



Board of Directors
Tahoe Transportation District
Attn: Transit Public Comments
P.O. Box 499
Zephyr Cove, NV 89448

July 12, 2018

Dear Mr. Chair and Members of the Board:

The League to Save Lake Tahoe (the "League") appreciates the opportunity to review the Proposed Transit Service Changes (the "Proposed Changes") noticed by the Tahoe Transportation District ("TTD") on May 11, 2018.

The League is dedicated to protecting and restoring the environmental health, sustainability and scenic beauty of the Lake Tahoe Basin ("Basin"). In connection with our mission, we support transportation solutions for Tahoe and advocate for the implementation of policies contained within regional land use and planning documents, including the Bi-State Compact (the "Compact"), the 2012 Regional Plan Update ("Regional Plan"), the 2017 Regional Transportation Plan/Sustainable Communities Strategy ("RTP/SCS"), the 2016 Active Transportation Plan ("ATP"), the 2017 Transit Master Plan ("TMP") and the 2017 Short Range Transit Plan ("SRTP").

This letter is prefaced by the League's sincere recognition of the financial, workforce, and regulatory challenges that prompted the Proposed Changes. We understand and appreciate the mounting pressures TTD (like many other public transit agencies) faces and we appreciate staff and this Board's efforts to address these increasingly difficult hurdles. Similarly, the League is grateful for TTD's cooperation in testing privately-run transportation pilots (including bike share and microtransit) and we are optimistic that future collaborative efforts will result in progressively innovative solutions. Additionally, we will continue to advocate for sustainable funding to support the implementation of the RTP/SCS. However, that does not absolve TTD of its responsibility to comply with California law, the Bi-State Compact, or the governing planning documents adopted by this Board.

TTD is required to conduct an analysis under the California Environmental Quality Act ("CEQA") in connection with the Proposed Changes and this Board may not properly find that CEQA does not apply to approval of the Baseline Approach. The Proposed Changes impact the attainment of TRPA threshold standards mandated by the Compact, conflict with adopted regional and local plans, and may impact TTD's ability to meet its own performance measures. Finally, TTD's release of the Proposed Changes falls short of the transparency and accountability standards required by a public agency.

1. This Board May Not Legally Find that CEQA Does Not Apply to The Proposed Changes or This Board's Approval of the Baseline Approach.

CEQA applies to activities directly undertaken by a public agency or “activities financed in whole or in part by a governmental agency.”¹ The board-approved budget for this fiscal year includes nearly \$6.5 million in State funding (approximately 34 percent of the \$19 million budget).² Therefore, the transit activities impacted by the Proposed Changes are financed in part by the State of California. Accordingly, CEQA’s requirements apply to TTD’s consideration of the Proposed Changes.

CEQA defines a “Project” as “[a]n activity directly undertaken by a public agency” that “. . . has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.”³ A project must be evaluated for potential impacts if it may “[c]onflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases” or “[c]onflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.”⁴

CEQA explicitly contemplates changes to mass transit and provides an exemption for an *increase* of passenger service.⁵ In the case of a *decrease* in transit resulting from revenue shortfalls where the “availability of an existing publicly owned transit service” is reduced or eliminated, CEQA clearly sets forth the appropriate response required by a transit agency and provides for an exemption only under specific circumstances.⁶ To invoke this exemption, the agency must make a specific finding of fiscal emergency only after holding a public hearing and responding to public comment.⁷ A finding of “fiscal emergency” means that the transit agency is projected to have negative working capital within one year from the date the agency finds that such an emergency exists.⁸

Here, the Proposed Changes, particularly adoption of the Baseline Approach, results in the reduction of service hours by 40 percent and eliminates winter service, high-ridership route 23, commuter routes 19x and 20x and the Emerald Bay Shuttle.⁹ These routes are existing publicly-owned transit services. Thus, pursuant to section 15285 of the CEQA guidelines, TTD’s adoption of the Baseline Approach will “reduce or eliminate the availability of an existing publicly owned transit service.”¹⁰ Therefore, to the extent TTD intends to invoke CEQA’s specific exemption for reductions in public transit, it must first declare a fiscal emergency and comply with the public process specified by section 15285.

