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San Francisco County Transportation Authority
1455 Market Street, 22nd Floor
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Subject: Transportation Authority Board meeting January 11, 2022, on Treasure Island Tolls

Dear Board members:

I again ask that you send this matter back to your staff for an *adequate* analysis of the impact of the tolls on recreational travel, as you are required to do under the California Environmental Quality Act. SFCTA staff has presented you, and the public, with a recommendation to begin the process of adopting tolls that will have a significant adverse impact on recreation to state lands. Caught by public comments that have identified the current proposal as inconsistent with the conclusions in the Final EIR, the staff suggests that you adopt an addendum that argues that there are no new impacts requiring further analysis. Rather than provide any detailed responses to the comments that have been received from the recreational community, the staff releases a document one working day before your meeting. Such an approach is not merely inadequate, it is openly contemptuous of both the law and public process.

Both the Federal document adopted in 2008 that provided a pathway for the City's acquisition of the land, and the final EIR contain clear and unambiguous language that recognizes that it is new development on the island, not the existing uses, that create the potential for significant increases in congestion and thus a need for a congestion management program. The Federal document state a congestion management program would be prepared that:

would include **congestion pricing for single occupancy vehicles of residents'** vehicles to enter or exit the Bay Bridge during AM and PM peak hours, respectively.

The same conclusion was reached in the Final EIR:

Visitors to the Islands, high-occupancy vehicles, and Coast Guard-related vehicles would not be charged a congestion pricing fee. FEIR, page IV.E.45

The document before you urges you to ignore this commitment and claims that this was only an assumption. Instead of keeping the commitments you made in order to acquire the land, clear the title so that residential units could be built, and obtain entitlements, the city points to the mere existence of a congestion management plan in the FEIR, and says that general language about the authority to adopt and modify tolls is more important than those commitments. Such an

interpretation is absurd. General language can never be used to overrule specific commitments that were critical to the ability of the city to achieve clear title and entitlements.

Recreational users don't contest either the authority under AB 981 or the need for a congestion management plan. The need for a congestion management plan has been clear since the city acquired the land, but it is required to mitigate the impacts of **new development**, not the existing uses that preceded development. Whatever TIMMA and SFCTA may have previously discussed in previous studies about the limitations of that commitment, this is beginning of an effort to implement a very different congestion management program, and the impacts on recreation must be *analyzed*. A single page devoid of analysis does not accomplish that. Simply claiming that "the proposed project changes would improve accessibility to public trust and recreational opportunities" does not make it so. Moreover, the document that you have been sent utterly fails to bridge the analytical gap between your legislative authorization, and an exaction targeting recreational users that pre-existed the addition of 8,000 residential units and other intensive development.

The standard established by AB 981 requires a finding "that the amendments to the fee have a relationship or benefit to the motor vehicle drivers who are paying the fee." While that language does not precisely mirror the guidance of the court in Dollan, the Court's direction must be part of your considerations. As the court noted, there must be a **rough proportionality** between the exaction and those you seek to subject to such exaction. The staff reports make no attempt to establish such a relationship, but simply claims that the need for more funds than can be realized by targeting the new traffic justifies extension of tolls to those who do not contribute to increased congestion, or benefit from the commuter transit system the city seeks to fund. This reasoning is inconsistent with both Dollan and AB 981.

I noted in my prior letter that the relationship does not to be exact, but it does need to be *reasonable*. No coherent argument for the reasonableness is made in the staff report, instead the report makes it clear that the objectives are to try to reduce automobile use by the existing users by 50% and use toll funds to pay for a commuter ferry that will not provide any substantial benefit to most recreational users. The report and the so-called addendum make no attempt to analyze the actual impacts on the existing recreational users.

UNLIKE COMMUTING, RECREATION IS A PROTECTED ACTIVITY

Despite previous comments from recreational users, the documents before you fail to recognize 1) existing recreational activities are part of the baseline, and not impacts of the project that warrant mitigation, 2) various state policies encourage and protect recreation and access to the bay, or 3) that the toll will be used to provide a commuting system, and will not offset the damage done to recreational access.

