

<b>REQUEST FOR COUNCIL ACTION</b> CITY OF SAN DIEGO				CERTIFICATE NUMBER (FOR COMPTROLLER'S USE ONLY) N/A	
TO: CITY COUNCIL		FROM (ORIGINATING DEPARTMENT): Risk Management		DATE: 09/18/2013	
SUBJECT: Approve revisions to Council Policy 000-09 "Claims against the City".					
PRIMARY CONTACT (NAME, PHONE): Claudia Castillo del Muro,619-236-6784			SECONDARY CONTACT (NAME, PHONE): Janice Ellis , 619-236-7705		
<b>COMPLETE FOR ACCOUNTING PURPOSES</b>					
FUND					
FUNCTIONAL AREA					
COST CENTER					
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00
FUND					
FUNCTIONAL AREA					
COST CENTER					
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00
COST SUMMARY (IF APPLICABLE):					
<b>ROUTING AND APPROVALS</b>					
CONTRIBUTORS/REVIEWERS:		APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	
Risk Management		ORIG DEPT.	Bych, Greg	05/27/2014	
Comptroller		CFO			
Liaison Office		DEPUTY CHIEF	Lewis, Mary	06/17/2014	
		COO			
		CITY ATTORNEY	Bamberg, Daniel	05/30/2014	
		COUNCIL PRESIDENTS OFFICE			
PREPARATION OF:	<input checked="" type="checkbox"/> RESOLUTIONS	<input type="checkbox"/> ORDINANCE(S)	<input type="checkbox"/> AGREEMENT(S)	<input type="checkbox"/> DEED(S)	
Approve revisions to Council Policy 000-09 "Claims against the City". These revisions will update settlement authority levels and amounts to a more efficient structure.					
STAFF RECOMMENDATIONS: Approve requested actions.					
SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)					
COUNCIL DISTRICT(S):		City wide			
COMMUNITY AREA(S):					
ENVIRONMENTAL IMPACT:					

CITY CLERK  
INSTRUCTIONS:

Please send copy of the final reso to Janice Ellis, Supervising Claims Representative, MS51B.

**COUNCIL ACTION  
EXECUTIVE SUMMARY SHEET  
CITY OF SAN DIEGO**

DATE: 09/18/2013

ORIGINATING DEPARTMENT: Risk Management

SUBJECT: Approve revisions to Council Policy 000-09 "Claims against the City".

COUNCIL DISTRICT(S): City wide

CONTACT/PHONE NUMBER: Claudia Castillo del Muro/619-236-6784

**DESCRIPTIVE SUMMARY OF ITEM:**

The purpose of Council Policy 000-09 is to provide increased efficiency in the administration of all claims and lawsuits filed against the City. The policy was last revised in 2002. In order to adhere to the purpose of the policy, authority limits provided under CP000-09 need to be revised.

**STAFF RECOMMENDATION:**

Approve requested actions.

**EXECUTIVE SUMMARY OF ITEM BACKGROUND:**

Council Policy 000-09 provides the standards to follow in handling claims and lawsuits that are filed against the city up to and including fifty thousand dollars (\$50,000). Claims and lawsuits exceeding a settlement amount of fifty thousand dollars (\$50,000) are routed to Council for approval.

The purpose of the policy is to provide increased efficiency in claims handling. Given the current highly litigious nature of our society, authority limits provided under Council Policy 000-09 warrant updating. Primarily, the update is due to the current authority limit structure set forth in the policy as it does not provide settlement authority to either the Claims and Insurance Manager or the Deputy Director of Risk Management. Including incremental settlement authority between the Supervising Claims Representative, Claims and Insurance Manager and the Deputy Director will more efficiently expedite settlement approval.

The revision also includes an increase in authority to the Claims Representatives who currently only have five thousand dollars (\$5,000) in settlement authority. The increase to seven thousand dollars (\$7,000) provides additional negotiating capabilities to the Claims Representatives when engaging claimants in settlement discussions or at mediations, thereby reducing the likelihood of pushing claims into litigation.

The proposed increase in limits is supported by the Office of the City Auditor as per their Audit report of August, 2010, where they recommended an increase in authority limits and requested that the Office of the City Attorney along with Risk Management revisit the policy to identify appropriate necessary revisions. The policy revisions before Council reflect the agreed upon proposed revisions by the Office of the City Attorney and Risk Management.

**FISCAL CONSIDERATIONS:**

Not applicable.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE):

Not applicable.

