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2 General Counsel  
3 BAY AREA TOLL AUTHORITY and  
4 METROPOLITAN TRANSPORTATION  
5 COMMISSION  
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7 San Francisco, CA 94105-2066  
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Telephone: 916.444.1000  
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12 Attorneys for Respondents  
13 BAY AREA TOLL AUTHORITY  
14 and METROPOLITAN TRANSPORTATION  
15 COMMISSION

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
17 COUNTY OF SAN FRANCISCO

17 MARK BAKER,  
18  
19 Petitioner,  
20  
21 v.

21 BAY AREA TOLL AUTHORITY;  
22 METROPOLITAN TRANSPORTATION  
23 COMMISSION; CALIFORNIA  
24 DEPARTMENT OF TRANSPORTATION;  
25 FEDERAL HIGHWAY ADMINISTRATION;  
26 AND DOES 1-20,  
27  
28 Respondents.

25 ILLUMINATE, AND DOES 21-40,  
26  
27 Real Parties in Interest.

Case No. CPF-24-518814

**REQUEST FOR JUDICIAL NOTICE IN  
SUPPORT OF DEMURRER TO  
COMPLAINT OF PETITIONER MARK  
BAKER**

*[Action Under the California Environmental  
Quality Act]*

Date: TBD  
Time: 1:30 p.m.  
Dept.: 606  
Judge: Hon. Jeffrey S. Ross

Action Filed: December 16, 2024  
Trial Date: None set

DOWNEY BRAND LLP

1 Pursuant to California Evidence Code, sections 452 and 453, Respondents BAY AREA  
2 TOLL AUTHORITY (BATA) and METROPOLITAN TRANSPORTATION COMMISSION  
3 (MTC) request that the Court take judicial notice of the following evidence (“Subject  
4 Documents”) in support of their Demurrer to Petition for Writ of Mandate and Complaint for  
5 Injunctive Relief, filed concurrently with this Request for Judicial Notice:

6 1. The CEQA Notice of Exemption prepared and filed by BATA on June 8, 2012 with  
7 the San Francisco County Clerk. A true copy is attached hereto as **Exhibit A**.

8 2. The CEQA Notice of Exemption prepared and filed by BATA on May 14, 2015  
9 with the San Francisco County Clerk. A true copy is attached hereto as **Exhibit B**.

10 3. The CEQA Notice of Exemption prepared and filed by BATA on August 15, 2023  
11 with the San Francisco County Clerk. A true copy is attached hereto as **Exhibit C**.

12 4. The January 11, 2023 agenda of the BATA Oversight Committee. A true copy is  
13 attached hereto as **Exhibit D**.

14 5. The January 11, 2023 staff report of the BATA Oversight Committee prepared for  
15 the Bay Lights Project Update. A true copy is attached hereto as **Exhibit E**.

16 6. The email exchange between Petitioner Mark Baker and BATA staff occurring  
17 between December 31, 2023 and January 2, 2024. A true copy is attached hereto as **Exhibit F**.

18 7. The Department of Justice’s 2010 ADA Standards for Accessible Design. A true  
19 copy is attached hereto as **Exhibit G**.

20 BATA and MTC offer the following Memorandum of Points and Authorities in support of  
21 this request that the Court take judicial notice of the Subject Documents.

### 22 **I. MEMORANDUM OF POINTS AND AUTHORITIES**

23 California Evidence Code section 453 requires that a court shall take notice of any matters  
24 specified in Evidence Code section 452, provided that the party requesting notice gives each  
25 adverse party sufficient notice of the request to enable that party to respond, and furnishes the  
26 court with sufficient information to enable it to take judicial notice in the matter. (Evid. Code, §  
27 453.) This Request for Judicial Notice satisfies these requirements because, as demonstrated  
28 further below, it provides notice to all parties of the request, attaches the Subject Documents, and  
provides sufficient information for the Court to take judicial notice of the Subject Documents.

1 **A. The Subject Documents are relevant to the issues raised in BATA’s and MTC’s**  
 2 **Demurrer.**

3 The Demurrer argues that the statute of limitations is expired with respect to the first cause  
 4 of action alleged in the Petition under CEQA. **Exhibits A, B, and C** are Notices of Exemption,  
 5 which are relevant to commencement of the applicable limitations period under CEQA.

6 Additionally, **Exhibits D and E** are documents prepared and published by BATA that show when  
 7 the public was given notice of project changes, also relevant to commencement of the applicable  
 8 limitations period under CEQA. Additionally, **Exhibit F** is an email showing when Petitioner had  
 9 actual notice of project changes, also relevant to commencement of the applicable limitations  
 10 period under CEQA.

11 The Demurrer also argues that the Petition’s claim under the ADA fails as a matter of law.  
 12 **Exhibit G** shows that the ADA in fact *requires* installation of LED lights in some instances.

