



OFFICE OF THE CITY ATTORNEY
Long Beach, California

C-7

CHARLES PARKIN
City Attorney

MICHAEL J. MAIS
Assistant City Attorney

MONTEH. MACHIT
Assistant City Attorney

PRINCIPAL DEPUTIES

Christina L. Checel
Dominic Holzhaus
Anne C. Lattime

DEPUTIES

C. Geoffrey Allred
Gary J. Anderson
Richard F. Anthony
Kendra L. Carney
LaTasha N. Corry
Charles M. Gale
Haleh R. Jenkins
Michele L. Levinson
Barbara J. McTigue
Howard D. Russell
Tiffani L. Shin
Linda T. Vu
Amy R. Webber
Theodore B. Zinger

July 1, 2014

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Adopt Resolution of the City Council of the City of Long Beach Conferring Upon and Delegating to the City Engineer, or His or Her Designee, the Authority to Approve Plans and Designs for all Public Works Projects, Pursuant to the Design Immunity Provisions of California Government Code Section 830.6.

DISCUSSION:

California Government Code Section 830.6 is a statutory defense available to a defendant public entity providing it with immunity against claims arising out of a design defect. The purpose of the defense is to prevent a jury from simply reweighing the same factors considered by the governmental entity which approved the design. One of the required elements of the defense is that the public entity must establish approval in advance of construction "by the legislative body of the public entity or by some other body or employee exercising discretionary authority to give such approval".

It is hereby requested that the Long Beach City Council delegate to the City Engineer, or his or her designee, the authority to approve plans and designs for all Public Works projects, in order to satisfy the defense immunity element discussed above. Other cities, such as San Diego, San Jose and Los Angeles, have taken similar action by delegating such approval authority to their city engineers for signing construction plans and specifications prepared for city projects to preserve their design immunity protection.

HONORABLE MAYOR AND CITY COUNCIL
July 1, 2014
Page 2

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney

By


LINDA T. VU
Deputy City Attorney

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH CONFERRING UPON AND DELEGATING TO THE CITY ENGINEER, OR HIS OR HER DESIGNEE, THE AUTHORITY TO APPROVE PLANS AND DESIGNS FOR ALL PUBLIC WORKS PROJECTS, PURSUANT TO THE DESIGN IMMUNITY PROVISIONS OF CALIFORNIA GOVERNMENT CODE SECTION 830.6

WHEREAS, 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 of a construction of, or an improvement to, public property under certain conditions; and

WHEREAS, such conditions are that such plan or design must be approved in advance of the construction or improvement by the legislative body of the public entity, or by some other body or employee exercising discretionary authority to give such approval; and

WHEREAS, in order to facilitate efficiency in the review and approval of plans and designs for City projects and to preserve the City's design immunity protection under Section 830.6, the City Council now desires to confer upon and delegate the authority to approve plans and designs for all of the City's public works projects to the City Engineer, or his or her designee; and

NOW, THEREFORE, the City Council of the City of Long Beach resolves as follows:

Section 1. The City Council now confers upon and delegates to the City Engineer, or his or her designee, the authority to approve plans and designs, and all amendments and addenda thereto, in advance of construction or improvement of all

1 public works projects within the City.

2 Section 2. The City Engineer shall sign and stamp such plan or design
3 attesting to his or her approval thereof, or cause or direct his or her designee to do so.

4 Section 3. This resolution shall take effect immediately upon its adoption
5 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

6 I hereby certify that the foregoing resolution was adopted by the City
7 Council of the City of Long Beach at its meeting of _____, 2014 by
8 the following vote:

9
10 Ayes: Councilmembers: _____
11 _____
12 _____

13
14 Noes: Councilmembers: _____
15 _____

16 Absent: Councilmembers: _____
17 _____

18
19
20 _____
City Clerk

21
22
23
24
25
26
27
28