



Midpeninsula Regional
Open Space District

R-17-43
Meeting 17-12
May 24, 2017

AGENDA ITEM 7

AGENDA ITEM

Delegation of Authority to the General Manager to review and discretionarily approve technical designs, plans and specifications for construction and engineering projects

GENERAL MANAGER'S RECOMMENDATION

Adopt a Resolution delegating to the General Manager the authority to review and discretionarily approve technical designs, plans and specifications for construction and engineering projects.

SUMMARY

As the Midpeninsula Regional Open Space District (District) staff implements direction from the Board of Directors (Board) to proceed with facility repairs, new site improvements, and other construction projects, there are an increasing number of associated technical construction, engineering and design documents that need to be reviewed and approved. These documents form part of the Construction Bid Package and provide the detailed construction specifications and technical documentation necessary to implement a project. Currently, there is no set process for approving such detailed design documents. Most are approved by the General Manager, and some, including most recently the Mount Umunhum Road Repair Construction Plans, are approved by the Board.

The proposed Resolution would expressly delegate the authority to review and approve such design documents to the General Manager or his or her designee. This delegation of authority would increase efficiency, rely on internal technical expertise to approve detailed construction and engineering plans, and improve the District's internal risk management practice. For large, complex projects, or smaller projects with policy implications, the Board would continue to approve the Conceptual Designs. Two forthcoming examples are the Administrative Office Rebuild Project and Red Barn Public Access Site Plan Project. This level of design review and approval provides sufficient level of detail for the Board to direct the allowable uses, the specific amenities and improvements, overall design character, use of green materials, location, scale, connectivity, cost, and any other project specific elements of interest to the Board. For projects that are implementing prior Board-approved plans or policies, the Board would confirm and approve the project scope, schedule, and budget as part of the annual Action Plan and Budget approval process, and approve any awards of contract for work over \$50,000. If the project significantly deviates from the approved scope, schedule, budget, or policy framework, then the General Manager would bring forth the Project to the Board for review and approval. Examples include the Lower Purisima Creek Restroom Replacement Project and pond repairs at La Honda Creek Open Space Preserve that implement the prior Board-approved Pond Management Plan.

DISCUSSION

Until more recently, the District had not traditionally thought of itself as being in the construction and site improvement business. The main emphasis over the District's first forty-five years had been on land acquisition and preservation, with construction being incidental to providing public access through trails and parking areas, and in maintaining structures previously built on the properties acquired. The number and scale of improvements built and acquired has accumulated over time on the approximately 63,000 acres now in District ownership. Moreover, the number of improvement projects planned under Measure AA is and will continue to increase the number and complexity of such improvements. With increasing complexity, there is also greater need for technical designs and plans for construction and engineering projects, and adjustments to those designs and plans during implementation. One set of examples of such improvements now in the pipeline include the Mount Umunhum Road Repair and Summit Projects that are providing for visitor-serving amenities and access to the mountain top. The Board approved the Conceptual Designs for both projects and gave a project-specific delegation to the General Manager by minute order on May 11, 2016 to approve any needed changes to the designs and plans. During the discussion, the Board was informed that a more general delegation to cover future construction and improvement work would follow at a future date. That date is now upon us.

From a risk management point of view, more extensive legal immunities are available to public agencies from tort claims associated with public improvements if there is a discretionary review and approval of a project design or plan by either a body of elected officials (such as the Board), or by a staff person specifically delegated with such approval authority. By means of the proposed Resolution, the Board would delegate that authority to the General Manager, or his or her designee.

The concept of delegating authority over design approvals is common among local agencies that construct public facilities. The authorizing body -- such as a City Council, Board of Supervisors, or Board of Directors -- approves the project design at a conceptual design level and authorizes the award of contracts for detailed design and engineering documents and construction contracts. For example, a City Engineer is typically delegated the authority to review and approve the working details, drawings, plans, and specifications prepared for public improvements and any adjustments deemed necessary or of major benefit that still meet the goals and the funding limits as previously approved by the elected body.

At this point in the District's staffing structure, the General Manager is likely to designate the Engineering and Construction Manager as the individual authorized to review and approve the technical designs, plans and specifications for construction and engineering projects on behalf of the General Manager. From a risk management perspective, engineering expertise is not essential for preserving legal immunities. The threshold is that a reasonable person must examine the design and be vested with the authority to discretionarily approve it. The General Manager therefore, however, could delegate this authority to another District employee if the Engineering and Construction Manager position becomes vacant, if a more particular type of expertise was needed, or for other administrative and project management purposes.

