



Memorandum

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DATE: February 4, 2019

TO: I-580 Express Lane Policy Committee

FROM: Liz Rutman, Director of Express Lanes Implementation and Operations

SUBJECT: I-580 Tolling Overview

Recommendation

This item is to provide the Commission with an informational presentation on the I-580 Express Lanes tolling policies and operations. This item is for information only.

Summary

This is an informational item on the I-580 Express Lanes tolling policies and pricing procedures. Section 149.5 of California Streets and Highway Code authorizes Alameda CTC, the administrative agency of I-580 Express Lanes, to adopt a fee structure to manage traffic congestion. The Commission approved a set of Business Rules in January 2015, adopted the Ordinance for Administration of Tolls and Enforcement of Toll Violations for the I-580 Express Lanes in July 2015, and adopted a Toll Policy in September 2015. Toll rates are dynamically priced based on real-time traffic conditions to optimize the use of existing roadway capacity.

Background

The I-580 Express Lanes extend from Hacienda Drive to Greenville Road in the eastbound direction and from Greenville Road to San Ramon Road/Foothill Road in the westbound direction. An All Electronic Toll (AET) collection method has been employed to collect tolls by means of FasTrak® transponders and/or license plates.

Although California Streets and Highways Code section 149.5 authorized Alameda CTC to conduct, administer, and operate a value pricing high-occupancy vehicle program (Express Lane) on I-580, it was necessary for the Commission to adopt business rules, a toll ordinance, and tolling policies prior to opening the lanes to traffic in February 2016. The original I-580 Express Lanes Business Rules, adopted in February 2015, are provided in

Attachment A. These business rules provided guidance for the facility and toll system design and encompassed the following major design concepts:

- Near continuous access
- Zone tolling
- Dynamic pricing
- Automated toll violation
- Trip building and toll collection
- Enforcement

In July 2015, the Commission adopted the Ordinance for Administration of Tolls and Enforcement of Toll Violations for the I-580 Express Lanes (Attachment B). The ordinance establishes the administrative procedures and penalties to ensure that motorists who evade the payment of tolls while travelling in the I-580 Express Lanes shall be subject to civil penalties, while ensuring fairness in the treatment of violators. A majority of the ordinance is dictated by applicable State law in conjunction with the procedures of the Bay Area Toll Authority (BATA), which manages the FasTrak accounts and implements the automated tolling violation mechanism.

In September 2015, the Commission adopted a Toll Policy that established tolling parameters as shown in the table below.

Item	Setting	Policy
Minimum toll rate	\$0.30*	<ul style="list-style-type: none"> • Implement within the hours of operation
Maximum toll rate	<ul style="list-style-type: none"> • No Maximum • Cap the maximum initial dynamic pricing at \$15 	<ul style="list-style-type: none"> • Implement within hours of operation to optimize corridor capacity, without degrading the operation of HOV and GP Lanes • Authorize the Executive Director to adjust the toll rate, within approved toll parameters to optimize corridor throughput, based on changing traffic conditions • Maintain incremental toll rate increases within a \$2 - \$5 range • Report back to Commission when toll rates are revised, within the approved Min/Max parameters
Toll Waiver/Reduction		<ul style="list-style-type: none"> • Authorize the Executive Director to plan and execute a toll waiver/reduction plan

*Increased to \$0.50 effective January 1, 2017 after evaluation of operating costs associated with processing tolls.

Hours of operation and occupancy requirements for toll-free travel are proposed by Alameda CTC but approved by the Managed Lane Committee, which is comprised of Caltrans, the Metropolitan Transportation Commission (MTC), and the California Highway Patrol (CHP). The I-580 Express Lanes operates Monday – Friday from 5:00 am to 8:00 pm. At inception, the facility was established as “HOV2+”, meaning all high-occupancy vehicles (HOVs) with two or more occupants, transit vehicles, and motorcycles are permitted toll-free use of the I-580 Express Lanes. In addition, clean-air-vehicles (CAVs)

eligible to use HOV lanes per California law are currently permitted to use the I-580 Express Lanes for free.

Staff evaluate the I-580 Express Lanes periodically to assess if they are meeting federal and state performance requirements, as well as providing speed and level of services (LOS) benefits over the general purpose lanes. The Federal Highway Administration considers an express or HOV lane degraded if the average traffic speed during the morning or evening weekday peak commute hours is less than 45 miles per hour for more than 10 percent of the time over a consecutive 180 day period. Caltrans mandates that express lanes maintain LOS C or better, though small periods of LOS D are permitted. The heat maps for speed and LOS (measured as density) that staff have prepared for the monthly status updates reflect a portion of this evaluation.

Pricing is one tool used to help express lanes meet desired performance metrics. When demand for the express lane increases beyond the free flow capacity of the lane, speed will start to decrease and LOS degrades. The dynamic pricing algorithm used by the toll system evaluates the speeds and traffic volumes in the express and general purpose lanes every three minutes and adjusts the toll rates to achieve desired parameters, but may be constrained by preset parameters such as caps on the rate change from one time period to the next or limits on the minimum or maximum toll rates. To ensure the dynamic pricing algorithm does not escalate rates unchecked, staff implement a "soft cap" on the rates for each zone and for the entire corridor. This allows the dynamic pricing algorithm to calculate prices exceeding this cap but the system cannot charge users more than the capped amount. The maximum toll rates for the I-580 Express Lanes, which is the toll rate to travel the entire length of the corridor, are currently \$12.00 in the eastbound direction and \$13.00 in the westbound direction. When evaluation of the express lane performance shows sustained degradation over time, staff evaluates the toll rate caps and other dynamic pricing algorithm parameters and propose modifications to the Executive Director to improve performance of the express lanes.

