



SAN FRANCISCO BOARDSAILING ASSOCIATION
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DATE: February 8, 2022

TO: San Francisco Board of Supervisors, sitting as the Transportation Authority Board and as the Treasure Island Mobility Management Agency Board;
Clerk of the San Francisco County Transportation Authority (SFCTA)

FROM: San Francisco Boardsailing Association

RE: **Objection to Treasure Island Proposed Toll Policy**

The Treasure Island toll proposal before you violates the terms of the City's 2014 Agreement with the State Lands Commission (SLC), is in conflict with the Final Environmental Impact Report (FEIR) submitted by the City and County of San Francisco (City), and violates the SF Bay Conservation & Development Commission's (BCDC) permit that is based on the findings in the FEIR. The toll proposal also does not provide evidence to support required findings under AB 981, which states that the congestion management plan shall be based on an analysis that explains the specific benefits that are received by those paying the toll.

The Treasure Island Development Authority (TIDA) and the City are, according to the 2014 Agreement with SLC, acting as a Trustee of State Public Trust Lands. The City's role as Trustee is precisely the reason that the SF Board of Supervisors must reject the toll proposal and direct TIMMA staff to reconsider its approach to congestion management.

The Development Agreement Prohibits Charging a Toll to Island Visitors

Residential development on the former tidelands was allowed by a settlement agreement between the State Lands Commission and TIDA. In conjunction with this Agreement, the SF Board of Supervisors adopted the [Final EIR for the Treasure Island Master Plan](#) on April 11, 2011. The FEIR approved construction of 8,000 new residential units, 500 hotel rooms, and more than 700,000 square feet of other development. The FEIR anticipated that development would increase transportation demands and includes a Transportation Demand Management Plan to address the anticipated increase. But consistent with the importance and condition of maintaining free public access to the shoreline of Treasure Island and the vistas of Yerba Buena Island, the plan clearly and unambiguously guarantees that "*Visitors* to the Islands would not be charged a congestion pricing fee" [\[FEIR, page IV.E.45\]](#).



San Francisco Board of Supervisors
Objection to Treasure Island Proposed Toll Policy

February 8, 2022

Page 2

The 2014 Agreement between the SLC and TIDA explicitly states that San Francisco received clear title to allow residential development in ***exchange*** for commitments to ***enhance*** public access to the State's public trust lands. Key recitals in the Agreement further clarify this point:

the island presents an extraordinary opportunity to promote and enhance Public Trust values

(ii) Certain filled tidelands on Treasure Island are useful for ...a pedestrian and bicycle corridor around the shoreline of the island linked with a major open space and recreational park in the northern and eastern portions of the island; a proposed ferry terminal and plaza, a marina, and other public waterfront amenities; a major visitor-serving commercial core including retail and hospitality uses connecting the historic buildings, the ferry terminal and the waterfront; and other public ways that will provide waterfront access and enhance water views from the island.. [\[TRUST EXCHANGE AGREEMENT FOR TREASURE ISLAND AND YERBA BUENA ISLAND: Page 3\]](#)

... to allow the Public Trust Lands to be used to the greatest benefit of the people of this State.

the Development Plan ...will result in the improvement or enhancement of the Public Trust Lands for Public Trust uses such as open space, public access, water-related recreation, visitor serving facilities, wildlife habitat, circulation to and along the waterfront or similar trust-consistent uses. The Development Plan includes a transportation plan that provides public street access to all of the Public Trust Lands. This Agreement includes provisions to ensure that development of the TIDA Property includes adequate access from the public streets to the Public Trust Lands, including public roadway access along the western shoreline of Treasure Island, as required by the Exchange Act.

