

## CITY COUNCIL POLICY

---

SUBJECT: LIABILITY CLAIMS PROCEDURE & LITIGATION

NO.: B-5

---

PURPOSE:

To establish the responsibility and procedure for ~~handling~~the disposition of liability claims and ~~authorizing payment~~litigation.

POLICY:

1. The City Attorney shall ~~decide~~have the following authority regarding the disposition of claims ~~under \$20,000 and may reject claims up to \$100,000 or when the amount is not stated~~litigation without further action ~~of by the~~ City Council~~;~~:
  - a. To allow, compromise, and settle claims made under the California Government Claims Act (hereinafter "claims") in an amount not to exceed \$50,000.
  - b. To reject claims seeking damages in an amount not exceeding \$250,000.
  - c. To reject the following claims, regardless of amount demanded:
    - (1) Claims that do not have an amount stated.
    - (2) Unenforceable claims (e.g., if the City is not the proper party).
    - (3) Claims that can be tendered to \$100a third party for defense and/or indemnification.
    - (4) Frivolous claims. For purposes of this Policy, "frivolous claims" shall mean any claim that does not contain facts sufficient to demonstrate City liability.
  - d. To allow, compromise, and settle litigation in an amount not to exceed \$50,000~~may be approved by~~.
  - e. To allow, compromise, and settle litigation in an amount between \$50,000.01 and \$100,000 with the concurrence of the City Manager~~and~~.
  - f. Despite the authority provided above, the City Attorney~~The following procedure may, in their discretion, present any claim or litigation matter to the City Council.~~

## CITY COUNCIL POLICY

SUBJECT: ~~LIABILITY CLAIMS~~ PROCEDURE & LITIGATION

NO.: B-5

g. Consistent with the authority provided to the City Attorney for professional service agreements required for legal representation under Council Policy A-10, the City Attorney shall be ~~used~~ authorized to approve and establish litigation budgets per lawsuit or appeal in an amount up to \$250,000 for Fiscal Year 2023-24. This amount shall increase annually at the beginning of each fiscal year by the April Consumer Price Index for Urban Consumers (CPI-U) for San Francisco-Oakland-San Jose (or its successor index) as published by the U.S. Department of Labor or its successor agency and rounded to the nearest thousand; but in no event shall the amount decrease.

2. The following procedures shall govern all claims received by the City:

- a. The City Clerk shall date-stamp all claims and lawsuits and forward to the City Attorney.
- b. The City Attorney shall log ~~claim or suit,~~ claims and lawsuits and send confidential requests for information to the appropriate City departments, ~~The Risk Manager shall~~ set reserves, and send information for a loss run entry. Copies of the claim or lawsuit shall be given to the Risk Manager within ~~24 hours~~ five calendar days of receipt.
- c. The Risk Manager shall review the claims and lawsuits when received, and submit them to the Third-Party Administrator ~~when appropriate to further investigate, and recommend settlement according to the procedure set forth below.~~

~~The Third Party Administrator shall investigate the ("TPA") for public liability/property damage third-party risk claims received administration services and:~~

- ~~(1) Prepare a file review that includes an analysis of steps to be taken to resolve the case, establish a case reserve, including expense Medicare Secondary Payer mandatory reporting services, and allocated reserve, utilize information sent by City departments, discuss with the Risk Manager, conduct investigations, and conduct settlement negotiations when appropriate. any other related services pursuant to agreement.~~
- ~~(2) Provide accurate and timely loss runs to the Risk Manager and the City's JPA or excess carrier.~~
- ~~d. The Risk Manager and City Attorney will meet regularly as necessary to coordinate, discuss further action on files, and discuss settlements. The Risk Manager and City~~

## CITY COUNCIL POLICY

SUBJECT: ~~LIABILITY CLAIMS PROCEDURE & LITIGATION~~

NO.: B-5

- ~~Attorney shall keep one another informed of case activity, including Council actions and major case decisions.~~
- ~~ed.~~ When the City Attorney approves payment or partial payment, the ~~Risk Manager~~City Attorney shall inform claimant, negotiate regarding terms of the settlement, obtain signed release of claims from claimant, and ~~provide check~~arrange for payment of the settlement upon receipt of signed release.
- ~~2.~~ ~~The City Attorney,~~ ~~3.~~ When claims or lawsuits that do not fall within Section 1 of this Policy are proposed to be settled, paid, or ~~paid for \$100,000 or more, rejected,~~ the City Attorney shall place the claim on the City Council ~~Agenda~~Closed or Open Session agenda, whichever is legally appropriate, for consideration within 45 days of filing and submit a recommendation to Council for ~~payment.~~disposition of the claim. The following procedure shall be used:
- a. ~~City Council shall have authority to approve payment of claims or settlements in whole or in part above \$100,000.~~
- ~~b.~~ When ~~payments~~settlement of a claim ~~or lawsuit~~ is approved by the Council, the City Attorney shall obtain a release of claims and ~~provide check to claimant~~arrange for payment of the settlement upon receipt of a signed release; ~~retains file for two years.~~
- ~~c.~~ ~~When denial is recommended,~~ ~~b.~~ The City Attorney shall retain the file for a period consistent with the City's Retention Schedule.
- ~~c.~~ When rejection of the claim is authorized by the City Council, the City Attorney shall notify the claimant in accordance with applicable law.
- ~~34.~~ An employee, when asked, shall inform claimants that claims must be filed with the City Clerk. Employees ~~are~~shall not ~~to~~personally accept any claims ~~personally or admit~~and shall seek legal assistance from the City Attorney before admitting responsibility. ~~for any act or omission as a City employee.~~ All department reports of claims investigations should be marked ~~"Confidential at the Request of the City Attorney."~~confidential and treated as such.
- ~~45.~~ The City Attorney shall submit ~~monthly reports~~a quarterly report to the City Council ~~indicating~~regarding all claims that have been paid ~~and~~or rejected. The report shall include

CITY COUNCIL POLICY

---

SUBJECT:     ~~LIABILITY CLAIMS~~ PROCEDURE & LITIGATION

NO.: B-5

---

~~information pertaining to the claimant~~claimant's name, amount of claim, a brief description of the claim, and ~~reason~~the basis for settlement or rejection~~).~~

Revised: February 27, 2024, Resolution No.

Revised: December 4, 2018, Resolution No. 18280

Effective Date: February 23, 1993, Resolution No. 15541

CNL POL

B05-501CP-so