

FIRST SUPPLEMENTAL INDENTURE

between

ORANGE COUNTY TRANSPORTATION AUTHORITY

and

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

Dated as of September 1, 2021

Relating to

ORANGE COUNTY TRANSPORTATION AUTHORITY
BOND ANTICIPATION NOTES
(I-405 IMPROVEMENT PROJECT)
SERIES 2021

(Supplementing the Indenture
Dated as of September 1, 2021)

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FIRST SUPPLEMENTAL INDENTURE

THIS FIRST SUPPLEMENTAL INDENTURE, dated as of September 1, 2021 (this “First Supplemental Indenture”), between the ORANGE COUNTY TRANSPORTATION AUTHORITY, a public entity duly established and existing under the laws of the State of California (the “Authority”) and U.S. BANK NATIONAL ASSOCIATION, 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”):

WITNESSETH:

WHEREAS, this First Supplemental Indenture is supplemental to the Master Indenture of Trust, dated as of September 1, 2021 (as supplemented and amended from time to time pursuant to its terms, the “Indenture”), between the Authority and the Trustee;

WHEREAS, the Indenture provides that the Authority may issue Notes from time to time as authorized by a Supplemental Indenture, which Notes are to be payable from the Collateral and from such other sources as may be specified with respect to a particular Series of Notes in the Supplemental Indenture authorizing such Series;

WHEREAS, the Authority desires to provide at this time for the issuance of a Series of Notes to be designated “Orange County Transportation Authority Bond Anticipation Notes (I-405 Improvement Project), Series 2021 (the “Series 2021 Notes”), all for the purpose of providing funds to pay for the costs of the Project and costs of issuance relating to the Series 2021 Notes, all as provided in this First Supplemental Indenture; and

WHEREAS, the Authority has determined that the Authority and the Trustee are authorized to modify and amend the Indenture by this First Supplemental Indenture to facilitate the issuance of an additional Series of Notes pursuant to the provisions of Article III of the Indenture;

NOW, THEREFORE, the parties hereto hereby agree as follows:

ARTICLE XII DEFINITIONS; AMENDMENT TO INDENTURE

Section 12.01. Definitions; Amendments to Definitions.

(a) Definitions. Unless the context otherwise requires, or as otherwise provided in subsection (b) of this Section, all terms that are defined in Section 1.01 of the Indenture shall have the same meanings in this First Supplemental Indenture.

(b) Additional Definitions. Unless the context otherwise requires, the following terms shall, for all purposes of this First Supplemental Indenture, have the following meanings:

“Authorized Denominations” means, with respect to Series 2021 Notes, \$5,000 and any integral multiple thereof.

“Continuing Disclosure Certificate” means the Continuing Disclosure Certificate of the Authority, dated the Issue Date, relating to the Series 2021 Notes.

“Electronic Means” means facsimile transmission, email transmission or other similar electronic means of communication providing evidence of transmission, including a telephone communication confirmed by any other method set forth in this definition.

“First Supplemental Indenture” means this First Supplemental Indenture by and between the Authority and the Trustee, as amended and supplemented from time to time.

“Interest Payment Date” means, with respect to the Series 2021 Notes, each April 15 and October 15 1, commencing April 15, 2022 and, in any event, the final maturity date or redemption date of each Series 2021 Note.

“Issue Date” means September __, 2021.

“Project” means the I-405 Improvement Project.

“Record Date” means, with respect to the Series 2021 Notes, the first (1st) day (whether or not a Business Day) of the month in which such Interest Payment Date occurs.

“2021 Notes Tax Certificate” means the Tax Certificate executed on behalf of the Authority in connection with the issuance of the Series 2021 Notes.

“2021 Costs of Issuance Account” means the 2021 Costs of Issuance Account established pursuant to Section 15.03.

“2021 Project Fund” means the 2021 Project Fund established pursuant to Section 15.02.

ARTICLE XIII

FINDINGS, DETERMINATIONS AND DIRECTIONS

Section 13.01. Findings and Determinations. The Authority hereby finds and determines that the Series 2021 Notes shall be issued pursuant to Article III and upon the issuance of the Series 2021 Notes, any and all acts, conditions and things required to exist, to happen and to be performed, precedent to and in the issuance thereof, will exist, will have happened and will have been performed, in due time, form and manner, as required by the Constitution and statutes of the State.