The proposed Resolution would have the effect of allowing the Board, through the General Manager, to have the individual with the most appropriate level of knowledge of both the public policy and the practical/technical drivers behind the project to be the one reviewing and

approving the more detailed designs and construction plans. This will avoid unnecessary delays in the project delivery process, make better use of the Board's time at the higher level of priorities, funding, and public policy direction while promoting efficiency in and professional oversight of the design and construction process, and enhance risk management practices. Moreover, as previously mentioned, the Board would continue to retain project approvals at the Conceptual Design level for large, complex projects or projects with policy implications not previously considered by the full Board to ensure that each project meets Board goals and expectations (Attachment 2). For projects that are implementing prior Board-approved plans or policies, the Board would confirm and approve the project scope, schedule, and budget as part of the annual Action Plan and Budget approval process, and approve any awards of contract for work over \$50,000 (Attachment 3). In either case, if the project significantly deviates from the prior Board-approved scope/plan, schedule, budget, or policy framework, then the General Manager would bring the Project back to the Board for additional direction. Moreover, the General Manager would continue to keep the Board apprised of Project progress through report-outs, Board FYIs, or the Biweekly Notes.

FISCAL IMPACT

None.

BOARD COMMITTEE REVIEW

This item was previously discussed by the full Board and was not referred to a committee.

PUBLIC NOTICE

Public notice of this Agenda Item was provided as required by the Brown Act.

CEQA COMPLIANCE

This action is not a Project within the meaning of the California Environmental Quality Act (CEQA).

NEXT STEPS

The General Manager will work with the General Counsel and Assistant General Managers to develop an appropriate approval process for using the delegated authority, and bring back to the Board any issues arising from the development or use of the process that might require further Board authorizations or direction.

Attachments

1. Resolution Delegating to the General Manager the Authority to Review and Discretionarily Approve Technical Designs, Plans and Specifications for Construction and Engineering Projects
2. Project Review and Approval Process for Large, Complex Projects and Smaller Projects with New Policy Implications
3. Project Review and Approval Process for Small-Medium Projects that Implement Prior Board-approved Plans/Policies and Do Not Raise New Policy Issues

Responsible Department Head:
Stephen Abbors, General Manager

Prepared by:
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Ana Ruiz, Assistant General Manager

Staff Contact:
Sheryl Schaffner, General Counsel

RESOLUTION NO. 17-__

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT DELEGATING
TO THE GENERAL MANAGER THE AUTHORITY TO REVIEW AND
DISCRETIONARILY APPROVE TECHNICAL DESIGNS, PLANS AND
SPECIFICATIONS FOR CONSTRUCTION AND ENGINEERING
PROJECTS**

WHEREAS, the increase in the number of construction and engineering projects required to implement Measure AA and to maintain and improve all of the District's ~63,000 acres of property calls for more efficient processes to make responsible use of staff resources and skill sets, and to improve and maintain timely project delivery; and

WHEREAS, the Board of Directors maintains budgetary and policy control over projects through its annual budget and action plan, contract approvals, policy approvals, and project plan approvals; and

WHEREAS, for the above purposes, the Board desires to authorize the General Manager to review and discretionarily approve technical designs, plans and specifications for construction and engineering projects, so long as the projects as approved would not (1) result in an exceedance of the dollar limit of the contract limit authorized by the Board, or the budget for the Project or (2) deviate from prior Board-approved policies or plans.

THE BOARD OF DIRECTORS OF THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT DOES THEREFORE HEREBY RESOLVE AS FOLLOWS:

SECTION ONE. The General Manager, or his or her designee, is authorized to review and discretionarily approve technical designs, plans and specifications for construction and engineering projects, so long as such approvals would not result in an exceedance of the dollar limit of the contract limit or budget for the project as authorized by the Board. Any designs or approvals that would deviate from prior Board-approved policies or plans, or result in a change to the budgetary or contract exceedance shall be brought back to the Board for further direction, including consideration of changes to the budgetary or contractual authority.

SECTION TWO. In the exercise of this authority, the General Manager shall apply all appropriate engineering standards, best practices and professional judgment to achieve the Board's policy directives, using appropriate guideposts such as the public interest and safety, as well as budgetary constraints, where there is no single clear-cut standard applicable to the project under his or her review.

