

City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: OCTOBER 4, 2016
FROM: FINANCE DEPARTMENT WARDS: ALL
SUBJECT: ANNUAL REPORT ON THE CITY'S GENERAL LIABILITY CLAIMS

ISSUE:

Approval of the annual report on the City's General Liability open claims and costs through June 30, 2016, including customer service improvements.

RECOMMENDATION:

That the City Council receive and provide approval of this annual report reflecting the City's General Liability open claims through June 30, 2016.

FINANCE COMMITTEE RECOMMENDATION:

The Finance Committee met on September 14, 2016, with Chair Soubrouse, Vice-Chair Burnard and Member Perry present, to consider the City's General Liability open claims and costs through June 30, 2016. After discussion, a motion was made by Chair Soubrouse and seconded by Vice-Chair Burnard to: 1) receive and order the reports of the City's General Liability Claims to be filed; and 2) direct staff to return to the City Council for approval. The motion carried unanimously.

BACKGROUND:

The Finance Department is responsible for the City's Risk Management function, which includes the administration of the City's General Liability Claims Program. This report will be provided on a yearly basis, and will present a snapshot of the claims received, processed, closed, litigated or otherwise handled over a twelve-month period. Additionally, the report provides an update of customer service improvements in claim handling and processing. A financial overview will always accompany the reports.

In addition to this annual report presented to the Finance Committee and the City Council, Risk Management provides detailed reports to City Departments on a monthly basis. On a quarterly basis, the City Manager's Office and the City Attorney's Office meet with Finance (on the General Liability claims) and Human Resources (on the Workers Compensation claims) to review

patterns and discuss any changes to policies or management actions.

The City of Riverside has been self-insured and self-administered since January 1, 1979. The main purpose of the program is to minimize or eliminate the exposure of City assets and resources to accidental and business loss.

The Risk Management Division is responsible for the administration of general liability claims and adheres to the California Government Code, which establishes general requirements for filing claims against public entities, and sets various deadlines for filing and processing claims.

Risk Management administers claims through a contract with a Third Party Administrator (TPA), Carl Warren and Company (CW). The current contract expires June 30, 2017. CW assist the Risk Management function in managing, reviewing and resolving all public liability claims filed against the City. CW has established a collaborative working relationship with individual City Departments, including the City Attorney's Office, to assist in the resolution of outstanding claims. CW provides the City with loss run reports on a regular basis as well as ad-hoc reports as the need arises.

DISCUSSION:

A. Overview of Open Claims

As of June 30, 2016, the City has 246 open/outstanding claims, with \$6.9 Million in anticipated expenses (reserve loss and reserve expense) and \$1.3 Million in payment losses and expenses; for total incurred costs of \$8.2 Million. This table only includes open claims, including litigated claims. Litigated claims could remain open for several years and account for over 80% of the total incurred amount listed below.

Snapshot of Open Claims Activity through June 30, 2016

TYPE	NUMBER OF CLAIMS	NET RESERVE LOSS (1)	NET RESERVE EXPENSE (2)	NET PAYMENT LOSS (3)	NET PAYMENT EXPENSE (4)	TOTAL INCURRED
CITY ADMINISTRATIVE SERVICES	10	222,267.66	55,509.98	-	4,490.02	282,267.66
CODE COMPLIANCE/ WEED ABATAMENT	1	100.00	2,220.01	-	110,301.52	112,621.53
CONVENTION CENTER	1	2,000.00	4,304.84	-	695.16	7,000.00
DEVELOPMENT	1	10,000.00	-	-	-	10,000.00
ELECTRIC SERVICES	4	3,571.32	-	-	-	3,571.32
FIRE	6	229,850.00	8,109.86	150.00	1,890.14	240,000.00
GENERAL GOVERNMENT	2	10,007.00	-	-	-	10,007.00
HUMAN RESOURCES	11	255,000.00	155,238.89	-	4,926.11	415,165.00
MUSEUM	1	3,000.00	-	-	-	3,000.00
PARKS	6	135,000.00	22,794.46	-	2,520.54	160,315.00
POLICE (GENERAL)	22	3,449,568.85	409,417.56	6,397.37	958,215.68	4,823,599.46
PUBLIC WORKS	33	272,427.76	65,210.67	100.00	9,889.33	347,627.76
REFUSE COLLECTION SERVICES	4	5,536.52	-	200.00	-	5,736.52

