1306-16-0

6-8-54

OHIO TURNPIKE COMMISSION

Resolution No. 100-1954 Establishing Policy on Replacement of Mutilated, Destroyed, or Lost Bonds

WHEREAS, pursuant to the trust agreement between the Commission and The Ohio National Bank of Columbus, as trustee, and The National City Bank of New York, as co-trustee, dated June 1, 1952, there have been issued and are now available definitive Turnpike Revenue Bonds, Project No. 1, issued or issuable pursuant to said trust agreement;

WHEREAS there are also outstanding temporary Turnpike Revenue Bonds, Project No. 1, issued pursuant to said trust agreement and exchangeable for definitive bonds;

WHEREAS the Commission has, from time to time, received requests for replacement of mutilated, destroyed, or lost bonds and also for replacement of lost coupons;

WHEREAS by section 201 of said trust agreement it is provided that no Turnpike Revenue Bonds, Project No. 1 (herein called the bonds) may be issued under the trust agreement except in accordance with the provisions of article II thereof; by section 203 it is provided that the bonds shall be signed by the facsimile signatures of the chairman and the vice chairman of the Commission and the official seal of the Commission affixed to the bonds and they be attested by the secretary-treasurer of the Commission; by section 204 it is provided that no bonds shall be valid unless a certificate of authentication thereon shall have been duly executed by The Ohio National Bank of Columbus, as trustee, and that, before authenticating or delivering any coupon bonds, the trustee shall detach and cancel all matured coupons, if any, appertaining thereto, representing interest theretofore paid; by section 205 provision is made that coupon bonds may be exchanged for an equal aggregate principal amount of registered bonds without coupons; by section 210 it is provided that, until definitive bonds are ready for delivery, there may be executed, and, upon the request of the chairman of the Commission, the trustee shall authenticate and deliver, in lieu of definitive bonds and subject to the same limitations and conditions, temporary printed, engraved, or lithographed bonds; and

WHEREAS by section 211 of said trust agreement it is provided "In case any bond shall become mutilated or be destroyed or lost, the Commission may cause to be executed, and the Trustee may authenticate and deliver, a new bond of like date and tenor in exchange and substitution for and upon the cancellation of such mutilated bond and its interest coupons, if any, or in lieu of and in substitution for such bond destroyed or lost, and its coupons, if any, upon the holder's paying the reasonable expenses and charges of the Commission and the Trustee in connection therewith and, in the case of a bond destroyed or lost, his filing with the Trustee evidence satisfactory to it and to the Commission that such bond and coupons, if any, were destroyed or lost, and of his ownership thereof, and furnishing the Commission and the Trustee with indemnity satisfactory to them."

NOW, THEREFORE, BE IT

RESOLVED that it is the policy of the Commission to cause to be executed, and to request the trustee to authenticate and deliver, a new bond in exchange or substitution for a bond which has been mutilated, destroyed, or lost pursuant to section 211 of the trust agreement on the basis of, and subject to, the terms and conditions attached hereto as Schedule 1, and incorporated herein; and

FURTHER RESOLVED that the comptroller of the Commission shall request that the trustee (a) promptly upon its receiving notice that a bond (coupon or registered) or coupon has been lost, stolen, destroyed, or mislaid, determine the number of the bond or the coupon or any other information that would identify such bond or coupon; (b) if such information is obtained, refuse payment, if presented, of the coupon or of such bond or its coupons (if any) unless the person presenting it furnishes evidence satisfactory to the trustee of his right and title to the bond or coupon and maintain a record of bonds or coupons so presented and of any action taken pursuant to the foregoing; (c) furnish to the comptroller of the Commission the information obtained under the foregoing in order that the comptroller, on behalf of the Commission, may request the co-trustee and paying agents likewise to refuse payment of said bond or coupon if presented to any of them, unless the person presenting the bond or coupon furnishes satisfactory evidence of his right and title to the same; and that the trustee, co-trustee, and paying agents shall be fully indemnified and held harmless by the Commission from any liability, cost, damage, or loss arising from their acting or failing to act pursuant to such request.

