CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

EXECUTIVE COMMITTEE MEETING
May 3, 2017 9:30 A.M.

Roseville Civic Center
HR Conference Room
311 Vernon Street
Roseville, CA 95678

(916) 774-5200

AGENDA

I. CALL TO ORDER: 9:30 A.M.

II. ROLL CALL

III. PRESENTATIONS

- None

IV. APPROVAL OF MINUTES

1. Minutes of the Executive Committee meeting held January 19, 2017 (Pages 3 - 6)

V. COMMUNICATIONS

1. Executive Committee Members
2. General Manager/Secretary
3. Next Scheduled Meetings: Board of Directors (05/24 & 25/2017) CJPRMA
Executive Committee (06/22/2017) TBD

VI. CONSENT CALENDAR

- None

VII. THIS TIME IS RESERVED FOR MEMBERS OF THE PUBLIC TO ADDRESS THE EXECUTIVE COMMITTEE ON MATTERS OF EXECUTIVE COMMITTEE BUSINESS

Per Government Code section 54954.2, persons requesting disability-related modifications or accommodations, including auxiliary aids or services in order to participate in the meeting, are requested to contact CJPRMA at (925) 837-0667 24 hours in advance of the meeting.

VIII. ACTION AND INFORMATION CALENDAR

1. Business Calendar for 2017 ***(I)*** (Pages 7 - 9)

2. Development of a CJPRMA Claims Committee and new Board practices in developing loss mitigation plans ***(I)*** (Pages 10 - 11)

3. Development of Loss Allocation for Annual Contributions ***(I)*** (Pages 12 - 16)

4. Review and Approval of the Succession Plan for the Replacement of the Retiring General Manager ***(A)*** (Pages 17 - 18)

5. Approve Updated job description for Assistant General Manager ***(A)*** (Pages 19 - 31)

6. Status Update on General Manager's Goals and Objectives 2016-2019 ***(I)*** (Pages 32 - 42)

7. Review of Proposed Memorandum of Coverage Changes for 2017-2018 ***(I)*** (Pages 43 - 81)

8. Approval of Litigation Policies and Procedures ***(A)*** (Pages 82 - 92)

9. Risk Management Issues ***(I)*** (Page 93)

IX. CLOSED SESSION

1. **Government Code Section 54956.9 (a)**
   Conference with Legal Counsel – Litigation

   Name of Case: Vexler, Talya v. City of Fremont
   Court: Superior Court of the State of California, County of Alameda
   Case No.: HG13692644

X. ACTION ON CLOSED SESSION ITEMS

XI. ADJOURNMENT

Per Government Code section 54954.2, persons requesting disability-related modifications or accommodations, including auxiliary aids or services in order to participate in the meeting, are requested to contact CJPRMA at (925) 837-0667 24 hours in advance of the meeting.

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CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

EXECUTIVE COMMITTEE MEETING
January 19, 2017 - 10:00 A.M.

Loomis Depot Building
5775 Horseshoe Bar Road, Loomis, CA 95650
Small Conference Room
916-652-6843

MINUTES

I. CALL TO ORDER:

- President Hamilton called the meeting to order at 10:11 A.M.

II. ROLL CALL

PRESENT

1) Janet Hamilton, *Livermore*
2) Kim Greer, *Richmond*
3) David Rawe, *Roseville*
4) Janice Magdich, *Lodi*
5) Roger Carroll, *SCORE*
6) Jeff Tonks, *YCPARMIA*

ABSENT

7) Celeste Garrett, *Vacaville*

OTHERS PRESENT

8) Byrne Conley, *Gibbons & Conley*
9) Marley Cleland, *AON*
10) David Clovis, *CJPRMA*

III. PRESENTATIONS

- None

IV. APPROVAL OF MINUTES

- A motion made by Director Carroll and seconded by Director Tonks to approve the minutes of November 29, 2016 Executive Committee meeting. Directors Hamilton, Greer, Carroll, Rawe, and Tonks voted for the approval of the minutes. Garrett was not present. Motion passes.

V. COMMUNICATIONS

1. Executive Committee Members
2. General Manager/Secretary
3. Next Scheduled Meetings: Board of Directors (03/16/2017) CJPRMA
   Executive Committee (04/20/2017) CJPRMA

VI. CONSENT CALENDAR

- None

VII. THIS TIME IS RESERVED FOR MEMBERS OF THE PUBLIC TO ADDRESS THE EXECUTIVE COMMITTEE ON MATTERS OF EXECUTIVE COMMITTEE BUSINESS

VIII. ACTION CALENDAR

1. **Business Calendar for 2017 (I)**
2. **Award of Contract for Claim Auditor Services - Program Years 2017 & 2018 *(A)***

   The general manager requested the Executive Committee to approve a contract for services for the annual excess liability audit and the primary audit conducted of the members on a three year rotation. Mr. Rick Buys, Risky Business Pros, performed the Excess Claims Audit for CJPRMA for the 2016 Audit. Board Members provided very positive feedback on his performance and expertise on claims. Staff reviewed the performance of Mr. Buys and believes that his performance and expertise in this process was very beneficial. Mr. Buys presented his findings to the Board of Directors at the October Meeting and members stated the process primarily worked very well. Staff obtained a quote from Mr. Buys to perform claims audits for 2017 and 2018. Staff recommended that Mr. Buys expand his audits and perform the primary audits. For the past three years, the CJPRMA Claims Administrator has performed the audits.

   The proposed costs for the auditor are as follows:

Audit Year	Excess Audit	Primary Audit
2017	$28,555	$10,838
2018	$29,982	$11,379

   - A motion made by Director Magdich and seconded by Director Greer to approve the award of a contract for services performing the annual claims audit for a period of two years, by Risky Business Pros. Directors Hamilton, Greer, Carroll, Rawe, and Tonks voted for the approval of the motion. Garrett was not present. Motion passes.

3. Review Status of 2016-2019 Strategic Plan (I)

The Board of Directors adopted the strategic plan at the December 2016 Board of Directors Meeting. This plan was adopted with dates of 2016 through 2019. This plan document will be provided to the Executive Committee as a standing agenda item. The general manager provided the Executive Committee with a status of ongoing projects that have been identified within the plan.

The Executive Committee discussed multiple alternatives for determining the adequacy of the current contribution methodology of members and discussed alternative forms of contribution. The general manager discussed multiple options of evaluating the historic loss history and comparing those experiences with the entire group. The committee reviewed the most recent loss history and looked at members loss histories evaluating both frequency and severity.

The committee requested the general manager provide additional data at the April 2017 meeting. The committee discussed evaluating policy alternatives for implementing an experience rating formula for the 2018-2019 program year.

No action was required on this item.

4. Development of General Manager's Goals and Objectives 2017-2018 *(I)*

The general manager presented the committee with a recommended set of goals and objectives for the 2017- 2018 program year.

The Board of Directors has referred the responsibility of monitoring the general manager's accomplishments and activities to the Executive Committee. The Executive Committee is responsible for performing the evaluation process of the general manager. The Committee utilizes the adopted GM Goals and Objectives and utilizes the GM evaluation tool. The committee is responsible for establishing a new set of goals and objectives based upon the adopted 2016-2019 Strategic Plan.

