

**CONTINUING DISCLOSURE CERTIFICATE**

**THIS CONTINUING DISCLOSURE CERTIFICATE** (this “Disclosure Certificate”) is executed and delivered by the Orange County Transportation Authority (the “Authority”) in connection with the issuance of \$[\_\_\_\_\_] aggregate principal amount of Orange County Transportation Authority Senior Lien Toll Road Revenue Refunding Bonds (91 Express Lanes), Series 2023 (the “Series 2023 Bonds”). The Series 2023 Bonds are being issued pursuant to the Master Indenture of Trust, dated as of August 1, 2013, as supplemented and amended from time to time pursuant to its terms, including as supplemented and amended by a Second Supplemental Indenture, dated as of [CLOSING MONTH] 1, 2023 (collectively, the “Indenture”), each between the Authority and U.S. Bank Trust Company, National Association, as successor trustee. The Authority covenants and agrees as follows:

**Section 1. Purpose of the Disclosure Certificate.** This Disclosure Certificate is being executed and delivered by the Authority for the benefit of the Holders and Beneficial Owners of the Series 2023 Bonds and in order to assist the Participating Underwriter in complying with Securities and Exchange Commission Rule 15c2-12(b)(5).

**Section 2. Definitions.** In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Annual Report” shall mean any Annual Report provided by the Authority pursuant to, and as described in, Sections 3 and 4.

“Beneficial Owner” shall mean any person which has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any Series 2023 Bonds (including persons holding Series 2023 Bonds through nominees, depositories or other intermediaries).

“Dissemination Agent” shall mean the Authority or any successor Dissemination Agent designated in writing by the Authority and which has filed with the Authority a written acceptance of such designation.

“Financial Obligation” shall mean, for the purposes of the Listed Events set out in Section 5(a)(x) and 5(b)(viii), a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term “Financial Obligation” shall not include municipal securities (as defined in the Securities Exchange Act of 1934, as amended) as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“Fiscal Year” shall mean the period of time beginning on July 1 of each given year and ending on June 30 of the immediately subsequent year, or such other period as the Authority designates as its fiscal year.

“Holder” shall mean the person in whose name any Series 2023 Bond shall be registered.

“Listed Events” shall mean any of the events listed in Section 5(a) or (b).

“MSRB” shall mean the Municipal Securities Rulemaking Board or any other entity designated or authorized by the Securities and Exchange Commission to receive reports pursuant to the Rule. Until otherwise designated by the MSRB or the Securities and Exchange Commission, filings with the MSRB are to be made through the Electronic Municipal Market Access (EMMA) website of the MSRB, currently located at <http://emma.msrb.org>.

“Official Statement” shall mean the Official Statement, dated \_\_\_\_\_, 2023 (including all exhibits or appendices thereto), relating to the offer and sale of Series 2023 Bonds.

“Participating Underwriter” shall mean the original underwriters of the Series 2023 Bonds required to comply with the Rule in connection with offering of the Series 2023 Bonds.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

**Section 3. Provision of Annual Reports.** (a) The Authority shall, or shall cause the Dissemination Agent to, not later than January 15 of each year (commencing with the report for Fiscal Year 2022-23, which is due not later than January 15, 2024), provide to the MSRB an Annual Report which is consistent with the requirements of Section 4. The Annual Report must be submitted in electronic format, accompanied by such identifying information as is prescribed by the MSRB, and may cross-reference other information as provided in Section 4; provided, however, that the audited financial statements of the Authority may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date. If the Authority’s Fiscal Year changes, it shall give notice of such change in a filing with the MSRB. The Annual Report shall be submitted on a standard form in use by industry participants or other appropriate form and shall identify the Series 2023 Bonds by name and CUSIP number.

(b) Not later than 15 business days prior to the date specified in subsection (a), the Authority shall provide the Annual Report to the Dissemination Agent (if other than the Authority). If the Authority is unable to provide to the MSRB an Annual Report by the date required in subsection (a), the Authority shall, in a timely manner, send or cause to be sent to the MSRB a notice in substantially the form attached as Exhibit A.