Failure to meet federal, state, or owner-desired performance requirements may necessitate modifications to non-pricing policies, such as occupancy requirements and CAVs. Some Bay Area Express Lanes are evaluating requiring three occupants per vehicle for toll-free travel (HOV3+) while providing a partial discount toll rate to HOV2 users. All California toll operators are evaluating modifying their CAV policies to provide for a partial discount rather than toll-free travel. Either of these would necessitate that the Commission modify the current I-580 Toll Ordinance.

The I-580 Express Lanes toll system upgrade will commence in late 2019. Staff propose to condense the current 15 toll zones down to 9, allowing for a more manageable system that discourages weaving in and out of the express lanes and is operationally more consistent with other Bay Area toll systems. Attachment C shows the current and proposed toll zone maps. The presentation of this item will provide additional details regarding toll rates for the I-580 Express Lanes.

Fiscal Impact: There is no fiscal impact associated with the requested action.

Attachments:

- A. Business Rules (January 2015)
- B. Alameda CTC Ordinance for Administration of Tolls and Enforcement of Toll Violations for the I-580 Express Lanes
- C. I-580 Corridor Express Lane Toll Zone Maps

1 Permitted Vehicles

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| <p>1.1 Only vehicles with two axles, including motorcycles, are permitted to use the express lanes. [Federal Surface Transportation Assistance Act of 1982 §§167, CVC §§21654]</p> | <p>HOV/Express Lane: HOV and solo toll paying users will be allowed to use the lane.</p> |
| <p>1.2 Any vehicle carrying a trailer or towing another vehicle, and vehicles with more than two axles, are not permitted to use the express lanes. [CVC §§21654]</p> | <p>Violators may be cited by CHP for violating vehicle code.</p> |

2 Access

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| <p>2.1 Near continuous access</p> | <p>Continuous access for most part. Buffer separation will be provided where safety and/or traffic conflicts are anticipated.</p> |
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3 Hours of Operation/Occupancy Requirement/HOV Degradation

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| <p>3.1 Hours of Operation</p> | <p>The I-580 express lane tolling hours of operation shall be concurrent with the HOV hours of operation. [Ref. California Streets & Highway code §§ 149.]. Current HOV hours could be extended by HOV Lane Committee</p> |
| <p>3.2 Occupancy Requirement</p> | <p>Current high occupancy requirement for the I-580 EL is two or more passengers (HOV 2+) in each permitted vehicle.</p> |
| <p>3.3 HOV Degradation</p> | <p>During morning and evening commute hours, or both, maintain 45 MPH or higher in HOV lane for 90% of the time.</p> <p>When HOV/Express Lane is degraded, the mode of operation will automatically switch to HOV Only.</p> <p>When "HOV Only" mode is displayed on a dynamic message sign it means that solo drivers shall not enter the HOV/express lane unless they are a motorcycle or clean air vehicles allowed in the HOV lane, as "HOV Eligible Vehicles" per current State laws. CHP may issue violation notices to the violators.</p> |

When the express lane is in HOV Only mode vehicles already in the express lanes that do not meet the occupancy requirement will be charged the locked-in rate for that segment.

4 Pricing/Tolling

- 4.1 **Dynamic Pricing** Congestion pricing, based on real-time congestion in the corridor (i.e. in GP & Express Lanes), be automatically updated every 3 minutes
- 4.2 **Zone tolling** Flat rate for travel within a zone.
- 4.3 **Min/Max** Subsequent to rate sensitivity analysis, in summer 2015, Commission will adopt Min./Max toll rates for toll operation
- 4.4 **Locked in rates** Customers will be locked-in to pay the toll rate displayed on the DMS at the time of their entrance into the express lane.

5 Trip Building/Toll Collection

- 5.1 **All electronic tolling (AET)** Automatic toll collection through electronic device. No toll plaza/toll gate OR reason to slow down. Toll gantries will be placed approximately at 3/4 mile intervals.
- 5.2 **Toll Trip Building** Based on transponder reads or license plate image capture at toll gantries

For enforcement purposes, all vehicles using the facility will be required to carry electronic toll devices (FasTrak or FasTrak flex). HOV users will not be charged tolls, if occupancy requirement is met.

Vehicles equipped with standard (legacy) transponders will be tolled at the SOV toll rate regardless of occupancy. As authorized by AB 1811, any HOV traveler will require to carry a device, switchable transponder (aka FasTrak flex) with the setting at "2" or "3" to receive toll waiver. HOV eligible travelers (decal vehicles, motorcycles, allowed in HOV lane for free) must carry a FasTrak flex transponder with the setting at "3."

FasTrak flex Transponder Trips with different switch settings within a single Trip will be assigned the lowest occupancy setting that is detected during that Trip.

Transit & vanpools (registered through Rideshare) that are not equipped with a non-revenue transponder must carry FasTrak flex Transponders and meet occupancy requirements to receive HOV discounts.

Vehicles with metallic windshields must use a bumper mounted transponder. Vehicles with metallic windshields cannot receive the HOV discount.

Rental cars: Tolls will be charged to the rental account. It is the responsibility of the customer to check with the rental agency and to make sure they are opted in to use the rental toll payment program. Customers in rental cars are not eligible for HOV travel on the express lanes unless occupancy requirements are met and a valid FasTrak flex transponder is mounted in the vehicle.

By license plate image capture review process, all vehicles without transponders will be charged the SOV toll (and violation penalties if applicable).