TYPE	NUMBER OF CLAIMS	NET RESERVE LOSS (1)	NET RESERVE EXPENSE (2)	NET PAYMENT LOSS (3)	NET PAYMENT EXPENSE (4)	TOTAL INCURRED
SEWAGE SYSTEMS SERVICES	8	40,100.00	-	-	-	40,100.00
STORM DRAINS	1	636.89	-	-	-	636.89
STREET MAINTENANCE/ ST SWEEPING	28	1,095,670.82	157,128.60	15,000.00	195,375.00	1,463,174.42
STREET TREES - SEWER ACTIONS	43	56,403.22	-	1,099.85	-	57,503.07
STREET TREES - TREE LIMB/BRANCH	15	42,819.56	5,000.00	-	-	47,819.56
STREET TREES - WATER LINE ACTIONS	16	11,614.00	-	751.98	-	12,365.98
STREET TREES - YARD ACTIONS	5	4,742.00	-	-	-	4,742.00
STREET TREES- CONCRETE DAMAGE ACTIONS	23	153,749.92	-	10,161.07	-	163,910.99
UNDER REVIEW	1	5,000.00	5,000.00	-	-	10,000.00
WATER SERVICES	4	2,800.00	-	-	-	2,800.00
TOTALS	246	\$ 6,011,865.52	\$ 889,934.87	\$ 33,860.27	\$ 1,288,303.50	\$ 8,223,964.16

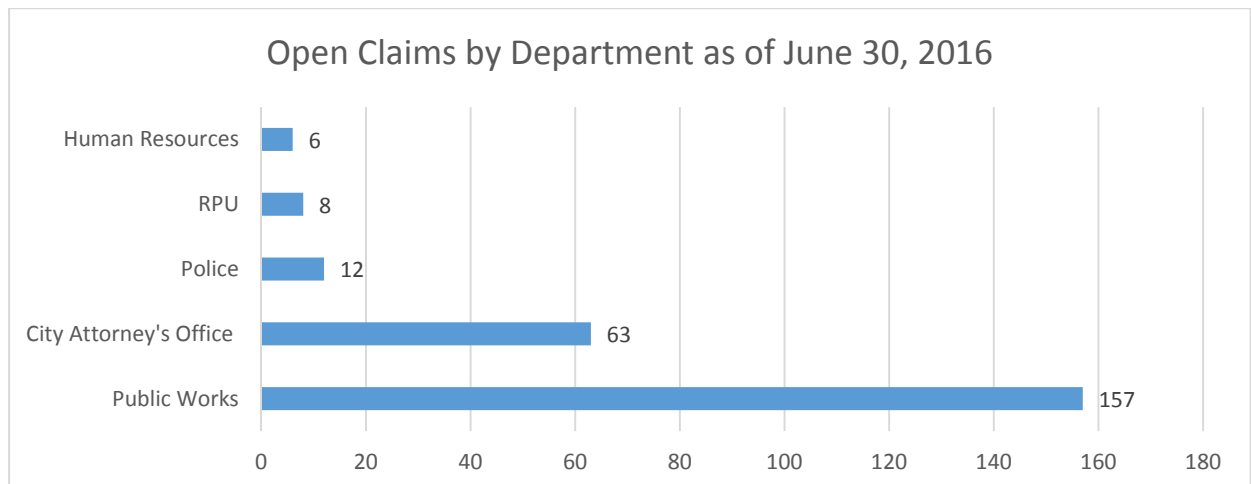
(1) Net Reserve Loss – Estimated amount to be paid for settlement of the claim(s);

(2) Net Reserve Expense – Estimated amount to be paid for anticipated expenses (Legal Costs, Attorney Fees, Investigations, etc.);

(3) Net Payment Loss – Settlement amount that has been paid; and

(4) Net Payment Expense – All Expenses related to the claim that have been paid (Legal Costs, Attorney Fees, Investigations, etc.).

