



CITY OF SALINAS COUNCIL STAFF REPORT

DATE: JANUARY 21, 2020

DEPARTMENT: PUBLIC WORKS DEPARTMENT

FROM: DAVID JACOBS, PUBLIC WORKS DIRECTOR

BY: RODGER OLDS, CITY ENGINEER

TITLE: DELEGATION OF DESIGN APPROVAL AUTHORITY FOR
PUBLIC WORKS PROJECTS TO THE CITY ENGINEER

RECOMMENDED MOTION:

A motion to approve a Resolution delegating design approval authority for public works projects to the City Engineer.

RECOMMENDATION:

Staff recommends that the City Council approve the resolution conferring upon and delegating to the City Engineer the authority to approve plans and designs for all future Public Works projects.

BACKGROUND:

California Government Code Section 830.6 provides that neither a public entity nor a public employee is liable for an injury caused by the plan or design for the construction of or improvement to public property under certain conditions. Section 830.6 is a statutory defense available to a public entity defendant commonly referred to as “Design Immunity”.

In order to take advantage of the Design Immunity defense, the plan or design requires discretionary approval prior to construction. This may be accomplished by the City Council either approving every design in advance of construction, or delegating such authority to a City staff member, and that staff member approving every design in advance of construction.

All projects greater than \$107,116 are subject to formal bidding procedures per Municipal Code Section 12-21. Currently, staff brings every formal bid to City Council for design approval prior to releasing a notice inviting bids. While this satisfies the Design Immunity requirement for formally bid projects, it is not a legal requirement. Formal bid projects may be allowed to move forward through the bidding process without Council approval. Bringing a formal project to City Council for approval of design and the call for bids typically adds four to six weeks to the pre-construction schedule and takes hours of staff time to prepare. All formally bid projects are

required to be awarded by City Council action once bids have been received and reviewed by staff and the prospective low bidder has been identified.

Smaller informally bid projects, less than \$107,116, are not brought to City Council for approval or award. Furthermore, minor changes to the design of a project are sometimes necessary during construction and are not brought back to Council for approval.

The City Engineer has the technical background to review and oversee public works projects. The City Engineer reviews and approves all projects prior to call for bids as well as minor changes to projects during construction. The proposed delegation of authority by City Council to the City Engineer will extend the Design Immunity protection to informally bid projects and necessary deviations from the approved design during construction. This action will also provide Design Immunity protection for formal projects that are advertised for bid without the additional step of City Council approval to call for bids.

Checks and balances and public transparency will remain in place as the City Engineer will be bound by the City Council's approval of projects through the CIP budget approval process. Furthermore, all contracts for formal bids are required to be awarded by City Council.

CEQA CONSIDERATION:

Not a Project. The City of Salinas has determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA) (CEQA Guidelines Section 15378).

STRATEGIC PLAN INITIATIVE:

This item relates to the Strategic Plan goals of a "Well Planned City and Excellent Infrastructure", and an "Effective, Sustainable Government".

DEPARTMENTAL COORDINATION:

Public Works has coordinated with the City Attorney's office in regards to this report and proposed delegation of authority.

FISCAL AND SUSTAINABILITY IMPACT:

There is no direct cost for this action. Future litigation may be simplified which could reduce City costs and liability. This action may also result in a more efficient bidding procedure which will reduce costs for staff time to deliver capital improvement projects.

ATTACHMENTS:

Attachment 1: Resolution