5.3 Authorized emergency vehicles (that properly displaying an exempt California license plate) are exempt from the requirement to pay a toll

The driver of the vehicle will decide whether the use of the toll facility will likely to improve the availability or response and arrival time of the authorized emergency vehicle and its delivery of essential public safety services. [Ref. CVC §23301.]

6 Enforcement

6.1 Toll Violation Enforcement (automated)

Commission will consider adopting Toll Ordinance to enact toll violation processing/penalties in its June and July 2015 meetings

A maximum toll penalty will be established by the Commission. Staff will seek approval in March 2015.

Drivers who incur a toll and do not have a registered account eligible for posting the Trip Transaction at the time of travel will be issued a Violation Notice.

All images captured in support of a Trip Transaction will be available at the TDC for trip building, to be used in support of violation notices and to resolve customer disputes received by customer service center

6.2 Occupancy Violation Enforcement (by CHP)

Occupancy requirement will be field verified by CHP officers

System enforcement tools, including beacon lights and access to web portal will be provided to the CHP to assist them in the enforcement effort.

After pulling a vehicle over, CHP will use a web portal to query the transponder ID and most recent occupancy switch positions to confirm whether customer declaration at the previous Toll Read Point is consistent with observed vehicle occupancy.

After issuing a citation, a CHP officer may use the web portal to e-mail [encrypted] transponder and other motorist engagement information for time-stamped court documentation with historical data.

CHP will also enforce lane crossing restrictions and other associated laws/rules regarding express lane operations.

7 Miscellaneous

7.1 Performance Monitoring

Alameda CTC express lane operators are responsible for monitoring and reporting the freeway performance, as required by State and Federal laws. The operators may also provide assistance to incident management when contacted by CHP or the Traffic Management Center.

7.2 Traffic control

All maintenance and traffic control activities will follow Caltrans lane closure guidelines, procedures, and permitting.

ALAMEDA COUNTY TRANSPORTATION COMMISSION

**ORDINANCE FOR ADMINISTRATION OF
TOLLS AND ENFORCEMENT OF TOLL VIOLATIONS
FOR THE I-580 EXPRESS LANES**

PREAMBLE

The Alameda County Transportation Commission (“Alameda CTC”) is authorized pursuant to California Streets and Highways Code section 149.5 to conduct, administer, and operate a value pricing high-occupancy vehicle program (“Express Lane”) on Interstate 580 (“I-580”) in Alameda County. As of the date of this Ordinance, the Alameda CTC is in the process of constructing two eastbound Express Lanes which shall operate on eastbound I-580 from Hacienda Drive to Greenville Road (“I-580 Eastbound Express Lanes”), and a westbound Express Lane which shall operate on westbound I-580 from Greenville Road to San Ramon Road / Foothill Road (“I-580 Westbound Express Lane”). The I-580 Eastbound Express Lanes and the I-580 Westbound Express Lane shall hereinafter be collectively referenced herein as the “I-580 Express Lanes.” Tolls on the I-580 Express Lanes shall be determined through a dynamic process pursuant to certain procedures and limitations adopted by the Alameda CTC, as may be modified from time to time.

While traveling in the I-580 Express Lanes, motorists are required to have a properly mounted transponder associated with a valid FasTrak[®] Account to facilitate vehicle occupancy validation and the toll collection process pursuant to California Vehicle Code (“Code”) section 23302 *et seq.*, and California Streets and Highways Code Section 194.5(b). Code Section 23302.5 provides that it is unlawful for a person to evade or attempt to evade the payment of tolls or other charges on any vehicular crossing or toll highway, and further provides that such acts are subject to civil penalties. Code Division 17, Chapter 1, Article 4, commencing with section 40250 (“Article 4”), provides for enforcement of civil penalties for violation of Code Section 23302.5 and any ordinance enacted by local authorities including joint powers authorities, pursuant to civil administrative procedures set forth in Article 4. This Ordinance establishes the administrative procedures and penalties, enacted pursuant to Article 4, to ensure that motorists who evade the payment of tolls while travelling on the I-580 Express Lanes shall be subject to civil penalties, while ensuring fairness in the treatment of violators.

Now, therefore, the governing body of the Alameda County Transportation Commission hereby ordains as follows:

ARTICLE I - GENERAL

Section 1. Title

This ordinance shall be known as the “I-580 Express Lanes Toll Enforcement Ordinance.”

Section 2. Definitions

In addition to the definitions set forth hereinabove, the following definitions shall apply throughout this Ordinance:

- (a) “BATA” means the Bay Area Toll Authority.
- (b) “Commission” means the governing body of the Alameda CTC.
- (c) “Delinquent Penalty” is the amount assessed when a Violation is deemed to be delinquent as set forth in **Section 5** of this Ordinance.
- (d) “Department” shall mean the California Department of Motor Vehicles.
- (e) “Due Date” shall mean the date specified in the Notice of Toll Evasion Violation and Notice of Delinquent Toll Evasion Violation by which payment of the Penalty or written explanation of contest must be received.
- (f) “FasTrak” or “FasTrak[®]” means the electronic toll collection system, managed by BATA in the San Francisco Bay Area, which allows Motorists to prepay tolls on the I-580 Express Lanes and other toll facilities in the Bay Area and elsewhere in California.
- (g) “FasTrak Account” shall mean an account established with any of the California toll operators to administer the payment of tolls.
- (h) “Motorist” shall mean the registered owner, rentee, lessee and/or driver of a Vehicle.
- (i) “Notice of Delinquent Toll Evasion Violation” shall mean the written notice provided to the registered owner of a Vehicle when a Penalty has not been timely received by Alameda CTC.
- (j) “Notice of Toll Evasion Violation” shall mean the written notice provided to the registered owner of a Vehicle which has committed a Violation.
- (k) “Penalty” shall mean the monetary amounts assessed to each toll Violation, including the unpaid Tolls, the Toll Evasion Penalty and the Delinquent Penalty, and constitutes a toll evasion penalty under Code section 40252.
- (l) “Processing Agency” shall mean Alameda CTC, or the contractor or vendor designated by Alameda CTC, as the party responsible for the processing of the notices of toll evasion.
- (m) “Repeat Violator” means any registered owner for whom more than five (5) Notices of Toll Evasion Violation have been issued in any calendar month within the preceding twelve (12) month period.

