

A174642

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT**

MARK BAKER,
Petitioner and Appellant,

v.

BAY AREA TOLL AUTHORITY,
Respondent,

ILLUMINATE,
Real Party in Interest.

APPELLATE CASE NO. A174642

Appeal From a Judgment Entered in Favor of Respondents
San Francisco County Superior Court Case No. CPF-25-519079
Honorable Judge Jeffrey S. Ross

**MOTION FOR JUDICIAL NOTICE – NUMBER TWO;
POINTS AND AUTHORITIES – NUMBER TWO;
DECLARATION OF MARK BAKER – NUMBER TWO;
[PROPOSED] ORDER – NUMBER TWO;
PROOF OF SERVICE**

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Petitioner/Appellant
In Pro Per

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MOTION FOR JUDICIAL NOTICE – NUMBER TWO

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Petitioner/Appellant
In Pro Per

I. BACKGROUND

In or around the month of February 2026, Appellant received records via public records requests that demonstrate that the Bay Lights 360 is entirely based on fraud, conspiracy, and perjury. These judicially noticeable records provide the paper trail that shows that the August 15, 2023, Notice of Exemption (NOE) filed by Alix Bockelman is untethered to any actual, valid project. On February 24, 2026, Appellant filed a Whistleblower Complaint, Case Number I2026-0771, with the California State Auditor, and submitted these judicially noticeable documents with a request for a fraud investigation.

II. PRAYER FOR RELIEF

Appellant requests that this Court:

A. **TAKE JUDICIAL NOTICE**, pursuant to Evidence Code sections 452, subdivision (c) [official acts] and 459, of the following exhibits attached to the Declaration of Mark Baker:

1. EXHIBIT 1: Whistleblower Complaint filed with the California State Auditor.
2. EXHIBIT 2: California State Auditor Confirmation Email with case number I2026-0771.
3. EXHIBIT A: TRANSPORTATION ART / COMMUNITY IDENTIFICATION PROPOSAL.
4. EXHIBIT B: Chapter 29, Section 9 of the Caltrans Project Development Procedures Manual for Transportation Art
5. EXHIBIT C: NOTICE OF EXEMPTION

6. EXHIBIT D: BCDC Permit Amendment No. M2012.009.04.
7. EXHIBIT E: CEQA EXEMPTION / NEPA CATEGORICAL EXCLUSION DETERMINATION FORM.
8. EXHIBIT F: FHWA Approval of Right of Way Use Agreement.
9. EXHIBIT G: Caltrans STANDARD ENCROACHMENT PERMIT APPLICATION.
10. EXHIBIT H: Public Records Request Response R001206-021126.
11. EXHIBIT I: Caltrans ENCROACHMENT PERMIT.

- B. **ADMIT** the matter into the record of this appeal for the purpose of demonstrating the falsity of assertions made regarding project approval and the lack of underlying public agency authorization.
- C. **GRANT** such other and further relief as the Court deems just and proper.

Dated: February 28, 2026

Respectfully Submitted By:

/s/ Mark Baker
Appellant
In Pro Per

A174642

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**MEMORANDUM OF POINTS AND AUTHORITIES – NUMBER
TWO**

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Petitioner/Appellant
In Pro Per

I. INTRODUCTION

Appellant Mark Baker requests that this Court take judicial notice of the Whistleblower Complaint, Case Number I2026-0771, and included exhibits A-I, filed with the California State Auditor. This filing, containing documents obtained via public records requests in February 2026, contains the paper trail for an \$11,000,000 fraud and conspiracy involving the Bay Lights 360 project. (Declaration, EXHIBIT 1.) This evidence is critical to demonstrating that the Notice of Exemption (NOE) filed on August 15, 2023, was part of a fraudulent effort to bypass statutory and CEQA oversight.

II. LEGAL STANDARD FOR AUGMENTATION

Under Evidence Code section 459, a reviewing court has the authority to take judicial notice of any matter specified in Evidence Code section 452. Specifically, Section 452, subdivision (c), allows for judicial notice of "[o]fficial acts of the legislative, executive, and judicial departments of the United States and of any state of the United States."

The documents in question—an official Whistleblower Complaint submitted to the California State Auditor and public records identified as Exhibits 1-2 and Exhibits A-I—describes official acts and omissions of executive departments within the meaning of the statute.

III. ARGUMENT

A. The Evidence Is Relevant to a Material Issue on Appeal

While appellate courts generally do not consider evidence outside the trial record, they may do so when the information is mandatory for a

just determination of the case. Here, the judicially noticeable documents directly contradict the respondent's legal positions regarding the project's authorization and CEQA status. It provides evidence of extrinsic fraud that was not, and could not have been, presented to the trial court because it was discovered after the judgment.

B. The Fact of the Filing is Not Subject to Reasonable Dispute

Judicial notice is appropriate for the fact of the filing and the contents of this official government record. The existence of these documents and the specific statements and omissions made within by public officials and real parties in interest are not subject to reasonable dispute.

C. The Notice of Exemption is Void as a Matter of Law Under the *Visalia* Standard

The records demonstrate a fatal chronological defect. Respondents filed the Notice of Exemption on August 15, 2023 (Exhibit C). However, the Encroachment Permit Application (Exhibit G) was not even signed by the purported 'Authorized Agent' until September 13, 2024, nearly 13 months later. Under *Coalition for Clean Air v. City of Visalia* (2012) 209 Cal.App.4th 408, an NOE filed before project approval is a legal nullity. The fact that the application was executed over a year after the environmental filing proves the NOE was filed in the absence of any valid, approved project.

IV. CONCLUSION

Because the Whistleblower Complaint and included exhibits are part of an official government record that is highly relevant to the allegations of

fraud and unauthorized public expenditure at the heart of this appeal, Appellant respectfully requests that this Court take judicial notice of:

Exhibit 1: Whistleblower Complaint, Case No. I2026-0771.

Exhibit 2: State Auditor Confirmation Email.

Exhibits A through I: Individual agency records from Caltrans, BATA, and BCDC as described in the Declaration of Mark Baker.

Dated: February 28, 2026

Respectfully Submitted By:

/s/ Mark Baker
Appellant
In Pro Per

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**DECLARATION OF MARK BAKER IN SUPPORT OF MOTION
FOR JUDICIAL NOTICE – NUMBER TWO**

MARK BAKER
1520 E. Covell Blvd. Suite 5-467
Davis, CA 95616
Telephone: 503-272-1188
Email: mbaker@softlights.org

Petitioner/Appellant
In Pro Per

I, Mark Baker, declare as follows:

1. I am the Petitioner and Appellant in this matter. I am representing myself *in pro per*. I have personal knowledge of the facts set forth herein and, if called as a witness, I could and would competently testify thereto.
2. I make this declaration in support of my Motion for Judicial Notice.
3. **Authentication of EXHIBIT 1:** Attached to the Motion for Judicial Notice as EHXIBIT 1 is a true and correct copy of my **WHISTLEBLOWER COMPLAINT**, case number I2026-0771, submitted by me to the California State Auditor on February 24, 2026.
4. **Authentication of EXHIBIT 2:** Attached to the Motion for Judicial Notice as EHXIBIT 2 is a true and correct copy of the **California State Auditor's Response** dated February 24, 2026 confirming my Whistleblower Complaint and assigning case number I2026-0771.
5. **Authentication of EXHIBIT A:** Attached to the Motion for Judicial Notice as EHXIBIT A is a true and correct copy of the unsigned and undated **TRANSPORTATION ART / COMMUNITY IDENTIFICATION PROPOSAL**, which serves as the basis for my allegation that the project is a jurisdictional nullity.
6. **Authentication of EXHIBIT B:** Attached to the Motion for Judicial Notice as EHXIBIT B is a true and correct copy of **Chapter 29, Section 9 of the Caltrans Project Development Procedures Manual for Transportation Art**, which establishes the requirement that only a city, county, town, or tribe can sponsor a transportation art project and that a project cannot be privately funded.
7. **Authentication of EXHIBIT C:** Attached to the Motion for Judicial Notice as EHXIBIT C is a true and correct copy of **NOTICE OF**

EXEMPTION filed August 15, 2023, which was filed without “actual project approval”.

8. **Authentication of EXHIBIT D:** Attached to the Motion for Judicial Notice as EXHIBIT D is a true and correct copy of **BCDC Permit Amendment No. M2012.009.04**, which claims that the project is a minor repair or improvement of less than 1,000 square feet.
9. **Authentication of EXHIBIT E:** Attached to the Motion for Judicial Notice as EXHIBIT E is a true and correct copy of **CEQA EXEMPTION / NEPA CATEGORICAL EXCLUSION DETERMINATION FORM**, which lists “N/A” for biological resources.
10. **Authentication of EXHIBIT F:** Attached to the Motion for Judicial Notice as EXHIBIT F is a true and correct copy of **FHWA Approval of Right of Way Use Agreement**, which shows that the FHWA is deeply concerned about the safety impacts of the inward facing lights.
11. **Authentication of EXHIBIT G:** Attached to the Motion for Judicial Notice as EXHIBIT G is a true and correct copy of **Caltrans STANDARD ENCROACHMENT PERMIT APPLICATION**, which states that no public agency was involved in approving the project and is signed, under penalty of perjury by Ben Davis, as an Authorized Agent of BATA.
12. **Authentication of EXHIBIT H:** Attached to the Motion for Judicial Notice as EXHIBIT H is a true and correct copy of **Public Records Request Response R001206-021126** showing that there is no record of Ben Davis being designated as an Authorized Agent of BATA.
13. **Authentication of EXHIBIT I:** Attached to the Motion for Judicial Notice as EXHIBIT I is a true and correct copy of **Caltrans**

ENCROACHMENT PERMIT, which was issued to “BATA c/o
Illuminate”, neither of which is a city, county, town, or tribe.

I declare under penalty of perjury under the laws of the State of
California that the foregoing is true and correct.

Dated: February 28, 2026

Respectfully Submitted By:

Mark Baker

Mark Baker
Appellant
In Pro Per

Bay Lights 360

DETAILED DESCRIPTION OF IMPROPER GOVERNMENTAL ACTIVITY**RE: Permit No. 04-24-N-AP-1811 (Bay Lights 360 Project)****1. WHAT IS THE IMPROPER ACTIVITY AND WHAT SPECIFIC LAWS APPLY?**

The improper activity involves a systemic conspiracy between private interests and public officials to bypass mandatory state oversight and misappropriation of state resources for the "Bay Lights 360" project. Specifically, the project is proceeding under a void state permit obtained through perjury and maintained through gross negligence and intentional misrepresentation by agency leadership.

- **Specific Laws and Regulations Violated:**

- **Penal Code § 115:** Filing a False Instrument. The permit application is a public record filed with a knowingly false certification of authority.
- **Penal Code § 118:** Perjury. Ben Davis signed the application under penalty of perjury as an "Authorized Agent" for a state agency (BATA) without legal authorization.
- **Gov. Code § 8547.2 (Whistleblower Act):** Improper governmental activity including violations of law and gross misconduct.
- **Gov. Code § 13400 (State Leadership Accountability Act):** Failure by Directors El-Tawansy and Fremier to maintain mandatory internal controls, allowing a private citizen to usurp state authority.
- **Gov. Code § 12650 (False Claims Act):** Knowingly using a false record to authorize the "expenditure" of state services (bridge access) and employee time.
- **Code of Civil Procedure § 526a:** Waste of public funds/resources (taxpayer-funded staff hours used to facilitate an unauthorized project).

2. HOW AND WHEN DID YOU BECOME AWARE OF THE IMPROPER ACTIVITY?

I first contacted Ben Davis, Founder of Illuminate, on March 4, 2023 and notified Mr. Davis that his proposed Bay Lights 360 project would cause harm to public and environmental, create discriminatory barriers, and create a public safety hazard. Over the next several years, I communicated with Mr. Davis, California Department of Transportation (Caltrans),

Bay Area Toll Authority (BATA), San Francisco Bay Conservation and Development Commission (BCDC), Federal Highway Administration (FHWA), Caltrans Inspector General Independent Office of Audits and Investigations (IOAI), California Attorney General, California Highway Patrol (CHP), Bay Area Association of Governments (ABAG), San Francisco Ethics Commission, San Francisco Board of Supervisors, the San Francisco Mayor, and other agencies, informing them of the permitting irregularities of this project. No agency took any steps to investigate.

In the past few months, as a result of California Public Records Act requests, I have discovered that the entire project is part of a vast fraud and conspiracy perpetrated by Ben Davis and aided by numerous government officials who filed fraudulent documents to push the project through.

3. WHO ARE THE PARTIES INVOLVED AND WHAT ROLES DO/DID THEY PLAY?

- **Ben Davis (Founder, Illuminate):** The primary actor who committed perjury by claiming that he is an Authorized Agent for BATA despite having no authorization to make this claim. By using this fraudulent claim of Authorized Agent, Mr. Davis orchestrated the entire scheme.
- **Dina El-Tawansy (Director, Caltrans District 4):** During most of this project, Ms. El-Tawansy was the Director of District 4 for Caltrans. Ms. El-Tawansy was instrumental in ushering the project through Caltrans. Almost immediately after Ms. El-Tawansy approved the project, she was promoted to Director of all of Caltrans. Ms. El-Tawansy approved the project despite knowing that the entire project was based on a fraudulent permit application.
- **Andrew Fremier (Executive Director, BATA) & Alix Bockelman (Chief Deputy, BATA):** Knowingly bypassed the BATA Oversight Committee to avoid public scrutiny and authorized staff to facilitate the "Shadow Project" without involvement by the BATA Oversight Committee. Ms. Bockelman filed a California Environmental Quality Act (CEQA) Notice of Exemption (NOE) for the project on August 15, 2023, without the required project approval, for the sole purpose of creating a roadblock for legal challenges.
- **Larry Goldzband (Executive Director, BCDC):** Issued a separate permit based on the fraudulent Caltrans/BATA foundation, abdicating his duty to verify project authorization and bypassing the BCDC Commissioners.
- **Crystal Matson (Counsel, BATA):** Ms. Matson provided a key moment in the conspiracy when she informed the BATA Oversight Committee Chair that the Committee should not discuss the Bay Lights 360 project in public, despite knowing

that it is exactly the role of the BATA Oversight Committee to provide oversight of all BATA projects.

- **Angela Louie (BATA):** Assisted in filling out the fraudulent Caltrans Encroachment Permit application dated September 13, 2024.
- **Erin Holbrook (Chief Counsel, Caltrans) & Kathleen Kane (General Counsel, BATA), Jennifer Flint (Caltrans), Sam Bacal-Graves & Amy Higuera (Outside Counsel):** Provided legal defense for the government staff while possessing actual knowledge of the fraudulent signature.

4. WHEN DID THE IMPROPER ACTIVITY FIRST TAKE PLACE? IS IT ONGOING?

The fraud began around 2022. It is ongoing and frequent. Despite the lack of valid permits and despite the lack of project approval, these parties continue to install and test equipment on the Bay Bridge. On February 19, 2026, Ben Davis and Illuminate publicly announced that the project would be commissioned on March 20, 2026. Every hour of Caltrans engineering review and BATA administrative coordination constitutes a new "misuse of state resources."

5. ARE ANY SUPERVISORS, MANAGERS, OR EXECUTIVES AWARE AND ALLOWING IT?

Yes. This conspiracy goes to the very top of the command chain. Caltrans Director Dina El-Tawansy is a major participant. BATA Executive Director Andrew Fremier has overseen the entire project and ensured that the BATA Oversight Committee was bypassed. BCDC Executive Director Larry Goldzband bypassed the BCDC Commission to issue a materially false permit to Caltrans. Each of the lawyers (Holbrook, Flint, Matson, Bacal-Graves, Higuera) provided defense and cover for the staff, in violation of Rule of Conduct 1.13 and 3.3.

6. WHO ELSE KNOWS ABOUT THE IMPROPER ACTIVITY AND WHAT DO THEY KNOW?

I have notified the Caltrans Independent Office of Audits and Investigations (IOAI), California Attorney General, San Francisco Ethics Commission, BATA Oversight Committee, BCDC Commissioners, FHWA, San Francisco District Attorney, Governor Newsom, and the California Legislature.

BAY LIGHTS 360

Index of Evidence

EXHIBIT A: TRANSPORTATION ART / COMMUNITY IDENTIFICATION PROPOSAL – This is the permit application that is used to initiate the project under the Caltrans Transportation Art Program. The permit application states that the Applicants must be a local public agency defined as a city, county, incorporated town, tribal government. This permit application is filled out by Megan Nangle, Transportation Project Manager for the Bay Area Toll Authority (BATA), but there is no signature or date. Since BATA is not a city, county town, or tribe, BATA would not be legally permitted to apply for the project. However, this unsigned, undated Caltrans Transportation Art Program permit application filled out by BATA is the start of the conspiracy.

EXHIBIT B: CALTRANS TRANSPORTATION ART PROCEDURES – This is Chapter 29, Section 9, of the Caltrans Project Development Procedures Manual which details the requirement for a Transportation Art project. The requirements include:

1. **Sponsorship:** Sponsorship by a local government agency is required. Local Government Agency is defined as a city, county, town, or tribe. Since BATA submitted the unsigned, undated permit application, and since BATA is not a local government agency as defined here, the project is void from the start.
2. **Transfer of Intellectual Property:** The transfer of intellectual property requires approval by the local government agency. Since no local government agency sponsored this project, this criteria cannot be met.
3. **Kinetic Art Prohibited:** Kinetic art and simulated motion are prohibited. Since the Bay Lights 360 is entirely simulated motion, the art project itself is prohibited.
4. **Solely Public Funding:** The project must be solely funded by the public agency. Since this \$11,000,000 is funded almost entirely by private donations, this requirement is not met.
5. **Public Acceptance:** The local public agency must secure public acceptance for the project. This requirement was not met.
6. **Resolution:** The local public agency must issue a Resolution approving the project. This requirement was not met.

EXHIBIT C: NOTICE OF EXEMPTION (NOE) – The California Environmental Quality Act requires environmental review and an environmental determination for any project. A signed and dated project approval document is also required. After the environmental determination and project approval, an NOE may be filed. However, for this project, BATA

Deputy Executive Director Alix Bockelman filed an NOE for the project on August 15, 2023 without an environmental determination or project approval, thus voiding the NOE. The NOE states that BATA is the public agency approving the project and that BATA is the public agency carrying out the project. However, as shown below, BATA later claimed that no government agency was involved in approving the project. In addition, the actual construction that started in December, 2025 shows that Caltrans and Ben Davis are the entities carrying out the project. A project of this magnitude requires an Environmental Impact Report (EIR). The sole reason that Alix Bockelman filed the NOE was to thwart legal challenges to the project.