13 **B. The Subject Documents are Judicially Noticeable**

14 **1. The Court should take judicial notice of Exhibits A, B, and C under Evidence**  
 15 **Code section 452(c).**

16 A court may take judicial notice of “[o]fficial acts of... any state of the United States.”  
 17 (Evid. Code, § 452(c).) This includes records of public agencies. (*Rodas v. Spiegel* (2001) 87  
 18 Cal.App.4th 513, 518 (“*Rodas*”).) Notices of Exemption under CEQA are subject to judicial  
 19 notice pursuant to this provision. (*Stockton Citizens for Sensible Planning v. City of*  
 20 *Stockton* (2012) 210 Cal.App.4th 1484, 1488, fn. 3.)

21 **Exhibits A, B, and C** are Notices of Exemption prepared by BATA and filed with the San  
 22 Francisco County Clerk. Therefore, judicial notice of their existence and content is proper.

23 **2. The Court should take judicial notice of Exhibits D and E under Evidence**  
 24 **Code section 452(c).**

25 As stated above, a court may take judicial notice of “[o]fficial acts of... any state of the  
 26 United States,” including the records of public agencies. (Evid. Code, § 452(c); *Rodas, supra*, 87  
 27 Cal.App.4th at p. 518.)

28 **Exhibit D** is the public agenda of the January 11, 2023 meeting of the BATA Oversight  
 Committee. **Exhibit E** is a report prepared for and attached to that public agenda. Such records are

1 subject to judicial notice under Evidence Code section 452(c). (*Self v. Cher-Ae Heights Indian*  
 2 *Community of Trinidad Rancheria* (2021) 60 Cal.App.5th 209, 213, fn. 1; *Ochoa v. Anaheim City*  
 3 *School Dist.* (2017) 11 Cal.App.5th 209, 221.) Therefore, judicial notice of the existence and  
 4 content of **Exhibits D and E** is proper.

5 **3. The Court should take judicial notice of Exhibit F under Evidence Code**  
 6 **section 452(h).**

7 A court may take judicial notice of “[f]acts and propositions that are not reasonably subject  
 8 to dispute and are capable of immediate and accurate determination by resort to sources of  
 9 reasonably indisputable accuracy.” (Evid. Code, § 452(h).) **Exhibit F** is an email from Petitioner  
 10 Mark Baker, and the response to Petitioner Mark Baker. As there is no genuine dispute as to their  
 11 authenticity, and judicial notice is only sought of the existence and content of the document, and  
 12 not the truth of any assertions therein, judicial notice is proper. (See *Fontenot v. Wells Fargo*  
 13 *Bank, N.A.* (2011) 198 Cal.App.4th 256, 264 [judicial notice found proper under Evidence Code  
 14 section 452(h) where the authenticity of the documents is not challenged].)

15 **4. The Court should take judicial notice of Exhibit G under Evidence Code**  
 16 **section 452(b), (c).**

17 A court may take judicial notice of, “[r]egulations and legislative enactments issued by or  
 18 under the authority of the United States or any public entity in the United States,” and, as  
 19 discussed above, “[o]fficial acts of the legislative, executive, and judicial departments of the  
 20 United States and of any state of the United States.” (Evid. Code, § 452(b), (c).)

21 **Exhibit G** contains regulations adopted by the United States Department of Justice.  
 22 Therefore, its existence and content is judicially noticeable.

23 **C. Conclusion**

24 A court “shall” take judicial notice of any matter specified in section 452 if a party requests  
 25 it, gives sufficient notice of the request, and furnishes the court with sufficient information to  
 26 enable it to take judicial notice of the matter. (Evid. Code, § 453.) Because BATA and MTC have  
 27 requested that this Court take judicial notice of the Subject Documents, have given Petitioner  
 28 sufficient notice of the request, and furnished the Court with sufficient information to take judicial  
 notice, BATA and MTC respectfully request the Court take judicial notice of the Subject

1 Documents in support of the Demurrer pursuant to Evidence Code sections 452 and 453.

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DATED: February 21, 2025

DOWNEY BRAND LLP



By: \_\_\_\_\_

AMY R. HIGUERA  
Attorneys for Respondents  
BAY AREA TOLL AUTHORITY  
and METROPOLITAN TRANSPORTATION  
COMMISSION

DOWNEY BRAND LLP

**EXHIBIT A**

**EXHIBIT A**

# 270810

ENDORSED  
FILED  
San Francisco County Clerk

JUN 08, 2012

**NOTICE OF EXEMPTION** by: **JENNIFER WONG**

Deputy County Clerk

**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)  
101 Eighth Street,  
Oakland, California 94607

**Project Title:** Temporary Bay Bridge Lights Project

**Project Location:** Bay Bridge, San Francisco, CA

**Project Location – City:** City of San Francisco      **Project Location –County:** San Francisco County

**Name of Public Agency Approving Project:** California Department of Transportation (Caltrans) District 4

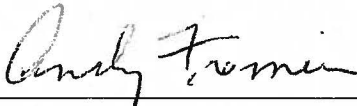
**Description of Project:** The project proposes to temporarily install light-emitting diode (LED) white lights on the Bay Bridge, in honor of the Bay Bridge's 75<sup>th</sup> Diamond Anniversary. Up to thirty thousand (30,000) energy-efficient LED lights, approximately two (2) inches in diameter each, will be installed on the vertical suspender cables of the north facing side of the upper deck level of the Bay Bridge's West span. The bridge lights will face away from bridge vehicular traffic and towards the San Francisco waterfront. The lights will be lit from dusk to early morning (between 12:00am and 2:00am) beginning in late 2012 and light removal is expected to begin in January 2015. The project will not affect the Bay Bridge structure, will not involve any ground disturbance, and does not involve any expansion of use of the Bay Bridge.

