

## Agenda Item 4



METROPOLITAN  
TRANSPORTATION  
COMMISSION

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### *Memorandum*

TO: Policy Advisory Council

DATE: February 6, 2013

FR: Andrew B. Fremier

W.I. 1236

RE: Regional Express Lane Network: Bay Area Infrastructure Financing Authority (BAIFA)

In March, staff will recommend MTC assign to the Bay Area Infrastructure Financing Authority (BAIFA) responsibility for developing and implementing the Regional Express Lane Network under MTC's jurisdiction. Staff will recommend that MTC and BATA revise the BAIFA governing board membership to reflect this responsibility. Staff will present the recommendations as an information item at the February 13 meetings of the BATA Oversight Committee and MTC Administration Committee and return to the committees in March to seek approval of the necessary actions.

Staff has contemplated this role for BAIFA for quite some time. At the Policy Advisory Council's special meeting on express lanes, held in April of last year, this topic was of particular interest. For that reason, staff has planned to present our recommendation for the Council's consideration at your February 13, 2013 meeting.

Please see the attached memorandum for the February 13 BATA Oversight Committee. The same item and materials are included in the February 13 MTC Administration Committee packet. Please note that staff expects to make a detailed presentation at the BATA Oversight Committee, which is the first of the two meetings, and does not plan to repeat the presentation for the Administration Committee.

#### Other Express Lane Updates

Staff is continuing work on the Environmental Justice Context Report presented at your July 2012 meeting. While we originally anticipated returning to the Council in October with a draft report, we have experienced some delays, particularly in preparing for the focus groups and intercept surveys. As a result, we now anticipate presenting the draft report at your March meeting.



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## *Memorandum*

TO: BATA Oversight Committee

DATE: February 6, 2013

FR: Executive Director

W. I. 1253

RE: Regional Express Lane Network: Recommendation to Amend the Bay Area Infrastructure Financing Authority (BAIFA) Board and Assign Responsibilities to BAIFA

MTC secured from the California Transportation Commission (CTC) authorization to develop and operate a 270-mile Regional Express Lane Network (Network) in October 2011, as shown in the attached slides. MTC staff has — in cooperation with Caltrans and local partner agencies in Alameda, Contra Costa, and Solano counties — initiated environmental studies, toll systems development and operations planning for an initial set of segments scheduled to open in 2015. In order to proceed, staff recommends that (1) MTC and BATA amend the composition of the Bay Area Infrastructure Financing Authority (BAIFA) governing board and (2) MTC and BAIFA enter into an agreement through which MTC would allow BAIFA to assume MTC's responsibility for the development, operation and financing of the 270-mile Network addressed in the 2011 CTC action. Staff is presenting this recommendation for information in February and will seek approval in March.

### **Action 1: MTC and BATA Amend BAIFA Governing Board Membership**

BAIFA is a joint exercise of powers agency created by MTC and BATA in 2006 (and amended in 2011) for the purpose of financing the state contribution to the toll bridge seismic retrofit program and “to plan, develop and fund transportation and related projects.” The current structure of the six-member BAIFA governing board reflects BAIFA's prior task of financing the seismic program: MTC chair and vice chair; BATA Oversight Committee chair and vice chair; MTC Programming and Allocations Committee chair and vice chair.

In preparation for assignment of responsibility for the MTC Program from MTC to BAIFA, staff recommends MTC and BATA revise the BAIFA governing board membership as shown below:

#### Five Voting Members

- MTC Chair
- BATA Oversight Committee Chair
- Alameda County Commissioner
- Contra Costa County Commissioner
- Solano County Commissioner

#### One Non-Voting Member

- Business Transportation & Housing Agency Commissioner

The proposed BAIFA board is a balanced approach that reflects the interests of MTC, BATA and Caltrans while guaranteeing a seat at the table for each of the three counties in the Regional Express Lane Network. This arrangement acknowledges local investments in the existing HOV system through county transportation sales taxes. At the same time, MTC and BATA will retain responsibility for determining membership of the governing board. MTC and BATA can adjust the governing board if the Regional Express lane Network grows in scope, either through agreements with other Bay Area express lane operators or through pursuit of additional authority for express lanes on new travel corridors.

The proposed revision to the governing board is not expected to affect BAIFA's ability to meet its current obligations. As of January 2013, BAIFA has \$325 million in outstanding bonds, which will mature by August 2017. These bonds are payable solely from state revenue sources and will not be affected by BAIFA's assumption of responsibility for the Regional Express Lane Network.

