

RESOLUTION 2006-222

A RESOLUTION OF THE CITY OF SALEM, AMENDING RESOLUTION 93-59A, ESTABLISHING A SELF-INSURANCE POLICY FOR THE CITY OF SALEM

Whereas, Resolution No. 93-59A established the City of Salem's policy with respect to all insurable-type risks, including, but not limited to losses subject to Oregon's Workers' Compensation Law and the Oregon Tort Claims Act (Claims); and

Whereas, Section 3 of Resolution No. 93-59A provides that the City Manager shall have "the ultimate responsibility for risk management" within the City of Salem; and

Whereas, Section 6 of Resolution No. 93-59A, establishes a process for claims administration by the City of Salem, and designates the City of Salem Risk Manager as the person to whom Claims shall be referred for administration, subject to the specific direction of the City Manager; and

Whereas, Section 6 of Resolution No. 93-59A establishes certain settlement authority that may be exercised by the Risk Manager; and

Whereas, the City Council of the City of Salem deems it necessary and proper, and in the public interest, to amend Resolution No. 93-59A, to establish certain settlement authority that may be exercised by the City Manager and to make certain other minor administrative amendments;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SALEM RESOLVES AS FOLLOWS:

Section 1: Designation. Resolution No. 93-59A is hereby amended to read as set forth in "Exhibit A," which is attached hereto and incorporated herein by reference.

Section 2: Effective Date. This resolution is effective upon adoption.

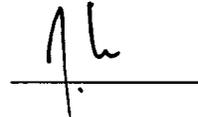
ADOPTED by the City Council this 13th day of November, 2006.

ATTEST:



DEPUTY
City Recorder

Approved by City Attorney:



Checked by: S. Emmons

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“Exhibit A”

City of Salem Risk Management Program

Section 1. Purpose and Scope.

(a) The City’s policy with respect to all insurable-type risks, including but not limited to the losses subject to the Oregon Workers’ Compensation Law, and the Oregon Tort Claims Act, shall be as follows:

1. To protect the City of Salem against the financial consequences of catastrophic loss;
2. To minimize and stabilize the total cost of risk to the City of Salem;
3. To identify a level at which the risk of damage to or loss of City property will be funded;
4. To efficiently and fairly administer claims so as to protect the City of Salem’s economic interest and recognize the public interest in prompt settlement of meritorious claims;
5. To emphasize the reduction, modification, or elimination of conditions and practices which may cause loss, where consistent with the City’s legal obligations and compatible with other compelling public interests and purposes.

(b) Sections 2 through 5 of this Resolution do not apply to health benefits as described in Section 13.

Section 2. Loss Prevention and Control. Each department head shall be responsible to assure that his or her operations conform to applicable Federal, State and local laws, ordinances and regulations and that the personnel within his or her department cooperate fully with the Risk Manager in identifying risks, eliminating those risks which can be eliminated legally and practically, and implementing reasonable measures to mitigate the severity of expected loss where risks cannot be eliminated.

Section 3. Risk Management Function. The City ~~Manager Administrator~~ shall bear the ultimate responsibility for risk management within the City. The City ~~Manager Administrator~~ may appoint a person to act as Risk Manager, and may place the Risk Manager in such a position

in the administrative structure of the City as will enable the Risk Manager to effectively carry out the following authorities and responsibilities:

- (a)~~1~~: Acquisition of insurance where necessary or desirable and where such acquisition is consistent with this Resolution and with the City of Salem Public Contracting Rules; ~~Purchasing Manual~~;
- (b)~~2~~: Advice to the City Manager ~~Administrator~~ regarding any areas where particular improvements in risk-related activities could be of benefit to the City;
- (c)~~3~~: Preparation of a Risk Management manual to be adopted by the City Manager. ~~Administrator~~. Such manual shall include administrative policies and procedures to implement this Resolution; and
- (d)~~4~~: Administration of the Risk Management program under this Resolution and the policies and procedures adopted hereunder.

Section 4. Risk Retention.

- (a)~~1~~: With regard to risks within the scope of the Oregon Tort Claims Act, it shall be the City's policy to self-insure all losses which occur with predictable frequency, or which will not have a significant impact on the City's fiscal position. The Risk Manager, with the approval of the City Manager, ~~Administrator~~, shall establish guidelines to determine appropriate self-insured retention for various types of risk subject to the policies set forth in this Resolution.
- (b)~~2~~: City property subject to this Resolution shall be insured or self-insured according to guidelines set by the Risk Manager with the approval of the City Manager, ~~Administrator~~; subject to the policies set forth in this Resolution.
- (c)~~3~~: With regard to risks of loss Subject to ORS Chapter 656 (Workers' Compensation), the Risk Manager, with the approval of the City Manager, ~~Administrator~~, shall establish self-insured retention limits subject to the policies set forth in this Resolution.
- (d)~~4~~: Exceptions to the general guidelines will be within the discretion of the Risk Manager, subject to such review as the City Manager ~~Administrator~~ deems appropriate, and consistent with one or more of the following general criteria:

- 1.a: Where necessary services can be obtained only by a purchase of insurance;

2.b. Where the City is obligated by contract or law to purchase insurance and no alternative is practical;

3.c. Where deductibles or non-insurance do not result in long term economies.