The general manager provided the committee with a draft set of goals and objectives that reflect the newly adopted Strategic Plan. These goals were also incorporated into the general manager evaluation form that is used by the committee to evaluate his performance. The general manager intends to utilize a version of this form to evaluate members of the CJPRMA management team.

The committee discussed the draft goals and objectives as presented and discussed the modifications to the current form that allow the committee to use a weighted scale of 1-5 rather than the prior 1-3 rating. The Executive Committee agreed that the form and goals and objectives met the intent of the Strategic Plan. The committee agreed that the goals and objectives as stated were appropriate.

No action was required on this item.

5. Review of Succession Planning (*I*)

This is a standing agenda item. The Executive Committee and the general manager have begun discussions regarding a succession plan for CJPRMA. The general manager advised the committee that he would be meeting with CalPERS regarding his retirement and would provide an update to the Executive Committee at the April Meeting.

- No action was required on this item.

6. Risk Management Issues *(I)*

This is a standing agenda item. There were no items for discussion on this item.

- No action was required on this item.

IX. CLOSED SESSION

1. **Government Code Section 54957**
   Public Employee Performance Evaluation

   Title: General Manager

2. **Government Code Section 54957.6**
   Conference with Labor Negotiator

   Agency Designated Representative: Janet Hamilton, President
   Unrepresented Employee: David Clovis, General Manager

3. **Government Code Section 54956.9 (a)**
   Conference with Legal Counsel – Litigation

   Name of Case: Machado, A. v. City of San Rafael
   Court: Superior Court of the State of California County of Marin
   Case No.: CV1504117

X. ACTION ON CLOSED SESSION ITEMS

- A motion was made by Director Carroll and seconded by Director Greer to provide the general manager with a performance salary increase of 3% effective July 1, 2016. Directors Hamilton, Carroll, Greer, Magdich, and Tonks voted for the approval of the general manager performance increase. Motion passed.

- The Executive Committee conferred with staff regarding litigated claim and provided direction. There was no reportable action.

XI. ADJOURNMENT

- A motion was made to adjourn the meeting at 1:15 p.m. by Director Magdich and seconded by Director Carroll. Directors Hamilton, Greer, Carroll, Magdich, Rawe, and Tonks voted to adjourn the meeting. Garrett was not present. Motion passed.

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CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: *1*	***TITLE:*** **BUSINESS CALENDAR FOR 2017**
MEETING: *5/3/2017*	
GENERAL MANAGER:	

Recommended Actions:

None: This item is being provided for information only.

Strategic Direction:

Strategic Goal 3, Foster Informed and Engaged Board Leadership.

Item Explanation:

The CJPRMA 2017 Business Calendar will be provided as a standing agenda item for Executive Committee meetings and Board of Director Meetings. This calendar provides Board Members and staff with a listing of key business items and the required dates for completion.

Fiscal Impact:

None

Exhibits:

1. CJPRMA 2017 Business Calendar

CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

2017 BUSINESS CALENDAR

January

- Distribution of Executive Committee Agenda – 01/12/2017
- Executive Committee Meeting – 01/19/2017
- Member Quarterly Payroll Reports – 01/31/2017
- Distribution of Summary of Property Values
- Distribution of Summary of APD Values
- Distribution of Summary of Boiler & Machinery Values
- Risk Management & Liability Prevention for Law Enforcement Leaders – (01/25/2017 - 01/26/2017)
- Distribution of Property and Loss Data – 01/31/2017

February

- FPPC Form 700 Filing Requests Sent Out
- PARMA Conference (02/12/2017 - 02/15/2017)
- Redistribution of Equity Checks
- Return APD, Property and Boiler & Machinery Renewals Lists to Staff
- CPSI Playground Safety Training (02/21/2017 – 02/23/2017)

March

- Deadline for Members to submit Agenda items for March Meeting – 03/01/2017
- Distribution of Board of Directors Meeting Agenda – 03/9/2017
- Board of Directors Meeting – 03/16/2017
- Annual Meeting Room Requests
- Distribution of Quarterly Member Loss Data

April

- FPPC Form 700 Filing Deadline 04/01/ 2017
- CJPRMA Board Member Orientation – 04/05/2017
- Distribution of Executive Committee Meeting Agenda – 04/13/2017
- Executive Committee Meeting – 04/20/2017
- Distribution of Certificate of Coverage Renewals Lists
- Requests for Nominations for President/Vice President (Bi-annually)
- ARM 56 Class - TBA
- Distribute nomination for President and Vice President (even numbered years)
- Member Quarterly Payroll Reports – 04/28/2017

May

- Deadline for Members to submit Agenda items for Annual Meeting – 05/01/2017
- Distribution of Board of Directors Annual Meeting Agenda– 05/18/2017
- Board of Directors Annual Meeting (05/24/2017 - 05/25/2017)
    - Commercial Insurance Renewals
    - Proposed Budget for 2017-2018
    - AB 1234 Ethics Training (even numbered years)
    - Bi-annual election of President and Vice President (even numbered years)
    - Election of Executive Committee Members
    - Bi-annual Review of Conflict of Interest Code (odd numbered years)
    - Bi-annual Appointment of Treasurer (even numbered years)
- Return Certificate of Coverage Renewals Lists to Staff

June

- Distribution of Executive Committee Meeting Agenda – 06/15/2017
- Executive Committee Meeting – 06/22/2017
- Certificates of Coverage Renewals mailed to certificate holders (6/30/2017)
- Risk Management Plan Revisions
- Distribution of Quarterly Member Loss Data

July

- General Liability Premiums Billed
- Auto Physical Damage Program Premiums Billed
- Property Program Premiums Billed
- Boiler & Machinery Premiums Billed
- Member Quarterly Payroll Reports - 07/31/2017

August

- Deadline for Members to submit Agenda items for August Meeting – 08/01/2017
- Distribution of Board of Directors Meeting Agenda – 08/10/2017
- Board of Directors Meeting – 08/17/2017
    - Claims Audit Presentation
- Financial Audit in process
- Actuarial Study in process
- Requests for Program Year 2016-2017 reimbursement of liability training expenses due – 08/31/2017

September

- Distribution of Executive Committee Agenda – 09/21/2017
- Executive Committee Meeting – 09/28/2017
- CAJPA Conference (09/12/2017 - 09/15/2017)
- Distribution of Quarterly Member Loss Data

October

- Member Quarterly Payroll Reports – 10/31/2017

November

- Deadline for Members to submit Agenda items for November Meeting – 11/01/2017
- Distribution of Board of Directors Meeting Agenda – 11/09/2017
- Board of Directors Meeting - 11/16/2017
    - Actuarial Study Presented
    - Approval of Annual Meeting and Holiday Calendars
    - Financial Audit Presented
    - Annual Review of Investment Policy
    - Annual Report Presented

December

- Deadline for change to SIR or withdrawal from any CJPRMA program - 12/29/2017
- Distribution of Quarterly Member Loss Data

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CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: *2*	***TITLE:*** **DEVELOPMENT OF A CJPRMA CLAIMS COMMITTEE AND NEW BOARD PRACTICES IN DEVELOPING LOSS MITIGATION PLANS**
MEETING: *5/3/2017*	
GENERAL MANAGER:	

Recommended Actions:

The general manager recommends that the Executive Committee review and recommend to the Board of Directors the concept of developing a Claims Committee and development of practices and procedures to address the litigation experience of members.