(n) “Switchable Transponder” or “FasTrak flex[®]” shall each mean a Transponder with a switch which allows Motorists to self-declare the number of vehicle occupants.

(o) “Terms and Conditions” shall mean the obligations of Alameda CTC and a FasTrak customer with regard to the usage and maintenance of a FasTrak Account as published by BATA or other applicable California toll operator from time to time.

(p) “Toll” shall mean the monetary charges for use of the I-580 Express Lanes as applicable at the time a Motorist enters either of the I-580 Express Lanes, as determined through the dynamic pricing system established by Alameda CTC.

(q) “Toll Evasion Penalty” is the amount assessed under **Section 5** of this Ordinance.

(r) “Transponder” shall mean a FasTrak electronic device issued by any of the California toll operators that meets the specifications of California Code of Regulations Title 21 and is used to pay tolls electronically.

(s) “Vehicle” shall mean any vehicle as defined in Code section 670.

(t) “Violation” shall mean the commission of any activity proscribed in **Sections 3** and **4** of this Ordinance.

Section 3. I-580 Express Lanes Usage Requirements

(a) While traveling in the I-580 Express Lanes, Motorists shall have a properly mounted transponder associated with a valid FasTrak Account to facilitate vehicle occupancy validation and the toll collection process. Motorists traveling in the I-580 Express Lanes with the minimum number of vehicle occupants to qualify for high occupancy lane use at that time must have a Switchable Transponder set to the required number of occupants or they will be charged the posted single occupancy Toll.

(1) I-580 Express Lanes users with a Switchable Transponder in the Vehicle traveling in the I-580 Express Lanes shall set the self-declaration switch to the actual number of vehicle occupants prior to travel.

(2) Motorists in single occupancy vehicles authorized pursuant to California law as eligible users of high occupancy vehicle lanes shall carry a Switchable Transponder and set the self-declaration to either the two or three position prior to entering the Express Lane.

(3) I-580 Express Lanes users without a Switchable Transponder in the Vehicle traveling in the I-580 Express Lanes will be charged the posted single occupancy Toll rate.

(4) Vehicle occupancy violations, including falsely self-declaring the vehicle occupancy, are subject to citation by the California Highway Patrol.

(b) The FasTrak Account associated with the Transponder contained in any Vehicle must have a balance sufficient to pay the charged Tolls each the time the Vehicle enters the I-580 Express Lanes.

(c) I-580 Express Lanes FasTrak accountholders shall adhere to the Terms and Conditions provided at the time of account opening as updated thereafter with notification to the accountholders.

Section 4. Liability for Failure to Pay Toll

(a) No person shall cause a Vehicle to enter the I-580 Express Lanes without payment of the Toll for the Vehicle by use of a Transponder, issued by Alameda CTC or any California toll agency, which is associated with a FasTrak Account containing a balance sufficient to pay those Tolls.

(b) Except as provided herein, the registered owner and the driver, rentee or lessee of a Vehicle which is the subject of any Violation shall be jointly and severally liable for any Penalty imposed under this Ordinance, unless the registered owner can demonstrate that the Vehicle was used without the express or implied consent of the registered owner. Anyone who pays any Penalty pursuant to this Ordinance shall have the right to recover the same from the driver, rentee or lessee, and not from the Alameda CTC or the Processing Agency.

(c) The driver, rentee or lessee of a Vehicle who is not the owner of the Vehicle may contest the Notice of Toll Evasion Violation in accordance with this Ordinance.

(d) Any Motorist assessed a Penalty for a Violation shall be deemed to be charged with a non-criminal, civil violation.

Section 5. Penalties and Processing of Violation(s)

(a) The Penalties for a Violation of this Ordinance shall be the amounts set forth in the Schedule of Penalties attached hereto as **Appendix A** and incorporated by reference herein. The Schedule of Penalties was adopted by the Commission on March 26, 2015, and may be amended by action of the Commission from time to time without the need to amend or reconsider this Ordinance, provided that such Penalties but may not be greater than the amounts established under Code section 40258 as the maximum Penalties for civil toll evasion violations. If the driver of any Vehicle is arrested pursuant to Article 1 (commencing with Section 40300) of Chapter 2 of the Code, the civil procedure for enforcement of violations established by this Ordinance shall not apply. Revenues received from the Penalties assessed pursuant to this subsection shall be returned to the Alameda CTC.

(b) If a Violation is detected by any means (including automated device, photograph, video image, visual observation, or otherwise), a Notice of Toll Evasion Violation shall be sent to the registered owner by first class mail at the address for the registered owner as shown on the record of the Department within twenty-one (21) days of the Violation. In the case of joint ownership, the Notice of Toll Evasion Violation shall be issued to the first name appearing in the registration. If accurate information concerning the identity and address of the registered owner is not available within twenty-one (21) days from the Violation, the Processing Agency

shall have an additional forty-five (45) calendar days to obtain such information and forward the Notice of Toll Evasion Violation, provided that where the registered owner is a Repeat Violator, the Processing Agency shall forward the Notice of Toll Evasion Violation within ninety (90) calendar days of the Violation.