## **Action 2: MTC Consents to BAIFA Assuming Express Lane Network Responsibilities**

At the time MTC applied to the CTC in September 2011, MTC and BATA amended the BAIFA joint exercise of powers agreement to include activities related to development, operation and financing of express lanes. Staff now recommends MTC authorize a cooperative agreement through which MTC consents to BAIFA serving as the entity responsible for development and operation of the MTC Program. See Attachment 1 for a list of policy decisions associated with these responsibilities, ranging from deciding which projects get built first to what toll rates are charged on the new lanes.

In addition, the cooperative agreement would allow BAIFA to finance and secure bonding and tolling authority for the Regional Express Lane Network. One avenue is for BAIFA to act as the project sponsor for an application for bonding and tolling authority from the California Transportation Infrastructure Financing Authority, which was created by the Legislature in 2009 (AB 798) to enhance the public sector's ability to construct and finance transportation projects including express lanes. Alternatively, the cooperative agreement would allow BAIFA to pursue other avenues to obtain bonding and tolling authority including legislative or judicial actions such as a validation action. Under a validation action, BAIFA effectively would take itself to court to confirm its authority to finance the Regional Express Lane Network.

BAIFA brings the strengths of MTC and BATA to the project, while protecting both entities:

- Start-up toll operations such as an express lane network carry a certain amount of inherent risk that initial traffic demand may not meet projections. Through BAIFA, MTC can protect itself and regional transportation funds in the event of any financial shortfalls associated with the express lanes.
- Several of the corridors feed directly into the state-owned toll bridges, giving BATA a direct interest in the development and operation of the Network.
- BATA may make contributions, loans or make other advances on projects consistent with BATA's existing statutory authority.

At a later date, staff anticipates BAIFA will execute a cooperative agreement with BATA for services related to the toll system. At a minimum, BATA will manage all the FasTrak<sup>®</sup> accounts, as required by state law. In addition, staff is considering what additional contributions BATA could make, such as providing the toll system hardware and software.

### **Next Steps**

In March, staff will request BATA and MTC take the actions described above and summarized in Attachment 2. BAIFA would subsequently take actions listed in Attachment 2. In the meantime, we look forward to your questions and discussion this month.



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Steve Heminger

## **Attachment 1**

### **Policy Decisions and Responsibilities Associated with the MTC Program: Development, Operation and Financing Regional Express Lane Network**

#### **1. Approve phasing and financing plans**

- Determine the order in which portions of the Network will be implemented and the manner in which they will be funded.

#### **2. Adopt business rules and tolling, and operating policies**

- Establish toll collection methods.
- Establish violation procedures and penalties.
- Set hours of operation.
- Establish toll rates and requirement for toll-free travel (HOV2 or HOV3+).

#### **3. Design, procure, install and construct the express lanes and toll system**

- Secure all necessary environmental clearances, permits and project approvals for improvements to the roadway as well as implementation of the toll system.
- Contract with consultants and vendors for design, installation and construction of the roadway and toll system elements, which may involve modifications to roadways and structures, installation of signs and electronic toll collection equipment, and development of toll collection software.
- Potentially, enter into public-private partnerships for delivery of some parts of the Network.

#### **4. Operate and maintain the express lanes and associated toll system**

- Ensure the day to day operations of the toll system, including customer education and response to customer inquiries and concerns.
- Contract with BATA for distribution of toll tags, account management and billing and with the California Highway Patrol for enforcement, as required by statute.
- Ensure the express lane roadway features, signs, toll equipment and software are maintained and replaced as needed.
- Enter into agreements with other agencies, and potentially into public-private partnerships for delivery of some express lane operations and maintenance.

#### **5. Obtain bonding and tolling authority as required to provide funds to procure, construct, operate and maintain the project**

- Potentially, submit an application to the California Transportation Financing Authority (CTFA) for bonding and tolling authority for the Network.
- Potentially, pursue legislative or judicial actions to obtain or confirm bonding and tolling authority. This may include validation through the courts of tolling authority conferred through the October 2011 CTC eligibility finding.

**Attachment 2**  
**Recommended Actions for BATA, MTC**  
**and Bay Area Infrastructure Financing Authority (BAIFA)**  
**and Associated Timeline**

**1. BATA & MTC Information Item**

*February 13, 2013 BATA Oversight & MTC Administration Committees*

Staff will present for information its recommendation that MTC and BATA amend the BAIFA board membership and that MTC would, through a cooperative agreement, assign to BAIFA responsibility to develop and implement the 270-mile Express Lane Network.

**2. BATA and MTC modify BAIFA's governing board**

*March 6, 2013 BATA Oversight & MTC Administration Committees*

*March 27, 2013 BATA and MTC*

Modify BAIFA's governing board in the BAIFA Joint Exercise of Powers Agreement by revising BATA Resolution No. 70 and MTC Resolution No. 3769.