(c) The Dissemination Agent shall:

(i) (if the Dissemination Agent is other than the Authority), provide any Annual Report received by it to the MSRB as provided herein; and

(ii) (if the Dissemination Agent is other than the Authority), file a report with the Authority certifying that the Annual Report has been provided to the MSRB pursuant to this Disclosure Certificate, stating the date it was provided to the MSRB.

**Section 4. Content of Annual Reports.** The Authority’s Annual Report shall contain or include by reference the following:

(a) The audited financial statements of the 91 Express Lanes for the most recently ended Fiscal Year of the Authority, prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the audited financial statements of the 91 Express Lanes are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements of the 91 Express Lanes in a format similar to the financial statements of the 91 Express Lanes contained in the Official Statement and the audited financial statements of the 91 Express Lanes shall be filed in the same manner as the Annual Report when such audited financial statements become available.

(b) Principal amount of Bonds of each Series Outstanding as of the date of the Annual Report.

(c) A historical update of the table included in the Official Statement under the caption “HISTORICAL AND PROJECTED DEBT SERVICE COVERAGE” for the most recently ended Fiscal Year of the Authority.

(d) A description of any damage to the Toll Road or the toll collection system during the most recently ended Fiscal Year of the Authority, which in the determination of the Authority will result in a material reduction in Net Toll Revenues.

(e) An update for the most recently ended Fiscal Year of the Authority of the two tables included in the Official Statement under the caption “HISTORICAL OPERATING EXPERIENCE” and individually titled “VEHICLE TRIPS” and “TOTAL ANNUAL TOLLS.”

Any or all of the items listed above may be set forth in one or a set of documents or may be included by specific reference to other documents, including official statements of debt issues of the Authority or related public entities, which have been made available to the public on the MSRB’s website. The Authority shall clearly identify each such other document so included by reference.

**Section 5. Reporting of Significant Events.** (a) The Authority shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Series 2023 Bonds in a timely manner not later than ten business days after the occurrence of the event:

- (i) principal and interest payment delinquencies;
- (ii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iii) unscheduled draws on credit enhancements reflecting financial difficulties;
- (iv) substitution of credit or liquidity providers or their failure to perform;

(v) adverse tax opinions or issuance by the Internal Revenue Service of proposed or final determination of taxability or of a Notice of Proposed Issue (IRS Form 5701 TEB);

(vi) tender offers;

(vii) defeasances;

(viii) rating changes;

(ix) bankruptcy, insolvency, receivership or similar event of the Authority; or

(x) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Authority, any of which reflect financial difficulties.

For the purposes of the event identified in subparagraph (ix), the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Authority in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Authority, or if such jurisdiction has been assumed by leaving the existing governmental body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Authority.

(b) The Authority shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Series 2023 Bonds, if material, in a timely manner not later than ten business days after the occurrence of the event:

(i) unless described in paragraph 5(a)(v), other material notices or determinations by the Internal Revenue Service with respect to the tax status of the Series 2023 Bonds or other material events affecting the tax status of the Series 2023 Bonds;

(ii) modifications to rights of Series 2023 Bond Holders;

(iii) Series 2023 Bond calls;

(iv) release, substitution, or sale of property securing repayment of the Series 2023 Bonds;

(v) non-payment related defaults;

(vi) the consummation of a merger, consolidation, or acquisition involving the Authority or the sale of all or substantially all of the assets of the

Authority, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms;

(vii) appointment of a successor or additional paying agent or the change of name of a paying agent; or

(viii) incurrence of a Financial Obligation of the Authority, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Authority, any of which affect Series 2023 Bond holders.

(c) The Authority shall give, or cause to be given, in a timely manner, notice of a failure to provide the annual financial information on or before the date specified in Section 3, as provided in Section 3(b).