The exchange authorized by this Agreement will substantially benefit the Trust and will not result in any interference with the uses and purposes of the Trust. [\[TRUST EXCHANGE AGREEMENT FOR TREASURE ISLAND AND YERBA BUENA ISLAND: Page5\]](#)



San Francisco Board of Supervisors
Objection to Treasure Island Proposed Toll Policy

February 8, 2022

Page 3

Furthermore, [AB 981 Section 1967.6](#) states:

The transportation program shall ensure that public access to waterfront, recreational, and open-space areas on Treasure Island is sufficient to support public trust activities by ensuring all of the following: ... (b) Program elements shall not interfere with the provision of public access to public trust lands consistent with the beneficial use of those lands, including, but not limited to, roadway access to serve the public along the western shoreline of Treasure Island.

The Transportation Plan also included a commitment for enhanced bus service and a new ferry terminal, and the plan proposed that it be funded through a toll that would be applied to the new development at peak hours. This is the legal and regulatory framework within which the City was granted the right to proceed.

The Proposed Toll Deviates From Peak-Hour Commuters To All Visitors

As TIMMA began to look at the transportation plan in more detail, it became clear that even with congestion, most of the trips would still occur by car. It also became clear that providing the funding for expanded ferry and bus service would be more expensive than the commitments made by the developer in their agreements. So in July 2016 TIMMA staff turned to ALL VISITORS to the island—including those visiting tidelands for recreation, and those traveling at non-congested times—to bridge their funding gap. This decision falls outside of the legal and regulatory framework within which the City was granted the right to proceed. See [TIMMA Committee Meeting](#) [Item 5, 6:00) and [TIMMA Board Meeting](#) [13:00].

Despite repeated requests, TIMMA has not provided a detailed budget on the cost of the new transportation services—particularly the new ferry service—or on who pays and who benefits. It is clear from the City’s own traffic studies, however, that the ferry is as costly as it is ineffective in addressing congestion. In the City’s most optimistic projections, by 2030 the ferry would only carry 2,800 of the 72,000 daily trips generated on the island [[2019 Treasure Island Demand Model Analysis Report page 43](#)]. To be clear: the proposal before the Board is a request for the City to force visitors to the island to pay for a ferry service they do not use and that it is projected will be wholly ineffective in addressing congestion, which violates the intent of [AB981 Section 1967.5\(b\)\(1\)](#):



San Francisco Board of Supervisors
Objection to Treasure Island Proposed Toll Policy

February 8, 2022

Page 4

Prior to imposing the initial congestion pricing fees, the board of supervisors and the transportation authority shall each make a finding of fact by a two-thirds majority vote that the congestion pricing fees have a relationship or benefit to the motor vehicle drivers who are paying the fee.]

BCDC Advised TIMMA That Visitor Tolls Cannot Be Imposed Unless BCDC Grants A New or Amended Permit

TIMMA did not notify the BCDC or the State Lands Commission of their intent to propose a broad and hefty toll as their congestion management solution. The BCDC was only recently informed of TIMMA's intent to both charge visitors and to expand the toll beyond the specific scope of congestion management times and locations defined in the FEIR. Upon learning the details of TIMMA's plan, the BCDC informed TIMMA Deputy Director of Planning on November 15, 2022:

In issuing [BCDC Permit No. 2016.005.00 on September 19, 2016, to Treasure Island Development Authority, Treasure Island Community Development, LLC, and Treasure Island Series 1, LLC, to authorize the phased redevelopment of the islands] ..., the Commission relied upon application materials, including the Final Environmental Impact Report (FEIR) for the proposed redevelopment project, which did not describe a toll to non-resident visitors. If information regarding the proposed toll had been appropriately included within the FEIR or BCDC permit application materials, the Commission would have evaluated such proposal in relation to applicable Bay Plan policies regarding public access.

The letter goes on to note:

While BCDC staff acknowledges that various provisions of AB 981 (Leno), the Treasure Island Transportation Management Act, grants the transportation management agency (as defined) the "exclusive power" to impose transportation-related revenue measures on Treasure Island as part of a transportation program (as defined), we do not believe that AB 981 preempts or otherwise conflicts with BCDC's statutory authority to require a permit for substantial changes within the agency's jurisdiction which may adversely affect public access – especially public access required as part of a BCDC permit, such is the case for Permit No. 2016.005.00. (See Government Code § 66632(a); see also 14



San Francisco Board of Supervisors
Objection to Treasure Island Proposed Toll Policy

February 8, 2022

Page 5

CCR § 10125(b)(4).) In other words, we believe a BCDC permit (or permit amendment) is required for implementation of the proposed congestion management program on the basis that the program may affect public access required under Permit No. 2016.005.00.