Section 5. Purchase of Insurance; Agent of Record.

(a)†: Insurance with limits equal to the amount subject to loss shall be purchased when the potential loss exposure exceeds the retention level determined by the Risk Manager under this Resolution, and when such insurance is available on a fiscally sound basis.

(b)‡: All property casualty, and workers' compensation insurance (including excess insurance) purchased by the City of Salem shall be acquired through a designated Agent of Record, selected by a competitive process as provided in the City of Salem Public Contracting Rules, ~~Purchasing Manual~~, and retained under contract for a three year period.

Section 6. Claims Administration. All claims of loss directed against the City shall be administered by the Risk Manager under the following guidelines and subject to specific direction of the City Manager: ~~Administrator:~~

(a)†: The City ~~Common~~ Council hereby designates the Risk Manager as the person to whom claims under the Oregon Tort Claims Act (ORS 30.260 to 30.290) may be presented. Immediately upon receipt by any City officer or employee, all written notices of claims within the scope of Sections 2 through 6 of this Resolution shall be forwarded to the Risk Manager, who will make appropriate record of the claims and assure that they are administered consistent with this Resolution.

(b)‡: The Risk Manager may authorize a bonded, licensed insurance adjuster retained under annual contract awarded pursuant to the City of Salem Public Contracting Rules ~~Purchasing Manual~~ and administered by the Risk Manager to resolve any claim not exceeding \$10,000. The City Manger, upon advice from the Risk Manager and concurrence of the City Attorney, may resolve any tort claim greater than \$10,000, but not exceeding \$25,000. All tort claims exceeding \$25,000 ~~\$10,000~~ shall be referred to the City Council for approval prior to settlement. The Risk Manager may make special provision for the investigating of particular claims which in his or her discretion warrant

special administration. All claims of police misconduct, including but not limited to false arrest, excessive use of force, malicious prosecution, deprivation of civil rights, wrongful vehicular pursuit, etc., but not including claims resulting from motor vehicle accidents in non-pursuit situations, shall be investigated by the City Attorney using Salem Police Department personnel consistent with policies and procedures adopted by the Chief of Police with the concurrence of the City Attorney. Persons investigating claims under the direction of the Risk Manager or City Attorney shall act as representatives of the City producing work product to assist the City Attorney in negotiation and defense of any claim.

~~(c)3:~~ The City Attorney shall defend all tort claims unless other defense provisions have been made under the terms of an applicable policy of insurance except where the City Attorney deems that there is a conflict of interest, or that specialized or complex issues warrant retention of special counsel for defense, in which case the City Attorney may designate special counsel. ~~Any such special counsel shall be designated by the Common Council upon recommendation of the City Attorney.~~

~~(d)4:~~ Workers' compensation claims will be investigated and adjusted by a qualified administrative service organization selected according to ~~as provided in the City of Salem Public Contracting Rules. Purchasing Manual.~~ The City Manager, ~~Administrator,~~ upon the advice of the City Attorney and Risk Manager, shall designate one or more special counsel for representation of the City of Salem at all administrative hearings and judicial review with respect to workers' compensation claims.

SELF-INSURANCE FUND

Section 7. Creation of the Self-Insurance Fund. There is hereby created a fund known as the Self-Insurance Fund (Fund 15) which includes property, casualty, workers' compensation, health benefits and risk management administration accounts. Such fund shall be funded and administered as provided in this Resolution.

Section 8. Revenue Sources. For each fiscal year the following monies shall be budgeted and appropriated to the Self-Insurance Fund:

~~(a)1:~~ Beginning balance (carryover from prior fiscal year);

~~(b)2:~~ Interest earnings on the principal amount of the fund as invested by the Finance Director;

~~(c)3:~~ Contributions assessed against departments, funds and entities serviced by the Self-Insurance Fund, sufficient to provide adequate reserves on reported claims, adequate catastrophic loss reserves, and adequate funding for premiums and administrative costs;

~~(d)4:~~ Reimbursements from specialized programs designated in the annual City of Salem Budget;

~~(e)5:~~ Premiums for health care collected “over the counter” from retired and “COBRA” employees.

Section 9. Separate Accounts.