**Name of Person or Agency Carrying Out Project:** Illuminate The Arts

**Exempt Status:**       Categorical Exemption, Class 1: Section 15301

**Reasons why project is exempt:** Class 1: Operation, repair, maintenance or minor alterations to a public facility involving no or negligible expansion of use.

The project, installation of temporary lights on the Bay Bridge, involves no expansion of use, will not result in significant effects on the environment due to unusual circumstances, nor will it result in a cumulative impact. The project will not result in a traffic safety impact, damage to scenic resources, cause a substantial adverse change in the significance of a historic resource, or affect sensitive-species or habitat; and the site is not located on a documented hazardous waste site.

<b>Lead Agency Contact Person:</b> Andrew B. Fremier		<b>Phone Number:</b> 510-817-5840	
<b>Signature:</b>		<b>Date:</b> 6/7/2012	<b>Title:</b> Deputy Executive Director, Operations
<input checked="" type="checkbox"/> Signed by Lead Agency			

POSTED	JUN 08 2012
TO	



State of California—The Resources Agency  
 DEPARTMENT OF FISH AND GAME  
 2012 ENVIRONMENTAL FILING FEE CASH RECEIPT

RECEIPT #	<b>270810</b>
STATE CLEARING HOUSE # (if applicable)	

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY

LEAD AGENCY BAY AREA TOLL AUTHORITY (BATA)	DATE 6/8/2012
COUNTY/STATE AGENCY OF FILING SAN FRANCISCO, CA	DOCUMENT NUMBER 418273

PROJECT TITLE  
TEMPORARY BAY BRIDGE LIGHTS PROJECT

PROJECT APPLICANT NAME CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) DISTRICT 4	PHONE NUMBER (510 )817-5840
---	--------------------------------

PROJECT APPLICANT ADDRESS 101 EIGHTH STREET	CITY OAKLAND	STATE CA	ZIP CODE 94607
--	-----------------	-------------	-------------------

PROJECT APPLICANT (Check appropriate box):

Local Public Agency     School District     Other Special District     State Agency     Private Entity

CHECK APPLICABLE FEES:

<input type="checkbox"/> Environmental Impact Report (EIR)	\$2,919.00	\$ _____
<input type="checkbox"/> Negative Declaration (ND)(MND)	\$2,101.50	\$ _____
<input type="checkbox"/> Application Fee Water Diversion (State Water Resources Control Board Only)	\$850.00	\$ _____
<input type="checkbox"/> Projects Subject to Certified Regulatory Programs (CRP)	\$992.50	\$ _____
<input checked="" type="checkbox"/> County Administrative Fee	\$50.00	\$ 50.00
<input checked="" type="checkbox"/> Project that is exempt from fees		
<input checked="" type="checkbox"/> Notice of Exemption		
<input type="checkbox"/> DFG No. Effect Determination (Form Attached)		
<input type="checkbox"/> Other		\$ _____

PAYMENT METHOD:

Cash     Credit     Check     Other \_\_\_\_\_

TOTAL RECEIVED \$ 50.00

SIGNATURE <b>X</b>	Printed Name: JENNIFER WONG	TITLE Deputy County Clerk
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**EXHIBIT B**

**EXHIBIT B**

2015-16

# NOTICE OF EXEMPTION

**ENDORSED  
FILED**  
SAN FRANCISCO County Clerk

MAY 14, 2015

**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  
101 Eighth Street,  
Oakland, California 94612

**by: MARIBEL JALDON**  
Deputy County Clerk

**Project Title:** The Bay Lights Project

**Project Location:** Bay Bridge, San Francisco, CA

**Project Location – City:** City of San Francisco

**Project Location –County:** San Francisco County

**Name of Public Agency Approving Project:** California Department of Transportation (Caltrans) District 4

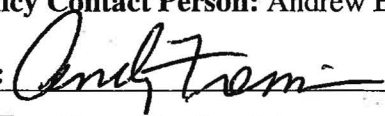
**Description of Project:** The Bay Lights is an existing light-emitting diode (LED) light sculpture art installation on the Bay Bridge’s west span that has been lit since March 5, 2013. The project proposes to extend the lights from a temporary installation into one that extends for a decade or more. After removing the existing LED lights from the vertical suspender cables of the Bay Bridge’s West span to allow for painting of the suspender cables, the lights will be re-installed in time for Super Bowl 50 in February 2016. The lights would be illuminated from dusk to dawn for a period commemorating the Super Bowl and through the year 2026. Up to twenty-five thousand (25,000) energy efficient LED lights, approximately two (2) inches in diameter each, will be installed on the vertical suspender cables of the north-facing side of the upper deck level of the Bay Bridge’s West Span with ultraviolet (UV) resistant plastic coated stainless steel zip ties, so no paint disturbance will occur to the bridge structure. The bridge lights will face away from bridge vehicular traffic and towards the San Francisco waterfront. The project will not affect the Bay Bridge structure, will not involve any ground disturbance, and does not involve any expansion of use of the Bay Bridge.

