

SUPPLEMENTAL TRUST INDENTURE NO. 66

by and between

PENNSYLVANIA TURNPIKE COMMISSION

and

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee

Dated as of February 28, 2023

Relating to

Novation and Amendment of Approved Swap Agreement

with MERRILL LYNCH CAPITAL SERVICES, INC.

to BANK OF AMERICA, N.A.

Confirmation or Reference No.: 04MU01993

and

Amendment of Approved Swap Agreement

with BANK OF AMERICA, N.A.

Confirmation on Reference No.: 197686

Effective Date: March 1, 2023

This SUPPLEMENTAL TRUST INDENTURE NO. 66 (this “Supplemental Indenture”) is dated as of February 28, 2023, by and between PENNSYLVANIA TURNPIKE COMMISSION (the “Commission”), an instrumentality of the Commonwealth of Pennsylvania, and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee (the “Trustee”), a national banking association organized and existing under the laws of the United States of America.

#### **RECITALS:**

WHEREAS, the Commission has previously issued various series of its Pennsylvania Turnpike Revenue Bonds pursuant to an Indenture of Trust dated as of July 1, 1986 between the Commission and the Trustee (the “Original Indenture”), as supplemented and amended, and as amended and restated by an Amended and Restated Trust Indenture dated as of March 1, 2001, as supplemented and amended (the “Restated Indenture”) and which became effective on September 5, 2002; and

WHEREAS, Section 211 of the Restated Indenture permits the Commission to enter into Swap Agreements (as defined in the Restated Indenture), and if desired by the Commission, the Commission may cause the payments to be made and received by the Commission under a Swap Agreement to be taken into account in any calculation of Annual Debt Service under the Restated Indenture by complying with the requirements of Section 211 of the Restated Indenture, in which event such Swap Agreement shall constitute an “Approved Swap Agreement” under the Restated Indenture; and

WHEREAS, Section 211 of the Restated Indenture further provides that the Commission may file with the Trustee, together with the other items required by Section 211, a supplemental indenture granting the Parity Swap Agreement Counterparty (as defined in the Restated Indenture) to an Approved Swap Agreement a parity lien position in the Trust Estate (as defined in the Restated Indenture) so that the Commission’s scheduled payment obligations and termination payment obligations thereunder are on a parity with all Bonds outstanding, under the Restated Indenture and all other Parity Obligations (as defined in the Restated Indenture); and

WHEREAS, the Restated Indenture notes that the Trustee is a fiduciary solely for the Owners of the Bonds and not a fiduciary of other Secured Owners and, as a result, it is intended that the parity status provided to the Approved Swap Agreements will be achieved through the Trustee acting as collateral agent for the Secured Owners; and

WHEREAS, the Commission entered into an interest rate swap agreement with Merrill Lynch Capital Services, Inc. (the “Original Swap Provider”), confirmed as of August 4, 2004, in the current notional amount of \$100,000,000.00 and having an effective date of June 1, 2008, and amended as of May 24, 2006 (the “2004 Swap Agreement”); and

WHEREAS, the Commission also entered into an interest rate swap agreement with Bank of America, N.A. (the “Swap Provider”), confirmed as of June 20, 2001, in the current notional amount of \$38,520,000 and having an effective date of September 2, 2002, and amended as of December 9, 2009 (the “2001 Swap Agreement,” and together with the 2004 Swap Agreement, the “Swap Agreements”); and

WHEREAS, the Commission desires to enter into a novation of the 2004 Swap Agreement from the Original Swap Provider to the Swap Provider to be governed, together with the 2001 Swap Agreement, by an ISDA Master Agreement, including the Schedule and Credit Support Annex thereto dated as of December 16, 1998, as previously amended and as further amended by a Third Amendment

dated as of February 28, 2023 (the “Third Amendment”), between the Commission and the Swap Provider (collectively, the “Swap Provider Master Agreement”); and

WHEREAS, such novation of the 2004 Swap Agreement is being evidenced by a Novation Agreement, dated as of February 28, 2023, by and among the Commission, as remaining party, the Original Swap Provider, as transferor, and the Swap Provider, as transferee (the “Novation Agreement,” and together with the Swap Agreements as novated hereby and/or amended by the Third Amendment, as applicable, and governed by the Swap Provider Master Agreement, the “Swap Related Agreements”), transferring by novation all of the rights, liabilities, duties and obligations of the Original Swap Provider under and in respect of the 2004 Swap Agreement; and

WHEREAS, the Commission wishes to cause the Swap Related Agreements to continue to be Approved Swap Agreements and Parity Swap Agreements (as each is defined in the Restated Indenture) by entering into this Supplemental Indenture.

**NOW, THEREFORE, THIS SUPPLEMENTAL INDENTURE WITNESSETH:**

1. Capitalized Terms. Capitalized terms used in this Supplemental Indenture which are not otherwise defined shall have the meanings set forth in the Restated Indenture.

2. Compliance with Section 211 of the Restated Indenture. The Commission has filed or caused to be filed with the Trustee the items required by Section 211 of the Restated Indenture, including an opinion of Bond Counsel to such effect. Accordingly, the Swap Related Agreements constitute Approved Swap Agreements and Parity Swap Agreements (as defined in the Restated Indenture).

3. Confirmation of Parity Security in Trust Estate.

The Commission, in consideration of the premises and of the execution and delivery as of the date hereof of the applicable Swap Related Agreements by the Commission and the Swap Provider, and for other good and valuable consideration, the receipt of which is hereby acknowledged, in order to secure the payment of the obligations of the Commission pursuant to the Swap Related Agreements, inter alia, does hereby confirm that it has sold, assigned, transferred, granted a security interest, in, set over, and pledged to the Trustee, the Trust Estate.

