
THIRD SUPPLEMENTAL INDENTURE

between the

CITY OF FRESNO

and

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Trustee**

Dated as of May 1, 2019

**\$35,000,000
CITY OF FRESNO
AIRPORT REVENUE BONDS
SERIES 2019**

(Supplemental to the Indenture dated as of June 15, 2000)

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THIS THIRD SUPPLEMENTAL INDENTURE made and entered into as of May 1, 2019 (this “Third Supplemental Indenture”) by and between THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association duly organized and existing under and by virtue of the laws of the United States of America, as trustee (the “Trustee”) and the CITY OF FRESNO, a municipal corporation and charter city duly organized and existing under and by virtue of the Constitution and laws of the State of California (the “City”);

WITNESSETH:

WHEREAS, this Third Supplemental Indenture is supplemental to the Indenture of Trust, dated as of June 15, 2000 (as supplemented and amended from time to time pursuant to its terms, including as supplemented by this Third Supplemental Indenture, the “Indenture”), between the Trustee and the City pursuant to which \$10,815,000 aggregate principal amount of Airport Revenue Bonds, Series 2000A (Non-AMT) (the “Series 2000A Bonds”) and \$32,230,000 aggregate principal amount of Airport Revenue Bonds, Series 2000B (AMT) (the “Series 2000B Bonds” and together with the Series 2000A Bonds, the “Series 2000 Bonds”) were issued;

WHEREAS, the Indenture provides certain terms and conditions under which the City may issue Additional Bonds (as defined in the Indenture) on a parity with the Series 2000 Bonds;

WHEREAS, the City issued \$22,000,000 aggregate principal amount of Airport Revenue Bonds, Taxable Series 2007 (the “Series 2007 Bonds”) pursuant to the First Supplemental Indenture, dated as of May 1, 2007, between the Trustee and the City;

WHEREAS, the City issued \$10,810,000 aggregate principal amount of Airport Revenue Refunding Bonds, Series 2013A (Non-AMT) and \$22,820,000 Airport Revenue Refunding Bonds, Series 2013B (AMT) pursuant to the Second Supplemental Indenture, dated as of July 1, 2013, between the Trustee and the City (collectively, the “Series 2013 Bonds”);

WHEREAS, the Council of the City (the “Council”), acting under and pursuant to the powers reserved to the City under sections 3, 5 and 7 of article XI of the Constitution of the State of California and section 1223 of the Charter of the City, has enacted the City of Fresno Municipal Improvements Revenue Bond Law, being Article 7 of Chapter 8 of the Municipal Code of the City which incorporates, to the extent made applicable by such law, the Revenue Bond Law of 1941, being Chapter 6 of Division 2 of Title 5 of the California Government Code, as enacted and as thereafter amended;

WHEREAS, the City has authorized the issuance of its Airport Revenue Bonds, Series 2019 (the “Series 2019 Bonds”) in an aggregate principal amount of Thirty-Five Million Dollars (\$35,000,000) to finance a parking garage at the Fresno Yosemite International Airport, as more particularly described in Exhibit B hereto;

WHEREAS, the Series 2019 Bonds will be sold to the California Infrastructure and Economic Development Bank pursuant to the Bergeson-Peace

Infrastructure and Economic Development Bank Act, constituting Division 1 of Title 6.7 of the California Government Code (commencing at section 63000 thereof);

WHEREAS, in order to provide for the authentication and delivery of the Series 2019 Bonds, to establish and declare the terms and conditions upon which the Series 2019 Bonds are to be issued and to secure the payment of the principal thereof, premium, if any, and interest thereon, the City has authorized the execution and delivery of this Third Supplemental Indenture, the proposed form of which Council approved by Resolution No. 2019-____, and therein authorized and directed execution and delivery substantially in such form;

WHEREAS, all acts and proceedings required by law necessary to make the Series 2019 Bonds, when executed by the City and authenticated and delivered by the Trustee, the valid, binding and legal obligations of the City payable in accordance with their terms, and to constitute this Third Supplemental Indenture a valid and binding agreement of the parties hereto for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of this Third Supplemental Indenture have been in all respects duly authorized;