Strategic Direction:

This item addresses Strategic Goal, Employ Customizable Products and Services to be Competitive and Strategic Goal 3, Foster Informed and Engaged Board Leadership.

Item Explanation:

The recent litigation history of CJPRMA Members demonstrates that both frequency and severity are having a significant impact on the participants of our program. Staff has attempted to reach out to members and to develop training programs that directly impact the current losses with the greatest frequency. Unfortunately, the losses continue to occur and the severity of claims continues to impact our members. We have also experienced losses that are termed as “one of a kind” and attempting to implement training on those type of exposures would be both difficult and have a minimal return on investment.

Claims and litigation experience directly impact all premium increases within the program. A greater focus on claims by the Board of Directors is required and CJPRMA as an organization should embrace methods and systems that will in time minimize losses and begin to reverse the current severity trend.

President Hamilton and the general manager have discussed multiple alternatives that can be embraced by the Board of Directors to gain immediate impact on the current trends. There are numerous options for implementing accountability and insuring that all members embrace active risk mitigation and efforts to reduce their exposures. The following items are intended to serve as a discussion for this meeting:

1. Develop a claims committee with seasoned personnel committed to reviewing litigation and participating in discussions that will result in minimizing the impacts of the claim, litigation and ultimately a settlement.

2. Utilize the claims committee to evaluate the effectiveness of outside counsel and provide information to the membership based upon the overall review of the committee.
3. Reformat Board of Director Meetings and place the closed session items at the beginning of the meeting as opposed to the end of the meetings. Typically, many Board Members are anxious to depart and prefer that closed sessions items be presented quickly, with minimal impacts on their time. This review of claims and the proposed settlement should have a very high visability to the Board of Directors and appropriate time and energy should be devoted to the discussions.
4. Implement an item at each Board of Directors meeting where a member that experienced a loss that meets the developed criteria, i.e. exceeded the members SIR by 150%, be required to make a presentation to the BOD, identifying the causation for the event and the efforts undertaken within the member to insure that a similar event will not occur again. This report would not occur until the matter was fully resolved.
5. Staff to conduct post incident de-briefing with members and their assigned staff to discuss learning points from litigation and evaluate policies and procedures that should be implemented to avoid similar occurrences.
6. Develop specific standards and policies providing the general manager with greater flexibility in working with members when evaluating settlement alternatives.
7. Evaluate alternative training delivery systems that will have a significant impact on both the frequency and severity of claims.

The above options are preliminary target areas that would provide a significant return on investment for the organization and would immediately impact both frequency and severity of claims and litigation. The items would also have a significant impact on our members and positive results would be created by the lessons learned from the activities.

The general manager will be present to discuss this agenda bill and to provide an overview of the steps necessary to implement the recommended initiatives.

Fiscal Impact:

None at this time. Implementation of the items listed will have a long term benefit to reducing both frequency and severity of claims.

Exhibits:

None

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CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: *3*	***TITLE:*** **DEVELOPMENT OF LOSS ALLOCATION FOR ANNUAL CONTRIBUTIONS**
MEETING: 5/3/2017	
GENERAL MANAGER:	

Recommended Actions:

None. This item is presented to the Executive Committee to further develop a methodology in creating options for a loss allocation component for annual member contributions.

Strategic Direction:

This item addresses Strategic Goal 1, Employ Customizable Products and Services to be Competitive and Strategic Goal 3, Foster Informed and Engaged Board Leadership.

Item Explanation:

The general manager presented the Executive Committee with examples of member loss histories and how their exposures impact the overall contributions on an annual basis. The Committee requested that staff further develop the numbers and look at multiple time frames and how those would impact each individual member. The loss history presented included the full ten years of loss data that are currently utilized by the actuary to develop contribution requirements for each program year. The committee recommended staff look at shorter and longer durations to determine the overall history of members that have an adverse impact on the program.

The general manager will provide the committee with additional loss data at the meeting based upon multiple time lines and program layers. Staff scheduled a session for the annual meeting that will be presented by Mujtaba Datoo, Aon Risk Services that will focus generically on rating methodologies that may be considered by CJPRMA. The Executive Committee will review options for implementing alternative contribution methodologies at the June Meeting. The options will incorporate a loss rating/blending alternative that will include multiple alternatives. The outcome of the evaluation will be presented to the Board of Directors at the August meeting. The implementation would be immediate and alternative contributions could be implemented for the program year 2018-2019 renewal. It would be advantageous to have a preliminary plan approved in August so the actuary would be able to evaluate loss allocation based upon the approved methodology.

The implementation of a program will be a significant departure for CJPRMA from its long standing practice that payroll is an equal contributor ignoring the impacts of adverse loss histories of members that exceed their annual contributions. A number of factors would be used to create the new program. The program could be implemented effective July 1, 2018 or the Board would have the option of implementing a loss-rating blend over a multi year term. The severity of claims continues to impact contributions of the membership and this effort to evaluate the allocation of contributions including experience factors is at a critical stage for this organization. There are a number of mechanisms that can be utilized in implementing such a program. The following items are provided for the purpose of discussion and consideration for implementation:

1. Develop a method of contribution that develops contributions based upon each member's loss experience. No discounting applied.
2. Evaluate members and their impact on specific pool layer and explore modification of self-insured retentions.
3. Establish a warning period or probationary period prior to implementing a weighting to the individual member.
4. Develop contributions based upon loss history that would allow for an offset of a single loss or multiple losses over a program history.
5. Evaluate members from the date they initially joined CJPRMA, use a pro rata share concept based upon their program history.
6. Implement required risk management/claims management practices for any member with an adverse loss history. Use the member overall size within the program and the total exposures to determine their impact on the program.
7. Do nothing, and leave the program as is.
8. Re-evaluate the current contribution methodology that was implemented in 2008. A copy of that agenda bill is attached.

There are a number of alternatives that can be considered when modifying the contribution methodologies for the program. The Executive Committee will need to evaluate multiple options and create a minimum of three options to be considered by the Board of Directors.

Staff will be present to discuss the alternatives and develop next steps for the process.

Fiscal Impact:

None at this time. The ultimate impact on cost savings by members will be determined by the contribution method selected.

Exhibits:

1. March 2008 agenda bill creating the contribution stabilization program.

CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

***Item #:* 6**	***Title:*** **PROPOSED CHANGE TO PREMIUM CALCULATION PROGRAM**
Meeting: 3/20/08	
***Agenda Bill #:* 983**	
General Manager:	

Recommended Action:

Approval of the recommendation to adopt and implement the premium calculation plan recommended by the ad hoc Committee for the 2008/2009 program year.

Item Explanation:

Due to member concerns regarding escalating premium levels, staff was asked to explore options for a premium stabilization program.

Currently, an actuarial study is performed each year. Rates are developed and recommended for various confidence levels. The rates are then applied to the amount of payroll reported by each member in order to determine the amount of their required contribution. The rates will vary depending upon the retained limit selected by each member.

From 1986 to 1990, the program was funded at a 90% confidence level. From 1990 to 1992, the confidence level was reduced to 80%. From 1992 to 1994, it was reduced to 75%. Finally, from 1994 to the present, the confidence level utilized for funding has been 70%.