PREVIOUS COUNCIL and/or COMMITTEE ACTION (describe any changes made to the item from what was presented at committee):

Item will be presented at the ED&IR Committee.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Not applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Bych, Greg

Originating Department

Lewis, Mary

Deputy Chief/Chief Operating Officer

**COUNCIL POLICY****CURRENT**

SUBJECT: CLAIMS AGAINST THE CITY  
POLICY NO.: 000-09  
EFFECTIVE DATE: November 25, 2002

**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.
- 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.
- 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.

CITY OF SAN DIEGO, CALIFORNIA  
**COUNCIL POLICY**

**CURRENT**

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  
Amended by Resolution R-297382 11/25/2002

CITY OF SAN DIEGO, CALIFORNIA  
**COUNCIL POLICY**

SUBJECT: CLAIMS AGAINST THE CITY  
POLICY NO.: 000-09  
EFFECTIVE DATE: November 25, 2002

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 Public Liability~~ 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 Seven~~ thousand dollars (\$~~75,000~~) field settlement authority for each Claims Representative II with the approval of the ~~Supervising Claims R-Representative. Claims and Insurance Manager.~~
  2. ~~SevenFive~~ thousand dollars (\$~~75,000,000~~) to ~~ten thousand dollars (\$10,000) twenty-five thousand dollars (\$25,000)~~ settlement authority ~~for the with the approval of the Supervising Claims Representative.~~
  3. ~~Ten thousand dollars (\$10,000) to Fifteen thousand dollars (\$15,000) settlement authority for the Claims and Insurance Manager.~~
  4. ~~Fifteen thousand dollars (\$15,000) to Twenty-five thousand dollars (\$25,000) settlement authority for the Director -and Deputy Director of Risk Management. --~~
  5. ~~FifteenTwenty-five~~ thousand dollars (~~\$125,000~~) to fifty thousand dollars (\$50,000) settlement authority for the ~~Director and Deputy Director of Risk Management for Water and Sewer related claims.~~
  6. ~~Twenty-five thousand dollars (\$25,000) to fifty thousand dollars (\$50,000) settlement authority with the~~

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~~approval of the City Manager for the Chief Financial Officer for all other non-Water related claims.~~

- 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

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~~CITY OF SAN DIEGO, CALIFORNIA~~  
~~COUNCIL POLICY~~

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~~ Mayor or his designee 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 ~~will shall~~ report ~~from time to time quarterly~~ to the City Council on the status of significant pending litigation. ~~The City Attorney will report quarterly and on the number and manner of cases settled pursuant to paragraphs IV.2, and IV.3, IV.4, IV.5 and IV.6 including the nature of any significant remedial measures.~~
- 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~~ Mayor or his designee shall consult with the City Attorney and determine whether the offer is bona fide and requires City Council consideration. The Mayor or his designee ~~City Manager~~ shall have the authority to reject any offer that the Mayor or his designee ~~City Manager~~ and City Attorney deem not bona fide.

CITY OF SAN DIEGO, CALIFORNIA  
**COUNCIL POLICY**

HISTORY:

Adopted by Resolution R-184185 06/29/1965  
Amended by Resolution R-192807 02/01/1968  
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Amended by Resolution R-282607 09/13/1993  
Amended by Resolution R-297382 11/25/2002

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## COUNCIL POLICY

**SUBJECT:** CLAIMS AGAINST THE CITY  
**POLICY NO.:** 000-09  
**EFFECTIVE DATE:** TBD (formerly November 25, 2002)

### **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 Public Liability 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. Seven thousand dollars (\$7,000) field settlement authority for each Claims Representative II with the approval of the Supervising Claims Representative.
  2. Seven thousand dollars (\$7,000) to ten thousand dollars (\$10,000) settlement authority for the Supervising Claims Representative.
  3. Ten thousand dollars (\$10,000) to Fifteen thousand dollars (\$15,000) settlement authority for the Claims and Insurance Manager.
  4. Fifteen thousand dollars (\$15,000) to Twenty-five thousand dollars (\$25,000) settlement authority for the Director and Deputy Director of Risk Management.
  5. Fifteen thousand dollars (\$15,000) to fifty thousand dollars (\$50,000) settlement authority for the Director and Deputy Director of Risk Management for Water and Sewer related claims.
  6. Twenty-five thousand dollars (\$25,000) to fifty thousand dollars (\$50,000) settlement

## COUNCIL POLICY

authority for the Chief Financial Officer for all other claims.

- 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 Mayor or his designee 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 will report from time to time to the City Council on the status of significant pending litigation.
- XV. For any claim or lawsuit in which a written offer of compromise has been received which would otherwise require City Council approval, the Mayor or his designee shall consult with the City Attorney and determine whether the offer is bona fide and requires City Council consideration. The Mayor or his designee shall have the authority to reject any offer that the

**COUNCIL POLICY**

Mayor or his designee 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  
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