

# OHIO TURNPIKE AND INFRASTRUCTURE COMMISSION

## **A Resolution Authorizing the Issuance of State of Ohio Turnpike Revenue Bonds, Authorizing Various Related Documents and Instruments, and Authorizing Other Actions in Connection with the Issuance of Such Bonds**

(Senior Lien Bonds)

WHEREAS, on March 9, 2020, Governor Mike DeWine issued Executive Order 2020-01D declaring a State of Emergency for the entire State of Ohio (the “State”) in response to the COVID-19 pandemic; and

WHEREAS, on March 22, 2020, Amy Acton, MD, MPH, the then acting Director of Health, issued a “Stay at Home Order” which expired on May 1, 2020, requiring individuals to stay home unless engaged in Essential Activities, Essential Governmental Functions or to operate Essential Businesses and Operations; and

WHEREAS, under the Stay at Home Order, the Ohio Turnpike and Infrastructure Commission (the “Commission”) continued operations as Essential Infrastructure and Essential Governmental Functions and further determined that its contractors and service providers must continue to perform services and supply goods and materials to the Commission as Essential Infrastructure, Critical Trades, Supplies for Essential Business and Operators and/or Essential Critical Infrastructure Workers; and

WHEREAS, on April 30, 2020, then acting Director Acton issued the “Director’s Stay Safe Ohio Order,” which was in effect through May 29, 2020, and subsequently revised by former Director Acton’s “Updated and Revised Order for Business Guidance and Social Distancing,” dated May 29, 2020, and extended by the then acting Interim Director of Health, Lance D. Himes, until rescinded or modified by Interim Director Himes or the State of Emergency declared by the Governor no longer exists, which permits governmental entities and other businesses to continue operations subject to Sector Specific COVID-19 Information and Checklist for Businesses/Employees requiring measures such as ensuring six feet between employees, daily symptom assessments of employees, wearing face coverings, regular handwashing, disinfecting work stations and common areas, changing shift patterns, working from home when possible, among others; and

WHEREAS, the CFO/Comptroller recommends that the Commission find and determine that the contracts approved pursuant to this Resolution are necessary for the Commission to continue its operations and comply with the Updated and Revised Order for Business Guidance and Social Distancing and that the work to be performed under the contracts shall comply with the Sector Specific COVID-19 Information and Checklist for Businesses/Employees set forth in the Updated and Revised Order for Business Guidance and Social Distancing and the Commission’s work site memorandum, as may be amended from time to time, unless or until such order is lifted entirely; and

WHEREAS, the Ohio Turnpike and Infrastructure Commission (the “Commission”) is, by virtue of Chapter 5537 of the Revised Code (the “Act”), authorized and empowered, among other things, (i) to issue revenue bonds of the State of Ohio (the “State”) for the purpose of paying all or a portion of the cost of Turnpike Projects as defined in the Act (“Turnpike Projects”) and (ii) to enact this Resolution and execute and deliver the documents hereinafter identified; and

WHEREAS, the Commission has entered into a Master Trust Agreement dated as of February 15, 1994, as amended by the First through Seventeenth Supplemental Trust Agreements and as amended and restated by the Amended and Restated Master Trust Agreement (the Eighteenth Supplemental Trust Agreement), and as further amended by the Nineteenth through Twenty-Third Supplemental Trust Agreements thereto (collectively, and as further amended from time to time, the “Senior Lien Master Trust Agreement”), with The Huntington National Bank, as trustee (the “Trustee”), providing for the issuance of Turnpike Revenue Bonds from time to time for the purposes provided therein, including, but not limited to, financing all or a portion of the cost of Turnpike Projects pursuant to the Act; and

WHEREAS, the Commission has heretofore determined and hereby confirms that it was and is necessary to make certain capital improvements to the System including, but not limited to, improvements to be made pursuant to approved contracts for the repair and replacement of pavement, the repair, painting, rehabilitation and replacement of bridges and the repair and replacement of toll plazas, service plazas and related facilities (the "System Projects"); and

WHEREAS, the Commission has determined that it is necessary to issue State of Ohio Turnpike Revenue Bonds (the "2021 Bonds") in the maximum principal amount of \$170,000,000 for the purpose of financing all or a portion of the costs of the System Projects, including costs of funding a debt service reserve and to pay Costs of Issuance;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE OHIO TURNPIKE AND INFRASTRUCTURE COMMISSION:

Section 1. Definitions. In addition to the words and terms defined in the recitals and elsewhere in this Resolution, those words and terms not expressly defined herein and used herein with initial capitalization where rules of grammar do not otherwise require capitalization shall have the meanings assigned to them in the Senior Lien Master Trust Agreement, as supplemented by various supplemental trust agreements, including the Twenty-Fourth Supplemental Trust Agreement as authorized herein (the "Twenty-Fourth Supplemental Trust Agreement"). The Senior Lien Master Trust Agreement as so supplemented is referred to herein as the "Senior Lien Trust Agreement."

