

(R-2003-567)

RESOLUTION NUMBER R- 297382

ADOPTED ON NOV 25 2002

RESOLUTION AMENDING COUNCIL POLICY NO. 000-09
REGARDING CLAIMS AGAINST THE CITY.

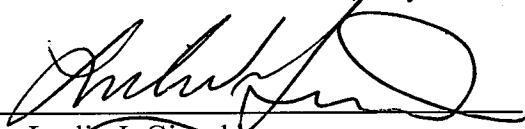
WHEREAS, at the Rules, Finance and Intergovernmental Relations Committee meeting on October 16, 2002, the Committee, by the vote of 5-0, approved the recommendations, outlined in the City Attorney's Report dated September 19, 2002, with the further requirement that the City Attorney report to City Council quarterly on settled cases, and that the settlement authority for the Risk Management Director be changed from \$20,000 to \$25,000; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that Council Policy No. 000-09, entitled "Claims Against the City," is hereby amended as set forth in the Council Policy filed in the office of the City Clerk as Document No. RR- 297382.

BE IT FURTHER RESOLVED, that the City Clerk is hereby instructed to add the aforesaid to the Council Policy Manual.

APPROVED: CASEY GWINN, City Attorney

By



Leslie J. Girard
Assistant City Attorney

LJG:js
10/18/02
Or.Dept:Rules
R-2003-567
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POLICY NO.: 000-09
SUBJECT: CLAIMS AGAINST THE CITY
EFFECTIVE DATE: September 13, 1993

BACKGROUND:

City Council amended this Council Policy on June 25, 1965 to establish a procedure for the efficient administration of claims against the City. This was done in accordance with the California Government Code, section 935 et seq. As was the case in 1970, the City continues to self-insure the greater portion of its potential liability and the purpose of this amended Council Policy is to provide for increased efficiency in the administration of all claims and lawsuits filed against the City.

PURPOSE:

The purpose of this amended policy is to provide for an increased efficiency in the handling of all claims and lawsuits that are filed against the City up to and including fifty thousand dollars (\$50,000). All other claims will be administered in accordance with the procedure established by this Council Policy 000-09 and pursuant to California Government Code, section 935 et seq.

POLICY:

- I. All claims shall be filed with the Director of Risk Management.
- II. The Claims and Insurance Division of the Department of Risk Management, herein called "Division", is assigned responsibility for administering claims against the City, pursuant to Government Code 935 et seq. and as hereinafter provided.
- III. All claims shall be investigated and adjusted by Division.
- IV. Division shall have the authority to allow, deny or compromise all claims wherein the amount paid in settlement does not exceed fifty thousand dollars (\$50,000). Claims for damages will be allowed or compromised with the following conditions:
 1. Five thousand dollars (\$5,000) field settlement authority for each Claims Representative II with the approval of the Claims and Insurance Manager.
 2. Five thousand dollars (\$5,000) to twenty-five thousand dollars (\$25,000) settlement authority with the approval of the Director of Risk Management.
 3. Twenty-five thousand dollars (\$25,000) to fifty thousand dollars (\$50,000) settlement authority with the approval of the City Manager.

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- V. All claims which have a total value in an amount in excess of fifty thousand dollars (\$50,000), from one or any combination of funding sources including the value of future payments, shall be approved or denied by Council resolution unless otherwise denied by operation of law. A claim denied by operation of law is recognized as denied by Government Code section 912.4 when, after forty-five (45) days of filing the claim, no City action is taken either by way of acceptance or denial.
- VI. Notification of denial of claims, whether by Division, by Council resolution or by operation of law, will be made in writing to the claimant.
- VII. In all cases that are settled, Division shall obtain a warrant-check from the Auditor and Comptroller and forward it to the claimant in return for his properly signed and executed release. In the interests of efficient claims management, and where the liability exposure so indicates, Division may elect to pay portions of claimant's losses as they are incurred, securing partial release receipts to be applied to the full release at the termination of the claim where it is practical.
- VIII. In all cases, Division shall seek the advice and consent of the City Attorney on questions of law.
- IX. In all cases in which a summons and complaint is served on the City, the case shall be forwarded to the City Attorney for legal action.
- X. In all cases of claims or suits or potential liability exposure in excess of the applicable self-insurance limits, Division shall in writing place the excess coverage insurance carrier on notice of the claim and coordinate investigation and litigation with that carrier.
- XI. Division will provide the Council with a monthly tort claims statistical report. This report shall reflect the City's claims volume and expense experience in the self-insurance program.
- XII. The City Manager and the City Attorney shall notify the City Council of any claim, litigation, or discrimination complaint, regardless of value, involving an employee directly appointed by the City Council when it is determined that reasonable cause exists for such charges, and notify the Council again upon disposition of such charges.
- XIII. It is the policy of the City Council that employees, who are determined to have committed unlawful discrimination, shall personally pay for the costs of their defense and any damages awarded through settlement or by a court, to the extent allowed by law.
- XIV. The City Attorney shall report quarterly to the City Council on the status of significant pending litigation and on the number and manner of cases settled pursuant to paragraphs IV.2 and IV.3, including the nature of any significant remedial measures.