EXHIBIT D: BCDC Permit Amendment No. M2012.009.04 – BCDC Executive Director Larry Goldzband bypassed the BCDC Commission by claiming that the Project was a “minor fill” project. This project involves no fill at all. In addition, the permit is based on a June 8, 2012 NOE for a previous project which is not applicable to this project. The permit mentions the 184-page April, 2023 Caltrans report on the impacts of LEDs on wildlife, but then concludes that an 11-page biological memo commissioned by BATA demonstrated that there would be no significant impacts to wildlife. The permit states that project is a “minor repair or improvement”, when in fact the project is a massive light pollution project covering 1.8 miles in length and with around 100 square miles of impact. These are fraudulent misstatements by Mr. Goldzband.

EXHIBIT E: CEQA EXEMPTION / NEPA CATEGORICAL EXCLUSION DETERMINATION FORM – Caltrans determined that the Project was categorically exempt from National Environmental Policy Act requirements, despite Caltrans’ own April, 2023 report on the impacts of LED light on wildlife. This form states, “N/A” under biological resources. A project of this scale cannot be categorically exempt from NEPA.

EXHIBIT F: Approval of Right of Way Use Agreement – The Federal Highway Administration (FHWA) is so concerned about the impacts of the inward facing lights that the FHWA directed Caltrans to develop a comprehensive test plan, including a threshold for the number of crashes and injuries that would halt the project. Caltrans never published these threshold values. The FHWA required a separate FHWA-approved approval for the inward-facing lights. Caltrans never received this approval from the FHWA.

EXHIBIT G: CALTRANS STANDARD ENCROACHMENT PERMIT APPLICATION: This Caltrans permit application is signed by Ben Davis on September 13, 2024 as an Authorized Agent for BATA, under penalty of perjury. BATA has since stated that Mr. Davis has never been authorized as an agent for BATA. (EXHIBIT H.) This is the most significant evidence of the fraud and conspiracy. Mr. Davis has been orchestrating the entire project by claiming to be an Authorized Agent for BATA. In addition, the permit application states that no public

agency is involved in approving the project. This directly contradicts the BATA August 15, 2023 NOE which claims that BATA is the agency approving the project. This permit application also leaves blank as to whether the project is being performed by BATA or a contractor, despite the NOE stating that BATA is the agency carrying out the project.

EXHIBIT H: PUBLIC RECORDS REQUEST R001206-021126 – This public record request from BATA states that there is no record of Mr. Davis being granted permission to be an Authorized Agent for BATA.

EXHIBIT I: CALTRANS ENCROACHMENT PERMIT – This is the permit issued by Caltrans to “BATA c/o Illuminate the Arts”. The reason for this unusual permittee name is because Illuminate the Arts is the entity that is carrying out the project, not BATA. This contradicts the August 15, 2023 NOE in which BATA claimed that BATA was carrying out the project. This permit ties full circle back to the original Caltrans Transportation Art Program permit application by BATA which was never signed or dated. The entire conspiracy was to use BATA as the representative for the local agency, to act as cover for the actual entity carrying out the project, who was Ben Davis. However, BATA is not a legally valid applicant for the project because a Transportation Art project can only be a city, county, town, or tribe. In addition, all intermediate steps were skipped, such as receiving public input and receiving project approval from the BATA Oversight Committee.

BLOCKING OF BATA OVERSIGHT COMMITTEE: Crystal Matson, Senior Counsel for BATA, actively subverted the BATA Oversight Committee's statutory function. On July 9, 2025, during the BATA Oversight Committee meeting, Committee Member Nate Miley asked if the Committee could discuss the Bay Lights 360 issues raised by Mark Baker. At the 27:33 mark of the official recording, Ms. Matson intervened, advising the Committee they "shouldn't really talk about" the Project because it was in active litigation. Ms. Matson's duty at this point was to advise the Committee that they had been excluded from oversight of this project and that they had not approved the project. It was exactly at this point where Ms. Matson blocked the Committee from performing the very oversight of a rogue project that the Committee is tasked with. Ms. Matson made a significant contribution to the conspiracy.

SUMMARY: The Bay Lights 360 was conceived by one person, Ben Davis, Founder of Illuminate. Mr. Davis then fraudulently claimed that he is an Authorized Agent for BATA. Mr. Davis then convinced BATA, BCDC, and Caltrans to engage in a permit-laundering scheme to give the appearance of a legitimate project, when in fact the entire project is fraudulent. While BCDC, BATA, and Caltrans staff carried out the conspiracy, government lawyers aided in the conspiracy by representing the staff, rather than the agency itself. The lawyers violated Rule of Conduct 1.13 which requires each lawyer to notify a higher authority upon

discovery of fraudulent activity. In addition, the lawyers committed fraud upon the court by providing shifting stories about the permits.



TRANSPORTATION ART / COMMUNITY IDENTIFICATION PROPOSAL

INSTRUCTIONS - Preliminary Request

- **Complete the Transportation Art Proposal Cover Sheet and submit along with other documents required for the Preliminary Request to the District Transportation Art Coordinator.**
Enter information in gray text fields, picture content boxes and check boxes as instructed.
- *Applicants must be a local public agency. The local public agency may be a city, county, incorporated town, tribal government, or non-federally recognized tribe representing the area in which the transportation art or community identification will be installed. The proposal must be completed in its entirety and signed by an official who is authorized by the local public agency to commit the required resources for the funding, installation, and maintenance of the proposed project.*
- *Describe the specific location for the proposed transportation art or community identification. Provide electronic copies of location map or an aerial photograph, as well as photographs that depict existing site conditions of the location.*
- *Provide a brief description of the proposed transportation art or community identification. Include drawings, sketches, and photographic simulations of a sufficient size and resolution to adequately demonstrate overall composition of the proposed transportation art or community identification in context with the proposed location. Additional information may be requested by the District Transportation Art Coordinator (DTAC) to adequately evaluate the suitability for installation on or within the State right-of-way.*
- *All transportation art or community identification with an art component will require a Copyright License and Moral Rights Waiver in the Artwork Agreement (CLAW). A link to the blank template of the CLAW can be found under the "**Copyright License and Waiver of Moral Rights in the Artwork Agreement**" section, elsewhere in this proposal.*
- *All Transportation Art/Community Identification proposals will require a fully executed Local Agency/Artist Agreement (LAA). Provide a copy of the draft Local Agency/Artist Agreement (LAA) with the requisite terms prior to its execution.*
- *Place letter title and description of attachment at the top left corner of the first page (i.e. - "Attachment A - Location Map")*



TRANSPORTATION ART / COMMUNITY IDENTIFICATION PROPOSAL

CHECKLIST - Preliminary Request

Include the following information with the Conceptual Transportation Art/Community Identification Request:

- Cover Sheet
- Checklist - Preliminary Request
- Preliminary Request and Attachments:
 - Attachment- Location/Aerial Map
 - Attachment- Preliminary Transportation Art/Community Identification Description
 - Attachment- Draft Local Agency/Artist Agreement with the required terms *(if available)*

- = *Required Documents*



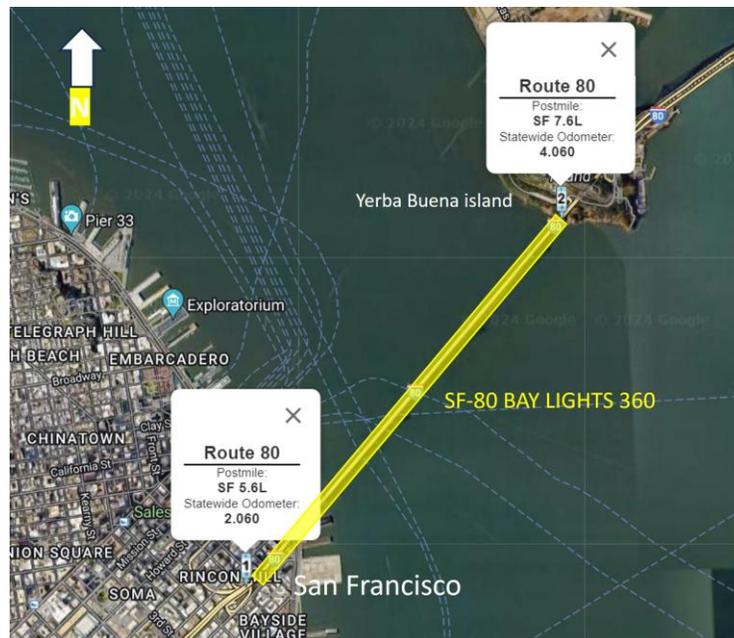
TRANSPORTATION ART / COMMUNITY IDENTIFICATION PROPOSAL

PRELIMINARY REQUEST

(Add text and images or enter "SEE ATTACHMENT - xx" or "N/A" if "Not applicable")

- **LOCATION MAP:**

Provide a map or satellite map (i.e., Google Earth image) and indicate proposed Transportation Art/Community Identification location.



PROPOSAL LOCATION: SF-80-5.6/7.6

- **Transportation Art/Community Identification Description:**

Provide a brief written description of the proposal, including a description of existing site conditions, and proposed imagery of the final Transportation Art/Community Identification. If proposal is Community Identification, provide the proposed text to be included.

The existing decorative lights (The Bay Lights) on the San Francisco-Oakland Bay Bridge (Bay Bridge) are at their end-of-life. As part of a replacement project referred to as "The Bay Lights 360", Illuminate the Arts (Illuminate), a California nonprofit, which, in cooperation with the Bay Area Toll Authority (BATA), originally installed the Bay Lights, proposes to promote equity by adding additional lights for visibility of the art installation from the underserved East Bay communities.



Revised (08-30-2023)



Westbound SFOBB- Existing Condition - Day



Proposed Bay Lights 360 Installation



SFOBB BAY LIGHTS 2015

NOTE: Transportation Art/Community Identification located on existing State-owned concrete structures will be allowed for non-load bearing members first, such as wingwalls abutments, sound walls, etc. Load bearing structures such as columns, piers, bridge soffits, girders, etc., may be proposed but will require approval from the Caltrans Office of Structure Maintenance and Investigation (SMI).

Transportation Art or Community Identification proposed on steel structures is prohibited, unless approved by SMI.

- **Draft Local Agency/Artist Agreement or Contract:**

*If available, provide a copy of the draft agreement(s) between the public agency and the artist(s) pertaining to but not limited to the design, installation, operation, maintenance, and/or removal of the Transportation Art/Community Identification. The Local Agency/Artist agreement (LAA) must include, without conflicting terms, language regarding ownership of the artwork by Caltrans and that Caltrans shall have license to make certain noncommercial uses of the [Artwork]. See the section "**Copyright License and Waiver of Moral Rights in the Artwork**" elsewhere in this TAP for the requisite terms to be included.*

*If the Local Agency/Artist agreement (LAA) has already been executed with the Artist, provide the executed Local Agency agreement **and** either a proposed or executed amendment to the Local Agency agreement that includes the above provision and removes any conflicting terms.*



TRANSPORTATION ART / COMMUNITY IDENTIFICATION PROPOSAL

INSTRUCTIONS - Proposal

- **When conditional approval of the Preliminary Request is provided by the District Transportation Art Coordinator (DTAC), continue with the remaining Transportation Art Proposal (TAP) requirements following these instructions.** Enter information in gray text fields, picture content boxes and check boxes as instructed.
- Complete guidance for Transportation Art/Community Identification Program and requirements for preparing the Transportation Art/Community Identification Proposal can be found at the Caltrans - [Landscape Architecture and Community Livability Elements](#) web site.
- Submit a copy of the preliminary TAP for review to the DTAC. The TAP must include resolution, support documents, drawings, sketches, and photographic simulations of sufficient size and resolution to demonstrate the overall composition of the proposed Transportation Art/Community Identification in context with the proposed location. Keep maximum size of all submitted files under 20MB, or they may not be received. Additional information may be requested by the DTAC to adequately evaluate the suitability for installation on or within the State right-of-way.
- Place letter title and/or description of all attachments at the top left corner of the first page (i.e. - "Attachment A - Resolution and Community Support" or "Location Map")
- Include a completed draft of Copyright License and Moral Rights Waiver in the Arts Agreement (CLAW), along with the required exhibits, including a copy of the Local Agency/Artist Agreement (LAA) with the requisite terms, for review. **DO NOT SIGN** - The DTAC will use this information to complete the CLAW and will send it to the Local Agency and artist for final review and signature.
- Include a completed draft of the Transportation Art Maintenance Agreement (TAMA) along with the required exhibits for review. Contact the DTAC to coordinate with the District Maintenance Agreements Office if there are any proposed changes to the TAMA. **DO NOT SIGN** - The DMAC will use this information to complete the TAMA and will send it to the Local Agency final review and signature
- Address all comments from the draft Transportation Art/Community Identification Proposal submittal, the CLAW and the TAMA. Once the final TAP and agreements are all completed, the DTAC and DMAC will prepare the final documents as Adobe PDF files for e-Signature by the Local Agency and artist.
- **DO NOT SIGN the Transportation Art/Community Identification Proposal - Applicant Certification until the DTAC verifies all information in the TAP is complete and ready for e-Signature.**
- When the complete TAP, CLAW and TAMA are finalized and approved, coordinate with the DTAC to prepare the Caltrans Encroachment Permit Administrative permit application to the Caltrans District Encroachment Permit Office (CDEPO) for processing. Provide any additional information and clearances requested by the Permits Office before approval of the encroachment permit. Please see Encroachment Permit submittal requirements at - [Caltrans - Encroachment Permits](#).

An encroachment permit will not be issued until the final TAP, CLAW and TAMA are signed and approved.



TRANSPORTATION ART / COMMUNITY IDENTIFICATION PROPOSAL

COVER SHEET

LOCAL PUBLIC AGENCY SPONSOR

Bay Area Toll Authority (BATA)

 STAND ALONE PROJECT ASSOCIATED WITH A PROJECT (No.:)

(Check applicable box)

OFFICIAL PROJECT NAME (ARTWORK NAME): **The Bay Lights 360 (TBL 360)**LOCATION (CITY): **San Francisco**(COUNTY): **San Francisco**ROUTE No.: **80** POST MILE: **R5.6/7.6** BRIDGE No.: **34 0003** CROSS STREET: **N/A**

(Contact Caltrans District Art Coordinator to provide post mile and Bridge No. information)

PUBLIC AGENCY RESPONSIBLE CONTACT

NAME: **Megan Nangle**TITLE: **Transportation Project Manager - BATA**ADDRESS: **Bay Area Metro Center - 375 Beale Street, Suite 800
San Francisco, CA 94105**TELEPHONE: **(415)**EMAIL: **mnangle@bayareametro.gov**

NATURE OF ARTWORK

- MURAL (PAINTING)
- STATUE OR SCULPTURE
- MOSAIC
- LIGHTING
- OTHER (Explain) _____

(Check applicable box)

PROPOSED INSTALLATION DATE: **September 2025**

- PERMANENT INSTALLATION
(Maximum life span before renewal or restoration work is needed - **N/A**)
- TEMPORARY INSTALLATION
(Removal Date): _____

(Caltrans Office Use)

PERMIT ENGINEERING EVALUATION REPORT (PEER) REQUIRED: YES NO

(If "Yes," see Attachment K)



TRANSPORTATION ART / COMMUNITY IDENTIFICATION PROPOSAL

APPLICANT CERTIFICATION

(Insert local public agency sponsor name in gray fields where required)

I certify that the **Bay Area Toll Authority (BATA)** approves of the proposed transportation art or community identification project and is the responsible public agency representing the community where the transportation art or community identification will be installed. The **Bay Area Toll Authority (BATA)** will adhere to and remain in compliance with Caltrans' Project Development Procedures Manual guidelines and all other related rules and restrictions Caltrans may apply to the Transportation Art or Community Identification project, including:

- All costs associated with the design, engineering, testing, construction, and installation of the proposed Transportation Art/Community Identification, including labor, materials, supplies, and traffic control, maintenance, and removal shall be borne by the applicant.
- Obtaining and documenting local community support and acceptance for the Transportation Art/Community Identification project.
- Executing Transportation Art Maintenance Agreement (TAMA) with Caltrans detailing the regular maintenance and repair tasks of the Transportation Art/Community Identification, including potential removal at the end of its projected lifespan, or when requested by Caltrans, and returning the site to a condition as good as or better than at the start of the project.
- Providing a Local Agency Agreement (LAA) containing indemnification language acceptable to Caltrans, between the **Bay Area Toll Authority (BATA)** and the artist(s).
- Providing the name(s) and current contact information of each responsible person who will be working within the State right-of-way to install, maintain, rehabilitate, or remove the Transportation Art/Community Identification.

By signing below, I confirm that I have the authority to act as the binding signatory for the **Bay Area Toll Authority (BATA)** and that the statements above are true to the best of my knowledge.

