



43

**OFFICE OF THE
CITY ATTORNEY**

JAMES P. JACKSON
CITY ATTORNEY

THEODORE H. KOBAY, JR.
ASSISTANT CITY ATTORNEY

**CITY OF SACRAMENTO
CALIFORNIA**

812 TENTH STREET
SACRAMENTO, CA
95814-2694

916-449-5346

September 9, 1987

CITY MANAGER'S OFFICE
RECEIVED
SEP 9 1987

DEPUTY CITY
ATTORNEYS:
SAMUEL I. JACKSON
WILLIAM P. CARNAZZO
LAWRENCE M. LUNARDINI
GARLAND E. BURRELL, JR.
DIANE B. BALTER
RICHARD F. ANTOINE
TAMARA MILLIGAN-HARMON
LINDA M. GONZALES

City Council
Council Chambers
Sacramento, CA 95814

Re: A Resolution By the City Council of the City of Sacramento and the Board of Supervisors of the County of Sacramento Jointly Indemnifying Members of the Sacramento City/County Commission on the Bicentennial of the United States Constitution Against Liability Associated with the September 17, 1987 Bicentennial Celebration

APPROVED
BY THE CITY COUNCIL

SEP 15 1987

OFFICE OF THE
CITY CLERK

MEMBERS IN SESSION:

SUMMARY

This report recommends adoption of a resolution indemnifying members of the Sacramento City/County Commission on the Bicentennial of the United States Constitution in connection with a community celebration to be held on September 17, 1987. A similar resolution will be presented to the Board of Supervisors.

BACKGROUND

The Sacramento City/County Commission on the Bicentennial of the United States Constitution is charged with fostering community recognition and celebration of the Constitution's 200th birthday. The Council has approved some, but not all, appointments to the Commission, which is chaired by the Honorable Frank K. Richardson.

The Commission is not an official City board or commission, and its members are not automatically covered by the City's self-insurance program in connection with their Commission activities.

The Commission's work will culminate with a community celebration at the State Capitol on the evening of September 17, 1987. The evening includes a bring-your-own picnic, military bands, swearing in of new citizens, military fly-over, and fireworks. The fireworks contractor is required to have \$1,000,000 liability coverage and to hold the Commission, City and County harmless from liability arising from the fireworks activities.

The Commission members, who are volunteers and who have personally raised all of the money to fund the Commission's activities, have requested that the City and County provide some liability protection to them in connection with the September 17, 1987 event.

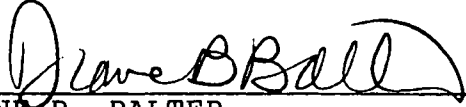
The attached resolution prepared jointly by the County Counsel and the City Attorney would provide some protection to the Commission members in the case of personal injury, death, or property damage claims against individual Commission members. It is limited in time and scope to injuries arising at the event, not covered by the fireworks contractor's indemnification, and excluding wilful acts of commissioners and punitive damages.

RECOMMENDATION

It is recommended that the Council adopt the attached resolution indemnifying members of the Sacramento City/County Commission on the Bicentennial of the United States Constitution.

Respectfully submitted,

JAMES P. JACKSON, City Attorney

By: 
DIANE B. BALTER
Deputy City Attorney

RECOMMENDATION APPROVED:


WALTER J. SLIPE, City Manager

DISTRICTS: All
DATE: September 15, 1987

RESOLUTION NO. 87-764

APPROVED
BY THE CITY COUNCIL

Adopted by The Sacramento City Council on date of

SEP 15 1987

OFFICE OF THE
CITY CLERK

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO AND THE BOARD OF SUPERVISORS OF THE COUNTY OF SACRAMENTO JOINTLY INDEMNIFYING MEMBERS OF THE SACRAMENTO CITY/COUNTY COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION AGAINST LIABILITY ASSOCIATED WITH THE SEPTEMBER 17, 1987 BICENTENNIAL CELEBRATION