Of the 246 outstanding claims shown above, 63 claims are being actively administered by the City Attorney's Office. These are Tort Claims with ongoing litigation, for which the City Attorney's Office has full control. Of these 246 claims, 157 are related to the Public Works Department. Through no fault of their own, the Public Works Department continues to incur a significant number of liability claims mostly due to the Shamel Ash trees that have been planted along the streets throughout Riverside. The Shamel Ash is a large shade tree with thick trunks and is the fastest growing Ash tree. This type of tree can grow over 80 feet tall in over 30 years, with a shallow and invasive root system causing driveways and sidewalks to be lifted, also causing damage to the City water and sewer lines.



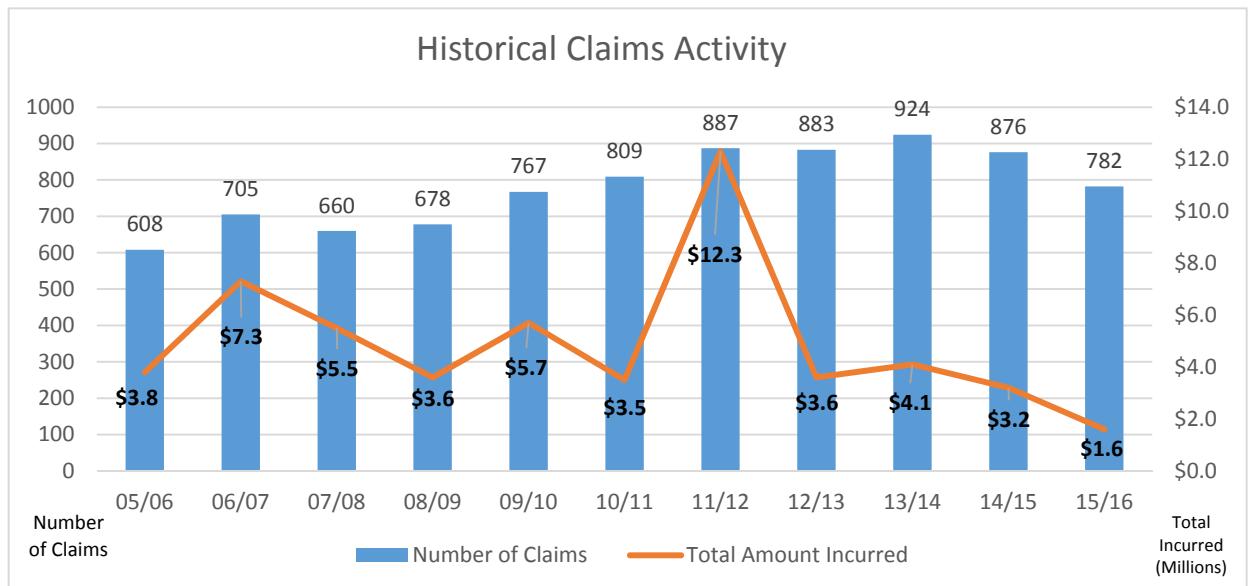
B. Fiscal Year 2015/2016 Claims Activity

The following table shows an overview of claim activity for the entire fiscal year (FY) 2015/2016. During this time period, the City received a total of 782 general liability claims. This number, however, includes both actual claims (filed on the approved form with the City Clerk), as well as calls for service to address issues (mainly sewer-related) that would otherwise lead to claims. Property damage was the leading source of claims, generating over 90% of all claims received during the fiscal year. The total incurred amount listed below includes anticipated and current expenses associated with claims filed during FY 2015/2016.