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XV. For any claim or lawsuit in which a written offer of compromise has been received which would otherwise require City Council approval, the City Manager shall consult with the City Attorney and determine whether the offer is bona fide and requires City Council consideration. The City Manager shall have the authority to reject any offer that the City Manager and City Attorney deem not bona fide.

HISTORY:

Adopted by Resolution R-184185 06/29/1965
Amended by Resolution R-192807 02/01/1968
Amended by Resolution R-193581 05/02/1968
Amended by Resolution R-200428 07/30/1970
Amended by Resolution R-264164 09/30/1985
Amended by Resolution R-268138 04/20/1987
Amended by Resolution R-278427 07/29/1991
Amended by Resolution R-282607 09/13/1993

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New language: underlined
Old language: ~~strikeout~~

BACKGROUND:

City Council amended this Council Policy on June 25, 1965 to establish a procedure for the efficient administration of claims against the City. This was done in accordance with the California Government Code, section 935 et seq. As was the case in 1970, the City continues to self-insure the greater portion of its potential liability and the purpose of this amended Council Policy is to provide for increased efficiency in the administration of all claims and lawsuits filed against the City.

PURPOSE:

The purpose of this amended policy is to provide for an increased efficiency in the handling of all claims and lawsuits that are filed against the City up to and including ~~twenty thousand dollars (\$20,000), and up to and including~~ fifty thousand dollars (\$50,000) ~~for those claims and lawsuits associated with water main breaks and sewer back-ups.~~ All other claims will be administered in accordance with the procedure established by this Council Policy 000-09 ~~on July 29, 1991~~ and pursuant to California Government Code, section 935 et seq.

POLICY:

- I. All claims shall be filed with the Director of Risk Management.
- II. The Claims and Insurance Division of the Department of Risk Management, herein called "Division", is assigned responsibility for administering claims against the City, pursuant to Government Code 935 et seq. and as hereinafter provided.
- III. All claims shall be investigated and adjusted by Division.
- IV. Division shall have the authority to allow, deny or compromise all claims wherein the amount paid in settlement does not exceed ~~twenty thousand dollars (\$20,000), and up to and including~~ fifty thousand dollars (\$50,000) ~~for those claims and lawsuits associated with water main breaks and sewer back-ups.~~ Claims for damages will be allowed or compromised with the following conditions:
 1. Five thousand dollars (\$5,000) field settlement authority for each Claims Representative II with the approval of the Claims and Insurance Manager.
 2. ~~Five thousand (\$5,000) to twenty thousand dollars (\$20,000) settlement authority with approval of the City Manager.~~

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- 3.2. Five thousand dollars (\$5,000) to twenty-five thousand dollars (~~\$20,000~~ \$25,000) settlement authority with the approval of the Director of Risk Management for those claims and lawsuits associated with water main breaks and sewer back-ups.
- 4.3. Twenty-five thousand dollars (~~20,000~~ \$25,000) to fifty thousand dollars (\$50,000) settlement authority with the approval of the City Manager for those claims and lawsuits associated with water main breaks and sewer back-ups.
- V. All claims which have a total value in an amount in excess of ~~twenty thousand dollars (\$20,000)~~, and in excess of fifty thousand dollars (\$50,000) for those claims and lawsuits associated with water main breaks and sewer back-ups, from one or any combination of funding sources including the value of future payments, shall be approved or denied by Council resolution unless otherwise denied by operation of law. A claim denied by operation of law is recognized as denied by Government Code section 912.4 when, after forty-five (45) days of filing the claim, no City action is taken either by way of acceptance or denial.
- VI. Notification of denial of claims, whether by Division, by Council resolution or by operation of law, will be made in writing to the claimant.
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- IX. In all cases in which a summons and complaint is served on the City, the case shall be forwarded to the City Attorney for legal action.
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- XIII. It is the policy of the City Council that employees, who are determined to have committed unlawful discrimination, shall personally pay for the costs of their defense and any damages awarded through settlement or by a court, to the extent allowed by law.
- XIV. The City Attorney shall report quarterly to the City Council on the status of significant pending litigation and on the number and manner of cases settled pursuant to paragraphs IV.2 and IV.3, including the nature of any significant remedial measures.
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