



Office of the City Manager

CONSENT CALENDAR

July 10, 2007

To: Honorable Mayor and
Members of the City Council

From: *PK* Phil Kamlarz, City Manager

Submitted by: Manuela Albuquerque, City Attorney

Subject: Claim Settlement: Mitsui Sumitomo Insurance Company

RECOMMENDATION

Adopt a Resolution approving the settlement of a public liability Claim No. GHB 011902 filed by claimant Mitsui Sumitomo Insurance Company in the amount of \$59,477.

FISCAL IMPACTS OF RECOMMENDATION

The City will spend \$59,477 from the public liability fund. Council approval is required for settlements exceeding \$15,000 (BMC section 7.12.020).

Public Liability Fund No. 881 1702 410 8101 \$59,477

CURRENT SITUATION AND ITS EFFECTS

There is a pending public liability claim seeking damages.

BACKGROUND

This claim is by an insurance company to recover an insurance payment it made to the owners of 1841 Berkeley Way as a result of property damages inside five commercial units and the basement in the building from a backed-up City sewer.

RATIONALE FOR RECOMMENDATION

The Council has received a confidential memorandum reflecting the City Attorney's advice regarding this matter.

ALTERNATIVE ACTIONS CONSIDERED

These issues are discussed in the Confidential Memorandum to the Mayor and Council.

CONTACT PERSON

Manuela Albuquerque, City Attorney 981-6950
Matthew J. Orebic, Deputy City Attorney 981-6950

Attachment:
1:Resolution

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

AUTHORIZING THE CITY ATTORNEY TO SETTLE THE PUBLIC LIABILITY CLAIM
NO. GHB 011902 BY MITSUI SUMITOMO INSURANCE COMPANY

WHEREAS, a public liability claim has been filed against the City of Berkeley by claimant Mitsui Sumitomo Insurance Company for property damages sustained as a result of a City sewer line backup at 1841 Berkeley Way on or about September 25, 2006; and

WHEREAS, claimant alleges it made an insurance payment to the owners of said property for damages sustained as a result of the incident; and

WHEREAS, it is in the best interest of the City of Berkeley to settle this claim, and a settlement amount of \$59,477 has been reached by the City Attorney and claimant for the insurance payment the claimant made to cover the property damages caused by the sewer backup; and

WHEREAS, funds are available in Public Liability Fund 881 1702 410 8101.

NOW THEREFORE, BE IT RESOLVED the Council of the City of Berkeley authorizes the City Attorney, in accordance with Section 7.12.020 of the Berkeley Municipal Code, to make payment of \$59,477 to claimant Mitsui Sumitomo Insurance Company in settlement of its claim against the City.