**3. MTC authorizes a cooperative agreement with BAIFA for the development, operation and financing of the Express Lane Network**

*March 6, 2013 MTC Administration Committee*

*March 27, 2013 MTC*

Authorize a cooperative agreement between MTC and BAIFA under which MTC will consent to BAIFA serving as the entity responsible for developing, operating and financing the Express Lane Network (MTC Program).

**4. BAIFA authorizes the cooperative agreement with MTC and revises governing rules**

*April 24, 2013 BAIFA*

Authorize a cooperative agreement between MTC and BAIFA under which BAIFA would assume responsibility for developing, operating and financing the Express Lane Network (MTC Program).

BAIFA would make appropriate updates to its governing rules in BAIFA Resolution No. 1, including designation of officers and regular meetings, which staff proposes to hold on the same day as the regular Commission and BATA meetings. Staff recommends BAIFA consider these actions in April, following filing with the Secretary of State of the amendments of the BAIFA Joint exercise of powers agreement approved in BATA Resolution No. 70 and MTC Resolution No. 3769.

# MTC EXPRESS LANE NETWORK



**BATA Oversight Committee  
and  
MTC Administration  
Committee**

February 13, 2013

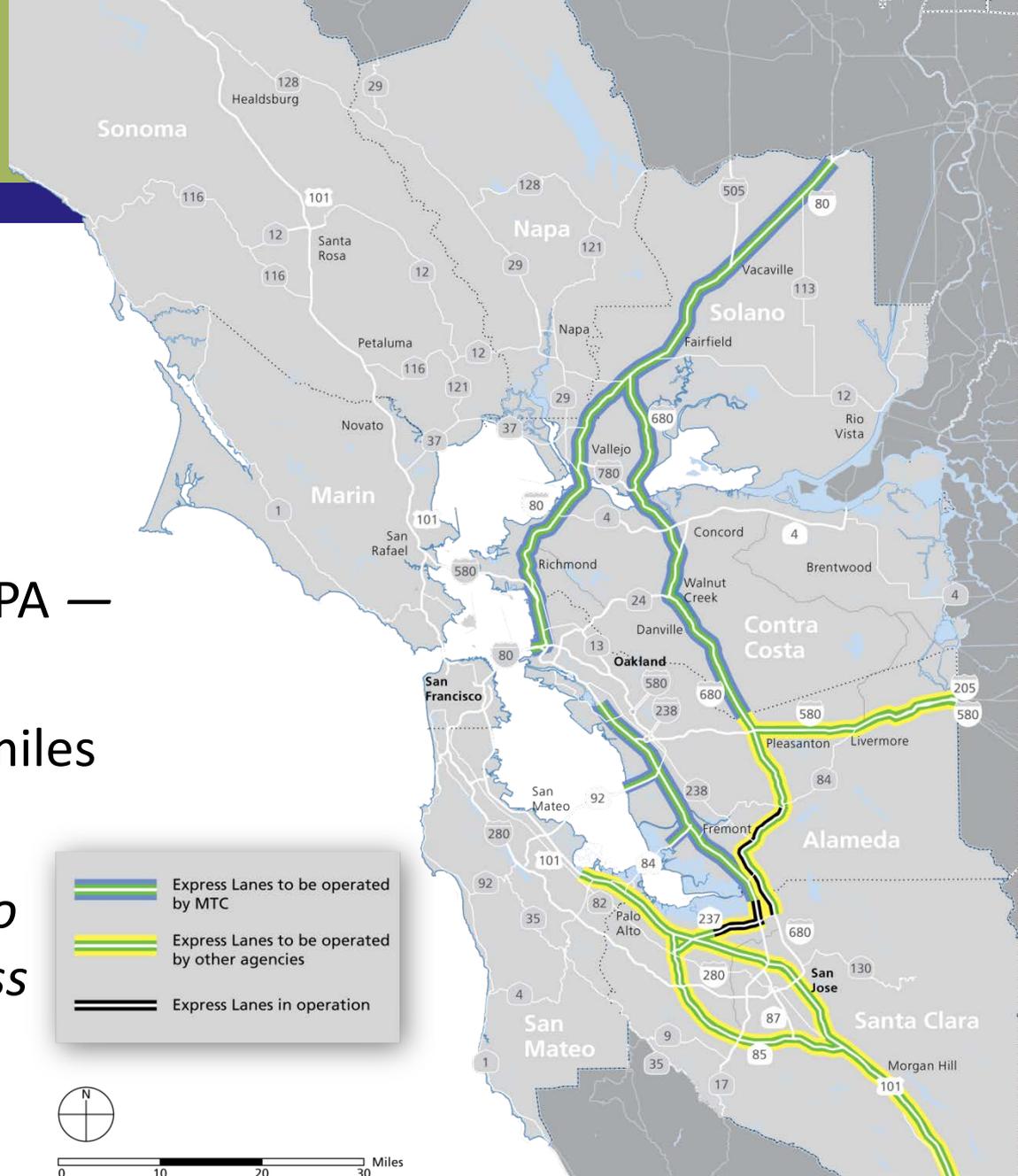
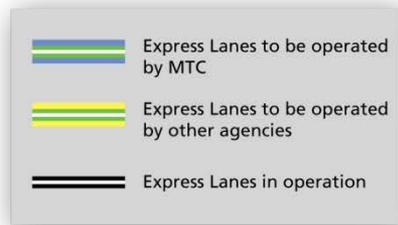