Even if CEQA did not explicitly provide a statutory process detailing the appropriate response by a transit agency to revenue shortfalls, TTD’s adoption of the Baseline Approach would constitute a Project and trigger CEQA’s obligations. Transit and active transportation projects generally reduce private car

¹ Cal. Code Regs. tit. 14, § 15378(b) (2018).

² Tahoe Transp. Dist. Board Meeting (June 9, 2017), Agenda Item VI.F. p. 50.

³ Cal. Code Regs. tit. 14 §15378(a)(1) (2018).

⁴ CEQA Guidelines, Appendix G: Environmental Checklist (2018) VII(b), XVI(f).

⁵ Cal. Code Regs. tit. 14 §15275 (2018).

⁶ *Id.* at 15285(a).

⁷ *Id.* at 15285(b).

⁸ *Id.* at 15285(c).

⁹ TTD Notice of Proposed Transit Service Changes (May 11, 2018) p.3.

¹⁰ Cal. Code Regs. tit. 14 §15285(a) (2018).

trips, as measured in vehicle miles travelled (“VMT”).¹¹ Thus, VMT-reducing strategies, including transit, “are essential to ensuring both environmental quality and a high quality of life for the future of California.”¹² Increasing transit capacity and levels of service are identified as essential strategies to meet California’s greenhouse gas reduction goals.¹³ Here, the Baseline Approach eliminates TTD’s most productive routes.¹⁴ Eliminating this service will therefore clearly increase VMT and traffic volumes and impede California’s greenhouse gas reduction goals. Additionally, implementation of the Baseline Approach will directly conflict with the Bi-State Compact’s mandate to reduce reliance on the private automobile, impact TRPA’s ability to meet its threshold obligations, and conflict with TTD’s adopted plans and policies for public transit.¹⁵ Although the Baseline Approach may include certain benefits (including increased frequency and access and positioning TTD to use electric buses), this cursory analysis alone is entirely insufficient to support a conclusion of certainty that substantial cuts in public transit will have no impact on the environment. While “staff is confident” that other services may fill these gaps, these services are not guaranteed by TTD and this does not absolve TTD of its own requirements under established California law.¹⁶ TTD has provided no support for these conclusions and may not make any legally-supported findings “with certainty” that the revised service proposals will not have a significant effect on the environment.

Finally, staff confirms that these routes are “conceptual in that specific alignments, stops, and schedules.”¹⁷ If staff is not even confident of what the service changes will actually be, this Board cannot, in good faith, make any finding that these changes will have no impact on the environment.

Compliance with CEQA procedures is required “when the agency proposes to carry out or approve the activity.”¹⁸ Here, TTD is requesting that this Board “Provide Direction on Staff’s Recommendation Related to Revised Baseline Scenario.”¹⁹ CEQA is therefore triggered by TTD’s action and TTD must immediately comply with CEQA in connection with the Proposed Changes and potential adoption of the Baseline Approach.

CEQA exists precisely for situations like this one. The purposes of CEQA include, among other things, to “inform governmental decision makers and the public about the potential, significant effects of proposed activities,” and to “[d]isclose to the public the reasons why a governmental agency approved the project.”²⁰ Here, TTD has disclosed only limited information to the public about the potentially significant impacts of substantial reductions in public transit. California law and established public policy

¹¹ Cal. Governor’s Office of Plan. and Res., Technical Advisory on Evaluating Transportation Impacts in CEQA (Nov. 2017) p.19.

¹² Cal. Air Resources Bd., Potential State-Level Strategies to Advance Sustainable, Equitable Communities and Reduce Vehicle Miles of Travel (VMT) (2016), available at https://www.arb.ca.gov/cc/scopingplan/meetings/091316/Potential%20VMT%20Measures%20For%20Discussion_9.13.16.pdf.

¹³ *Id.*

¹⁴ See Tahoe Transp. Dist. Board Meeting (July 13, 2018) p. 71 (confirming the elimination of Route 23 which had a 25% ridership increase in 2018, increasing route 50 which had a 10% decrease in ridership in 2018, and eliminating the winter shuttles, which constitute 70% of the ridership of the total system).