(a) For purposes of segregating and restricting disbursements from the Self-Insurance Fund, the following accounts shall be created and maintained. Monies once appropriated to any of these accounts shall not thereafter be transferred or disbursed except for one of the purposes for which such account is dedicated under this Resolution:

1. An account or accounts for the payment of property and casualty losses;
2. An account for payment of workers’ compensation claims meeting the requirements of ORS 656.407(3)(a)(B) and ORS 656.407(3)(b);
3. An account or accounts for the payment of property, casualty and workers’ compensation premium and administrative costs;
4. Health and dental benefit accounts.

(b) Subject to the specific provisions of this Resolution, the Director of Finance may structure the foregoing accounts in any way appropriate and convenient to maintain proper and efficient accounting of the Self-Insurance Fund under applicable federal and state laws and regulations, and according to accepted accounting practice.

Section 10. Property and Casualty Account Disbursements. The Director of Finance shall make disbursements from the account or accounts maintained for self-insurance of the risks of loss or damage to City property and liability to third parties according to the policies and procedures adopted under Section 3(c) of this Resolution. ~~subsection 3.3.~~

Section 11. Workers’ Compensation Reserve Account Disbursements.

~~(a)1~~. The Director of Finance is hereby directed to make disbursements from the Workers' Compensation Reserve Fund as follows:

~~1.a~~. Amounts sufficient to pay claims each month as due, disbursement to be made to a checking account upon which the City's administrative service organization may draw checks for the sole purpose of paying claims;

~~2.b~~. Amounts due the Director of the State Department of Insurance and Finance, as approved by the Risk Manager or as adjudged by a court of competent jurisdiction.

~~(b)2~~. The City ~~Common~~Council recognizes the statutory first priority lien rights of the State of Oregon Director of Insurance and Finance to the Workers' Compensation Reserve Account.

Section 12. Risk Management Administration Account Disbursements. The Director of Finance is hereby directed to make disbursements from the Risk Management Administration Fund to pay expenses related to the self-insured risk management program not otherwise provided for in Sections 10 and 11 of this Resolution.

Section 13. Health and Dental Account Disbursements. The Director of Finance is hereby directed to make disbursements from the health benefits account to pay benefit costs and expenses related to administration of self-insured health benefits programs.

For Council Meeting of: November 13, 2006

4.2 (d)

Agenda Item No.: _____

TO: MAYOR AND CITY COUNCIL

THROUGH: ROBERT G. WELLS, CITY MANAGER

**FROM: CONSTANCE L. MUNNELL, DIRECTOR OF HUMAN RESOURCES
RANDALL TOSH, CITY ATTORNEY**

SUBJECT: AMENDMENT OF RESOLUTION 93-59A, ESTABLISHING A SELF-INSURANCE POLICY FOR THE CITY OF SALEM

ISSUE:

Should the City Council adopt Resolution Number 2006-222 amending Resolution 93-59A to establish certain settlement authority that may be exercised by the City Manager?

RECOMMENDATION:

Staff recommends the City Council adopt Resolution No. 2006-222 amending the City of Salem self-insurance policy to allow settlement authority up to \$25,000 by the City Manager.

BACKGROUND:

1. In 1992, the City Council authorized the Risk Manager to resolve claims against the City in amounts not greater than \$10,000.
2. The settlement of claims in excess of \$10,000 are now subject to approval by the City Council.
3. In the 14 years since the 1992 resolution, costs associated with claims have risen with the passage of time. Examples of these costs are medical treatment, property repair, and the cost of litigation. While the majority of claims in which the city feels it has potential exposure can still be settled for under \$10,000, a few claims have arisen which although still appropriate for administrative settlement have had associated costs of over \$10,000.

FACTS AND FINDINGS:

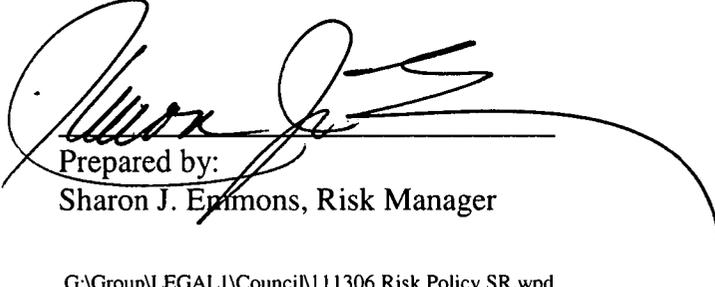
1. It is in the interest of efficient claims administration and governmental operations to establish certain settlement authority that may be exercised by the City Manager.

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Approved

Legal

2. The authority of the City Manager to settle cases over \$10,000, but no more than \$25,000 would be exercised infrequently and only on the advice of the City Attorney and Risk Manager.



Prepared by:
Sharon J. Emmons, Risk Manager

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