# Bay Area Express Lane System

550 miles total

- MTC — 270 miles (Oct. 2011 CTC action)
- Alameda CMA & Sunol JPA — 90 miles
- Santa Clara — VTA 190 miles

*All parties are committed to making the system seamless for drivers*



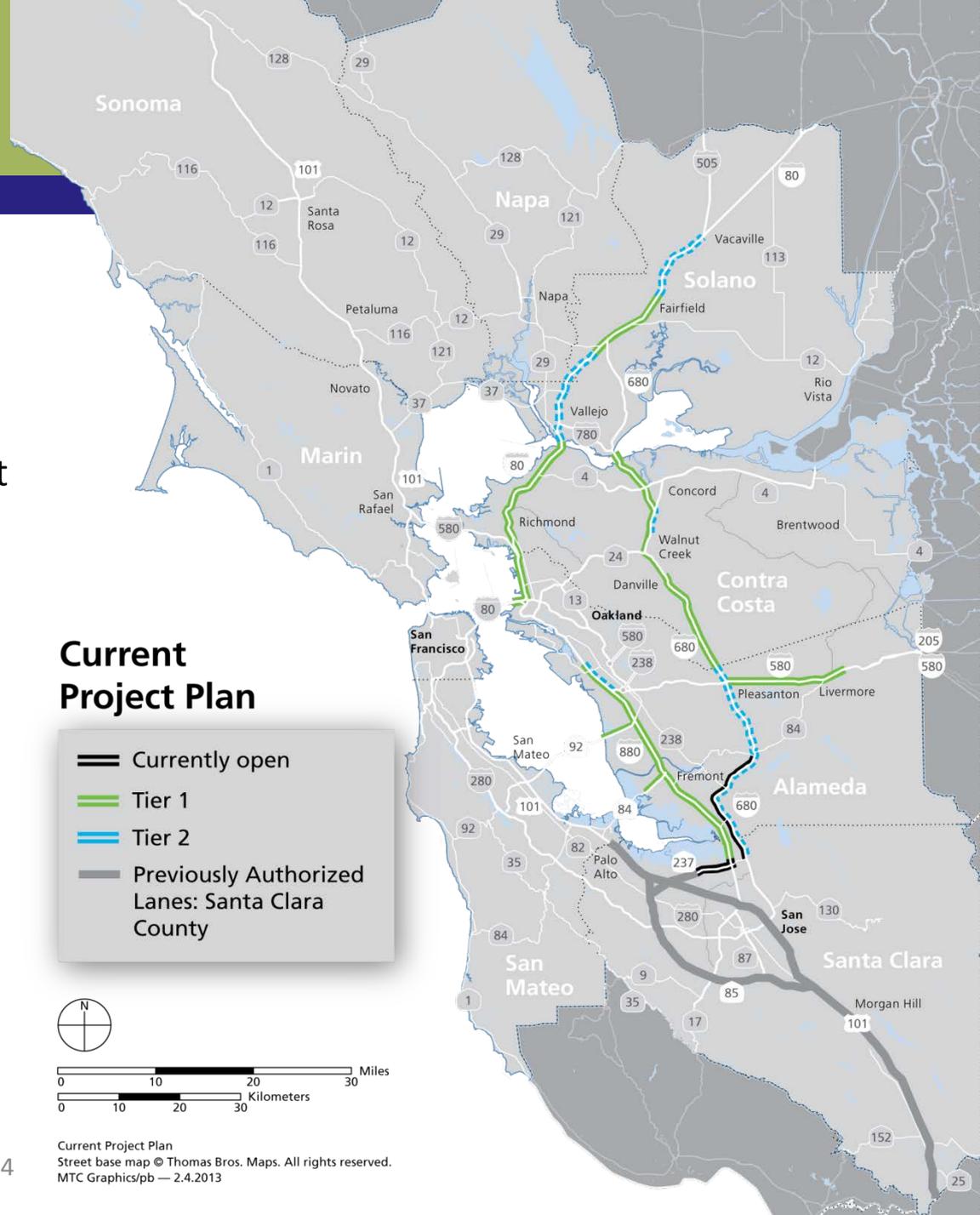
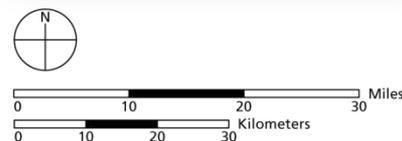
# Why Express Lanes?

