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## *Memorandum*

TO: BAIFA

DATE: April 9, 2014

FR: Executive Director

W. I. 6840

RE: Caltrans Policies and Agreements

Since the California Department of Transportation (Caltrans) owns the freeway system, BAIFA needs Caltrans' approval to build and operate express lanes. Furthermore, express lanes are a primary strategy MTC and Caltrans are implementing to more effectively manage the region's freeways. This memorandum highlights Caltrans policies and agreements that affect construction and operation of express lanes. Throughout these discussions, staff has consistently maintained that express lanes are part of the solution for gaps in current freeway system management (e.g., improving traffic flow, updating technology, and improving tools for enforcement) but they cannot be expected to solve these long-standing challenges alone. Rather, the implementation of express lanes must be undertaken in the context of the broader Transportation Management System (TMS) framework.

### **Caltrans Managed Lanes Policy**

Over the past year Caltrans has been developing a Managed Lanes Policy (Deputy Directive 43). The policy will outline Caltrans' objectives as well as the roles of Caltrans and local partners. The term "managed lanes" includes both express lanes and high occupancy vehicle (HOV) lanes; however, the majority of new policy considerations arise with the growth in express lanes, which local agencies are authorized to implement, operate and set toll and revenue policy.

Staff has collaborated closely with Bay Area congestion management agencies and with the statewide Self Help Counties Coalition to provide comments on initial drafts of the policy. (See attachment.) Key comments address:

- Agreement that express lanes are primarily a mobility strategy.
- Approaches to partnering must be tailored to each project; one size does not fit all.
- The importance of aligning roles and responsibilities for toll setting and revenue allocation and express lane maintenance with the agency assuming risk, and the impact on financial feasibility of doing otherwise, particularly for projects that are bond financed or potential public-private partnership opportunities.
- The importance of coordination with other freeway management strategies and regional and county-wide investment plans.

In January 2014 Caltrans Director Malcolm Dougherty met with executives from northern and southern California agencies to communicate that Caltrans is revising the policy to address our concerns. One item on which there likely will be continued discussion is the use of excess revenue for maintenance of the state highway system. Caltrans believes it fair that revenue should contribute to general freeway maintenance, particularly from express lanes created by converting existing HOV lanes, which Caltrans views as a contribution by the state to the projects. Staff's position has been that express lanes should indeed help fund freeway maintenance and operations, but the amount should be tied to the additional wear and tear from express lanes.

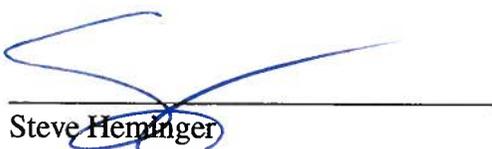
Another statewide initiative of interest is development of a statewide Managed Lanes Master Plan to provide a blueprint for where express lanes and HOV lanes will operate on the state highway system and address associated operational, institutional, technical, and performance challenges. Staff is prepared to work closely with Caltrans on this effort.

### **Agreements Related to Operations**

Staff has reached mutual understanding with Caltrans District 4 on a number of issues that are consistent with the broad view of express lanes in the context of TMS.

1. One workstation in the District 4 Transportation Management Center (TMC) will be available for BAIFA's express lane toll operation. This will facilitate active management of express lanes and adjacent general purpose lanes in real-time. One operator is sufficient for the initial I-680 Contra Costa Southern segment; BAIFA staff proposes to convert the work station to accommodate two operators for I-880 and I-80 in Solano County.
2. The express lane toll system host servers will be co-located with the bridge toll system servers (ATCAS II) in the Benicia-Martinez Bridge Toll Plaza building. This promotes efficiency in maintenance, which may be conducted by a single contractor, as well as shared use of power, fire suppression, cooling, and wiring systems.
3. BAIFA will construct the Express Lanes Backhaul Communications Network using a combination of existing Caltrans conduit and fiber, existing BART fiber, and new conduit and fiber to be installed by BAIFA. BAIFA and Caltrans will make joint use of these resources. The broader network will eventually support a variety of transportation management initiatives such as integrated corridor management, ramp metering and closed circuit television cameras.

BAIFA and Caltrans will need to enter into an operations and maintenance agreement to formalize roles, responsibilities and terms for these elements and other activities during the operations phase. Historically, these agreements have been a challenge to finalize as express lane operators and Caltrans may have diverging views on various topics such as the level of maintenance services, how they will be provided and at what cost. We will keep the Authority posted on our progress as we proceed.