NOW, THEREFORE, THIS THIRD SUPPLEMENTAL INDENTURE WITNESSETH, that in order to secure the payment of the principal of, premium, if any, and the interest on all Bonds at any time issued and outstanding under the Indenture, according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Series 2019 Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants therein and herein contained and of the purchase and acceptance of the Series 2019 Bonds by the Owners thereof, and for other valuable considerations, the receipt whereof is hereby acknowledged, the City does hereby covenant and agree with the Trustee, for the benefit of the respective Owners from time to time of the Bonds, as follows:

ARTICLE XVIII

ISSUANCE AND TERMS OF SERIES 2019 BONDS

Section 18.01. Additional Definitions. Capitalized terms used in the Third Supplemental Indenture shall have the meanings set forth in the Indenture unless otherwise defined herein. Unless the context otherwise requires, the terms defined in this section shall for all purposes hereof and, where used in the Indenture, for all purposes of the Indenture, and of any Supplemental Indenture and of any certificate, opinion, request or other document herein or therein mentioned have the meanings herein specified:

Bonds

“Bonds” means the Series 2000 Bonds, the Series 2007 Bonds, the Series 2013 Bonds and the Series 2019 Bonds and all Additional Bonds.

Debt Service Reserve Requirement

“Debt Service Reserve Requirement” means, for the Series 2019 Bonds, an amount which, when added to the amount of any Financial Guaranties then in effect and delivered pursuant to this Supplemental Indenture then in effect, is equal to the least of (A) ten percent (10%) of the initial offering price of the Series 2019 Bonds (determined in accordance with the Code); (B) Debt Service for the Outstanding Series 2019 Bonds for the then current or any future Fiscal Year in which such Debt Service is a maximum; or (C) one hundred twenty-five percent (125%) of the average annual Debt Service on Series 2019 Bonds.

Interest Payment Date

“Interest Payment Date” means, with respect to the Series 2019 Bonds, each January 1 and July 1, commencing July 1, 2019.

Permitted Transferee

“Permitted Transferee” means any successor entity to the Purchaser.

Purchaser

“Purchaser” means the California Infrastructure and Economic Development Bank.

Registered Holder

“Registered Holder” means the California Infrastructure and Economic Development Bank or any Permitted Transferee.

Series 2019 Bonds

“Series 2019 Bonds” means the City of Fresno Airport Revenue Bonds, Series 2019, issued pursuant to this Third Supplemental Indenture.

Third Supplemental Indenture

“Third Supplemental Indenture” means this Third Supplemental Indenture, as it may be amended or supplemented from time to time.

2019 Costs of Issuance Fund

“2019 Costs of Issuance Fund” has the meaning set forth in Section 18.06(c).

2019 Debt Service Reserve Fund

“2019 Debt Service Reserve Fund” has the meaning set forth in Section 18.06(b).

2019 Project

“2019 Project” means the capital improvements identified in Exhibit B hereto.

2019 Project Account

“2019 Project Account” has the meaning set forth in Section 18.06(a).

Section 18.02. Authorization and Purpose of Series 2019 Bonds. The City has reviewed all proceedings heretofore taken relative to the authorization of the Series 2019 Bonds and has found, as a result of such review, that all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in the issuance of the Series 2019 Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and that the City is now duly authorized to issue the Series 2019 Bonds in the form and manner provided herein for the purpose of providing funds to finance capital improvements to the Airport, and that the Series 2019 Bonds shall be entitled to the benefit, protection and security of the provisions hereof.

Section 18.03. Terms of the Series 2019 Bonds. (a) The Series 2019 Bonds shall be Current Interest Bonds issued in the aggregate principal amount of \$35,000,000, shall be dated their date of original issuance, shall bear interest at the rate of ____% per annum, shall mature on July 1, ____ and shall be issued only in fully registered form and as a single Bond registered in the name of the Registered Holder, subject to prior redemption as described in Section 18.03(c):

The Series 2019 Bonds shall bear interest at the rate set forth above, payable on July 1, 2019, and semiannually thereafter on January 1 and July 1 in each year. Payment of interest on, and the Redemption Price of, the Series 2019 Bonds due on or before the maturity or prior redemption thereof shall be made to the Registered Holder. Such interest and Redemption Price shall be paid by wire transfer of immediately available funds in accordance with the Registered Holder’s written instructions. Any such written request shall remain in effect until rescinded in writing by the Registered Holder.