Section 2. Recitals, Titles and Headings. The terms and phrases used in the recitals of this Resolution have been included for convenience of reference only, and the meaning, construction and interpretation of such words and phrases for purposes of this Resolution shall be determined solely by reference to Article I of the Senior Lien Master Trust Agreement and the Twenty-Fourth Supplemental Trust Agreement. The titles and headings of the articles and sections of this Resolution and the Senior Lien Master Trust Agreement have been inserted for convenience of reference only and are not to be construed as a part hereof or thereof, shall not in any way modify or restrict any of the terms or provisions hereof or thereof, and shall never be considered or given any effect in construing this Resolution or the Senior Lien Trust Agreement or any revisions hereof or in ascertaining intent, if any question of intent should arise.

Section 3. Interpretation. Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the single number shall be construed to include correlative words of the plural number and vice versa. This Resolution, the Senior Lien Trust Agreement and the terms and provisions hereof and thereof shall be liberally construed to effectuate the purposes set forth herein to sustain the validity of the Senior Lien Trust Agreement.

Section 4. Tax Matters. The Commission hereby covenants that it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on the 2021 Bonds under Section 103(a) of the Internal Revenue Code of 1986, as amended, and applicable temporary, proposed or permanent regulations promulgated thereunder (collectively, the "Code") or cause that interest to be treated as an item of tax preference under Section 57 of the Code.

The Chairman or the Assistant Secretary Treasurer/Executive Director, and in their absence any other officer of the Commission having responsibility with respect to the issuance of the 2021 Bonds, is authorized (i) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Commission with respect to the 2021 Bonds as the Commission is permitted or required to make or give under the federal income tax laws, including, without limitation, any of the elections available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting the favorable tax treatment or status of the 2021 Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, (ii) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the Commission, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the 2021 Bonds, (iii) to give one or more

appropriate certificates of the Commission, for inclusion in the transcript of proceedings for the 2021 Bonds, setting forth the reasonable expectations of the Commission regarding the amount and use of all the proceeds of the 2021 Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment or status of the 2021 Bonds and interest thereon, and (iv) to execute and deliver on behalf of the Commission an IRS Form 8038-G in connection with the issuance of the 2021 Bonds.

Section 5. Authorization of 2021 Bonds. It is hereby determined to be necessary to, and the Commission shall, issue, sell and deliver an aggregate principal amount not to exceed \$170,000,000 of State of Ohio Turnpike Revenue Bonds for the purpose of financing all or a portion of the costs of the System Projects, including costs of funding a debt service reserve and to pay Costs of Issuance, and including reimbursing the Commission for temporary advances made to pay costs of certain System Projects, if and as applicable, all in accordance with the provisions of the Senior Lien Trust Agreement and the Bond Purchase Agreement relating to the 2021 Bonds (the “Bond Purchase Agreement”) between the Commission and Citigroup Global Markets Inc., as Senior Manager; Wells Fargo Bank, N.A., Co-Senior Manager; and Loop Capital Markets LLC, Jefferies LLC, Stifel, Nicolaus & Company, Incorporated, and Huntington Securities, Inc. d/b/a Huntington Capital Markets, Co-Managers, the Underwriters named in the Bond Purchase Agreement (collectively, the “Underwriters”). The Commission further declares that the Projects shall constitute System Projects, in accordance with the provisions of the Senior Lien Trust Agreement.

If it is determined to be in the best interest of the Commission, the Commission is authorized to combine the marketing and sale of the 2021 Bonds with a Series of Junior Lien Bonds, in which case a single Bond Purchase Agreement, official statement and certain other transcript and other documents may be utilized for the combined marketing and sale if appropriate and consistent with the terms of this Resolution.

Section 6. Terms of the 2021 Bonds.

(a) Authorization and Authorized Amount of 2021 Bonds. The 2021 Bonds shall be issued in an aggregate principal amount not to exceed \$170,000,000, with such amount sufficient to provide a deposit of up to \$170,000,000 into the Construction Account to be used to pay and/or reimburse costs of System Projects, to provide for the funding of a debt service reserve in accordance with paragraph (d) below, and to pay Costs of Issuance. No additional Bonds may be issued under the provisions of this Resolution or the Senior Lien Trust Agreement on a parity with the Bonds, except in accordance with the Senior Lien Trust Agreement.

