



U.S. Department
of Transportation
**Federal Highway
Administration**

California Division

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May 7, 2020

In Reply Refer To:
HDA-CA

Mr. Adetokunbo "Toks" Omishakin
Director
California Department of Transportation
P.O. Box 942873
Sacramento, CA 9427

Dear Director Omishakin:

I am writing to revoke the Federal Highway Administration's (FHWA) April 1, 2020, approval of the non-highway use of the right-of-way (ROW) on I-280 adjacent to Evans Avenue and Selby Street in San Francisco (04-SFX-280-0028-04) and the waiver of the fair market value lease rate for the location. These approvals are revoked because they were issued without a valid NEPA determination.

On April 1, 2020, the FHWA California Division approved your request of March 9, 2020, to use the I-280 ROW at the aforementioned location for a non-highway purpose (a "temporary emergency shelter and feeding program"—an approximately 44,000 square foot, 203 bed facility) and a waiver of the fair market lease rate. Unfortunately, these approvals are not valid because the FHWA California Division did not make a NEPA determination for these approvals. While the California Department of Transportation (Caltrans) signed a categorical exclusion (CE) for this approval action on December 12, 2019, under its 23 United States Code (U.S.C.) 326 CE assignment authority, this project has not been assumed by the State under that authority. The CE assignment authority under 23 U.S.C. 326 applies to highway projects eligible under Title 23, U.S.C., and a lease for a temporary homeless shelter is not a Title 23 eligible project. Therefore, the FHWA California Division should have made the NEPA determination. Since it did not, FHWA approvals are not valid. Additionally, since this location is on Interstate ROW, we are reconsidering whether a temporary homeless shelter is an appropriate use of the Interstate ROW. As such, please note that FHWA may not choose to proceed with the approval of the non-highway use of the Interstate ROW at this location or the fair market value waiver should Caltrans again choose to request approval.

We also are aware that Caltrans improperly issued the NEPA determination for the Beacon Street Park and Ride lot in Los Angeles, the 5th Street and Bryant Street location in San Francisco, and the 13th Street and Division Street location in San Francisco. We are reviewing the fair market value exception approvals for these locations to determine next steps.

If you have any questions, please contact me at (916) 498-5015 or by email at vincent.mammano@dot.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Vincent Mammano". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Vincent Mammano
Division Administrator
Federal Highway Administration