The current plan was utilized to build a pool of funds large enough to generate a level of investment income sufficient to pay all losses. That plan worked very effectively when CJPRMA was providing $10 million in coverage and self funding the entire amount.

However, approximately eight years ago, several large verdicts were returned which convinced the Board that it was necessary to increase the program's coverage limits. The purpose in doing so was twofold. First, it was felt that the members needed to be protected from the potentially disastrous effects of a loss which exceeded the existing coverage limits. Second, a review of the coverage limits provided by other JPAs revealed that they were all at higher levels. In order to be more competitive, it was felt that an increase in the limit of coverage would make the program more attractive.

As a result, CJPRMA decided to enter the reinsurance market.

Coverage was increased to $15 million, then $25 million, and finally to $40 million. Although the rates have been steady, and often reduced, the premiums have increased because of corresponding increases in payroll levels.

Exhibit

Since 1999, CJPRMA has expended $20.4 million for reinsurance coverage. In addition, it has lost $5 million in investment income that would have been earned on those premiums had they remained in the CJPRMA program. That's $25.4 million that was lost.

Beginning in 2005, CJPRMA no longer paid all of its losses out of investment income. In 2005, the figure was reduced to 97%. In 2006, it was 92.4%, and in 2007, it was 90%.

The result is that, in addition to using investment income, $17.8 million of the principal has been utilized to pay losses. Had the reinsurance premiums and the investment income generated from them remained in the program, CJPRMA would still have an additional $12.6 million in principal, with all losses having been paid out of investment income.

Under the current business plan, the erosion of principal is going to continue for at least two reasons. First, reinsurance will continue to be needed in order to provide the desired coverage limits. Large jury verdicts and settlements have made it clear that high limits are a necessity. Second, redistributions will continue because members have become dependent on them.

Two additional issues have arisen regarding the current business plan. First, premium quotes from competitors have been substantially lower than CJPRMA's. As a direct result, two members of CJPRMA (YCPARMIA and PERMA) have provided notice of their withdrawal, effective July 1, 2008. Second, the eroding financial situation in California has created a fiscal crisis for all public entities.

With those issues in mind, the Board created an ad hoc Committee on Rate Reduction and Reformulation. The Committee met on three occasions and has recommended the following plan for Board consideration and approval.

The new plan changes the basic methodology for premium calculation.

It is based upon ten years of consecutive claims that are both trended and developed. The most recent year to be utilized would be completed three years prior to the commencement of the program year to which this formula applies. It changes the way that the amount needed for losses is calculated by averaging ten consecutive years.

Based on a 70% confidence level (undiscounted), the result would be a reduction of 29% ($4.6 million) from the previously approved estimated premium of $16 million.

This plan also entails the creation of an excess loss reserve fund to support the new premium calculation program. The goal would be to fund an amount ($22.5 million) equivalent to five times the SIR ($4.5 million) under the reinsurance program. The projected funding level would be generated over a nine year period ($2.5 million per year). Once reached, the fund would not be supplemented again until such time as losses required its utilization.

It would be funded out of investment income from the preceding year, as well as any redistribution, if needed.

Utilizing investment income from 2006/2007 to fund the Excess Loss Fund, the actual amount of estimated premium to be collected for 2008/2009 would be $10.9 million. This includes a credit toward premium from any excess investment income. It represents a 32% reduction from the previously approved premium calculation plan.

Exhibit

Two caveats would be recommended for this fund. First, members would retain ownership in any funds contributed to ELF. Second, new members joining CJPRMA would be required to contribute a specified amount (as yet undetermined) to this fund in each of their first three years in the program. These funds would only be available for redistribution upon the approval of the CJPRMA board.

In addition, the Committee has recommended that (1) any investment income earned by ELF be credited toward the next year's premium calculation; (2) withdrawing members could not immediately withdraw these funds, but that they would retain an equity interest in ELF, subject to any Board policy addressing the orderly repayment of those funds; (3) members be permitted to determine whether future redistributions are taken in the form of payments or as a credit against the next year's premiums; (4) total net equity will not be allowed to drop below the $22.5 million target and (5) finally, the previously approved redistribution plan would go forward, allowing members the option of accepting funds or taking a credit towards next year's premium.

Exhibit

Fiscal Impact:

The new premium calculation plan proposes a 32% net reduction in premium ($5 million) for the 2008/2009 program year.

Exhibits:

1) Data Utilized for Exhibits
2) Recommended Plan for the Premium Calculation Program

Board Action:

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CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: *4*	***TITLE:*** **REVIEW AND APPROVAL OF THE SUCCESSION PLAN FOR THE REPLACEMENT OF THE RETIRING GENERAL MANAGER**
MEETING: *5/3/2017*	
GENERAL MANAGER:	

Recommended Actions:

The general manager recommends the Executive Committee approve and adopt the recommendation for the succession plan for the replacement of the retiring general manager.

Strategic Direction:

This item addresses all of the strategic goals of the organization.

Item Explanation:

The Executive Committee and the general manager have conducted preliminary discussions regarding a succession plan for the future of CJPRMA. The general manager has set a retirement timeline of October 2018, with an actual date to be determined.

The Executive Committee and the general manager have discussed an approach to a replacement of the general manager that would minimize the impact on members as part of the transition. The general manager has reviewed multiple succession plans generated by other organizations and found the plan created by the North Bay Schools Insurance Group to meet the needs of CJPRMA. The general manager consulted with their departing Executive Director Jan DeGracia and their incoming Executive Director Janet Selby to determine the effectiveness of their succession plan. Ms. Selby stated their organization hired an Assistant Executive Director approximately nine months prior to the anticipated date of their Executive Director leaving. Ms. Selby states that a one-year period of time would have been ideal for the replacement. However budget issues would not allow for a transition period of that duration.

The general manager joined CJPRMA in 2003 as the risk manager and has been serving as general manager since 2010. At the time of the replacement of the previous general manager, it was clear that the then Assistant General Manager understood the organization, knew the expectations of the members and understood the increased complexity of the organization. Today, based upon the complexity of the organization, the general manager recommends that at a minimum a potential replacement be identified and hired by the organization by April 1, 2018. This will provide the incumbent six months under the direction of the general manager and the opportunity to work on numerous projects that will affect the

long range effectiveness of the organization. This person would also have the opportunity to experience a full renewal process with our broker/underwriter partners, oversee a billing of contributions for membership, participate in an annual meeting, and assist with the annual actuarial process and development of rates. All of these exposures will provide the incumbent with the opportunity to better understand the organization and its programs.

Hiring an assistant general manager with the anticipated start date of April 1, 2018 will minimize the impact to the administrative budgets for either year. The additional personnel necessary would create a funding requirement that would be equally shared by two program years; 17/18 and 18/19. This implementation would create a smooth transition of the program to the new leader.

The general manager recommends that the Executive Committee work closely with the general manager and oversee the recruitment process. Alternative forms of recruitment would include a local search, statewide search and potentially a national recruitment. There is an additional agenda bill within this agenda requesting the Executive Committee approve an updated job description/salary range for the Assistant General Manager Position.

The general manager recommends the Executive Committee approve and adopt the recommendation for the succession plan for the replacement of the retiring general manager.