**Name of Person or Agency Carrying Out Project:** Illuminate The Arts

**Exempt Status:**  Categorical Exemption, Class 1: Section 15301

**Reasons why project is exempt:** Class 1: Operation, repair, maintenance or minor alterations to a public facility involving no or negligible expansion of use.

The project, removal and re-installation of an LED light sculpture art installation on the Bay Bridge, involves no expansion of use, will not result in significant effects on the environment due to unusual circumstances, nor will it result in a cumulative impact. The project will not result in a traffic safety impact, damage to scenic resources, cause a substantial adverse change in the significance of a historic resource, or affect sensitive-species or habitat; and the site is not located on a documented hazardous waste site.

<b>Lead Agency Contact Person:</b> Andrew B. Fremier	<b>Phone Number:</b> 510.817.5840
<b>Signature:</b> 	<b>Date:</b> 5/11/15 <b>Title:</b> Deputy Executive Director
<input checked="" type="checkbox"/> Signed by Lead Agency	

<b>POSTED</b>	<u>MAY 14 2015</u>
<b>TO</b>	_____

**EXHIBIT C**

**EXHIBIT C**

FILED

SAN FRANCISCO County Clerk

AUG 15 2023

by: Mariadyne Nadoza  
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.

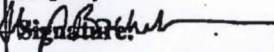
**Reasons why project is exempt:** The project is the extension of the light sculpture for another 10 years, removal and re-installation of the existing LED lights, and the addition of new lights on the driver's side of the same suspension cables to allow a 360-degree view of the LED light sculpture. 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:



**Date:** 7/21/2023

**Title:** Chief Deputy Executive Director

POSTED  
AUG 15 2023  
TO  
SEP 27 2023



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

2023 0800354  
 FILED

**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

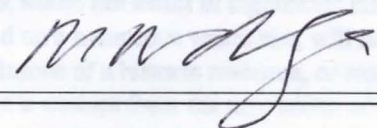
PROJECT APPLICANT (Check appropriate box)  
 Local Public Agency   
 School District   
 Other Special District   
 State Agency   
 Private Entity

CHECK APPLICABLE FEES:

<input type="checkbox"/> Environmental Impact Report (EIR)	\$ 3,839.25	\$ _____
<input type="checkbox"/> Mitigated/Negative Declaration (MND)(ND)	\$ 2,764.00	\$ _____
<input type="checkbox"/> Certified Regulatory Program (CRP) document - payment due directly to CDFW	\$ 1,305.25	\$ _____
<input checked="" type="checkbox"/> Exempt from fee		
<input checked="" type="checkbox"/> Notice of Exemption (attach)		
<input type="checkbox"/> CDFW No Effect Determination (attach)		
<input type="checkbox"/> Fee previously paid (attach previously issued cash receipt copy)		
<hr/>		
<input type="checkbox"/> Water Right Application or Petition Fee (State Water Resources Control Board only)	\$ 850.00	\$ _____
<input checked="" type="checkbox"/> County documentary handling fee	\$ 79.00	\$ 79.00
<input type="checkbox"/> Other		\$ _____

PAYMENT METHOD:  
 Cash   
 Credit   
 Check   
 Other

**TOTAL RECEIVED \$ 79.00**

SIGNATURE  <b>X</b>	AGENCY OF FILING PRINTED NAME AND TITLE Mariedyne Nadonza Deputy Clerk
--	---

**EXHIBIT D**

**EXHIBIT D**



Bay Area Metro Center  
375 Beale Street  
San Francisco, CA 94105

## Meeting Agenda

### Bay Area Toll Authority Oversight Committee

*Committee Members:*

*Vacant, Chair Margaret Abe-Koga, Vice Chair  
Cindy Chavez, Federal D. Glover, Nate Miley, Gina Papan, David  
Rabbitt, Hillary Ronen  
Non-Voting Member: Dina El-Tawansy*

---

Wednesday, January 11, 2023

9:35 AM

REMOTE

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In light of Governor Newsom's State of Emergency declaration regarding COVID-19 and in accordance with Assembly Bill 361's (Rivas) provisions allowing remote meetings, this meeting will be accessible via webcast, teleconference, and Zoom for all participants.

A Zoom panelist link for meeting participants will be sent separately to Committee members.

The meeting webcast will be available at <http://mtc.ca.gov/whats-happening/meetings>. Members of the public are encouraged to participate remotely via Zoom at the following link or phone number. Committee Members and members of the public participating by Zoom wishing to speak should use the "raise hand" feature or dial \*9. When called upon, unmute yourself or dial \*6. In order to get the full Zoom experience, please make sure your application is up to date.