Payment of the principal of the Series 2019 Bonds at maturity shall be made upon the surrender thereof at the principal office of the Trustee in Los Angeles, California, or such other place as designated by the Trustee.

(b) The Series 2019 Bonds shall not be transferred, except to a Permitted Transferee.

(c) **Optional Redemption of Series 2019 Bonds.** The Series 2019 Bonds are also subject to redemption prior to their respective stated maturity at the written direction of the City (delivered to the Trustee and Registered Holder no later than [90] days prior to the redemption date), from any moneys deposited by the City, as a

whole or in part on any date on or after July 1, 2029, at the following Redemption Prices, plus accrued interest to the date of redemption:

<u>Date</u>	<u>Redemption Price</u>
[July 1, 2029 to June 30, 2030	102%
July 1, 2030 to June 30, 2031	101%
July 1, 2031 and thereafter	100%]

(d) Mandatory Sinking Fund Redemption. The Series 2019 Bonds, shall also be subject to mandatory sinking fund redemption prior to maturity, in part on July 1 of each year on and after July 1, _____, from and in the amount of the Mandatory Sinking Account Payments set forth below at a Redemption Price equal to the sum of the principal amount thereof plus accrued interest thereon to the redemption date, without premium.

The Trustee shall establish and maintain within the Principal Account a separate account for the Series 2019 Bonds designated as the Series 2019 Bonds Sinking Account. Subject to the terms and conditions set forth in this Section and Section 5.1, the Series 2019 Bonds shall be redeemed (or paid at maturity, as the case may be) by application of Mandatory Sinking Account Payments in the amounts and upon the dates hereby established for the Series 2019 Bonds Sinking Account, as follows:

Series 2019 Sinking Account Payments

<u>Date</u>	<u>Principal Amount</u>
_____ (July 1)	

† Maturity.

(e) Redemption Procedures. In the event of redemption pursuant to this Section 18.03(c), the City shall provide the Trustee with a revised sinking fund schedule giving effect to the optional redemption so completed. Notice of an optional redemption shall be given by the City to the Registered Holder pursuant to Section 18.03(c). Mandatory Sinking Fund Redemption shall not require that a notice of redemption be delivered to the Registered Holder.

Section 18.04. Form of Series 2019 Bonds. The Series 2019 Bonds and the authentication and registration endorsement and assignment to appear thereon shall be substantially in the forms set forth in Exhibit A attached hereto and by this reference incorporated herein.

Section 18.05. Execution and Authentication of Series 2019 Bonds. The Series 2019 Bonds shall be executed and authenticated as set forth in Section 4.3 of the Indenture.

Section 18.06. Procedure for the Issuance of Series 2019 Bonds; Creation of Accounts and Funds.

(a) Issuance and Deposits. At any time after the sale of the Series 2019 Bonds, the City shall execute the Series 2019 Bonds for issuance hereunder and shall deliver them to the Trustee, and thereupon the Series 2019 Bonds shall be delivered by the Trustee to the Purchaser thereof upon receipt of [\$35,000,000] therefor.

Upon receipt of the purchase price for the Series 2019 Bonds from the Purchaser, the Trustee shall set aside and deposit the proceeds received from such sale in a separate Account in the Construction Fund, which Account is hereby established and shall be known as the “2019 Project Account.” All money in the 2019 Project Account shall be used for the purpose of paying Costs of the 2019 Project. Amounts shall be withdrawn from the 2019 Project Account in the Construction Fund pursuant to Section 6.3 of the Indenture.

(b) The City shall deposit [cash or Financial Guaranty] in a separate Fund, which Fund is hereby established and shall be known as the “2019 Debt Service Reserve Fund,” the sum of \$_____, such amount being equal to the Debt Service Reserve Requirement attributable to the Series 2019 Bonds.