SIGNATURE:

DATE:

PRINT NAME:

TITLE:

TRANSPORTATION ART PROPOSAL APPROVAL

SIGNATURE:

PRINT NAME:

Title:

DATE:



TRANSPORTATION ART / COMMUNITY IDENTIFICATION PROPOSAL

PROPOSAL CHECKLIST

Please prepare the Transportation Art / Community Identification Proposal as follows:

- Cover Sheet
- Applicant Certification
- Checklist - Proposal
- Proposal and Attachments:
 - Attachment A - Public Agency Resolution and Documentation of Community Support
 - Attachment B - Images of Existing Location and Proposed Artwork
 - Attachment C - Artists' Resume'
 - Attachment D - Cost Estimate & Breakdown
 - Attachment E - Construction Schedule
 - Attachment F - Materials Data and Safety Sheets
 - Attachment G - Traffic Management/ Control Plan
 - Attachment H - Water Pollution Control Plan
 - Attachment I - Environmental Document
 - Attachment J - Railroad Clearance (*when required*)
 - Attachment K - Project Engineer Evaluation Report (PEER) (*when required*)

(Add attachments L and N as needed, e.g., "Engineering Calculations." Include description of attachment)

 - Attachment L -
 - Attachment M -
 - Attachment N -
- Copyright License and Moral Rights Waiver in the Arts (CLAW), including:
 - Exhibit A - Description of Artwork
 - Exhibit B - Executed Local Agency Agreement (LAA) with required terms
- Transportation Art Maintenance Agreement (TAMA), including:
 - Location Map
 - Proof of Insurance
 - Operations and Maintenance Manual (*for artwork that is engineered or includes lighting, or when requested by the district transportation art coordinator*)
- = Required Documents



TRANSPORTATION ART / COMMUNITY IDENTIFICATION PROPOSAL

PROPOSAL

- **Transportation Art Proposal:**

A Transportation Art Proposal (TAP) is submitted by the public agency that has jurisdiction over the area where the Transportation ART/Community Identification will be installed. Public agencies should contact the Caltrans District Transportation Art Coordinator (DTAC) to develop the final qualified TAP for submittal to the District Director for approval. Transportation Art/Community Identification included as part of a capital improvement project will be reviewed and approved through the Caltrans project development process, and as directed by these guidelines

Transportation Art/Community Identification proposals must consist of plans, specifications, artist renderings, and other required documents that are prepared by the artist, designer, licensed landscape architect, architect, or professional engineer and include the following:

(Attached required documents. Enter "SEE ATTACHED" or "N/A" if "Not applicable", where indicated to enter text)

- ARTWORK: (Description of the proposed Transportation Art/Community Identification, including a model or scaled plans, elevations, sections, details, and other information necessary to convey location, view from all sides, materials, and construction or installation methods.)

The Bay Lights is an existing art installation on the Bay Bridge's West span that is the world's largest light-emitting diode (LED) light sculpture. The Bay Lights first installation was commissioned on March 5, 2013, as a 2-year temporary installation and then the lights were replaced in kind in fall of 2015 and re-commissioned in February 2016 as permanent installation.

The proposed project is the extension of the lights from the 2016 installation with new updated and more robust fixtures and components but keeping the same technical and intensity of the lights as the current installation. The proposed project will add the lights to the driver side of the same suspender cable of the bridge for a 360-degree view of the lights as shown on the attached pictures.

The project proposes to remove the existing LED lights on the vertical suspender cables of the north side of the upper deck level of the Bay Bridge's West span beginning in March 2023. The existing LED lights will be removed and replaced with new LED light strands on front and back of the same suspender cable during the evening/overnight hours 9:00pm to 5:00am, which will require nightly closure of the outside traffic lanes (lanes 4 & 5) and will take approximately four months.

The new fixtures will not utilize clips as with the newel design fixtures the attachment points are integrated into the fixtures and the zip ties will be pre-loaded before the strands are lifted for installation.

Community Name (If Community Identification Proposal): N/A



Revised (08-30-2023)



Bay Lights LED Pattern Effects



Bay Lights 360 - Simulated view Westbound Traffic



Bay Lights - 2015 View for San Francisco Embarcadero



Bay Lights - 2015 Overall Aerial View



Revised (08-30-2023)

Describe the proposed artwork and color scheme, paint, and protective materials, etc.

The proposed new Bay Lights will be visible from all directions (360-degree view) and it will be lit from dusk to dawn for as a new 10-year installation. The light strands on the driver side will have their own separate controls and will be totally independent of the light strands facing the Bay, so that they can be turned off if necessary and not impact the lights visible from the Bay. If needed, the lowest 10 to 16 feet of the light strand facing bridge traffic can be designed to be switched off or shielded to reduce light projection towards oncoming traffic.

The LED light display will be controlled by the artist and the will appear to be slowly moving, wave-like and alternating flickering non repeating but abstract patterns. Caltrans and BATA will have access to switch off the LED lights in case of emergencies or for public safety.

(If proposed Transportation Art/Community Identification involves lighting, provide written description of proposed lighting, including any plans, details or specifications stamped by a licensed electrical engineer.)

Forty-eight thousand (48,000) energy-efficient LED lights, approximately two (2) inches in diameter each, will be installed. The LED lights will be secured to the vertical suspender bridge cables in full height of the suspender cables at one foot spacing. The lights will be attached to the outer part of the bridge suspender cables with ultraviolet (UV) resistant plastic-coated stainless-steel zip ties at six-inch intervals, so no paint disturbance will occur to the bridge structure.

The backbone fiber trunk line, power line and electrical boxes from previous installation stay in place with no modifications other than replacing the electronic components inside the electrical boxes.



• **Attachments:**

Furnish the following attachments as need for the transportation art proposal. Check all that apply.

- ATTACHMENT A - RESOLUTION and PUBLIC ENGAGEMENT (*Documentation of local community support for the art proposal. Describe decision process and method for providing fair opportunity to express opposition or support to reach consensus*)
(*Provide a copy of local public agency Adopted Resolution or another official document*)
- ATTACHMENT B - IMAGES (EXISTING CONDITIONS & PROPOSED ARTWORK): (*Show images of aerial and ground view of existing site location before and after artwork is installed.*)
- ATTACHMENT C - ARTIST'S RESUME: (*Description and documentation of the artist's work and background*)
- ATTACHMENT D - COST ESTIMATE: (*Proposed cost estimate and cost breakdown.*)
- ATTACHMENT E - CONSTRUCTION / INSTALLATION SCHEDULE: (*Include tentative start and end date, and construction duration.*)
- ATTACHMENT F - MATERIAL DATA AND SAFETY SHEETS (*Provide data sheets for all material to be used in the construction of the Transportation Art/Community Identification.*)
- ATTACHMENT G - TRAFFIC MANAGEMENT/CONTROL PLANS: (*Briefly describe the plan/method for closing streets and sidewalks if necessary. Include detour plans, specifications, lane closure charts and tables indicating closure times for each day of the week, stamped by a licensed engineer. Include cost estimate for this work in Attachment C.*)
- ATTACHMENT H - WATER POLLUTION CONTROL PLAN: (*Include drawings and specifications stamped by a licensed engineer. Include cost estimate for this work in Attachment C.*)
- ATTACHMENT I - ENVIRONMENTAL DOCUMENT (*Provide Environmental clearance document.*)
- ATTACHMENT J - RAILROAD CLEARANCE: (*Provide railroad clearance documents if proposed Transportation Art/Community Identification is within 25 feet of railroad right of way.*)
- ATTACHMENT K - PERMIT ENGINEER EVALUATION REPORT (PEER): (*When required by the Caltrans District Transportation Art Coordinator, provide PEER describing and justifying nonstandard design or construction. The PEER must be stamped by a licensed engineer.*)

(Add attachments L through N as needed. Include description of attachment)

- ATTACHMENT L - [Exception Request Approval](#)
- ATTACHMENT M -
- ATTACHMENT N -



TRANSPORTATION ART / COMMUNITY IDENTIFICATION PROPOSAL

COPYRIGHT LICENSE AND WAIVER OF MORAL RIGHTS IN THE ARTWORK

(Provide a copy of executed CLAW as a separate attachment, along with Exhibits A & B)

• **Copyright License and Waiver of Moral Rights in the Artwork Agreement (CLAW):**

Transportation art or community identification located within State highway right of way is a benefit to the people of California and will become property of the State. Prior to installation of the approved Transportation Art/Community Identification, the artist(s) and the local public agency must provide an executed Copyright License and Waiver of Moral Rights in the Artwork agreement (CLAW), containing terms and conditions approved by Caltrans.

The agreement will allow the artist(s) to maintain the copyright of the artwork, while Caltrans shall own the title of the artwork as well as license to make certain, noncommercial uses of the artwork.

The final executed Copyright License and Waiver of Moral Rights in the Artwork (CLAW) agreement must include the following:

EXHIBIT A - ARTWORK:

Final artwork name: The **The Bay Lights 360 (TBL -360)** described in the Copyright License and Moral Rights Waiver in the Artwork (CLAW), is incorporated by reference, and includes the following items:

- *Written description of artwork, inspiration, location, and materials used*
- *All preliminary drawings, concept sketches, illustrations, photographs, renderings, photo simulations and any other visual media created in the development of the final proposed artwork*
- *Engineering plans, drawings, details, specifications, studies, and calculations used in the development of the final proposed artwork (when required)*

Estimated Completion Date: [September 2025](#)

EXHIBIT B - LOCAL AGREEMENTS:

Provide a copy of all agreements between the public agency and the artist(s) pertaining to but not limited to the design, installation, operation, maintenance, and/or removal of the transportation art. The signed and executed Local Agency Agreement, including all the exhibits to the Local Agency Agreement. The Local Agency/Artist Agreement (LAA) must include, without conflicting terms, the following language:

[Artist] hereby agrees that title to [the Artwork] shall be owned by Caltrans and Caltrans shall have a license to make certain noncommercial uses of [the Artwork]. [Artist] acknowledges that by signing and executing the Caltrans Copyright License and Waiver of Moral Rights in Artwork agreement, which is hereby incorporated by reference and made part of this Agreement as Exhibit [__], Artist has conveyed or will convey title in [the Artwork] to Caltrans, has waived or will waive any and all moral rights to [the Artwork], and has granted or will grant Caltrans a nonexclusive, perpetual, irrevocable, royalty-free, world-wide, sublicensable license to [the Artwork].



TRANSPORTATION ART / COMMUNITY IDENTIFICATION PROPOSAL

TRANSPORTATION ART MAINTENANCE AGREEMENT

(Caltrans will provide a draft Transportation Art Maintenance Agreement template for this section during preliminary review. Separately attach the final signed Transportation Art Maintenance Agreement before submitting the Encroachment Permit application)

- **Transportation Art Maintenance Agreement (TAMA):**

Prior to the issuance of the **Transportation Art Maintenance Agreement (TAMA)**, provide a brief description of the long-term maintenance plan and schedule. Discuss regular cleaning, graffiti removal, damage repair, removal of art (if necessary), and other work as required.

(This information will be used in preparation of the final TAMA by Caltrans and provided to you for signature)

The Bay Lights 360 will be maintained under a three (3) party Maintenance Agreement between the Stat of California, acting by and through the Department of Transsportation, the Bay Area Toll Authority and the private non-profit, "Illuminate" under the Local MOU.

The Bay Area Toll Authority will be responsible for the overall maintenance of the Bay Lights with assistance from "Illuminate" and their subcontractors.

Note - For art proposal with painted murals on concrete surfaces, the typical expected lifespan is approximately 25 to 32 years, depending on local materials use, application method, and environmental factors. Please include as part of the maintenance plan, a description for either restoring or removing the artwork after this period. If the proposal includes lighting, describe method of removal if the lighting can no longer be maintained.

1. Provide an aerial map/satellite view of proposal location as **ATTACHMENT A** to the TAMA.
2. Provide a copy of the Certificate of Insurance as **ATTACHMENT B** to the TAMA.
3. Attach a copy of the draft Maintenance Plan or Operations and Maintenance Manual (OMM) as **ATTACHMENT C** to the TAMA for the completed Transportation Art /Community Identification. Describe method and materials for cleaning, graffiti removal, anti-graffiti coating application, damage repair and restoration, and any additional operation instructions or special needs for features such as lighting or other engineered feature. The OMM should also provide instruction for removal of the Transportation Art /Community Identification, for if/when removal becomes necessary.

SECTION 9 Transportation Art

ARTICLE 1 General Procedure

Caltrans recognizes the effects of transportation facilities on local communities and encourages integrating these facilities with their surroundings to enhance and reflect the aesthetic, environmental, scenic, and cultural values of the affected community.

Caltrans supports enriching the cultural and visual environment by facilitating placement of transportation art within the State highway right-of-way.

Transportation art includes graphic or sculptural artwork, either freestanding or placed upon a required engineered transportation feature (such as a noise barrier, retaining wall, bridge, bridge abutment, bridge rail, or slope paving) that expresses unique attributes of a community's history, resources, or character.

Transportation art is proposed, provided, installed, maintained, and removed or restored by the public agency representing the area in which the art will be installed. The public agency may be a city, county, incorporated town, tribal government or non-federally recognized tribe.

Transportation art, community identification, and gateway monuments compare and contrast as follows:

Figure 29-4 Transportation Art, Community Identification, and Gateway Monuments

	May Include Text	May Include Graphic Images	Freestanding Structure or Sign	Integrated With or Placed Upon a Required Engineered Transportation Feature
Transportation Art	No	Yes	Freestanding or Integrated	Freestanding or Integrated
Community Identification	Yes	Yes	No	Yes
Gateway Monuments	Yes	Yes	Yes	No

Statutory Authority

Authority for Caltrans to control encroachments within the State highway right-of-way and thus transportation art, is contained in the *California Streets and Highways Code*, Chapter 3.

Intellectual Property Rights - Copyright Ownership of Transportation Art

Transportation art located within Caltrans' right-of-way is a benefit to the people of California and will become property of the State. Prior to the installation or placement of the approved transportation art, the artist(s) and public agency must provide Caltrans with an executed and notarized copyright assignment and transfer agreement containing terms and conditions approved by Caltrans. The copyright assignment and transfer agreement assigns, transfers, and conveys the artist's entire rights, title and interest in and to the approved transportation art to Caltrans, including but not limited to, the artist's common law and federal law copyright ownership rights to the approved transportation art.

Artist Disclaimer Statement

The artist must place a disclaimer statement in a conspicuous manner on or in close proximity to the artwork and will not be considered to be "text." The disclaimer statement must state that the contents of the artwork solely reflect the views of the artist and do not reflect the official views or policies of Caltrans or the Federal Highway Administration.

Sponsor Recognition

Transportation art may include sponsor recognition such as the name, identifying logo, or symbol of the artist, public agency, and/or financial sponsor(s). The sponsor recognition should be unobtrusive, discreet, and not appear to be an integral part of the artwork. The sponsor recognition may be placed on or adjacent to the transportation art and will not be considered to be "text." Caltrans retains sole discretion for determining the appropriate size, content, colors, and other elements of this recognition. Sponsor recognition must be provided and maintained by the public agency.

Sponsor Recognition Disclaimer Statement

The sponsor recognition must include a disclaimer statement that Caltrans does not endorse the sponsor's products and/or services and that the sponsor's name only appear as a reference as the source of sponsorship. This disclaimer must be placed in a conspicuous manner adjacent to the sponsor's name and will not be considered to be "text."

Placement

Transportation art may be either freestanding, or placed upon/integrated with a required engineered transportation feature such as a noise barrier, retaining wall, bridge, bridge abutment, bridge railing, or paved slope.

Freestanding transportation art within the State right-of-way must be placed as far as practical from the traveled way or edge of roadway, while still remaining visible. The proposed location for all transportation art must be reviewed by Caltrans for safety and environmental considerations prior to approval.

Transportation art that is freestanding is considered to be a discretionary fixed object. See [Highway Design Manual](#) Topic 309 – Clearances, for the minimum required horizontal clearances for transportation art.

Transportation Art Requirements

Proposed transportation art must:

- include graphics or sculptural artwork that expresses unique attributes of an area's history, resources, or character.
- be a freestanding structure or sign, or integrated with or placed upon a required engineered transportation feature.
- not make use of or simulate colors or combinations of colors usually reserved for official traffic control devices described in the [California Manual on Uniform Traffic Control Devices](#).
- not create a distraction to transportation system users. For example, it should be large enough to interpret at highway speed, but not be so large that it demands attention from the motorist.
- not include illumination (such as blinking or intermittent lights) that impairs the vision of or distracts transportation system users. Other lighting may be permitted. Lighting may be allowed on existing structures only when approved by Headquarters Division of Maintenance-Structure Maintenance and Investigations.

- be located where required maintenance can be safely performed as specified in the encroachment permit, the maintenance agreement, and in conformance with Caltrans' procedures.
- be appropriate to its proposed setting.
- be in proper scale with its surroundings.
- be composed of materials that are durable for the projected lifespan.
- be fully funded for design, installation, maintenance, restoration, and removal by others for its projected lifespan.
- conform to provisions of the [*California Outdoor Advertising Act*](#).
- not imitate, obscure, or interfere with traffic control devices.
- not interfere with airspace above the roadway.
- not be placed within State highway right-of-way upon trees, rocks or other natural features.
- not adversely affect existing structures, drainage patterns or stormwater runoff quality, landscaping, natural vegetation.
- not include reflective or glaring surface finishes.
- not include moving elements (kinetic art) or simulate movement.
- not restrict sight distance.
- not display symbols or icons such as flags, logos, or commercial symbols, except as allowed in Sub-article "Sponsor Recognition."
- not display text.
- be designed to minimize ongoing maintenance needs. Caltrans-approved protective graffiti coatings may be required if appropriate.
- be consistent with Headquarters Division of Maintenance-Structure Maintenance and Investigations inspection requirements, including the following:
 - Paint used on structures should not fill or obscure cracks. Latex or other flexible type paints may be used on concrete structures only with written permission from the Headquarters Division of Maintenance-Structure Maintenance and Investigations.
 - Painting of steel structures will only be permitted with written permission from the Headquarters Division of Maintenance-Structure Maintenance and Investigations.
 - Painted art on concrete structures should avoid load-carrying, stress-bearing structural members, including, but not limited to bridge girders, soffits, columns, and piers. Wing walls and abutments are preferred locations for painted art.
 - Artwork must not impair the necessary inspection of bridges, retaining walls, and other structures.
 - To facilitate Caltrans' inspection access to structures, mural art may be placed on removable panels.

- Chipping, blasting, or in any way modifying existing concrete surfaces is prohibited, unless required for inspection by Headquarters Division of Maintenance-Structure Maintenance and Investigations.

Additional guidance for placing transportation art on highway bridge structures is available from Headquarters Division of Engineering Services-Structure Design, Office of Transportation Architecture.

ARTICLE 2 Responsibilities

Administrative Responsibilities

Headquarters

The Headquarters Division of Design-Landscape Architecture Program Deputy Division Chief:

- appoints a Headquarters Transportation Art Coordinator.
- maintains and disseminates policy and procedures for the Transportation Art Program.
- monitors district performance and provides quality assurance of program guidelines.
- reviews proposals for conformance with policy and for statewide consistency.

The Division of Traffic Operations, Office of Encroachment Permits & Engineering Support Chief:

- develops forms and special provisions for the Transportation Art Program.
- maintains and clarifies encroachment permit policies and procedures.

The Division of Engineering Services-Structure Design, Office of Transportation Architecture and Division of Maintenance-Structure Maintenance and Investigations:

- maintain guidelines for structural and architectural design and structure maintenance to facilitate the placement of transportation art on highway bridge structures.
- approve any exceptions to the guidelines for structural and architectural design and structure maintenance.