[Copy hereof furnished 6/8/54 to Squire, Sanders & Dempsey (attn. Henry J. Crawford, Esq., Ohio National Bank, National City Bank of New York, comptroller, and information director.]

Schedule 1

OHIO TURNPIKE COMMISSION

Terms and Conditions

for

Replacement of Mutilated, Destroyed, and Lost Bonds

1. There shall have been furnished to the trustee a completed, sworn application for issuance of such bonds in substantially the form attached hereto as exhibit A.

2. If the application does not state that the bond was lost or destroyed, the old bond and attached coupons, if any, must be surrendered for cancellation, and the new bond, if a coupon bond, must have attached coupons of the same dates and amounts as those attached to the bond surrendered.

3. If the application states that the bond was destroyed or lost;

(a) The trustee must be furnished with a surety bond executed by any surety company licensed to do business in the State of Ohio and satisfactory to the trustee, said bond to be in substantially the form attached hereto as exhibit B, and to be in amount equal to twice the sum of the principal amount of the bond claimed to be destroyed or lost and the interest remaining unpaid with respect to the new bond or the coupons attached thereto if the new bond is a coupon bond.

(b) The date of issuance of the new bond shall not be less than six months after receipt of the completed application provided for by paragraph 1, above, and not earlier than three months after the first interest-payment date following receipt of such application by the trustee.

(c) The trustee shall have received from the bondholder within two weeks before the date of issuance of the new bond a written confirmation that the facts stated in his application are still true and correct.

(d) The trustee will, before authenticating and delivering a coupon bond to replace a bond lost or destroyed, detach and cancel all coupons which had matured prior to the date of receipt by the trustee of the application or any other written notice satisfactory to the trustee, and any others representing interest theretofore paid.

4. Even though the mutilated, destroyed, or lost bond consists of a temporary bond, the replacement bond will be in definitive form.

5. Prior to issuance of the new bond, the trustee, on behalf of the Commission, will bill the bondholder for, and the bondholder shall have paid, the reasonable expenses and charges of the Commission in connection with such replacement, as determined by the Commission, which are presently fixed at $2.00 for each new bond replacing a mutilated bond and $10.00 for each new bond replacing a bond destroyed or lost. Such charges do not, of course, include the cost of the surety bond which must be paid for by the applicant.

6. Mutilated, lost, or destroyed coupons will not be replaced except as provided above (in connection with the replacement of mutilated, lost, or destroyed bonds.)

7. The trustee shall, if it approves the documents furnished as sufficient to permit issuance of a new bond, so notify the Commission and submit such documents to the Commission for its approval and the Commission shall by resolution authorize the execution, authentication, and delivery of the new bond if satisfied with the documents presented.

8. If the total new bonds theretofore issued and then to be issued hereunder to the applicant would exceed $50,000 principal amount, the application will be accepted and a new bond issued only on special conditions to be determined at the time.

Exhibit A

(Form of)

AFFIDAVIT AND APPLICATION

STATE OF ____________________)
) ss:
COUNTY OF ____________________)

Affiant, ______________________________, being duly sworn, says that he/she is _____ years of age and resides at ____________________, ____.

Affiant's occupation is ____________________, and his/her business address is ____.

or joint/partial owner

Affiant is the sole legal and beneficial owner of the following-described turnpike revenue bond(s) of the State of Ohio (each designated "Turnpike Revenue Bond, Project No. 1" and dated as of June 1, 1952), hereinafter referred to as the "original bond(s)":

[Give number of each bond and describe attached coupons; for example, "No. 1000 with June 1, 1954, and all subsequently maturing coupons attached"; if registered, give denomination and name of registered owner.]

____

____

____

The original bond(s) was/were acquired by affiant on or about ________ ____________________, and was/were lost or destroyed on or about ______ ____________________, under the following circumstances: _______________

____

____

____

Affiant has made a diligent search for the original bond(s) and has been unable to find or recover the same.

