;

WHEREAS, pursuant to Resolution 2003-2 of the Authority adopted at this meeting, the Authority approved a proposed form of a Trust Agreement (the “**Trust Agreement**”) to be entered into between the Authority and the Trustee, including the forms of Bonds attached thereto as exhibits (capitalized terms used hereafter in this Resolution and not otherwise defined shall have the meanings ascribed thereto in the Trust Agreement);

WHEREAS, pursuant to Resolution 2003-2 of the Authority adopted at this meeting, the Authority approved a proposed form of a Fiscal Recovery Fund Implementation Agreement (the “**Fund Agreement**”) to be entered into among the Authority, the California Department of Finance, the California Board of Equalization, the State Controller, specifying the manner and timing of transfers of Special Sales Tax Revenues to the Fiscal Recovery Fund and from the Fiscal Recovery Fund to the Revenue Fund established pursuant to the Trust Agreement;

WHEREAS, in connection with the issuance and sale of the Bonds and the execution, delivery and performance of the Ancillary Obligations, pursuant to Resolution 2003-2 of the Authority adopted at this meeting, the Authority approved the execution of a number of related documents, agreements and contracts, including but not limited to one or more Official Statements and/or Offering Circulars and/or Private Placement Memoranda, Tax Certificates, Bond Purchase Agreements, Continuing Disclosure Certificates and other documents deemed necessary or desirable (collectively, the “**Related Contracts**”);

WHEREAS, a validation action challenging the California Fiscal Recovery Financing Act and the Fiscal Recovery Bonds was filed prematurely by the Fullerton Association of Concerned Taxpayers, and the Authority has concerns that the complaint, proposed summons and proposed publication of the summons might not be adequate to confer in rem jurisdiction on

the court so that any decision rendered by the court will be binding on all persons and address all issues relating to the validity of the Bonds; and

WHEREAS, since it is of critical importance to the Authority that any validation action concerning the Fiscal Recovery Bonds be prosecuted and brought to a final determination as quickly as possible, the Authority has determined that prompt resolution of the matter is more likely if the Authority is the moving party in the action.

WHEREAS, the Authority has determined it to be advisable to file an action to determine the validity of the Bonds and the documents and the actions proposed in connection with the issuance of the Bonds, including the Trust Agreement, the Ancillary Obligations the Fund Agreement and the Related Contracts.

NOW, THEREFORE, the Authority resolves as follows:

Section 1. The Attorney General is hereby authorized and directed to bring a validation action under Section 860 *et seq.* of the California Code of Civil Procedure to determine the legality and validity of the Bonds, the Trust Agreement, the Ancillary Obligations, the Fund Agreement, the Related Contracts and all other related and necessary documents and proceedings authorized pursuant to Resolution 2003-2 of the Authority, and to take all necessary actions in connection therewith.

Section 2. The Authority further authorizes the publication of a summons pursuant to California Code of Civil Procedure Section 861 and California Government Code Section 6063.

Section 3. The Attorney General is hereby authorized and directed to provide legal counsel to the Authority in connection with the defense and litigation of *Fullerton Association of Concerned Taxpayers, an unincorporated association, v. California Fiscal Recovery Financing Authority; Finance Director and Financing Authority Chairperson Steve Peace, in His Official Capacity; State Treasurer Phil Angelides, in His Official Capacity; and All Persons Interested in the Matter of the Validity of Assembly Bill 7 (1st Extraordinary Session 2003) (AB 7), Enacting the California Fiscal Recovery Financing Act, Government Code Section 99000, et seq.; Adding Sections 6051.5, 6051.6, 6201.5, 6201.6, and 7101.3, 7203.1 to the Revenue and Taxation Code, and Amending Sections 7202; 7203 of the Revenue and Taxation Code; and Deficit Bonds to Be Issued Pursuant Thereto* (Sacramento County Superior Court, Case No. 03AS05319), or other similar threatened or actual litigation.

Section 4. This resolution shall take effect immediately upon its adoption.

I certify that this resolution was adopted by the Authority at its meeting of December 5, 2003, by the following vote:

Ayes: 7

Peter Siggins, Legal Affairs Secretary, for the Governor of the State of California

Barbara Lloyd, Deputy Treasurer, for the State Treasurer's Office

Rick Chivaro, Chief Counsel, for the State Controller's Office

Michael Genest, Chief Deputy Director, for the Director of the Department of Finance

Chris Janzen, Principal Fiscal Officer, for the Secretary of the Business,

Transportation and Housing Agency

William J. Jefferds, Ed.D., Director of General Services

Bob Garcia, Chief Financial Officer, for the Director of Transportation

Noes: 0

Absent: 0

00048262/v6/3010.0200