



staff report

TO: Honorable Mayor and Members of the City Council

ATTENTION: Jeffrey L. Stewart, City Manager

FROM: Len Gorecki, Director of Public Works
Bernardo Iniguez, Public Works Manager

SUBJECT: Consideration and possible action to adopt Resolution No. 16-XX – A Resolution delegating authority to the Director of Public Works to record Notices of Completion for public works projects pursuant to Civil Code § 3184.

DATE: February 8, 2016

EXECUTIVE SUMMARY

This Resolution will allow the Director of Public Works to record Notices of Completion (NOCs) with the L.A. County Registrar-Recorder’s Office to ensure that all subcontractors are paid for their work and make final payments to the general contractor on public works projects.

RECOMMENDATION TO CITY COUNCIL

- 1) Adopt Resolution No. 16-XX; or
- 2) Alternatively, discuss and take other action related to this item.

FISCAL IMPACT

None.

DISCUSSION

Contractors constructing public works projects inform the Public Works Department when projects are nearing completion. The Public Works Department then determines whether all contract requirements are met. If they are, the Public Works Department then schedules the matter for City Council consideration and acceptance of the project. When the City Council accepts a project, it authorizes the City Manager to file a NOC. This triggers a 30-day time period within which subcontractors can file stop notices and, if no stop notices are received, the City makes a final payment to the general contractor 35 days after the filing of a NOC.

Under California law, subcontractors on a public works project may serve the City with a stop notice to ensure that they are paid for their work. If a stop notice is received, the City is obligated to withhold sufficient money from the general contractor in order to pay the subcontractor. Stop notices must be served on the City either within 30 days after the City records a NOC or, if a NOC is not filed, within 90 days after the project is deemed complete. It is in the interest of the City to make final payments to the general contractor in a timely manner to avoid any additional liabilities.

The proposed resolution would authorize the Director of Public Works to file a NOC upon determining that a project is complete. This would trigger the 30-day time period within which subcontractors can file stop notices and the City makes a final payment. The procedures proposed in the resolution will help reduce the City’s exposure to potential subcontractor claims and make final payment to the contractor timely.

ATTACHMENT

Resolution No. 16-XX.....2
Doc 333182

CITY OF BELLFLOWER

RESOLUTION NO. 16-XX

**A RESOLUTION DELEGATING AUTHORITY TO THE
DIRECTOR OF PUBLIC WORKS TO RECORD NOTICES
OF COMPLETION FOR PUBLIC WORKS PROJECTS
PURSUANT TO CIVIL CODE § 3184.**

THE CITY COUNCIL RESOLVES AS FOLLOWS:

SECTION 1. The City Council finds and declares as follows:

A. Under California law, subcontractors on a public works project may serve the City with a stop notice to ensure that they are paid for their work. If such stop notices are timely filed, the City has a duty to withhold sufficient money from the general contractor in order to pay the claim and any reasonable costs of litigation;

B. To be effective, stop notices must be served on the City either within thirty (30) days after the City records a Notice of Completion (NOC) or, if a NOC is not filed, within ninety (90) days after the project is deemed complete;

C. A public project is deemed complete either when the project is accepted by a public entity or work ceases for thirty (30) days;

D. Further, it is in the public interest for the City to make final payments on public works projects as expeditiously as is practical in order to honor its contractual obligations to the general contractor and limit the City's exposure to any additional liabilities; and

E. Accordingly, delegating authority to the Director of Public Works to record NOCs will help ensure that such notices are recorded promptly and avoid unnecessary delays.

SECTION 2. The Director of Public Works, with the City Manager's approval, is authorized to record Notices of Completion, in a form approved by the City Attorney, pursuant to Civil Code § 3184.

SECTION 3. The Mayor, or presiding officer, is authorized to sign this Resolution signifying its adoption by the City Council of the City of Bellflower and the City Clerk, or her duly appointed deputy, may attest thereto.

SECTION 4. This Resolution will become effective immediately upon adoption.

**PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
BELLFLOWER ON THIS ____ DAY OF _____ 2016.**

Scott A. Larsen, Mayor

ATTEST:

Mayra Ochiqui, City Clerk

APPROVED AS TO FORM:

Karl H. Berger, Interim City Attorney