- **Connectivity:** Close gaps within existing HOV lane system
- **Efficiency:** Optimize capacity in Bay Area freeway corridors
- **Reliability:** Provide a reliable, congestion-free transportation option

# Current Project Plan

1. Conversions first (benefit cost ratio = 5)
  - Low cost & low risk
  - Toll-system comprises most of the investment
  - 175 miles
2. Close gaps, segments with better revenue/cost ratios (benefit cost ratio = 3)
  - 85 miles

## Current Project Plan



# Tier 1 Conversions

## MTC Network Projects Underway 90 miles open in 2015

In progress

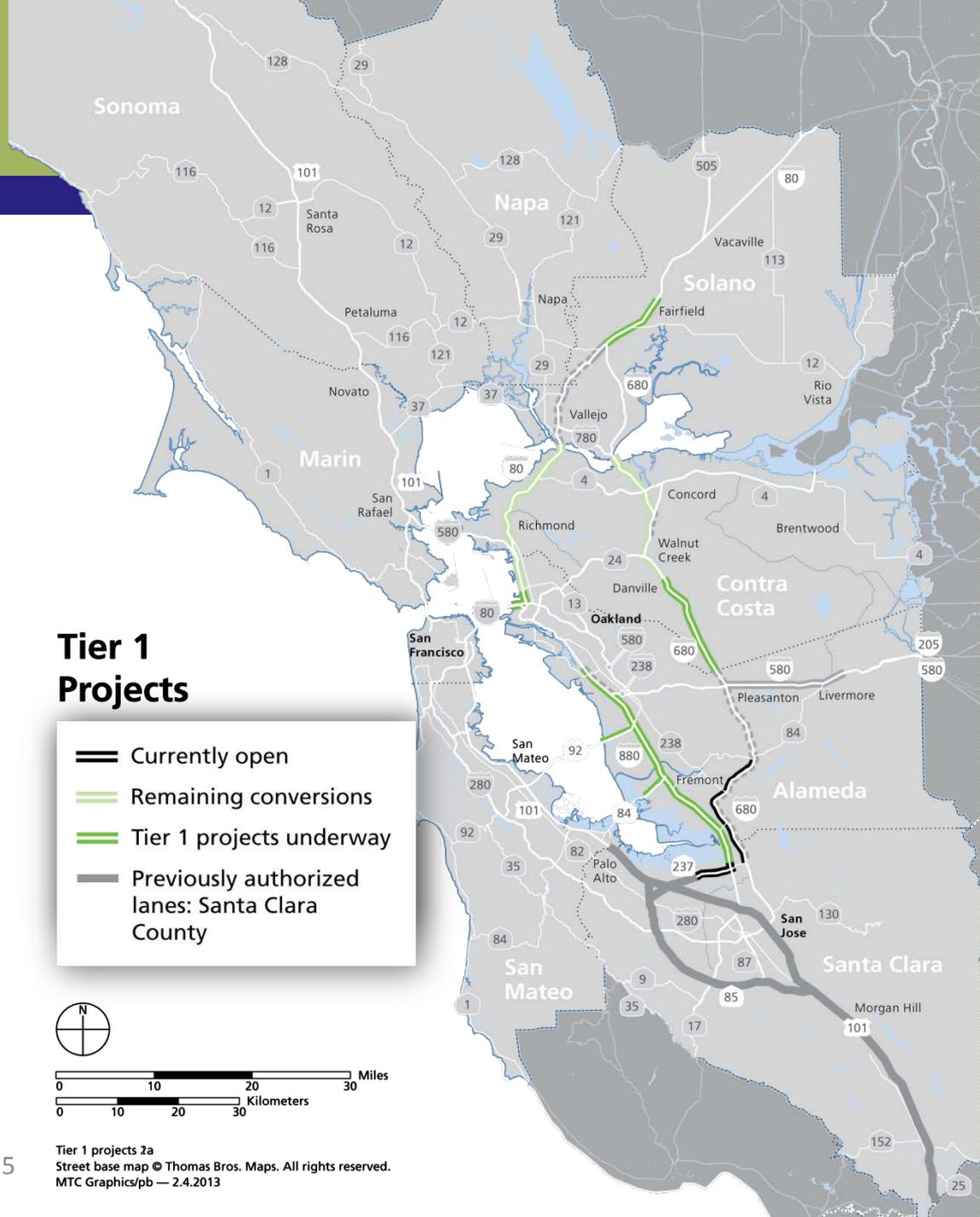
- Toll system concept
- Environmental clearance