TIMMA did not reconsider its approach after receiving this letter by the state agency with jurisdiction over this matter. Instead, on January 25, 2022, the TIMMA Committee unanimously voted to authorize a vote on the toll proposal by the full TIMMA board.

The Proposed Toll Technically Cannot Currently be Implemented And Fails to Meet Principles of Fairness and Equity

The current toll proposal is an attempt to bridge an economic gap with only a nod to equity issues. The proposal is not only decoupled from regulatory requirements, it is decoupled from any ability to technically account for the variables required to justify the plan.

TIMMA is proposing a multi-variable dynamic tolling solution that will account for changes in prices based on time of day as well as the economic status of a car's owner. This is a central part of TIMMA's effort to relieve residents and lower income citizens from the burden of the toll and to meet their mandate of social and economic justice. However, CalTrans, which administers the FasTrak system TIMMA staff said it would use for this purpose, has yet to develop a program that can take individual accounts and apply the multitude of tiered charges based on the income of a driver, let alone test that system — and CalTrans has no clear plans or schedule to do so. TIMMA's staff response to this important barrier was simply that TIMMA planned to move forward and develop its own software to do it without CalTrans.. How the City plans to implement a solution beyond the capabilities of CalTrans – the agency with the most expertise in the State on electronic toll collection – is an important question to answer.

The toll proposal will have a broad negative economic impact on the island's economically disadvantaged community, and East Bay visitors will unfairly be charged a disproportionately high toll to access the island.

TIMMA, after strong protests from lower income residents, included a toll waiver for residents who have lived on the island since 2019. TIMMA's position is that the waiver satisfies part of their social justice mandate, but residents are still strongly opposed to the toll. The reason is that the toll impacts not only the residents, but their friends, family, those they rely on for services



San Francisco Board of Supervisors
Objection to Treasure Island Proposed Toll Policy

February 8, 2022

Page 6

and the entire island economy. TIMMA has no clear sense of the scope of their proposal, precisely because the economic analysis required by AB 981 has not been performed, despite repeated calls for such a study by island's businesses and residents. Local businesses are already feeling pressure from customers and vendors about the toll as they are worried about paying the toll or absorbing costs through increased pricing.

In addition, TIMMA is proposing that East Bay visitors pay nearly double the toll of SF-based visitors. Under the current plan, a visitor from the East Bay will pay a \$7 toll in Oakland (which already includes a congestion management fee), a \$5 toll to enter TI, and a \$5 toll to exit. The East Bay visitor will pay \$17 in tolls while the SF visitor will pay \$10 in tolls, although the primary point of congestion will be between SF and TI. The discrepancy is worse during off-peak hours, as the East Bay visitor will pay \$13 in tolls while the SF visitor will pay \$5. The current plan distributes the burden of cost disproportionately to East Bay visitors and focusses the highest costs on the group that is forecast to have the least impact, according the FEIR, on island traffic.

The SFBA Urges SFCTA to Reject This Toll Proposal and Send it Back to the Drawing Board

It is clear to those that have been working closely with TIMMA that the proposal before the Board does not comply with the 2014 Agreement with the SLC, is inconsistent with the City's mandated role as Trustee of State Public Trust Lands, is not based on the type of rigorous economic impact reports that such significant proposals demand, does not align with available solutions to realize the plan. We strongly urge the Board of Supervisors to ask TIMMA to revisit their approach to ensure that state laws, regulations, and basic public review requirements are met before presenting a plan for a vote.

Sincerely,

Andrew Sullivan
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cc: Larry Goldzband (BCDC), Sheri Pemberton (SLC), Treasure Island Organizing Committee