(b) Form, Date, Number and Denominations of the 2021 Bonds. The 2021 Bonds shall be issued in the form of global book entry bonds, registered in the name of Cede & Co., as nominee for The Depository Trust Company, for use in a book-entry system. The 2021 Bonds shall be issued in the denominations of \$5,000 each and whole multiples thereof and in the form of a single, fully registered bond representing each maturity, or interest rate within a maturity, and shall be dated the date of their original issuance. The 2021 Bonds shall be initially numbered in such manner as to distinguish each 2021 Bond from any other 2021 Bond, and shall be in substantially the form set forth in the Twenty-Fourth Supplemental Trust Agreement.

(c) Interest Payment Dates. The 2021 Bonds shall bear interest from their date, payable semiannually on February 15 and August 15 of each year, commencing on the first Interest Payment Date determined in accordance with paragraph (d) below and as provided in the Senior Lien Trust Agreement.

(d) Pricing. The Chairman or the Assistant Secretary-Treasurer/Executive Director, and in their absence the Vice Chairman or the Secretary-Treasurer, are each alone, or in any combination, hereby authorized, empowered and directed to determine and set forth in a certificate at the time of signing and delivery of the Bond Purchase Agreement the following with respect to the 2021 Bonds, consistent with this Resolution and the Senior Lien Trust Agreement:

- (i) The aggregate principal amount of the 2021 Bonds to be issued in accordance with paragraph (a) above.

- (ii) The purchase price to be paid to the Commission by the Underwriters, which amount shall be not less than 98% of the amount determined by adding to the aggregate principal amount of the 2021 Bonds any aggregate original issue premium and subtracting from the amount any aggregate original issue discount.
  - (iii) Whether any 2021 Bonds are to be subject to optional redemption prior to maturity, and, if so, the earliest optional redemption dates for those 2021 Bonds subject to prior redemption, which shall be not later than 10½ years from the date of original issuance of the 2021 Bonds, and the applicable redemption prices, which, if calculated as a percentage of the principal amount redeemed shall be not greater than 102% of the 2021 Bonds to be redeemed, and, if designed to make the holders of the 2021 Bonds to be redeemed whole for early redemption, the method for calculating the make-whole redemption price; provided, that if such calculation method would result in a redemption price greater than 125% of the 2021 Bonds to be redeemed, then those 2021 Bonds shall not be redeemed without further action of the Commission.
  - (iv) The dates on which and amounts in which principal of the 2021 Bonds is to be paid, with an identification of whether the payment is due by stated maturity or by mandatory sinking fund redemption of 2021 Bonds of a particular maturity and interest rate.
  - (v) The interest rates to be borne by the 2021 Bonds, which shall result in a true interest cost to the Commission of not more than 5% per annum, and the first Interest Payment Date of the 2021 Bonds.
  - (vi) The amount and source of any money to be deposited in the Debt Service Reserve Fund in order to cause the balance therein to equal the Debt Service Reserve Requirement, and any determination as to whether a Reserve Account Credit Facility shall be provided in lieu of cash in the Debt Service Reserve Fund.
  - (vii) Whether the 2021 Bonds are to be secured by or payable from any Bond Credit Facility.
- (e) Redemption of 2021 Bonds Prior to Maturity. If any 2021 Bonds are subject to redemption prior to maturity, the procedures for selection of 2021 Bonds to be redeemed and giving notice of redemption shall be as set forth in the Twenty-Fourth Supplemental Trust Agreement.
- (f) Execution of 2021 Bonds. In accordance with Section 5537.08(B) of the Act, the 2021 Bonds shall be executed by the manual or facsimile signatures of the Chairman or the Vice Chairman of the Commission and shall be attested by the manual or facsimile signature of the Secretary-Treasurer or Assistant Secretary-Treasurer of the Commission, and the seal of the Commission shall be impressed thereon or a facsimile of such seal placed thereon. No 2021 Bond shall be valid for any purpose unless and until a certificate of authentication thereon shall have been duly executed by the Trustee.

Section 7. Security for the 2021 Bonds. The 2021 Bonds shall be payable solely from the System Pledged Revenues and shall be secured by a pledge of and lien on the System Pledged Revenues on a parity with the Bonds heretofore issued and Outstanding and any additional Bonds to be issued in accordance with the Senior Lien Trust Agreement in the future, all as set forth in the Senior Lien Trust Agreement. Anything in this Resolution, the Senior Lien Trust Agreement, the 2021 Bonds or any other agreement or instrument to the contrary notwithstanding, the 2021 Bonds shall not constitute a debt or pledge of the faith and credit or the taxing power of the State, or of any political subdivision of the State, and each 2021 Bond shall contain on the face thereof a statement to that effect.

