



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: June 20, 2017

TO: Mayor and Members of the City Council

FROM: Michael A. Guina, City Attorney

SUBJECT: **Resolution Of The City Council Of The City Of Emeryville Adopting A Policy On The Delegation Of Authority Regarding Claims And Actions Against The City Of Emeryville And Claims And Actions Of The City Of Emeryville; And Rescinding Resolution No. 13-154**

RECOMMENDATION

Staff recommends the City Council adopt the attached resolution adopting a policy delegating to the City Manager the authority to settle, approve, or reject claims and actions against the City of Emeryville, and claims and actions of the City of Emeryville, for amounts not to exceed \$45,000; and rescinding Resolution No. 13-154.

BACKGROUND

Government Code Section 935.4 allows a local public entity to adopt resolutions authorizing an employee to allow, compromise, or settle claims filed under the Government Tort Claims Act against the entity, up to \$50,000. Amounts greater than \$50,000 require action by the local public entity. In addition, Government Code Section 949 authorizes the governing body of a local public entity to delegate its authority to compromise any pending action to its attorney or any employee.

Pursuant to these statutes, on December 3, 2013, the City Council adopted Resolution No. 13-154, which delegates authority to the City Manager to administer claims and actions against the City, as well as claims and actions initiated by the City. The City Manager is authorized to accept, deny, allow in part, or settle claims and actions for money or damages against the City, except as otherwise provided by the City Council, by law, or by self-insurance pooling agreement. The City Manager may dispose of claims and actions against the City up to \$25,000 and with the concurrence of the City Attorney. Resolution No. 99-31 also authorizes the City Manager to administer claims and actions brought by the City, provided that the disposition is not otherwise provided by the City Council, by law, or by self-insurance pooling agreement. The City Manager may administer claims and actions of the City up to \$25,000 and with the concurrence of the City Attorney. Resolution No. 13-154 also rescinded Resolution No. 99-31, which had delegated authority to administer claims up to \$10,000.

DISCUSSION

In 2014, the City Council adopted Resolution No. 14-128, which increased the City Manager's purchasing authority from \$25,000 to \$45,000. The discrepancy between the City Manager's purchasing authority and settlement authority has created some confusion because both matters involve contracts and expenditures of funds. To clarify the City Manager's authority, staff recommends that the City Manager's authority to settle claims be increased to \$45,000 to be consistent with the City Manager's purchasing authority. Consistent with current practice, the City Attorney's Office will continue to report on all matters that have been settled under the City Manager's authority during quarterly legal updates.

FISCAL IMPACT

There is no fiscal impact in raising the City Manager's authority to settle claims in an amount not to exceed \$45,000.

STAFF COMMUNICATION WITH THE PUBLIC

None.

CONCLUSION

Staff recommends adopting the proposed resolution.

PREPARED BY: Andrea Visveshwara, Assistant City Attorney

**APPROVED AND FORWARDED TO THE
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



Michael A. Guina, City Attorney

ATTACHMENTS

1. Resolution