	CLAIM COUNT	% OF ALL CLAIMS	TOTAL AMOUNT INCURRED	% OF AMOUNT INCURRED
LIABILITY PROPERTY DAMAGE	704	90.03%	\$1,182,076.76	72.52%
AUTO PROPERTY DAMAGE	42	5.37%	\$67,880.37	4.16%
LIABILITY BODILY INJURY	17	2.17%	\$100,580.00	6.17%
AUTO BODILY INJURY	7	0.90%	\$29,427.00	1.81%
EMPLOYMENT PRACTICES	7	0.90%	\$210,000.00	12.88%
LIABILITY PERSONAL INJURY	5	0.64%	\$40,000.00	2.45%
TOTALS	782	100%	\$1,629,964.13	100%

C. Historical Claims Activity

During the 11-year period between July 1, 2005 and June 30, 2016, Risk Management received a total of 8,579 claims, with an average of 779 claims per fiscal year. (Again, this number includes both actual claims and calls for service.) During the same time period the total amount incurred was \$54.3 Million with an average of \$4.9 Million per fiscal year. The total incurred amounts listed below include both anticipated and current expenses through June 30, 2016.



D. Outside Legal Counsel and Litigation Costs

The City retains outside legal counsel as applicable and required by the City Attorney's Office, typically for claims where the claimant has retained legal counsel and/or other appropriate occurrences as determined by the City Attorney's Office. Once this occurs, all communication and interaction between the claimant and the City are conducted via each party's legal representative, including any formal or informal communication such as attending court proceedings. Selection of outside legal counsel is made by the City Attorney's Office. Expenditures related to outside legal fees and costs dating July 1, 2015 through June 30, 2016 totaled \$1,125,415 – a significant reduction from the \$2-3 million annual spending in the prior three years, thanks to the City Attorney's efforts to keep matters in house.

E. Customer Service Enhancements

The City's Risk Management function has made continuous improvements to effectively and consistently provide exceptional customer service, expedite the claims administration process and establish high levels of transparency.

Internally, the Risk Management Division prepared a Risk Management Manual for City departments.

Externally, some of the recent improvements include the following:

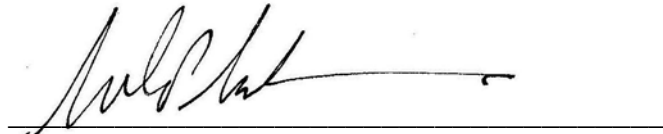
- The City's Claim for Damages form is now available online at www.riversideca.gov/claims;
- Notices to claimants have been updated and now include contact information to the City's Risk Management Division (See Attachment 1);
- All City vehicles will carry informational postcards to be distributed by City employees whenever an incident occurs. This postcard will contain instructions for filing a claim and contact information to the City's Risk Management Division (See Attachment 2); and
- Whenever a new claim for damages is submitted, the City Clerk's Office provides the claimant with a claim acknowledgement postcard. This postcard contains the claim number in addition to contact information to the City's Risk Management Division. (See Attachment 3)

FISCAL IMPACT:

There is no direct fiscal impact associated with this report. For information, the General Liability program's expenditures dating July 1, 2015 through June 30, 2016 totaled \$6,051,352. Of this total \$1,125,415 is related to legal fees and costs, \$1,899,265 is related to bodily injury claim settlements, \$2,381,400 is related to property damage claim settlements. This represents claim settlements and expenses paid during FY 2015/16.

Prepared by:	Arturo Torres C.P.M., Purchasing Services/Risk Manager
Certified as to availability of funds:	Scott G. Miller PhD, Chief Financial Officer/Treasurer
Approved by:	Marianna Marysheva-Martinez, Assistant City Manager
Approved as to form:	Gary G. Geuss, City Attorney

Concurs with:

A handwritten signature in black ink, appearing to read 'Mike Soubirous', is written over a horizontal line.

Mike Soubirous, Chair
Finance Committee

Attachments:

1. Updated Notices to Claimants
2. Claim Information Postcard
3. Claim Acknowledgement Postcard
4. Presentation