Attendee Link: <https://bayareametro.zoom.us/j/87528612138>

iPhone One-Tap: US: +13462487799,,87528612138# or +12532050468,,87528612138#

Join by Telephone (for higher quality, dial a number based on your current location) US:  
888 788 0099 (Toll Free) or 877 853 5247 (Toll Free)

Webinar ID: 875 2861 2138

International numbers available: <https://bayareametro.zoom.us/u/kkawIVDei>

Detailed instructions on participating via Zoom are available at:

<https://mtc.ca.gov/how-provide-public-comment-board-meeting-zoom>

Members of the public may participate by phone or Zoom or may submit comments by email at [info@bayareametro.gov](mailto:info@bayareametro.gov) by 5:00 p.m. the day before the scheduled meeting date. Please include the committee or board meeting name and agenda item number in the subject line. Due to the current circumstances there may be limited opportunity to address comments during the meeting. All comments received will be submitted into the record.

## 1. Call to Order / Roll Call / Confirm Quorum

*Quorum: A quorum of this committee shall be a majority of its regular non-ex-officio voting members (5).*

## 2. Pledge of Allegiance / Acknowledgement of the Flag

## 3. Compensation Announcement – Clerk of the Committee

## 4. Consent Calendar

- 4a. [23-0003](#) Approval of Bay Area Toll Authority Oversight Committee Minutes of the December 14, 2022 Meeting

**Action:** Committee Approval

**Attachments:** [4a 23-0003 12-14-2022 BATA O Draft Meeting Minutes.pdf](#)

## 5. Authority Approval

- 5a. [22-1450](#) BATA Resolution No. 161 to Adopt the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program for the West Oakland Link Project

A request to refer BATA Resolution No. 161 to the Authority for approval to adopt the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program for the West Oakland Link Project.

**Action:** Authority Approval

**Presenter:** Gavin Lohry

**Attachments:** [5ai 22-1450 Summary Sheet BATA Res No 161.pdf](#)  
[5aii Attachment A TEMP-BATA-RES-0161.pdf](#)  
[5aiii 22-1450 Attachment B IS-MND Final BATA Res No 161.pdf](#)  
[5aiiii 22-1450 Attachment C IS-MND Final Appendices BATA Res No 161.](#)  
[5av 22-1450 Attachment D WOL MMRP BATA Res No 161.pdf](#)  
[5avi 22-1450 Attachment E WOL RTC BATA Res No 161.pdf](#)  
[5avii 22-1450 Attachment F Presentation BATA Res No 161.pdf](#)



- 5b. [22-1746](#) Funding Agreement - West Oakland Link Project: Alameda County Transportation Commission (\$3,000,000)

A request to enter into a funding agreement with the Alameda County Transportation Commission (ACTC) to receive up to \$3,000,000 in funds to allow BATA to complete plans, specifications, and estimates (PS&E) for the West Oakland Link Project.

**Action:** Authority Approval

**Presenter:** Gavin Lohry

**Attachments:** [5b\\_22-1746\\_Funding\\_Agreement-West\\_Oakland\\_Link\\_Project\\_Alameda\\_Cour](#)

## 6. Information

- 6a. [23-0006](#) The Bay Lights Project Update

Update of the Bay Lights Project on the San Francisco Oakland Bay Bridge.

**Action:** Information

**Presenter:** Andrew B. Fremier, MTC and Ben Davis, Illuminate

**Attachments:** [6ai\\_23-0006\\_Summary\\_Sheet\\_The\\_Bay\\_Lights\\_Project\\_Update.pdf](#)

[6aii\\_23-0006\\_PowerPoint\\_The\\_Bay\\_Lights\\_Project\\_Update.pdf](#)

## 7. Public Comment / Other Business

*Committee Members and members of the public participating by Zoom wishing to speak should use the "raise hand" feature or dial \*9. When called upon, unmute yourself or dial \*6.*

## 8. Adjournment / Next Meeting

**The next meeting of the Bay Area Toll Authority Oversight Committee is scheduled to be held on Wednesday, February 8, 2023 remotely and by webcast. Any changes to the schedule will be duly noticed to the public.**

**Public Comment:** The public is encouraged to comment on agenda items at Authority meetings by completing a request-to-speak card (available from staff) and passing it to the Authority secretary. Public comment may be limited by any of the procedures set forth in Section 3.09 of MTC's Procedures Manual (Resolution No. 1058, Revised) if, in the chair's judgment, it is necessary to maintain the orderly flow of business.

**Meeting Conduct:** If this meeting is willfully interrupted or disrupted by one or more persons rendering orderly conduct of the meeting unfeasible, the Chair may order the removal of individuals who are willfully disrupting the meeting. Such individuals may be arrested. If order cannot be restored by such removal, the members of the Authority may direct that the meeting room be cleared (except for representatives of the press or other news media not participating in the disturbance), and the session may continue.

