LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 6.8**

DATE: September 28, 2026

TO: Honorable Mayor and City Council

FROM: Kimberly Cilley, City Attorney

SUBJECT: Introduction of an ordinance amending section 2.68.595 of Chapter 2.68 *Contracts and Purchasing* of the Livermore Municipal Code to clarify the City Council's delegation of authority to the City Engineer for the purposes of design immunity, in accordance with Government Code section 830.6; Adoption of a resolution confirming that since the adoption of Ordinance 2069, the City Council at all times delegated discretionary authority to the City Engineer for the purposes of design immunity under Government Code section 830.6.

RECOMMENDED ACTION

Staff recommends the City Council:

1) Introduce an ordinance and waive the first reading amending section 2.68.595 of Chapter 2.68 Contracts and Purchasing of the Livermore Municipal Code to restore the reference to Government Code section 830.6 regarding the City Council's delegation of authority to the City Engineer for approval of plans, specifications, and designs for public works contracts.
2) Adopt a resolution clarifying that despite the omission of Government Code section 830.6 in Ordinance 2159, since the adoption of Ordinance 2069, the City Council at all times delegated authority to the City Engineer, or designee, to approve plans, specifications, and designs, consistent with the purposes of design immunity in accordance with Government Code section 830.6.

SUMMARY

On July 8, 2024, the City Council adopted Ordinance 2159, which inadvertently omitted reference to Government Code section 830.6 and inserted a reference to Public Contract Code section 22039. Despite the omission, since the adoption of Ordinance 2069, the City Council at all times delegated discretionary authority to the City Engineer for purposes of design immunity under Government Code section 830.6. The proposed ordinance modifies Livermore Municipal Code section 2.68.595 to restore the reference to Government Code section 830.6. The proposed resolution clarifies that since the adoption of Ordinance 2069, the City Council at all times delegated, and it was their intent to delegate, discretionary authority to the City Engineer, or designee, to approve plans, specifications, and designs for purposes of design immunity under Government Code section 830.6.

DISCUSSION

On April 23, 2018, the City Council adopted Ordinance 2069, adding section 2.68.600 to Chapter 2.68 *Contracts and Purchasing* of the Livermore Municipal Code ("LMC"), which delegates authority from the City Council to the City Engineer to approve plans, specifications, and designs, and all amendments thereto, for all City public works contracts to preserve the City's design immunity defense in accordance with Government Code section 830.6.

On July 8, 2024, the City Council of the City of Livermore adopted Ordinance 2159. Ordinance 2159 revised LMC Chapter 2.68 to change contract approval authorities, add department head contract and purchasing responsibilities, add solicitation procedures for professional services contracts, and other miscellaneous revisions. One of the miscellaneous revisions was the renumbering of section 2.68.600 to section 2.68.595, which includes the City Council's delegation of authority to the City Engineer for approval of plans, specifications, and designs for public works contracts. In additional to renumbering section 2.68.600, Ordinance 2159 inadvertently removed the reference to Government Code section 830.6 and added a reference to Public Contract Code section 22039, while still delegating discretionary authority to the City Engineer, or their designee, to approve, among other things, plans, specifications, and designs, consistent with Government Code section 830.6.

California Government Code section 830.6 establishes an affirmative defense that protects public entities from liability for injuries caused by the plan or design of public improvements, if the plan or design was approved by the legislative body or a designated employee. Public Contract Code section 22039 provides that the governing body of a public agency or its designated representative shall adopt plans, specifications and working details for all public projects exceeding the limit for contracts subject to informal bid procedures under the California Uniform Public Construction Cost Accounting Act (CUPCCAA).

Government Code section 830.6 does not mandate that the delegating ordinance cite section 830.6 and the addition of a reference to Public Contract 22039 in LMC section 2.68.595 does not invalidate the City's design immunity under Government Code section 830.6. However, to eliminate any ambiguity with respect to LMC section 2.68.595, and to clarify that since the adoption of Ordinance 2069, the City Council at all times delegated discretionary authority to the City Engineer, or their designee, for purposes of design immunity under Government Code section 830.6, our office recommends that the Council adopt the following: 1) an ordinance amending section 2.68.595 to restore the reference to Government Code section 830.6; and 2) a resolution confirming since the adoption of Ordinance 2069, the City Council at all times delegated, and it was their intent to delegate, discretionary authority to the City Engineer for purposes of design immunity under Government Code section 830.6, including the interim period in which Ordinance 2159 referenced Public Contract Code section 22039 and omitted reference to Government Code section 830.6. The proposed ordinance references both Government Code section 830.6 and Public Contract Code section 22039. (A copy of the strikethrough and underlined version of Section 2.68.595 is attached hereto).

ENVIRONMENTAL DETERMINATION
The passage of this ordinance is not a project under CEQA Guidelines section 15378 and, therefore, is

not subject to the provisions requiring environmental review.

FISCAL AND ADMINISTRATIVE IMPACTS

None.

COMMUNITY PILLAR

5. City That Works.

ATTACHMENTS

1. Amended Section 2.68.595 of Chapter 2.68
2. Ordinance
3. Resolution

Prepared by: Daniel Gonzales
Deputy City Attorney

Approved by:

Marianna A. Burch
City Manager

Fiscal Review by:

Dustin Claussen
Administrative Services Director