District

The District Director:

- administers the transportation art program in accordance with these guidelines.
- designates a district transportation art coordinator.
- approves qualified final transportation art proposals.

The district transportation art coordinator:

- acts as the single focal point to qualify, process, and evaluate transportation art submittals by public agencies.
- facilitates and coordinates the placement of authorized transportation art within the transportation right-of-way.
- notifies the Headquarters Transportation Art Coordinator of permit approval and construction completion.
- prepares annual summary reports and submits them to the Headquarters Division of Design-Landscape Architecture Program Deputy Division Chief.
- reviews transportation art proposals for:
 - documented public acceptance.
 - compliance with State and federal regulations and Caltrans' guidance.
 - adequately planned and resourced maintenance of the transportation art by the public agency.
 - safety and liability issues for Caltrans, the public agency, and the public.
- submits final transportation art proposals to the Headquarters Division of Design-Landscape Architecture Program Deputy Division Chief.

The district permit engineer:

- forwards the qualified final submittal to the Headquarters Division of Design, Office of Project Support, to obtain written approval from FHWA if the proposal is on an Interstate highway.
- ensures a maintenance agreement has been executed prior to issuance of the encroachment permit.
- ensures a copyright assignment and transfer agreement is executed prior to issuance of the encroachment permit.
- issues the encroachment permit to the public agency.
- monitors and enforces permit and maintenance agreement requirements for the maintenance, restoration, or removal of transportation art.
- inspects the transportation art construction.
- notifies the district transportation art coordinator of permit approval and construction completion.

Financial Responsibilities

Transportation art is solely funded by the public agency. All costs for proposed transportation art design, construction, access for maintenance, maintenance, and removal, if required, shall be the responsibility of the public agency and stipulated in detail in the preliminary and final transportation art submittals.

Caltrans assumes the administrative costs associated with reviewing transportation art proposals, and developing, issuing, and monitoring the encroachment permit and maintenance agreement for approved transportation art projects. All other costs, including labor, materials, supplies, and traffic control (if required) for design, engineering, testing, construction, installation, maintenance, restoration, and removal of the transportation art shall be the responsibility of the public agency.

Caltrans may require the public agency to provide bonds or other means to ensure maintenance, restoration, and removal of the transportation art.

Maintenance Responsibilities

Transportation art must be kept clean, free of graffiti, and in good repair. The public agency must provide regularly scheduled maintenance as described in the maintenance agreement for its projected lifespan, including graffiti removal and restoration work necessary to maintain the integrity of the transportation art. Graffiti removal shall conform to Caltrans' policies and guidelines, which require prompt removal of offensive messages and timely removal of all other graffiti. Caltrans graffiti removal policy is described in *Deputy Directive DD-39-R1 – Graffiti Prevention and Removal* and Volume 1, Chapter D1 of the [Maintenance Manual](#).

A maintenance agreement for the care and upkeep of the transportation art by the public agency must be executed between the public agency and Caltrans. Maintenance shall be performed by the public agency as stipulated in the agreement. Worker access to perform maintenance required by transportation art should be from outside the highway right-of-way whenever possible.

Caltrans will not provide maintenance of transportation art, but may perform maintenance activities in the area, such as litter pickup and other activities associated with normal transportation facility maintenance. Any maintenance activities required adjacent to the transportation art that are over and above what Caltrans would normally provide must be described in the encroachment permit, maintenance

agreement, or cooperative agreement and identified as a responsibility of the public agency.

If the public agency fails to maintain the transportation art as provided in the maintenance agreement, Caltrans may perform the maintenance at the public agency's expense, or direct the public agency to remove the transportation art at the public agency's expense.

When notified by Caltrans, the public agency shall remove any transportation art that creates a maintenance or operational concern. If the public agency does not remove the transportation art in a timely manner, Caltrans may remove the transportation art and bill the public agency for the costs involved.

Caltrans reserves the right to immediately remove or alter transportation art due to emergency, construction, restoration, or other necessary activities affecting the transportation facility.

ARTICLE 3 Project Development Process

Processing Transportation Art Proposals

A transportation art proposal is developed by the public agency, as described in Article 1 "General Procedure," that has jurisdiction over the area where the transportation art will be placed. Public agencies should contact the Caltrans district transportation art coordinator to develop a qualified final proposal for submittal to the District Director for approval, and then processed as an encroachment permit.

Transportation art included as part of a capital improvement project, will be reviewed and approved through Caltrans project development process, and as directed within these guidelines.

Preliminary Proposal Review

Public agencies seeking approval of transportation art must first submit a preliminary proposal to the Caltrans district transportation art coordinator. The coordinator reviews the preliminary proposal for safety, aesthetics, maintenance accessibility, message, and proper fit within the context of the transportation corridor. The preliminary proposal will be returned to the public agency for revision if Caltrans recommends changes at any time before final approval.

Preliminary proposals must consist of plans, specifications, artist renderings, and other necessary documents prepared by a licensed landscape architect, architect, professional engineer, or artist, as appropriate and include:

- A written evaluation of alternate locations outside the highway right-of-way for proposed freestanding transportation art
- A resumé of the artist’s work and background
- A full description of the proposed transportation art, including a model or scaled plans, elevations, sections and details necessary to convey location, view from all sides, materials, and construction or installation methods. Caltrans may furnish site data as required
- Plans and details stamped by a licensed engineer if the proposal includes freestanding art, new structures, or modification of existing Caltrans’ structures
- Proposed location, showing existing topography, and dimensions and offsets to right-of-way lines, edge of pavement, centerline, and the clear recovery zone
- Proposed color scheme, paint or stain materials, or protective coatings
- Required environmental documentation
- Material safety data sheet for proposed materials
- Proposed lighting
- Specifications
- Proposed traffic control plans and specifications
- Proposed cost estimate
- Proposed construction schedule
- Projected lifespan
- Proposed maintenance access plan
- Preliminary maintenance agreement, including maintenance schedule

After receiving the preliminary proposal, the district transportation art coordinator reviews the submittal for compliance with safety requirements (clear recovery zone setback, visibility, maintenance access, and highway operations), and compatibility with transportation corridor character and aesthetics. The district transportation art coordinator may advise the public agency of constraints or other concerns, solicit additional documentation or exhibits, or may request changes to the scope of work. The public agency must address all comments, make appropriate revisions, and resubmit the proposal to the district transportation art coordinator for review as a qualified preliminary proposal.

Upon acceptance of a qualified preliminary proposal, the district transportation art coordinator circulates the proposal for evaluation of potential conflicts with gateway monuments and community identification. District design, traffic operations, environmental, maintenance, right-of-way, and other appropriate functional units also evaluate the preliminary proposal and identify concerns or provide suggestions for compliance with Caltrans' policies. Proposals that involve freestanding art, new structures, or modification of existing Caltrans' structures must also be circulated to Headquarters Division of Maintenance-Structure Maintenance and Investigations, and/or Headquarters Division of Engineering Services-Structure Design, Office of Transportation Architecture.

The district transportation art coordinator also determines whether preparation of a permit engineering evaluation report (PEER) will be required, taking into consideration highway operation, maintenance, and tort liability.

Upon completion of district circulation, the district transportation art coordinator provides review comments to the public agency and asks them to make the required revisions. After completion of revisions, the package is resubmitted by the public agency to the district transportation art coordinator as a qualified final proposal. The qualified final proposal should then be processed by the public agency for public review.

Public Review and Public Agency Resolution

Prior to final proposal review by Caltrans, the public agency must document local support for the proposal. Working with the district transportation art coordinator, the public agency will determine an appropriate method of public review, ranging from a signed petition to conducting noticed public meetings. The public agency will secure and document public acceptance, ensuring that those most affected have been provided the opportunity to express either support or opposition to the final proposal. After securing public acceptance, the public agency shall issue an adopted resolution or other official document recommending approval of the proposed design of the transportation art and requesting installation within the highway right-of-way. This resolution or document must describe the public agency's:

- jurisdiction over the area of the project site.
- approval of the transportation art.
- funding responsibility.

- commitment to regular scheduled maintenance of the transportation art throughout its projected lifespan, including timely graffiti removal, restoration, and removal of the transportation art as required.
- proposed schedule for commencing and completing project installation.

Final Proposal Review

The district transportation art coordinator will review the qualified final proposal, including the maintenance agreement, and documentation of local support to verify that all previous comments have been addressed and will forward the proposal to the District Director for approval.

District Director Review

The District Director will review the qualified final proposal for public acceptance, compliance with State and federal regulations, and Caltrans' guidance, adequacy of maintenance resources, and safety and liability issues for Caltrans, the public agency, and the public.

District Director approval of a transportation art proposal is made with due consideration to safety (location, potential for motorist distraction, and accessibility for maintenance), aesthetics, public support, and maintainability. Once approved, no changes shall be made without prior written approval of the District Director.

After District Director approval, the district transportation art coordinator advises the public agency to submit the proposal to the district permit engineer for processing as an encroachment permit.

Encroachment Permit Process

Approved transportation art proposals are processed as an encroachment permit as per the [Encroachment Permits Manual](#), Section 500.2 and Appendix B.

After Construction

After construction is complete, the district transportation art coordinator sends a copy of the transportation art proposal, approval documents, permit, and as-built information to the Headquarters Transportation Art Coordinator.

FILED

SAN FRANCISCO County Clerk

AUG 15 2023

by: Mariadyne Nadozsa
Deputy County Clerk

NOTICE OF EXEMPTION

To: San Francisco County Clerk-Recorder
City and County of San Francisco
City Hall, Room 168
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4678

From: Bay Area Toll Authority (BATA)
375 Beale Street, Suite 800
San Francisco, CA 94105

Project Title: The Bay Lights 360

Project Location: Bay Bridge, San Francisco, CA

Project Location - City: San Francisco

Project Location -County: San Francisco

Name of Public Agency Approving Project: Bay Area Toll Authority

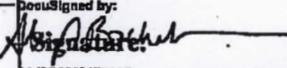
Description of Project: The Bay Lights is an existing art installation on the north side of the Bay Bridge's West Span and is the world's largest light-emitting diode (LED) light sculpture. The Bay Lights became operational March 5, 2013, was replaced in kind in the fall of 2015, and recommissioned in February 2016 as a permanent installation. The proposed Project consists of three main components: (1) the extension of the light sculpture for another 10 years to 2033; (2) the replacement of the light fixtures with newly updated and more robust fixtures and components while keeping the same technical details and intensity of the lights as the current installation; and (3) the addition of light fixtures to the driver's (inward-facing) side of the same suspension cables for a 360-degree view of the light sculpture.

Name of Person or Agency Carrying Out Project: Bay Area Toll Authority

Exempt Status: Class 1, Section 15301, Existing Facilities: Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.

Reasons why project is exempt: The project is the extension of the light sculpture for another 10 years, removal and re-installation of the existing LED lights, and the addition of new lights on the driver's side of the same suspension cables to allow a 360-degree view of the LED light sculpture. The addition of the LED lights is considered a negligible expansion as the existing lights are already a prominent feature on the Bay Bridge and the hours of operation would remain the same.

Per Section 15300.2 of the California Environmental Quality Act (CEQA) Guidelines, it has been determined the project would not result in significant effects on the environment due to unusual circumstances. The project is not located on a hazardous waste site, will not damage scenic resources, cause a substantial adverse change in the significance of a historic resource, or result in a cumulative impact. For this reasons and those stated above, the project is exempt from the provisions of CEQA.

Lead Agency Contact Person: Alix Bockelman	Phone Number: 415-778-5250
DocuSigned by: 	Title: Chief Deputy Executive Director
Date: 7/21/2023	

POSTED
AUG 15 2023
TO
SEP 27 2023

046



State of California - Department of Fish and Wildlife
2023 ENVIRONMENTAL DOCUMENT FILING FEE
CASH RECEIPT
DFW 753.5a (REV. 01/01/23) Previously DFG 753.5a

Print

Finalize&Email

RECEIPT NUMBER:

38-08/15/2023-090

STATE CLEARINGHOUSE NUMBER (If applicable)

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

LEAD AGENCY: BAY AREA TOLL AUTHORITY (BATA)
LEAD AGENCY EMAIL:
DATE: 08/15/2023
COUNTY/STATE AGENCY OF FILING: SAN FRANCISCO COUNTY
DOCUMENT NUMBER: 2023-0000054

PROJECT TITLE

THE BAY LIGHTS 360

PROJECT APPLICANT NAME: ALIX BOCKELMAN
PROJECT APPLICANT EMAIL:
PHONE NUMBER: (415) 778-5250
PROJECT APPLICANT ADDRESS: 375 BEALE STREET, SUITE 800
CITY: SAN FRANCISCO STATE: CA ZIP CODE: 94105

PROJECT APPLICANT (Check appropriate box)

- Local Public Agency (checked)
School District
Other Special District
State Agency
Private Entity

CHECK APPLICABLE FEES:

- Environmental Impact Report (EIR) \$ 3,839.25
Mitigated/Negative Declaration (MND)(ND) \$ 2,764.00
Certified Regulatory Program (CRP) document - payment due directly to CDFW \$ 1,305.25

- Exempt from fee (checked)
Notice of Exemption (attach) (checked)
CDFW No Effect Determination (attach)
Fee previously paid (attach previously issued cash receipt copy)

- Water Right Application or Petition Fee (State Water Resources Control Board only) \$ 850.00
County documentary handling fee \$ 79.00
Other

PAYMENT METHOD:

- Cash
Credit
Check (checked)
Other

TOTAL RECEIVED \$ 79.00

SIGNATURE

X

Handwritten signature of Mariedyne Nadonza

AGENCY OF FILING PRINTED NAME AND TITLE

Mariedyne Nadonza Deputy Clerk

047**San Francisco Bay Conservation and Development Commission**

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600

State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov*Transmitted Via Electronic Mail*

September 7, 2023

TO: California Department of Transportation
111 Grand Avenue
Environmental Analysis, 14th Floor
Oakland, CA 94612

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)

SUBJECT: Instructions for Completing BCDC Permit Amendment No. M2012.009.04
(Amendment No. Four); Bay Lights 360

Dear BCDC Permit Holder:

Enclosed please find a copy of your BCDC Amended Permit, executed by the Executive Director. The amended language has been incorporated into the authorization, special conditions, findings, and standard conditions sections of the permit consistent with BCDC laws and policies.

All permittees must (1) **complete** the acknowledgment section of the permit¹, which indicates that you have read and that you understand all of the terms and conditions of the permit, and (2) **return** the entire permit within the ten-day time period (see Standard Conditions IV-A). The [Notice of Completion and Declaration of Compliance Form](#), shall be returned to the Commission upon project completion.

Furthermore, your permit contains special conditions which require you to take certain specific actions. Please understand that **no** work may commence on the project until the permit is executed and returned to the Commission. Until the Commission receives the executed permit, the permittee does not have the necessary authorization for the work authorized under the permit. The commencement of any work within the Commission's jurisdiction without the necessary authorization from the Commission is a violation of the McAteer-Petris Act and could subject you to substantial fines.

If you should have any questions regarding the permit or the procedure outlined above, please contact our staff at 415-352-3600 or info@bcdc.ca.gov.

¹ For your convenience, you will receive an email copy of the amended permit via DocuSign for your acknowledgement and e-signature.

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San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600

State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov

PERMIT NO. M2012.009.04

AMENDMENT NO. FOUR

(Originally Issued on August 7, 2012, As Amended Through September 7, 2023)

California Department of Transportation
111 Grand Avenue
Environmental Analysis, 14th Floor
Oakland, CA 94612

I. Authorization

A. **Authorized Project.** Subject to the conditions stated below, the permittee, the California Department of Transportation, is hereby authorized to do the following:

Location: In the Bay, on the west span of the San Francisco-Oakland Bay Bridge, in the City and County of San Francisco.

Description: **In the Bay**

- (1) Temporarily re-install, operate, and maintain in-kind the “Bay Lights” sculpture for a period of 10 years, ending January 31, 2026 (Amendment No. Three and Amendment No. Four); and
- (2) Remove the “Bay Lights” sculpture authorized through Amendment No. Three and temporarily install, operate, and maintain in-kind, through December 2033, the “Bay Lights 360” sculpture (Amendment No. Four).

B. **Based on Application Dated.** This authority is generally pursuant to and limited by the application, dated April 6, 2012, and received in this office on April 16, 2012, requesting authorization for the original project; the letter dated September 9, 2014, requesting a time extension; the letter dated December 23, 2014, requesting Amendment No. Two; the letter dated April 6, 2015, and received in our office on April 8, 2015, requesting Amendment No. Three; and the letter dated February 22, 2023, and received in our office on March 10, 2023, requesting Amendment No. Four, including all accompanying and subsequently submitted exhibits and correspondence and all conditions of this amended permit.

C. **Deadlines for Completing Authorized Work.** Work authorized by the original permit was to commence prior to September 15, 2013, or this permit was to lapse and become null and void. Installation of the “Bay Lights” sculpture was to be diligently pursued to completion and was to be completed within six months, or by March 15, 2014, whichever was earlier subject to the work windows required in this authorization, unless an extension of time was granted by amendment of the permit. All lights were to be removed within two years of the date of completing the installation work, or by March 1, 2016, whichever was earlier.

Amendment No. One granted a time extension for the “Bay Lights” sculpture through January 31, 2015.

Amendment No. Two authorized the “Bay Lights” sculpture to remain through March 6, 2015, and required that all lights be removed by July 15, 2015, unless further extension of time was granted.

Amendment No. Three authorized the re-installation and operation of the “Bay Lights” sculpture for 10 years through January 31, 2026, and required that the sculpture be removed by May 31, 2026, unless further extensions of this amended permit were authorized. Amendment No. Three also authorized the replacement of then-existing roadway lights with LED lights, to be completed by June 30, 2016.

Amendment No. Four authorizes the removal of the “Bay Lights” sculpture and installation of the “Bay Lights 360” sculpture. The work authorized by this amended permit must commence by January 31, 2026, and must be diligently pursued to completion within 6 months of commencement, unless an extension of time is granted by further amendment of this amended permit. The “Bay Lights 360” sculpture is authorized through December 31, 2033. All materials used to create the sculpture must be removed from the bridge no later than December 31, 2033, unless a further extension of this amended permit is authorized.

