

# Bay Area Toll Authority (BATA)

September 27, 2023

Agenda Item 2b - 23-1193

## **BATA Resolution No. 171. Establishment of Process for Approval of Design Plans and Procedures for Delegation of Approval Authority**

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### **Subject:**

A request that the Commission approve BATA Resolution No. 171: 1) authorizing approval of construction designs pursuant to Government Code Section 830.6 by either the full Authority or the relevant Committee considering related project authorizations; 2) permitting delegation of final approval authority by the Authority or its Committee to designated staff persons; and 3) adopting related procedures for design approval.

### **Background:**

Government Code section 830.6 provides immunity to governmental agencies for the design aspects of a project if the design plans are approved by the agency and are reasonable and consistent with design standards. In order for an agency to take advantage of such immunity, the agency's legislative body, or another body or employee vested with discretionary authority, must approve the design plans of an agency project prior to the start of construction. Agencies must adopt appropriate procedures designating how approval can be conferred and act in accordance with those procedures in order to secure immunity for the designs in question.

**Issues:** None.

### **Recommendations:**

Staff recommends that the Authority approve BATA Resolution No. 171: 1) authorizing approval of construction designs pursuant to Government Code Section 830.6 by either the full Authority or the relevant Committee considering related project authorizations; 2) permitting delegation of final approval authority by the Authority or its Committee to designated staff persons; and 3) adopting related procedures for design approval.

### **Attachments:**

BATA Resolution No. 171

DocuSigned by:

*Kathleen Kane*

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Kathleen Kane, General Counsel

Date: September 27, 2023  
Referred by: BATA

ABSTRACT

Resolution No. 171

This resolution establishes procedures and delegates authority for approval of construction designs pursuant to Government Code Section 830.6.

Further discussion of this action is contained in the Summary for the Bay Area Toll Authority dated September 27, 2023.

Date: September 27, 2023  
Referred by: BATA

Re: Establishment of process for approving design plans and procedures for delegation of approving authority

BAY AREA TOLL AUTHORITY  
RESOLUTION NO. 171

WHEREAS, Government Code Section 830.6 provides immunity to governmental agencies for the design aspects of a project if the design plans are approved by the agency and are reasonable and consistent with design standards; and

WHEREAS, in order for an agency to take advantage of such immunity, the agency's legislative body, or another body or employee vested with discretionary authority, must approve the design plans of an agency project prior to the start of construction; and

WHEREAS, due to the time constraints associated with construction projects, establishing a process for approval and delegation of approval of design plans is necessary for government efficiency and the safeguarding of public funds; now, therefore, be it

RESOLVED, that the Bay Area Toll Authority adopts the policies and provisions stated in Attachment A to this resolution, attached hereto and incorporated herein as though set forth at length, providing for a process for design plan approval and delegation of discretionary authority for approval of design plans; and, be it further

RESOLVED, that the Bay Area Toll Authority delegates the discretionary authority of approving design plans to the committee of the Authority that provides any other approvals or oversight with regard to the corresponding project; and be it further

RESOLVED, notwithstanding the above and any further delegation of authority made pursuant to the policies and provisions stated in Attachment A, the Bay Area Toll Authority shall always retain the authority and ability to approve design plans in the event such approval is more efficient than seeking approval from any body or employee who is delegated authority, or in the event that such body or employee is unable to render timely approval; and, be it further

RESOLVED, that Attachment A may be amended from time to time by the Bay Area Toll Authority as it deems appropriate, to further refine the process of design plan approval and/or address changed circumstances.

BAY AREA TOLL AUTHORITY

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Alfredo Pedroza, Chair

The above resolution was entered into by the Bay Area Toll Authority at a duly called and noticed meeting held in San Francisco, California and at other remote locations, on September 27, 2023.

Date: September 27, 2023  
Referred by: BATA

Attachment A  
BATA Resolution No. 171  
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BAY AREA TOLL AUTHORITY PROCESS FOR APPROVING DESIGN PLANS AND  
DELEGATING AUTHORITY TO APPROVE DESIGN PLANS PURSUANT TO  
GOVERNMENT CODE § 830.6

1. Design plans for all construction projects undertaken by the Bay Area Toll Authority shall conform to the relevant design standards set by applicable state and local laws and regulations.
2. Design plans shall be approved by Bay Area Toll Authority or its committee tasked with project oversight (collectively, the “approving body”) prior to the start of construction. Such approval shall take place during a public meeting of the approving body and shall be recorded in the minutes for that meeting.
3. Design plans generally shall be created and stamped by a licensed design professional prior to approval. If plans are not stamped by a licensed design professional, a licensed design professional must review the design plans and find that they are reasonable prior to presenting the plans to the approving body for approval.
4. No amendments may be made to approved design plans without subsequent approval consistent with the provisions outlined in this Attachment A. Any such subsequent approval must be documented as specified herein.
5. The approving body for any project may delegate the discretionary authority for the initial approval and/or approval of amendments for design plans to a Metropolitan Transportation Commission employee acting on behalf of the Authority. Such delegation must be made during a public meeting of the approving body and noted in the minutes for the meeting.

The authorized employee shall approve the plans or amendments prior to the beginning of construction on the project or portion of the project relating to the plan or amendment. All approvals of plans and amendments by the employee shall be documented in writing and kept with all other project files and documents. Such written approvals must be retained by the Authority indefinitely in the form and manner in which other permanent files of the Authority are stored.

An authorized employee shall not be given the authority to further delegate authority to other employees or contractors. All delegations of authority must be made by the approving body.