WHEREAS, the members of the Sacramento City/County Commission on the Bicentennial of the United States Constitution are serving as volunteers on behalf of the entire Sacramento community to sponsor activities in recognition and celebration of the Constitution's 200th birthday; and

WHEREAS, a community event sponsored by the Commission in celebration of the bicentennial is scheduled on September 17, 1987, at the State Capitol; and

WHEREAS, although the City and County are not sponsors of such event or of the Commission or its members, it is nevertheless in the best interest of the community for the City and County to provide certain indemnifications to the volunteer Commission members in connection with said September 17, 1987 event.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sacramento, a municipal corporation, and the Board of Supervisors of the County of Sacramento, a political subdivision of the State of California, as follows:

1. Except as provided by Paragraph 2, below, the City of Sacramento and County of Sacramento hereby jointly indemnify, will hold harmless and defend the persons listed on Exhibit A (4 pages) from and against any claims, lawsuits, damages or liability for personal injury or death or property damage to any person who attends the Bicentennial celebration at the State Capitol on September 17, 1987, for personal injury, death or property damage which occurs to that person at the State Capitol on September 17, 1987, at any time between the hours of 5:00 p.m. and 11:00 p.m., and which arises out of or results from the Commission's sponsorship of the event.

2. The foregoing indemnification, hold harmless and commitment to defend are expressly limited as follows:

a. The indemnification, hold harmless and defense commitment shall not extend or apply to personal injury, death or property damage which is proximately caused by or alleged to be proximately caused by any fireworks which are or preceding the time of injury or damage were within the possession or control of any person, entity, officer, employee, contractor or agent thereof, whose services in discharging the fireworks or performing a fireworks show are expressly arranged or contracted for by the Commission.

b. The indemnification, hold harmless and defense commitment shall not apply to any foregoing named individual with respect to personal injury, death or property damage proximately caused by or alleged to have been proximately caused by an act or omission of that individual beyond the scope of authority granted by the Commission or by willful, wanton, malicious, or corrupt acts or omissions by said individual.

c. The indemnification, hold harmless and defense commitment shall not be applicable to any claims, damages, lawsuits or liability for punitive damages.

d. The indemnification, hold harmless and defense commitment provided hereunder by the City and County shall be secondary to any existing insurance coverages or other promises of indemnification provided to the Commission or members thereof by contract or other method.

3. The indemnification, hold harmless and defense commitment on the part of the City and County shall be joint and not several. The City and County shall share equally in all liability and cost obligations assumed under this Resolution, and no individual claiming protection thereunder shall be entitled to recover more than fifty percent (50%) of the total obligation from either the City or County.

CITY OF SACRAMENTO, a municipal corporation

By _____ Mayor

ATTEST: _____
City Clerk
City of Sacramento

On a motion by Supervisor _____, seconded by Supervisor _____, the foregoing Resolution was passed adopted by the Board of Supervisors of the County of Sacramento, State of California, at a regular meeting thereof, this ____ day of _____, 1987, by the following vote, to wit:

AYES: Supervisors,

NOES: Supervisors,

ABSENT: Supervisors,

COUNTY OF SACRAMENTO, a political sub-division of the State of California

By _____
Chairperson of the Board of Supervisors
of Sacramento County, California

(SEAL)

ATTEST: _____
Clerk of the
Board of Supervisors

r-bicentennial

SACRAMENTO CITY/COUNTY COMMISSION ON THE
BICENTENNIAL OF THE U.S. CONSTITUTION

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Sacramento, CA 95814

APPROVED
BY RESOLUTION # 87-1337
BOARD OF SUPERVISORS

RECEIVED #50
CITY CLERKS OFFICE
CITY OF SACRAMENTO

COUNTY OF SACRAMENTO

SEP 15 1987

SEP 17 2 32 PM '87

Inter-Department Correspondence

Dorothy A. Williams
Clerk of the Board

September 11, 1987

To: Chairperson and Members
Board of Supervisors

From: L. B. Elam
County Counsel

Subject: Indemnification of Commission on the Bi-
centennial of the United States Constitution
for September 17, 1987 Celebration
Agenda - September 15, 1987 - Item No. 50

RECEIVED
CITY CLERKS OFFICE
CITY OF SACRAMENTO
OCT 19 8 29 AM '87

Enclosed herewith for consideration by the Board of Supervisors during its September 15, 1987 meeting, is a resolution the enactment of which would provide an indemnification against liability in connection the scheduled September 17, 1987 State Capitol ceremony scheduled by the Bicentennial Commission on the Constitution.