II. Special Conditions

The amended authorization made herein shall be subject to the following special conditions, in addition to the standard conditions in Part IV:

A. Construction Plans.

1. **Original Project through Amendment No. Three.** The lights, associated wiring and other facilities authorized by the original permit, as amended through Amendment No. Three, shall be installed at the locations and in the configuration generally shown in the plans that were submitted as part of the original application, received on April 16, 2012, entitled “The Bay Bridge 75th Anniversary Light Art Project,” prepared by Parson Brinckerhoff and dated January 10, 2012. As long as the installation is generally in accord with these plans, no further plan review is needed and no changes to the design of the project shall be made without the prior written approval of the BCDC staff.

2. **Amendment No. Four.** The work authorized by Amendment No. Four shall generally conform to the plans entitled, "The Bay Lights 360," dated December 2, 2022, and prepared by SEM Incorporated, submitted as part of the application received on March 10, 2023. No substantial changes shall be made to these documents without prior review and written approval by or on behalf of the Commission through plan review or a permit amendment.

B. Construction Activities

1. **Construction Operations.** All construction operations shall be performed to prevent construction materials from falling, washing, or blowing into the Bay. In the event that such material escapes or is placed in an area subject to tidal action of the Bay, the permittee shall immediately retrieve and remove such material at their expense.
2. **Debris Removal.** All construction debris shall be removed to an authorized location outside the jurisdiction of the Commission. In the event that any such material is placed in any area within the Commission's jurisdiction, the permittee, its assignee, or successor in interest, or the owner(s) of the improvements, shall remove such material, at their expense, within ten days after they have been notified by the Executive Director of such placement.
3. **Pre-Construction Surveys, Construction Monitoring, and Buffer Zones for Nesting Birds.** The permittee shall perform pre-construction nesting bird surveys prior to both the installation and removal of the lights to ensure that no nests are present. If nests are found to be present within the project area at any time during the pre-construction surveys or the construction process, a trained ornithologist/avian monitor shall conduct continued monitoring of the work until all nesting birds are clear from the installation area. In addition, buffer zones shall be established to minimize impacts to those nests. If necessary, the avian monitor will have the authority to require the permittee to stop work until further notice to prevent birds from abandoning their nests.
4. **Construction Timing.** For any work associated with dismantling the previously authorized "Bay Lights" sculpture and installing, repairing and maintaining, or, at the end of its authorized use, dismantling the "Bay Lights 360" sculpture:
 - a. From March 1 to August 15, during the bird breeding season, an avian monitor shall survey the project area weekly for nests, in accordance with Special Condition II.B.3, and make recommendations for minimizing disturbance to nesting birds. The results of these nest surveys, recommendations for avoiding impacts, and an evaluation of the effectiveness of the recommendations shall be provided in brief, monthly written reports to the Commission until the construction is complete.

- b. From August 16 to February 28/29, outside of the bird breeding season, work may proceed without weekly monitoring. If an active nest is encountered during construction, the permittee shall comply with the requirements of Special Condition II.B.3.

5. **Sculpture Removal.** All materials used to create the “Bay Lights” sculpture, except for components to be re-used for the “Bay Lights 360” sculpture, shall be removed from the Bay Bridge to an area outside the Commission’s jurisdiction. At the end of the authorization period, all materials used to create the “Bay Lights 360” sculpture shall be removed from the Bay Bridge to an area outside the Commission’s jurisdiction.

C. **Minimizing Light Emissions.** To reduce light emissions and resultant impacts to migratory birds and increase energy efficiency, the permittee shall replace all existing roadway light bulbs with LED bulbs by June 30, 2016 (Amendment No. Three).

D. **Advertising and Messaging Prohibition.** At no time shall the light sculpture be configured to convey advertising, notifications, or other messaging. The light display shall operate with the original illumination design, or with equivalent variations of that design. Any change to the illumination design may require further amendment to this amended permit (Amendment Nos. Three and Four).

E. **Certification of Contractor Review.** Prior to commencing any construction activities or placing any structures in the Bay, the general contractor or contractors in charge of that portion of the work shall submit written certification that they have reviewed and understand the requirements of the permit and the final BCDC-approved plans, particularly as they pertain to any public access or open space required herein, or environmentally sensitive areas.

F. **Hold Harmless and Indemnify.** The permittee shall hold harmless and indemnify the Commission, all Commission members, Commission employees, and agents of the Commission from any and all claims, demands, losses, lawsuits, and judgments accruing or resulting to any person, firm, corporation, governmental entity, or other entity who alleges injuries or damages caused by work performed in accordance with the terms and conditions of this permit. This condition shall also apply to any damage caused by flooding of or damage to property that is alleged to be caused as a result of some action or lack of action by the Commission growing out of the processing of and issuance of this permit.

G. **Enforcement Program and Civil Penalties.** The Commission has an enforcement program that reviews its permits for compliance. The Commission may issue cease and desist and civil penalty orders if violations are discovered. The McAteer-Petris Act provides for the imposition of administrative civil penalties ranging from \$10 to \$2,000 per day up to a maximum of \$30,000 per violation. The Act also provides for the imposition of court-imposed civil penalties of up to \$30,000 in addition to any other penalties, penalties for negligent violations of between \$50 and \$5,000 per day, knowing and intentional penalties of between \$100 and \$10,000 per day, and exemplary penalties, which are supplemental penalties, in an

amount necessary to deter future violations. In addition, anyone who places fill, extracts materials, or makes any substantial change in use of any water, land or structure within the area of the Commission's jurisdiction without securing a permit from the Commission is guilty of a misdemeanor.

III. Findings and Declarations

On behalf of the Commission, I find and declare that:

A. Permit History

1. **Original Authorization.** The original permit authorized the temporary installation and maintenance of a light sculpture consisting of approximately 25,000, 2-inch-diameter energy-efficient LED light bulbs along the 616 north facing bridge suspender cables and ranging in height from 5 feet to 240 feet. The sculpture, known as the "Bay Lights," was authorized from September 2012 until September 2014, at which time it was to be removed.
2. **Amendment No. One.** Amendment No. One authorized a time extension to allow the "Bay Lights" sculpture to remain in place until January 31, 2015.
3. **Amendment No. Two.** Amendment No. Two authorized a time extension for the "Bay Lights" sculpture until March 6, 2015, and required that all lights be removed by July 15, 2015. Amendment No. Two also amended Special Condition II.B.4 of the original permit, which had required that all installation and dismantling activities be performed between August 15 and January 31, outside of the bird breeding season, to allow the dismantling of the installation between March 6 and July 15, 2015, so long as an avian monitor was present to survey the project area on a weekly basis.
4. **Amendment No. Three.** Amendment No. Three authorized the re-installation and operation of the "Bay Lights" sculpture for 10 years, through January 31, 2026, with a more robust hardware system suitable for a longer-term display. It required that the sculpture be removed from the bridge by May 31, 2026.

Amendment No. Three also further amended Special Condition II.B.4 to specify that any work associated with re-installing, repairing and maintaining, or dismantling the sculpture at the end of its authorized use should take place between July 1 and March 1 of any year, but that if work was necessary between March 1 and July 15, an avian monitor was to survey the project area weekly for nests and make recommendations for minimizing disturbance to nesting birds. Amendment No. Three also added a requirement to Special Condition II.B.4 that the results of these nest surveys, recommendations for avoiding impacts, and an evaluation of the effectiveness of the recommendations be provided in monthly reports to the Commission.

Lastly, Amendment No. Three authorized the replacement of existing roadway lights with LED lights to increase energy efficiency and to minimize light emissions from the bridge and resultant impacts to migratory birds. Special Condition II.C was added to require the permittee to replace all existing roadway lights with LED bulbs by June 30, 2016.

5. **Amendment No. Four.** Amendment No. Four authorizes the removal of the “Bay Lights” sculpture, and the temporary installation and maintenance of the “Bay Lights 360” sculpture for an approximately 10-year period through December 2033. “Bay Lights 360” will consist of approximately 48,000, 2-inch-diameter energy-efficient LED light bulbs, secured with UV resistant, stainless-steel zip ties to the inward- and outward-facing sides of 308 vertical suspension cables, which range in height from 5 feet to 240 feet, on the north-facing side of the upper deck of the bridge. Compared to the originally authorized “Bay Lights” sculpture, the project includes updated and more robust fixtures and components and adds lights to the roadway-facing side of the same suspension cables to create a 360-degree view of the light sculpture.

Amendment No. Four further amends Special Condition II.B.4 to clarify the steps the permittee must take to minimize disturbances to migratory birds that may be nesting on the bridge, depending on whether work is taking place during or outside of the bird breeding season.

Amendment No. Four also adds Special Condition II.B.5 to require that all materials used to create the “Bay Lights,” except for components re-used in the “Bay Lights 360” sculpture, be removed from the Bay Bridge and placed or disposed of in an area outside the Commission’s jurisdiction.

B. Minor Repair or Improvement

1. **Original Authorization and Amendments One Through Two.** The project authorized by the original permit, the time extension granted in Amendment No. One, and the removal of the lights authorized in Amendment No. Two all involve work centered on the temporary installation of a light sculpture on the Bay Bridge, a structure in the Bay. The project therefore involves minor fill in the Bay for improving shoreline appearance that complies with section 10700 and does not exceed 1,000 square feet, as defined by Commission Regulation 10601(a)(7), and is thus a “minor repair or improvement” for which the Executive Director may issue a permit, pursuant to Government Code Section 66632(f), Regulation Section 10622(a), and Regulation Section 10810.
2. **Amendment No. Three.** Amendment No. Three authorized the re-installation of the originally authorized “Bay Lights” sculpture and the illumination of the sculpture for a 10-year period. The bridge is a water-oriented use defined in Section 10605 of the McAteer-Petris Act. Several of the Bay’s bridges have decorative lights to enhance nighttime views of these iconic Bay structures (e.g., the Golden Gate Bridge, the east

span of the Bay Bridge). Because the light display is located on an existing bridge, the Bay's volume and surface area would not be reduced or impaired with the project. The re-installation and operation of the sculpture for a 10-year period is similar to, with no greater adverse impact to the Bay, as defined by Regulation Section 10601(e)(3), the placement of minor fill for improving public access, consistent with Regulation Section 10601(a)(8) and is thus considered a "minor repair or improvement" for which the Executive Director may issue an amendment to an existing permit pursuant to Government Code Section 66632(f) and Regulation Section 10810.

3. **Amendment No. Four.** Amendment No. Four authorizes the removal of the "Bay Lights" sculpture, installation of the "Bay Lights 360" sculpture, and illumination of the new sculpture for a 10-year period through December 31, 2033. Whereas the originally authorized "Bay Lights" sculpture included lights only on the outward-facing side of the Bay Bridge, the "Bay Lights 360" sculpture will also include lights on the inward- (roadway-) facing side of the cables. As a result, the new sculpture will have 48,000 lights, as opposed to the 25,000 lights that comprise the original sculpture. While there will be an increase in the number of lights, the project is located fully within the footprint of the Bay Bridge and will not expand the footprint of existing fill. Further, the project is intended to improve the appearance of the shoreline and the public's enjoyment of the Bay. The project therefore involves minor fill in the Bay for improving shoreline appearance that complies with section 10700 and does not exceed 1,000 square feet, as defined by Commission Regulation 10601(a)(7), and thus, is a "minor repair or improvement" for which the Executive Director may issue a permit, pursuant to Government Code Section 66632(f) and Regulation Section 10810.

C. Consistency with McAteer-Petris Act and San Francisco Bay Plan.

1. **Original Authorization and Amendment Nos. One Through Two.** The project authorized by this permit is consistent with the McAteer-Petris Act and with the San Francisco Bay Plan in that the project will not adversely affect the Bay nor public access to and enjoyment of the Bay. Special Condition II.B.1 requires that the permittee prevent construction debris from entering the Bay in order to protect Bay water quality and navigation, consistent with the Bay Plan policies on these subjects. Special Conditions II.B.3 and II.B.4 have been included to assure that installation and dismantling activities will be conducted in such a manner that will minimize adverse impacts to birds by requiring monitoring during installation and dismantling by a trained ornithologist, consistent with Bay Plan policies on Fish, Other Aquatic Organisms, and Wildlife. Amendment No. Two, which authorizes dismantling of the lights during the bird breeding season, was authorized based on input from the U.S. Fish and Wildlife Service Migratory Bird Program that birds are highly unlikely to nest on the Bay Bridge West Span vertical suspender cables due to the lack of horizontal surfaces. Special Condition II.B.4 requires that an avian monitor check

for nests on a weekly basis to ensure that work during the breeding season does not negatively impact nesting migratory birds. The lights are being removed to construct a more robust hardware system suitable for a longer-term display.

2. **Amendment No. Three.** To ensure that the reinstallation and continued illumination of the sculpture is consistent with the Bay Plan policies on Wildlife, Fish and Other Aquatic Organisms, Special Conditions II.B.4 and II.C were included in this amended authorization. Special Condition II.B.4 required that the installation, repairs and maintenance, and removal of the light display at the end of its authorized use occur between July 1 and March 1 of any year to avoid impacting nesting birds. If work was to occur on the light display between March 1 and July 1, the condition required that a bird monitor be present to survey for bird nests, evaluate impacts of light installation and repairs to nesting birds, recommend procedures for minimizing these impacts, and report on the monitoring efforts and recommendations to the Commission. Special Condition II.C required the replacement of the existing roadway lighting with LED lights to ensure that light emissions from the bridge are minimized, thereby reducing impacts to migratory birds. Bay Plan policies on Appearance, Design, and Scenic Views require that “maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas, from the Bay itself, and from the opposite shore” and that “structures and facilities that do not take advantage of or visually complement the Bay should be located and designed so as not to impact visually on the Bay and shoreline.” To assure that the project is consistent with these policies, Special Condition II.D was included to ensure that the sculpture is not used for commercial displays or to emit messaging or notifications that would detract from the visual enjoyment of the Bay.
3. **Amendment No. Four.** The project authorized by Amendment No. Four is similar to the originally authorized project and any potential impacts are expected to be similar to those addressed in previous amendments. Special Condition II.B.5 has been added to require that any materials no longer being used in the “Bay Lights” sculpture be removed from the Commission’s jurisdiction to protect water quality and navigational safety, consistent with the Bay Plan policies on these subjects, including Water Quality Policy No. 3 and Navigational Safety and Oil Spill Prevention Policy No. 1. Special Condition II.B.3 and Special Condition II.B.4, as modified, will minimize adverse impacts to birds, consistent with the Bay Plan policies on Fish, Other Aquatic Organisms, and Wildlife. Specifically, Amendment No. Four modifies Special Condition II.B.4 to clarify that during the bird breeding season, from March 1 to August 15, an avian monitor must survey the project area weekly for nests and make recommendations for minimizing disturbance to nesting birds. Outside of the bird breeding season, from August 16 to February 28/29, work may proceed without weekly monitoring; however, if an active nest is encountered, then avian monitoring will be required. These work windows were determined based upon updated guidance from the U.S. Fish and Wildlife Service Migratory Birds Program and the California Department of Fish and Wildlife (CDFW) Wildlife

Diversity Program. A report commissioned by Caltrans, dated April 2023, summarizing the existing research on the effects of LED lights on terrestrial wildlife found that the color, intensity, and special characteristics such as flicker of LED lights have the potential to disrupt migration patterns of birds, bats, and insects. However, a biological memo assessing the likely impacts of the project concluded that the sculpture is not expected to significantly adversely impact the Bay or wildlife species given the existing high levels of ambient light on the Bay Bridge and roadway and the low levels of light expected to reach the water. As a result, no special conditions have been required to mitigate for light impacts, but in considering any future requests to extend the authorization for the project, the Commission should take into account the most current research on the impacts of LED lights in consultation with the appropriate wildlife agencies.

C. Coastal Zone Management Act. The Commission further finds, declares, and certifies that the activity or activities authorized herein are consistent with the Commission's Amended Management Program for San Francisco Bay, as approved by the Department of Commerce under the Federal Coastal Zone Management Act of 1972, as amended.

D. Environmental Review. The Bay Area Toll Authority (BATA), acting as the lead environmental agency, issued a notice of exemption, dated June 8, 2012, which found the project categorically exempt from the need to prepare an environmental document under the California Environmental Quality Act (CEQA).

E. Listing with the Commission. Pursuant to Regulation Section 10620, the original project was listed with the Commission on August 2, 2012.

IV. Standard Conditions

A. Permit Execution. This amended permit shall not take effect unless the permittee executes the original of this amended permit and returns it to the Commission within ten days after the date of the issuance of the amended permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.

B. Notice of Completion. The attached Notice of Completion and Declaration of Compliance form shall be returned to the Commission within 30 days following completion of the work.

C. Permit Assignment. The rights, duties, and obligations contained in this amended permit are assignable. When the permittee transfers any interest in any property either on which the activity is authorized to occur or which is necessary to achieve full compliance of one or more conditions to this amended permit, the permittee/transferor and the transferee shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignee executes, and the Executive Director receives an acknowledgment that the assignee has read and understands the amended permit and agrees to be bound by the terms and conditions of the amended permit, and the assignee is accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the amended permit.

D. Permit Runs With the Land. Unless otherwise provided in this amended permit, the terms and conditions of this amended permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.

E. Other Government Approvals. All required permissions from governmental bodies must be obtained before the commencement of work; these bodies include, but are not limited to, the U. S. Army Corps of Engineers, the State Lands Commission, the Regional Water Quality Control Board, and the city or county in which the work is to be performed, whenever any of these may be required. This amended permit does not relieve the permittee of any obligations imposed by State or Federal law, either statutory or otherwise.

F. Built Project must be Consistent with Application. Work must be performed in the precise manner and at the precise locations indicated in your application, as such may have been modified by the terms of the amended permit and any plans approved in writing by or on behalf of the Commission.

G. Life of Authorization. Unless otherwise provided in this amended permit, all the terms and conditions of this amended permit shall remain effective for so long as the amended permit remains in effect or for so long as any use or construction authorized by this amended permit exists, whichever is longer.

H. Commission Jurisdiction. Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under either the McAteer-Petris Act or the Suisun Marsh Preservation Act at the time the permit is granted or thereafter shall remain subject to that jurisdiction notwithstanding the placement of any fill or the implementation of any substantial change in use authorized by this amended permit. Any area not subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission that becomes, as a result of any work or project authorized in this amended permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.