¹⁵ *Supra* Section 3.

¹⁶ Tahoe Transp. Dist. Board Meeting (July 13, 2018) p. 33.

¹⁷ *Id.* at p. 32.

¹⁸ Cal. Code Regs. tit. 14 § 15378(b), (e).

¹⁹ Tahoe Transp. Dist. Board Meeting (July 13, 2018) Agenda Item VIII.A., p. 24.

²⁰ Cal. Code Regs. tit. 14 §15002(a)(1), (4).

mandate compliance with these rules to ensure effective public participation in a significant and serious action made by a public agency. Therefore, TTD must comply with CEQA before taking any action on the Proposed Changes and may not adopt the Baseline Approach without a proper CEQA review.

2. The Proposed Changes Will Impact the Attainment of Threshold Standards Mandated by the Bi-State Compact.

The Compact established TTD and serves as the governing document that provides TTD with its statutory operating authority.²¹ Reducing “dependency on the automobile by making more effective use of existing transportation modes and of public transit to move people and goods within the region” is a primary objective of transportation planning under the Compact.²² Thus, “[t]he Bi-State Compact and California legislation mandates the Region to reduce reliance on the private automobile to decrease vehicle miles travelled and associated GHG emissions and protect water clarity.”²³ The Compact requires TRPA to establish environmental threshold carrying capacities for the region.²⁴ Relevant threshold standards pertaining to transportation include VMT and Average Daily Winter Traffic Volume (“Traffic Volume”).²⁵ TRPA provides significant funding to TTD to help reach these statutory objectives.

TRPA’s VMT Threshold Standard mandates “a 10% reduction from 1981 base year estimated VMT” or 2,030,938 VMT.²⁶ The most recent estimate of annual VMT provided by TRPA in the 2015 Threshold Evaluation Report is 1,937,070 (the “VMT Estimate”).²⁷ The VMT Estimate based on 2014 traffic counts brings the region within five (5) percent of TRPA’s adopted VMT Threshold Standard.²⁸ This means that, as of 2014, an increase in VMT of only **five percent** would result in exceedance of TRPA’s adopted threshold and a dereliction of its responsibility under the Compact.²⁹ This analysis is four years old and VMT is projected to exceed the threshold standard.³⁰

All of the Proposed Changes, including the Baseline Approach, are likely to increase VMT and traffic volume due to reduced transit mode share. The 2015 Threshold Evaluation Report supports this conclusion, confirming that public transportation systems, among other transportation solutions, “contribute to reducing VMT in the Region.”³¹ Despite this, and despite the fact that TTD receives funding, in part, to ensure that transportation threshold standards are met, TTD provides no analysis or discussion of how the Proposed Changes may impact attainment of relevant thresholds. The League requests a full and complete analysis of existing conditions and an estimate of VMT based on current data to allow for an accurate assessment of the current status of the VMT Threshold Standard and the impact of the Proposed Changes on the threshold, and to inform solutions going forward. Such evaluation must therefore include a complete and accurate description of the corresponding increase in VMT resulting from the Proposed Changes and the adoption of the Baseline Approach.

²¹ Tahoe Reg’l Planning Compact, Pub. L. No. 96-551, Art. IX.

²² *Id.* at Art. 5 § (c)(2)(a).

²³ TRPA & Tahoe Metro. Planning Org. (“TMPO”), Linking Tahoe: Reg’l Transp. Plan (Apr. 2017) p. 3-2.

²⁴ Tahoe Reg’l Planning Compact, Pub. L. No. 96-551, Art. 5 § (b).

²⁵ TRPA, 2015 Threshold Evaluation Report (Dec. 2016) pp.3-2,3-6.

²⁶ TRPA, 2015 Threshold Evaluation Report (Dec. 2016) p.3-6.

²⁷ *Id.*

²⁸ *Id.*

²⁹ Five percent of the existing VMT estimate is only 94,000 VMT.

³⁰ TRPA, Lake Tahoe Shoreline Plan, Draft Env’tl. Impact Statement (May 2018) p.13-14.

³¹ TRPA, 2015 Threshold Evaluation Report (Dec. 2016) p. 3-61.