**Record of Meeting:** Authority meetings are recorded. Copies of recordings are available at a nominal charge, or recordings may be listened to at MTC offices by appointment. Audiocasts are maintained on MTC's Web site ([mtc.ca.gov](http://mtc.ca.gov)) for public review for at least one year.

**Accessibility and Title VI:** MTC provides services/accommodations upon request to persons with disabilities and individuals who are limited-English proficient who wish to address Commission matters. For accommodations or translations assistance, please call 415.778.6757 or 415.778.6769 for TDD/TTY. We require three working days' notice to accommodate your request.

**可及性和法令第六章:** MTC 根據要求向希望來委員會討論有關事宜的殘疾人士及英語有限者提供服務/方便。需要便利設施或翻譯協助者，請致電 415.778.6757 或 415.778.6769 TDD / TTY。我們要求您在三個工作日前告知，以滿足您的要求。

**Acceso y el Título VI:** La MTC puede proveer asistencia/facilitar la comunicación a las personas discapacitadas y los individuos con conocimiento limitado del inglés quienes quieran dirigirse a la Comisión. Para solicitar asistencia, por favor llame al número 415.778.6757 o al 415.778.6769 para TDD/TTY. Requerimos que solicite asistencia con tres días hábiles de anticipación para poderle proveer asistencia.

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Attachments are sent to Authority members, key staff and others as appropriate. Copies will be available at the meeting.

All items on the agenda are subject to action and/or change by the Authority. Actions recommended by staff are subject to change by the Authority.

**EXHIBIT E**

**EXHIBIT E**

**Bay Area Toll Authority**  
**Oversight Committee**

**January 11, 2023**

**Agenda Item 6a**

**The Bay Lights Project Update**

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**Subject:**

Update of the Bay Lights Project on the San Francisco Oakland Bay Bridge.

**Background:**

The Bay Lights is an art display sponsored by the non-profit organization Illuminate (formerly Illuminate the Arts) and was developed to commemorate the 75<sup>th</sup> anniversary of the San Francisco-Oakland Bay Bridge (Bay Bridge). The existing light sculpture by artist Leo Villareal is composed of 24,000 individual light-emitting diodes (LEDs) installed on the north suspension cables of the west span. The Bay Lights was first commissioned as a two-year temporary installation on March 5, 2013. The Bay Lights was replaced in-kind in the Fall of 2015 and re-commissioned in February 2016 as a permanent installation gifted to Caltrans with maintenance supported by the Bay Area Toll Authority (BATA).

Due to an aging system, Illuminate proposes to replace the Bay Lights in 2023, around the 10<sup>th</sup> anniversary of the original Bay Lights going live. The removal of the existing LEDs is anticipated to begin March 5, 2023, with the installation of a new The Bay Lights 360 (TBL360) Project scheduled to be illuminated on September 3, 2023, in celebration of the 10<sup>th</sup> anniversary of the Bay Bridge East Span.

The new TBL360 Project will install forty-eight thousand (48,000) new energy-efficient LEDs, replacing the existing LEDs on the north side and adding new LEDs on the driver's (south-facing) side of the same suspender cables on the west span of the bridge for a 360-degree view of the lights. TBL360 will include updated and more robust components while keeping the same technical details and intensity of the lights as the current installation. The new TBL360 will be visible from all directions (360-degree view) for increased aesthetic equity and will be lit from dusk to dawn. The lights on the San Francisco and the East Bay sides will have separate control systems so they can be turned off independently if necessary. The light display will continue to appear to be moving in a wave-like and alternating flickering non-repeatable but abstract pattern, consistent with the existing lighting and will be programmed by artist Leo Villareal.

Illuminate is working on raising \$11 million in private funding for the replacement of the Bay Lights. BATA would continue to support the maintenance of the installation at \$400,000 per year (not included in the \$11 million capital cost). With approval by the BATA Oversight Committee in December 2014, Illuminate, Caltrans, and BATA entered into a Memorandum of Understanding (MOU) to document their intentions to keep the lights on indefinitely. In the MOU, Caltrans agreed to assume ownership of the Bay Lights contingent upon reimbursement by BATA for any operations and maintenance costs borne by Caltrans. An amendment to the existing MOU between Caltrans, Illuminate, and BATA to extend the previous MOU arrangement is currently under discussion.

BATA intends to enter into a new ten-year fixed price maintenance contract with Illuminate's TBL360 contractor to ensure consistency and quality in the appearance of the Bay Lights.

**Next Steps:**

Staff will be returning for Committee in mid-2023 with a recommendation for the approval of the maintenance services contract for The Bay Lights 360.

**Issues:**

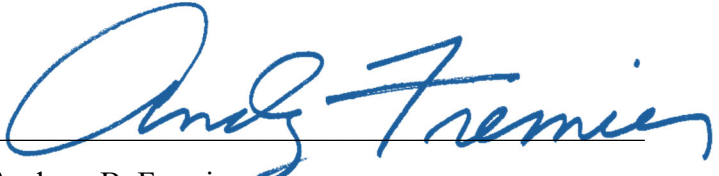
None identified.