I. Changes to the Commission's Jurisdiction as a Result of Natural Processes. This amended permit reflects the location of the shoreline of San Francisco Bay when the amended permit was issued. Over time, erosion, avulsion, accretion, subsidence, relative sea level change, and other factors may change the location of the shoreline, which may, in turn, change the extent of the Commission's regulatory jurisdiction. Therefore, the issuance of this amended permit does not guarantee that the Commission's jurisdiction will not change in the future.

J. Violation of Permit May Lead to Permit Revocation. Except as otherwise noted, violation of any of the terms of this amended permit shall be grounds for revocation. The Commission may revoke any permit for such violation after a public hearing held on reasonable notice to the permittee or its assignee if the permit has been effectively assigned. If the amended permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this permit shall be removed by the permittee or its assignee if the permit has been assigned.

058**PERMIT NO. M2012.009.04 (AMENDMENT NO. FOUR)**

California Department of Transportation

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September 7, 2023

K. Should Permit Conditions Be Found to be Illegal or Unenforceable. Unless the Commission directs otherwise, this amended permit shall become null and void if any term, standard condition, or special condition of this amended permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this permit becomes null and void, any fill or structures placed in reliance on this amended permit shall be subject to removal by the permittee or its assignee if the permit has been assigned to the extent that the Commission determines that such removal is appropriate. Any uses authorized shall be terminated to the extent that the Commission determines that such uses should be terminated.

L. Permission to Conduct Site Visit. The permittee shall grant permission to any member of the Commission's staff to conduct a site visit at the subject property during and after construction to verify that the project is being and has been constructed in compliance with the authorization and conditions contained herein. Site visits may occur during business hours without prior notice and after business hours with 24-hour notice.

M. In-Kind Repairs and Maintenance. Any in-kind repairs and maintenance of all areas shall only use construction material that is approved for use in San Francisco Bay. Construction shall only occur during current approved months during the year to avoid potential impacts to fish and wildlife. BCDC staff should be contacted to confirm current restrictions.

N. Abandonment. If, at any time, the Commission determines that the improvements in the Bay authorized herein, have been abandoned for a period of two years or more, or have deteriorated to the point that public health, safety or welfare is adversely affected, the Commission may require that the improvements be removed by the permittee, its assigns or successors in interest, or by the owner of the improvements, within 60 days or such other reasonable time as the Commission may direct.

Executed at San Francisco, California, on behalf of the San Francisco Bay Conservation and Development Commission on the date first above written.

DocuSigned by:
Larry Goldzband
FD166E908010417...

LAWRENCE J. GOLDZBAND
Executive Director
San Francisco Bay Conservation and
Development Commission

LJG/JF/ra

058

059

PERMIT NO. M2012.009.04 (AMENDMENT NO. FOUR)

California Department of Transportation

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September 7, 2023

* * * * *

Receipt acknowledged, contents understood and agreed to:

Executed at oakland, CA

California Department of Transportation
Permittee

On 9/8/2023 | 9:52:35 AM PDT

DocuSigned by:
Sheryl Sablan
E0E1C33F35364C7...

Signature

Sheryl Sablan

Print Name

office Chief - Maintenance Environmental

Title

- cc: U. S. Army Corps of Engineers, Attn.: Regulatory Functions Branch
- San Francisco Bay Regional Water Quality Control Board,
- Attn.: Certification Section
- Environmental Protection Agency
- U.S. Fish and Wildlife Service, Attn.: Migratory Bird Program
- California Department of Fish and Wildlife, Attn.: Wildlife Diversity Program
- City and County of San Francisco Planning Department

Caltrans NEPA Determination (Check one)

Not Applicable

Caltrans has determined that this project has no significant impacts on the environment as defined by NEPA, and that there are no unusual circumstances as described in 23 CFR 771.117(b). See SER Chapter 30 for unusual circumstances. As such, the project is categorically excluded from the requirements to prepare an EA or EIS under NEPA and is included under the following:

23 USC 326: Caltrans has been assigned, and hereby certifies that it has carried out the responsibility to make this determination pursuant to 23 USC 326 and the Memorandum of Understanding dated April 18, 2022, executed between FHWA and Caltrans. Caltrans has determined that the project is a Categorical Exclusion under:

23 CFR 771.117(c): activity (c) (22)

23 CFR 771.117(d): activity (d)(Enter activity number)

Activity Enter activity number listed in Appendix A of the MOU between FHWA and Caltrans

23 USC 327: Based on an examination of this proposal and supporting information, Caltrans has determined that the project is a Categorical Exclusion under 23 USC 327. The environmental review, consultation, and any other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by Caltrans pursuant to 23 USC 327 and the Memorandum of Understanding dated May 27, 2022, and executed by FHWA and Caltrans.

Senior Environmental Planner or Environmental Branch Chief

Craig Jung		06/29/2023
Print Name	Signature	Date

Project Manager/ DLA Engineer

Surya N. Mantravadi	<i>Surya Mantravadi</i>	06/29/2023
Print Name	Signature	Date

Date of Categorical Exclusion Checklist completion (if applicable): 06/28/2023

Date of Environmental Commitment Record or equivalent: 06/27/2023

Continuation sheet:

Project Description (continued):

The Bay Bridge's West span decorative lighting installation also known as the "Bay Lights". The Bay Lights, an existing art installation, will be updated and expanded at the current location along the north side of the western span of the bridge's upper deck. The lighting system will be updated with robust fixtures and components. Additional lights will be added along the driver side of the existing bridge cable suspenders being used, creating a 360-degree view of the Bay Lights.

Fourth-eight thousand (48,000) energy-efficient LED lights, approximately two (2) inches in diameter each, will be installed. The LED lights will be secured to the vertical suspender bridge cables in full height of the suspender cables at one foot spacing. The lights will be attached to the outer part of the bridge suspender cables with ultraviolet (UV) resistant, plastic-coated, stainless-steel zip ties at six-inch intervals to avoid disturbing bridge structure paint. The existing fiber trunk line, power line and electrical boxes will remain at their existing locations with no modifications other than replacing the electronic components inside the electrical boxes. The new light strands on the driver side will operated through separate controls and will be totally independent of the light strands facing the Bay, to allow for them to be turned off so roadway safety operations are not impaired. All the work for this project will occur within the Caltrans right-of-way.

Cultural Resources:

Caltrans has determined that the proposed Bay Lights project will result in a Finding of No Adverse Effect with Standard Conditions – SOIS. Incorporating the SOIS avoids an adverse effect on the SFOBB. Because the project will not alter, directly or indirectly, any of the characteristics of the property that qualify it for inclusion in the National Register in a manner that diminishes its integrity, the project will result in a finding of no adverse effect. The proposed project meets the Secretary of the Interior's Standards for the Treatment of Historic Properties – Rehabilitation. Following the completion of the currently proposed project, the SFOBB will continue to be eligible for listing in the National Register.

Biological Resources:

N/A

BB BayLights_SF_80_5.8-7.7_Final CE

Final Audit Report

2023-06-29

Created:	2023-06-29
By:	Craig Jung (s135799@dot.ca.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAEP9EUclEjzx1nhEZ72xRxGZ6Fa5vbK6

"BB BayLights_SF_80_5.8-7.7_Final CE" History

-  Document created by Craig Jung (s135799@dot.ca.gov)
2023-06-29 - 6:11:22 PM GMT
-  Document emailed to Surya Mantravadi (surya.n.mantravadi@dot.ca.gov) for signature
2023-06-29 - 6:12:11 PM GMT
-  Email viewed by Surya Mantravadi (surya.n.mantravadi@dot.ca.gov)
2023-06-29 - 6:14:15 PM GMT
-  Document e-signed by Surya Mantravadi (surya.n.mantravadi@dot.ca.gov)
Signature Date: 2023-06-29 - 6:14:47 PM GMT - Time Source: server
-  Agreement completed.
2023-06-29 - 6:14:47 PM GMT



Exhibit F



U.S. Department
of Transportation

**Federal Highway
Administration**

California Division

October 15, 2024

650 Capitol Mall, Suite 4-100
Sacramento, CA 95814
(916) 498-5001

HDACA@dot.gov

In Reply, Refer To:
HDA-CA

ELECTRONIC CORRESPONDENCE ONLY

Ms. Dina El-Tawansy,
District 4 Director
California Department of Transportation
111 Grand Avenue
Oakland, CA 94612

SUBJECT: Approval of Right of Way Use Agreement re: Bay Lights 360 Project

Dear Ms. El-Tawansy,

This letter is in response to your request for approval of a right-of-way use agreement (RUA) for the Bay Lights 360 project. This transportation art project proposes to replace previously installed exterior decorative lights on the west span of the San-Francisco-Oakland Bay Bridge on Interstate 80, as well as add the installation of interior lights. The project is located between San Francisco and Alameda Counties, in California.

The proposed lights will be positioned along the outside and inside vertical suspender cables on the upper deck of the bridge. Interior lights are proposed to be visible from the roadway and exterior lights visible from the Bayside. Interior and exterior lights will be placed on two separate circuits and must be controlled by Caltrans. Due to safety concerns already articulated to Caltrans, FHWA will not authorize the use of the interior lights until FHWA has determined the lights can function safely and does not impair the highway or interfere with the free and safe flow of traffic (23 CFR 710.403(b)).

As a result, this RUA approval is only for the installation of the lighting system and exterior lights use. Interior lights use (including testing) is not allowed under this approval and will not be permitted until a comprehensive test under an FHWA approved testing plan is completed, and a separate FHWA approval for the use of the interior lights is obtained. This approval allows for the installation of interior lights at the applicants's own risk, recognizing the potential that the interior lights may not be allowed to be used.

Once testing is performed, and safety risks associated with the use of the interior lights have been analyzed and mitigated, Caltrans will submit a request for FHWA's approval for interior lights use and will report on the monitoring of crash rates on the bridge after installation of the lights.

Monitoring must include threshold for the termination of use of interior lights if there is an increase of crash rates for serious injury and fatal crashes.

If you have any questions, please contact David Tedrick, ROW Program Manager at david.tedrick@dot.gov or call (916) 498-5024.

Sincerely,

Antonio Johnson
Director, Planning, Environment and
Right of Way
Federal Highway Administration

TO (via email):

Dina El-Tawansy, Director, Caltrans District 4

dina.el-tawansy@dot.ca.gov

CC (via email):

Tony Tavaréz, Director, Caltrans

Janice Benton, Deputy Director, Maintenance & Operations, Caltrans

Srikanth Balasubramanian, Deputy Division Chief, Division of Traffic Operations, Caltrans

Sean Nozzari, Deputy Director, Caltrans District 4

Andrew B. Fremier, Executive Director, Bay Area Toll Authority

Elissa Konove, Division Administrator, FHWA

Matt Schmitz, Acting Deputy Division Administrator, FHWA

Antonio Johnson, Director, Planning, Environment and Right of Way, FHWA

David Tedrick, Realty Program Manager, FHWA

Hector Santiago, Director, Technical Services, FHWA

Steve Pyburn, Design Program Manager, FHWA

Zylkia Martín-Yambó, Acting Director, Project Delivery, FHWA

Andrew Bianchi, Team Leader, Project Delivery, FHWA

Lanh Phan, Sr. Transportation Engineer, FHWA

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antonio.johnson@dot.gov

david.tedrick@dot.gov

hector.santiago@dot.gov

steve.pyburn@dot.gov

zylkia.martin-yambo@dot.gov

andrew.bianchi@dot.gov

lanh.phan@dot.gov

STANDARD ENCROACHMENT PERMIT APPLICATION

DOT TR-0100 (REV 05/2023)

FOR CALTRANS USE

TRACKING NO.

DIST/CO/RTE/PM

SIMPLEX STAMP

DATE OF SIMPLEX STAMP

Complete ALL fields, write "N/A" if not applicable. Type or print clearly.

This application is not complete until all requirements have been approved.

Permission is requested to encroach on the State Highway right-of-way as follows:

1. COUNTY San Francisco	2. ROUTE 80	3. POST MILE 6.2 / 7.5
4. ADDRESS OR STREET NAME Bay Bridge	5. CITY San Francisco	
6. CROSS STREET (Distance and direction from project site) West Span		DATE OF SIMPLEX STAMP
7. WORK TO BE PERFORMED BY <input type="checkbox"/> APPLICANT <input type="checkbox"/> CONTRACTOR		8. IS THIS APPLICATION FOR A RIDER? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES. If "YES", provide the Parent Permit Number
9. ESTIMATE START DATE 09/23/2024	10. ESTIMATED COMPLETION DATE 04/30/2025	
11. ESTIMATED NUMBER OF WORKING DAYS WITHIN STATE HIGHWAY RIGHT-OF-WAY 140 Working Days		
12. ESTIMATED CONSTRUCTION COSTS WITHIN STATE HIGHWAY RIGHT-OF-WAY \$11 million dollars		
13. HAS THE PROJECT BEEN REVIEWED BY ANOTHER CALTRANS BRANCH? <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES. If "YES", which branch? Environmental / Electrical / Construction / Structure Maintenance Investigation		
14. FUNDING SOURCE(S) <input type="checkbox"/> FEDERAL <input type="checkbox"/> STATE <input type="checkbox"/> LOCAL <input checked="" type="checkbox"/> PRIVATE <input type="checkbox"/> SB 1 (ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017)		
15. CALTRANS PROJECT CODE (ID)	16. APPLICANT'S REFERENCE / UTILITY WORK ORDER NUMBER NA	

17. DESCRIBE WORK TO BE DONE WITHIN STATE HIGHWAY RIGHT-OF-WAY (in 20 lines or less)

Attach 6 complete sets of plans (folded to 8.5" x 11") and any applicable specifications, calculations, maps, traffic control plans, etc.

This work consists of removing the existing 24000 LED fixtures and installing 48,000 small (Approx. 2"x3") LED light fixtures to the suspender cables of the west span of the SFO Bay Bridge. The lights are in a string with height of 2 feet to 250 feet to match the height of the Bridge suspender cables. The LED fixtures on each string are at one foot intervals. Each fixture will be securely attached to the cable with three (3) UV rated plastic ties. The main power and fiber line from previous installation will remain in placed and used fro new installation. Traffic control will be placed during all allowable hours of the installation and removal. There is no Opainting or coating and no permanent effect to the roadway or the structure.

18 (a). PORTION OF STATE HIGHWAY RIGHT-OF-WAY WHERE WORK IS BEING PROPOSED (check all that apply)

- Traffic lane Shoulder Sidewalk Median At or near an intersection Mobile work
 Outside of the shoulder, _____ feet from edge of pavement Other Bridge Suspender Cables

18 (b). PROPOSED TRAFFIC CONTROL PLANS AND METHOD

- No traffic control needed State Standard Plans (T-Sheets) # T10 & T11

- Project specific Traffic Control Plans included To be submitted by contractor

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STANDARD ENCROACHMENT PERMIT APPLICATION

DOT TR-0100 (REV 05/2023)

TRACKING NO. _____

19. EXCAVATION	MAX. DEPTH (in) N/A	MIN. DEPTH (in) N/A	AVG. WIDTH (in) N/A	LENGTH (ft) N/A	SURFACE TYPE (e.g. Asphalt, concrete, soil, etc.) N/A
-------------------	------------------------	------------------------	------------------------	--------------------	--

20. PIPES	PRODUCT BEING TRANSPORTED N/A	CARRIER PIPE DIAMETER N/A (in.) MATERIAL N/A	CASING PIPE DIAMETER N/A (in.) MATERIAL N/A
--------------	----------------------------------	---	--

PROPOSED INSTALLATION METHOD (e.g. HDD, Bore & Jack, Open Cut, etc.) N/A	VOLTAGE / PSIG
---	----------------

DOES THE PROPOSED PROJECT INVOLVE THE REPLACEMENT AND/OR ABANDONMENT OF AN EXISTING FACILITY?
 NO YES. If "YES", provide a description Existing LED fixtures, which were installed by Bay Lights in 2015

21. IS A CITY, COUNTY OR OTHER PUBLIC AGENCY INVOLVED IN THE APPROVAL OF THIS PROJECT?

- YES (if "YES", check the type of project AND attach the environmental documentation and conditions of approval)
- COMMERCIAL DEVELOPMENT BUILDING GRADING OTHER _____
 - CATEGORICALLY EXEMPT NEGATIVE DECLARATION ENVIRONMENTAL IMPACT REPORT OTHER _____

- NO (if "NO", check the category below which best describes the project AND answer questions A-K)
- DRIVEWAY OR ROAD APPROACH, RECONSTRUCTION, MAINTENANCE OR RESURFACING FENCE EROSION CONTROL
 - PUBLIC UTILITY MODIFICATION, EXTENSIONS, HOOKUPS MAILBOX LANDSCAPING
 - FLAGS, SIGNS, BANNERS, DECORATIONS, PARADES AND CELEBRATIONS OTHER Lighting

The following questions must be answered when a City, County or other public agency IS NOT involved in the approval of this project.

Your answers to these questions will assist Caltrans staff in identifying any physical, biological, social or economic resources that may be affected by your proposed project within State Highway right-of-way and to determine which type of environmental studies may be required to approve your application for an encroachment permit. It is the applicant's responsibility for the production of all required environmental documentation and supporting studies and in some cases this may be costly and time consuming. If possible, attach photographs of the location of the proposed project. Answer these questions to the best of your ability. Provide a description of any "YES" answers (type, name, number, etc.).

- A. Will any existing vegetation and/or landscaping within State Highway right-of-way be disturbed?
No
- B. Are there waterways (e.g. river, creek, pond, natural pool or dry streambed) adjacent to or within the limits of the proposed project?
Yes (the Bay)
- C. Is the proposed project located within five miles of the coast line?
Yes
- D. Will the proposed project generate construction noise levels greater than 86 decibels (dBA) (e.g. Jack-hammering, pile driving)?
No
- E. Will the proposed project incorporate land from a public park, recreation area or wildlife refuge open to the public?
No
- F. Are there any recreational trails or paths within the limits of the proposed project?
No
- G. Will the proposed project impact any structures, buildings, rail lines or bridges within State Highway right-of-way?
No
- H. Will the proposed project impact access to any businesses or residences?
No
- I. Will the proposed project impact any existing public utilities or public services?
No
- J. Will the proposed project impact any existing pedestrian facilities, such as sidewalks, crosswalks or overcrossings?
No
- K. Will new lighting be constructed within or adjacent to State Highway right-of-way?
Yes

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STANDARD ENCROACHMENT PERMIT APPLICATION

DOT TR-0100 (REV 05/2023)

TRACKING NO.

