

**Attachment B**

**BAY AREA INFRASTRUCTURE FINANCING AUTHORITY  
TOLL FACILITY ORDINANCE**

**DRAFT  
June 8, 2016**

**BAY AREA INFRASTRUCTURE FINANCING AUTHORITY  
TOLL FACILITY ORDINANCE**

The Bay Area Infrastructure Financing Authority ordains:

**Section 1. Purpose.**

The purpose of this ordinance is to establish tolls and a toll collection process for the BAIFA toll facilities, to establish civil penalties for the evasion of those tolls or noncompliance with other policies set forth in this ordinance, and to establish a program that addresses how motorists can enroll and participate in BAIFA's toll facility program.

**Section 2. Scope.**

Every motorist entering a BAIFA toll facility shall be subject to and must abide by this ordinance.

**Section 3. Definitions.**

These definitions apply to this ordinance. Unless specifically defined below, the words and phrases used in this ordinance shall have the same meaning as they have in common usage. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "must" are always mandatory and not merely directive.

"Applicable toll" means the toll for a vehicle entering a BAIFA toll facility established by this ordinance as determined from information collected by the FasTrak<sup>®</sup> system.

"Attachment A to this ordinance" means Attachment A to this ordinance as amended from time to time pursuant to Section 10.

"Authorized emergency vehicle" means a vehicle satisfying all of the conditions specified in Vehicle Code section 21655.5 or section 23301.5 for an exemption from paying a toll on a BAIFA toll facility.

"BAIFA" means the Bay Area Infrastructure Financing Authority, a joint exercise of powers agency formed under the California Joint Exercise of Powers Act with jurisdiction over the operation of the BAIFA toll facilities.

"BAIFA toll facility" means each high occupancy vehicle lane within the geographic jurisdiction of MTC that is operated by BAIFA as a toll lane and that is listed in Attachment A to this ordinance.

"BAIFA toll facility website" means the website at <http://mtc.ca.gov/express-lanes>.

"BATA" means the Bay Area Toll Authority.

"Caltrans" means the State of California Department of Transportation.

“Clean air vehicle” means a motor vehicle described in Section (b)(5) of Section 166 of Title 23 of the United States Code that displays a valid decal, label or other identifier issued pursuant to Vehicle Code Section 5205.5(a) or any other California law that enables toll-free or reduced-rate passage on the BAIFA toll facilities.

“CTOC” means the California Toll Operators Committee.

“FasTrak<sup>®</sup>” or “FasTrak<sup>®</sup> system” means the electronic toll collection system administered by BATA for the BAIFA toll facilities, as well as the electronic toll collection systems administered by other members of CTOC.

“FasTrak<sup>®</sup> Account” means an account by that name established with BATA or any other CTOC member.

“FasTrak Flex<sup>®</sup> toll tag” means a FasTrak<sup>®</sup> toll tag featuring a switch for indicating the number of occupants in the vehicle.

“FasTrak<sup>®</sup> toll tag” means a FasTrak<sup>®</sup> electronic toll payment device issued by BATA (or any other member of CTOC) that meets the specifications of California Code of Regulations Title 21. “FasTrak<sup>®</sup> toll tag” includes non-revenue FasTrak<sup>®</sup> toll tags and FasTrak Flex<sup>®</sup> toll tags.

“High occupancy vehicle” means a vehicle with the minimum number of occupants specified by BAIFA for entering a BAIFA toll facility zone as a high-occupancy vehicle as set forth in Attachment A to this ordinance and as displayed on BAIFA signs and other official signs or traffic control devices.

“Hours of operation” of a BAIFA toll facility zone means the hours when BAIFA is operating the BAIFA toll facility on any day within the maximum hours of operation set forth in Attachment A to this ordinance and as displayed on BAIFA signs and other official signs or traffic control devices. The hours of operation of a BAIFA toll facility zone shall not extend beyond the hours when the zone is otherwise restricted to use by high occupancy vehicles.

“HOV-3 BAIFA toll facility” means a BAIFA toll facility zone or segment having three or more occupants as the high occupancy vehicle requirement.

“Motorist” means the registered owner, rentee, lessee, or driver of a vehicle.

“MTC” means the Metropolitan Transportation Commission.

“Non-revenue FasTrak<sup>®</sup> toll tag” means a FasTrak<sup>®</sup> toll tag that does not result in a toll being charged.

“Over-the-road bus serving the public” means a bus that is characterized by an elevated passenger deck located over a baggage compartment and that serves the public.

“Pay-by-plate” means use of on-road vehicle license plate identification recognition technology to accept payment of tolls in accordance with BATA or CTOC policies.

“Penalty” means the monetary amounts assessed as civil penalties for each Violation, including the unpaid tolls and the toll evasion penalty, and shall constitute a toll evasion penalty under Vehicle Code Section 40252.

“Public transportation vehicle” means a public transportation vehicle as defined in Section 166 of Title 23 of the United States Code that meets BAIFA’s requirements for identifying public transportation vehicles specified at the BAIFA toll facility website.

“Segment” means two or more zones of a BAIFA toll facility that are designated as a BAIFA toll facility segment by the executive director of BAIFA.

“Vehicle Code” means the California Vehicle Code.

“Violation” has the meaning assigned in Section 8.2.

“Zone” means the portion of each BAIFA toll facility listed in Attachment A to this ordinance as a zone.

#### **Section 4. Timing.**

The tolls and Penalties for Violations imposed by this ordinance shall apply to motorists entering a BAIFA toll facility zone from and after the date and time when BAIFA opens the BAIFA toll facility zone for use by the public as a toll facility.

#### **Section 5. Toll Tag or Pay-by-Plate Account Required.**

5.1 Every motorist traveling in a BAIFA toll facility during its hours of operation is required to be in a vehicle with either (1) a properly-mounted and properly-functioning FasTrak® toll tag on board, or (2) valid vehicle license plates properly attached pursuant to Vehicle Code Section 4850.5 or 5200, and, in either case, being associated with a valid FasTrak® account having a balance sufficient to pay the applicable toll. Every motorist traveling in a BAIFA toll facility during its hours of operation is required to pay the applicable toll using that FasTrak® account.

5.2 To be “properly-mounted” means that, except as specified in Section 5.3, the FasTrak® toll tag shall be located in or on the vehicle in a location so as to be accurately read by the FasTrak® system and be visible for the purposes of enforcement at all times while the vehicle is located in the BAIFA toll facility.

5.3 A motorcyclist shall use any one of the methods specified in Vehicle Code Section 23302(a)(3) to comply with the requirement to have a properly-mounted FasTrak Flex® toll tag, as long as the FasTrak Flex® toll tag is able to be read by BAIFA’s detection equipment.

5.4 Every motorist entering a BAIFA toll facility during its hours of operation and having a FasTrak Flex® toll tag must use the toll tag to accurately declare the number of occupants in the vehicle or, if permitted under Section 7.2, accurately indicate toll-exempt status.

5.5 A license plate account surcharge as specified in Attachment A to this ordinance shall apply to pay-by-plate toll payments.

## **Section 6. Tolls.**

6.1 Each motorist entering a BAIFA toll facility during its hours of operation who is not entitled to an exemption from tolls under Sections 7.1(B) through (F), inclusive, or Section 7.4, shall be charged the then-applicable toll. The tolls charged by BAIFA are intended to manage the demand to use BAIFA toll facilities by varying the toll amount that is charged as established from time to time by the executive director of BAIFA. The amount charged may be determined pursuant to a methodology approved by the executive director of BAIFA, but the resulting tolls shall not be less than the minimum tolls set forth in Attachment A to this ordinance; provided, however, that the executive director of BAIFA may elect to reduce the minimum toll per zone during off-peak hours if the executive director determines, in consultation with Caltrans, that such reduction is necessary to alleviate traffic congestion in the non-tolled lanes. The current tolls upon entering a BAIFA toll facility zone or segment shall be displayed on BAIFA signs. BAIFA reserves the right to adjust tolls dynamically and in real-time. As such, the toll applicable to a motorist entering a BAIFA toll facility zone or segment is the toll displayed on the last BAIFA pricing sign before such motorist enters the zone or segment. Further, the total toll charged is determined based on the zones or segments of the BAIFA toll facility in which such motorist is detected. General information about tolls for BAIFA toll facilities is available online at the BAIFA toll facility website.

## **Section 7. Exemptions from Tolls; Reduced Rate Tolls.**

7.1 The following vehicles are exempt from paying tolls imposed by this ordinance.

- (A) vehicles entering a BAIFA toll facility outside the hours of operation of that facility.
- (B) high occupancy vehicles.
- (C) motorcycles.
- (D) public transportation vehicles and over-the-road buses that serve the public.
- (E) California Highway Patrol vehicles policing a BAIFA toll facility.
- (F) authorized emergency vehicles.

7.2 To enjoy the exemption from tolls afforded under Section 7.1(B), (C), (D), (E) or (F), every motorist entering a BAIFA toll facility during its hours of operation who is entitled to that exemption must use a properly-mounted FasTrak Flex® toll tag to accurately indicate a toll-exempt status or follow such other methods for indicating eligibility for exemption as shall be specified by BAIFA at the BAIFA toll facility website. Otherwise, such motorist entering a BAIFA toll facility during its hours of operation shall be charged the applicable toll.

7.3 Motorists having a properly-mounted, non-revenue FasTrak® toll tag are exempt from paying tolls and Penalties for Violations imposed by this ordinance.

7.4 Two-occupant vehicles traveling in a HOV-3 BAIFA toll facility shall pay the applicable discounted toll, if any, specified for HOV-2 vehicles in Attachment A to this ordinance. To be eligible for the discounted toll, two-occupant vehicles must use a properly-mounted FasTrak Flex® toll tag to accurately indicate HOV-2 status (by switching the tag to the HOV-2 setting) or follow such other methods for indicating eligibility for the discount as shall be specified by BAIFA online at the BAIFA toll facility website.

7.5 Motorists driving clean air vehicles shall be eligible to claim the discounted toll, if any, specified for clean air vehicles in Attachment A to this ordinance. Clean air vehicles must use a properly-mounted FasTrak Flex® toll tag to accurately indicate clean air vehicle status (by switching the tag to the HOV-2 setting) or follow such other methods for indicating eligibility for the discount as shall be specified by BAIFA online at the BAIFA toll facility website.

**Section 8. Enforcement and Penalties.**

8.1 This ordinance adopts and incorporates by this reference, as though fully set forth herein, the administrative procedures and penalties in Article 4, Chapter 1 of Division 17 of the Vehicle Code as amended from time to time hereafter. The processing of notices of toll evasion violations and notices of delinquent toll evasion violations shall be conducted in accordance with those procedures and penalties by BATA, as the processing agency for BAIFA within the meaning of Section 40253 of the Vehicle Code. The FasTrak® Regional Customer Service Center Policies set forth in Attachment A to BATA Resolution No. 52, Revised, as amended from time to time, shall be applicable to the BAIFA toll facilities and this ordinance (except to the extent they conflict with the provisions of this ordinance) and are hereby adopted and incorporated by reference into this ordinance as though fully set forth herein.

8.2 It shall be a Violation to:

- (A) fail to comply with Section 5.1;
- (B) fail to comply with Section 5.2; or
- (C) fail to comply with Section 5.3.

8.3. The Penalties for Violations under this ordinance shall be the penalties set forth in Attachment A to this ordinance.

8.4 Vehicle occupancy violations while in the BAIFA toll facilities, including using a FasTrak Flex® toll tag to declare HOV-2 or HOV-3+ status when such declaration is not permitted hereunder, and other moving violations while in the BAIFA toll facilities, including entry into a BAIFA toll facility by a vehicle that is not authorized by the laws of the State of California to travel in such facility, are subject to citation by the California Highway Patrol.

8.5 BAIFA or BATA may access data saved electronically by the toll system in order to investigate Violations under this ordinance. Such data may include the vehicle license plate number, FasTrak Flex® toll tag setting, and FasTrak® toll tag account number.

**Section 9. Severability.**

The provisions of this ordinance are severable, and if any provisions of this ordinance, or application of any provision of this ordinance to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this ordinance, shall not be affected thereby.

**Section 10. Amendment.**

The provisions of this ordinance, including Attachment A to this ordinance, may be amended from time to time in accordance with the procedures set forth in Section 50020 and following of the California Government Code. The concurrence in or consent to any such amendment by any federal or State of California entity with jurisdiction over highways shall be obtained before that amendment is adopted, but only to the extent expressly required by federal or California law.

**Section 11. Delegated Authority.**

Any action permitted to be taken or decision permitted to be made by the executive director of BAIFA hereunder may be taken or made by a designee of the executive director.

**Section 12. Effective Date.**

This ordinance will take effect and be in force 30 days after its adoption. Upon adoption, this ordinance shall be signed by the Chair of the governing board of BAIFA and shall be published by the Secretary of BAIFA once, within 15 days of its adoption, in a newspaper of general circulation printed and published in the City and County of San Francisco, California, and in a newspaper of general circulation in each of Alameda County, Contra Costa County, and Solano County, California.

BAY AREA INFRASTRUCTURE FINANCING AUTHORITY

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Dave Cortese, Chair

The above ordinance was adopted by the Bay Area Infrastructure Financing Authority at a regularly-scheduled meeting of BAIFA held in San Francisco, California, on \_\_\_\_\_, 2016.

ATTACHMENT A TO  
 BAY AREA INFRASTRUCTURE FINANCING  
 AUTHORITY TOLL FACILITY ORDINANCE

**Facilities and Tolls**

Under the Bay Area Infrastructure Financing Authority Toll Facility Ordinance, the minimum toll, the high occupancy vehicle requirement, the hours of operation, and the discounts applicable to two-occupant vehicles and clean air vehicles for each BAIFA toll facility listed below shall be as set forth in this table:

BAIFA Toll Facilities and Zones	Minimum Toll per Zone	High Occupancy Vehicle Requirement and Maximum Hours of Operation	HOV-2 Discount	Clean Air Vehicle Discount
I-680 San Ramon to Walnut Creek Four zones: 1. Crow Canyon Southbound - from Rudgear Road to Crow Canyon Road 2. Alcosta Southbound - from Crow Canyon Road to Alcosta Boulevard 3. Crow Canyon Northbound - from Alcosta Boulevard to Crow Canyon Road 4. Livorna Northbound - from Crow Canyon Road to Livorna Road	\$0.30 per zone	Minimum of two occupants (HOV-2+)  Monday to Friday 5AM to 8PM	100% while toll facility requires HOV-2+	100% while toll facility requires HOV-2+

For all BAIFA toll facilities, the surcharge for “pay-by-plate” transactions shall be \$0.

## Penalties for Violations

### All Violations

1<sup>st</sup> Notice  
Toll + \$25 penalty

2<sup>nd</sup> Notice  
Toll + \$70 penalty

#### Exceptions:

1. If the violation is determined to be the fault of the toll agency.
2. For 1<sup>st</sup> time offense, a non-customer can open a FasTrak<sup>®</sup> account and the \$25 penalty will be waived.
3. For FasTrak<sup>®</sup> account holders in good standing, toll-only will be posted to the account balance. If the account balance is less than the amount of the toll, the account balance must be brought to the opening balance amount prior to posting the violation toll amount.

Processing fee of \$3 for DMV registration holds, when applicable.