

SBCTA ORDINANCE NO. 24-002

**AN ORDINANCE AMENDING THE SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY ADMINISTRATIVE CODE BY
ADDING SECTION 1-01-035 TO TITLE 1; AMENDING SECTIONS 2-01-
040, 2-10-040, 2-15-020, AND 2-20-040; AND ADDING TITLE 8
REGARDING EXPRESS LANES OPERATIONS**

The Board of Directors of the San Bernardino County Transportation Authority does ordain as follows:

SECTION I. Section 1-01-035 is added to Chapter 1-01 Establishment of the San Bernardino County Transportation Authority Administrative Code as follows:

“**1-01-035 SANBAG.** Throughout this code wherever reference is made to SANBAG that reference shall mean the same as the San Bernardino Associated Governments.”

SECTION II. Section 2-01-040 of the San Bernardino County Transportation Authority Administrative Code is hereby amended to read as follows:

“**2-01-040 Board of Directors Regular Meetings.** The regular meetings of the Board of Directors shall be held at such times as shall be designated by the Board, and as shall be coordinated with the regular meetings of the SANBAG Board. The meeting location shall be determined the preceding month by the Board of Directors.”

SECTION III. Section 2-10-040 of the San Bernardino County Transportation Authority Administrative Code is hereby amended to read as follows:

“**2-10-040 SANBAG.** The SBCTA Executive Director may also serve as Executive Director of San Bernardino Associated Governments with no additional compensation.”

SECTION IV. Section 2-15-020 of the San Bernardino County Transportation Authority Administrative Code is hereby amended to read as follows:

“**2-15-020 SANBAG.** The SBCTA Board Secretary may also serve as Clerk of the Board of San Bernardino Associated Governments with no additional compensation.”

SECTION V. Section 2-20-040 of the San Bernardino County Transportation Authority Administrative Code is hereby amended to read as follows:

“**2-20-040 SANBAG.** The SBCTA General Counsel may also serve as the General Counsel for San Bernardino Associated Governments with no additional compensation.”

SECTION VI. Title 8 Express Lanes Operations is added to the San Bernardino County Transportation Authority Code as follows:

Title 8 SBCTA Express Lanes Operations

Chapter 8-01 General Provisions

8-01-010 Short Title. This title may be referred to as the SBCTA Express Lanes Policy.

8-01-020 Purpose. The implementation and operation of the SBCTA Express Lanes is intended to reduce congestion and improve travel for the motoring public. The SBCTA Express Lanes Policy defines the guiding principles for operation of express lanes by SBCTA. The SBCTA Express Lanes Policy will define business decisions and operational parameters for the SBCTA Express Lanes with differences between facilities explicitly outlined where appropriate in this SBCTA Express Lanes Policy. A Toll Facility Agreement (TFA) between SBCTA and Caltrans allows SBCTA the ability to plan, finance, construct and operate specifically identified express lanes facilities; governs the use, maintenance, reconstruction, and operation of such facilities; and outlines the conditions for return of such facilities to Caltrans at the end of the designated lease period. Future or extended express lanes facilities will be governed by an independent or updated TFA with Caltrans prior to those facilities becoming operational.

8-01-030 Tolling Authority. SBCTA Tolling Authority is governed by Streets and Highways Code Section 149.11. This statute prescribes the powers and duties afforded to SBCTA to conduct, administer, and operate a value-pricing program in the Interstate 10 and Interstate 15 corridors in San Bernardino County and specified extensions and connections into neighboring counties.

8-01-040 Implementation. The Executive Director of SBCTA is authorized and directed to develop procedures, forms, documents and directives which may be necessary to implement the terms of this SBCTA Express Lanes Policy and may delegate his/her duties and obligations under this SBCTA Express Lanes Policy to the Deputy Executive Director or Director of Toll Operations.

8-01-050 Definitions.

1. **All Electronic Tolling (AET)** is technology that assesses Tolls through radio frequency identification (RFID) transponders and license plate images, thus not requiring vehicles to stop at a toll booth to pay Tolls.
2. **California Toll Operators Committee (CTOC)** is a collaborative organization composed of California's toll facility operators/owners. CTOC is the primary resource for interoperability and coordination among tolling facilities, and education and advocacy regarding tolling in California. CTOC members communicate regularly on issues of interoperability; technology; operating policies; customer service; the legislative, administrative and regulatory framework for tolling; and other issues regarding tolling in California.
3. **Caltrans** is the California Department of Transportation and owns/operates the state highway system throughout California, including San Bernardino County.
4. **Clean Air Vehicle** is a Vehicle registered by the California Department of Motor Vehicles according to California Vehicle Code Sections 5205.5 and 21655.9
5. **Code** is the California Vehicle Code, unless otherwise specified.
6. **Department** is the California Department of Motor Vehicles or other state's department of motor vehicles.
7. **Due Date** is the date specified in the Notice of Toll Evasion Violation or the Notice of Delinquent Toll Evasion Violation, as applicable, by which payment of the Penalty or

affidavit of non-liability or written explanation of the contest must be received by the Processing Agency, which date is no less than the minimum time required by the relevant Code section for such receipt.

8. **Toll Facility Agreement** is an agreement between SBCTA and Caltrans that allows SBCTA the ability to plan, finance, construct and operate express lanes, as well as governs the use, maintenance, reconstruction, operation and condition on return to Caltrans of express lanes on a state highway facility in the County of San Bernardino for a term of up to 50 years.
9. **Express lane** is a dedicated lane that requires all vehicles to pay a Toll in order to use the lane, but may provide incentives such as discounted or no tolls for disabled veterans, electric vehicles or vehicles carrying a minimum number of occupants.
10. **FasTrak®** is the trademarked brand name used in California to identify interoperable toll facilities that accept transponders issued by other California toll agencies.
11. **High Occupancy Vehicle (HOV)** is a vehicle with three (3) or more persons in the vehicle.
12. **Interstate 10 (I-10) Express Lanes** is SBCTA's first express lanes facility that will include up to two express lanes in each direction on I-10 from the Los Angeles County line to California Street and one express lane in each direction from California Street to Ford Street.
13. **I-10 Express Lanes Contract 1** is the initial segment of the I-10 Express Lanes from the Los Angeles County line to approximately I-15.
14. **Interstate 15 (I-15) Express Lanes** is SBCTA's express lanes facility that will include two express lanes in each direction on I-15 from Cantu-Galleano Ranch Road to Baseline Avenue and a single express lane in each direction from Baseline Avenue to approximately Duncan Canyon Road.
15. **I-15 Express Lanes Contract 1** is the initial segment of the I-15 Express Lanes from Cantu-Galleano Ranch Road to approximately Foothill Boulevard.
16. **License Plate Tolling** is the ability to capture a license plate image for purposes of assigning a Toll, thereby enabling a User to access the SBCTA Express Lanes without a valid FasTrak® account and corresponding transponder.
17. **Motorcycle** is a motor vehicle that has a seat or saddle for the use of the rider and is designed to travel on not more than three wheels in contact with the ground per California Vehicle Code Section 400 (a), and whose motor displaces more than 150 cubic centimeters (150cc).
18. **Non-Revenue** is a designation indicating a vehicle that is eligible to use the SBCTA Express Lanes without paying a Toll.
19. **Notice of Delinquent Toll Evasion Violation** is the written notice provided to the Registered Owner of a Vehicle when the payment of the penalty or completion of an affidavit of non-liability or written explanation of contest has not been returned by the due date.
20. **Notice of Toll Evasion Violation** is the written notice provided to the Registered Owner of a Vehicle which has committed a Violation.
21. **PayNearMe** is a service which provides the ability to pay tolls and associated fees at physical locations with vendor agreement to accept payments, such as 7-11, CVS, etc.
22. **Pay Tolls Now** is an online payment option available to Users who do not have a valid FasTrak® account and utilize License Plate Tolling.

23. **Personally Identifiable Information (PII)** is any information that identifies or describes a person, including, but not limited to: name, social security number, home address, telephone number, billing address, e-mail address, credit card number and expiration date, bank account information, state or federal tax returns, employment information, tracking information for checks or money orders, license plate numbers, photographs, and travel pattern data, including the date, time and location of toll transactions, and other personally identifiable information as defined by California or federal law.
24. **Processing Agency** is the party responsible for the processing of the Notice of Toll Evasion and Notice of Delinquent Toll Evasion.
25. **Registered Owner** is the person registered by the Department as the Vehicle owner or a person registered as the owner of the Vehicle by the appropriate agency or authority of another state, the District of Columbia, or territory or possession of the United States.
26. **Repeat Violator** is any Registered Owner for whom more than five violations have been issued pursuant to Code Section 40254 in any calendar month within the preceding 12-month period.
27. **SBCTA Express Lanes** are the express lanes facilities on the I-10 and I-15 corridors operated by SBCTA.
28. **Toll** is the monetary charge established by SBCTA for use of the SBCTA Express Lanes.
29. **Toll Service Provider** is the vendor that will design, install, operate and maintain the toll collection system for the SBCTA Express Lanes.
30. **Transponder** is a Fastrak® electronic device issued by any of the California toll operators that meets the specifications of Chapter 16 of Division 2 of the California Code of Regulations Title 21, and is used to pay Toll(s) electronically.
31. **Transportation Corridor Agencies (TCA)** are two joint powers authorities formed by the California legislature in 1986 to plan, finance, construct and operate Orange County's toll roads. TCA is contracted to provide back office and customer services for the SBCTA Express Lanes.
32. **User(s)** is any person who uses SBCTA Express Lanes.
33. **Vehicle** is any vehicle as defined in California Vehicle Code Section 670.
34. **Violation** is the use of the SBCTA Express Lanes without proper payment of the Vehicle Toll or express permission as described in this SBCTA Express Lanes Policy.

Chapter 8-02 Express Lane Operations

8-02-010 Hours of Operation. The SBCTA Express Lanes operate 24 hours a day/7 days a week, including weekends and holidays.

8-02-020 Usage Requirements. Each vehicle travelling on the SBCTA Express Lanes shall have a properly mounted Transponder associated with a valid FasTrak® account, except that Users on the I-10 Express Lanes without a valid FasTrak® account shall have the Pay Tolls Now option to pay the posted Toll after using the facility through License Plate Tolling. License Plate Tolling Users have five (5) calendar days to pay a Toll online. Pursuant to Code Section 23302, proper payment of the Vehicle Toll is required for SBCTA Express Lanes Users, unless otherwise permitted by the SBCTA operating policies.

8-02-030 Vehicle Eligibility. Eligible express lanes Vehicles include qualified High Occupancy Vehicle (HOVs), motorcycles, transit buses, and other vehicles subject to payment of

the applicable Vehicle Toll or pursuant to express permission as described in this SBCTA Express Lanes Policy. Vehicles with 3-or-more axles, vehicles towing a trailer and other vehicles identified in Code Section 22406 are prohibited from using the express lanes.

8-02-040 Toll Collection. Automated toll collection is performed by utilizing All-Electronic Tolling (AET) technology that assesses tolls through radio frequency identification (RFID) transponders and license plate recognition technology. Toll-paying vehicles may use the I-10 Express Lanes by establishing a valid FasTrak® Transponder account or by use of the License Plate Tolling option that uses license plate recognition technology. The I-15 Express Lanes will not have the License Plate Tolling option.

1. **Transponder.** FasTrak® account holders are provided transponders to be placed in or on eligible vehicles that connect toll authorities with the account holder’s payment information. Transponders are often sticker tags that are placed on a vehicle windshield, but also include small hardcase devices that allow Users to declare vehicle occupancy. Express lanes Users with valid FasTrak® transponders pay their toll based on the method of payment associated with their FasTrak® account. SBCTA will not own or manage any FasTrak® accounts. SBCTA will not require Users to create a specific type of FasTrak® account, nor will SBCTA require Users to open a FasTrak® account with an individual agency to utilize the SBCTA Express Lanes. Interoperability rules exist between all of California’s toll owners/operators and the California Toll Operators Committee (CTOC) has been set up to, among other functions, ensure account holders pay tolls on all California toll facilities without requiring multiple FasTrak® accounts. SBCTA encourages Users to establish accounts with TCA, SBCTA’s operational partner, who is familiar with the SBCTA Express Lanes and programs and is able to assist with questions about the SBCTA Express Lanes more readily.
2. **License Plate Tolling.** The AET system captures images of license plates of all vehicles traveling in the SBCTA Express Lanes. I-10 Express Lanes Users without FasTrak® accounts are required to make payment using SBCTA’s Pay Tolls Now option within five (5) days of completing the trip. Users may pay a license plate toll using the Pay Tolls Now website (SBExpressLanes.com), by mail, by telephone, at PayNearMe locations, or in person at The Toll Road Customer Service Center in Irvine and at the SBCTA Express Lanes Customer Service Center in Rancho Cucamonga. Failure to pay a license plate toll within five (5) days will convert the trip to a Violation.

License Plate Tolling will not be available on the I-15 Express Lanes in San Bernardino County to maintain consistency with the Riverside County I-15 Express Lanes that were in operation prior to implementation of SBCTA’s I-15 Express Lanes.

8-02-050 Pricing Structure

1. **Minimum/Maximum Tolls.** The minimum Toll for any trip is \$0.65 per Toll segment. There is no maximum Toll for a trip. Toll Rate Dynamic Message Signs (TRDMS) display toll rates prior to every express lanes access point.

2. **Dynamic Pricing.** Tolls on SBCTA’s express lanes are calculated by a dynamic pricing algorithm that is designed to maintain express lanes speeds above 45 miles per hour by adjusting pricing based on real-time traffic conditions in the express lanes and adjacent general purpose lanes. Prices may be updated as frequently as every two (2) minutes and are rounded to the nearest five (5) cents. The dynamic pricing algorithm will vary between corridors to maintain consistency with the existing pricing structure RCTC employs on its 15 Express Lanes across the county line.
3. **Segment-Based Trip Pricing.** Tolls are assigned on a per-segment basis. Based on the location where a User enters the express lanes, Users are charged the full prevailing toll rate for the remaining distance of the segment regardless of the distance they actually travel on the segment. If the User enters the express lanes and then exits the express lanes at the next egress point, they are charged the full toll for the remaining distance of the toll segment. This pricing framework attempts to maintain the operational integrity of the general purpose lanes by limiting weaving between lanes to access the express lanes for very short trips.

Once a User enters the express lanes, a trip across a portion of the segment costs the same as a trip across the entire segment. Prior to accessing the express lanes, motorists are provided with real-time pricing information on toll signage. Toll rate dynamic message signs provide motorists with the current cost to travel to the end of the toll segment as well as the current cost to travel to the end of the facility.

The following pricing segments currently are designated for the I-10 Express Lanes Contract 1:

- One westbound pricing segment between Etiwanda Avenue and the Los Angeles/San Bernardino County Line
- One eastbound pricing segment between the Los Angeles/San Bernardino County Line and Haven Avenue
- One eastbound pricing segment between Haven Avenue and Etiwanda Avenue

The following pricing segments currently are designated for the I-15 Express Lanes Contract 1:

- One northbound pricing segment between Cantu-Galleano Ranch Road and Jurupa Street
- One northbound pricing segment between Jurupa Street and Foothill Boulevard
- One southbound pricing segment between Foothill Boulevard and Jurupa Street
- One southbound pricing segment between Jurupa Street and Cantu-Galleano Ranch Road

4. **License Plate Tolling Pricing (I-10 Express Lanes Users Only).** I-10 Express Lanes Users without a valid FasTrak® account who use the facility are identified through license plate recognition technology and assessed a Toll that reflects the additional cost borne by SBCTA to process license plate transactions and collect revenue from these trips. I-15

Express Lane Users must have a transponder to access the express lanes. In order to maintain consistency with the 15 Express Lanes owned and operated by the Riverside County Transportation Commission (RCTC) on the corridor prior to SBCTA implementing connecting express lanes, SBCTA agreed to maintain consistency with the current operating characteristics of the existing RCTC facility to minimize confusion to Users. As a result, License Plate Tolling will not be available on the I-15 Express Lanes. Users who do not have a valid FasTrak® account will be subject to the violation procedures described in this SBCTA Express Lanes Policy.

5. **FasTrak® Pricing.** I-10 Express Lanes and I-15 Express Lanes Users with a valid FasTrak® account and corresponding transponder in good standing who use the facility are assessed a Toll based on the dynamic pricing algorithm.

8-02-060 Toll Discounts. The following Vehicles are permitted to use the SBCTA Express Lanes without payment of the applicable Toll or at a discounted Toll pricing as described below:

1. **Non-Revenue.** Vehicles with Non-Revenue status are eligible for free travel in the express lanes at all times. Vehicles in this class could include maintenance vehicles actively performing highway or toll collection system maintenance, Freeway Service Patrol (FSP) vehicles, California Highway Patrol (CHP) vehicles, emergency vehicles, SBCTA official vehicles, and transit vehicles, among others.
2. **HOV.** HOVs with a valid FasTrak® Flex transponder validly set to the “3+” position are permitted free travel in the I-10 Express Lanes at all times. For HOVs with a valid FasTrak® Flex transponder set to the 3+ position on the I-15 Express Lanes, the Toll is discounted by 50%.
3. **Clean Air Vehicles.** Vehicles registered with the Department as a Clean Air Vehicle (CAV) are permitted discounted travel in the express lanes at all times. Users must have a valid FasTrak® account and update the account by providing proof of CAV designation prior to being eligible to receive an express lane discount. A 10% discount will be applied to all CAV Tolls on the I-10 Express Lanes; a 15% discount will be applied to all CAV Tolls on I-15 Express Lanes (consistent with the RCTC CAV discount policy).
4. **Motorcycles.** Motorcycles are permitted free travel in the express lanes at all times.

8-02-070 Express Lanes Equity Program. SBCTA offers benefits for low-income and disabled veteran residents of San Bernardino County through its Express Lanes Equity Program.

1. **Low-Income Resident Benefit Program.** Applicants may qualify for the Low-Income Resident Benefit Program by presenting proof of San Bernardino County residency and annual household income of less than twice, or 200 percent of, the federal poverty level at the time of application. Applicants must present a current tax return or proof of enrollment in a CalFresh (EBT) program. Proof of qualification for the Low-Income Program may only be presented in-person at the SBCTA Express Lanes customer service center. Upon approval, a one-time/one per household \$20 credit will be applied upon opening of a new

FasTrak® account with no charge for sticker tags or a free switchable transponder. The toll credit will immediately be applied to any SBCTA express lanes transactions posted to the account until the credit is depleted. No portion of the toll credit will be refunded to the customer or credited toward any express lanes charge incurred outside of San Bernardino County.

2. **Disabled Veterans Express Lanes Benefit Program.** Applicants may qualify for the Disabled Veterans Express Lanes Benefit Program by presenting all of the following:
 - (1) proof of San Bernardino County residency;
 - (2) a valid Department vehicle registration; and
 - (3) verification of an issued Disabled Veteran License Plate, or verification of an issued Veteran License Plate together with either a current (unexpired) Disabled Person Placard or a Veterans Administration Benefit Letter noting 100% “service-connected disability”.

Proof of qualification for the Disabled Veterans Express Lanes Benefit Program may only be presented in-person at the SBCTA Express Lanes customer service center. Upon approval, customers enrolled in the Disabled Veterans Express Lanes Benefit Program will be permitted to use the SBCTA Express Lanes without payment of the applicable Toll.

Chapter 8-03 Violations

8-03-010 Liability for Failure to Pay Toll. No person shall cause a Vehicle to enter, traverse on, pass through, or attempt to pass through the SBCTA Express Lanes without possession of a transponder or other electronic toll payment device for payment of the proper Vehicle Toll, or, on the I-10 Express Lanes only, valid vehicle license plates properly displayed for assessing and assigning the proper Vehicle Toll for such use. Except as provided herein, the Registered Owner, driver, rentee or lessee of a Vehicle which is the subject of any Violation shall be jointly and severally liable for the penalties imposed under this SBCTA Express Lanes Policy, unless the Registered Owner can show that the Vehicle was used without the express or implied consent of the Registered Owner. Anyone who pays any penalty pursuant to this SBCTA Express Lanes Policy shall have the right to recover the same from the driver, rentee or lessee.

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 SBCTA Express Lanes Policy. Any motorist assessed a penalty for a Violation shall be deemed to be charged with a non-criminal, civil violation, pursuant to Code Section 23302.5.

8-03-020 Violation Penalties and Processing Fees. The penalties and applicable administrative fees for a Violation of this SBCTA Express Lanes Policy shall be the amounts set forth in the Schedule of Penalties and Administrative Fees, attached hereto as Schedule A and incorporated by reference herein. The Schedule of Penalties and Administrative Fees may be amended by the SBCTA Board of Directors, provided they do not exceed the amounts set forth in Code Section 40258(a). Any increases to the penalties and fees shall be posted on the applicable SBCTA Express Lanes website and the SBCTA website 90 days in advance of enactment. If the SBCTA Board of Directors determines it is in the best interest of SBCTA, penalties in amounts

less than specified above may be implemented for any portion of the SBCTA Express Lanes or categories of Penalties may not be applied, all in accordance with documented SBCTA business rules.

If a Vehicle is found by automated devices, by visual observation, or otherwise, to have evaded Tolls on the SBCTA Express Lanes, SBCTA or the Processing Agency shall, within 21 days of the Violation, deliver by first-class mail a Notice of Toll Evasion Violation to the Registered Owner at the address as shown on the record of the Department. If accurate information concerning the identity and address of the Registered Owner is not available to the Processing Agency within 21 days of the Violation, the Processing Agency shall have an additional 45 calendar days to obtain such information and forward the Notice of Toll Evasion. Where the Registered Owner is a Repeat Violator, the Processing Agency shall forward the Notice of Toll Evasion Violation within 90 calendar days of the Violation.

The Processing Agency shall use its best efforts to obtain accurate information concerning the identity and address of the Registered Owner for the purpose of forwarding a Notice of Toll Evasion. Toll evasion penalties shall be collected as civil penalties.

If payment of a Toll for a License Plate Tolling trip is not made within five (5) calendar days, the trip will be considered a Violation of this SBCTA Express Lanes Policy.

8-03-030 Notice of Toll Evasion Violation. The Notice of Toll Evasion Violation shall contain (1) the date, approximate time and location of the alleged Violation, (2) the section of the Code allegedly violated, (3) the Vehicle license plate number, and if practicable, the make and registration expiration date of the Vehicle, (4) the penalty due for the Violation, (5) the procedure to follow for payment of the amount due, including the address of the person authorized to receive payments, (6) a statement in bold that payments may be sent through the mail, (7) the Due Date for payment, contesting the Notice or submission of the affidavit of non-liability, and (8) a clear and concise explanation of the procedures for contesting the Violation and appealing an adverse decision pursuant to Code section 40255 and 40256.

The Notice of 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 issuing agency.

If the affidavit of non-liability is returned to the Processing Agency by the Due Date set forth in 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, evidenced by a stolen vehicle police report, and if the Processing Agency is satisfied that the Registered Owner is not responsible for the Violation, the Processing Agency shall terminate proceedings against the originally served Registered Owner and proceed against the unauthorized driver at the time of the Violation.

If the affidavit of non-liability is returned to the Processing Agency by the Due Date set forth in the Notice of Toll Evasion Violation 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) has complied with

section 5602 of the Code, or (2) the Processing Agency is satisfied with evidence establishing 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 of either of the foregoing, then the Processing Agency shall terminate proceedings against the originally served Registered Owner and proceed against the new owner of the Vehicle.

If the affidavit of non-liability is returned to the Processing Agency by the Due Date on the Notice of Toll Evasion Violation together with 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.

8-03-040 Dismissal of Notice of Toll Evasion Violation. If, after a copy of a 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 should be dismissed, the Processing Agency shall cancel the Notice of Toll Evasion Violation, and the Motorist shall be notified by first-class mail.

Under no circumstances shall a personal relationship with any law enforcement officer, public official, law enforcement agency, processing agency or toll operations agency or entity be ground for dismissal of the Violation.

If non-liability has been established pursuant to an affidavit of non-liability as detailed above, proceedings against the party found not liable shall terminate, unless otherwise above.

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 Registered Owner, cancel the Notice of Toll Evasion Violation without the necessity of appearance by that Registered Owner.

If the full amount of the Penalty is received by the person authorized to receive it by the Due Date, and there is no contest as to that Violation, proceedings under this SBCTA Express Lanes Policy shall terminate.

8-03-050 Failure to Pay Penalties, Notice of Delinquent Toll Evasion Violation. If payment of the Penalty is not received by the Processing Agency by the Due Date on the Notice of Toll Evasion Violation, and proceedings hereunder have not otherwise been terminated, the Processing Agency shall deliver by first-class mail to the Registered Owner a Notice of Delinquent Toll Evasion Violation.

The Processing Agency shall provide to the Registered Owner, upon request, a photostatic copy of the original Notice of Toll Evasion Violation Notice or an electronically produced facsimile of the original Notice of the Toll Evasion Violation within 15 days of a request. SBCTA may charge a fee sufficient to recover the actual cost of providing the copy, not to exceed \$2. Until the

Processing Agency complies with the request for a copy of the original Notice of Toll Evasion Violation, the Processing Agency may not proceed to collection of the penalty due.

The Notice of Delinquent Toll Evasion Violation shall contain 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 Delinquent Toll Evasion Violation, or completes and returns to the Processing Agency an affidavit of non-liability, as provided with the Notice of Delinquent Toll Evasion Violation, within the Due Date set forth in the Notice of Delinquent Toll Evasion Violation: (1) the Penalty shall be considered a debt due and owing to SBCTA, (2) the renewal of the Vehicle registration shall be contingent upon compliance with the Notice of Delinquent Toll Evasion Violation at SBCTA's election, and (3) SBCTA may seek recovery of the debt in any lawful manner.

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. Non-liability may be established pursuant to an affidavit of non-liability returned to the Processing Agency by the Due Date set forth in the Notice of Delinquent Toll Evasion Violation.

If a rentee or lessee identified by a bona fide renting or leasing company in the affidavit of non-liability is forwarded the Notice of Delinquent Toll Evasion Violation, and the rentee or lessee does not pay the penalty, contest the Violation pursuant to the procedure set forth in the Notice of Delinquent Toll Evasion Violation, or complete and return to the Processing Agency an affidavit of non-liability, as provided with the Notice of Delinquent Toll Evasion Violation, within the Due Date set forth in the Notice of Delinquent Toll Evasion Violation, the Penalty shall be considered a debt due and owing SBCTA and SBCTA may seek recovery in any lawful manner.

8-03-060 Payment After Notice of Delinquent Toll Evasion Violation. If a Motorist who was mailed a Notice of Delinquent Toll Evasion Violation, 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 terminate all proceedings where the amount deposited satisfies the amount due. If the Registered Owner, by appearance or by mail, makes payment to the Processing Agency by the Due Date set forth in the Notice of Delinquent Toll Evasion Violation, the penalty shall consist of the amount of the penalty set forth in the notice, without any additional administrative fees or charges.

If the Notice of Delinquent Toll Evasion Violation has been filed with the Department pursuant to Code Section 40267(a) or a civil judgment has been entered pursuant to Code Section 40267(b) and payment of the Penalty together with the administrative fee of the Department and the administrative service fee of the Processing Agency for costs of service and any applicable assessment is received, the Processing Agency shall immediately transmit the payment information to the Department in the manner prescribed by the Department, and terminate proceeding on the Notice of Delinquent Toll Evasion Violation.

8-03-070 Contest of Notice of Toll Evasion Violation or Notice of Delinquent Toll Evasion Violation. A person may contest a Notice of Toll Evasion Violation or Notice of Delinquent Toll Evasion Violation by the Due Date set forth in the applicable notice.

The Processing Agency shall establish and implement 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.

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 60 days of the mailing of the results of the investigation, deposit the amount of the penalty and request an administrative review. An administrative review shall be held within 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 continuance, not to exceed 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.

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

- 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.
- For Violations arising out of the same set of operative facts and belonging to the same Registered Owner, the maximum amount of the penalty to be deposited shall be a) \$250 or b) \$250 plus 10 percent of penalty above \$1,000, whichever is greater.
- Individuals unable to pay the required deposit may apply for a hardship exception.

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.

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, 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 SBCTA's policies. This documentation in proper form shall be prima facie evidence of the Violation.

8-03-080 Hearing Officers; Administrative Reviews. SBCTA's Executive Director shall designate a hearing officer or reviewer to conduct administrative reviews. The hearing officer shall demonstrate the qualifications, training and objectivity necessary to perform fair and impartial reviews. The hearing officer's employment, performance evaluation, compensation and benefits shall not be directly or indirectly linked to the outcome of reviews or the revenue generated by such reviews.

Reviews shall be conducted in accordance with the written procedures established by the Processing Agency, which shall ensure fair and impartial review of contested Toll Evasion Violations. The hearing officer's final decision may be delivered personally or by first-class mail.

If a notice of appeal to the California Superior Court is not filed within the period set forth below, the decision of the hearing officer shall be deemed final.

8-03-090 Appeal to Superior Court. A person who requests an administrative review and is not satisfied with the results of the review may, within 20 days after the mailing of the administrative review final decision, seek review by filing an appeal to the California Superior Court. The matter 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 purpose of computing the 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 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. The fee for filing the notice of appeal shall be the amount specified in Code Section 40256. If the appellant prevails, this fee, together with any deposit of the penalty made by the contestant, shall be promptly refunded by the Processing Agency in accordance with the judgment of the court.

8-03-100 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 in favor of SBCTA, SBCTA 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 to the Department for collection with the registration of the Vehicle. SBCTA 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 Motorist.
- b) If more than four hundred dollars (\$400) in unpaid penalties have been accrued by any person or Registered Owner, SBCTA 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 judgment 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, fees and costs, and that after 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 judgement debtor.

The person or Registered Owner shall also be notified at that time that execution may be levied against his or her assets, liens may be placed against his or her property, his or her wages may be garnished, and other steps may be taken to satisfy the judgment amount. 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 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 filling fee shall be collectible by the court from the debtor.
- d) Contract with a collection agency to collect the outstanding tolls and penalty amounts.
- e) Submit a request to the California State Controller for an offset of unpaid penalty amounts 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 12419.10. SBCTA shall provide a notice of intent to request an offset by first-class mail to the motorist 30 days prior to the request date, or within such time as required by law.
- f) Pursue such other remedies and enforcement procedures that are authorized under laws of the State of California.

8-03-110 Termination of Proceedings. SBCTA and/or the Processing Agency shall terminate proceedings on the Notice of Delinquent Toll Evasion Violation:

- a) Upon receipt of collected penalties and administrative fees 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 years have elapsed since the date of the Violation.
- c) The Processing Agency received information, which it verified, that the penalty has been paid to the Department pursuant to Code Section 4772.
- 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 Notice of Toll Evasion Violation.

8-03-120 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.

8-03-130 Other Notices. Nothing herein shall prohibit SBCTA or the Processing Agency from establishing informal methods of notifying motorists of Violations and from collecting Tolls, fees and penalties for Violations through such means.

Chapter 8-04 Privacy Policy

8-04-010 Short Title. The provisions of this Chapter may be referred to as the SBCTA Express Lanes Privacy Policy.

8-04-020 Purpose. In accordance with California Streets and Highways Code Section 31490, this Chapter describes the personal data collected by SBCTA and how it is used, retained, and shared. The Express Lanes Privacy Policy has been incorporated fully into this SBCTA Express Lanes Policy with the intention of rescinding SBCTA Policy 50200. The SBCTA Express Lanes Privacy Policy is consistent with SBCTA Policy 10170, Confidentiality.

SBCTA is committed to safeguarding the integrity and confidentiality of the PII of SBCTA Express Lanes facility Users. SBCTA recognizes the need for reasonable control of personal information. SBCTA's collection and use of PII in connection with operation of its express lanes shall conform to the standards and procedures contained below and SBCTA Policy 10170, Confidentiality.

8-04-030 Collection and Use of PII. SBCTA collects, uses, and may disclose, as necessary, Users' PII for billing and account settlement purposes, in order to collect payments, and to process and enforce Toll Violations. SBCTA also uses certain User PII, such as travel pattern data, to manage and enhance operations, including the operation of the SBCTA Express Lanes, website, and other toll related services. SBCTA may also use PII to respond to questions from Users. SBCTA may require presentation of PII to facilitate the administration of the Express Lanes Equity Program, which includes the Low Income Program and Disabled Veterans Program. PII may be required to be presented to customer service representatives to determine eligibility for these programs. Information reviewed for the Express Lanes Equity Program by customer service representatives will not be maintained by the agency or its customer service agents.

Upon use of an SBCTA Express Lanes facility, the following information is automatically collected from users:

- Facility used along with the date, time and direction of travel
- Hardcase Transponder and/or sticker Transponder unique identifier, occupancy setting and transponder type
- Vehicle type information (such as motorcycle or clean air vehicle)
- Photographs of vehicle in order to capture license plate images (which may also identify the vehicle's make, model, color, license plate number, and state)
- The name and address of the registered owner of the vehicle, along with the vehicle make, model, and year (when attempting to collect a Toll and/or processing a Violation)

Information provided directly to SBCTA or its third party vendors directly by Users

- Identifiers like name, email address(es), mailing address(es), phone number(s)
- Names of individuals authorized to manage, give, and/or receive information regarding account and transactions
- Account numbers
- Hardcase Transponder and/or Sticker Transponder numbers
- Transaction and payment information (including bank information and credit or debit card numbers)

- Information about the vehicle registered to accounts (for example, the vehicle type, license plate number, state of registration, year, make, model, color, and clean air vehicle expiration date)
- Data entered when paying on website
- Correspondence and communication information
- Social Security Number, tax information and income information
- Low income program eligibility (for example, household income, government benefit assistance)

Information collected from other sources

Outside of direct interactions with Users, SBCTA may collect information, including PII, from other sources to communicate information and to carry out business functions including billing, accounting, enforcement, operation and management of the SBCTA Express Lanes. The sources of this data include but are not limited to service providers, law enforcement, government records or other publicly accessible directories and sources, public record and information service providers, Departments of Motor Vehicles. This information may include:

- Identifiers like name, email address(es), mailing address(es), phone number(s)
- Social security number to enforce unpaid Toll Violations
- Information sent by Users' web browsers (such as IP address, type of operating system)
- SBCTA Express Lanes website browsing activity

Information collected from Other Toll Agencies and Operators

Where applicable, SBCTA receives information, including PII, from other toll agencies and operators, and any private contractors and/or vendors of those toll agencies and operators. This information may include:

- Transponder type and unique identification number(s)
- Transponder protocol
- Vehicle type (such as motorcycle or clean air vehicle)
- License plate number and state
- FasTrak® Account number
- Toll transaction data
 - Date, time and Toll amount
 - Toll facility name
 - Toll entry and exit point, where applicable
 - Transponder occupancy indicator setting
 - Vehicle type

SBCTA may place a 'cookie', which is a piece of data stored on a computer when browsing the SBCTA Express Lanes website. This cookie data has information about that person's use of the website and helps improve functionality of the site. A cookie file contains information that can identify information such as the IP address of the computer and network that a visitor uses to browse the website and network traffic patterns. Cookies track information related to a person's

use of the website, such as date and time of use, and pages visited. This information may be used to improve the website experience. Most cookies are automatically deleted from the computer at the end of the browsing session. A person may change their browser security settings to accept or reject cookies; however, rejection of cookies may affect website functionality.

8-04-040 Sharing and Disclosure of PII. SBCTA may use third party service providers, including the services of another public transportation agency, to facilitate toll services, and may disclose PII to such service providers to the extent necessary for that purpose. PII will also be provided to contractors and subcontractors (of SBCTA or of another public transportation agency facilitating SBCTA services) who process Toll collections, Toll Violation notices and enforce toll requirements. Information disclosed may include name, address, account number, license plate number, phone number, email address, the date, time and location of toll transactions, the amount of unpaid Toll and Toll evasion penalties, and other similar information. To facilitate enforcement of unpaid Tolls and associated penalties, we may disclose information about Users to third parties to confirm an address and/or phone number or to obtain an updated address and/or phone number. SBCTA may also obtain and use a User’s social security number during the collection and enforcement process.

SBCTA shares PII with operators of other transportation agencies operating toll facilities and their designated third-party vendors to facilitate the use of a single FasTrak® transponder on multiple toll facilities – referred to as “interoperability.” Those other transportation agencies provide similar information to SBCTA about their FasTrak® account holders. This allows participating transportation agencies to recognize valid FasTrak® accounts. For Users with FasTrak® accounts, basic information will be sent to other transportation agencies about such Users’ use of the SBCTA Express Lanes so that those transactions can be included on the Users’ account statement. That information may include, but is not limited to, transponder identification number, account number, license plate number, the Toll amounts owed and/or other charges, and the date, time and location of each transaction.

SBCTA may have to disclose PII if required to do so by law, such as to the government or third parties pursuant to a search warrant, court order or other legal process. SBCTA may disclose PII about Users to SBCTA service providers, necessary or appropriate in connection with investigations of activities that could expose SBCTA to liability, including investigation of fraud, intellectual property infringement, piracy, or other similar activities.

SBCTA may aggregate information about Users and their use of SBCTA Express Lanes with information about others, and we may disclose such information in the aggregate to the companies that provide our funding, technology and corporate expertise, or our advertisers, analysts, alliance partners, or service providers. Aggregate information may also be publicly released in reports presented to the SBCTA Board of Directors, State of California, or the United States Department of Transportation (USDOT). Any such aggregate information will not contain information that could be used to contact or identify individual Users.

SBCTA and its third party vendors retain PII for as long as necessary to fulfill the purposes of PII collection, including for the purposes of satisfying any legal, accounting, or reporting

requirements. Note that retention periods may vary (usually between 18 and 54 months) depending on the type of information, how it is used, and relevant legal requirements in accordance with applicable law.

8-04-050 Changes in the Express Lanes Policy Regarding Privacy. SBCTA reserves the right to update, modify, or rescind this SBCTA Express Lanes Policy, including the Privacy clauses, from time to time and in a manner consistent with state law. If there is a material change to the Privacy clauses of the SBCTA Express Lanes Policy, the revised policy will be posted on the SBCTA website. In addition, notification of changes to the SBCTA Express Lanes Policy and Privacy clauses will be prominently posted on the SBCTA website. Any person who signs up on the Express Lanes website to receive emails about the SBCTA Express Lanes also will receive an email notification of material changes to the Privacy clauses of the SBCTA Express Lanes Policy.

8-04-060 How to Contact Us. For questions about this SBCTA Express Lanes Policy, please write to:

SBCTA Express Lanes
1170 W. 3rd St. 2nd Floor
San Bernardino, CA 92410
ATTN: Chief of Toll Operations

Questions also may be directed to the SBCTA Chief of Toll Operations by phone at (909) 884-8276, or via email at info@gosbcta.com.

8-04-070 Reviewing or Changing PII. Any person wishing to review and correct or change any of their PII maintained by SBCTA may request to do so by contacting SBCTA either by mail, phone or email as described above. SBCTA will retain PII only for as long as it is necessary for the purposes identified in this SBCTA Express Lanes Privacy Policy or as authorized by applicable law.

8-04-080 Effective Date of Express Lanes Privacy Policy. This original effective date of the Express Lanes Privacy Policy was effective as of July 1, 2020. This SBCTA Express Lanes Privacy Policy is effective as of the effective date of Ordinance 24-002, as noted in Section VII of said ordinance.

Chapter 8-05 Severability

If any term, covenant, or condition of this Title 8 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 provisions shall be valid and enforceable to the fullest extent permitted by law unless any of the stated purposes of this ordinance would be defeated.

Chapter 8-06 References

California Streets and Highways Code §§ 149.11, and 31490; California Vehicle Code §§ 670, 4770, 4772, 4774, 5602, 21655, 22406, 23302, and 40250-40273; SBCTA Policy 10170, Confidentiality.

SECTION VII. 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 provisions shall be valid and enforceable to the fullest extent permitted by law unless any of the stated purposes of this ordinance would be defeated.

SECTION VIII. EFFECTIVE DATE.

This ordinance shall be effective on February 2, 2024.

ADOPTED by the San Bernardino County Transportation Authority Board of Directors at its meeting on January 3, 2024, by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTION:

By: _____
Dawn M. Rowe, Board President
San Bernardino County Transportation Authority

Attested: _____
Marleana Roman, Clerk of the Board
San Bernardino County Transportation Authority

Schedule A

Schedule of Penalties and Administrative Fees

Description	Amount
Notice of Toll Evasion Violation Penalty	\$25
Notice of Delinquent Toll Evasion Violation Penalty	\$25
Department of Motor Vehicles Registration Hold Administrative Fee	\$2
Non-Sufficient Fund Check Administrative Fee	\$20