Section 13.02. Recital in Notes. There shall be included in each of the definitive Series 2021 Notes, and also in each of the temporary Series 2021 Notes, if any are issued, a certification and recital that any and all acts, conditions and things required to exist, to happen and to be performed, precedent to and in the incurring of the indebtedness evidenced by that Series 2021 Note, and in the issuing of that Series 2021 Note, exist, have happened and have been performed

in due time, form and manner, as required by the Constitution and statutes of the State and the Act, and that said Series 2021 Notes, together with all other indebtedness of the Authority payable out of the Collateral, is within every debt and other limit prescribed by the Constitution and statutes of the State and the Act, and that such certification and recital shall be in such form as is set forth in the form of the Series 2021 Note attached hereto as Exhibit A.

Section 13.03. Effect of Findings and Recital. From and after the issuance of the Series 2021 Notes, the findings and determinations herein shall be conclusive evidence of the existence of the facts so found and determined in any action or proceeding in any court in which the validity of the Series 2021 Notes is at issue.

ARTICLE XIV

AUTHORIZATION AND REDEMPTION OF SERIES 2021 NOTES

Section 14.01. Principal Amount, Designation and Series. Pursuant to the provisions of the Indenture and the provisions of the Act, one Series of Notes entitled to the benefit, protection and security of such provisions is hereby authorized in the aggregate principal amount of \$_____. Such Notes shall be designated as, and shall be distinguished from the Notes of all other Series by the title, "Orange County Transportation Authority Bond Anticipation Notes (I-405 Improvement Project), Series 2021."

At any time after the execution and delivery of this First Supplemental Indenture, the Authority may execute and, upon the Order of the Authority, the Trustee shall authenticate and deliver the Series 2021 Notes in the aggregate principal amount set forth above.

Section 14.02. Purpose and Application of Proceeds. The Series 2021 Notes are issued for the purpose of financing and/or reimbursing the Authority for its payment of, the costs of the Project. In addition, a portion of the proceeds will be applied to pay Costs of Issuance of the Series 2021 Notes. The net proceeds from the sale of the Series 2021 Notes in the amount of \$_____ shall be received by the Trustee, and the Trustee shall deposit such funds as follows:

(a) \$_____ of the proceeds of the Series 2021 Notes shall be deposited in the 2021 Project Fund;

(b) \$_____ of the proceeds of the Series 2021 Notes shall be deposited in the Interest Fund to be used to pay the interest on the Series 2021 Notes as it comes due; and

(c) \$_____ of the proceeds of the Series 2021 Notes shall be deposited in the 2021 Costs of Issuance Account.

Section 14.03. Form, Denomination, and Numbers. The Series 2021 Notes shall be issued as fully registered Notes without coupons in book-entry form and in Authorized Denominations and shall be numbered from one upward in consecutive numerical order preceded by the letter "R" prefixed to the number. The Series 2021 Notes and the certificate of authentication shall be substantially in the form attached hereto as Exhibit A, which form is hereby approved and adopted as the form of the Series 2021 Notes and as the form of the

certificate of authentication as such form shall be completed based on the terms of the Series 2021 Notes set forth herein.

Section 14.04. Date, Maturity and Interest Rate. The Series 2021 Notes shall be dated their Issue Date and shall bear interest from that date payable on each Interest Payment Date. The Series 2021 Notes shall mature on October 15, 2024 and shall bear interest at the rate of ____% per annum.

Interest on the Series 2021 Notes shall be computed on the basis of a 360-day year comprised of twelve 30 day months.

Each Series 2021 Note shall be payable as provided in Section 2.10, including Section 2.10(e), or, in the event the use of the Depository is discontinued, the principal of each Series 2021 Note shall be payable in lawful money of the United States of America upon surrender thereof at the Corporate Trust Office of the Trustee, and the interest on each Series 2021 Note shall be payable in lawful money of the United States of America by the Trustee to the Holder thereof as of the close of business on the Record Date, such interest to be paid by the Trustee to such Holder in immediately available funds (by wire transfer or by deposit to the account of the Holder if such account is maintained with the Trustee), according to the instructions given by such Holder to the Trustee or, in the event no such instructions have been given, by check mailed by first class mail to the Holder at such Holder's address as it appears as of the Record Date on the bond registration books kept by the Trustee.

Section 14.05. No Redemption of the Series 2021 Notes. The Series 2021 Notes shall not be subject to redemption prior to the date of their maturity.

Section 14.06. Tax Covenants for Series 2021 Notes.

(a) The Authority will not take or permit to be taken any action or actions, which would cause any such Series 2021 Notes to be an "arbitrage bond" within the meaning of Section 148 of the Code or "federally guaranteed" within the meaning of Section 149(b) of the Code and any such applicable regulations promulgated from time to time thereunder. The Authority will observe and not violate the requirements of Section 148 of the Code and any such applicable regulations. The Authority will comply with all requirements of Sections 148 and 149(b) of the Code to the extent applicable to the Series 2021 Notes.