Section 6. Notice of Toll Evasion Violation

(a) The Notice of Toll Evasion Violation shall contain (1) sufficient information to enable the recipient thereof to determine the date, time and location of the alleged Violation, (2) the section of the Code allegedly violated, (3) the Penalty due for that Violation, (4) the identity and address of the registered owner, (5) the alphanumeric designation of the license plate on the Vehicle that was used in the alleged Violation, (6) if practicable, the registration expiration date and the make of the Vehicle, (7) the procedure to follow for payment of the amount due, (8) a statement in bold print that payments may be sent in the mail, (9) the date and time within which the Penalty must be paid, (10) a clear and concise explanation of the procedures for filing an affidavit of non-liability in those circumstances set forth in subsections B, C and D of this **Section 6**, and for contesting the alleged Violation and appealing an adverse decision in accordance with **Section 9** of this Ordinance, (11) the Due Date, which is also the date by which the written explanation of contest must be received by Alameda CTC, and (12) a statement that there will be additional court costs and fees incurred by the Motorist according to the local jurisdiction rules if collection is pursued through court action.

(b) The Notice of Toll Evasion Violation shall contain, or be accompanied an affidavit of non-liability and information of what constitutes non-liability, information as to the effect of executing the affidavit, and instructions for returning the affidavit to the Processing Agency.

(c) If the affidavit of non-liability is returned to the Processing Agency within twenty-one (21) days of the issuance of the Notice of Toll Evasion Violation together with proof that the driver at the time of the Violation did not possess express or implied consent to drive the Vehicle as evidenced by a stolen vehicle police report, if the Processing Agency is satisfied that the registered owner is not responsible for the Violation, the Processing Agency shall cancel the Notice of Toll Evasion Violation and make an adequate record of the reasons.

(d) If the affidavit of non-liability is returned to the Processing Agency by the Due Date with proof that the registered owner given the Notice of Toll Evasion Violation has made a bona fide sale or transfer of the Vehicle and has delivered possession thereof to the purchaser prior to the date of the alleged Violation and either (1) such owner has complied with section 5602 of the Code, or (2) the Processing Agency is satisfied with evidence that establishes that the transfer of ownership and possession of the Vehicle occurred prior to the date of the alleged Violation, and has obtained verification from the Department, then the Processing Agency shall terminate proceedings against the originally served registered owner and proceed against the new owner of the Vehicle.

(e) If the affidavit of non-liability is returned to the Processing Agency by the Due Date of the Notice of Toll Evasion Violation together with the proof of an executed written rental agreement or lease between a bona fide renting or leasing company and its customer that

identifies the rentee or lessee and provides the driver's license number, name and address of the rentee or lessee, the Processing Agency shall serve or mail to the rentee or lessee identified in the affidavit of non-liability a Notice of Toll Evasion Violation.

(f) If payment of the Penalty is not received by Processing Agency by the Due Date on the Notice of Toll Evasion Violation, the Processing Agency shall deliver by first-class mail a Notice of Delinquent Toll Evasion Violation.

(g) If the description of the Vehicle in the Notice of Toll Evasion Violation does not match the corresponding information on the registration card for that Vehicle, the Processing Agency may, on written request of the Motorist, cancel the Notice of Toll Evasion Violation without the necessity of appearance by that person.

Section 7. Dismissal of Notice of Toll Evasion Violation

(a) If, after a copy of the Notice of Toll Evasion Violation has been sent to the Motorist, the Processing Agency determines that due to failure of proof of apparent Violation the Notice of Toll Evasion Violation shall be dismissed, the Processing Agency shall cancel the Notice of Toll Evasion Violation, and the Motorist shall be so notified by first-class mail.

(b) If the full amount of the Penalty is received by the person authorized to receive the payment of the Penalty by the Due Date and there is no contest as to that Violation, proceedings under this Ordinance shall terminate.

(c) If (i) the Motorist is a holder of a FasTrak Account in good standing with BATA or other California toll operator or (ii) the Motorist has never received a prior Notice of Toll Evasion Violation under this Ordinance and opens a new FasTrak account, and such Motorist follows the procedures and meets the deadlines established by the Processing Agency, as such procedures and deadlines may be modified from time to time, to pay the Toll due on such Notice of Toll Evasion Violation from the Motorist's FasTrak Account in a timely manner, the Toll shall be charged to such Motorist's FasTrak Account and proceedings under this Ordinance shall terminate.

(d) If the registered owner of the Vehicle provides proof to the Processing Agency that he or she was not the registered owner on the date of the Violation as set forth in **Sections 6** and **8** of this Ordinance, proceedings against the notifying party shall terminate. This does not limit the right of the Processing Agency to pursue collection of the delinquent toll evasion Penalty from the person who was the registered owner of the Vehicle on the date of the alleged Violation.

Section 8. Notice of Delinquent Toll Evasion Violation

(a) If the payment of the Penalty is not received by the Processing Agency by the Due Date on the Notice of Toll Evasion Violation, and there is no contest as to that Violation as set forth in **Section 10** of this Ordinance, the Processing Agency shall deliver by first-class mail to the registered owner of the Vehicle a Notice of Delinquent Toll Evasion Violation.