Steve Heminger

SH: lk

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Santa Clara Valley  
Transportation  
Authority

Tulare County  
Association of  
Governments

February 19, 2014

Malcolm Dougherty  
Director  
California Department of Transportation  
P.O. Box 942873  
Sacramento, CA 94273-0001

**Subject: Managed Lanes Policy**

Dear Director Dougherty:

On behalf of the Self Help Counties Coalition (SHCC), I am writing you to thank you for your recent efforts to meet and confer with SHCC member agencies regarding potential development and changes to the managed lanes policies for the State of California. We place great value on the continued partnership between the Department of Transportation (Caltrans) and the SHCC. We believe this partnership continues to be the strength of California's successful policy development for projects on the state highway.

In an effort to build upon the discussions that took place throughout the State with SHCC member agencies on managed lanes policies, we would like to formally submit to you our policy suggestions and guidelines which have been prepared by SHCC member agencies for your review and consideration. We have attached below a general and financial policy document, which we hope will assist in the future development of sound public policy so that the State of California and we can continue to meet our transportation infrastructure needs.

Again, thank you for your time in meeting and conferring with SHCC member agencies on managed lanes policy; we hope our attached SHCC policies enhance those discussions. We look forward continuing to working with you on this issue.

Please do not hesitate to contact me if you have any questions or would like to meet further to discuss.

Sincerely,

Keith Dunn

A handwritten signature in black ink that reads 'Keith P. Dunn'.

Executive Director  
Self Help Counties Coalition

## Managed Lanes

### General Policies

- 1) Express Lane projects are first and foremost designed to provide safe, predictable and reliable travel times in a corridor in order to increase travel options and improve overall corridor performance through enhanced person throughput. In order to achieve these goals, pricing, transit, and carpool policies should be actively managed by the lead agency for each facility to ensure optimal performance in that corridor.
  - a) Regional connectivity and a seamless user interface are important statewide goals that should also be considered. General goals should be developed that allow for flexibility to address individual corridor or express network needs.
- 2) Decisions over revenue allocation and tolling policies should rest with the agency assuming the project development, construction and financing risk.
- 3) Decisions over roles and responsibilities for operations and maintenance should rest with the agency assuming the project risks, taking into account the entity most able to perform the task efficiently and effectively within the project's financial constraints.
- 4) Express Lane facilities with a sunset date should be evaluated for continued operation based on performance and continued congestion relief benefits for the corridor or Express Lanes network.
- 5) Local and regional agencies should work with Caltrans to ensure that other corridor system management tools are actively used to support improved mobility as part of any express lanes proposal including ramp metering and signal timing.
- 6) Express lane projects implemented in self-help counties shall be consistent with applicable voter-approved sales tax expenditure plans.

### Financial Considerations

- 1) Toll policies should be designed to address the following, in priority order:
  - a) Debt Service Obligations/Project financing/Reserve requirements
  - b) Capital, Operations & Maintenance needs of the facility (including administration, enforcement, marketing, tolling system maintenance, signage, field devices, and prorated share of express lane roadway maintenance)
  - c) Facility throughput (including facility access, transit, and carpool policies)
  - d) Equity considerations/mitigations

- e) Corridor (and express network) throughput and other corridor or express network needs (excess revenues)
- 2) State and federal agencies shall not reduce their maintenance and operations commitments in a corridor (or express network) due to the existence of express lanes.
- 3) Excess Revenues should be reinvested in projects that improve mobility in the corridor or express lane network where they are generated, including but not limited to, transportation or system demand strategies, improvements to the corridor to reduce congestion in the express lanes facility, and other general purpose improvements.
- 4) Any amount dedicated for the maintenance of General Purpose lanes must be:
  - c) Kept within the defined corridor
  - d) Determined by the local agency in consultation with Caltrans
  - e) Allocated to specific projects by the local lead agency with pre-determined performance metrics to ensure accountability and transparency
  - f) Liability for the General Purpose lanes remains with Caltrans, unless mutually agreed to by both parties