(b) The Authority will comply with the provisions and procedures of the 2021 Notes Tax Certificate.

Notwithstanding any provisions of this Section 14.06 or the 2021 Notes Tax Certificate, if the Authority shall provide to the Trustee an Opinion of Bond Counsel to the effect that any specified action required under this Section 14.06 is no longer required, the Trustee and the Authority may conclusively rely on such opinion in complying with the requirements of this Section 14.06, and, notwithstanding any other provision of this Indenture or the 2021 Notes Tax Certificate, the covenants hereunder shall be deemed to be modified to that extent.

Section 14.07. Tax Reporting Obligations.

(a) Any transferor of the Series 2021 Notes shall also provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Internal Revenue Code Section 6045. The Trustee may rely on the information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

(b) In connection with any proposed transfer of the Series 2021 Notes outside the book-entry only system, the Authority or DTC shall provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Internal Revenue Code Section 6045. The Trustee may rely on the information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

ARTICLE XV ESTABLISHMENT OF FUNDS AND ACCOUNTS AND APPLICATION THEREOF

Section 15.01. Funds and Accounts. The following funds and accounts are hereby established in connection with the Series 2021 Notes:

(a) To ensure the proper application of such portion of proceeds from the sale of the Series 2021 Notes to be applied to pay costs of the Project, including repayment of the principal of and interest on that certain note executed by the Authority in favor of Bank of America dated as of _____, 20__, there is hereby established the 2021 Project Fund, such fund to be held by the Trustee.

(b) To ensure the proper application of such portion of proceeds from the sale of the Series 2021 Notes to be applied to pay Costs of Issuance of the Series 2021 Notes, there is hereby established the 2021 Costs of Issuance Account, such account to be established within the 2021 Project Fund and held by the Trustee.

Section 15.02. 2021 Project Fund. The monies set aside and placed in the 2021 Project Fund shall remain therein until from time to time expended for the purpose of paying the costs of the Project to be financed, refinanced or reimbursed from the proceeds of the Series 2021 Notes and shall not be used for any other purpose whatsoever.

(a) Before any payment from the 2021 Project Fund shall be made by the Trustee, the Authority shall file or cause to be filed with the Trustee a Requisition of the Authority in the form of Exhibit hereto, such Requisition to be signed by an Authorized Representative and to include: (i) the item number of such payment; (ii) the name and address of the person to whom each such payment is due, which may be the Authority in the case of reimbursement for costs theretofore paid by the Authority; (iii) the respective amounts to be paid; (iv) the purpose by general classification for which each obligation to be paid was incurred; (v) that obligations in the stated amounts have been incurred by the Authority and are presently due and payable and that each item thereof is a proper charge against the 2021 Project Fund, and has not been previously paid from said fund; and (vi) that there has not been filed with or served upon the

Authority notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the amounts payable to any of the persons named in such Requisition, which has not been released or will not be released simultaneously with the payment of such obligation, other than materialmen's or mechanics' liens accruing by mere operation of law.

(b) When the Authority determines that the portion of the Project funded with the Series 2021 Notes has been completed, a Certificate of the Authority shall be delivered to the Trustee by the Authority stating: (i) the fact and date of such completion; (ii) that all of the costs thereof have been determined and paid (or that all of such costs have been paid less specified claims that are subject to dispute and for which a retention in the 2021 Project Fund is to be maintained in the full amount of such claims until such dispute is resolved); and (iii) that the Trustee is to transfer the remaining balance in the 2021 Project Fund, less the amount of any such retention, to the Revenue Fund or, if so directed by the Authority, to the Rebate Fund.

Section 15.03. 2021 Costs of Issuance Account. All money on deposit in the 2021 Costs of Issuance shall be applied solely for the payment of authorized Costs of Issuance. Before any payment from the 2021 Costs of Issuance Account shall be made by the Trustee, the Authority shall file or cause to be filed with the Trustee a Requisition of the Authority in the form of Exhibit hereto on which the Trustee may conclusively rely, such Requisition to be signed by an Authorized Representative and to include: (i) the item number of such payment; (ii) the name and address of the person to whom each such payment is due, which may be the Authority in the case of reimbursement for costs theretofore paid by the Authority; (iii) the respective amounts to be paid; (iv) the purpose by general classification for which each obligation to be paid was incurred; (v) that obligations in the stated amounts have been incurred by the Authority and are presently due and payable and that each item thereof is a proper charge against the 2021 Costs of Issuance Account and has not been previously paid from said account.