The general manager will be available to discuss succession with the Executive Committee.

Fiscal Impact:

1. Approximate cost of $109,184 including salary and benefits

Exhibits:

1. None

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CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: 5	***TITLE:*** **APPROVE UPDATED JOB DESCRIPTION FOR ASSISTANT GENERAL MANAGER**
MEETING: 5/3/2017	
GENERAL MANAGER:	

Recommended Actions:

The general manager recommends the Executive Committee approve the updated job description for the assistant general manager position and compensation classification. A request to fund this position will be presented to the Board of Directors at the May meeting.

Item Explanation:

The Executive Committee has been assigned the responsibility and authority to review and approve job descriptions. The general manager is anticipating retirement over the next two years. The Executive Committee has been in the process of discussing the succession plan for the replacement of the general manager upon his retirement. The succession plan includes determining a replacement for the general manager and hiring an individual into an alternative position within CJPRMA. There is currently a job description for the position of assistant general manager and modifications to that position are being recommended.

This position has been vacant at CJPRMA since 2010 when the current general manager was appointed to his position. Since that time the position has not been filled. The organization hired a claims administrator and it was determined at that time that an additional management position was not required. The current approved salary range stated in the CJPRMA Compensation Plan Article I - Compensation, Section 1 – Salaries, d) Claims Administrator is $106,152 to $141,536 (amended 07/09/2016). The general manager recommends that the adopted classification of assistant general manager be increased by 10% above the claims administrator. This would provide the person occupying the position to have a salary commensurate with the responsibilities and the responsibility of managing the claims administrator position. The new pay range would be $116,767 to 155,690.

The funding for this position would be recommended during the budget approval process at the May 2017 meeting. The current transition plan would involve hiring of the assistant general manager by April 1, 2018 and working with the general manager until his anticipated retirement in October 2018, the actual date to be determined. This will provide for a smooth transition and the opportunity for the incumbent to work on a full program renewal, monitor the claims process, and work on establishing premium contributions and all other aspects of CJPRMA. This period of time will also allow the incumbent opportunities to participate in

CJPRMA meetings and ultimately lead a meeting with the retiring general manager assisting in this transition process. This will also allow for the funding of the additional position to apply to two program years thus minimizing the financial impact to the members during this process.

The process for the selection of the future assistant general manager will be led by the general manager and working with the Executive Committee to insure the prospective candidate meets all of the qualifications and experience required by the Board of Directors.

The general manager recommends that the Executive Committee approve the updated job description of assistant general manager and the salary range as recommended.

Staff will be present to discuss the proposed job description and compensation range.

Fiscal Impact:

TBD

Exhibits:

1. Assistant General Manager Job Description
2. CJPRMA Compensation Plan

CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

Accredited with Excellence from the California Association of Joint Powers Authorities

ASSISTANT GENERAL MANAGER

DEFINITION:

Under the general direction of the General Manager, this position is responsible for the general development and administration of functions and major programs consistent with organizational goals and policies, requiring the highest level of technical knowledge. Responsibilities may include the prudent and effective investment of Agency portfolio funds, oversight and management of Agency daily operations, technical support to members, development and administration of financial systems, and/or development and administration of claims management systems. Incumbents are responsible to maintain a healthy and safe working environment. Incumbents in this position are expected to provide a high level of customer service in performing the essential duties of the position.

SALARY RANGE:

$116,767 to $155,690

REPORTING RESPONSIBILITIES:

Receives general supervision from, and reports directly to, the general manager and oversees CJPRMA office operations in the absence of the general manager. Candidate will work with CJPRMA staff, investment managers, insurance brokers, consultants, Board members and member entities.

ESSENTIAL AND IMPORTANT DUTIES:

1) Responds to requests from, and provides assistance to, Board members and member entities;
2) Conducts general on-site risk control assessments;
3) Develops risk control recommendations, prepares reports and monitors entities' implementation plans;
4) Analyzes and evaluates new and revised laws and regulations and their impact on member entities;
5) Reviews claims patterns and coordinates and conducts specific training programs to reduce claims in critical areas;
6) Works with Claims Administrator and oversees claims and litigation making recommendations to the General Manager and Board of Directors;

7) Participates in and recommends resolution of claims and litigation;

8) Works with claims administrator and oversees claims and litigation making recommendations to the general manager and Board of Directors;

9) Participates in and recommends resolution of claims and litigation;

10) Assists entities in developing and implementing new and revised policies and procedures in the area of risk control and safety management;

11) Reviews contracts and assists entities in establishing appropriate insurance requirements, and developing hold harmless agreements and contractual risk transfer specifications for such agreements;

12) Assists member entities in establishing safety programs and appropriate training;

13) Provides expert assistance to entities, in the absence of their risk manager;

14) Acts a systems administrator for the Local Area Network; telephone systems, assists with provision of training to staff members on all software programs;

15) Works with software and hardware computer vendors on maintenance of the computer system; troubleshoots problems as they arise; and coordinates the disaster recovery system;

16) Oversees and manages the CJPRMA RMIS system;

17) Issues certificates of coverage to members in the absence of the general manager;

18) Manages and maintains the employee benefits program and various other aspects of the human resources program;

19) Reviews and works with the Finance Officer in developing the annual contribution based upon the completed actuarial report;

20) Works with and assists the general manager in the purchase and placement of insurance products;

21) Reviews and works with the Finance Officer in developing the annual contribution based upon the completed actuarial report;

22) Manages the CJPRMA Special Event Insurance Program;

23) Works with the general manager on special projects;

24) Performs other duties as assigned.

JOB RELATED AND ESSENTIAL QUALIFICATIONS:

Knowledge:

The individual must possess knowledge of (1) risk management practices and training; (2) the structure and operation of public organizations; (3) safety and risk control programs for local government agencies; (4) FED-OSHA, CAL-OSHA and other safety and risk control standards; (5) computer and RMIS systems; (6) English grammar and usage; and (7) principles of public sector human resource management.

Skills:

The individual must be able to (1) use various computer software programs including Microsoft Office Suite; (2) analyze problems and recommend alternatives/solutions; (3) plan, initiate and complete assignments with a minimum of direction; (4) design and prepare various types of reports; (5) communicate clearly and concisely, both orally and in writing; (6) establish and maintain cooperative working relationships with those contacted in the course of work; and (7) manage personnel in an office environment.

Abilities:

The individual must be able to (1) develop and present safety and risk control programs; (2) conduct general on-site risk control inspections and write reports; (3) consult with entities regarding their safety and risk control programs; and (4) maintain expertise on current safety and risk control issues.

PHYSICAL REQUIREMENTS:

This individual must have the ability to (1) type and use computer keyboards; (2) use hands to reach, handle or feel objects or controls; (3) stand, walk, talk, see and hear with sufficient acuity to successfully perform all aspects of the job; (4) travel to various entity sites by vehicle or plane; (5) be exposed to dust, noise, moving objects and other vehicles while in the field; (6) work unusual and prolonged hours; and (7) lift and carry items weighing up to 25 pounds. Reasonable accommodations will be provided upon request.