This oversight is fatal. The Final EIR included a discussion of the different policies that encourage an increase in recreation, and the planning standards in BCDC's Bay Plan that call for parking and water access to be provided when the land is developed. BCDCD, responsible for developing a plan to meet the State's direction to increase access to the water in the Water Trail statute, recognizes that access to the water for kayaking, stand up paddle boarding, kite boarding,

winging, and windsurfing involves heavy equipment that is almost always transported to the site by an automobile. Their policies and the plan provide for that access the only reasonable way—with a parking lot.

The so-called addendum made no attempt to actually analyze the impact of casting a wider net for tolls to include on recreation. It does not include any description of the myriad kinds of existing recreational activities—described in detail in the FEIR—or how alternatives to automobile access might affect the viability of that recreation. It includes no thresholds of significance, or recognition of adopted Bay Plan policies. It simply asserts, without evidence, that a successful effort to reduce auto use for this group by 50% would be just fine. Such major efforts to reduce recreational travel will inevitably reduce recreational opportunities, and is in direct conflict with the policies in the Bay Plan. Both of those impacts are significant and trigger a far more extensive CEQA supplemental document.

RECREATIONAL ACTIVITIES DO NOT CONTRIBUTE MATERIALLY TO INCREASED CONGESTION OR BENEFIT FROM THE PROPOSED TRANSIT MEASURES

To establish a reasonable relationship, the city needs to establish both that recreational activities contribute to the problem that you seek to solve, and that the recreational users would benefit from the measures to be funded by a toll. The recommendation before you fails on both accounts.

The traffic analysis in the FEIR projected future traffic after the development. Those estimates are that *all* recreational activities would generate 153 of an estimated 5,375 peak am trips, and 998 of 7,423 peak pm trips. Of the very small contribution to peak travel, most of that occurs today, and thus is part of the baseline, or existing condition. It is not a project impact that warrants mitigation, or inclusion in a mitigation measure for the 8,000 new residential units that generate the *new traffic* that triggers a need for congestion management.

While members of the public have not been provided with a detailed budget describing the alternatives to the automobile that these tolls would fund, the FEIR does include a discussion, contained on page IV.E.33:

The proposed transit circulation plan is illustrated on Figure IV.E.9: Proposed Transit Circulation Plan, and include the following:

- New ferry service between the Transit Hub and downtown San Francisco. Ferries would operate with 50-minute headways during peak hours to and from downtown San Francisco between 5 AM and 9 PM (corresponding to a single ferry operating between Treasure Island and one of the existing docks in San Francisco);
- **Muni line 108-Treasure Island would operate at its current 15-minute peak headway but would no longer circulate around most of Treasure Island.** Instead, it would circulate only around the Transit Hub and the Island Core

neighborhood. The 108-Treasure Island would continue to operate 24-hours per day, including overnight owl service;

That transit system does not provide alternative means of reaching the state lands for many, and perhaps most of the existing recreational activities. As highlighted, the bus would not go near the launch site for water access. It is impossible to carry a kayak or a windsurfer on a ferry, and a ferry only provides access from San Francisco, not from the East Bay. Anyone seeking to travel from the East Bay to undertake a recreational activity on Treasure Island already pays a bridge toll that includes costs for maintenance of the bridge, a congestion management rate to discourage travel at peak times, and a subsidy for the Treasure Island Ferry. Now they are being asked to pay a further subsidy—for a transit system that is clearly of benefit almost entirely to commuters.

If San Francisco wants to extend the toll system to recreational users, and change the conclusion of the Federal and State environmental review process, it needs to do much more than simply claim, without providing evidence, that recreational users would not be hurt. It needs to prepare a supplemental document that realistically looks at the nature and need of existing recreational visitors. It needs to establish a reasonable relationship between their activities and the exactions you propose. You will then need to amend the permit that you received from BCDC, in a public process, allowing participation by those who actually understand recreation. The existing record does not do that and cannot be used to justify the toll system that is proposed.

Very truly yours,

Jim McGrath