(c) In addition, there is hereby established a separate Fund, the “2019 Costs of Issuance Fund”, and the City shall deposit therein the sum of \$_____. All money in the 2019 Costs of Issuance Fund shall be used for the purpose of paying the Costs of Issuance of the Series 2019 Bonds upon written request of the City. On July 1, 2019, or upon the earlier written request of the City, any remaining balance in the 2019 Costs of Issuance Fund shall be transferred to the 2019 Debt Service Account within the Debt Service Fund, which Account is hereby established, and the 2019 Costs of Issuance Fund shall be closed.

(d) 2019 Debt Service Reserve Fund

(i) If on the Business Day immediately preceding an Interest Payment Date for the Series 2019 Bonds, or any other date on which the Principal Amount or Redemption Price of, or interest on, the Series 2019 Bonds is due, the amount in the Debt Service Fund available for such payment is less than the Principal Amount or Redemption Price of, or interest on, the Series 2019 Bonds due on such date, after applying any available amounts transferred from the Surplus Fund as provided in Section 6.12, from the Operating Reserve Fund as provided in Section 6.9, and from the Renewal and Replacement Fund as provided in Section 6.11, the Trustee shall apply amounts from the 2019 Debt Service Reserve Fund to the extent necessary to make good the deficiency.

(ii) Except as provided in Section 18.06 (b)(iv), if on the last Business Day of any month the amount on deposit in the 2019 Debt Service Reserve Fund shall exceed the applicable Debt Service Reserve Requirement for the Series 2019 Bonds, such excess will be applied to the reimbursement of each drawing on a Financial Guaranty

credited to such Fund (to the extent not reimbursed upon the reinstatement of such Financial Guaranty pursuant to clause (v) below) and to the payment of interest or other amounts due with respect to any Financial Guaranty credited to such Fund, and any remaining moneys will be deposited in the Debt Service Fund.

(iii) Whenever the amount in the 2019 Debt Service Reserve Fund (excluding Financial Guaranties) together with the amount available therefor in the Debt Service Fund, is sufficient to pay in full all Outstanding Series 2019 Bonds in accordance with their terms (including Principal Amount or applicable sinking fund Redemption Price and interest thereon), the funds on deposit in the 2019 Debt Service Reserve Fund shall be transferred to the Debt Service Fund and applied to the payment of the Outstanding Series 2019 Bonds (including Principal Amount or applicable sinking fund Redemption Price and interest thereon).

(iv) In the event of the refunding, purchase or redemption of one or more Series 2019 Bonds (or portions thereof), the Trustee shall, upon the written direction of an Authorized Representative, withdraw from the 2019 Debt Service Reserve Fund any or all of the amounts on deposit therein (excluding Financial Guaranties) and deposit such amounts with itself as Trustee to be held for the payment of the Principal Amount or Redemption Price, if any, of, and interest on, the Series 2019 Bonds (or portions thereof) being refunded, purchased or redeemed; provided that such withdrawal shall not be made unless (a) immediately thereafter the Series 2019 Bonds (or portions thereof) being refunded, purchased or redeemed shall be paid or deemed to have been paid pursuant to Section 12.1 of the Indenture, and (b) the amount remaining in the 2019 Debt Service Reserve Fund after such withdrawal, taking into account any deposits to be made in the 2019 Debt Service Reserve Fund in connection with such refunding, purchase or redemption shall not be less than the Debt Service Reserve Requirement for the Series 2019 Bonds upon such refunding, purchase or redemption.

(v) In lieu of funding the 2019 Debt Service Reserve Fund with cash or Investment Securities, the City may cause to be deposited in the 2019 Debt Service Reserve Fund a Financial Guaranty or Financial Guaranties in an amount equal to the difference between the applicable Debt Service Reserve Requirement and the sums, if any, then on deposit in the 2019 Debt Service Reserve Fund or being deposited in the 2019 Debt Service Reserve Fund concurrently with such Financial Guaranty or Guaranties.