EXPERIENCE AND TRAINING:

Bachelor's Degree in field directly related to the position such as Economics, Business Administration, Accounting, Insurance or Risk Management, and ten years of directly related experience, five years of which are at a management level; or, an equivalent combination of education and experience sufficient to successfully perform the essential duties of the job such as those listed above. Public sector experience is highly desired. Additional industry-based specialized or technical training may be required.

LICENSE OR CERTIFICATE:

Possession of, or ability to obtain, a valid California Driver's License is required; however, a reasonable accommodation alternative will be considered for individuals with a disability.

Based upon this position, the following certificates and licenses may be required or preferred:

- Associate in Risk Management (ARM).

CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

CJPRMA COMPENSATION PLAN

CJPRMA acknowledges its obligations under the Americans with Disabilities Act, the California Family Care Leave Act of 1991, and the Federal Family and Medical Leave Act of 1993. CJPRMA rules, regulations, policies and practices will conform with said Acts.

ARTICLE I: COMPENSATION

SECTION 1 - SALARIES

Salary ranges for full-time employees shall be as follows:

a)	Administrative Assistant	$ 46,125 to $ 68,585	(amended 07/09/2016)
b)	Finance Officer	$ 92,358 to $ 123,144	(amended 07/09/2016)
c)	Executive Assistant	$ 59,824 to $ 79,766	(amended 07/09/2016)
d)	Claims Administrator	$ 106,152 to $ 141,536	(amended 07/09/2016)
e)	Risk Management Analyst	$ 65,807 to $ 87,742	(amended 07/09/2016)

Salary ranges and benefits will be reviewed biannually by the Executive Committee. Salary surveys shall be conducted biannually. Salary ranges and salaries will be adjusted biannually, effective July 1 of the alternate year of salary survey, by an amount equivalent to the San Francisco All Urban CPI. (Table 17). (amended 7/1/08)

SECTION 2 - OVERTIME

A) CALCULATION

All non-exempt employees required to work in excess of 44 hours, during the scheduled 5 day work week, and in excess of 36 hours, during the scheduled 4 day work week, shall receive compensation at the rate of one and one half times their regular rate of pay or accrue comp time in the amount of one and one half times for every hour worked.

B) ELIGIBILITY

In determining an employee's eligibility for overtime, paid and unpaid leaves of absence shall be excluded from the total number of hours worked. Additionally, duty free lunches, travel time to and from work, and time spent conducting bona fide volunteer activities shall also be excluded. Paid leaves of absence include, but are not limited to, the following:

a) Vacation
b) Holiday
c) Sick Leave
d) Administrative Leave
e) Workers Compensation
f) Jury Duty
g) Bereavement Leave
h) Military Leave

Time worked shall be computed by rounding to the nearest one-quarter of an hour.

C) APPROVAL

All overtime must be approved by the General Manager prior to being worked.

SECTION 3 - DEFERRED COMPENSATION

Full-time employees are eligible to participate in the ICMA Deferred Compensation Plan. Contributions shall be the sole responsibility of the employee.

ARTICLE II: BENEFITS

SECTION 1 - VACATION LEAVE

A) ACCRUAL

Full-time employees are entitled to the equivalent of 80 hours of vacation leave each year. This time shall accrue at the rate of 3.08 hours bi-weekly and may be used after it has been accrued. After three years, beginning with the fourth year of employment, full-time employees shall be entitled to the equivalent of 120 hours of vacation leave each year. That time shall accrue at the rate of 4.62 hours bi-weekly. Beginning with the tenth year of employment, full-time employees shall be entitled to the equivalent of 144 hours of vacation leave each year. That time shall accrue at the rate of 5.54 hours bi-weekly. Beginning with the fifteenth year of employment, full-time employees shall be entitled to the equivalent of 160 hours of vacation leave each year. That time shall accrue at the rate of 6.15 hours bi-weekly. (amended 7/1/01)

B) USE AND APPROVAL

Full-time employees shall obtain approval, in advance, from the General Manager for any vacation leave that they wish to take. The scheduling of vacations shall be done on a “first come, first served” basis, subject to operational needs.

C) PAYMENT AT TERMINATION

Employees shall be paid in a lump sum for all accrued vacation leave which has been earned, but not used, upon the effective date of their termination.

SECTION 2 - SICK LEAVE

A) ACCRUAL

Full-time employees shall accrue sick leave at the rate of 3.70 hours bi-weekly for their period of continuous service. There shall be a maximum accrual limit of 960 hours. No sick leave shall be accrued in excess of that specific limit.

B) USE AND APPROVAL

Sick leave is not a right which employees may use at their discretion, but rather is to be used only in case of personal illness, disability or other serious illness or injury. Compensation for the use of sick leave shall be subject to the approval of the General Manager. A doctor's note, verifying an employee's status, may be required when (1) abuse of sick leave is suspected, or (2) the absence is for more than three consecutive days.

C) NO PAYMENT AT TERMINATION

Employees shall not receive any payment for accrued sick leave which has been earned, but not used, prior to the effective date of their termination.

SECTION 3 - WORKERS COMPENSATION

Employees that sustain a work related injury or illness shall be entitled to receive workers compensation benefits as defined by California state law. Accrued sick leave and/or vacation leave may be utilized to supplement any workers compensation temporary disability benefits up to, but not exceeding, 100% of an employee's weekly earnings. This benefit may be used if the injury/illness is confirmed to be work related and the time off is warranted, as confirmed by medical reports. Additionally, if the injury/illness is determined to be work related, CJPRMA will continue to pay its designated portion of an employee's medical and/or dental coverage premium as long as the employee has not exhausted all accrued leave balances. Leave balances shall continue to accrue while the employee is on workers compensation leave.

Employees, who are released to return to work, by the attending workers compensation physician, shall do so at the time designated by the physician or be subject to disciplinary action, up to and including termination.

Employees who are permanent and stationary and unable to return to work shall be retired at the end of the pay period in which they were declared permanent and stationary.

SECTION 4 - BEREAVEMENT LEAVE

In the event of the death of an employee's spouse, mother, father, brother, sister, child (including an adopted child), grandchild or grandparent, step-family member, or in-law, an employee may be granted time off with pay to attend the funeral and make other necessary arrangements. The amount of time off with pay shall not exceed 5 working days. Any additional required time off, exceeding 5 days, shall be charged to accrued vacation time, floating holidays or taken as leave without pay. However, such extensions are subject to the approval of the General Manager. Bereavement leave shall not be accrued from year to year. Additionally, employees shall not be entitled to compensation for unused accrued bereavement leave at their termination.

SECTION 5 - MILITARY LEAVE

Military leave shall be arranged in accordance with the provisions of state law. All employees entitled to military leave shall give the Board of Directors and the General Manager an opportunity, within the limits of military regulations, to determine when such leave shall be taken.

SECTION 6 - JURY DUTY LEAVE

Full-time employees who are called or required to serve as jurors shall be entitled to absent themselves from work during such service or while necessarily being present at court as a result of such call. Under those circumstances, employees shall be paid their full salary for such duty. Additionally, mileage payments made by the court, may be retained by the employee. However, any other payments received for such duty shall be surrendered to CJPRMA. CJPRMA shall compensate an employee called to jury duty for a maximum of two pay periods.

SECTION 7 - COURT APPEARANCES

A) PERSONAL

Full-time employees that are required to make court appearances of a personal nature shall not be compensated for said time off. However, they may utilize accrued vacation time or floating holidays to make up for compensation that has been lost. A personal leave of absence without pay may be granted by the General Manager for such an appearance.

