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DEPARTMENT OF GENERAL SERVICES

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FACILITY MAINTENANCE DIVISION
FLEET MANAGEMENT DIVISION
RISK MANAGEMENT & INS. DIVISION
SUPPORT SERVICES DIVISION

OFFICE OF THE DIRECTOR

APPROVED
BY THE CITY COUNCIL

NOV 19 1985

November 13, 1985
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OFFICE OF THE
CITY CLERK

City Council
Sacramento, California

NOV 13 1985

Honorable Members in Session:

SUBJECT: CITY'S COMPREHENSIVE AUTO AND GENERAL LIABILITY PROGRAM

SUMMARY

This report is to advise the City Council that as of November 20, 1985, the City will involuntarily have no excess liability insurance coverage.

BACKGROUND

The City of Sacramento is not alone; latest information indicates that there are 31 or more cities in California who currently involuntarily do not have liability insurance and many others who are underinsured.

This crisis was discussed at the Interim Hearing - Availability and Affordability of Liability Insurance held on November 5, 1985, by the Assembly Committee on Finance and Insurance.

On September 3, 1985, the City Council authorized the placement of coverage \$20 million excess of a Self-Insured Retention (SIR) \$1.9 million at an annual premium of \$640,000. The program was to become effective October 7, 1985. This was the only offer received by the City's broker and differed from the prior coverage as follows:

- Reduced the limits of coverage by \$30 million from \$50 million to \$20 million;
- Increased the City's SIR by \$900,000 from \$1.0 million to \$1.9 million;
- Policy excluded accidental and sudden pollution coverage;
- Premium increased from \$148,800 to \$640,000, or 330%.

On October 7, 1985, we were not able to obtain the coverage; however, our current excess carrier, Industrial Underwriters Insurance Company, for the primary layer - \$10 million excess \$1 million SIR - generously provided the City with a 45-day binder at last year's annual premium rate. The binder will expire on November 20, 1985.

Since October 7, 1985, the City's broker has been unsuccessful in obtaining coverage. The excess and surplus insurance markets do not have the capacity to underwrite the public sector. Lloyds of London is no longer providing coverage for North America's public sector. The "joint and several liability" legal doctrine, otherwise known as "Deep Pocket", is among the issues contributing to the insurance crisis that we're facing.

The League of California Cities (LCC) is currently exploring the feasibility of establishing a Public Entity Insurance Pool for California cities; however, it is only at the discussion stage at this point in time.

ISSUES

Accepting the fact that the City will be involuntarily uninsured, there are some unpopular issues that must be addressed:

- What City services should be curtailed or modified to minimize exposure to loss?
- Uninsured public officials' liability.
- Entering contracts and agreements only with companies that can provide adequate insurance coverage.
- Inability of the City to comply with the insurance requirements of the various bonds, COP's, and TRANS notes issued.
- Audit opinion of the Annual Financial Statement.

FINANCIAL INFORMATION

The FY 1985-86 Amended Budget provides \$3,615,000 of funding for the City's Comprehensive Auto and General Liability Program, as detailed below:

\$1,000,000	Claims Settlements
75,000	Claims Service
500,000	Excess Insurance Premium
140,000	Amendment for Increased Premium Authorized
<u>\$1,715,000</u>	Sub-Total
1,000,000	Risk Mgmt. Liability Reserve
900,000	Additional Risk Mgmt. Liability Reserve Authorized by Council
<u>\$3,615,000</u>	Total

There should be immediate financial concern with the City being involuntarily uninsured, considering the potential of an unforeseen catastrophic loss, and the City's ability to issue bonds and/or notes in the future at favorable terms may be impacted.

CONCLUSION

The City's choices are limited. In our judgement, we must continue providing all services to the public. However, we must minimize our exposures to liability claims by evaluating all City activities and their methods of operation. Also, in our contracts and agreements with contractors, etc., they must be capable of providing adequate insurance coverage to protect the City. Contractors should not be held harmless at the expense of the City.

Additionally, staff must continue: 1) working with the LCC in developing and establishing a Statewide Public Entity Insurance Pool for California cities; and 2) working with the Legislature for legislation that will provide relief from the joint and several liability doctrine and enact other legislative reforms to relieve the current insurance crisis.

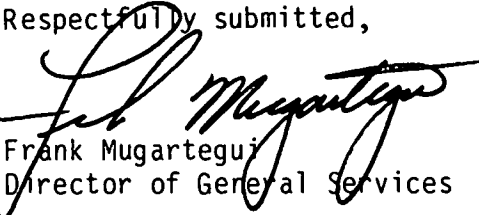
RECOMMENDATION

It is the recommendation of the City's Risk Management Committee that the City Council adopt the attached resolution, authorizing and directing the City Manager to:

1. Provide for premium payment of \$12,878 for the \$10 million excess of \$1 million SIR 45-day binder;
2. Transfer \$627,122, the remaining amount budgeted for excess insurance coverage, into the Risk Management Fund for Incurred But Not Reported (IBNR) liability claims;
3. Continue to attempt to obtain subject coverage for the City;
4. That the City enter into contracts and agreements only with firms capable of providing adequate coverage to protect the City;

- 5. That all City activities be reviewed in order to minimize the City's exposure to liability claims resulting from their operations; and
- 6. Place stronger emphasis on safety and loss prevention programs at the departmental level.

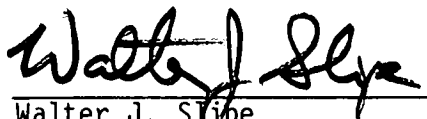
Respectfully submitted,



Frank Mugartegui
Director of General Services

RECOMMENDATION APPROVED:

November 19, 1985
All Districts



Walter J. Stipe
City Manager

cc: Risk Management Committee Members
Department Heads
Harold Weiner
Robert Wilkinson

RESOLUTION NO. 85-887

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

RESOLUTION PERTAINING TO THE CITY'S INVOLUNTARY UNINSURED COMPREHENSIVE AUTO AND GENERAL LIABILITY PROGRAM

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

With the City of Sacramento becoming involuntarily uninsured for claims filed against it under its Comprehensive Auto and General Liability Program effective November 20, 1985 (at 0001), that the City Manager is hereby authorized and directed to:

1. Provide for premium payment of \$12,878 for the \$10 million excess of \$1 million SIR 45-day binder provided by Industrial Indemnity through Corroon & Black/James Burpo Insurance Services;
2. Transfer \$627,122, the remaining balance of the \$640,000 budgeted for excess insurance coverage, into the Risk Management Reserve Fund for "Incurred But Not Reported (IBNR)" auto and general liability claims;
3. Continue attempting to obtain subject coverage for the City;
4. That the City enter into contracts and agreements only with firms capable of providing adequate coverage to protect the City;
5. That all City activities be reviewed in order to minimize the City's exposures to liability claims resulting from their operations; and
6. Place stronger emphasis on safety and loss prevention programs at the departmental level.

ATTEST:

CITY CLERK

MAYOR

APPROVED
BY THE CITY COUNCIL

NOV 19 1985

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CITY CLERK