The resolution would be adopted jointly by the Board of Supervisors and City Council of Sacramento. It would indemnify against liability and guarantee defense of 35 individuals who are associated with the Bicentennial Commission. The indemnification would relate to any injuries arising out of the September 17, 1987 celebration to members of the public or others who attend the celebration between 5:00 p.m. and 11:00 p.m. on that date at the State Capitol. Liability for injuries associated with the fireworks show is expressly excluded from the indemnification. The City and County would share the financial obligations of the indemnification equally.

The foregoing is being placed before the Board at the request of the Bicentennial Commission.

Neither the County Executive nor this Office is making a recommendation upon the policy question of whether the Board of Supervisors should provide this type of insurance protection. By doing so, the County will be assuming a significant uninsured liability risk to be borne by the taxpayers of this County through service reductions necessary to fund the liability in the event of a catastrophic type of loss. Assumption of the

Chairperson and Members
Board of Supervisors

-2-

September 11, 1987

obligation is not a determination which should be taken lightly. When the Board should or should not encourage the sponsorship of community events such this by protecting the sponsors in such a manner is a question which only the Board can decide.



L. B. ELAM
County Counsel

cc: Brian Richter, County Executive
Frank Mesich, Risk Management Unit
Department of Personnel Management

LBE:ph
m-bd-bicen

RESOLUTION NO. 87-1337

A RESOLUTION BY THE CITY COUNCIL OF THE CITY
OF SACRAMENTO AND THE BOARD OF SUPERVISORS
OF THE COUNTY OF SACRAMENTO JOINTLY INDEMNIFYING MEMBERS OF THE SACRAMENTO CITY/COUNTY COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION AGAINST LIABILITY ASSOCIATED WITH THE SEPTEMBER 17, 1987 BICENTENNIAL CELEBRATION

WHEREAS, the members of the Sacramento City/County Commission on the Bicentennial of the United States Constitution are serving as volunteers on behalf of the entire Sacramento community to sponsor activities in recognition and celebration of the Constitution's 200th birthday; and

WHEREAS, a community event sponsored by the Commission in celebration of the bicentennial is scheduled on September 17, 1987, at the State Capitol; and

WHEREAS, although the City and County are not sponsors of such event or of the Commission or its members, it is nevertheless in the best interest of the community for the City and County to provide certain indemnifications to the volunteer Commission members in connection with said September 17, 1987 event.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sacramento, a municipal corporation, and the Board of Supervisors of the County of Sacramento, a political subdivision of the State of California, as follows:

1. Except as provided by Paragraph 2, below, the City of Sacramento and County of Sacramento hereby jointly indemnify, will hold harmless and defend the persons listed on Exhibit A (4 pages) from and against any claims, lawsuits, damages or liability for personal injury or death or property damage to any person who attends the Bicentennial celebration at the State Capitol on September 17, 1987, for personal injury, death or property damage which occurs to that person at the State Capitol on September 17, 1987, at any time between the hours of 5:00 p.m. and 11:00 p.m., and which arises out of or results from the Commission's sponsorship of the event.

2. The foregoing indemnification, hold harmless and commitment to defend are expressly limited as follows:

a. The indemnification, hold harmless and defense commitment shall not extend or apply to personal injury, death or property damage which is proximately caused by or alleged to be proximately caused by any fireworks which are or preceding the time of injury or damage were within the possession or control of any person, entity, officer,

employee, contractor or agent thereof, whose services in discharging the fireworks or performing a fireworks show are expressly arranged or contracted for by the Commission.

b. The indemnification, hold harmless and defense commitment shall not apply to any foregoing named individual with respect to personal injury, death or property damage proximately caused by or alleged to have been proximately caused by an act or omission of that individual beyond the scope of authority granted by the Commission or by willful, wanton, malicious, or corrupt acts or omissions by said individual.