3. The Proposed Changes Conflict with Adopted Regional and Local Plans and May Impact TTD's Ability to Meet its Own Performance Measures.

Improving transit service within the Basin is a recurring directive of local and regional land use plans and governing documents. For example, the RTP/SCS advances policies that “improve the existing transit system for the user making it frequent, fun, and free” and requires the TRPA to develop “. . . formal standards for incorporating transit amenities in new development or redevelopment, as conditions of project approval.”³² A primary goal of the RTP/SCS is to “encourage efficient and effective expansion of public transit operations and use within the Basin.”³³ The RTP/SCS identifies the “highest priorities for implementation of [the RTP]” for transit as: (1) increasing frequency to 30-minute headways, (2) providing free-to-the-user service, and (3) improving recreation access. The Long Range Transit Plan (“LRTP”) repeatedly identifies the need for increased transit service, particularly in the summer months.³⁴ Additionally, the California Transportation Development Act requires the transportation planning agency to identify unmet transit needs of the jurisdiction and those needs that are reasonable to meet.³⁵ TRPA’s 2017-2018 Unmet Transit Needs Report makes clear findings regarding the need for additional transit based on extensive public comment and analysis regarding feasibility and funding constraints.

The proposed implementation of the Baseline Approach does not advance regional transportation objectives or further TTD’s directives under these plans. Although the Baseline Approach does increase frequency, it does so with greatly reduced hours and within a far smaller geographic area.³⁶ For example, the RTP/SCS specifically highlights the Emerald Bay shuttle as a project that will be implemented within the next four years³⁷ and lists 30-minute and expanded season service to Emerald Bay on the constrained project list.³⁸ A shuttle to Emerald Bay is also identified as a priority in the Short Range Transportation Plan (“SRTP”), and is identified even more recently as a high-frequency route in the amendments to the SRTP approved by this Board in May of this year.³⁹ This is sound, data-driven planning; vehicle counts indicate that approximately 1.6 million vehicles visited Emerald Bay in 2014.⁴⁰ Here, however, the Baseline Approach summarily eliminates the Emerald Bay shuttle with no explanation for TTD’s sudden deviation from established planning efforts.⁴¹ TTD has provided virtually no data or analysis that supports this decision. The League requests additional information regarding the consideration of alternatives that focus on maintaining existing service for the highest ridership routes in accordance with the LRTP and the SRTP.

Finally, the proposed changes may impact TTD’s ability to meet its own performance measures. The SRTP details several performance measures TTD must meet, including increased ridership, improved efficiency, improved reliability, and increased satisfaction.⁴² The Notice of Proposed Transit Service Changes includes no analysis or discussion regarding how any the Proposed Changes, particularly the Baseline Approach, may impact TTD’s ability to meet these performance measures.

³² TRPA & TMPO, Linking Tahoe: Reg’l Transp. Plan (Apr. 2017) pp.2-4, 2-9.

³³ TRPA & TMPO., Reg’l Trans. Plan: Mobility 2035 (Dec. 2012) p.2-6.

³⁴ TTD, Linking Tahoe: Transit Master Plan (Feb. 2017) pp.6, 21, 69, 83.

³⁵ Cal. Pub. Utility Code § 99400(c) (2018).

³⁶ TTD Notice of Proposed Transit Service Changes (May 11, 2018) p.3.

³⁷ TRPA & Tahoe Metro. Planning Org. (“TMPO”), Linking Tahoe: Reg’l Transp. Plan (Apr. 2017) p. 3-9.

³⁸ *Id.* Table 3.2, p. 3-14.

³⁹ Tahoe Transp. Dist. Board Meeting (May 11, 2018) pp. 76-77 and pp. 79-80.

⁴⁰ TTD Short Range Transit Plan, Table 6.5, p. 20.

⁴¹ TTD Notice of Proposed Transit Service Changes (May 11, 2018) p.3.

⁴² TTD Short Range Transit Plan, Table 6.5, p. 58.

