

DATE SUBMITTED _____
 SUBMITTED BY City Manager
 DATE ACTION REQUIRED November 6, 2024

COUNCIL ACTION (X)
 PUBLIC HEARING REQUIRED ()
 RESOLUTION ()
 ORDINANCE 1ST READING ()
 ORDINANCE 2ND READING ()
 CITY CLERK'S INITIALS ()

**IMPERIAL CITY COUNCIL
 AGENDA ITEM**

SUBJECT:	DISCUSSION/ACTION:		
	Adopt Resolution delegating authority to Public Services Director, Community Development Director or City Manager to exercise discretion for approval of design for public works or improvements adjacent to or associated with Cambria Hotel.		
BACKGROUND/SUMMARY:			
California Government Code section 830.6 provides a statutory defense to public entities by providing design immunity against claims arising out of an alleged design defect. In order to take advantage of the design immunity defense, the plan or design requires discretionary approval prior to construction by the legislative body or other employee exercising discretionary authority to give such approval. The City Public Services Director, Community Development Director or City Manager has the background to review and oversee public works projects, and approve the design, and plans and specifications associated with this project.			
FISCAL IMPACT: There is no fiscal impact associated with the recommended action.		FINANCE INITIALS	_____
STAFF RECOMMENDATION: Approve the Resolution delegating authority to exercise discretionary approval of designs for public works and public improvement projects to the authority to Public Services Director, Community Development Director or City Manager to exercise discretion for approval of design for public works or improvements adjacent to or associated with Cambria Hotel.		DEPT. INITIALS	<u>A.D. for DHM</u>
MANAGER'S RECOMMENDATION:		CITY MANAGER'S INITIALS	<u>A.D. for DHM</u>
MOTION:			
SECONDED:		APPROVED ()	REJECTED ()
AYES:		DISAPPROVED ()	DEFERRED ()
NAYES:		REFERRED TO:	
ABSENT:			

RESOLUTION 2024-59

RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF IMPERIAL DELEGATING AUTHORITY TO PUBLIC SERVICES DIRECTOR, COMMUNITY DEVELOPMENT DIRECTOR OR CITY MANAGER TO EXERCISE DISCRETION FOR APPROVAL OF DESIGN FOR PUBLIC WORKS OR IMPROVEMENTS ADJACENT TO OR ASSOCIATED WITH CAMBRIA HOTEL

WHEREAS, California Government Code Section 830.6 provides limitations on liability for public entities for conditions of public property where the public entity exercises appropriate discretion in the planning and design of public improvements. The limitation of liability is commonly known as “design immunity,” and

WHEREAS, California Government Code Section 830.6 requires public entities to establish the following three elements to invoke design immunity protections: (1) discretionary approval of a design before construction; (2) substantial evidence supporting reasonableness of a design; and (3) a causal relationship between the design and the harm claimed; and

WHEREAS, the first element may be satisfied where the legislative body, the City Public Services Director, City Community Services Director or City Manager, exercises discretionary authority to approve the plan or design of the improvement in advance of construction of the improvement; and

WHEREAS, the City desires to minimize its liability exposure to conditions of public property related to the planning and design of public works and improvements by confirming the positions authorized to exercise discretionary authority to approve the plan or design of public improvements in advance of construction of the improvement; and

WHEREAS, staff recommends adopting this resolution to delegate the discretionary authority to approve plans and designs for public works and public improvement projects to the Public Services Director, Community Development Director or City Manager; and

WHEREAS, this resolution does not impact, affect, or change the City’s discretion or authority to approve projects; and

WHEREAS, this resolution does not impact, affect, or change the City Council’s discretion or authority to appropriate or approve project funding; and

WHEREAS, this resolution does not circumvent other established project design review or approval processes; and

WHEREAS, this resolution is limited to approval of project designs for the purpose of supporting the City's design immunity protections as provided by State Law.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IMPERIAL, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

1. The City Council delegates the authority to the Public Services Director, Community Development Director or the City Manager to exercise discretionary approval of designs, including design amendments and addenda, for all public works and public improvement projects.
2. The approval of the Public Services Director, Community Development Director or the City Manager City Engineer of a design prepared by a consultant retained by the City to prepare such design is limited to an acceptance and approval of the design as being in general conformance with applicable statutes, codes, standards, and guidelines for the purpose of Government Code section 830.6 and, otherwise, the responsibility and liability for the completeness, accuracy, and conformance of such will continue to reside with the Engineer of Record or Engineering Firm of Record that prepared that design.

APPROVED, PASSED AND ADOPTED at a Regular Meeting of the City Council held on the 6th day of November, 2024.

ROBERT AMPARANO,
Mayor

ATTEST:

KRISTINA SHIELDS,
City Clerk

CERTIFICATION

I, Kristina Shields, City Clerk of the City of Imperial, California, hereby certify that the foregoing Resolution No. 2024-59 was duly adopted at a meeting of the City Council of said City at its meeting held on the 6th day of November, 2024, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Imperial, California, this 6th day of November, 2024.

KRISTINA SHIELDS,
City Clerk