Any amounts remaining in the 2021 Costs of Issuance Account one hundred eighty (180) days after the date of issuance of the Series 2021 Notes shall be transferred to the 2021 Project Fund and the Trustee shall close the 2011 Costs of Issuance Account.

ARTICLE XVI MISCELLANEOUS

Section 16.01. Continuing Disclosure. The Authority covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of the Indenture, failure of the Authority to comply with the Continuing Disclosure Certificate shall not be considered an Event of Default; however, the Trustee shall, at the written request of any Participating Underwriter (as defined in the Continuing Disclosure Certificate) or of the Holders of at least twenty-five (25%) aggregate principal amount of the Series 2021 Notes then Outstanding (but only to the extent funds in an amount satisfactory to the Trustee have been provided to it or it has been otherwise indemnified to its satisfaction from any cost, liability, expense or additional charges and fees of the Trustee whatsoever, including, without limitation, reasonable fees and expenses of its attorneys), or any Holder or Beneficial Owner may, take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Authority to comply with its obligations under this Section.

Section 16.02. Severability. If any covenant, agreement or provision, or any portion thereof, contained in this First Supplemental Indenture, or the application thereof to any person or circumstance, is held to be unconstitutional, invalid or unenforceable, the remainder of this First Supplemental Indenture, and the application of any such covenant, agreement or provision, or portion thereof, to other Persons or circumstances, shall be deemed severable and shall not be affected thereby, and this First Supplemental Indenture and the Series 2021 Notes issued pursuant hereto shall remain valid, and the Holders of the Series 2021 Notes shall retain all valid rights and benefits accorded to them under this Indenture, the Act, and the Constitution and statutes of the State.

Section 16.03. Parties Interested Herein. Nothing in this First Supplemental Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Authority, the Trustee and the Holders of the Series 2021 Notes, any right, remedy or claim under or by reason of this First Supplemental Indenture or any covenant, condition or stipulation hereof; and all the covenants, stipulations, promises and agreements in this First Supplemental Indenture contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Authority, the Trustee and the Holders of the Series 2021 Notes.

Section 16.04. Headings Not Binding. The headings in this First Supplemental Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this First Supplemental Indenture.

Section 16.05. Notice Addresses. Except as otherwise provided herein, it shall be sufficient service or giving of notice, request, complaint, demand or other paper if the same shall be duly mailed by registered or certified mail, postage prepaid, addressed to the Notice Address for the appropriate party or parties as provided in Exhibit B hereto. Any such entity by notice given hereunder may designate any different addresses to which subsequent notices, certificates or other communications shall be sent, but no notice directed to any one such entity shall be thereby required to be sent to more than two addresses. Any such communication may also be sent by Electronic Means, receipt of which shall be confirmed.

Section 16.06. Notices to Rating Agencies. The Trustee shall provide notice to the rating agencies at the addresses specified in Exhibit B hereto of the following events with respect to the Series 2021 Notes:

- (1) Change in Trustee;
- (2) Amendments to the Indenture; and
- (3) Redemption or defeasance of any Series 2021 Notes.

Section 16.07. Indenture to Remain in Effect. Save and except as amended and supplemented by this First Supplemental Indenture, the Indenture shall remain in full force and effect.

Section 16.08. Effective Date of First Supplemental Indenture. This First Supplemental Indenture shall take effect upon its execution and delivery.

Section 16.09. Execution in Counterparts. This First 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.

Section 16.10. Governing Law. This First Supplemental Indenture shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, the parties hereto have executed this First Supplemental Indenture by their officers thereunto duly authorized as of the day and year first written above.

ORANGE COUNTY TRANSPORTATION
AUTHORITY

By: _____
Its: _____

APPROVED AS TO FORM:

By: _____
General Counsel

U.S. BANK NATIONAL ASSOCIATION, as
Trustee

By: _____
Authorized Officer

EXHIBIT A

[FORM OF SERIES 2021 BOND]

EXHIBIT B

NOTICE ADDRESSES

To the Authority:

Orange County Transportation Authority
550 S. Main St.
P.O. Box 14184
Orange, CA 92863-1584
Attention: Treasury/Public Finance Department
Telephone: (714) 560-6282
Facsimile: (714) 560-5800

To the Rating Agencies:**To the Trustee:**

U.S. Bank National Association
Global Corporate Trust
633 W. 5th Street, 24th Floor
Los Angeles, CA 90071