

Date: December 20 2023
Referred By: BAIFA Network and Operations Committee

ABSTRACT

Resolution No. 51

This resolution authorizes the delegation of the Solano Interstate 80 (I-80) Express Lanes Toll System Design Plans Approval to specified staff.

Further discussion of this subject is contained in the BAIFA Network and Operations Committees' Summary Sheet dated December 8, 2023.

Date: December 20, 2023
Referred by: BAIFA NOC

BAY AREA INFRASTRUCTURE FINANCING AUTHORITY
RESOLUTION NO. 51

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

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

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

WHEREAS, the Bay Area Infrastructure Financing Authority (BAIFA) anticipates constructing a public improvement through its work on the Solano Interstate 80 (I-80) Express Lanes Toll System project; and

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

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

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

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

RESOLVED, that the legislative body of BAIFA hereby delegates to Director, Field Operations and Asset Management and Assistant Director, Express Lanes Program the authority to exercise discretionary authority on behalf of BAIFA to approve the designs, design amendments, and design addenda for Solano Interstate 80 (I-80) Express Lanes Toll System project; and, be it further

RESOLVED, that the legislative body of BAIFA delegates authority to Lisa Klein, Director, Field Operations and Asset Management and/or Stephen Wolf, Assistant Director, Express Lanes Program (or successor section with same or similar scope and responsibilities) provided that any designs, design amendments, and design addenda approved by Lisa Klein, Director, Field Operations and Asset Management and/or Stephen Wolf, Assistant Director, Express Lanes Program (or successor section with same or similar scope and responsibilities) are prepared by or previously reviewed by an appropriate licensed design professional; and, be it further

RESOLVED, that the approval of any designs, design amendments, and design addenda by Director, Field Operations and Asset Management or Assistant Director, Express Lanes Program is limited to the acceptance or approval of the designs based upon an appropriate licensed design professional's representation that such designs are in general conformance with applicable statutes, codes, standards, and guidelines for the purposes of California Government Code Section 830.6 and otherwise, the responsibility and liability for the completeness, accuracy, and conformance of such will continue to reside with the Engineer of Record, Engineering Firm of Record, or public agency that prepared the design; and, be it further

RESOLVED, that Director, Field Operations and Asset Management or Assistant Director, Express Lanes Program shall document this resolution and any approvals exercised by Director, Field Operations and Asset Management or Assistant Director, Express Lanes Program in the project file for Solano Interstate 80 (I-80) Express Lanes Toll System project.

BAY AREA INFRASTRUCTURE FINANCING AUTHORITY

Alfredo Pedroza, Chair

The above resolution was entered into by BAIFA at a regular meeting of the BAIFA held in San Francisco, California and at other remote locations, on December 20, 2023.