Next steps in 2013

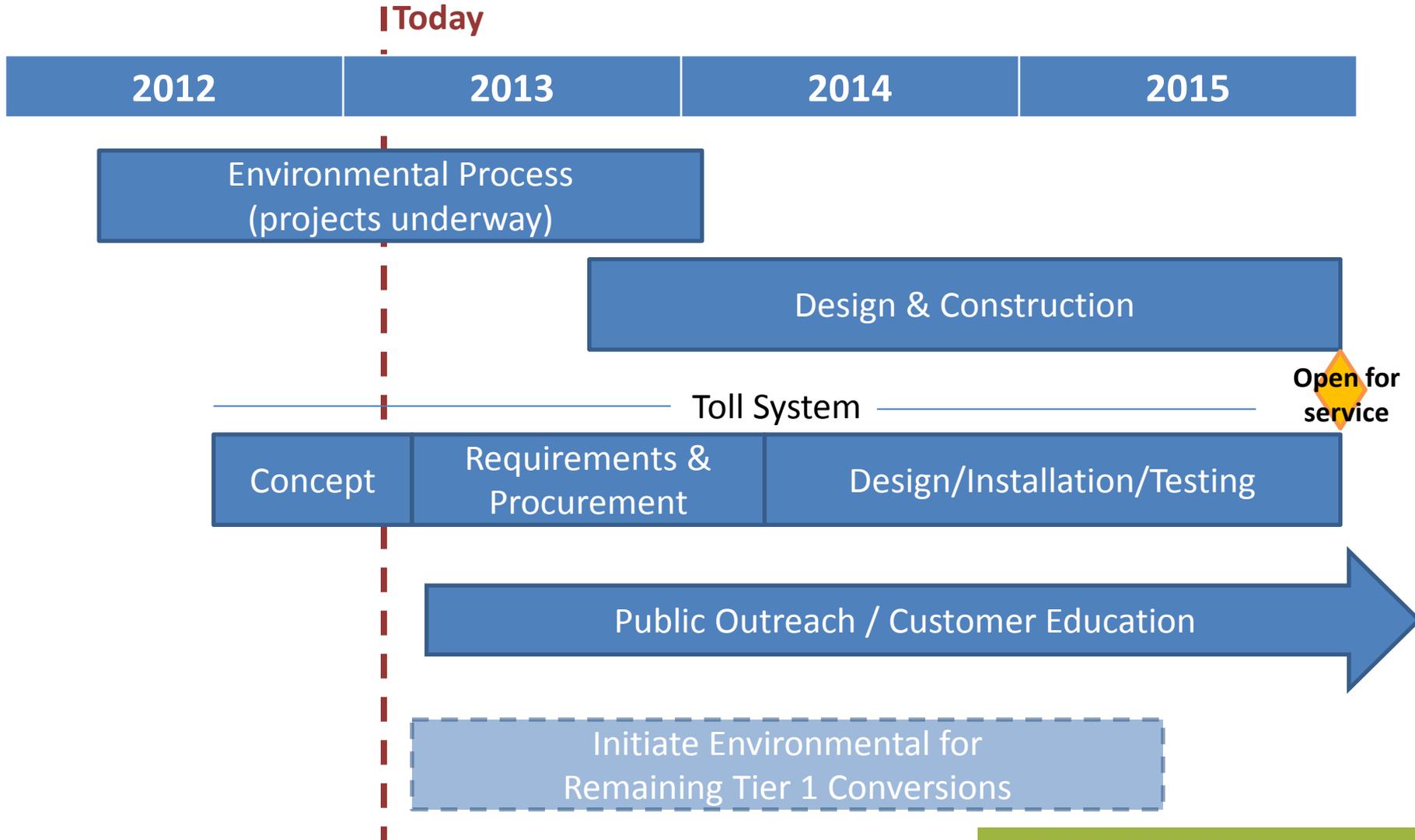
- Toll system requirements & procurement
- Roadway design

## Remaining Conversions 60 miles

Secure funding and initiate studies / environmental clearance in 2013



# Timeline for Tier 1



# Bay Area Infrastructure Financing Authority (BAIFA)

- Created by MTC and BATA in 2006 to finance the state contribution to the toll bridge seismic program and “to plan, develop and fund transportation and related projects”
- Amended in September 2011 to include development, operation and financing of express lane facilities

## Recommendation: Revise board membership for express lane responsibilities

Current Membership		Proposed Membership	
1. MTC Chair	Tissier	1. MTC Chair	Worth
2. MTC Vice Chair	Worth	2. BATA Oversight Chair	Dodd
3. BATA Oversight Chair	Dodd	3. Alameda County	Haggerty
4. BATA Oversight Vice Chair	Bates	4. Contra Costa County	Glover
5. Programming & Allocations Ch	Glover	5. Solano County	Spering
6. Programming & Allocations Vice Chair	Kinsey	6. Caltrans Distr. 4 Director	Sartipi (non-voting)