**Recommendations:**

Information

**Attachments:**

- Attachment A: PowerPoint

  
Andrew B. Fremier

**EXHIBIT F**

**EXHIBIT F**

**From:** [Megan Nangle](#)  
**To:** [Megan Nangle](#)  
**Subject:** FW: ADA Request for Accommodation - LEDs on Bay Bridge  
**Date:** Friday, December 13, 2024 10:40:24 AM

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**From:** John Goodwin <[JGoodwin@bayareametro.gov](mailto:JGoodwin@bayareametro.gov)>  
**Sent:** Tuesday, January 2, 2024 3:57 PM  
**To:** Mark Baker <[mbaker@softlights.org](mailto:mbaker@softlights.org)>  
**Cc:** MTC-ABAG Info <[info@bayareametro.gov](mailto:info@bayareametro.gov)>; Vince@DOT Jacala <[vince.jacala@dot.ca.gov](mailto:vince.jacala@dot.ca.gov)>;  
Bart.Ney <[Bart.Ney@dot.ca.gov](mailto:Bart.Ney@dot.ca.gov)>  
**Subject:** RE: ADA Request for Accommodation - LEDs on Bay Bridge

Dear Mr. Baker:

Thank you for your thoughtful message, and for your inclusion of Illuminate on the cc line. I have cc'd here a couple of my counterparts in the public information section at Caltrans, which is the owner and operator of the Bay Bridge, the owner of the previous Bay Lights installation, and the presumed owner of any future installation. An information item at the January 2023 meeting of MTC's BATA Oversight Committee noted that an amendment to the 2014 Memorandum of Understanding between Caltrans, BATA and Illuminate on which the previous Bay Lights installation was based is under discussion. The agenda and material for that January 2023 meeting may be found at:

[https://mtc.ca.gov/sites/default/files/meetings/accessible/59abaa2c75e66dbad022a8d54f867ed2\\_16.htm](https://mtc.ca.gov/sites/default/files/meetings/accessible/59abaa2c75e66dbad022a8d54f867ed2_16.htm).

John Goodwin  
Asst. Director, Communications  
Metropolitan Transportation Commission/Bay Area Toll Authority  
375 Beale Street, Suite 800  
San Francisco, CA 94105  
415.778.5262 — office  
510.384.7291 — mobile  
MTC main phone number: 415.778.6700  
[www.mtc.ca.gov](http://www.mtc.ca.gov)

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**From:** Mark Baker <[mbaker@softlights.org](mailto:mbaker@softlights.org)>  
**Sent:** Sunday, December 31, 2023 8:01 PM  
**To:** MTC-ABAG Info <[info@bayareametro.gov](mailto:info@bayareametro.gov)>  
**Cc:** [Ben@illuminate.org](mailto:Ben@illuminate.org) <[Ben@illuminate.org](mailto:Ben@illuminate.org)>; [info@dralegal.org](mailto:info@dralegal.org) <[info@dralegal.org](mailto:info@dralegal.org)>  
**Subject:** ADA Request for Accommodation - LEDs on Bay Bridge

**\*External Email\***

Dear Metropolitan Transportation Commission,

I have learned that the MTC is considering authorizing the use of tens of thousands of hazardous LED lights to be operated on the Bay Bridge by the organization Illuminate.

(<https://sfstandard.com/2023/12/28/san-franciscobay-bridge-light-show-could-return-in-2024/>).

LEDs emit hazardous visible radiation that causes certain individuals to suffer seizures, migraines, panic attacks, nausea and other adverse neurological reactions. LED products are regulated by the US Food and Drug Administration, and yet the FDA has not published the Congressionally mandated performance standards to ensure the comfort, health, safety, and civil rights of the public as required by 21 U.S.C. 360ii. Therefore, there is no legal basis for the use of LED lights such as proposed by Illuminate. LED lights are unsafe.

This is a formal Americans with Disabilities Act request for accommodation for myself, and all those individuals similarly situated who cannot neurologically process the intense, spatially non-uniform light emitted by LEDs. The accommodation I request is the denial of any permit for Illuminate to operate the LED display on the Bay Bridge or any other location, due to the discriminatory barrier that their use will create, preventing certain individuals with disabilities, including myself, from having full and equal access to the Bay Bridge and other city services. My request is reasonable and readily achievable.

Here is a link to my ADA lawsuit that I recently filed against the city of Fairfield, California regarding LED lights which provides detailed information as to why the MTC is required to provide accommodation for LED lights: ([https://www.softlights.org/wp-content/uploads/2023/12/Baker-v.-Fairfield\\_Filed.pdf](https://www.softlights.org/wp-content/uploads/2023/12/Baker-v.-Fairfield_Filed.pdf)). I have copied Disability Rights Advocates in this email.

I request a response within 30 days.