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3. The indemnification, hold harmless and defense commitment on the part of the City and County shall be joint and not several. The City and County shall share equally in all liability and cost obligations assumed under this Resolution, and no individual claiming protection thereunder shall be entitled to recover more than fifty percent (50%) of the total obligation from either the City or County.

CITY OF SACRAMENTO, a municipal corporation

By *Arne Rudin*
Mayor

ATTEST:

Luaine Rogers
City Clerk
City of Sacramento.

On a motion by Supervisor S. SMOLEY, seconded by Supervisor J. STRENG, the foregoing Resolution was passed adopted by the Board of Supervisors of the County of Sacramento,

State of California, at a regular meeting thereof, this 15th day of September, 1987, by the following vote, to wit:

AYES: Supervisors, Collin, G. Johnson, Smoley, Streng, T. Johnson

NOES: Supervisors, None

ABSENT: Supervisors, None

COUNTY OF SACRAMENTO, a political sub-division of the State of California

By *T. G. Johnson*
Chairperson of the Board of Supervisors
of Sacramento County, California

(SEAL)

ATTEST: *Renee A. Williams*
Clerk of the
Board of Supervisors

r-bicentennial

In accordance with Section 25103 of the Government Code of the State of California a copy of this document has been delivered to the Chairman of the Board of Supervisors, County of Sacramento on

SEP 15 1987

By *Sally A. Donaldson*
Deputy Clerk, Board of Supervisors

FILED

SEP 15 1987

BOARD OF SUPERVISORS
Renee A. Williams
CLERK OF THE BOARD

SACRAMENTO CITY/COUNTY COMMISSION ON THE
BICENTENNIAL OF THE U.S. CONSTITUTION

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RESOLUTION NO. 87-764

Adopted by The Sacramento City Council on date of

SEP 15 1987

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO AND THE BOARD OF SUPERVISORS OF THE COUNTY OF SACRAMENTO JOINTLY INDEMNIFYING MEMBERS OF THE SACRAMENTO CITY/COUNTY COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION AGAINST LIABILITY ASSOCIATED WITH THE SEPTEMBER 17, 1987 BICENTENNIAL CELEBRATION

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RESOLUTION 87-764

SEP 15 1987

2. The foregoing indemnification, hold harmless and commitment to defend are expressly limited as follows:

a. The indemnification, hold harmless and defense commitment shall not extend or apply to personal injury, death or property damage which is proximately caused by or alleged to be proximately caused by any fireworks which are or preceding the time of injury or damage were within the possession or control of any person, entity, officer, employee, contractor or agent thereof, whose services in discharging the fireworks or performing a fireworks show are expressly arranged or contracted for by the Commission.

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CITY OF SACRAMENTO, a municipal corporation

By *Aune Reeder*
Mayor

ATTEST:

Laurine Magana
City Clerk
City of Sacramento

RESOLUTION 87-764

SEP 15 1987

On a motion by Supervisor S. SMOLEY, seconded by Supervisor J. STRENG, the foregoing Resolution was passed adopted by the Board of Supervisors of the County of Sacramento, State of California, at a regular meeting thereof, this 15th day of September, 1987, by the following vote, to wit:

AYES: Supervisors, Collin, G. Johnson, Smoley, Streng, T. Johnson
NOES: Supervisors, None
ABSENT: Supervisors, None

COUNTY OF SACRAMENTO, a political sub-
division of the State of California

By T. H. Johnson
Chairperson of the Board of Supervisors
of Sacramento County, California

(SEAL)

ATTEST: Beverly A. Williams
Clerk of the
Board of Supervisors

r-bicentennial

RESOLUTION 87-764

SEP 15 1987

SACRAMENTO CITY/COUNTY COMMISSION ON THE
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EXHIBIT A

SEP 15 1987

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EXHIBIT A

SEP 15 1987