

1. General.

By opening an account, ("Account"), signing an application, or agreeing electronically, you agree to this Agreement ("Agreement") with the Orange County Transportation Authority ("OCTA," "we," or "us"), which, together with any supplements, allows the person named and his or her agents ("you" or "your") to use the 405 Express Lanes and pay tolls and other charges using a 405 Express Lanes FasTrak® or FasTrak Flex® (switchable) Transponder ("Transponder"). You agree:

- a. To pay tolls and other fees charged to your Account.
- b. To use your Transponder in accordance with instructions provided to you, including having your Transponder properly mounted and visible at all times while on the 405 Express Lanes.
- c. To obey all applicable laws and regulations.
- d. To promptly review your statement, received via mail or e-notification, and notify us if you have any questions regarding any charges. Charges not disputed within thirty (30) days of statement date will be deemed accepted.
- e. To promptly notify us of any changes in your name, address, phone number, email address (if provided), vehicles and license plate numbers used, and, if applicable, credit card number and expiration date or bank account information.
- f. That the California Highway Patrol (CHP) may make available to OCTA reports of incidents on the 405 Express Lanes.
- g. That you have read and agree to the 405 Express Lanes Privacy Policy, available at 405expresslanes.com.
- h. To receive important communications regarding your Account and the operations of the 405 Express Lanes via mail, email, outbound phone calls and/or text messages (SMS) if opted in. Carrier rates may apply.
- i. The 405 Express Lanes may from time to time offer various promotional credits or discounts. Multiple discounts or credits cannot be applied in order to reduce a tolled trip to less than \$0.00 and are not refundable for cash payment.

2. Account Plans and Fees.

You agree to enroll in one of the following account plans and to the terms and discounts included in the plan you select, or that is applied to you. All account plan fees are non-refundable. OCTA reserves the right to remove discounts, promotions, or promotional toll credits if abuse or violation of the promotional terms occurs. You agree to the following for the account plan that applies to you:

- a. Standard Plan account:
 - i. Your account may have standard and special access vehicles registered to your account. Only valid special access vehicle(s) may qualify for discounted toll rates.
 - ii. Your account will be charged a \$2 monthly account fee on the first day of each month the account is open.
 - iii. You may receive a discount of \$1 or the trip amount (if less than \$1) on each 405 Express Lanes tolled trip after the first thirty (30) tolled trips in a calendar month. Total discounted tolls shall not exceed a \$50 discount per calendar month. After applying promotional credits, only tolls greater than \$0, will count towards the qualifying first thirty (30) discounted trips.
- b. Convenience Plan account:
 - i. Your account may have standard and special access vehicles registered to your account. Only valid special access vehicle(s) may qualify for discounted toll rates.
 - ii. Your account will be charged a one-time \$100 account fee.
- c. Special Access account:

Your account must only include special access vehicles. Special Access Accounts are not valid and are ineligible for discounts until proof is provided and verified by the 405 Express Lanes prior to the discounts being applied. If you have non-Special Access trip(s) billed to your account, OCTA may charge a \$2 monthly fee for any month where a non-Special Access trip is billed. OCTA also reserves the right to transfer your Special Access account to a Standard Plan account if non-Special Access trip(s) are billed to your account. However, Standard Plan discounts will not apply unless the Special Access account is converted to a Standard Plan account. Special Access discounts are valid only on the 405 Express Lanes.

You also agree to the following:

- i. No monthly account fees apply.
- ii. Carpool: To use a FasTrak Flex Transponder which must be set to the correct occupancy.
- iii. Motorcycle: To use the 405 Express Lanes only when riding on a motorcycle. To receive discounted toll rate, a copy of the motorcycle DMV vehicle registration must be presented at time of account opening.
- iv. Disabled Person/Disabled Veteran License Plates: To use the 405 Express Lanes only when driving a vehicle with a permanently mounted Disabled Person or Disabled Veteran license plate issued by any Department of Motor Vehicles (DMV) in the United States. Temporary placards do not qualify for a Disabled Person/Disabled Veteran License Plates Special Access Account. A copy of the DMV vehicle registration must be presented at time of account opening and may be requested annually. To receive the discounted rate, the account must be in the name of the person to whom the plate(s) is issued, and that person must be an occupant of the vehicle at the time of travel in the 405 Express Lanes.
- v. Designated Veteran License Plates: May use the 405 Express Lanes toll free only when driving a vehicle with a valid FasTrak account and transponder and a permanently mounted Designated Veteran License Plate issued by the California Department of Motor Vehicles (DMV). To be eligible for the toll exemption program, veterans must have a license plate with one of the following designations on their registered vehicle: Congressional Medal of Honor, Disabled Veteran, Legion of Valor, Pearl Harbor Survivor, Ex-Prisoner of War or Purple Heart. A copy of the DMV vehicle registration and license plate must be presented at time of account opening. To receive the discounted rate, the account must be in the name of the person to whom the plate(s) is issued, and that person must be an occupant of the vehicle at the time of travel in the 405 Express Lanes.
- vi. Clean Air Vehicle (CAV): To use the 405 Express Lanes only when driving a CAV which is listed by the California Air Resources Board as a qualifying vehicle. To receive the discounted rate, you must provide a copy of a current DMV decal certification at the time of account opening and as requested by the 405 Express Lanes. The discount ends when the CAV eligibility expires.