B) BUSINESS

Full-time employees that are required to make court appearances on behalf of CJPRMA shall receive their regular compensation for all time spent on such appearances. Additionally, if their personal vehicle is utilized, they shall be eligible for mileage reimbursement as set forth herein.

SECTION 8 - LEAVES OF ABSENCE

A) WITHOUT PAY

The General Manager may grant full-time employees a leave of absence without pay for a period not exceeding three months. Good cause being shown by a written request, the Board of Directors may extend a leave of absence without pay for an additional three month period. No such leave shall be granted except upon submission of a written request setting forth the reasons for the leave. Approval of such a request shall be in writing. Upon the expiration of a regularly approved leave of absence, or within a reasonable period of time after notice to return to duty, the employee shall be reinstated to the position that they held at the time the leave was granted. Failure of the employee on leave to report to work at the expiration of the leave period, or within a reasonable time after notice to return to duty, shall be cause for termination.

B) FAMILY LEAVE

The General Manager shall grant family leaves pursuant to State and Federal law. Upon the expiration of a regularly approved leave of absence, or within a reasonable period of time after notice to return to duty, the employee shall be reinstated to the position that they held at the time the leave was granted. Failure of the employee on leave to report to work at the expiration of the leave period, or within a reasonable time after notice to return to duty, shall be cause for termination.

SECTION 9 - VOTING

On Election Day, up to two hours of paid leave time may be granted to full-time employees, if the employee is unable to vote before or after work, in order to permit them to participate in the voting process. However, employees are required to provide CJPRMA with at least two working days notice if they want to take time off for voting.

SECTION 10 - USE OF PERSONAL VEHICLE

A) Full-time employees that are required to utilize their personal vehicle for CJPRMA business shall be reimbursed for mileage incurred at the current I.R.S. rate.

B) All employees are required to provide proof of automobile liability insurance in a coverage amount of not less than $300,000, including coverage for business usage, to the General Manager. It shall be the obligation of the employee to provide such proof on an annual basis. In the event of an accident, the employee's insurance shall always be primary for coverage purposes.

SECTION 11 - HOLIDAYS

A) FIXED HOLIDAYS

CJPRMA shall observe twelve (12) fixed date holidays per fiscal year. Those holidays are listed below:

Independence Day	Christmas Day
Labor Day	New Year's Eve
Veteran's Day	New Year's Day
Thanksgiving Day	Martin Luther King Jr.'s Birthday
Friday following Thanksgiving Day	President's Day
Christmas Eve	Memorial Day

B) FLOATING HOLIDAYS

CJPRMA shall also provide full-time employees with two (2) floating holidays per fiscal year which may be taken at a time selected by them, subject to operational requirements and the approval of the General Manager. Full-time employees hired between July 1 and December 31 of any year shall be eligible for two floating holidays. Full-time employees hired between January 1 and June 30 of any year shall be entitled to one floating holiday. Unused floating holidays may not be carried over into the following fiscal year nor paid to employees at their termination.

SECTION 12 - TUITION REIMBURSEMENT

Full-time employees shall be eligible for tuition and book reimbursement in an amount of up to $500 per fiscal year for classes which are applicable to their work or beneficial to CJPRMA. The General Manager shall, in his sole discretion, make the determination as to whether or not a class qualifies for reimbursement purposes. Reimbursement shall not be made until after the employee has successfully completed the class with a grade of "C" (or better) or "pass", and submitted proof of the same.

SECTION 13 - LONG TERM DISABILITY

After 90 days of employment, full-time employees shall be eligible for long term disability benefits. If disabled, they shall receive a monthly benefit equal to 60% of their regular salary, to a maximum of $5,000 per month. This benefit shall not become available for a period of 90 days following the first day of disability.

SECTION 14 - HEALTH AND DENTAL INSURANCE

Full-time employees shall receive the amount of $1,779.00 per month as a contribution for health\dental premiums. In lieu thereof, the contribution may be placed in a deferred compensation plan. (amended 7/16/15)

***SECTION 15 - LIFE* INSURANCE**

Full-time employees shall be provided with a term life insurance policy in the coverage amount of one and a half (1.5) times their annual salary. (Amended 7/1/04) Payment for that policy shall be provided by CJPRMA.

SECTION 16 - RETIREMENT

A. P.E.R.S. PLAN

Classic Members - The CJPRMA retirement plan under the Public Employees Retirement System for "Classic Members" shall consist of the following items:

a) 2.7% at age 55, (amended 07/01/08)
b) 4th level 1959 survivor's benefit, and
c) single highest year final compensation. (amended 01/20/00)

New PEPRA Members – The CJPRMA retirement plan under the Public Employees Retirement System for "New Members" shall consist of the following items:

a) 2% at age 62,
b) 4th level 1959 survivor's benefit, and
c) three-year final compensation.

P.E.R.S. CONTRIBUTIONS

a) Classic Members - shall contribute 8% of the employee contribution to the retirement plan. CJPRMA shall pay the employer's contribution to the retirement plan. (amended 07/01/13)

b) New PEPRA Members – shall contribute 6.25% of the employee contribution to the retirement plan. CJPRMA shall pay the employer's contribution to the retirement plan.

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CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: *6*	***TITLE:*** **STATUS UPDATE ON GENERAL MANAGER'S GOALS & OBJECTIVES 2016-2019**
MEETING: *5/3/2017*	
GENERAL MANAGER:	

Recommended Actions:

None. This item is being provided to the Executive Committee as an update on the 2016-2019 Goals and Objectives with a discussion of the current initiatives.

Strategic Direction:

This item addresses all of the strategic goals adopted by the organization.

Item Explanation:

The General Manager's Goals and Objectives FY 2016-2019 were created to identify the areas of priority for staff in meeting the objectives of the adopted strategic plan.

The Executive Committee and general manager review and discuss the goals and objectives at their meetings. At the October 2013 Board of Directors Meeting, the Board referred authority to the Executive Committee to adopt the General Manager Goals and Objectives for the FY 2013-2016.

The Executive Committee and the general manager reviewed the Strategic Plan at the January 19th meeting. The general manager presented the GM Rating form and created a set of goals that addressed the four primary strategic goals and allowed for the general manager to focus the attention of staff on the priority actions defined in the plan. The Executive Committee approved the form as presented by the general manager. This form will be incorporated into future Executive Committee meetings to allow the general manager to provide the status on current projects designed to address the priority actions defined in the newly adopted Strategic Plan.

The general manager will be available to discuss the status of the priority action initiatives that are in-progress.

This item is being provided as a discussion item only and no formal action is required.