SECTION THREE. This delegation is effective immediately upon approval, and will continue in force unless or until withdrawn by further action of the Board.

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PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on _____. 2017, at a regular meeting thereof, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Secretary
Board of Directors

President
Board of Directors

APPROVED AS TO FORM:

General Counsel

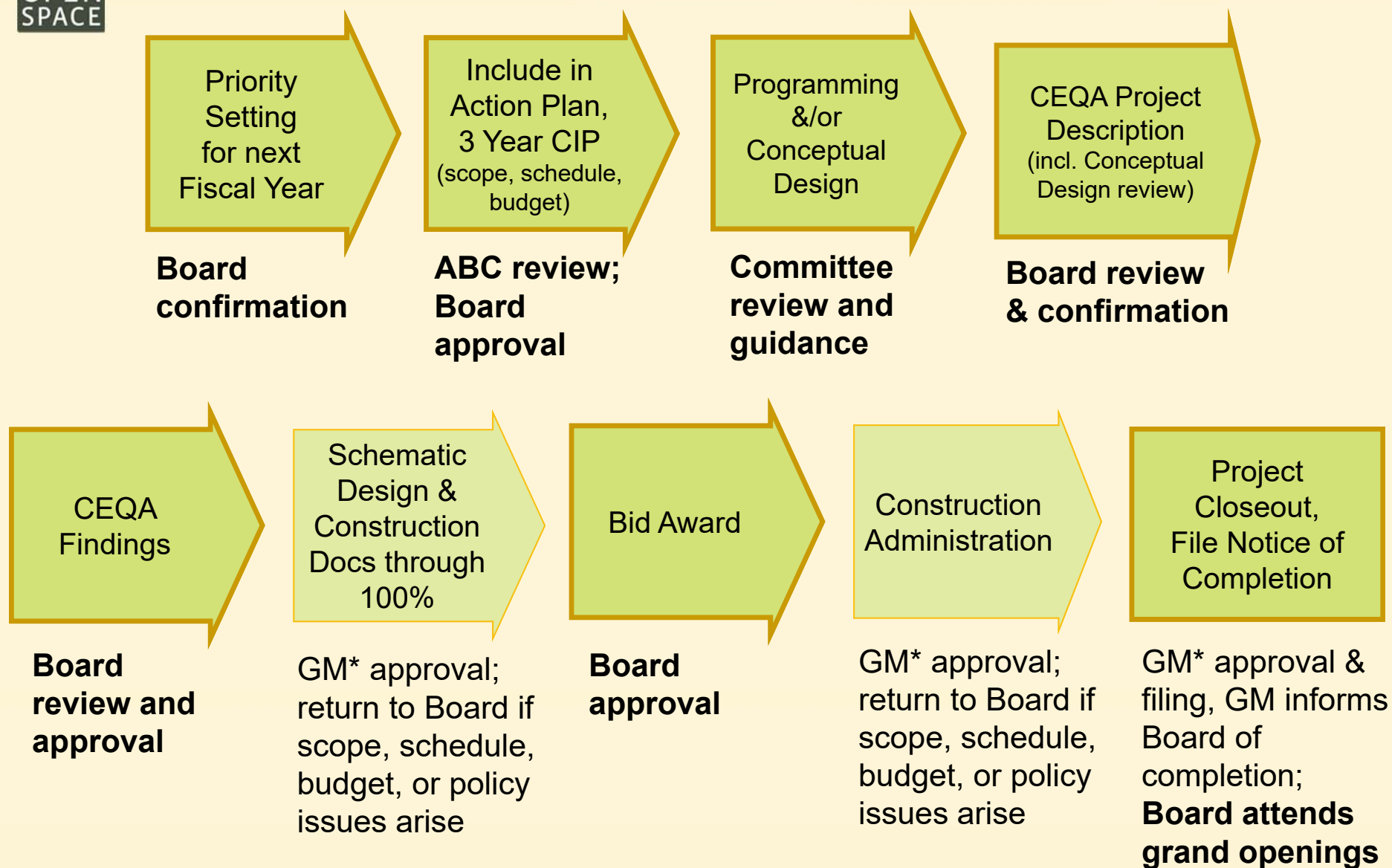
I, the District Clerk of the Midpeninsula Regional Open Space District, hereby certify that the above is a true and correct copy of a resolution duly adopted by the Board of Directors of the Midpeninsula Regional Open Space District by the above vote at a meeting thereof duly held and called on the above day.