3. Payment and Other Fees.

- a. You acknowledge that it is your responsibility to maintain your Account balance at or above the required minimum balance at all times. If you fail to keep the required minimum balance in your Account, you acknowledge that we may deactivate your Transponder and/or suspend or close your Account and that any further use of the 405 Express Lanes or other use of your Transponder after such deactivation or Account suspension or closure will be treated as a toll evasion violation, subject to all applicable fees, fines, and enforcement (including the placement of a DMV registration hold) as established by OCTA, the State of California, or any other toll facility you use.
- b. OCTA may charge a \$2 fee for each printed and mailed statement provided at the request of the account holder.
- c. Credit Card/Debit Card/Electronic Check (ACH): You authorize us to automatically replenish your Account by charging \$30, or the equivalent of one month's usage averaged over the previous three-month period, rounded to the nearest \$5 increment. Automatic replenishment from your card/bank account will occur each time your Account balance reaches or falls below the greater of either \$25, or one-week's usage averaged over the previous three-month period. These recurring charges will continue until you notify us in writing that you wish to terminate this Agreement.
 - i. Automatic replenishments calculated by average usage will determine the replenishment amount and cannot be adjusted downward, even if the minimum replenishment amount is less.
 - ii. In lieu of issuing toll evasion violation(s) and associated penalties, an automatic replenishment may also include any outstanding account balances, tolls, fees and/or penalties.
 - iii. You agree that OCTA may use a credit card updater service and send applicable credit card data to one or more third party sources and use the information available to check and update applicable credit card data.
 - iv. You agree to pay a returned item fee of \$25 for each bank account transfer (ACH) returned or refused by your bank.
- d. Cash, Check or Money Order: You agree to replenish your Account by making a minimum \$50 payment each time your Account balance falls below \$25. You agree that such payment will be received by us prior to your Account balance reaching a zero balance.
 - i. You agree that when a check is provided as payment, OCTA is authorized to use information from the check to make a one-time electronic fund transfer from the associated bank

account and funds will be withdrawn immediately after receipt of the check. You will not receive a copy of the check from your financial institution.

- ii. You agree to pay a returned item fee of \$25 for each check returned or refused by your bank.
- e. You acknowledge that if your Transponder is deactivated or your Account closed for lack of payment, or violation of 405 Express Lanes' rules, a \$25 deactivation fee will be charged to your Account.
- f. You acknowledge that OCTA may send your account to a Collections Agency and charge a \$25 collection fee.
- g. You acknowledge that if you do not comply with one or more of your responsibilities under this Agreement, OCTA will incur costs to secure your compliance. You agree to reimburse OCTA for all costs incurred in securing your compliance or enforcing your obligations under this Agreement, including tolls and administrative charges for such matters as notifying you of toll violations or Transponder failures. Such charges will be assessed in addition to penalties for toll violations.

4. Transponders.

- a. You agree to obtain a sticker Transponder for each vehicle registered to your Account.
- b. OCTA agrees to provide you one sticker Transponder for each vehicle registered to your account at no charge.
- c. To obtain carpool discounts you must purchase a FasTrak Flex Transponder.
- d. You agree to set the self-declaration switch on your FasTrak Flex Transponder in accordance with applicable laws, regulations, ordinances and policies prior to traveling on the 405 Express Lanes.
- e. If your FasTrak Flex Transponder fails to operate for reasons other than abuse or improper use, return it to us and we'll replace it at no charge within five years of purchase of the FasTrak Flex Transponder. All other FasTrak Flex Transponder replacements or additional Transponder(s) will result in \$15 for each FasTrak Flex Transponder. You agree to mount your Transponder according to the instructions provided to you and to ensure that your Transponder is in good working order.
- f. Sticker Transponders will be replaced at no additional charge. You acknowledge that sticker Transponders can only be used on one vehicle and that removing the Transponder will damage it and require you to obtain a new Transponder.
- g. If you drive on the 405 Express Lanes without a properly mounted Transponder in good working order or your Transponder is not read for any other reason, we may use an image of your license plate number to bill your Account. You agree to pay an administrative fee of \$2 per image-based transaction in addition to the toll. If the license plate number is not active on your Account at the time of travel, or if your Account is not in good standing, you may receive a toll evasion violation or a citation by the CHP. You agree that we may charge you an additional processing fee.
- h. If you sell a vehicle or if your Transponder is lost or stolen, notify us immediately and you will not be liable for any unauthorized use of your Transponder that occurs after such notification.