Section 8. Official Statement and Continuing Disclosure.

(a) Primary Offering Disclosure – Official Statement. An official statement shall be used in connection with the original issuance of the 2021 Bonds. The preliminary official statement of the Commission, a substantially final form of which has been presented at this meeting

(the “Preliminary Official Statement”), is hereby approved and the distribution and use of the Preliminary Official Statement is hereby authorized and approved. The Executive Director is authorized and directed, on behalf of the Commission and in that officer’s official capacity, to (i) make or authorize modifications, completions or changes of or supplements to, the Preliminary Official Statement in connection with the original issuance of the 2021 Bonds, (ii) determine, and to certify or otherwise represent, when the revised official statement (the “Official Statement”) is to be “deemed final” (except for permitted omissions) by the Commission as of its date or is a final official statement for purposes of Rule 15c2-12 prescribed by the SEC pursuant to the Securities Exchange Act of 1934 (the “Rule”), (iii) use and distribute, or authorize the use and distribution of the Official Statement and any supplements thereto in connection with the original issuance of the 2021 Bonds, (iv) complete and sign the final Official Statement as so approved, together with such certificates, statements or other documents in connection with the finality, accuracy and completeness of the Official Statement as that officer deems necessary or appropriate, and (v) contract for services for the production and distribution of the Preliminary Official Statement and Official Statement, including by printed and electronic means.

(b) Agreement to Provide Continuing Disclosure. In order to assist the Underwriters in connection with the Underwriters’ obligation to comply with the Rule, the Commission hereby covenants and agrees with respect to the 2021 Bonds that it will enter into a continuing disclosure undertaking (the “Continuing Disclosure Certificate”) for the benefit of Holders of the 2021 Bonds consistent with the Rule. The Chairman or the Assistant Secretary-Treasurer/Executive Director, and in their absence the Vice Chairman or the Secretary-Treasurer, are each alone, or in any combination, hereby authorized, empowered and directed to execute, acknowledge and deliver on behalf of the Commission, the Continuing Disclosure Certificate, the form of which has been presented at this meeting, which form is hereby approved with such changes or insertions therein not inconsistent with the Rule or this Resolution and not substantially adverse to the Commission as may be permitted by the Rule and this Resolution and approved, upon advice of General Counsel to the Commission and Bond Counsel, by the Assistant Secretary-Treasurer/Executive Director and the officers executing the same. The approval of such changes and insertions by such officers, and the determination that such changes are not substantially adverse to the Commission, shall be conclusively evidenced by the execution of the Continuing Disclosure Certificate by such officers.

Section 9. Twenty-Fourth Supplemental Trust Agreement and Bond Purchase Agreement. The Chairman or the Assistant Secretary-Treasurer/Executive Director, and in their absence the Vice Chairman or the Secretary-Treasurer, are each alone, or in any combination, hereby authorized, empowered and directed to execute, acknowledge and deliver on behalf of the Commission, the Twenty-Fourth Supplemental Trust Agreement and the Bond Purchase Agreement, the forms of which have been presented at this meeting, which forms are hereby approved with such changes or insertions therein not inconsistent with the Act or this Resolution and not substantially adverse to the Commission as may be permitted by the Act and this Resolution and approved, upon advice of General Counsel to the Commission and Bond Counsel, by the Assistant Secretary-Treasurer/Executive Director and the officers executing the same. The approval of such changes and insertions by such officers, and the determination that such changes are not substantially adverse to the Commission, shall be conclusively evidenced by the execution of the Twenty-Fourth Supplemental Trust Agreement and the Bond Purchase Agreement by such officers.

Section 10. Authorization of Other Documents and Actions. The Chairman, Assistant Secretary-Treasurer/Executive Director, Vice Chairman and Secretary-Treasurer are each alone, or in any combination, hereby authorized to take any and all actions and to execute such financing statements, certificates, commitments with Credit Providers, if any, an agreement with PFM Financial Advisors LLC, as Municipal Advisor, an agreement with Stantec Consulting Services Inc., as Traffic and Revenue Consultant, and other instruments or documents that may be necessary or appropriate in the opinion of General Counsel to the Commission or Bond Counsel, in order to effect the issuance of the 2021 Bonds and the intent of this Resolution. The Secretary-Treasurer, Assistant Secretary-Treasurer/Executive Director, or other appropriate officer of the Commission, shall certify a true transcript of all proceedings had with respect to the issuance of the 2021 Bonds, along with such information from the records of the Commission as is necessary to determine the regularity and validity of the issuance of the 2021 Bonds.