22. Will the proposed project cause a substantial change in the significance of a historical resource (45 years or older), or cultural resource? YES NO (if "YES", provide a description)
-
23. Will the proposed project be on an existing State Highway or street where the activity involves removal of a scenic resource? (e.g. A significant tree or stand of trees, a rock outcropping or a historic building) YES NO (if "YES", provide a description)
-
24. Is work being done on the applicant's property in addition to State Highway right-of-way? YES NO
(If "YES", attach 6 complete sets of site and grading plans)
-
25. Will the proposed project require the disturbance of soil? YES NO
If "YES", estimate the area of disturbed soil within State Highway right-of-way in acres: _____
and estimate the area of disturbed soil outside State Highway right-of-way in acres: _____
-
26. Will the proposed project require dewatering? YES NO
If "YES", estimate Total gallons AND gallons/month. _____ (Total gallons) AND _____ (gallons/month)
SOURCE*: STORMWATER NON-STORMWATER
(*See Caltrans SWMP for definition of non-storm water discharge:
<https://www.dot.ca.gov/programs/environmental-analysis/stormwater-management-program>)
-
27. How will any storm water or ground water be disposed?
 Storm Drain System Combined Sewer / Stormwater System Stormwater Retention Basin N/A
 Other (explain) _____

STANDARD ENCROACHMENT PERMIT APPLICATION

DOT TR-0100 (REV 05/2023)

TRACKING NO.

READ THE FOLLOWING CLAUSES PRIOR TO SIGNING THIS ENCROACHMENT PERMIT APPLICATION.

The applicant's submission of this application to the California Department of Transportation constitutes the applicant's agreement and representation that the work or other activity contemplated by the encroachment permit application shall comply with all applicable standards, specifications, policies, requirements, conditions, and regulations of the California Department of Transportation, and the applicant understands the application may be denied if there is non-compliance with any of the above. An exception process exists and may result in approval of a non-compliant encroachment, in the discretion of the California Department of Transportation, but the exception process may require additional time to complete. The applicant understands and agrees all work or other activity contemplated by the encroachment permit application is subject to inspection and oversight by the California Department of Transportation. The applicant understands and agrees encroachment permit fees must still be paid if an application is withdrawn or denied. The applicant understands a denial may be appealed, in accordance with California Streets and Highways Code, Section 671.5, and the related regulations found in California Code of Regulations, Title 21, Division 2, Chapter 8, Article 2.

The applicant understands and agrees that immediately upon issuance of the encroachment permit the applicant is bound by, subject to, and must comply with the "Encroachment Permit General Provisions" (TR-0045), "Stormwater Special Provisions" (TR-0400) and any other applicable Special Provisions and Conditions of the encroachment permit. The "Encroachment Permit General Provisions" (TR-0045), and the Stormwater Special Provisions (TR-0400) are available at: <https://dot.ca.gov/-/media/dot-media/programs/traffic-operations/documents/encroachment-permits/appendix-k-ada-a11y.pdf>. If a paper copy is needed of the "Encroachment Permit General Provisions" (TR-0045) and/or "Stormwater Special Provisions" (TR-0400), please contact the District Office of Encroachment Permits. Their contact information is available at: <https://dot.ca.gov/programs/traffic-operations/ep/district-contacts>. The "Encroachment Permit General Provisions" (TR-0045) and any other applicable Special Provisions and Conditions will be provided as part of the encroachment permit. Information about Stormwater requirements is available at the Internet address: <https://dot.ca.gov/programs/environmental-analysis/stormwater-management-program>.

The applicant understands an encroachment permit may be denied, revoked, and/or a bond may be required, for non-payment of prior or present encroachment permit fees. An encroachment permit is not a property right and does not transfer with the property to a new owner.

Each of the persons purporting to execute this application on behalf of the applicant and/or on behalf of the applicant's authorized agent or engineer represents and warrants such person has full and complete legal authority to do so and to thereby bind applicant to the terms and conditions herein and to the terms and/or conditions of the encroachment permit. Applicant understands and agrees this application may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies of this application and/or its counterparts may be reproduced and/or exchanged by copy machine, mailing, facsimile, or electronic means (such as e-mail), and such copies shall be deemed to be effective as originals.

28. NAME OF APPLICANT (Project or Property Owner or Organization)

Bay Area Toll Authority - Angela Louie

ADDRESS OF APPLICANT (Include City, State and Zip Code)

375 Beale Street, Suite 800 San Francisco, California 94105

E-MAIL ADDRESS

alouie@bayareametro.gov

PHONE NUMBER

510-517-8308

FAX NUMBER

29. NAME OF AUTHORIZED AGENT / ENGINEER

(A "Letter of Authorization" is required if different from #28)

Ben Davis (Illuminate)

IS A LETTER OF AUTHORIZATION ATTACHED?

 YES NO

ADDRESS OF AUTHORIZED AGENT / ENGINEER (Include City, State and Zip Code)

228 Laidley St. San Francisco, CA 94131

E-MAIL ADDRESS

ben@illuminate.org

PHONE NUMBER

415-786-4332

FAX NUMBER

30. NAME OF BILLING CONTACT (Same as #28 Same as #29)

BILLING ADDRESS WHERE INVOICE(S) IS / ARE TO BE MAILED (Include City, State and Zip Code)

E-MAIL ADDRESS

PHONE NUMBER

FAX NUMBER

* I hereby certify under penalty of perjury under the laws of the State of California that the information in this application and any document submitted with or in support of this application are true and correct to the best of my knowledge and belief, and that copies of any documents submitted with or in support of this application are true and correct copies of unaltered original documents. I further understand that if I have provided information that is false, intentionally incomplete, or misleading I may be charged with a crime and subjected to fine or imprisonment, or both fine and imprisonment. (Penal Code Section 72)

31. SIGNATURE OF APPLICANT OR AUTHORIZED AGENT*

BEN DAVISDigitally signed by BEN DAVIS
Date: 2024.09.13 16:32:03 -07'00'

32. PRINT OR TYPE NAME

Ben Davis

33. TITLE

CEO

34. DATE

070

INSTRUCTIONS

Complete ALL fields, write "N/A" if not applicable. Type or print clearly. All dimensions must be in U.S. Customary (English) units.

Print your application single sided and submit all of the required attachments (See Section VII A&B of the "Encroachment Permit Application Guide Booklet" found at: <https://dot.ca.gov/programs/traffic-operations/ep/guidelines>).

1. County (e.g. Fresno, San Francisco, Los Angeles, etc.)
2. State Highway Route Number (e.g. I-5, SR-99, etc.)
3. Highway Postmile: (location of work, see <https://postmile.dot.ca.gov/>)
If unable to determine, contact the appropriate District Encroachment Permits Office for assistance at: <https://dot.ca.gov/programs/traffic-operations/ep/district-contacts>
4. Address of project site (if the property has a physical address with a Number and Street/Road Name)
5. City (e.g. Sacramento, Redding, Irvine, etc.)
6. Distance and the direction from the nearest cross street to the project site (e.g. 500 ft. north of "C" Street).
7. Indicate whether the work will be performed by the applicant (your own forces) or by a contractor.
8. Indicate if you are applying for a "Rider Permit" (Time extension, change in scope of work, etc. and provide the "Parent Permit Number".
9. Estimated start date for the proposed work. (Allow a minimum of 60 calendar days from the submittal date of your application for processing)
10. Estimated completion date for the proposed work.
11. Estimated number of working days within State Highway right-of-way.
12. Estimated construction costs for all work to be done within State Highway right-of-way.
13. Has another Caltrans' branch seen or reviewed your project? Which branch? (e.g. Design, Project Management, Right-of-Way, Environmental, etc.)
14. Identify funding source(s) for the proposed work.
15. Caltrans' Project Code (ID) if this is a State project, capital project, or joint venture project.
16. Your company's reference number or utility work order number for this project.
17. Describe the proposed work to be done entirely. If applicable, attach six (6) complete sets of FOLDED plans (folded 8-1/2" X 11") and any applicable specifications, calculations, maps, etc.
18. (a) Identify portion(s) of State right-of-way where work will occur and (b) proposed traffic control plans to be used if any.
19. Maximum and minimum depth, average width, and length of the excavation area. Existing surface type (e.g. Asphalt, concrete, soil, etc.)
20. Product being transported (e.g. water, natural gas, etc.)
Carrier pipe, diameter (inches) and material (e.g. Steel, HDPE, etc.)
Casing pipe (if any), diameter and material Proposed installation method, Voltage of electrical current or pressure of liquid or gas.
21. Check "YES", if you are getting a permit or approval from another agency (City, County, etc.), and an environmental determination has been made. Then check the Categorically Exempt, Negative Declaration, Environmental Impact Report box or Other if one has been prepared. Attach a copy of the approved document and a copy of the Notice of Determination. Skip questions A-K.

If you checked "NO", check the box of the appropriate type of work to be done, or check "other" and fill in the type of work to be done. Also answer questions A-K.
22. A Historical Resource includes, but is not limited to, any object, building, structure, site, area, place, record, or manuscript that has historical or archaeological significance, or significance in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California.
23. In this context a Scenic Resource includes, but is not limited to, trees that display outstanding features of form or age; unique, massive rock formations; historic buildings that are rare examples of their period, style, design, or which have special architectural features and details of importance.
24. Is there any work being done on the applicant's property?
25. Indicate if the proposed project will require the disturbance of soil. If "YES," estimate the area within AND outside of State Highway right-of-way in acres.
26. Indicate if the proposed project will require dewatering. If "YES," estimate volume in total gallons AND gallons per month. Also indicate the source: Stormwater or Non-Stormwater (see Caltrans Stormwater Management Plan for definitions of non-stormwater discharge at: <https://dot.ca.gov/programs/environmental-analysis/stormwater-management-program>).
27. Indicate how any stormwater or ground water will be disposed of from or near the limits of the proposed project.
28. Name of the applicant or organization applying for the permit. List the mailing address, e-mail address, phone and fax numbers.
29. Name of the authorized agent or engineer acting on behalf of the applicant or organization. Attach a letter of authorization signed by the applicant or organization. List the mailing address, e-mail address, phone and fax numbers.
30. Name of the billing contact. List the mailing address where invoices are to be mailed, email address, phone and fax numbers.
31. Signature of the applicant or applicant's authorized agent.
32. Name of the applicant or applicant's authorized agent.
33. Title (owner, president, etc.) of the applicant or applicant's authorized agent.
34. Date of the signature.

Message History (3)

On 2/19/2026 5:08:02 PM, MTCABAG Support wrote:

Subject: [Records Center] Public Records Request :: R001206-021126

Body: RE: PUBLIC RECORDS REQUEST of February 11, 2026, Reference # R001206-021126

Dear Mark Baker,

The Metropolitan Transportation Commission received a request for records under the California Public Records Act (CPRA), Government Code Section 6250, et. seq., from you on February 11, 2026. Your request seeks the following:

“The attached file is a permit application from BATA to Caltrans. It is signed by Ben Davis under penalty of perjury that Mr. Davis is an authorized agent for BATA. The application says (A "Letter of Authorization" is required if different from #28). I am requesting the Letter of Authorization from BATA to Ben Davis that authorizes Ben Davis as the AUTHORIZED AGENT for the Bay Lights 360 project.”

After conducting a reasonable search, we were unable to locate any additional records responsive to your request. If you need further assistance, please do not hesitate to contact our office at or by replying directly to this email.

Sincerely,

Records Request
Legislation and Public Affairs

On 2/11/2026 7:39:15 AM, MTCABAG Support wrote:

Dear Mark Baker:

Thank you for your interest in public records of the Metropolitan Transportation Commission. Your request has been received, has been given the reference number R001206-021126 for tracking purposes and is being processed.

Records Requested: The attached file is a permit application from BATA to Caltrans. It is signed by Ben Davis under penalty of perjury that Mr. Davis is an authorized agent for BATA. The application says (A "Letter of Authorization" is required if different from #28). I am requesting the Letter of Authorization from BATA to Ben Davis that authorizes Ben Davis as the AUTHORIZED AGENT for the Bay Lights 360 project.

Your request will be forwarded to the relevant department(s) to locate the information you seek and to determine the volume and any costs associated with satisfying your request. You will be contacted about the availability and/or provided with copies of the records in question. PLEASE NOTE: The California Public Records Act does not require a governmental body to create new information, to do legal research, or to answer questions.

You can monitor the progress of your request at the link below and you'll receive an email when your request has been completed. Again, thank you for using the Public Records Center.

Metropolitan Transportation Commission

To monitor the progress or update this request please log into the [Public Records Center](#).

On 2/11/2026 7:39:13 AM, Mark Baker wrote:

Request Created on Public Portal

ENCROACHMENT PERMIT

DOT TR-0120 (REV 05/2023)

Permit No.
04-24-N-AP-1811

In compliance with your application of September 17, 2024

Dist/Co/Rte/PM
04/SF/80/PM 6.2L-Var

Reference Documents:

Utility Notice No. _____ of _____

Agreement No. _____ of _____

R/W Contract No. _____ of _____

Project code (ID): 0000001157 CFC #: _____

Applicant's Reference/ Utility Work Order No. _____

Permit Approval Date
October 29, 2024

Performance Bond Amount (1)	Payment Bond Amount (2)
\$0	\$0

Bond Company
\$ N/A

Bond Number (1)	Bond Number (2)
\$ N/A	\$ N/A

TO: Bay Area Toll Authority
C/O: Illuminate the Arts
228 Laidley Street
San Francisco CA 94131

_____, **PERMITEE**

and subject to the following, PERMISSION IS HEREBY GRANTED to:
Encroach within State's right-of-way to remove the existing 24,000 LED fixtures and install 48,000 small (approximately 2"x3") LED light fixtures to the suspender cables of the west span of the San Francisco-Oakland Bay Bridge. The lights are in a string with height of 2 feet to 250 feet to match the height of the bridge suspender cables. The LED fixtures on each string are at one-foot intervals with each fixture to be securely attached to the cable with three (3) UV rated plastic ties. The main power and fiber line from previous installation will remain in place and used for new installation, on State Highways 04-SF-80, Post Mile 6.2/7.6, in the City of San Francisco.

A minimum of 7 days prior to the start of work under this encroachment permit, notice must be given to State Representative Chris Nesmith, at chris.nesmith@dot.ca.gov or (510) 715-8749, weekdays between 7:00 a.m. and 3:30 p.m., excluding holidays.

Notwithstanding General Provision 35, lane closures and other activities that may cause a traffic impact requires the permittee to apply for and obtain a closure ID prior to the start of work. Requests must be submitted electronically through the Lane Closure System (LCS).

THIS PERMIT IS NOT A PROPERTY RIGHT AND DOES NOT TRANSFER WITH THE PROPERTY TO A NEW OWNER.

The following attachments are also included as part of this permit (check applicable):

- YES NO General Provisions
- YES NO Utility Maintenance Provisions
- YES NO Storm Water Special Provisions
- YES NO Special Provisions
- YES NO A Cal-OSHA Permit, if required: Permit No. _____
- YES NO As-Built Plans Submittal Route Slip for Locally Advertised Projects
- YES NO Storm Water Pollution Protection Plan

In addition to fee, the permittee will be billed actual costs for:

- YES NO Review
- YES NO Inspection
- YES Field Work
(if any Caltrans effort expended)

As-built Plans are Required

- YES NO

YES NO The information in the environmental documentation has been reviewed and considered prior to approval of this permit.

This permit is void unless the work is completed before October 31, 2025

This permit is to be strictly construed and no other work other than specifically mentioned is hereby authorized.

No project work shall be commenced until all other necessary permits and environmental clearances have been obtained.

CC:
#1: RICHARD K FONG
#2: CHRIS D NESMITH
#3: RAYGON PITTMAN
#4: EARL R SHERMAN III

APPROVED:

Dina El-Tawansy, District Director

BY

Surya Mantravadi
Surya Mantravadi (Oct 29, 2024 20:23 PDT)

SURYA N MANTRAVADI, District Permit Engineer

ADA Notice

This document is available in alternative accessible formats. For more information, please contact the Forms Management Unit (279) 234-2284, TTY 711, in writing at Forms Management Unit, 1120 N Street, MS-89, Sacramento, CA 95814, or by email at Forms.Management.Unit@dot.ca.gov.

074

074

Illuminate is hereby recognized as a nonprofit organization responsible for the creation of the Artwork.

All work must comply with the attached "Encroachment Permit General Provisions" (TR-0045) available at [Encroachment Permit General Provisions \(TR-0045\) \(ca.gov\)](#), Art Program Special Provisions" (also available at [Encroachment Permits Manual Appendix F TOC \(ca.gov\)](#)), and the following permit special provisions:

1.0 CONTRACTOR'S AUTHORIZATION

Permittee must include the names of all contractors working pursuant to this permit, on the Contractor's Authorization form TR-0429 and have all the contractors sign and submit to Caltrans prior to beginning of construction.

2.0 TRAFFIC CONTROL SYSTEM FOR LANE CLOSURE

Use attached lane closure charts for traffic control.

2.01 GENERAL

The permittee must be responsible for all traffic control operations and safety measures when installing the Artwork.

Traffic control must be provided by a licensed contractor.

When approved, traffic control under this permit must comply with Caltrans' Standard Plans T9 through T14 [dot.ca.gov/-/media/dot-media/programs/design/documents/locked-2023-std-plans-dor-a11y.pdf](#) or Caltrans approved site specific traffic control plans and the permit's lane closure provisions. The permittee must submit a written closure schedule request of planned closures on Monday by noon before the next week period that is defined as Sunday noon through the following Sunday noon. The State Representative must be notified of cancelled closures two (2) business days prior to the date of planned closure. The closures that are cancelled due to unanticipated events not caused by either party or other extenuating circumstances (such as unsuitable weather conditions, flood, fire, earthquake, epidemic, act of a public enemy, Governor-declared state of emergency, and/or landslide) may be rescheduled at the discretion of the State Representative.

2.02 LANE CLOSURE

The lane closure(s) under this permit must comply with the approved "Freeway Lane Requirement" and "Lane Closure Restriction for Designated Legal Holidays and Special Days" Charts, respectively, included with this permit and the following provisions:

The full width of the traveled way must be open for use by public traffic as shown in the "Lane Closure Restriction for Designated Legal Holidays and Special Days" Chart.