### **Priced Managed Lanes Financial/Project Finance Issues**

#### **Executive Summary**

- The feasibility of priced managed lane projects by local governments is dependent on revenues.
  - For local transportation agencies, toll revenues can be first option, but often supplemented by other funds like self-help sales tax revenues.
  - Financing plans are complex and multi-faceted.
  - The volatility of priced managed lane revenues requires that financings be structured with high levels of flexibility.
  - To minimize other required funds, toll revenues financings are structured to provide maximum proceeds.
  - The TIFIA loan program is often a part of maximizing proceeds of toll revenue financing.
- Each specific priced managed lane project is governed by different economic considerations.
  - Guiding policies must be flexible to accommodate project distinctions.
  - Rigid uniform policies detract from project development.
- Priced Managed lane policy directly impacts revenues and financial feasibility.
  - Restrictive policies can directly impact available financing proceeds.
- Projects dependent on revenue based debt financing require:
  - Investment grade ratings (a TIFIA requirement);
  - Clearly defined roles and responsibilities of governmental sponsor and partner;

- Toll policy aimed at providing sufficient revenues for financing based on clear lines of authority;
  - Responsibility for toll policy aligned with financial responsibility to debt holders;
- Debt structured to absorb reductions in revenue;
- Relationship between forecast revenues and debt service that provides flexibility to restructure debt service in order to accommodate significant adverse economic conditions;
- Clear definition of priorities for application of revenues;
  - Priority of payment of debt service;
  - Sufficient funds to provide for operations and maintenance as well as long term repair and rehabilitation; and
  - Specific provisions regarding the application of excess revenues.

### **Issues Raised by Deputy Directive DD43-R and Related Discussions**

- Caltrans states its authority to adjust tolls “in coordination with regional and local agencies” to optimize system performance.
  - It is important to investors in toll based financings that the line of responsibility for the development and implementation of toll policy and the imposition of tolls is clear. The optimal situation is that such responsibility resides primarily with the party bearing financial responsibility to investors.
  - The foundation of priced managed lanes, particularly for HOT and Express Toll lanes, is the modification of individual behavior through economic incentive and disincentive. The establishment and implementation of toll policy often raise sensitive political issues that may be best served at a local level.
  - The basic toll policy of a managed lane system is to maintain a threshold level of throughput. Determinations by Caltrans to alter that policy could degrade the operational and financial performance of the priced managed lanes.
  - An important consideration in toll policy is the amount and timing of any exceptions for HOV, whether HOV2+ or HOV3+. The interests of Caltrans and the local transportation agency can diverge significantly.
  - DD43-R states that “excess toll revenues” could be used for funding of “operational and maintenance expenditures on adjacent mixed flow lanes and other improvements on the freeway corridor
  - To the extent that there are any financing arrangements with regard to toll revenues, “excess toll revenues” should be read to mean revenues after payment of:
    - Operations and Maintenance costs of the Express Lanes;
    - External or Internal Debt Service, if any, payable from tolls;
    - Replenishment of reserves for payment of Debt Service;
    - Establishment and replenishment of non-indenture capital and operating (e.g. a Repair and Rehabilitation reserve which may accumulate funds over a term of years prior to major expenditures); and
    - Funds required for Express Lanes capital costs, including major maintenance, camera systems, phone systems, transponders, electronic traffic and toll management systems, etc.

- The development of priced managed lanes tends to require additional funding beyond that based on toll revenues. “Excess toll revenues” should not exist until the local transportation agency’s investment from non-toll funds is recovered.
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- Caltrans has been cited as desiring that the tolling authority be limited to the term of any debt.
  - Such a limitation creates a significant problem. First, there is a possibility that revenues will prove insufficient to pay debt service. Toll authority that extends beyond the term of debt allows for restructuring to avoid default on the debt. Moreover, even if debt service is paid as due, revenues may not allow for fully funding items farther down the priority, such as major maintenance. An extension of the toll authority beyond the debt term allows for the system to recover and fund those costs.
  - The existence of the tolls in HOT or Express Toll Lanes is a fundamental part of managing congestion. This effect continues regardless of the existence of any toll revenue debt.
- Policies that designate a guaranteed share of maintenance work for Caltrans can inhibit project feasibility.
  - This idea runs counter to the entire “public-private partnership” concept. The lack of competition creates a troubling problem with potential costs.
  - A requirement to divide maintenance work gives rise to the possibility that the total effort may need to be artificially and inefficiently divided between public and private activities.
- DD43-R and the concurrent positions of Caltrans seem to imply an insertion of Caltrans into the development of the Plan of Finance for each project – regardless of state financial investment.
  - Any priced managed lane project is complex and difficult with multiple parties. FHWA and TIFIA already present difficult negotiations, often in contradiction to the requirements of the financing participants like rating agencies and investors.
  - Toll financing projects are often highly leveraged and lack financial flexibility. Separate requirements of Caltrans, particularly those that differ from other governmental partners, can unduly complicate a transaction.