Sincerely,

Mark Baker  
President  
Soft Lights Foundation  
[www.softlights.org](http://www.softlights.org)  
[mbaker@softlights.org](mailto:mbaker@softlights.org)



**EXHIBIT G**

**EXHIBIT G**

**404.2.8 Closing Speed.** Door and gate closing speed shall comply with 404.2.8.

**404.2.8.1 Door Closers and Gate Closers.** Door closers and gate closers shall be adjusted so that from an open position of 90 degrees, the time required to move the door to a position of 12 degrees from the latch is 5 seconds minimum.

**404.2.8.2 Spring Hinges.** Door and gate spring hinges shall be adjusted so that from the open position of 70 degrees, the door or gate shall move to the closed position in 1.5 seconds minimum.

**404.2.9 Door and Gate Opening Force.** Fire doors shall have a minimum opening force allowable by the appropriate *administrative authority*. The force for pushing or pulling open a door or gate other than fire doors shall be as follows:

1. Interior hinged doors and gates: 5 pounds (22.2 N) maximum.
2. Sliding or folding doors: 5 pounds (22.2 N) maximum.

These forces do not apply to the force required to retract latch bolts or disengage other devices that hold the door or gate in a closed position.

**Advisory 404.2.9 Door and Gate Opening Force.** The maximum force pertains to the continuous application of force necessary to fully open a door, not the initial force needed to overcome the inertia of the door. It does not apply to the force required to retract bolts or to disengage other devices used to keep the door in a closed position.

**404.2.10 Door and Gate Surfaces.** Swinging door and gate surfaces within 10 inches (255 mm) of the finish floor or ground measured vertically shall have a smooth surface on the push side extending the full width of the door or gate. Parts creating horizontal or vertical joints in these surfaces shall be within 1/16 inch (1.6 mm) of the same plane as the other. Cavities created by added kick plates shall be capped.

- EXCEPTIONS:**
1. Sliding doors shall not be required to comply with 404.2.10.
  2. Tempered glass doors without stiles and having a bottom rail or shoe with the top leading edge tapered at 60 degrees minimum from the horizontal shall not be required to meet the 10 inch (255 mm) bottom smooth surface height requirement.
  3. Doors and gates that do not extend to within 10 inches (255 mm) of the finish floor or ground shall not be required to comply with 404.2.10.
  4. Existing doors and gates without smooth surfaces within 10 inches (255 mm) of the finish floor or ground shall not be required to provide smooth surfaces complying with 404.2.10 provided that if added kick plates are installed, cavities created by such kick plates are capped.

**404.2.11 Vision Lights.** Doors, gates, and side lights adjacent to doors or gates, containing one or more glazing panels that permit viewing through the panels shall have the bottom of at least one glazed panel located 43 inches (1090 mm) maximum above the finish floor.

**EXCEPTION:** Vision lights with the lowest part more than 66 inches (1675 mm) from the finish floor or ground shall not be required to comply with 404.2.11.

**404.3 Automatic and Power-Assisted Doors and Gates.** Automatic doors and automatic gates shall comply with 404.3. Full-powered automatic doors shall comply with ANSI/BHMA A156.10 (incorporated

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**PROOF OF SERVICE**

**Mark Baker v. Bay Area Toll Authority, et al  
Case No. CPF-24-518814**

**STATE OF CALIFORNIA, COUNTY OF SACRAMENTO**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Sacramento, State of California. My business address is 621 Capitol Mall, 18th Floor, Sacramento, CA 95814.

On February 21 2025, I served true copies of the following document(s) described as **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DEMURRER TO COMPLAINT OF PETITIONER MARK BAKER** on the interested parties in this action as follows:  
**SEE ATTACHED SERVICE LIST**

**BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the practice of Downey Brand LLP for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The envelope was placed in the mail at Sacramento, California.

**BY E-MAIL OR ELECTRONIC TRANSMISSION:** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent from e-mail address dreeder@downeybrand.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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

Executed on February 21, 2025, at Sacramento, California.



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Dana Reeder

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**SERVICE LIST**  
*Mark Baker v. Bay Area Toll Authority, et al*  
**Case No. CPF-24-518814**

**Via Email and US Mail**

Mark Baker  
Soft Lights Foundation  
9450 SW Gemini Drive PMB 44671  
Beaverton, OR 97008  
[mbaker@softlights.org](mailto:mbaker@softlights.org)  
Telephone: 234-206-1977

*Pro Se*

**Via Email and US Mail**

Jennifer Flint  
Deputy Attorney  
California Department of Transportation  
111 Grand Ave., Suite 11-100  
Oakland, CA 94612-3717  
[jennifer.flint@dot.ca.gov](mailto:jennifer.flint@dot.ca.gov)  
Telephone: 415-635-4175

*Counsel for California Department of  
Transportation*

**Courtesy Copy sent Via Email**

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[kkane@bayareametro.gov](mailto:kkane@bayareametro.gov)  
Telephone: 415-778-6700

*General Counsel Bay Area Toll Authority  
Metropolitan Transportation Commission*

**Via Email and US Mail**

Ben Davis  
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P.O. Box 194210  
San Francisco, CA 94119-4210  
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*Real Party-in-Interest*