Designated legal holidays are: January 1st, the third Monday in February, the last Monday in May, July 4th, the first Monday in September, November 11th, Thanksgiving and Day after Thanksgiving, and December 25th. When a designated legal holiday falls on a Sunday, the following Monday must be a designated legal holiday. When November 11th falls on a

Saturday, the preceding Friday must be a designated legal holiday. The third Monday in January must also be considered a designated legal holiday.

Special Days are any days on which a major event is scheduled at AT&T Park, in downtown San Francisco, on Yerba Buena Island and/or Treasure Island, or elsewhere during which a closure of a freeway lane will cause major impact to public traffic. Major events are defined as concerts, San Francisco Giants games, and any other scheduled event such as the Bay-to-Breakers race, San Francisco Pride parade, Nike Women's Half Marathon, and Komen Race for the Cure. The contractor must expect up to 10 Special Days during any calendar month. The determination of a Special Day will be made by the State Representative. The contractor will be informed of a Special Day at least one (1) week prior to the designated Special Day.

2.03 LATE REOPENING OF CLOSURES AND LIQUIDATED DAMAGES

If a closure is not reopened to traffic by the specified time, work must be suspended. No further closures must be allowed until the State Representative has reviewed and authorized a work plan submitted by the permittee that ensures that the future closures will be reopened to traffic as scheduled. The State Representative must accept (or reject) the permittee's proposed work plan within two (2) business days of the plan submittal. The permittee must not be entitled to compensation for the suspension of work resulting from the late reopening of closures. For each 10-minute interval, or fraction thereof past the time specified to reopen the closure, a road user delay cost in the amount of \$8,900.00 per 10-minute interval must incur to the permittee.

2.04 CONTINGENCY PLAN

A detailed contingency plan must be prepared for reopening closures to traffic. The contingency plan must be submitted to the State Representative before the start of work. Otherwise, the contingency plan must be submitted to the State Representative within one business day of the State Representative's request.

The contingency plan must identify the activities, equipment, processes, and materials that may cause a delay in the opening of a closure to traffic. The contingency plan must include:

1. List of additional or alternate equipment, materials, or workers necessary to ensure continuing activities and on-time opening of closures if a problem occurs. If the additional or alternate equipment, materials, or workers are not on site, specify their location, the method of mobilizing these items, and the required time to complete the mobilization.
2. General time-scaled logic diagram displaying the major activities and sequence of planned operations. For each activity, the permittee must identify the critical event when the contingency plan will be activated.

Based on a review by the State Representative, additional materials, equipment, workers, or time to complete activities from that specified in the contingency plan may be required.

Any revision(s) to a contingency plan must be submitted to the State Representative at least three (3) business days before starting the activity requiring a contingency plan. The State Representative must complete a review of the revised contingency plan within two (2) business

days of the plan submittal.

3.0 PERSONNEL SAFETY

All the permittee's personnel must wear appropriate and approved personal protective equipment per Chapter 12 of Caltrans "Safety Manual" including hard hats and bright-colored safety vests, and shirts or jackets with retro-reflective material, while within the State right-of-way.

4.0 LIABILITY

Permittee must provide evidence of liability insurance in the amount of \$25 million, for the life of the Bay Lights 360 artwork to ensure public safety, convenience and interests, naming the State of California, the California Department of Transportation, the directors, officers, employees, and/or agents of the State of California and/or of the California Department of Transportation as additional named insureds. The applicant also must furnish a certificate of insurance and the endorsement showing those additional named insureds prior to beginning of construction.

The amount for the Certificate of Insurance may be increased. It will be determined after the testing and evaluation of interior lights.

5.0 TRANSPORTATION ART DESIGN AND DISPLAY

Lighting must be installed without damaging any portion of the Bridge; and they must be positioned along the outside and inside of the vertical suspender cables on the upper deck such that the kinetic display is angled away from the direct view of motorists and towards the City of San Francisco or the East Bay, in order to not visually impact the motorists transiting the Bridge.

Only the LED lights facing outward away from the direct view of oncoming traffic will be allowed to be turned on until such time as the conditions described in this encroachment permit have occurred. If the conditional study and evaluation determines that the lights facing traffic will not adversely effect motorists on the bridge span, and is approved by the Department and FHWA, then a separate transportation art exception and permit rider will be required before the inward facing lights can be activated.

Interior lights visible from the roadway and exterior lights visible from the Bayside must be placed on two separate circuits, both of which must be always under Caltrans control.

The interior lights proposed to be visible from the roadway must not be activated until the development and completion of a comprehensive test fully evaluating the traffic safety and operational impacts of said lights.

1. The Permittee shall prepare a complete plan of the computerized light timing program.
2. The Permittee shall procure services of a California Registered Traffic Engineer with the skills and knowledge in transportation safety to devise a plan to evaluate and approve the timing plan for lights visible from the roadway,
3. The Permittee's Traffic Engineer shall submit a test plan for concurrence and approval by Caltrans, CHP, and FHWA while acknowledging the risk that there may not be a viable comprehensive test resulting in the interior lights not being activated.
4. The Permittee shall provide the Traffic Engineer with a documented delegated

- authority to approve the proposed design feature.
5. The Permittee shall submit a signed report from the Traffic Engineer documenting:
 - a. A determination that the light timing program was a reasonable exercise of their engineering judgment, and
 - b. A commitment that the light timing program cannot change without going through.
Items 1-4a above.
 6. Activation (turning on interior lights) for public display is not allowed unless a separate permit rider is issued upon approval by Caltrans, CHP, and FHWA.
 7. Caltrans shall be provided with and maintain records of the plan, approval documentation, and delegation of authority archived in Document Retrieval System (DRS) for every light timing plan.

In accordance with the attached Caltrans memo dated August 30, 1991, the title sheet of the design plans will carry the Oversight Engineer's Block in compliance with the Caltrans Plan Preparation Manual, Chapter 2, Section 2-1.06 (available at <https://dot.ca.gov/-/media/dot-media/programs/design/documents/cadd/ppm-text-ch2-sect1-a11y.pdf>) to further protect the State for providing oversight only of a design which is different from Caltrans standards.

Permittee proceeds with understanding that installing interior lights is at their own risk, recognizing the associated sunk costs and the potential that the interior Bay Lights may not be allowed to be activated or turned on.

Activation (turning on) interior lights for testing or public display is not allowed under this permit. Interior Bay Lights shall not be activated for testing or public display unless approved via a rider to this permit.

Applicant shall request a separate permit rider to test the interior lights if and when a comprehensive testing plan has been developed by the permittee and approved by FHWA, CHP and Caltrans. The decision to activate the interior lights will be taken after evaluating the potential impacts of interior lights on traffic safety and efficient traffic flow and receiving approval by Caltrans, and concurrence by FHWA, CHP, BATA.

The permittee must obtain Caltrans' approval for the actual display and intensity of the exterior LEDs used on the project.

The exterior Bay Lights 360 must be programmed to be turned on from dusk to dawn, plus or minus 30 minutes.

The permittee must comply with Part 118 of Title 33 of the Code of Federal Regulations (CFR), commonly referred to as 33 CFR 118, for Bridge Lighting and Navigational Safety on the waterways.

The permittee must adhere to and remain in compliance with Caltrans' rules, regulations, and any additional restrictions Caltrans may apply to the transportation art project when working within the State highway right-of-way.

6.0 OWNERSHIP, OPERATION, AND MAINTENANCE

Once installed, the “Physical Artwork” as described below, must be owned by Caltrans as a gift from BATA to the people of California. Provided, however, that such ownership must not extend or operate to include liability for any accrued but unpaid obligations or any other pre-existing liabilities or obligations associated with the installation of The Bay Lights 360, none of which Caltrans must assume, whether by assignment, expressed or implied contract, under any common law doctrine of successor liability, or otherwise by operation of law, and which must be the responsibility of Illuminate and/or BATA, or other responsible party, as applicable. The gift of the Physical Artwork is made in an “as-is” condition and with all faults, without any representations.

Physical Artwork

This work consists of removing the existing 24000 LED fixtures and installing 48,000 small (Approximately 2"x3") LED light fixtures to the suspender cables of the west span of the SFO Bay Bridge.

The lights are in a string with height of 2 feet to 250 feet to match the height of the Bridge suspender cables.

The LED fixtures on each string are at one-foot intervals.

Each fixture will be securely attached to the cable with three (3) UV rated plastic ties.

The main power and fiber line from previous installation will remain in place and used for new installation.

Permittee must be responsible for all costs relative to maintenance and on-going operations of the Bay Lights, including reimbursement of Caltrans costs.

Permittee must comply with the requirements of Chapters H and K of Caltrans Maintenance Manual (available at <https://dot.ca.gov/programs/maintenance/maintenance-manual>).

Caltrans reserves the right to remove the installation at any time before or after the initial 10-years term in case of a bona fide necessity to protect public safety, convenience, and/or interests, including allowing access to suspender cables for construction, rehabilitation, painting, or necessary maintenance activities for the transportation facility itself, all as determined by Caltrans, without any obligation, compensation to, or approval from the permittee. Caltrans must use best efforts to notify the permittee of the need to remove the transportation art in order to allow for timely removal and salvage by the permittee.

Caltrans reserves the right to deactivate (turn off) the Bay Lights 360 during emergency situations or periods when the lights are deemed a risk to public safety. Deactivation will be done without advance notification to BATA, Illuminate or the artist.

As background, the original Bay Lights on the west span of the Bay Bridge were installed in accordance with Caltrans Transportation Art policy in 2013. The operation and maintenance of Bay Lights was documented in a three-party memorandum of understanding (agreement) between Caltrans, the Bay Area Toll Authority (BATA), and Illuminate the Arts (Illuminate). The agreement contemplated the parties to collaborate as follows:

- Illuminate, a California based non-profit organization, secured 100 percent of the funds

associated with the installation of the Bay Lights.

- The Bay Lights were gifted by Illuminate to Caltrans.
- Caltrans and BATA accepted the stewardship of the Bay Lights from Illuminate, including operations, repair and maintenance.
- Caltrans assumed ownership and ongoing operations and maintenance responsibilities for the Bay Lights.
- BATA was responsible for all costs relative to on-going display of the Bay Lights, including reimbursement of Caltrans costs.

To be responsive to Caltrans, FHWA, and CHP concerns relative to safety and operations, Illuminate and BATA have acknowledged the following:

- The risk with the commissioning of the interior lights potentially being disallowed resulting in the associated sunk costs of the installation of interior lights.
- The proposed Bay Lights 360 will be placed on two separate circuits, one for the exterior lights visible from the Bay side and another for interior lights visible from the roadway. Caltrans shall always have full control of both the circuits.
- The interior lights proposed to be visible from the roadway shall not be activated until completion of a comprehensive test fully evaluating their traffic safety and operational impacts.
- There is a risk that there may not be a viable comprehensive test. This would result in the interior lights not being activated.
- To protect against future liability, Illuminate will procure services of a California Registered Traffic Engineer with the skills and knowledge in transportation safety to devise the test and approve the lights timing plan, upon concurrence by Caltrans, CHP, and FHWA.
- After the testing, if the interior lights are approved with unanimous agreement by FHWA, CHP, BATA and Caltrans that motorists' safety will not be impacted, the interior lights can be activated.

7.0 ENVIRONMENTAL

Permittee must implement the required measures from the approved environmental document submitted with this project.

Permittee must comply with Bay Conservation and Development Commission's permit requirements.

Permittee must implement appropriate measures to prevent dropping any object(s) in the San Francisco Bay.

8.0 EXISTING FACILITIES

The existing Bay Lights installation must be completely removed without damage to the existing bridge structure nor disruption to the normal operation of the SFOBB.

The existing facilities within the State right-of-way that are to remain in place must be protected, preserved, and maintained. Any damaged existing facilities within the State right-of-way that are to remain in place must be repaired or replaced by the permittee at the permittee's expense. After the repair, replacement or removal of the artwork, the condition of the facilities must be equal or better in quality than they were before beginning the work. The permittee must remove materials that are not repaired.

9.0 AS-BUILT PLANS

Upon completion of the work provided herein, the Permittee must submit As-Built plans to the State Representative.

All changes in the work will be shown on the plans, as issued with the permit, including changes approved by Encroachment Permit Rider.

The plans are to be prominently stamped or otherwise noted "AS-BUILT" by the Permittee's representative who was responsible for overseeing the work. Any original plan that was approved with a Department stamp must be used for producing the As-Built plans.

As-Built plans must contain the Encroachment Permit Number, County, Route, and Post Mile on each sheet.

The As-Built Plans must not include a disclaimer statement of any kind that differs from the obligations and protections provided by sections 6735 through 6735.6 of the California Business and Professions Code. Such statements constitute non-compliance with Encroachment Permit requirements and may result in the Department retaining Performance Bonds or deposits until proper plans are submitted.

Failure to comply may also result in denial of future encroachment permits or a provision requiring a public agency to supply additional bonding.

10.0 PERMIT RENEWAL

The permittee must apply for a fee-exempt encroachment permit upon reaching the Artwork end of life cycle, by submitting an encroachment permit application at least thirty (30) days in advance of the permit expiration date.

11.0 COMPLETION NOTICE

Immediately following completion of the work permitted herein, the permittee must fill out and mail the attached Notice of Completion to the State Representative.

Conditional Requirements:

In addition to the requirements stated above in this permit BATA/Illuminate/Artist must also fulfill the following conditional requirements prior to securing an encroachment permit for activating the interior lights on west span of SFOBB.:

1. Permittee must enter and execute a new maintenance agreement with Caltrans prior to securing an encroachment permit for activating the interior lights on the west span of SFOBB.
2. The artist must enter and execute Copyright License and Waiver of Moral Rights in Artwork (CLAW) with Caltrans, prior to securing an encroachment permit for activating the interior lights on the west span of SFOBB.

082

Mark Baker <mbaker@moonlightadvocacy.org>

California State Auditor Case: I2026-0771

Mark Baker <mbaker@moonlightadvocacy.org>
To: Mark Baker <mbaker@moonlightadvocacy.org>

Tue, Feb 24, 2026 at 10:47 PM

The complaint was successfully added to our system. The case number is I2026-0771 for future reference in case you have additional information to provide.

Under the California Whistleblower Protection Act (Act), found at Government Code section 8547 et seq., the California State Auditor receives and investigates complaints of improper governmental activities by state agencies and employees. As provided in the Act, any actions we may take in response to your submission must remain confidential. As a result, we are prohibited from keeping you informed about the progress or results of any actions we take in response to your submission. Because of those confidentiality requirements and because we lack enforcement authority, we are unable to help individuals resolve disputes or disagreements they have with state agencies. In addition, the California State Auditor does not have investigative jurisdiction over local and private entities.

082

A174642

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT**

MARK BAKER,
Petitioner and Appellant,

v.

BAY AREA TOLL AUTHORITY,
Respondent,

ILLUMINATE,
Real Party in Interest.

APPELLATE CASE NO. A174642

Appeal From a Judgment Entered in Favor of Respondents
San Francisco County Superior Court Case No. CPF-25-519079
Honorable Judge Jeffrey S. Ross

**[PROPOSED] ORDER GRANTING MOTION FOR JUDICIAL
NOTICE – NUMBER TWO**

MARK BAKER
1520 E. Covell Blvd. Suite 5-467
Davis, CA 95616
Telephone: 503-272-1188
Email: mbaker@softlights.org

Petitioner/Appellant
In Pro Per

The Motion for Judicial Notice filed by Petitioner and Appellant Mark Baker on February 28, 2026, having been considered by this Court, and good cause appearing therefor:

IT IS HEREBY ORDERED that the Motion for Judicial Notice is **GRANTED**.

Pursuant to Evidence Code sections 452, subdivision (c), and 459, this Court takes judicial notice of the following exhibits attached to the Declaration of Mark Baker:

1. EXHIBIT 1: Whistleblower Complaint filed with the California State Auditor.
2. EXHIBIT 2: California State Auditor Confirmation Email with case number I2026-0771.
3. EXHIBIT A: TRANSPORTATION ART / COMMUNITY IDENTIFICATION PROPOSAL.
4. EXHIBIT B: Chapter 29, Section 9 of the Caltrans Project Development Procedures Manual for Transportation Art
5. EXHIBIT C: NOTICE OF EXEMPTION
6. EXHIBIT D: BCDC Permit Amendment No. M2012.009.04.
7. EXHIBIT E: CEQA EXEMPTION / NEPA CATEGORICAL EXCLUSION DETERMINATION FORM.
8. EXHIBIT F: FHWA Approval of Right of Way Use Agreement.
9. EXHIBIT G: Caltrans STANDARD ENCROACHMENT PERMIT APPLICATION.
10. EXHIBIT H: Public Records Request Response R001206-021126.
11. EXHIBIT I: Caltrans ENCROACHMENT PERMIT.

Dated: _____

Presiding Justice of the Court of Appeal

PROOF OF SERVICE

Mark Baker v. Bay Area Toll Authority
Court of Appeal First Appellate District, Division 1
Case: A174642

Electronic Service in accordance with California Code of Civil Procedure Section § 1010.6.

At the time of service, I was over 18 years of age. My residence or business address is 1520 E. Covell Blvd. Suite 5 - 467, Davis, CA 95616.

On February 28, 2026, I electronically served a true copy of the following document:

1. **MOTION FOR JUDICIAL NOTICE – NUMBER TWO**
2. **MEMORANDUM OF POINTS AND AUTHORITIES – NUMBER TWO**
3. **[PROPOSED] ORDER GRANTING APPELLANT'S MOTION FOR JUDICIAL NOTICE – NUMBER TWO**
4. **DECLARATION OF MARK BAKER IN SUPPORT OF MOTION FOR JUDICIAL NOTICE – NUMBER TWO**

on the parties in this action as follows:

Amy Higuera, Outside Counsel for BATA
Stoel Rives, LLP
amy.higuera@stoel.com
1 Montgomery Street, Suite 3230
San Francisco, CA 94104

Sam Bacal-Graves, Outside Counsel for BATA
Stoel Rives, LLP
sam.bacal.graves@stoel.com
1 Montgomery Street, Suite 3230
San Francisco, CA 94104

Ben Davis
Illuminate
ben@illuminate.org
P.O. Box 194210
San Francisco, CA 94119-4210

Jacqueline Alameda
Asbestos/CEQA Clerk
Superior Court of California, County of San Francisco

DepartmentCEQA@sftc.org
400 McAllister Street
San Francisco, CA 94102

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document to be sent from the e-mail address mbaker@moonlightadvocacy.org to the persons at the email addresses listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 28, 2026.



Mark Baker