Office of the City Manager

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RECESS ITEM
CONSENT CALENDAR
January 22, 2013

To: Honorable Mayor and Members of the City Council

From: Christine Daniel, City Manager

Submitted by: David Abel, Acting Director of Human Resources

Subject: Fee Assessment – State of California Self-Insurance Fund (Workers' Compensation Program)

RECOMMENDATION
Ratifying the action taken by the City Manager during recess authorizing payment to the State of California Department of Industrial Relations for Fiscal Year 2013 for administering the Workers' Compensation Program, in an amount not to exceed $158,194, which is $19,895 greater than the original preliminary fee authorized by Council on November 13, 2012.

NEGATIVE EFFECT IF ACTION IS DELAYED UNTIL AFTER COUNCIL RECESS
State of California Department of Industrial Relations would assess a 10% late penalty fine ($15,819) for payments received after January 9, 2013.

FISCAL IMPACTS OF RECOMMENDATION
On December 10, 2012, the City was notified by the Department of Industrial Relations that the actual Fiscal Year 2013 fee assessed totaled $158,194. The fee is $19,895 greater than the original preliminary fee estimate of $138,299 conveyed by the State of California Department of Industrial Relations. Funding for this annual fee is included in the Workers' Compensation Self-Insurance Fund, budget code 875-9801-410-3034.

CURRENT SITUATION AND ITS EFFECTS
The State of California Department of Industrial Relations (DIR) regulates the workers' compensation insurance industry. Every year, the City is assessed a fee by the DIR to support the administration of the State's Workers' Compensation Program. The assessments support the state program of data collection, rate setting, fraud investigation, and fund Trust Funds for subsequent injury and uninsured employers. Council authorized payment totaling $138,299 on November 13, 2012. The DIR invoice was received on December 10, 2012, for $158,194. Payment is due on January 5, 2013.

BACKGROUND
On November 13, 2012, Council approved Resolution No. 65,936–N.S. authorizing the Workers Compensation Administration payment to the State of California DIR for Fiscal

Year 2013 in an amount not to exceed $138,299. Although we made a conservative projection based on prior year costs, the actual fee was $19,895 above original estimate. The reasons for the increased fee assessment cited by the Department of Industrial Relations is due to several factors:

- The Department of Industrial Relations, Division of Workers' Compensation and the Division of Occupational Safety and Health needs more money to fund operations, including partially funding the Division of Labor Standards Enforcement.
- The Department indicated it needs $565.5 million to fund these agencies, anti-fraud efforts, and the uninsured employer fund in Fiscal Year 2013, 15% more than the $492.2 million it said it needed in Fiscal Year 2012.
- The Department will use balances in the funds to offset the total amount collected from employers. However, because the balance in the funds is less than it was last year, the amount that employers actually pay will also increase. Employers will pay $391.4 million in assessments in Fiscal Year 2013, 51% more than the $259.3 million paid in Fiscal Year 2012.
- The largest increase in aggregate assessments is in the Workers' Compensation Administration Revolving Fund, which funds the day-to-day operations of the Division of Workers' Compensation. The Department said it needs $303 million for the fund in Fiscal Year 2013, 21% more than the $251.2 million needed last year.
- Assembly Bill 436, which authorized a $4.3 million loan from the Uninsured Employers Benefit Trust Fund to the State Public Workers Enforcement Fund to create a new unit to monitor prevailing wage issues on public works projects. The aggregate assessment for the uninsured employer fund increased 35% to $57.3 million in 2013 from $42.4 million in 2012. However, because the fund balance dropped to $11.9 million from $31.3 million, the net assessment on employers will be $47.3 million in 2013, more than three (3) times the $15.3 million paid last year.

RATIONALE FOR RECOMMENDATION
Required annual funding for the State of California Department of Workers' Compensation.

ALTERNATIVE ACTIONS CONSIDERED
Pay the state mandated 10% penalty fee of $15,819.

CONTACT PERSON
David Abel, Acting Director of Human Resources, 981-6807

Attachments:
1: Resolution

RESOLUTION NO. ##,###-N.S.

AUTHORIZING PAYMENT TO THE STATE OF CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS FOR FISCAL YEAR 2013 FEES IN AN AMOUNT NOT TO EXCEED $19,895 (WORKERS COMPENSATION PROGRAM)

WHEREAS, the City of Berkeley is self insured for workers' compensation since 1979; and

WHEREAS, the workers' compensation insurance industry is administered and regulated by the State of California Department of Industrial Relations; and

WHEREAS, the State of California, under California Labor Code Section 62.5 and 62.6, authorize the Department of Industrial Relations to assess fees to employers for costs of administering the Workers' Compensation Program; and

WHEREAS, the City of Berkeley is assessed each year by the Department of Industrial Relations to support the state program; and

WHEREAS, on November 13, 2012, Council adopted a Resolution authorizing payment to the State of California Department of Industrial Relations for Fiscal Year 2013 for administering the Workers' Compensation Program, in an amount not to exceed $138,299; and

WHEREAS, for Fiscal Year 2013, the City's actual share of assessments authorized by Labor Code Sections 62.5 and 62.6 is $158,194; and

WHEREAS, additional funding in an amount not to exceed $19,895 is required to cover the City's actual share of assessment for Fiscal Year 2013; and

WHEREAS, funds are available in the current budget in Workers' Compensation Fund, budget code 875-9801-410-3034.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to pay the State of California Department of Industrial Relations Self-Insurance Plans Invoice for Fiscal Year 2013 for Department of Workers' Compensation (DWC), Fraud Prevention Investigation Assessment, Subsequent Injury Benefit Trust Fund Assessment, and Uninsured Employer Trust Funds Assessment in an amount not to exceed $19,895.