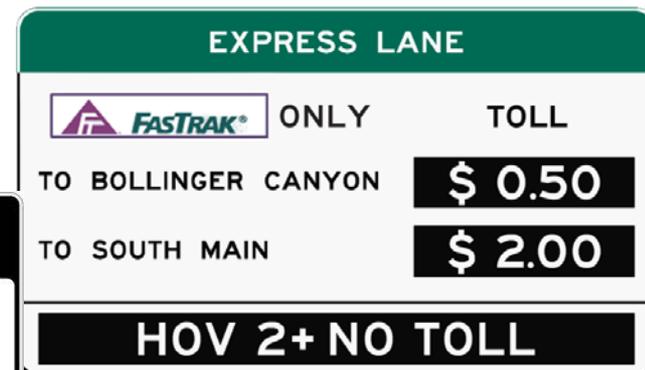
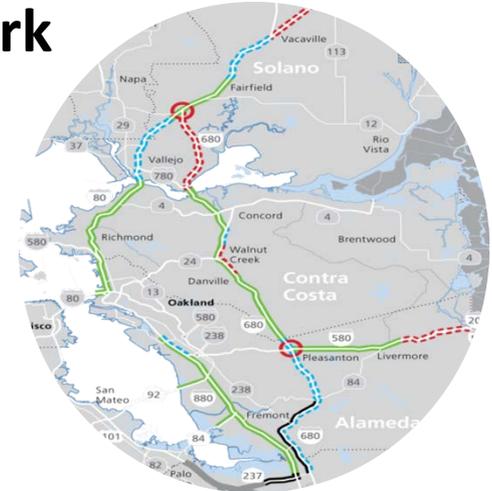
# BAIFA and Express Lanes

- Responsibilities for development, operation and financing the Express Lane Network currently reside with MTC.
- **Recommendation: allow BAIFA to assume these responsibilities:**
  - Protects MTC and regional transportation funds, in event of financial shortfalls associated with express lanes;
  - Provides BATA a seat at the table.
- This would be done through a cooperative agreement between MTC and BAIFA.

# Policy Decisions and Responsibilities for BAIFA

## Developing, Operating and Financing the Network

1. Approve phasing and financing plans
  - Which projects get built first;
  - How the Network will be financed.
2. Design, procure, install and construct the express lanes and toll system
3. Adopt business rules, tolling and operating policies
  - Hours of operation (peak only, all day, weekends)
  - Toll rates and HOV occupancy requirements (HOV2 or HOV3+)
  - Toll collection methods, violation procedures and penalties



# Example BAIFA Policy Decision: Toll Violation System

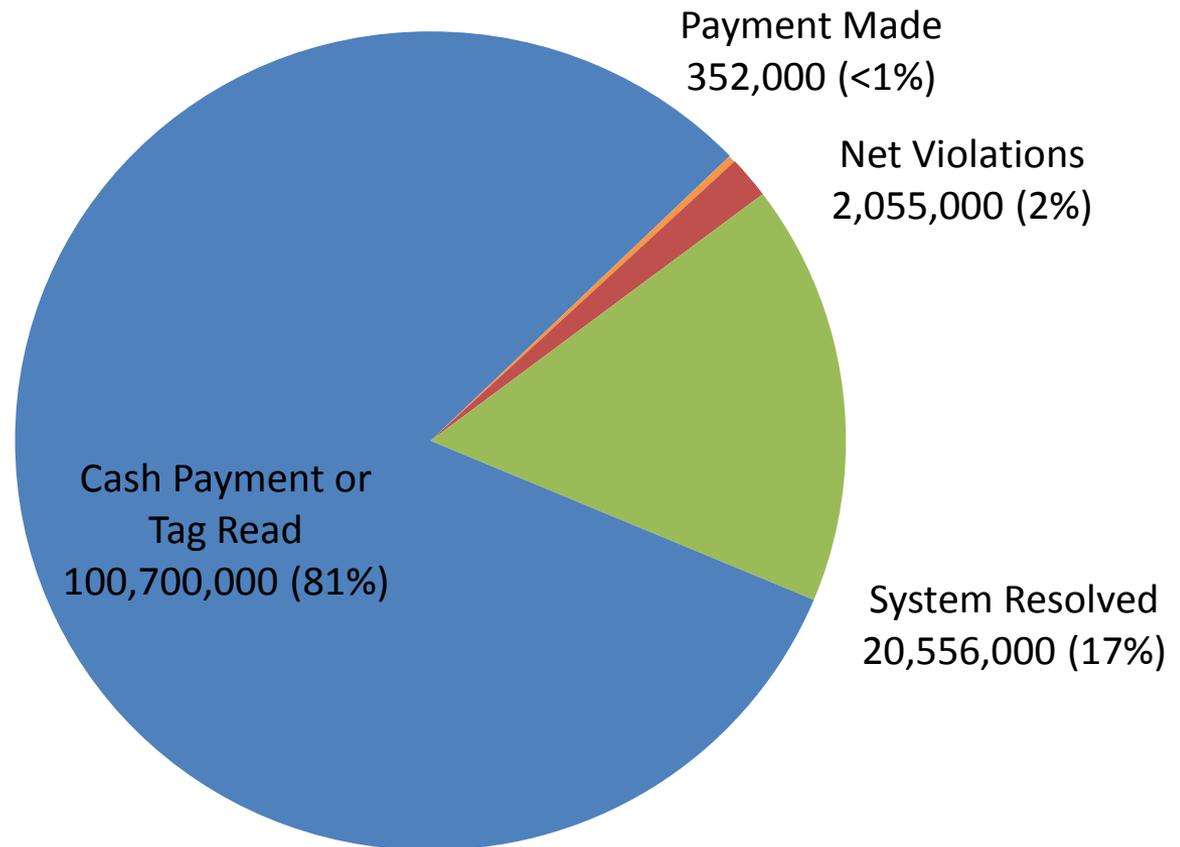
- FasTrak® toll tags will be used for toll collection.
- Employ toll violation system, which is in use on toll bridges:
  1. Toll violations will be automatically captured through license plate cameras.
  2. All vehicles, including carpools, will be required to carry a toll tag.
- Managing violations is critical for managing traffic, recovering the cost of operations, and for bond financing.

