

CITY OF HERMOSA BEACH
RESOLUTION NO. RES-24-XXXX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH
ESTABLISHING SETTLEMENT AUTHORITY FOR THE CITY MANAGER FOR
GENERAL LIABILITY AND WORKERS' COMPENSATION CLAIMS UP TO
THE STATUTORY LIMITS OF \$50,000, ADOPTING A LITIGATION/CLAIMS
MANAGEMENT POLICY AND FINDING THE SAME EXEMPT FROM THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT**

WHEREAS, the City of Hermosa Beach is committed to ensuring that its general liability and worker' compensation program is efficient and implements cost-containment measures;

WHEREAS, Government Code § 935.4 allows a city council of a city to delegate settlement authority up to \$50,000 for the efficient and expeditious settlement of general liability and workers' compensation claims;

WHEREAS, increasing the settlement authority of the City Manager is in keeping with best management practices for litigation and claims management to reduce attorney's fees and decrease processing time.

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

SECTION 1. The City Council adopts the Litigation Management Policy attached hereto as Exhibit "A."

SECTION 2. Consistent with Government Code § 935.4, the City Manager of the City of Hermosa Beach is hereby authorized to settle claims against the City for general liability and workers' compensation claims in an amount not to exceed fifty thousand dollars (\$50,000).

SECTION 3. This Resolution is not a project under the California Environmental Quality Act pursuant to CEQA Guidelines section 15378 (b)(5) as the Resolution is an

organization or administrative activity of the City that will not result in direct or indirect physical changes in the environment.

SECTION 4. This resolution shall take effect on the same day that the Ordinance repealing section 3.08.020 of the Hermosa Beach Municipal Code takes effect. The City Clerk shall certify to the passage and adoption of this resolution; shall cause the same to be entered among the original resolutions of said City; and shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council of said City in the minutes of the meeting at which time same is passed and adopted.

PASSED, APPROVED, and ADOPTED on this 12th day of November, 2024.

Mayor Dean Francois

PRESIDENT of the City Council and **MAYOR** of the City of Hermosa Beach, CA

ATTEST:

APPROVED AS TO FORM:

Myra Maravilla
City Clerk

Patrick Donegan
City Attorney

EXIHIBT A



ADMINISTRATIVE MEMORANDUM

TO: All Applicable Employees **FUNCTION:** Human Resources

FROM: Cynthia Stafford, Interim Human Resources Manager

SUBJECT: LITIGATION MANAGEMENT POLICY **NO:** P-29
(NEW)

I. PURPOSE

To establish and implement a formal litigation/claims management program to control expenses and ensure that appropriate procedures and internal controls are followed.

II. POLICY

In California, before a resident may sue a public entity (a state, county or local governmental entity) or a person acting in their capacity as a government employee for money damages, they must first file a claim which meets the requirements of the California Tort Claims Act (see California Government Code sections 810-996.6). With very limited exceptions, no lawsuit for money damages may be brought against a governmental entity unless a written claim has been properly filed within the six-month time limit.

This Administrative Policy set forth claims management responsibilities and authority for claims filed against the City of Hermosa Beach.

III. DEFINITIONS

For the purposes of this policy the following definitions apply:

A. Claim

A demand for compensation made following an adverse incident resulting in damage or loss to property and/or personal injury.

B. Risk Management Analyst

An individual responsible for managing an organization's risks and minimizing the adverse impact of losses. The risk management analyst is charged with identifying risks, evaluating risks, selecting the best techniques for treating identified risks, implementing the chosen risk management techniques, and regularly evaluating and monitoring the program. This person is also involved in the managerial processes of planning, organizing, leading, and controlling those activities. The risk management analyst manages the effects of financial risks on the organization.

C. Risk Pool

California Joint Powers Insurance Authority (CJPIA) members pool resources as a Joint Powers Authority (JPA) to support liability, workers' compensation, and property self-insurance programs.

D. Claims Administrator

The City of Hermosa Beach has Carl Warren as their third-party administrator (TPA) for General Liability and Athens Administrators as their third-party administrator (TPA) for Workers' Compensation programs. They provide claims administration and other essential services to the City. Legacy claims are managed by Adminsure on behalf of ICRMA (prior risk pool).

IV. RESPONSIBILITIES

The primary responsibility for handling claims and/or litigation against the City shall be assigned to the Risk Management Analyst.

Claims/litigation of a sensitive nature may be assigned to the Human Resources Manager, or other party, at the discretion of the City Manager or the City Council.