The Trustee does hereby confirm that, while it is a fiduciary solely of Owners of the Bonds and is not a fiduciary of the other Secured Owners, including the Swap Provider, it shall hold as collateral agent the Trust Estate for the benefit of all Secured Owners, including the Parity Obligations of the Swap Provider, which shall be secured by the Trust Estate on a parity (equal and ratable basis) with the Bonds, except as provided in the Restated Indenture.

The Swap Provider by its execution of the Acknowledgment below: (a) waives any and all claims it may have against the Trustee for serving both as fiduciary and as collateral agent including, but not limited to, any and all claims it may have against the Trustee for any action taken by the Trustee or for the Trustee refraining from taking (or failing to take) action, the result of which could be adverse to the interests of the Swap Provider, in its role as trustee and without regard to its role as collateral agent; provided that the Swap Provider does not waive any claims it may have against the Trustee in connection with the failure of the Trustee to distribute funds in the Trust Estate for payment of Bonds and Parity Obligations, including the Swap Related Agreements, on a parity (equal and ratable basis) pursuant to the terms of the Restated Indenture, as supplemented hereby; (b) agrees that the Trustee is serving in such roles to allow the Parity Obligations of the Swap Provider to be secured on a parity with the Bonds and

other Secured Obligations; and (c) agrees that the duties and responsibilities of the Trustee hereunder shall be governed by the provisions of the Restated Indenture including Article IX thereof.

4. Defeasance. When the Swap Related Agreements have been terminated and all obligations of the Commission thereunder have been paid or satisfied in full, the Trustee, upon written request of the Commission, which shall include a representation of such payment or satisfaction in full (and on which the Trustee may rely), shall release this Supplemental Indenture and shall execute such documents to evidence such release as may be reasonably required by the Commission. Notwithstanding the provisions of Article XI of the Restated Indenture, so long as the Commission shall have obligations under the Swap Related Agreements, the Restated Indenture and the Trust Estate shall not be released and shall remain in full force and effect and the security interest therein granted to secure the Swap Related Agreements shall not be discharged until all such obligations have been satisfied.

5. Notice to Rating Agencies. The Commission agrees that it shall give written notice to each Rating Agency in the event a termination payment is required to be made by the Commission to the Swap Provider pursuant to a Swap Related Agreement, which notice shall identify the source of funds used for such payment (which may be payments received by the Commission from another Swap Agreement).

6. Electronic Communications. The Trustee shall have the right but not the obligation to accept and act upon instructions or directions pursuant to this Agreement sent by e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys, or another method or system specified by the Trustee as available for use in connection with its services hereunder, provided, however, that the instructions or directions shall be signed by a person as may be designated and authorized to sign for the Commission, by an authorized representative of the Commission, who shall provide to the Trustee an incumbency certificate listing such designated persons, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the Commission elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Commission understands and agrees that the Trustee cannot determine the identity of the actual sender of such directions or instructions and that the Trustee shall conclusively presume that directions or instructions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The Commission is responsible for ensuring that only Authorized Officers transmit such directions or instructions to the Trustee and that all Authorized Officers treat applicable user and authorization codes, passwords and/or authentication keys as confidential and with extreme care. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Commission agrees: (a) to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties; (b) that it is fully informed of the protections and risks associated with the various methods of transmitting directions or instructions to the Trustee and that there may be more secure methods of transmitting directions or instructions; (c) that the security procedures (if any) to be followed in connection with its transmission of directions or instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (d) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

7. Successors and Assigns. All covenants, promises and agreements in this Supplemental Indenture contained by or on behalf of the parties hereto, shall bind and inure to the benefit of their

respective successors and assigns, whether so expressed or not; provided, however, this Supplemental Trust Indenture shall not become effective until the Acknowledgement below has been signed by the Swap Provider.

8. Third Party Beneficiary. The Swap Provider shall be a third party beneficiary of this Supplemental Indenture and the Restated Indenture and, as such, shall be entitled to enforce the provisions hereof as if it were a party hereto in the first instance.

9. Consent for Amendments. Any amendment of the Restated Indenture which would have a material adverse effect on the Swap Related Agreements, other than supplemental indentures authorizing Approved Swap Agreements or Parity Swap Agreements pursuant to the terms of the Restated Indenture as of the date hereof, shall not be effective without the written consent of the Swap Provider.

10. Counterparts. This Supplemental Indenture may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but such counterparts shall together constitute but one and the same instrument. The parties hereto agree that any party may execute and deliver this Supplemental Indenture by digital or other electronic means.

11. Applicable Law. This Supplemental Indenture shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without regard to its conflict of law principles.

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the Pennsylvania Turnpike Commission has caused this Supplemental Indenture to be executed by a Commission Authorized Officer and attested by its Secretary and Treasurer or its Assistant Secretary and Assistant Treasurer or other authorized officer, and U.S. Bank Trust Company, National Association, as Trustee, has caused this Supplemental Indenture to be executed by one of its authorized officers and attested by one of its Authorized Officers all as of the day and year first above written.

ATTEST:

PENNSYLVANIA TURNPIKE COMMISSION

By: \_\_\_\_\_  
Title: Assistant Secretary/  
Assistant Treasurer

By: \_\_\_\_\_  
Title: Chief Financial Officer

ATTEST:

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_  
Authorized Officer

By: \_\_\_\_\_  
Authorized Officer

#### ACKNOWLEDGEMENT

Intending to be legally bound hereby, the Swap Provider identified above hereby acknowledges and agrees to the provisions of this Supplemental Indenture.

BANK OF AMERICA, N.A.

Date: As of February 28, 2023

By: \_\_\_\_\_  
Name:  
Title: