

**Bay Area Infrastructure Financing Authority  
(BAIFA)**

**June 22, 2022**

**Agenda Item 4c - 22-0895**

**BAIFA Toll Facility Ordinance Amendment**

---

**Subject:**

A recommendation to adopt proposed changes to BAIFA's existing Toll Facility Ordinance to enable tolling-related pilots, allow modifications to violation penalty amounts and exceptions by board resolution, and to define the Executive Director's authority in an emergency.

**Background:**

This item brings to BAIFA for adoption a proposed amended and restated Toll Facility Ordinance, which specifies tolling rules for BAIFA's express lanes and is required by statute to enforce toll violations (refer to Attachments A.1 and A.2 for clean and track changes versions, respectively).

In addition to clean-up text, the proposed amendment makes the following changes of note:

**Change #1: Enable Tolling Pilots**

This change would allow BAIFA to carry out pilot projects to test alternate tolling and discount policies and new technologies for up to 36 months by board action. If approved, the Authority would have the ability to authorize the toll discount pilot for low-income drivers on the I-880 Express Lanes, which is the subject of a separate action item on BAIFA's June 2022 meeting agenda.

**Change #2: Allow Modifications to Violation Penalty Amounts and Exceptions by Board Resolution**

This change would allow BAIFA to modify violation penalty amounts and exceptions to the assessment of penalties by board resolution adopted at a public meeting. Approval by resolution, which is consistent with the practices of other Bay Area express lanes tolling agencies, reduces the time and cost to implement changes while preserving the public's ability to comment on proposed changes prior to decision-maker approval at a duly noticed BAIFA meeting. An information item on reducing violation penalties is presented in Item 5a.

### **Change #3: Define Emergency Authority**

This update would define the Executive Director of BAIFA's authority to suspend or reduce tolls or penalties or modify policies in the ordinance – like hours of operation or high occupancy vehicle (HOV) requirements to respond to an emergency for its duration – until BAIFA's next meeting, at which time BAIFA will determine whether to continue the Executive Director's action or take some other action. An emergency is defined in the proposed ordinance amendment as an Act of God or other threat to public safety or well-being or any declared state of emergency by a government entity of competent jurisdiction.

### **Public Outreach:**

On May 25, 2022, BAIFA held a public hearing after a 35-day written public comment period from April 20, 2022 through May 24, 2022 at 5:00 p.m. Throughout, the proposed amended and restated Toll Facility Ordinance and fact sheets were posted on MTC's website at <https://mtc.ca.gov/express-lanes-policies>. In addition to the Public Hearing, public outreach to encourage public comment included the following features:

- A Notice of Public Hearing was published in newspaper, including Spanish and Chinese newspapers, and through a multilingual MTC press release.
- A paid social media campaign on Facebook and Instagram was run in English, Spanish and Chinese with a link to a short survey form to gauge support and submit comments.
- A promotional advertisement was placed on the 511 website.
- Emails inviting public feedback were sent to local legislators, government and community-based organizations to leverage their contact networks.

### **Issues:**

BAIFA must decide whether to adopt the proposed changes as recommended or with revisions. During the public comment period, BAIFA received 1,744 survey responses (1,328 in English; 194 in Spanish and 222 in Chinese), 1 email comment and 2 in-person comments at the May 25 public hearing (refer to the complete list of all comments posted at <https://mtc.ca.gov/express-lanes-policies>). Staff read every comment and summarized significant themes to inform decision-making in Attachment B. Below is staff's recommendation on how to proceed with each of the three proposed changes to the ordinance.

**Public Comment on Change #1: Enable Tolling Pilots**

Very few people commented on BAIFA having the authority to do tolling pilots in general. Staff thinks the idea makes sense to the public and recommends BAIFA amend its toll ordinance to enable tolling pilots in general. That said, there is both strong support for and strong opposition to piloting a toll discount program for low-income drivers on BAIFA's I-880 Express Lanes, and many people commented on this specific pilot. Support was largely for equity reasons in recognition of improving access and affordability. Opposition was for reasons including opposition to tolling, the principle of treating everyone equally, concerns about potential fraud, and impacts on express lanes performance and tolls. There were ideas to change the pilot, too. Staff will respond to public comment on the I-880 Express Lanes toll discount program in item 4d in which BAIFA will consider approval of the pilot.

**Public Comment on Change #2: Allow Modifications to Violation Penalty Amounts and Exceptions by Board Resolution**

A significant majority of people who submitted comments either support or are neutral to the idea of amending toll violation penalties by BAIFA resolution. Some people reinforced the need for a public process before adjusting penalties, including public outreach, with many ways to weigh in given busy lives. Some people supported high penalties to discourage cheating, while others supported lower penalties or income-based penalties for equity reasons. Some asked for better enforcement of express lane rules. Some mentioned the need to forgive first-time offenders. Based on the comments, staff believes that amending the toll ordinance to allow modifications to violation penalty amounts and exceptions to penalties by board resolution makes sense. This will save time and cost and staff would continue to conduct outreach processes that meet BAIFA's standards for public engagement.

**Public Comment on Change #3: Define Emergency Authority**

A significant majority of people who submitted comments support or are neutral to the idea of defining the Executive Director's authority in an emergency. Most comments were about the need to define the term 'emergency', set clear limits on the Executive Director's authority and allow everyone to use the lanes toll-free during emergencies. The proposed ordinance text already defines the term 'emergency' and requires Executive Director actions in response to an

emergency to be reviewed at the first BAIFA meeting held after the emergency. Therefore, staff recommends amending the toll ordinance to define emergency authority.

**Recommendations:**

Staff recommends the Authority adopt the proposed amended and restated Toll Facility Ordinance.

**Attachments:**

- Attachment A.1: Proposed BAIFA Amended and Restated Toll Facility Ordinance (clean)
- Attachment A.2: Proposed BAIFA Amended and Restated Toll Facility Ordinance (track changes)
- Attachment B: Public Comment Summary
- Attachment C: Adoption Presentation



---

Therese W. McMillan

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

**July 27, 2016**

(as amended and restated January 22, 2020, September 23, 2020, and June 22, 2022)

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

The Bay Area Infrastructure Financing Authority ordains as follows:

**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® 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.

“Discount” means a reduced-rate toll expressed as a percent of the full toll.

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

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

“FasTrak® toll tag” means a FasTrak® 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® toll tag” includes non-revenue FasTrak® toll tags and FasTrak Flex® 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+” means a high occupancy vehicle requirement of three or more occupants.

“HOV 2+” means a high occupancy vehicle requirement of two or more occupants.

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

“MTC” means the Metropolitan Transportation Commission.

“Non-revenue FasTrak® toll tag” means a FasTrak® 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.**

4.1 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, unless explicitly stated otherwise in Attachment A to this ordinance.

4.2 Subject to board approval at a duly noticed public meeting, BAIFA may carry out pilot projects on one or more toll facilities not to exceed 36 months in duration to test tolling and

discount policies and new technologies that may deviate from the policies and technologies specified in this ordinance.

## **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, accurately indicate toll-exempt or Discount 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 Sections 7.4 or 7.5, 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; Discount 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 vehicles with two persons 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 their occupancy status (by switching the tag to the '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. An exception is for class I vehicles designed by the manufacturer to be occupied by not more than two persons, including the driver; in this case, if the vehicle is occupied by two persons, the vehicle qualifies as toll-exempt, but must use a properly-mounted FasTrak Flex® toll tag switched to the '3+' setting or follow such other methods for indicating eligibility for exemption as shall be specified by BAIFA 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 on all BAIFA toll facilities must (i) use a properly mounted FasTrak® CAV toll tag accurately declaring the number of occupants in the vehicle (by switching the tag to the '1', '2' or '3+' setting), or (ii) 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;
- (C) fail to comply with Section 5.3; or
- (D) fail to comply with Section 5.4.

8.3. The Penalties for Violations under this ordinance shall be the penalties set forth in Attachment A to this ordinance. The exceptions to the assessment of Penalties are also set forth in Attachment A. Penalties and exceptions to the assessment of Penalties may be updated from time to time by a resolution of BAIFA adopted at a duly noticed public meeting. Upon adoption, updated Penalties and exceptions will be effective and deemed incorporated into this ordinance. Attachment A shall be updated to reflect any changes adopted through Resolution and posted on the agency website. Penalties shall not exceed the amounts established under Vehicle Code Section 40258, as may be amended from time to time, as the maximum penalties for civil toll evasion violations.

8.4 Vehicle occupancy violations while in the BAIFA toll facilities, including using a FasTrak Flex® toll tag to declare an occupancy status for toll exempt or discounted tolls 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 may use any lawful method to verify compliance with requirements for Discount and toll-exempt trips in the BAIFA toll facilities. Toll violations, including using a FasTrak Flex® toll tag to declare an occupancy status for toll exempt or discounted tolls when such declaration is not permitted hereunder, are subject to enforcement by BAIFA, as detailed in Sections 8.1 and 8.2 or as specified by BAIFA online at the BAIFA toll facility website, with Penalties as provided in Section 8.3.

8.6 BAIFA or BATA may access data saved electronically by the toll system in order to investigate Violations under this ordinance. Such data may include, but is not limited to, the vehicle license plate number, FasTrak Flex® toll tag setting, and FasTrak® toll tag account number, as permitted by law.

## **Section 9. Emergencies**

The executive director of BAIFA may suspend or reduce tolls or Penalties or modify hours of operation, HOV requirements or any other policy set forth in this ordinance to respond to an emergency for its duration until BAIFA's next meeting, at which time BAIFA will evaluate the executive director's action and determine whether to continue the executive director's action or take some other action. An emergency is defined as an Act of God or other threat to public safety or well-being or any declared state of emergency by a government entity of competent jurisdiction.

## **Section 10. 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 11. 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 or, as specified herein, by resolution of BAIFA. 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 12. 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 13. Effective Date.**

This amended and restated ordinance will take effect and be in force 30 days after its adoption; and the existing Toll Facilities Ordinance shall remain in full force and effect at all times until this amended and restated ordinance becomes effective. Upon adoption, this amended and restated ordinance shall be signed by the Chair of the governing board of BAIFA and a summary 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**

---

Alfredo Pedroza, Chair

The above ordinance was first adopted by the Bay Area Infrastructure Financing Authority at a regularly-scheduled meeting of BAIFA held in San Francisco, California, on July 27, 2016, and amended and restated by the Authority at a regularly-scheduled meeting of BAIFA held in San Francisco, California, on January 22, 2020, and further amended and restated by the Authority at regularly-scheduled meetings of BAIFA held in San Francisco, California and at other remote locations, on September 23, 2020 and June 22, 2022.

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 per zone, the hours of operation, and Discounts available for high occupancy vehicles (HOVs) 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	Maximum Hours of Operation	HOV Requirement and Occupancy Discount*	Clean Air Vehicle Discount*
<b>I-680 San Ramon to Martinez</b> Five zones southbound: <ol style="list-style-type: none"> <li>1. Monument Zone: Marina Vista Avenue to Monument Boulevard</li> <li>2. South Main Zone: Monument Boulevard to South Main Street</li> <li>3. El Cerro Zone: South Main Street to El Cerro Boulevard</li> <li>4. Crow Canyon Zone: El Cerro Boulevard to Crow Canyon Road</li> <li>5. Alcosta Zone: Crow Canyon Road to Alcosta Boulevard</li> </ol> Two zones northbound: <ol style="list-style-type: none"> <li>6. Crow Canyon Zone: Alcosta Boulevard to Crow Canyon Road</li> <li>7. Livorna Zone: Crow Canyon Road to Livorna Road</li> </ol>	\$0.50	Monday to Friday from 5AM to 8PM	100% for two or more persons (HOV 2+)	50%
<b>I-880 Oakland to Milpitas</b> Six zones southbound: <ol style="list-style-type: none"> <li>1. Washington/238 Zone: Hegenberger Road to Washington Avenue/238</li> <li>2. Tennyson Zone: Washington Avenue/238 to Tennyson Road</li> <li>3. Alvarado-Niles Zone: Tennyson Road to Alvarado-Niles Road</li> <li>4. Thornton Zone: Alvarado-Niles Road to Thornton Avenue</li> <li>5. Auto Mall Zone: Thornton Avenue to Auto Mall Parkway</li> <li>6. Dixon Landing Zone: Auto Mall Parkway to Dixon Landing Road</li> </ol> Five zones northbound: <ol style="list-style-type: none"> <li>7. Auto Mall Zone: Dixon Landing Road to Auto Mall Parkway</li> <li>8. Mowry Zone: Auto Mall Parkway to Mowry Avenue</li> <li>9. Decoto/84 Zone: Mowry Avenue to Decoto Road/84</li> <li>10. Whipple Zone: Decoto Road/84 to Whipple Road</li> <li>11. Hesperian/238 Zone: Whipple Road to Hesperian Boulevard/238</li> </ol>	\$0.50	Monday to Friday from 5AM to 8PM	100% for three or more persons (HOV 3+)  50% for two persons, with the exception of 100% for two persons in a class 1 vehicle designed by the manufacturer to be occupied by no more than two persons, including the driver.	50%

*\*Discounts cannot be combined across discount categories; for example, a two-person clean air vehicle on I-880 cannot receive a 100% discount (50% for two persons plus 50% for clean air vehicle).*

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® account prior to DMV registration hold or collections and the penalty will be waived.
3. For FasTrak® 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 replenishment threshold amount prior to posting the violation toll amount.

A processing fee will be applied to violations sent to the Department of Motor Vehicles (DMV) for a registration hold in the amount of the DMV recording fee authorized pursuant to Vehicle Code Section 4773 (currently \$3, as said amount may subsequently be revised by the DMV).

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

**July 27, 2016**

(as amended and restated January 22, 2020, ~~and~~ September 23, 2020, and June 22, 2022)

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

The Bay Area Infrastructure Financing Authority ordains as follows:

**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® 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.

“Discount” means a reduced-rate toll expressed as a percent of the full toll.

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

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

“FasTrak® toll tag” means a FasTrak® 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® toll tag” includes non-revenue FasTrak® toll tags and FasTrak Flex® 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+” means a high occupancy vehicle requirement of three or more occupants.

“HOV 2+” means a high occupancy vehicle requirement of two or more occupants.

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

“MTC” means the Metropolitan Transportation Commission.

“Non-revenue FasTrak® toll tag” means a FasTrak® 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.**

4.1 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, unless explicitly stated otherwise in Attachment A to this ordinance.

4.2 Subject to board approval at a duly noticed public meeting, BAIFA may carry out pilot projects on one or more toll facilities not to exceed 36 months in duration to test tolling and

discount policies and new technologies that may deviate from the policies and technologies specified in this ordinance.

## **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, accurately indicate toll-exempt or Discount 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 Sections 7.4 or 7.5, 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; Discount 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 vehicles with two persons 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 their occupancy status (by switching the tag to the '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. An exception is for class I vehicles designed by the manufacturer to be occupied by not more than two persons, including the driver; in this case, if the vehicle is occupied by two persons, the vehicle qualifies as toll-exempt, but must use a properly-mounted FasTrak Flex® toll tag switched to the '3+' setting or follow such other methods for indicating eligibility for exemption as shall be specified by BAIFA 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. ~~Prior to the opening of BAIFA's I-880 Oakland to Milpitas toll facilities to paying traffic, clean air vehicles must: (i) use a properly-mounted FasTrak Flex® toll tag to accurately indicate clean air vehicle status (by switching the tag to the '2' or '3+' setting), (ii) use a properly-mounted FasTrak®-CAV toll tag accurately declaring the number of occupants in the vehicle (by switching the tag to the '1', '2' or '3+' setting), or (iii) follow such other methods for indicating eligibility for the discount as shall be specified by BAIFA online at the BAIFA toll facility website. Upon the opening of BAIFA's I-880 Oakland to Milpitas toll facilities to paying traffic,~~ Clean air vehicles on all BAIFA toll facilities must (i) use a properly mounted FasTrak® CAV toll tag accurately declaring the number of occupants in the vehicle (by switching the tag to the '1', '2' or '3+' setting), or (ii) 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;
- (C) fail to comply with Section 5.3; or
- (D) fail to comply with Section 5.4.

8.3. The Penalties for Violations under this ordinance shall be the penalties set forth in Attachment A to this ordinance. The exceptions to the assessment of Penalties are also set forth in Attachment A. Penalties and exceptions to the assessment of Penalties may be updated from time to time by a resolution of BAIFA adopted at a duly noticed public meeting. Upon adoption, updated Penalties and exceptions will be effective and deemed incorporated into this ordinance. Attachment A shall be updated to reflect any changes adopted through Resolution and posted on the agency website. Penalties shall not exceed the amounts established under Vehicle Code Section 40258, as may be amended from time to time, as the maximum penalties for civil toll evasion violations.

8.4 Vehicle occupancy violations while in the BAIFA toll facilities, including using a FasTrak Flex® toll tag to declare an occupancy status for toll exempt or discounted tolls 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 may use any lawful method to verify compliance with requirements for Discount and toll-exempt trips in the BAIFA toll facilities. Toll violations, including using a FasTrak Flex® toll tag to declare an occupancy status for toll exempt or discounted tolls when such declaration is not permitted hereunder, are subject to enforcement by BAIFA, as detailed in Sections 8.1 and 8.2 or as specified by BAIFA online at the BAIFA toll facility website, with Penalties as provided in Section 8.3.

8.6 BAIFA or BATA may access data saved electronically by the toll system in order to investigate Violations under this ordinance. Such data may include, but is not limited to, the vehicle license plate number, FasTrak Flex® toll tag setting, and FasTrak® toll tag account number, as permitted by law.

## **Section 9. Emergencies**

The executive director of BAIFA may suspend or reduce tolls or Penalties or modify hours of operation, HOV requirements or any other policy set forth in this ordinance to respond to an emergency for its duration until BAIFA's next meeting, at which time BAIFA will evaluate the executive director's action and determine whether to continue the executive director's action or take some other action. An emergency is defined as an Act of God or other threat to public

safety or well-being or any declared state of emergency by a government entity of competent jurisdiction.

**Section 109. 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 1~~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 or, as specified herein, by resolution of BAIFA. 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 1~~21~~. 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 1~~32~~. Effective Date.**

This amended and restated ordinance will take effect and be in force 30 days after its adoption; and the existing Toll Facilities Ordinance shall remain in full force and effect at all times until this amended and restated ordinance becomes effective. Upon adoption, this amended and restated ordinance shall be signed by the Chair of the governing board of BAIFA and a summary 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**

Alfredo Pedroza~~Scott Haggerty~~, Chair

The above ordinance was first adopted by the Bay Area Infrastructure Financing Authority at a regularly-scheduled meeting of BAIFA held in San Francisco, California, on July 27, 2016, and amended and restated by the Authority at a regularly-scheduled meeting of BAIFA held in San Francisco, California, on January 22, 2020, and further amended and restated by the Authority at ~~a~~ regularly-scheduled meetings of BAIFA held in San Francisco, California and at other remote locations, on September 23, 2020 and June 22, 2022.

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 per zone, the hours of operation, and Discounts available for high occupancy vehicles (HOVs) 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	Maximum Hours of Operation	HOV Requirement and Occupancy Discount*	Clean Air Vehicle Discount*
<b>I-680 San Ramon to Martinez</b> Five zones southbound <sup>**</sup> : <ol style="list-style-type: none"> <li>1. Monument Zone: Marina Vista Avenue to Monument Boulevard</li> <li>2. South Main Zone: Monument Boulevard to South Main Street</li> <li>3. El Cerro Zone: South Main Street to El Cerro Boulevard</li> <li>4. Crow Canyon Zone: El Cerro Boulevard to Crow Canyon Road</li> <li>5. Alcosta Zone: Crow Canyon Road to Alcosta Boulevard</li> </ol> Two zones northbound: <ol style="list-style-type: none"> <li>6. Crow Canyon Zone: Alcosta Boulevard to Crow Canyon Road</li> <li>7. Livorna Zone: Crow Canyon Road to Livorna Road</li> </ol>	\$0.50	Monday to Friday from 5AM to 8PM	100% for two or more persons (HOV 2+)	<del>100% until the I-880 Oakland to Milpitas Toll Facility opens to paying traffic, at which time the CAV Discount shall be</del> 50%
<b>I-880 Oakland to Milpitas</b> Six zones southbound: <ol style="list-style-type: none"> <li>1. Washington/238 Zone: Hegenberger Road to Washington Avenue/238</li> <li>2. Tennyson Zone: Washington Avenue/238 to Tennyson Road</li> <li>3. Alvarado-Niles Zone: Tennyson Road to Alvarado-Niles Road</li> <li>4. Thornton Zone: Alvarado-Niles Road to Thornton Avenue</li> <li>5. Auto Mall Zone: Thornton Avenue to Auto Mall Parkway</li> <li>6. Dixon Landing Zone: Auto Mall Parkway to Dixon Landing Road</li> </ol> Five zones northbound: <ol style="list-style-type: none"> <li>7. Auto Mall Zone: Dixon Landing Road to Auto Mall Parkway</li> <li>8. Mowry Zone: Auto Mall Parkway to Mowry Avenue</li> <li>9. Decoto/84 Zone: Mowry Avenue to Decoto Road/84</li> <li>10. Whipple Zone: Decoto Road/84 to Whipple Road</li> <li>11. Hesperian/238 Zone: Whipple Road to Hesperian Boulevard/238</li> </ol>	\$0.50	Monday to Friday from 5AM to 8PM	100% for three or more persons (HOV 3+)  50% for two persons, with the exception of 100% for two persons in a class 1 vehicle designed by the manufacturer to be occupied by no more than two persons, including the driver.	50%

*\*Discounts cannot be combined across discount categories; for example, a two-person clean air vehicle on I-880 cannot receive a 100% discount (50% for two persons plus 50% for clean air vehicle).*

~~\*\*Under this September 23, 2020 amended and restated ordinance, the I 680 Express Lane is being extended from Martinez to Walnut Creek in the southbound direction, adding three new toll zones: Monument, South Main and El Cerro. Once the three new zones open to toll-paying traffic, the El Cerro Zone will be from South Main Street to El Cerro Boulevard and the Crow Canyon Zone will be from El Cerro Boulevard to Crow Canyon Road. Until the three new zones open to toll-paying traffic, the southbound Crow Canyon Zone is from Rudgear Road to Crow Canyon Road and the Minimum Toll per Zone, Maximum Hours of Operation, HOV Requirement and Occupancy Discount and Clean Air Vehicle Discount in the southbound direction apply only from Rudgear Road to Alcosta Boulevard.~~

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® account prior to DMV registration hold or collections and the ~~\$25~~ penalty will be waived.
3. For FasTrak® 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 replenishment threshold opening balance amount prior to posting the violation toll amount.

A processing fee will be applied to violations sent to the Department of Motor Vehicles (DMV) for a registration hold in the amount of the DMV recording fee authorized pursuant to Vehicle Code Section 4773 (currently \$3, as said amount may subsequently be revised by the DMV).

## Attachment B Public Comment Summary

**Note:** The purpose of this summary is to acknowledge and respond to frequently made public comments, with a focus on areas of concern. Comments are grouped into four categories, the first three of which align with proposed changes to BAIFA's Toll Facility Ordinance: 1) enable tolling pilots, 2) allow modifications to violation penalty amounts and exceptions to penalties by board resolution, 3) define emergency authority, and 4) other comments. Within each comment category, comment themes are roughly ordered from most to least mentioned with a corresponding staff response. A complete list of the 1,747 individual public comments received between April 20, 2022 and May 24, 2022 (including one e-mail comment and two in-person comments from BAIFA's May 25 Public Hearing) broken out by language (English, Spanish, Chinese) are posted at [www.mtc.ca.gov/express-lanes-policies](http://www.mtc.ca.gov/express-lanes-policies).

### 1. Comments on enabling tolling pilots

Comment Theme	Staff Response
<p>Many people think BAIFA should undertake a toll discount pilot and many others think it should not.</p> <p>People who want to undertake the pilot support it from an equity standpoint. They want to improve access to express lanes for those who cannot afford to pay the full toll.</p> <p>People who do not want to undertake the pilot oppose it for a variety of reasons.</p> <p>Some think a toll discount pilot is a solution to a problem created by express lanes and that BAIFA should end tolling on express lanes. Others think BAIFA should lower tolls for everyone.</p> <p>Some think that BAIFA should treat everyone the same and not pit one group (low income) against another group (middle class). Some think the middle class is not factored into decisions or is left out of solutions, and more should be done to support the middle class in the pricey Bay Area.</p>	<p>Staff is proposing a toll discount pilot on BAIFA's I-880 Express Lanes as a learning opportunity on how to address equity and affordability issues for low-income drivers.</p> <p>Many people are opposing the idea of a toll discount program as a way of protesting against express lanes. Express lanes are a regional strategy to support mobility options. Express lanes use tolling and technology to keep traffic moving, giving carpoolers, bus riders and solo drivers the choice for a more reliable trip. Tolls change to manage traffic and speeds; lower tolls would undermine performance.</p> <p>Staff acknowledges the Bay Area's high cost of living and the affordability challenge it presents for people with a variety of income levels. The pilot is a demonstration of limited</p>

<p>Some have concerns about fraud in terms of people misrepresenting their eligibility or sharing their discount with others.</p> <p>Some think that allowing low-income drivers to use the express lane for less will result in more cars in the express lane, slowing the express lane and increasing tolls for everyone. Some do not want to pay for low-income drivers to use the express lanes.</p> <p>A few think a toll discount pilot could encourage low-income drivers to spend money on a service they don't really need.</p> <p>A few think low-income people would be better served by investing in public transit.</p> <p>A few think it may be too complicated and costly to administer a toll discount program.</p>	<p>duration. If after the evaluation BAIFA decides to implement the program on a wider basis, BAIFA may wish to consider whether the benefits should be expanded to other income levels.</p> <p>Staff shares concerns about fraud. Staff plans to monitor unusual account and trip activity and is considering a policy to allow BAIFA to act on suspected fraud. Toll discount pilot rules could be tailored to address fraud.</p> <p>Staff will evaluate the toll discount pilot's impact on express lane performance and posted tolls.</p> <p>Staff will evaluate the benefit participants perceive through focus groups in the pilot evaluation.</p> <p>While public transit is important, it is not always a viable option for essential trips.</p> <p>Staff will analyze the administrative burden and cost of the toll discount program in the pilot evaluation.</p>
<p>Some people suggested changes to the toll discount pilot.</p> <p>Some think the income threshold needs to account for the Bay Area's cost of living.</p> <p>Some think eligibility should be expanded to include other groups of people (for example, seniors, people with disabilities and their helpers, pregnant women, corridor residents, veterans, students and Uber/Lyft drivers).</p> <p>A few suggested a discount amount which ranged from 10% off to toll-free.</p>	<p>Staff proposes the toll discount pilot use the same income threshold as the Clipper START transit fare discount program for ease and speed of implementation (200% of the federal poverty level), but acknowledges it is low.</p> <p>Staff does not recommend expanding eligibility for the pilot, but BAIFA may consider expanded eligibility after evaluating the pilot. Staff recommends using income as the eligibility criterion for consistency with other programs, including Clipper Start.</p> <p>Staff researched the discount amount with potential low-income drivers and, based on</p>

<p>A few suggested those who use the express lanes more frequently need the discount most.</p> <p>A few suggested discounts on bridge tolls since low-income drivers cannot avoid them.</p>	<p>their input, recommends 50% off all tolled trips on BAIFA's I-880 Express Lanes.</p> <p>Staff does not think frequency of use of the express lane should be an eligibility criterion or affect the discount amount. Express lanes are meant to be an occasional choice for any solo drivers, not a daily choice for some.</p> <p>BAIFA's authority is limited to BAIFA's express lanes. The Bay Area Toll Authority, which is responsible for the seven state-owned toll bridges and operates the FasTrak® toll collection system and Regional Customer Service Center, is undertaking a comprehensive Equity Action Plan to review its policies from an equity perspective.</p>
<p>Of the few comments on pilots in general, most people said that it made sense to give BAIFA the authority to do pilots or wanted more information or examples to decide.</p>	<p>In its outreach, staff put focus on the toll discount pilot to provide the public an opportunity to comment on the specific pilot BAIFA is considering. As a result, public comment overwhelmingly focuses on this particular pilot rather than pilots in general. While staff has no other official pilot plans, another example of a future pilot could be to allow the use of a smartphone app in lieu of a toll tag to declare occupancy.</p>

## 2. Comments on allowing violation penalty amounts and exceptions to penalties by board resolution

Comment Theme	Staff Response
<p>Some people stated that changing penalty amounts needs to follow a public process.</p> <p>Some people only support changing penalties by board resolution to reduce penalties, not to increase penalties.</p> <p>Some people are suspicious of government and think unelected decision-makers are not accountable. They think penalties should be</p>	<p>Changing violation penalty amounts and exceptions to penalties by board resolution would retain the need for a public action at a duly-noted BAIFA meeting.</p> <p>If adopted, BAIFA would be able to reduce or increase violation penalties by board resolution. Staff intends to recommend BAIFA approve lower violation penalties subsequent to adoption of the ordinance amendment.</p>

<p>voted on by the people or at least by elected decision-makers.</p>	<p>BAIFA is a mix of elected and appointed decision-makers from the nine-county Bay Area. BAIFA follows a public process to amend its Toll Facility Ordinance. The level of effort spent by staff to collect, analyze, and report on public sentiment to BAIFA demonstrates public accountability.</p>
<p>Comments on penalty amounts varied.</p> <p>Some people commented on their support for no penalties, lower penalties, or income-based penalties for equity and affordability reasons. For the latter, a few think higher penalties for wealthy people might be necessary to keep them from violating. Some people perceive the wealthy are not affected by the cost of violating and view a ticket as part of the annual cost of commuting.</p> <p>A similar number of people support raising penalties or having the same penalty for everyone. These people have little sympathy for rule breakers since there are signs along the express lane to warn people about violating. These people think penalties exist for compliance and should be enforced; they are concerned that lower penalties would result in less compliance.</p>	<p>Staff intends to recommend BAIFA approve lower violation penalties for everyone on its express lanes subsequent to adoption of the toll ordinance amendment in coordination with the other Bay Area express lanes operators. Staff would continue to collect data on tolls and violation penalties paid in addition to other enforcement-related data to assess the impact of lower penalties.</p>
<p>Some people identify the need for more enforcement to discourage drivers from breaking express lanes rules including incorrectly setting toll tags to travel toll-free, driving around toll readers to avoid tolls, and crossing double-white lines.</p>	<p>There are two types of enforcement in express lanes: automated toll violation enforcement by the express lanes toll system and manual enforcement by the California Highway Patrol (CHP). Currently, CHP is the only way to enforce incorrect toll tag settings, driving around readers and crossing double white lines. While BAIFA pays CHP to perform daily enforcement, some people flout the rules and are not caught. Staff is piloting two technologies to verify the number of people in a carpool for potential</p>

	express lanes use. Staff will continue to work with CHP on enforcement strategies to reduce violations.
Some people emphasize the need for BAIFA to be forgiving since the express lanes are confusing and to offer violators a grace period to correct for a violation. While offering forgiveness for first-time offenders, repeat offenders should be punished.  A few people commented about the need for payment plans.	BAIFA, through the FasTrak Customer Service Center, already waives violation penalties for first-time express lanes violators who sign up for FasTrak.  Staff is closely following BATA's Equity Action Plan and its work on payment plans for future applicability to express lanes.
A few people commented on the need to fix violation policies that result in significant penalties relative to the toll amount.	Staff intends to recommend BAIFA approve lower violation penalties for everyone on its express lanes in the next few months. Staff is closely following BATA's work on BATA's Equity Action Plan for applicability to express lanes.

### 3. Comments on defining emergency authority

Comment Theme	Staff Response
Some people think that the term 'emergency' needs to be clearly defined.	In the proposed amendment to the Toll Facility Ordinance, an emergency is defined as "an Act of God or other threat to public safety or well-being or any declared state of emergency by a government entity of competent jurisdiction". Examples of an emergency are the COVID-19 pandemic, an earthquake or a wildfire. A car accident that affects traffic would not qualify as an emergency.
Some people think BAIFA should allow everyone toll-free access to the express lane during emergencies.	During an emergency, typically the California Highway Patrol provides direction on how to use the lanes and BAIFA complies.
Some people are suspicious of giving too much power to a single person, the BAIFA	The Executive Director would have the authority to suspend or reduce tolls or penalties, or modify hours of operation, HOV

Executive Director, and think there should be clear limits on their authority.	requirements or any other policy set forth in the ordinance to respond to an emergency for its duration until BAIFA's next meeting, at which time BAIFA would evaluate the Executive Director's action and determine whether to continue to follow their action or take some other action.
--	--

#### 4. Other comments

Comment Theme	Staff Response
<p>People who want an end to express lanes tolling often voiced strong opposition when responding to survey questions throughout.</p> <p>Some stated they already paid taxes to build the lanes and should not have to pay again to drive on them. Some think everyone should have equal access to public roads; freeways should be free.</p> <p>Some think express lanes cause traffic in the neighboring general purpose lanes.</p> <p>Some think express lanes only or mostly benefit the rich.</p> <p>Some think express lanes undermine carpooling and clean air efforts and a return to carpool lanes is needed.</p>	<p>Express lanes use tolling and technology to keep traffic moving, giving carpoolers, bus riders and solo drivers the choice for a more reliable trip. Previously, solo drivers could not use the HOV lane during commute hours, and there was no technology to ensure its performance. No one is required to use express lanes.</p> <p>Staff regularly analyzes traffic data to compare current and past corridor performance. In general, the traffic volumes in the general purpose lanes next to BAIFA's I-880 and I-680 Contra Costa express lanes continue to increase since the beginning of the COVID-19 pandemic but are still less crowded than before the pandemic.</p> <p>Staff recognizes equity is a legitimate concern with express lanes and is committed to exploring how to address it in a regional context that includes other Bay Area express lanes and bridge toll operators. This concern is the genesis of the toll discount pilot program for low-income drivers on BAIFA's I-880 Express Lanes.</p>

	<p>While it would be nice for only carpools and clean air vehicles to be allowed to use express lanes, under-performing HOV lanes show that the status quo does not work. The Bay Area has introduced technology to monitor and enforce the lanes better and tolls to help manage demand and pay for operations and maintenance. Placing a price on excess capacity while maintaining reliable travel times for all users of the express lanes should encourage people to use carpools and buses.</p>
<p>Some want to change express lanes rules, mostly to return to past HOV lane policy. Some people want the carpool requirement to be two people to travel toll-free, not three people. Some people want the hours of operation to be the morning and evening peaks only.</p>	<p>Before BAIFA converted the I-880 HOV lanes to express lanes, there were too many cars in the HOV lanes, and the majority were 2-person carpools. If 2-person carpools were still toll-free, the I-880 Express Lanes performance would still be degraded.</p> <p>All Bay Area express lanes operate from 5am-8pm. Consistency of hours across toll facilities is important to keep rules simple for the customer. BAIFA's express lanes operate during these hours and have not caused significant freeway traffic congestion in the middle of the day per data reported quarterly (<a href="http://www.mtc.ca.gov/express-lanes">www.mtc.ca.gov/express-lanes</a> under 'related documents').</p>
<p>Some complained of high express lane tolls.</p>	<p>Express lanes must meet federal speed requirements. Tolls change based on traffic to keep the express lanes moving better than the general purpose lanes. Lowering tolls during periods of heavy traffic would undermine performance.</p>
<p>Some suggested the need to fix technology, lane design and customer service to address issues like toll tag misreads, crossing double-white lines and disputing violations, respectively.</p>	<p>Staff constantly monitors the performance of the express lane systems and customer service. Staff works diligently to address and resolve performance issues when discovered.</p>



Some want express lanes to be approved by ballot initiative.	The California Transportation Commission (CTC) is responsible for authorizing express lanes in the State. The CTC approved MTC's application to implement and operate its 270-mile express lanes network in Alameda, Contra Costa and Solano counties on October 27, 2011. MTC delegated its authority to BAIFA in April 2013.
Some want to build new freeway lanes, not convert existing lanes to toll lanes.	Conversion of existing HOV lanes is the fastest and least expensive way to improve mobility and reliability. New toll lanes where there is no existing HOV lane and where right-of-way exists to add a lane needs to be considered in context with environmental considerations.
Some people are confused about how to use express lanes and the rules.	Customers can find information about how to use express lanes at <a href="http://511.org">511.org</a> and <a href="http://BayAreaFasTrak.org">BayAreaFasTrak.org</a> .
Some people wanted more information to answer the question.	Staff provided a fact sheet to explain changes being considered by BAIFA while trying to be mindful of the balance between providing too much information and not enough.
A few want to know how toll revenue is spent and think it should fund highway repair (which they don't think is happening).	Paying for express lanes operating and maintenance costs is top priority. Statute dictates other eligible expenses. BAIFA intends to adopt a toll revenue expenditure plan once there is more certainty about long-term revenues. The COVID-19 pandemic continues to affect 'normal' Bay Area traffic patterns.