



Honorable Mayor and Members of the Hermosa Beach City Council

**INTRODUCE AN ORDINANCE REPEALING H.B.M.C. SECTION 3.08.020.,
ADOPT A RESOLUTION SETTING THE SETTLEMENT AUTHORITY OF THE
CITY MANAGER FOR GENERAL LIABILITY AND WORKERS COMPENSATION
CLAIMS, AND ADOPT A LITIGATION/CLAIMS MANAGEMENT POLICY**

CEQA: Determine the Ordinance is not a project under the California Environmental Quality Act.

(Interim Human Resources Manager Cynthia Stafford)

Recommended Action:

Staff recommends City Council:

1. Introduce by title only and waive first reading of an Ordinance of the City of Hermosa Beach, California, repealing Section 3.08.020 of the Hermosa Beach Municipal Code (**Attachment 1**); and
2. Adopt a resolution to increase the settlement authority of the City Manager for General Liability and Workers' Compensation Claims to meet statutory limits set forth in Government Code §935.4 and to adopt a litigation/claims management policy (**Attachment 2**).

Executive Summary:

The Hermosa Beach Municipal Code current limits the City Manager's settlement authority to the current jurisdictional limit of the small claims court. In keeping with best management practices for litigations and claims management, it is recommended City Council authorize the City Manager to settle claims up to \$50,000 as authorized by the Government Code.

Background:

In California, before a resident may sue a public entity (a state, county or local governmental entity) or a person acting in its 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 §§ 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.

In accordance with § 935.4 of the California Government Code, the City Council may authorize an employee of the City to perform the claims management procedures and

functions of the City, subject to the certain limitations. Namely, that the employee's ability to allow, compromise, or settle a claim against the City shall not exceed fifty thousand dollars (\$50,000). Currently, Hermosa Beach Municipal Code (HBMC) § 3.08.020 lists the settlement authority of the City Manager for claims against the City and this authority is much lower than the statutory maximum at the time. Thus, in order to streamline and more effectively manage claims against the City, the proposed item is to repeal this HBMC section and adopt, via resolution, a litigation management policy and higher settlement authority for the City Manager.

Discussion:

Pursuant to HBMC section 3.08.020, the City Manager currently has settlement authority for general liability and workers' compensation claims up to the current jurisdictional limit of the small claims court – which is currently \$12,500. In full, this code section states:

“The City Manager, with the approval of the City Attorney, is authorized to settle or compromise any monetary claim or litigation against the City or any officer or employee thereof, without the prior consent of the City Council, in an amount not to exceed the then current jurisdictional limit of the small claims court, as to any individual claimant. The City Manager, with the approval of the City Attorney, is further authorized to settle or compromise any claim that is less than the then current jurisdictional limit of the small claims court that the City may have against any person. The City Manager is authorized to execute and deliver any instrument necessary to effectuate a settlement or compromise permitted in this section.”

There is no mandatory requirement that the City Manager's settlement authority must be in the Hermosa Beach Municipal Code as compared to a resolution. Removing it from the Municipal Code and adopting it via resolution does allow for flexibility moving forward regarding ease of change or other modification.

The cost of settling claims has increased due to the rising costs of attorney's fees, medical charges and repair/remediation expenses. The Government Code provides authority the City Council to delegate claims management, including settlement of said claims, to an employee of the city, up to the statutory limit of \$50,000. (California Government Code § 935.4.)

Currently, most claims (including all claims above the City Manager's settlement authority) are taken into closed session. This process increases the City's costs as the attorney representing the City of Hermosa Beach is present at closed session and may also delay the timely resolution of a claim. Any costs associated with the presentation are charged to the City, including meeting and preparation time. In addition, there is staff time and preparation associated with adding and managing agenda items.

Staff recommends City Council adopt a resolution (**Attachment 2**) allowing the City

Manager to settle claims up to \$50,000 as allowed by Government Code § 935.4 and adopt the Litigation/Claims Management Policy which sets forth the limitations and best practices for general liability and workers' compensation claims. Staff also recommends adopting an ordinance repealing §3.08.020 of the HBMC to allow compliance with § 935.4 of the California Government Code, and its designated settlement authority via the proposed resolution (**Attachment 1**).

Environmental Review

This Ordinance and Resolution are not projects under the California Environmental Quality Act pursuant to CEQA Guidelines section 15378 (b)(5) as the Ordinance is an organization or administrative activity of the City that will not result in direct or indirect physical changes in the environment.

General Plan Consistency:

This report and associated recommendation have been evaluated for their consistency with the City's General Plan. Relevant Policies are listed below:

Governance Element

Goal 1. A high degree of transparency and integrity in the decision-making process.

Policy:

- **1.2: Strategic planning.** Regularly discuss and set priorities at the City Council and management level to prioritize work programs and staffing needs.

Fiscal Impact:

There is no fiscal impact related to the recommended action. On an operational level, the recommend action is designed to create several efficiencies in investigating, settling and resolving general liability and workers compensation claims and related litigation costs.

Attachments:

1. Draft Ordinance
2. Draft Resolution

Respectfully Submitted by: Cynthia Stafford, Interim Human Resources Manager

Noted for Fiscal Impact: Brandon Walker, Administrative Services Director

Legal Review: Patrick Donegan, City Attorney

Reviewed by: Angela Crespi, Deputy City Manager

Approved: Suja Lowenthal, City Manager