[Give full details of what has been done.]

____

____

____

____

Affiant has not sold, assigned, pledged, transferred, deposited under any agreement, or hypothecated the original bond(s) or any interest therein, or signed any power of attorney or other authorization respecting the same which is now outstanding and in force, or otherwise disposed of the same.

No person, firm, corporation, agency, or government other than affiant has, or has asserted, any right, title, or interest in, to, or respecting the original bond(s) or the proceeds thereof.

Affiant hereby requests, and this affidavit is made for the purpose of inducing, Ohio Turnpike Commission and The Ohio National Bank of Columbus, as trustee, to execute, authenticate and deliver to affiant a new bond(s) in substitution for the original bond(s).

____

Sworn to and subscribed in my presence this____________day of ________________, 19__.

____
Notary Public

EXHIBIT B

KNOW ALL MEN BY THESE PRESENTS THAT ________________________, ____, as Principal, and ____________ ______________________________, a corporation organized and existing under the laws of ______________________________ and duly authorized to transact the business of guaranty and suretyship in Ohio, as Surety, are held and firmly bound unto Ohio Turnpike Commission, a body corporate and politic created by §5537.02 of the Revised Code of Ohio (sometimes hereinafter referred to as the "Commission"), and The Ohio National Bank of Columbus, a national banking association duly organized and existing under the laws of the United States and having its principal office in Columbus, Ohio (sometimes hereinafter referred to as the "Trustee"), the Obligees, and to each of them, their respective successors and assigns, in the sum of ____________________________ dollars ($) lawful money of the United States, to be paid to the Obligees, their respective successors and assigns, for which payment, well and truly to be made, the Principal and the Surety bind themselves, their respective heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents:

WHEREAS the Commission has issued turnpike revenue bonds of the state of Ohio in the aggregate principal amount of three hundred twenty-six million dollars ($326,000,000) designated "Turnpike Revenue Bonds, Project No. 1" under the terms of a certain trust agreement between Ohio Turnpike Commission, The Ohio National Bank of Columbus, as trustee, and The National City Bank of New York, as co-trustee, dated as of June 1, 1952;

agent of [illegible]

WHEREAS the Principal represents to the Obligees that the Principal is the owner of ________________________________ dollars ($) aggregate principal amount of said bonds, being bond(s) No.(s) __________________________ __________________________, each of the denomination of one thousand dollars ($1,000.00), with ____________________________________ and all subsequently maturing coupons attached; that the Principal has never transferred, negotiated, sold, hypothecated, or assigned said bond(s) and coupon(s), or any of them, or any rights represented thereby; that said bond(s) with ____________________________ and all subsequently maturing coupons attached has(have) been destroyed or lost and cannot now be found; and

WHEREAS the Principal and Surety have asked the Commission to execute, and the trustee to authenticate and deliver, a new bond or bonds for an aggregate principal amount of __________________________________ dollars ($) of like date and tenor as said bond(s) so represented to have been destroyed or lost, with ______________________________________ and all subsequently maturing coupons attached, and the Obligees, relying upon the truth of the aforesaid representations, are willing, respectively, to execute, authenticate, and deliver such new bond(s) with coupons attached as aforesaid, upon the execution and delivery of a satisfactory bond of indemnity;