# Toll Violations on BATA Bridges in FY 11-12

**Total Bridge Trips: 123,667,000 (100%)**

**19% of all trips have no tag read or cash payment\***

**With automatic toll violation system, net violation is reduced to 2%**



\* Excludes "free" trips by buses and vehicles with non-revenue tags

# Example BAIFA Policy Decisions: Determining Toll Tag Technology

- Switchable toll tag
  - Drivers identify number of occupants using a switch on the toll tag
  - Toll readers detect the switch setting and apply the toll for non-HOVs; HOVs travel toll-free
  - Used in LA (I-10 and I-110) and Virginia (I-495 E-Zpass® Flex™)
  - Non-HOVs can use existing FasTrak® tags
- Large number of Bay Area carpoolers have FasTrak® already
  - 22,000 daily HOV trips on the BATA bridges (2012)



# Policy Decisions and Responsibilities

## Developing, Operating and Financing the Network

### 4. Operate and maintain the express lanes and toll system

<b>BAIFA Responsibility</b>	<b>Fulfilled by</b> <i>via cooperative agreement or contract</i>
Toll Tags/ Customer Service	BATA (by law)
Toll System (O&M, TMC)	BAIFA, BATA, contractor, P3
HOV Enforcement	CHP (by law)
Roadway Maintenance	Caltrans, contractor, P3

# Policy Decisions and Responsibilities

## Developing, Operating and Financing the Network

5. Obtain bonding and tolling authority as required to fund the project
  - While not needed for the initial projects, bond financing will be needed to complete the Network.
  - BAIFA will need to secure authority to issue bonds for the Network.
  - The California Transportation Financing Authority (CTFA) Act is an attractive way to secure combined bonding and tolling authority - if timing and conditions for CTFA approval can be resolved.
  - Other legislative or judicial actions may be viable, such as validation action, in which BAIFA would take itself to court to confirm its authority to finance the Network.

# Upcoming Milestones

	Governance	Program Delivery and Policy
Feb	<input type="checkbox"/> <b>Information item on BAIFA</b> 2/13 BATA Oversight & MTC Admin.	
Mar	<input type="checkbox"/> <b>Revise BAIFA Board</b> 3/6 BATA Oversight & MTC Admin. 3/27 BATA & MTC <input type="checkbox"/> <b>Approve MTC-BAIFA coop</b> 3/6 MTC Admin. 3/27 MTC	<input type="checkbox"/> <b>Amend existing environ &amp; program mgmt. contracts to continue work</b> 3/6 MTC Admin  <input type="checkbox"/> <b>Draft Environmental Justice Context Report</b> 3/6 Policy Advisory Council
Apr	<input type="checkbox"/> <b>First BAIFA express lanes meeting</b> <input type="checkbox"/> <b>Approve MTC-BAIFA coop</b> 4/24 BAIFA	<input type="checkbox"/> <b>Toll policy/business rules</b> 4/24 BAIFA
Spr/Sum 2013 (BAIFA)		<input type="checkbox"/> <b>Toll policy/business rules</b> <input type="checkbox"/> <b>Authorize design contracts/ environmental contracts</b>