Section 11. Ratings and/or Bond Credit Facility. The Assistant Secretary-Treasurer/Executive Director or the Chief Financial Officer, are each alone, or in any combination,

hereby authorized, to apply for (i) a rating from one or more national rating services with respect to the 2021 Bonds and/or (ii) a Bond Credit Facility with respect to the 2021 Bonds, and any such actions heretofore taken are hereby approved, ratified and confirmed. The payment of the fees and expenses relating to any such rating or Bond Credit Facility from the proceeds of the 2021 Bonds is hereby authorized.

Section 12. Sale of the 2021 Bonds. The 2021 Bonds are hereby awarded to the Underwriters, in accordance with the terms of the Bond Purchase Agreement. The Chairman or the Assistant Secretary-Treasurer/Executive Director, and in their absence the Vice Chairman or the Secretary-Treasurer, are each alone, or in any combination, hereby authorized and directed to make on behalf of the Commission the necessary arrangements with the Underwriters to establish the price, date, location, procedure and conditions for the delivery of the 2021 Bonds, and to take all steps necessary to effect the due execution and delivery of the 2021 Bonds to the Underwriters under the terms of this Resolution, the Bond Purchase Agreement and the Senior Lien Trust Agreement.

Section 13. Multiple Series. Notwithstanding anything herein to the contrary, the 2021 Bonds may be issued in one or more separate series, each bearing a distinctive designation, provided that each series of 2021 Bonds, and the 2021 Bonds of all series in the aggregate, must satisfy the requirements and comply with the restrictions of this Resolution. Separate series of 2021 Bonds may be issued at the same or different times and may have different dates of issuance. The 2021 Bonds of each series shall be designated as provided in the applicable certificate related to that series as described in Section 6(d). A separate such certificate may be delivered for each series, and each reference in this Resolution to such certificate shall refer to each and all such certificates. A separate Supplemental Trust Agreement may be entered into for each series, and each reference in this Resolution to the Twenty-Fourth Supplemental Trust Agreement shall refer to each and all such Supplemental Trust Agreements, but any Supplemental Trust Agreement subsequent to the Twenty-Fourth Supplemental Trust Agreement may bear a different designation. A separate Bond Purchase Agreement and Continuing Disclosure Certificate may be entered into for each series, and each reference in this Resolution to the Bond Purchase Agreement or Continuing Disclosure Certificate shall refer to each and all such Bond Purchase Agreements or Continuing Disclosure Certificates, respectively. A separate Official Statement may be prepared for each series, and each reference in this Resolution to the Official Statement shall refer to each and all such Official Statements.

Section 14. No Personal Liability. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this Resolution, or in the 2021 Bonds, or in the Senior Lien Trust Agreement or the Bond Purchase Agreement, or under any judgment obtained against the Commission or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, shall be had against any member or officer or attorney, as such, past, present, or future, of the Commission, either directly or through the Commission, or otherwise, for the payment for or to the Commission or any receiver thereof, or for or to any Holder of the 2021 Bonds secured thereby, or otherwise, of any sum that may be due and unpaid by the Commission upon any of such 2021 Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such member or officer or attorney, as such, to respond by reason of any act or omission on that person's part, or otherwise, for, directly or indirectly, the payment for or to the Commission or any receiver thereof, or of any sum that may remain due and unpaid upon the 2021 Bonds hereby secured or any of them, shall be expressly waived and released as a condition of and consideration for the execution and delivery of the Twenty-Fourth Supplemental Trust Agreement, and acceptance of the Bond Purchase Agreement and the issuance of the 2021 Bonds.

Section 15. Retention of Bond Counsel. The retention of the legal services of Squire Patton Boggs (US) LLP, as bond counsel in connection with the issuance and sale of the 2021 Bonds, is hereby authorized, approved and confirmed. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the 2021 Bonds and the rendering of the necessary legal opinion upon the delivery of the 2021 Bonds.

Section 16. Repeal of Conflicting Resolutions. All resolutions and orders, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed.

Section 17. Compliance With Sunshine Law. It is hereby determined that all formal actions of the Commission relating to the adoption of this Resolution were taken in an open meeting, and that all deliberations of the Commission and of its committees, if any, which resulted in formal action were in meetings open to the public, in full compliance with Section 121.22 of the Revised Code.

**(Resolution No. 75-2020 adopted December 21, 2020)**