While the League recognizes that significant financial burdens exist that make the implementation of public transit challenging, that does not relieve TTD of its obligations to comply with adopted regional plans and its own transit planning documents, or to provide the public with detailed explanations regarding significant deviations from these plans that impact important local and regional services. Accordingly, the League formally requests a detailed analysis of TTD's decision-making framework that led to the Proposed Changes and the Baseline Approach. Such analysis should necessarily include existing route-level ridership data, service efficiency and operating statistics, projected ridership estimates on a per route basis, and a data-driven description of how the Baseline Approach will optimize ridership and "re-boot public transit to focus on providing sustainable transit services to the community."⁴³ Additionally, the League requests a detailed plan for restoring public transit services, including a clear budget, projected funding sources, and a prioritized project list with an associated timeline.

4. As a Public Agency, TTD is Obligated to Improve Transparency and Provide Opportunities for More Effective Public Engagement.

As discussed previously, the serious potential impacts of the Proposed Changes necessitate a CEQA review. CEQA's requirements aside, TTD's rollout of the Proposed Changes is insufficient. The only information TTD has provided to the public is a six-page document that includes a cursory overview of existing transit services and offers three alternatives, two of which are deemed financially unsustainable.⁴⁴ TTD provides no supporting financial or ridership data to support the Proposed Changes and has initiated a confusing and troubling process to encourage this Board to support those changes. The League is alarmed by this lack of transparency; if experienced planners find it difficult to understand TTD's reasoning for the Proposed Changes, it is unlikely that the population most impacted by a significant reduction in transit is able to meaningfully engage in these decisions. As a public agency, TTD is obligated to disclose a transparent and thorough accounting of its decision-making process and an opportunity for the public to meaningfully participate.

The League requests a detailed clarification of planned alignments and frequencies on all proposed routes. Without this specific information, we believe many public comments received over the last 60 days may have been misinformed. We also strongly recommend against approving any new scenarios that are "conceptual" and that have not been properly vetted or clearly defined.

5. Conclusion.

TTD must conduct a proper CEQA review of the Proposed Changes and implementation of the Baseline Approach because (1) TTD has not followed the proper procedure to invoke an exemption for a reduction in public transit due to revenue shortfalls; (2) implementation of the Baseline Approach will potentially increase VMT and traffic volumes and impede California's greenhouse gas reduction goals; and (3) implementation of the Baseline Approach clearly conflicts with adopted plans and policies for public transit. To be clear, the League is not requesting years of bureaucratic environmental review. We are seeking compliance with California law established to inform decision makers and the public about the potential, significant effects of proposed activities.

⁴³ TTD Notice of Proposed Transit Service Changes (May 11, 2018) p.3.

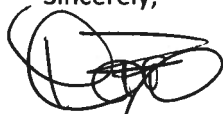
⁴⁴ *Id.* p.4 and p. 5 "The [Balanced/Sustainable] approach relies on discretionary funding and use of one-time only funding to avoid an operating deficit."

All of the Proposed Changes, including the Baseline Approach, are likely to increase VMT and traffic volume, and the League requests a full and complete analysis of existing conditions and an estimate of VMT based on current data. Such evaluation must include a complete and accurate description of the corresponding increase in VMT resulting from the Proposed Changes and the adoption of the Baseline Approach.

The proposed implementation of the Baseline Approach does not advance regional transportation objectives or further TTD's directives under adopted local, regional, and transit plans. To that end, the League is dismayed by TTD's lack of transparency and effective public engagement and formally requests a detailed analysis of the methodology relied upon by TTD in preparation of the Proposed Changes and the Baseline Approach. Such analysis should necessarily include existing ridership data, projected ridership estimates on a per route basis, and a data driven description of how the Baseline Approach will optimize ridership and advance threshold obligations established by the Compact. The League further requests a detailed plan for restoring public transit services, including a transparent budget analysis that would allow this Board to make informed decisions regarding streamlining costs, projected funding sources, and a prioritized project list with an associated timeline.

The League is extremely supportive of public transit and appreciates the opportunity to comment on these items. We look forward to continue working with this Board and TTD staff to identify and implement solutions. Should you have any questions or require any clarification regarding these comments, please do not hesitate to contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marissa C. Fox', with a large, stylized flourish above the name.

Marissa C. Fox, Esq.
Legal and Policy Director
League to Save Lake Tahoe