All claims naming the City, the City Council or any Official of the City in their official capacity shall be received by the Human Resources Office.

All suits, subpoenas, injunctions, motions, etc. naming the City, the City Council, or any official of the City in their official capacity shall be received by the City Clerk Department, dated, and entered into City records. Legal actions naming only individual employees and not the City, must be served on the named employee by the process server. The City Clerk is not authorized to accept such documents for individual City employees.

In all cases of litigation, the City Manager will select, in concert with the Human Resources Manager and the Claims Administrator for the City, a qualified attorney who has a demonstrated knowledge about the subject matter being litigated. In addition, a case analysis, defense strategy, defense budget and review process will be developed and become an integral part of each case litigated by the City. The selected attorney must be on the approved list of panel attorneys maintained by the City's risk pool.

V. APPLICABILITY

This policy applies to all General Liability and Workers' Compensation claims and Litigation matters.

VI. PROCEDURES AND RESPONSIBILITIES

A. RECEIPT OF CLAIM

Claims are to be accepted only by the Human Resources Department. Claims must be submitted on a form approved by the City of Hermosa Beach.

Summons, subpoenas, and other such documents are to be accepted only by the City Clerk's office. Summons for individual employees must be received by that employee. If the claim deadline falls on a holiday or a weekend day, the deadline is automatically extended to the following regular business day. A claim is considered presented once it is placed in the U. S. mail.

B. PROCESSING OF CLAIMS

1. All claims against the City must be submitted to the Human Resources Office.
2. Copies of each claim will be sent to the Risk Management Analyst, immediately upon receipt.
3. The Risk Management Analyst will send a copy of the claim and a request for information (as required) to the appropriate department.
4. The department involved in the claim will forward responses to any request for information to the Risk Management Analyst within the stated number of working days.
5. The Risk Management Analyst will evaluate the available information, discuss the claim with the Claims Administrator and take appropriate action to accept or deny the claim within forty-five (45) days. Claims not acted upon within 45 days are deemed denied by operation of law. (Govt. Code S. 912.4, 913)
6. The Risk Management Analyst is responsible for coordinating any necessary investigation, for managing the ongoing handling of the claim and for maintaining the City's claim file.

C. DENIAL OF CLAIMS

1. The City Manager, upon careful review and consultation with the Human Resources Manager and Risk Management Analyst, is vested with the authority to deny claims on behalf of the City.
2. The Risk Management Analyst will coordinate with the third-party claims administrator the issuance of formal, written denial of claim response to claimants.

D. PUBLIC INQUIRIES CONCERNING THE FILING OF A CLAIM AGAINST THE CITY

Persons inquiring about filing a claim against the City should be advised of the following:

1. Claim filing requirements are set by law in the Government Code. (S. 910, et. seq.)
2. A claim must contain certain specific information. Claims will only be accepted on the City's claim form to ensure that all information is provided.
3. Deadlines for filing claims depend on the type of claim and are set by law.
4. Claims should be sent only to the attention of the Human

- Resources Office.
5. More specific information can be obtained from the Risk Management Analyst.

VII. LITIGATED CLAIMS AND CASES

A. Defense Counsel

1. Defense counsel for each case will be selected by the City Manager after consultation with the Human Resources Manager and the City's Claims Administrator Panel attorney.
2. The selection will be based on the nature and complexity of the case.
3. Prior to appointment in any litigation, potential defense counsel will provide the following to the City:
 - a. The names of other professionals (partners, associates, law clerks, paralegals, etc.) who will assist in the defense of the case; their hourly rate; and functions to be performed by each professional.
 - b. Within five (5) days of receipt of the file, the attorney shall review the file and provide written verification:
 - i. that they have the requisite ability to handle the matter;
 - ii. that they will have the time available to properly represent the City, including preparation and attendance at all depositions, hearings and trial;
 - iii. that they will comply with the City's policies and procedures and CJPIA's Litigation management guidelines and procedures (including billing procedures); and
 - iv. that the attorney and law firm to which they belong have no ethical or legal conflicts that would disqualify them from representing the City in the pending litigation.

B. Case Analysis, Strategy and Budget

Within the 30 days following receipt of a case, defense counsel shall prepare and send to the City and its claims administrator all of the following:

1. A comprehensive written analysis of the case. This analysis shall provide the initial evaluation of the case, including a brief synopsis of the facts of the case, an

analysis of plaintiffs' injuries, damages and exposures in the case, and identification of the strengths and weaknesses of the case. Counsel shall also provide an initial impression of liability and identify the pertinent statutes and/or case law that may affect the outcome of the litigation.