(vi) In computing the amount on deposit in the 2019 Debt Service Reserve Fund, a Financial Guaranty shall be valued at the amount available to be drawn or payable thereunder on the date of computation.

Section 18.07. Validity of Series 2019 Bonds. The validity of the issuance of the Series 2019 Bonds shall not be dependent on or affected in any way by the proceedings taken by the City for the financing of the 2019 Project or by any contracts made by the City or its agents in connection therewith. The recital contained in the Series 2019 Bonds that the same are issued pursuant to the Law and pursuant hereto shall be conclusive evidence of their validity and of the regularity of their issuance, and all

Series 2019 Bonds shall be incontestable from and after their issuance. The Series 2019 Bonds shall be deemed to be issued, within the meaning hereof, whenever the definitive Series 2019 Bonds (or any temporary Series 2019 Bonds exchangeable therefor) shall have been delivered to the purchaser thereof and the proceeds of sale thereof received.

Section 18.08. Terms of Series 2019 Bonds Subject to the Indenture.

Except as expressly provided in this Third Supplemental Indenture, every term and condition contained in the Indenture shall apply to this Third Supplemental Indenture and to the Series 2019 Bonds with the same force and effect as if the same were herein set forth at length, with such omissions, variations and modifications thereof as may be appropriate to make the same conform to this Third Supplemental Indenture.

This Third Supplemental Indenture and all the terms and provisions herein contained shall form part of the Indenture as fully and with the same effect as if all such terms and provisions had been set forth in the Indenture. The Indenture is hereby ratified and confirmed and shall continue in full force and effect in accordance with the terms and provisions thereof, as supplemented hereby.

ARTICLE XIX

AMENDMENTS TO INDENTURE

Section 19.01. Amendment of Indenture.

The Indenture is hereby amended as follows:

(a) The definition of “Financial Guaranty” is hereby amended to read as follows:

““Financial Guaranty” shall mean any of the following: (i) an irrevocable, unconditional and unexpired letter of credit issued by a bank, a trust company, a national banking association, a corporation subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provision of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provision of law or a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, the unsecured or uncollateralized long term debt obligations of which, or long term obligations secured or supported by a letter of credit issued by such bank, trust company, national banking association, corporation or branch, are rated at the time such letter of credit is delivered, without regard to qualification of such rating by symbols such as “+” or “-” or numerical notation, in at least the second highest rating category by Moody's or S&P; or (ii) an irrevocable and unconditional policy of insurance or surety bond in full force and effect issued by an insurance company or association duly authorized to do business in the

State of New York and the State of California (y) the claims paying ability of which is rated at the time such policy of insurance or surety bond is delivered, without regard to qualification of such rating by symbols such as “+” or “-” or numerical notation, in at least the second highest rating category by Moody's or S&P; or (z) obligations insured by a surety bond or an insurance policy issued by such company or association are rated at the time such surety bond or insurance policy is delivered, without regard to qualification of such rating by symbols such as “+” or “-” or numerical notation, in the second highest rating category by Moody's or S&P; in each case credited to the 2019 Debt Service Reserve Fund or a Debt Service Reserve Fund securing an additional Series of Bond established pursuant to this Indenture.

ARTICLE XX

MISCELLANEOUS PROVISIONS

Section 20.01. Effective Date of Third Supplemental Indenture. This Third Supplemental Indenture shall take effect upon its execution and delivery and the issuance of the Series 2019 Bonds.

Section 20.02. Execution in Counterparts. This Third Supplemental Indenture may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the CITY OF FRESNO has caused this Third Supplemental Indenture to be signed in its name by its _____ and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., to evidence its acceptance of the trusts created hereunder, has caused this Third Supplemental Indenture to be signed by one of the officers thereunder duly authorized, all as of the day and year first above written.

CITY OF FRESNO

By _____

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A., as Trustee

By: _____

EXHIBIT A
FORM OF SERIES 2019 BOND

[to come]

EXHIBIT B

DESCRIPTION OF THE 2019 PROJECT

[Describe Parking Garage]