5. Toll Violations.

If you are driving a vehicle with a license plate that is not active and listed on your Account at the time of travel, if your Transponder is not active or not read for any reason, or if you do not have sufficient funds in your Account to cover a toll (including an inability to charge a toll because your credit card or bank information has not been updated), you may receive a toll evasion violation with penalties up to \$100 or a hold on your vehicle registration. Toll evasion violations are sent to the address on file with the DMV for the license plate on the vehicle and are not included on your Account statements. You are responsible for keeping the DMV informed of your address and for monitoring mail sent to that address for possible toll evasion violations. Toll evasion violations are enforceable even if you never receive or read the notice, so long as they are sent to the address on file with the DMV. You consent to the provision of information regarding your Account and toll road facility usage to the DMV.

6. Interoperability.

You may use your Transponder on any other California toll facility that allows payment of tolls via FasTrak. To make such use as seamless as possible, OCTA shares, among other things, Transponder identification numbers, account numbers, and the license plate numbers of vehicles listed on valid Accounts with the other toll facility operators in California. When you use your Transponder on another toll facility, the operator of that other toll facility will send us information about your transaction so that we can include the transaction on your Account statement. The information sent to us includes, but is not limited to, your Transponder identification number, your account number, your license plate number, the toll amount and/or other charges, and the date, time and location of the toll transaction.

If you use your Transponder on another toll facility that accepts FasTrak as a method of payment, you agree that we may charge you for any tolls, fines and/or other charges arising from such use, and that you will be responsible to us or the other toll facility operator for such tolls and/or other charges. Toll and other charges owed in this manner will be charged to your Account in accordance with rules, regulations and procedures of the facility on which the transaction was recorded. You agree that we may provide the other toll facility operator with any information contained in this Agreement or any other information associated with your Account for purposes of collecting tolls, fines and/or other charges, and that other toll facility operators may provide us with details of your usage of their facilities so that toll transactions can be included on your Account statement. If you fail to maintain your Account in good standing or to update your vehicle license plate(s) with us, you will be subject to toll evasion penalties and other charges as established by the other toll facilities you use.

7. Termination.

OCTA may terminate this Agreement at any time by giving written notice. You may terminate this Agreement at any time by providing a written or verbal request to close your Account. If we request or if you elect to terminate this Agreement, we'll refund (without interest) your Account balance, less any amounts you owe us. Cash/check customer refunds will be made by check (no cash refunds) and mailed approximately thirty-five (35) days from receipt of termination notice. Credit card customer refunds will be processed as a credit toward the credit card on file approximately thirty-five (35) days from receipt of termination notice. If your Account balance isn't sufficient to pay all amounts you owe us, you will remain liable for such amounts, and may become liable for attorneys' fees, service charges, fines and penalties in accordance with applicable law if such unpaid charges are not promptly paid. Unless requested, the 405 Express Lanes will not issue refunds for balances of \$1.00 or less.

8. Changes.

We have the right to change the terms of this Agreement and our policies, deposits, minimum Account balances and other terms and conditions at any time. Notice of changes may be provided to you with your Transponder, by email sent to the email address you provided for your Account, or by first class mail to the address listed on your Account. We will provide such notice at least thirty (30) days before the change goes into effect. All such changes will be effective and binding on you unless you terminate your Account prior to the effective date of the change(s). Toll schedules are subject to change without notice. By using the 405 Express Lanes, you agree to pay tolls posted on the variable message signs. If the variable message signs are unavailable, tolls will be assessed according to the toll schedule posted on www.405ExpressLanes.com.

9. Release and Indemnity.

- a. You acknowledge that OCTA has not made, and OCTA expressly disclaims, any representation or warranty, express or implied, relating to the 405 Express Lanes or any Transponder (including without limitation, any implied or express warranty of merchantability or fitness for a particular purpose).
- b. Neither OCTA nor its agents shall have any obligation or liability to you with respect to your use of the 405 Express Lanes or any Transponder, or any personal injury, property loss, or property damage sustained by you or your passengers. Your sole and exclusive remedies from OCTA and its agents shall be replacement of faulty Transponders as described in Section 4(e).
- c. You further agree to indemnify, protect and hold harmless OCTA and its agents from all liability for and from all loss, damage, or injury to persons or property whatsoever, known or unknown, arising out of or in any manner connected with your use of the 405 Express Lanes or any Transponder.

10. Governing Law.

This Agreement is governed by the laws of the State of California.

11. Communications.

Please address all questions and notices to:

405 Express Lanes
1535 Scenic Avenue, Suite 125
Costa Mesa, CA 92626

Phone: 1-562-740-4405
Website: www.405ExpressLanes.com