(b) Alameda CTC or Processing Agency shall establish a procedure for providing, upon request, a copy of the original Notice of Toll Evasion Violation or an electronically produced facsimile of the original Notice of Toll Evasion Violation within fifteen (15) days of a request therefor. Alameda CTC may charge a fee sufficient to recover the actual costs of providing the copy not to exceed Two Dollars (\$2), to be established by the Executive Director of Alameda CTC. Until the Processing Agency complies with a request for a copy of the original notice of Violation, the Processing Agency may not proceed to collection of amounts covered by such notice.

(c) The Notice of Delinquent Toll Evasion Violation shall contain the information required to be contained in the original Notice of Toll Evasion Violation and, additionally, shall contain a notice to the registered owner that, unless the registered owner pays the Penalty, contests the Violation pursuant to the procedure set forth in the Notice of Toll Evasion Violation, or completes and returns to the Processing Agency an affidavit of non-liability, as provided with the Notice of Toll Evasion Violation and in compliance with subsections D, E and F of **Section 6**, within fifteen (15) days after the mailing of the Notice of Delinquent Toll Evasion Violation (the Due Date): (1) the Penalty shall be considered a debt due and owing Alameda CTC, (2) the renewal of the Vehicle registration shall be contingent upon compliance with the Notice of Delinquent Toll Evasion Violation at Alameda CTC's election, and (3) Alameda CTC may seek to recover in any lawful manner, as provided for in **Section 12**.

(d) The Notice of Delinquent Toll Evasion Violation shall contain, or be accompanied with, an affidavit of non-liability and information of what constitutes non-liability, information as to the effect of executing the affidavit, and instructions for returning the affidavit to the Processing Agency.

(e) If the affidavit of non-liability is returned to the Processing Agency within fifteen (15) days of the mailing of the Notice of Delinquent Toll Evasion Violation (the Due Date) together with proof that the driver at the time of the Violation did not possess express or implied consent to drive the Vehicle as evidenced by a stolen vehicle police report, if the Processing Agency is satisfied that the registered owner is not responsible for the Violation, the Processing Agency shall cancel the Notice of Toll Evasion Violation and make an adequate record of the reasons.

(f) If the affidavit of non-liability is returned to the Processing Agency by the Due Date with proof that the registered owner given the Notice of Toll Evasion Violation has made a bona fide sale or transfer of the Vehicle and has delivered possession thereof to the purchaser prior to the date of the alleged Violation and either (1) such owner has complied with section 5602 of the Code, or (2) the Processing Agency is satisfied with evidence that establishes that the transfer of ownership and possession of the Vehicle occurred prior to the date of the alleged Violation, and has obtained verification from the Department, then the Processing Agency shall terminate proceedings against the originally served Motorist and proceed against the unauthorized driver at the time of the Violation, or the new owner of the Vehicle.

(g) If the affidavit of non-liability is returned to the Processing Agency within fifteen (15) days of the mailing of the Notice of Delinquent Toll Evasion Violation (the Due Date set forth in the Notice of Delinquent Toll Evasion Violation) together with the proof of an

executed written rental agreement or lease between a bona fide renting or leasing company and its customer that identifies the rentee or lessee and provides the driver's license number, name, and address of the rentee or lessee, the Processing Agency shall mail to the rentee or lessee identified in the affidavit of non-liability a Notice of Delinquent Toll Evasion Violation. If payment is not received within fifteen (15) days of such mailing of the Notice of Delinquent Toll Evasion Violation, the Penalty shall be considered a debt due and owing Alameda CTC, and Alameda CTC may seek to recover in any lawful manner, as provided for in **Section 12**, from the rentee or lessee.

Section 9. Payment After Notice of Delinquent Toll Evasion Violation

If a Motorist who was mailed a Notice of Delinquent Toll Evasion Violation pursuant to **Section 8** of this Ordinance, or any other person who presents the Notice of Toll Evasion Violation or Notice of Delinquent Toll Evasion Violation, deposits the Penalty due with a person authorized to receive it, then the Processing Agency shall follow the procedures set forth in Section 40266 of the Code.

Section 10. Contest of Notice of Toll Evasion Violation or Notice of Delinquent Toll Evasion Violation

(a) A person may contest a Notice of Toll Evasion Violation or Notice of Delinquent Toll Evasion Violation within twenty-one (21) days of the issuance of the Notice of Toll Evasion Violation, or within fifteen (15) days of the issuance of the Notice of Delinquent Toll Evasion Violation, as applicable.

(b) The Processing Agency shall establish a fair and impartial investigation process to investigate the circumstance of the notice with respect to the contestant's written explanation of reasons for contesting a Violation. The Processing Agency shall investigate with its own records and staff the circumstances of the notice with respect to the contestant's written explanation of reasons for contesting the Violation. If based upon the results of that investigation, the Processing Agency is satisfied that the Violation did not occur or that the registered owner was not responsible for the Violation, the Processing Agency shall cancel the Notice of Toll Evasion Violation or Notice of Delinquent Toll Evasion Violation and make an adequate record of the reasons for cancelling the notice. The Processing Agency shall mail the results of the investigation to the person who contested the Notice of Toll Evasion Violation or the Notice of Delinquent Toll Evasion Violation.

(c) A person who contests a Notice of Toll Evasion Violation or Notice of Delinquent Toll Evasion Violation and is not satisfied with the results of the investigation may, within fifteen (15) days of the mailing of the results of the investigation, deposit the amount of the Penalty as set forth in subsection D of this **Section 10** and request an administrative review. The Processing Agency shall hold the administrative review within ninety (90) calendar days following the receipt of the request for an administrative review accompanied by the required deposit amount. The person requesting the administrative review may request one (1) continuance, not to exceed twenty-one (21) calendar days. The person requesting the administrative review shall indicate to the Processing Agency his or her election for a review by mail or personal conference.

(d) The deposit for requesting an administrative review shall be as follows:

(1) Except as provided herein, an individual seeking an administrative review shall deposit the full amount of the Penalty due at the time of the request.

(2) Individuals unable to pay the required deposit may apply for a hardship exception, which may be granted by the Processing Agency in its discretion.

(e) If the person requesting an administrative review is a minor, that person shall be permitted to appear at an administrative review or admit responsibility for a Violation without the necessity of the appointment of a guardian. The Processing Agency may proceed against that person in the same manner as if that person were an adult.

(f) As evidence of the Violation the Processing Agency shall produce the Notice of Toll Evasion Violation or a copy thereof, information received from the Department identifying the registered owner of the Vehicle, and a statement under penalty of perjury from the person authorized to issue a notice of Violation that the Tolls or other charges and any applicable fee were not paid in accordance with Alameda CTC's policies. This documentation in proper form shall be prima facie evidence of the Violation.

(g) The reviews shall be conducted in accordance with the written procedures established by the Processing Agency which shall ensure a fair and impartial review of the contested Violations. The Processing Agency shall provide its decision by first-class mail to the contestant. If a notice of appeal to the California Superior Court is not filed within the period set forth in **Section 11**, the decision shall be deemed final.

(h) The Processing Agency shall designate one or more individuals to serve here as the hearing officer(s) appointed to conduct administrative reviews pursuant to this **Section 10**. Each hearing officer shall demonstrate the qualifications, training and objectivity necessary to perform fair and impartial reviews. No hearing officer's employment, performance evaluation, compensation and benefits shall be directly or indirectly linked to the outcome of reviews or the revenue generated by such reviews.

Section 11. Appeal to Superior Court

A person who requests an administrative review and is not satisfied with the results of the review, may within twenty (20) days after the mailing of the Processing Agency's final decision seek review by filing an appeal to the Alameda County Superior Court, where the case shall be heard de novo, except that the contents of the Processing Agency's file in the case on appeal shall be received in evidence. For the purposes of computing the twenty (20)-day period, section 1013 of the Code of Civil Procedure shall be applicable. The Processing Agency shall admit into evidence as prima facie evidence of the facts stated therein, a copy of the Notice of Toll Evasion Violation and/or Notice of Delinquent Toll Evasion Violation. A copy of the notice of appeal shall be served in person or by first-class mail upon the Processing Agency by the contestant. Notwithstanding section 72055 of the Government Code, the fee for filing the notice of appeal shall be Twenty-Five Dollars (\$25). If the appellant prevails, this fee, together with the deposit of the Penalty made by the contestant, shall be promptly refunded by the Processing Agency in accordance with the judgment of the court.

Section 12. Collection of Unpaid Penalties

If payment is not received within the time periods set forth herein, and no contest has been timely filed, or has been resolved, Alameda CTC and the Processing Agency are authorized to proceed under one or more of the following options for the collection of unpaid Penalties:

(a) Transmit an itemization of unpaid Penalties with the Department for collection with the registration of the Vehicle. Alameda CTC shall pay the fees assessed by the Department associated with the recording of the Notice of Delinquent Toll Evasion Violation and may charge the amount of the fee to the Motorists to be collected by the Department.

(b) If more than Four Hundred Dollars (\$400) in unpaid Penalties have been accrued by any person or registered owner, Alameda CTC may file proof of that fact with the Superior Court with the same effect as a civil judgment. Execution may be levied and other measures may be taken for the collection of the judgment as are authorized for the collection of any unpaid civil judgments entered against a defendant in an action on a debt. The court may assess costs against a judgment debtor to be paid upon satisfaction of the judgment. The Processing Agency shall mail a notice by first-class mail to the person or registered owner indicating that a judgment shall be entered for the unpaid Penalties and that after thirty (30) days from the date of the mailing of the notice, the judgment shall have the same effect as an entry of judgment against a judgment debtor. The notice shall include all information required by Code section 40267. The filing fee and any costs of the collection shall be added to the judgment amount.

(c) If the Processing Agency has determined that registration of the Vehicle has not been renewed for sixty (60) days beyond the renewal date, and the Penalty has not been collected by the Department pursuant to section 4770 of the Code, file proof of unpaid Penalties with the court with the same effect as a civil judgment as provided above, except that if the amount of the unpaid Penalty is not more than Four Hundred Dollars (\$400), the filing fee shall be collectible by the court from the debtor.

(d) Contract with a collection agency to collect Penalty amounts.

(e) Submit a request to the California State Controller for an offset of unpaid Penalty owing by a Motorist against any amount owing the person or entity by a claim for a refund from the Franchise Tax Board under Personal Income Tax Law or the Bank and Corporation Law or from winnings in the California State Lottery, as authorized by California Government Code section 12419.12. Alameda CTC shall provide notice of intent to request an offset by first-class mail to the Motorist thirty (30) days prior to the request date.

(f) Pursue such other remedies and enforcement procedures that are authorized under the laws of the State of California.

Section 13. Termination of Proceedings

The Processing Agency shall terminate proceedings on the Notice of Delinquent Toll Evasion Violation in any of the following cases:

(a) Upon receipt of collected penalties remitted by the Department under Code section 4772 for that Notice of Delinquent Toll Evasion Violation.

(b) If the Notice of Delinquent Toll Evasion Violation was returned to the Processing Agency pursuant to Code section 4774 and five (5) years have elapsed since the date of the Violation.

(c) The Processing Agency receives information that the Penalties have been paid to the Department pursuant to Code section 4772.

Section 14. Confidentiality

Any information obtained during the enforcement of Violations shall not be used for any purpose other than to pursue the collection of Violations or process Tolls.

Section 15. Other Notices

Nothing herein shall prohibit Alameda CTC or the Processing Agency from establishing informal methods of notifying Motorists of Violations and from collecting Tolls and Penalties for Violations through such means.

Section 16. Implementation

Alameda CTC's Executive Director is hereby authorized and directed to develop procedures, forms, documents and directives which may be necessary to implement the terms of this Ordinance, and the Executive Director may delegate such duties and obligations under this Ordinance to staff of, or consultants under contract to, the Alameda CTC.

Section 17. Severability

If any term, covenant or condition of this Ordinance shall be held by a court of competent jurisdiction to be invalid or unenforceable, then the remainder of this Ordinance shall not be affected and each remaining provision shall be valid and enforceable to the fullest extent permitted by law unless any of the stated purposes of this Ordinance would be defeated.

ARTICLE II -PUBLICATION OF ORDINANCE.

Upon adoption on the second reading hereof, the Clerk of the Commission shall cause the publication of this Ordinance, within fifteen days of its adoption, once each in a newspaper of general circulation printed and published within Alameda County, and the Clerk of the Commission shall attest to such adoption and publication of this Ordinance. This Ordinance shall become effective thirty (30) days after adoption.

PASSED AND ADOPTED by the Commission of the Alameda County Transportation Commission on July 23, 2015 by the following vote:

AYES:

NOES:

EXCUSED:

Date Published: _____

Attested to:

Dated: _____

Clerk of the Commission

APPENDIX A

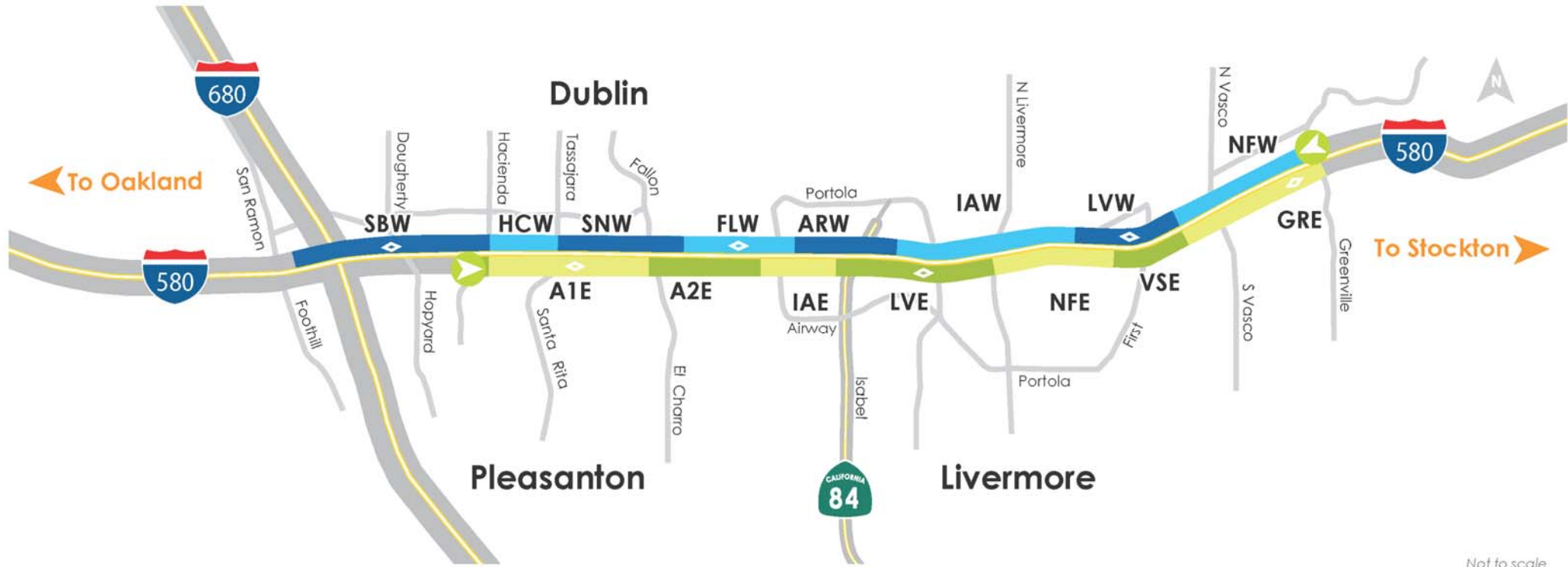
SCHEDULE OF PENALTIES

(as adopted by the Commission on March 26, 2015)

Toll Evasion Penalty: \$25 (plus original toll)

Delinquent Penalty: \$70 (\$25 Toll Evasion Penalty plus \$45 late fee; plus original toll).
If toll is paid within 15 days, penalty is reduced to \$25.

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Not to scale

▶ Two Eastbound Express Lanes
Lanes begin at Hacienda (11 miles)
 No entry/exit from eastbound express lanes from Hacienda to Fallon/El Charro.
Please note: For access to Santa Rita Road or El Charro/Fallon, do not enter express lanes.

◀ One Westbound Express Lane
Lane begins at Greenville (14 miles)
 No entry/exit from westbound express lane from Hacienda to end.
Please note: For access to I-680 or Dougherty, exit express lane before Hacienda.

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