2. Defense counsel shall identify any additional information or documentation that is needed to disprove the plaintiff's claims or to establish defenses in the action. Whenever possible, this investigation and information gathering shall be done by the City's Claims Administrator or Risk Management Analyst.
3. Defense counsel shall define the strategy to be used in defending each lawsuit, including:
 - a. the anticipated course of action to be taken and prospect for success (i.e. motion to dismiss, motion for summary judgement, negotiated settlement, trial, etc.).
 - b. the facts or elements which must be proved or disproved and the discovery necessary to establish these defenses or proof;
 - c. the timing of the discovery, filing of motions, negotiations or other objectives;
 - d. a description of how the work will be distributed among those who will be working on the case; and
 - e. the tactics to be used in defending the case and the advantages to be gained by use of these tactics.
4. Defense counsel will also provide an estimate of the anticipated cost of each significant aspect of the litigation, including:
 - a. discovery/litigation expenses up to trial;
 - b. outside expert expenses through trial; and
 - c. trial expenses.

C. Communication

Copies of all correspondence and pleadings shall be promptly provided by defense counsel to the City's Risk Management Analyst and Claims Administrator and to each of the defendants represented by said counsel (and CJPIA when the case meets excess reporting criteria). Defense counsel will promptly respond to all letters or phone calls and will keep the City and its Claims Administrator (and CJPIA when the case meets excess reporting criteria) fully advised of the progress in each case.

Depositions will be scheduled by defense counsel to permit the attendance of a representative of the City as well as each of the defendants represented by said counsel (and CJPIA when the case meets excess reporting requirements). Immediately upon receipt, notice of all hearings shall be sent by defense counsel to the Risk Management Analyst and to each defendant (and CJPIA when the case meets excess reporting requirements) to allow them to attend the hearing.

Upon request, and at such other times as deemed necessary, defense counsel shall provide written or oral evaluations of the litigation. These evaluations shall disclose any weaknesses or strengths that have been discovered, any changes in applicable statutes or case law, any increase or decrease in anticipated costs, and (if possible) the potential liability and settlement value of the case. These evaluations should be as straight-forward and as objective as possible to allow the City and its Claims Administrator to meaningfully analyze the case and to determine the course of action to be taken.

D. Settlement Authority

Defense counsel shall not settle any lawsuit or make a settlement offer in any amount without prior authorization by the City.

Claims settlement authority is as follows:

\$50,000	or less	City Manager
\$50,001	or more	City Council

E. Legal Billings

All billings for legal services and costs shall be submitted at least quarterly. Fees and costs shall be billed at the rates previously agreed upon. All bills shall state with particularity the legal work performed, the hours expended to perform the work, and the costs incurred. Attorneys submitting the bills for payment are responsible for the content of the bills and will work with the City and its claims adjustor to resolve problems or answer questions.

Legal fees will not be paid unless submitted in the following format:

1. Each legal activity will be dated and itemized (multiple daily descriptive explanations of activities with a single time entry is not acceptable).

2. The initials of the attorney who completed the itemized tasks must be included with the entry;
3. The amount of time to complete the task must be broken down into tenths of hours; and
4. The rates charged by each attorney working on the case must be summarized with the amount of hours to depict a cost per attorney.

F. Trial Report

At the conclusion of all trials, a brief summary trial report must be directed to the City and its Claims Administrator outlining the trial results.

G. Final Reports

At the conclusion of the case, a short summary report must be directed to the City and its Claims Administrator. Original closing papers and the final billing must be attached.

Within the 90 days following the termination of each lawsuit, the City will review the file to determine compliance with the City's guidelines and the strategy and budget developed for the case. If appropriate, a meeting will be arranged to discuss perceived problems and/or ways to improve defense of City claims.

H. Claim Tracking

The Risk Management Analyst will monitor all open claim/litigation files and reports from the claims administrator for the City to ensure that all cases are being managed in the best interest of the City. The Risk Management Analyst will also track the status and costs of all claims/litigation against the City and quarterly compile a report for the City Council and City Manager.

VIII. DISSEMINATION OF POLICY

All employees involved in claims management, including all Department Directors shall receive a copy of this policy. The policy may be updated regularly and redistributed with a form for the employee to sign and return acknowledging they have received, read and understand the policy.

IX. APPROVED BY THE CITY MANAGER

Suja Lowenthal, City Manager

IV. ACTION

This Policy is effective on November 12, 2024