NOW, THEREFORE, the condition of this obligation is such that if the Principal, the Principal's heirs, executors, administrators, successors, and assigns shall at all times indemnify and keep indemnified and save harmless the Obligees, and each of them, their respective successors and assigns, from and against any and all loss, damages, costs, charges, counsel fees, payments, expenses, and liabilities whatsoever, which the Obligees or any of them, or their successors or assigns, at any time shall or may sustain or incur by reason or in consequence of the honor or dishonor of said bond(s) and coupon(s), or any of them, so represented to have been lost or destroyed, whether the same or any of them be presented by a bona fide holder, or otherwise, or by or in consequence of the issuance, execution, authentication, and/or delivery of such new bond(s), and coupon(s), or any of them, or by reason of any claim, whether groundless or otherwise, which may be made with respect to said bond(s) and coupon(s), or any of them, so represented to have been lost or destroyed, or by reason or in consequence of any payment, transfer, conversion, exchange or other act which the Obligees, or any of them, or their respective successors or assigns, may make, do, or permit with respect to said bond(s) and coupon(s) or any of them, so represented to have been lost or destroyed, whether made or permitted through accident, oversight or neglect, or whether made or permitted upon presentation thereof without inquiring into or contesting the propriety of such payment, transfer, conversion, or exchange, or otherwise, and/or caused by, based upon, or arising out of the release of any security or the satisfaction of any instrument or instruments, under which said lost or destroyed bond(s) and/or said new bond(s) are issued or secured, then this obligation shall be void; otherwise, it shall remain in full force and effect.

And the Principal and the Surety, in consideration of the execution, authentication,and delivery of such new bond(s) and coupon(s), hereby jointly and severally agree with the Obligees that, if requested by the Obligees or any of them, in case any litigation shall be instituted by reason of said bond(s) and coupon(s), or any of them so represented to have been lost or destroyed, or by reason of the execution, authentication, and/or delivery of such new bond(s) and coupon(s), they will be responsible for such litigation on behalf of the Obligees, and in any event will pay all costs, counsel fees, and charges connected therewith, whether such litigation shall have been conducted by them or not; and in case any person or persons shall produce said bond(s) and coupon(s), or any of them so represented to have been lost or destroyed, or the same shall come into the hands, power, custody, or possession of any person or persons, firm, or corporation and/or in case, subsequently to the date of execution of this instrument, it shall be ascertained that said bond(s) and coupon(s), or any of them, so represented to have been lost or destroyed has(have) on or prior to such date been surrendered to any of the Obligees for any purpose, then, in any such event the Principal and the Surety will forthwith, on demand, return to the Commission, either the said bond(s) and coupon(s), so represented to have been lost or destroyed, or the said bond(s) and coupon(s) issued in lieu thereof and in substitution therefor, or will pay to the Commission in cash, whatever sum shall be required, on the date of such payment, to enable either the purchase in the open market of an equivalent principal amount of such bond(s), with _______________ _______________________________ and all subsequently maturing coupons attached or the redemption of said bond(s) so represented to have been lost or destroyed.

The Principal and the Surety jointly and severally agree that, if for any reason and at any time or from time to time the Obligees, or any of them, shall deem insufficient the indemnity provided hereby, the Principal and the Surety will forthwith upon demand furnish the Obligees with such additional indemnity as the Obligees, or any of them, may reasonably require; and, in the event of their failure so to do, the Obligees, or any of them, may proceed forthwith to effect insurance for the benefit of the Obligees, as interest may appear, in such amount as the Obligee effecting such insurance may, in its absolute and uncontrolled discretion, deem reasonably necessary for the protection of the Obligees hereunder, and the Principal and Surety jointly and severally agree that they will forthwith upon demand reimburse to the Obligee effecting such insurance the cost thereof. To the extent that such reimbursement is not so made, the Obligee effecting such insurance shall be conclusively deemed to have sustained loss and damage by reason of the execution, authentication, and delivery of the new bond(s) and coupon(s).

The Surety, in consideration of the premises, further agrees with the Obligees that its liability hereunder shall be absolute, subject only to the conditions hereinbefore expressed, and irrespective of the liability or nonliability of the Principal hereunder, whether by reason of any irregular or unauthorized execution of or failure to execute this instrument, or by reason of any lack of interest of the Principal in the subject matter hereof, or for any other cause whatsoever; and further agrees that the Obligees, or any of them, may proceed directly against the Surety to enforce its obligation hereunder, without making any demand on, or proceeding in any manner against, the Principal, any rule of law to the contrary being hereby expressly waived.

This instrument is and shall be deemed to be a contract entered into under and pursuant to the laws of Ohio and shall be in all respects construed and enforced in accordance with the laws of said state.