(d) Upon the occurrence of a Listed Event described in Section 5(a), or upon the occurrence of a Listed Event described in Section 5(b) which the Authority determines would be material under applicable federal securities laws, the Authority shall within ten business days of occurrence file a notice of such occurrence with the MSRB. Notwithstanding the foregoing, notice of the Listed Event described in subsection (b)(iii) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to Holders of affected Series 2023 Bonds pursuant to the Indenture.

**Section 6. Format for Filings with MSRB.** Any report or filing with the MSRB pursuant to this Disclosure Certificate must be submitted in electronic format, accompanied by such identifying information as is prescribed by the MSRB.

**Section 7. Termination of Reporting Obligation.** The Authority's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Series 2023 Bonds. If such termination occurs prior to the final maturity of the Series 2023 Bonds, the Authority shall give notice of such termination in a filing with the MSRB.

**Section 8. Dissemination Agent.** The Authority may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Authority pursuant to this Disclosure Certificate. The initial Dissemination Agent shall be the Authority.

**Section 9. Amendment; Waiver.** Notwithstanding any other provision of this Disclosure Certificate, the Authority may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied:

(a) if the amendment or waiver relates to the provisions of Section 3(a), Section 4, or Section 5(a) or (b), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in

the identity, nature or status of the Authority with respect to the Series 2023 Bonds, or the type of business conducted;

(b) the undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Series 2023 Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) the proposed amendment or waiver either (i) is approved by the Holders in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Holders, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Holders or Beneficial Owners of the Series 2023 Bonds.

In the event of any amendment or waiver of a provision of this Disclosure Certificate, the Authority shall describe such amendment in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Authority. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in a filing with the MSRB, and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

**Section 10. Additional Information.** Nothing in this Disclosure Certificate shall be deemed to prevent the Authority from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice required to be filed pursuant to this Disclosure Certificate, in addition to that which is required by this Disclosure Certificate. If the Authority chooses to include any information in any Annual Report or notice in addition to that which is specifically required by this Disclosure Certificate, the Authority shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event or any other event required to be reported.

**Section 11. Default.** In the event of a failure of the Authority to comply with any provision of this Disclosure Certificate, any Holder or Beneficial Owner of the Series 2023 Bonds 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 Disclosure Certificate; provided, that any such action may be instituted only in Superior Court of the State of California in and for the County of Orange or in U.S. District Court in or nearest to the County. A default under this Disclosure Certificate shall not be deemed an event of default under the Indenture, and the sole remedy under this Disclosure Certificate in the event of any failure of the Authority to comply with this Disclosure Certificate shall be an action to compel performance.

**Section 12. Beneficiaries.** This Disclosure Certificate shall inure solely to the benefit of the Authority, the Dissemination Agent, the Participating Underwriter and Holders and Beneficial Owners from time to time of the Series 2023 Bonds, and shall create no rights in any other person or entity.

Dated: \_\_\_\_\_, 2023

**ORANGE COUNTY  
TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_

Approved as to form:

WOODRUFF & SMART,  
General Counsel to the Orange County  
Transportation Authority

By: \_\_\_\_\_  
[\_\_\_\_\_] , [\_\_\_\_\_]

**EXHIBIT A**

**NOTICE TO THE MUNICIPAL SECURITIES RULEMAKING BOARD  
OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: **ORANGE COUNTY TRANSPORTATION AUTHORITY**

Name of Issue: Orange County Transportation Authority Senior Lien Toll Road  
Revenue Refunding Bonds (91 Express Lanes), Series 2023

Date of Issuance: [\_\_\_\_], 2023

NOTICE IS HEREBY GIVEN that the Authority has not provided an Annual Report with respect to the above-named Series 2023 Bonds as required by Section 4 of the Continuing Disclosure Certificate of the Authority, dated [\_\_\_\_], 2023. [The Authority anticipates that the Annual Report will be filed by \_\_\_\_\_.]

Dated: \_\_\_\_\_

**ORANGE COUNTY TRANSPORTATION AUTHORITY**