

Date: December 20, 2023
W.I.: 1468
Referred By: BATA Oversight

ABSTRACT

Resolution No. 173

This resolution authorizes the delegation of the Interstate 580 (I-580) Richmond-San Rafael Access Improvement Package B2 Design Plans Approval to specified staff.

Further discussion of this subject is contained in the BATA Memorandum dated December 13, 2023.

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Re: Delegation of the Interstate 580 (I-580) Richmond-San Rafael Access Improvement Package B2 Design Plans Approval to specified staff

BAY AREA TOLL AUTHORITY
RESOLUTION NO. 173

WHEREAS, California Government Code Section 830.6 provides limitations on liability for public entities for conditions of public property where the public entity exercises appropriate discretion in the planning and design of public improvements. This limitation of liability is commonly known as “design immunity”; and

WHEREAS, California Government Code Section 830.6 requires public entities to establish the following three elements to invoke design immunity protections: (1) discretionary approval of a design before construction; (2) substantial evidence supporting the reasonableness of the design; and (3) a causal relationship between the design and the harm claimed; and

WHEREAS, the first element may be satisfied where the legislative body of a public entity, or the legislative body’s delegee, exercises discretionary authority to approve the plan or design of the improvement in advance of construction of the improvement; and

WHEREAS, the Bay Area Toll Authority (BATA) anticipates constructing a public improvement through its work on the Interstate 580 (I-580) Richmond-San Rafael Access Improvement Package B2; and

WHEREAS, subject to the terms below, the legislative body of BATA desires to delegate to an MTC/BATA employee the discretionary authority to approve the planning and design of a public improvement; and

WHEREAS, this resolution does not impact, affect, or change the legislative body’s discretion or authority to appropriate or approve project funding or to independently review and approve planning or design for the public improvement; and

WHEREAS, this resolution does not circumvent other established project planning and design processes; and

WHEREAS, this resolution is narrowly tailored to the specific project, employee, and terms set forth below and for the purpose of supporting the BATA's design immunity protections as provided by State law; now, therefore be it

RESOLVED, that the legislative body of BATA hereby delegates to Director, Design and Project Delivery, and Assistant Director, Capital Program Delivery (or successor sections and/or positions with the same or similar scope and responsibilities) the authority to exercise discretionary authority, jointly and severally, on behalf of BATA to approve the designs, design amendments, and design addenda for I-580 Richmond-San Rafael Access Improvement Package B2; and, be it further

RESOLVED, that the legislative body of BATA delegates authority to Director, Design and Project Delivery, and Assistant Director, Capital Program Delivery (or successor sections and/or positions with the same or similar scope and responsibilities) provided that any designs, design amendments, and design addenda approved by Director, Design and Project Delivery, and Assistant Director, Capital Program Delivery (or successor sections and/or positions with the same or similar scope and responsibilities) are prepared by or previously reviewed by an appropriate licensed design professional; and, be it further

RESOLVED, that the approval of any designs, design amendments, and design addenda by Director, Design and Project Delivery, and Assistant Director, Capital Program Delivery (or successor sections and/or positions with the same or similar scope and responsibilities) is limited to the acceptance or approval of the designs based upon an appropriate licensed design professional's representation that such designs are in general conformance with applicable statutes, codes, standards, and guidelines for the purposes of California Government Code Section 830.6 and otherwise, the responsibility and liability for the completeness, accuracy, and conformance of such will continue to reside with the Engineer of Record, Engineering Firm of Record, or public agency that prepared the design; and, be it further

RESOLVED, that Director, Design and Project Delivery, and Assistant Director, Capital Program Delivery (or successor sections and/or positions with the same or similar scope and responsibilities) shall document this resolution and any approvals exercised by Director, Design and Project Delivery, and Assistant Director, Capital Program Delivery (or successor sections and/or positions with the same or similar scope and responsibilities) in the project file for I-580 Richmond-San Rafael Access Improvement Package B2.

BAY AREA TOLL AUTHORITY

Alfredo Pedroza, Chair

The above resolution was entered into by the Bay Area Toll Authority at a duly called and noticed meeting held in San Francisco, California and at other remote locations, on December 20, 2023.