District Clerk



Project Review & Approval Process

For all large, complex projects and smaller projects with new policy implications (e.g. Mt Um Summit, Administrative Office Rebuild)

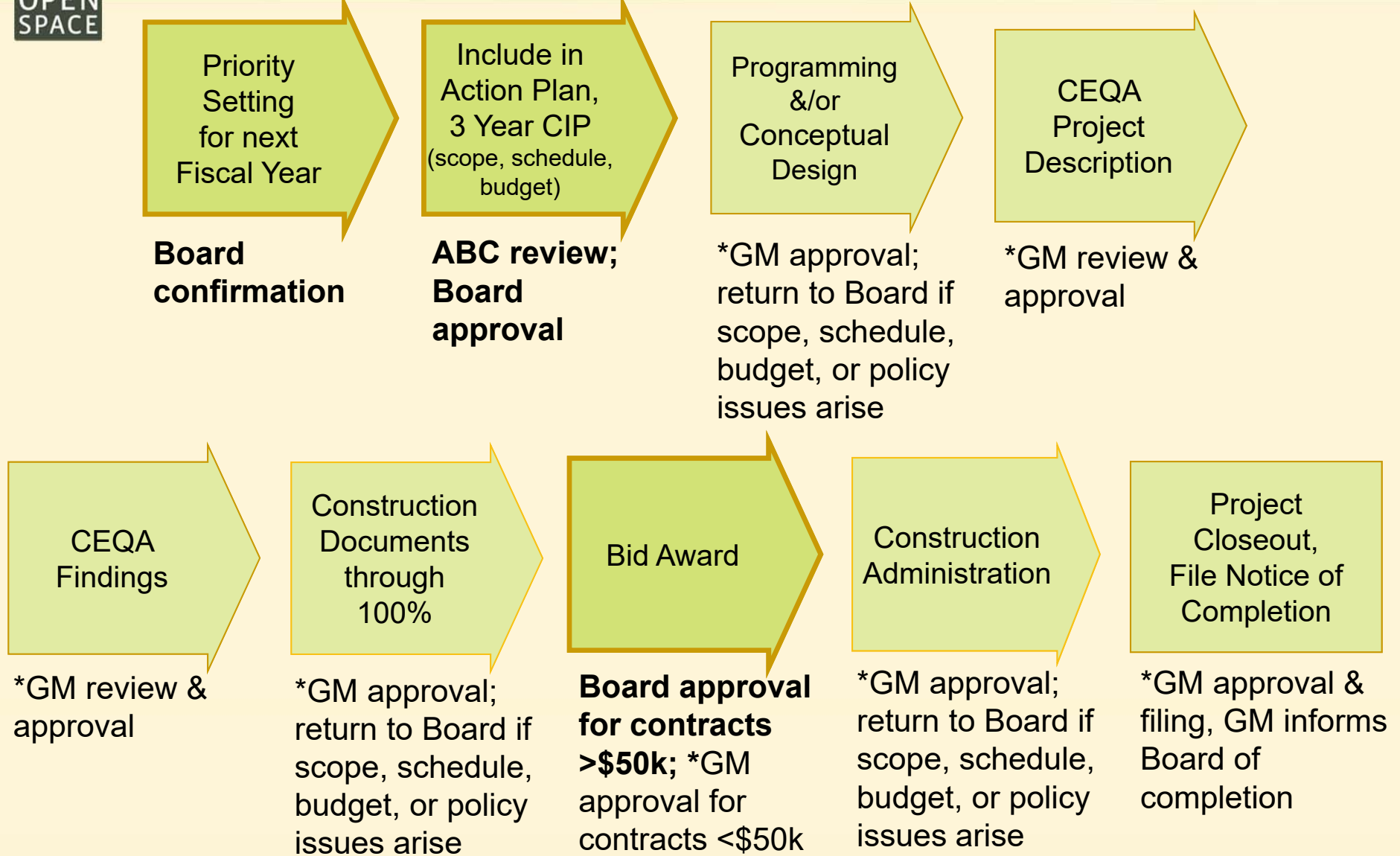


* Signifies GM or GM designee



Project Review & Approval Process

For small-medium scale projects that implement prior Board-approved plans/ policies and do not raise new policy issues (e.g. Purisima Restroom Replacement)



* Signifies GM or GM designee