

GARDEN GROVE CITY COUNCIL

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE, CALIFORNIA, ESTABLISHING PROCEDURES AND DELEGATING AUTHORITY FOR PROCESSING AND SETTLEMENT OF CLAIMS AND LITIGATION AGAINST THE CITY; SETTLEMENT OF CLAIMS MADE AND LITIGATION INITIATED BY THE CITY; COLLECTION OF DELINQUENT ACCOUNTS OWING TO THE CITY; AND REPEALING RESOLUTION NO. 7519-92

WHEREAS, claims for damages alleging personal injuries, bodily injuries, including death, and damages to real and personal property are periodically made against the City of Garden Grove ("City");

WHEREAS, the City contracts with a claims administrator to review and investigate claims;

WHEREAS, the City presently has liability insurance in force with a significant self-insured retention;

WHEREAS, Government Code section 935.4 authorizes the City Council to delegate by resolution the authority to an employee to handle, process, compromise, or settle claims against the City up to \$50,000;

WHEREAS, Government Code section 949 authorizes the City Council to delegate authority to an employee or its attorney to settle lawsuits;

WHEREAS, the City has occasion to seek recovery against persons or entities who have caused loss or damage to the City, who have been assessed fines, charges, or special fees by the City, or who have been the subject of civil or administrative enforcement proceedings for violation of the Garden Grove Municipal Code or other applicable laws;

WHEREAS, in the course of conducting the business affairs of the City certain accounts receivable or other obligations owing to the City may become delinquent or uncollectible;

WHEREAS, cost efficiency relating to collection of delinquent accounts can be greatly improved by the adoption of certain policies relating to the collection of such accounts; and

WHEREAS, the City desires to update, amend and reestablish procedures for the administration of claims and litigation against and by the City.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES HEREBY DETERMINE, RESOLVE AND ORDER AS FOLLOWS:

ARTICLE I
HANDLING, PROCESSING AND SETTLEMENT OF LIABILITY CLAIMS
MADE AND LITIGATION FILED AGAINST THE CITY

Section 1.1: A liability reserve has been established for the payment of claims made against the City. This reserve shall continue to be provided in each annual budget to ensure that sufficient funds are on deposit to provide for payment of those amounts incurred as a liability loss or expense.

Section 1.2: Each annual budget shall provide, in addition to the reserve established by Section 1.1, for the necessary funds to provide a sufficient balance to meet projected expenses for loss and payment of claims during the ensuing fiscal year.

Section 1.3: The Finance Director is authorized to allow or reject claims; approve, deny and otherwise make determinations concerning (i) the sufficiency of claims presented against the City, and (ii) the presentation of late claims.

Section 1.4: The Finance Director is authorized to settle claims up to \$10,000, or up to \$15,000 with the concurrence of the City Attorney.

Section 1.5: The Finance Director, is authorized to settle claims up to \$25,000 with the concurrence of the City Manager and City Attorney.

Section 1.6: All claims resulting in a recommended settlement by negotiation in an amount exceeding \$25,000 shall be subject to approval by the City Council.

Section 1.7: For claims that result in litigation, settlement approval authority shall be within the same limits as previously outlined and shall also include the concurrence of the legal counsel representing the City.

Section 1.8: The City Manager, with concurrence of the City Attorney, is authorized to retain the services of special legal counsel for purposes of representing the City in the defense of any claim or matter of litigation, whenever it is determined that specialized expertise or experience is desirable, a conflict of interest exists or could arise with the office of City Attorney, or it is otherwise deemed appropriate to use special legal counsel.

ARTICLE II
COLLECTION OF DELINQUENT OBLIGATIONS
OWING TO THE CITY

Section 2.1: The Finance Director is authorized to write off as an uncollectible debt any delinquent obligation owing to the City in excess of ninety (90) days and up to \$5,000, or up to \$10,000 with concurrence of the City Manager.

Section 2.2: Delinquent obligations owing to the City in excess of \$10,000 may be written off as uncollectible debt with approval by the City Council.

Section 2.3: The Finance Director is authorized to assign for collection to a person or firm of his/her choosing delinquent obligations.

Section 2.4: The Finance Director is authorized to file the necessary proceedings in small claims court and shall take legal measures to enforce the terms of judgments in order to collect any delinquent obligation owing to the City.

Section 2.5: In addition to the above authorization, the Finance Director is directed to exercise his/her reasonable discretion to use available lawful methods to obtain prompt and full recovery of all obligations owing to the City.

Section 2.6: To the extent authorized by law, the Finance Director is authorized to offset the amount of any delinquent obligation against any sums held on deposit by the City on behalf of any person or entity who owes a delinquent obligation to the City.

Section 2.7: To the extent authorized by law, the Finance Director is authorized to withhold the approval of any such permits otherwise to be issued by the City to any person or entity who has an outstanding debt obligation owing to the City until such time as such debt obligation is paid in full.

Section 2.8: Delinquent obligations, as used in this Resolution, shall include the amount of any invoice submitted by the City for services rendered or for reimbursement of damages caused to City property or personnel, or such other debt owed to the City that has not been timely paid.

ARTICLE III OTHER ADMINISTRATIVE PROCEDURES

Section 3.1: The Finance Director is hereby directed to make payments in accordance with the decisions made pursuant to this Resolution upon written direction of the decision-maker.

Section 3.2: The City Attorney is authorized to enter into tolling agreements or other similar arrangements when the City Attorney determines that entry into such an agreement or arrangement may be cost-effective or otherwise beneficial to the City with regard to a potential claim, existing claim or pending litigation.

ARTICLE IV JUDICIAL REVIEW OF QUASI-JUDICIAL ACTIONS

Section 4.1: Any claim or action brought to challenge a quasi-judicial act of the City Council or its Boards or Commissions shall be subject to the requirements of Code of Civil Procedure Sections 1094.5 – 1094.6.

ARTICLE V
MISCELLANEOUS

Section 5.1: A delegation of authority to a City officer in this Resolution shall include a designee of the City officer.

Section 5.2: This Resolution supersedes Resolution No. 7519-92, which shall be deemed repealed in its entirety as of the date this Resolution becomes effective.

Section 5.3: This Resolution shall be effective immediately upon adoption.