



September 12, 2018

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Adopt Resolution Reaffirming the Longstanding Policy of Requiring the Use of Transponders on the 91 Express Lanes

Overview

Since its opening in 1995, the 91 Express Lanes has always required the use of transponders linked to properly funded accounts to use the toll road without incurring a penalty. The transponder requirement is reflected in a number of documents, on road signs, and on the 91 Express Lanes website, but was not included in the ordinance establishing the procedures for assessing and collecting toll evasion violation penalties. Although a formal resolution or ordinance is not necessary to establish or document the official policy of the Orange County Transportation Authority, adoption of Resolution No. 2018-121 will help the Orange County Transportation Authority prove, if it ever became necessary, the requirement for the use of FasTrak transponders on the 91 Express Lanes.

Recommendation

Adopt Resolution No. 2018-121 confirming the longstanding policy of requiring the use of transponders on the 91 Express Lanes.

Background

The 91 Express Lanes were constructed in 1994-95 by the California Private Transportation Corporation. There were no toll booths built on the 91 Express Lanes. A transponder linked to a properly funded account was always required.

The Orange County Transportation Authority (OCTA) acquired the license to operate the 91 Express Lanes in 2002 and began operating the toll road in 2003. As with its private predecessor, OCTA has always required that drivers who use the 91 Express Lanes display a functioning transponder linked to a properly funded FasTrak account. Drivers who do not have FasTrak transponders but who, nevertheless, use the 91 Express Lanes will be issued a notice of violation

and be assessed a penalty. The requirement for the use of transponders is reflected in many different places, including:

- On California Department of Transportation-approved road signs on each of the approaches to the 91 Express Lanes;
- In every 91 Express Lanes account agreement;
- In written materials provided to new account holders, including a 91 Express Lanes "Welcome Kit;"
- On the website of the 91 Express Lanes; and
- In official statements approved by the OCTA's Board of Directors in connection with bond offerings to finance/refinance OCTA's acquisition of the 91 Express Lanes.

Sometimes transponders do not work properly, such as when the batteries wear out. In those cases, if the vehicle license plate number can be read by in-lane equipment and linked to a properly funded FasTrak account, the toll will be posted to the account and no violation notice sent. This is a courtesy extended to FasTrak account holders so that transponder problems do not lead to unnecessary violations. FasTrak account holders who routinely use the 91 Express Lanes without their transponders are notified in writing of the transponder requirement and are offered new transponders. Repeated use of the 91 Express Lanes without a transponder by account holders can result in the imposition of a transaction fee to offset the additional cost of looking up account holders by license plate numbers.

A governmental entity's policies do not have to be adopted by resolution or ordinance. Policies are often reflected in less formal documents and even in the longstanding practices of the agency. However, adoption or reaffirmation of a policy by resolution or ordinance eliminates all possible doubt about the policy, and makes that policy much easier to establish, if that becomes necessary.

Summary

Staff recommends the Board of Director's adopt Resolution No. 2018-121 which reaffirms the Orange County Transportation Authority's longstanding policy of requiring the use of transponders on the 91 Express Lanes.

Attachment

- A. Resolution No. 2018-121, Resolution of the Orange County Transportation Authority Confirming the Longstanding Policy of Requiring the Use of Transponders on the 91 Express Lanes

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