Fiscal Impact:

None

Exhibits:

1. General Manager's Evaluation Form 2016-2017
2. Strategic Plan 2016-2019

CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

GENERAL MANAGER ANNUAL PERFORMANCE EVALUATION

Name of Employee	Appraisal Period Beginning (Month/Day/Year)	Appraisal Period Ending (Month/Day/Year)	Date of Appraisal (Month/Day/Year)
David Clovis	**July 1, 2016**	**July 1, 2017**	**TBD**

Purpose: **The General Manager is accountable for establishing and overseeing the implementation of programs and services that are consistent with the Strategic Plan that has been adopted by the Board of Directors. The performance appraisal process is designed to plan future goals while assessing actual progress in relation to the standards that have been established for this position.**

Rating Categories	**1= Does Not Meet Expectations 2= Occasionally Meets Expectations 3 = Meets Expectations 4=Meets and Exceeds Expectations 5 = Exceeds Expectations**

I. GOALS/OUTCOMES FOR CURRENT REVIEW PERIOD (FY2015-2016)

Statement of Objectives & Expected Outcomes	Actual Outcomes and Executive Committee/ Board Comments	Goal Weighting %	Rating (1,2,3,4, 5)	Adjusted Rating (i.e., 0.2)
1. Financial strength and solvency. Works with brokers, financial advisers and actuary to deliver cost effective programs for the membership.	**General Manager:** **Executive Committee/Board:**	10		
2. Goal 1: Employ Customizable Products and Services to be Competitive	**General Manager:** **Executive Committee/Board:**	10		
3. Goal 2: Invest Organizational Capital in the Development of Targeted Educational and Training Programs	**General Manager:** **Executive Committee/Board:**	10		
4. Goal 3: Foster Informed and Engaged Board Leadership	**General Manager:** **Executive Committee/Board:**	10		

I. GOALS/OUTCOMES FOR CURRENT REVIEW PERIOD (FY2015-2016) continued

Instructions: The Goals/Outcomes Section Weighting is equal to 75% for Pages 1 and 2 of this form. To use weighting feature, multiply the weighting times the rating for adjusted value (.10% x 2) = 0.2.

Statement of Objectives & Expected Outcomes	Actual Outcomes and Executive Committee/ Board Comments	Goal Weighting %	Rating (1,2,3, 4,5)	Adjusted Rating (i.e., 0.2)
5. Goal 4: Actively Market the Value of CJPRMA Both Externally and Internally	**General Manager:** **Executive Committee/Board:**	10		
6. Provide consultation to board members and individual member agenices by resolving questions and issues concerning agency risk management practices and procedures.	**General Manager:** **Executive Committee/Board:**	10		
7. Agenda Management and Reporting Practices: Accurately gauges member agency needs in establishing Board agendas. Presents information in a timely manner, and provides meaningful reports and recommendations	**General Manager:** **Executive Committee/Board:**	10		
8. Provides member's with quarterly updates on losses and provides annual recap of losses for purchase program participants.	**General Manager:** **Executive Committee/Board:**	10		
9. Manage all aspects of the operation of CJPRMA including staff, operations, facility, and outside vendors.	**General Manager:** **Executive Committee/Board:**	10		

10. Relationship Building with the Board and Public and Private Representatives. Shows sensitivity, tact, and insight in establishing and maintaining effective working relationships with Executive Committee, Board representatives, member staff and other parties. Anticipates potential communications problems and keeps all parties properly informed.	**General Manager:** **Executive Committee/Board:**	10		

General Manager's Comments:	Executive Committee/Board Comments:

BOARD'S RATING OF PERFORMANCE GOAL ATTAINMENT Using the sum of the scores on Pages 1 through 3, this Page and divide by 10. Carry this number to the top of Page 4 (i.e., total scores = 50/10 =5.0).	

III. GOALS/OUTCOMES FOR NEXT REVIEW PERIOD (FY2017-2018)	Weighting as % of 100

IV. OVERALL PERFORMANCE EVALUATION RATING		
Rating From Bottom of Page 3	Total rating divided by:	Overall Performance Rating
	10	

Notes: The employee's signature below signifies that the employee has read the evaluation, and not necessarily that he or she agrees with the evaluation. The cellblocks can be expanded below to include additional comments.

V. OVERALL COMMENTS FOLLOWING APPRAISAL DISCUSSION

GENERAL MANAGER'S SUMMARY COMMENTS:

COMMITTEE/BOARD RESPONSES TO GENERAL MANAGER'S SUMMARY COMMENTS:

General Manager's Signature	Date

Name of Executive Committee Chairperson	Executive Committee Chairperson's Signature	Date

STRATEGIC PLAN
2017 - 2019

Mission Statement

The California Joint Powers Risk Management Authority is a member-directed excess liability risk retention pool that is dedicated to protecting its members from catastrophic losses and meeting the needs of its members by:

- ***Providing comprehensive, stable, and affordable excess liability coverage***
- ***Offering competitive and flexible coverage programs***
- ***Delivering quality risk management services***
- ***Preserving financial strength and solvency***

Vision Statement

CJPRMA continually exceeds expectations and ensures organizational vitality.

STRATEGIC GOAL 1: Employ Customizable Products and Services to be Competitive

Key Message: Enhance programs to minimize losses keeping premium rates and program costs competitive with the marketplace

PRIORITY ACTIONS	ACTING PARTY	TIMELINE
1. Identify alternative forms of asset management while exploring alternative investment markets to enhance CJPRMA's return on investment.	Staff/Executive Committee	July 2017
2. Determine the adequacy of the current contribution methodology of members and develop a three- to five-year program to optimize CJPRMA's funding. • Include loss development factors in determining contributions. • Evaluate incentive options for positive loss experience. • Evaluate increased contributions based upon adverse loss exp.	Staff/Executive Committee	October 2017
3. Identify approaches to loss experience and develop an equitable methodology to respond to members that adversely impact the program.	Staff/Executive Committee	October 2017
4. Conduct a focused evaluation of current CJPRMA's liability market conditions and implement programs and coverage options that optimize the delivery of services to members.	Staff/Coverage Committee/Brokers	April 2017
5. Promote effective risk management by providing support to members. • Evaluate options for implementing a TPA-style claims management service for members.	Staff/Executive Committee	January 2018
6. Develop an Excess Workers Compensation Program Model for evaluation by the Board of Directors for 7/1/2018 implementation.	Staff/Executive Committee	July 2017

STRATEGIC GOAL 2: Invest Organizational Capital in the Development of Targeted Educational and Training Programs **Key Message: Train and retain members that contribute to the fiduciary health of CJPRMA**		
PRIORITY ACTIONS	**ACTING PARTY**	**TIMELINE**
1. Implement a Board of Directors education academy to enhance the effectiveness and fiduciary stability of CJPRMA. • Identify existing state-of-the-industry trainings, if available, rather than reinventing the wheel. Communicate to members. • Offer online/webinar trainings. • Integrate success stories and best practices in addition to theory.	Staff/General Manager	May 2017
2. Develop a Board of Directors mentoring program to facilitate enhanced learning by new directors. • Invite new members to attend a CJPRMA Executive Committee meeting.	Staff/Executive Committee	March 2017
3. Provide customized and targeted trainings to members and their agencies on critical loss experience areas.	Staff	April 2017, 2018, 2019
4. Implement a Risk Management Training Series for members and create a multi-year curriculum to enhance the loss mitigation activities of members. • Mandate board members attend at least one training annually.	Staff/Executive Committee	April 2017
5. Take advantage of current marketplace training opportunities. Make programs available to members from select organizations, such as CAJPA and PARMA, or forge partnerships with other pooling organizations.	Staff	July 2017, 2018, 2019

STRATEGIC GOAL 3: Foster Informed and Engaged Board Leadership **Key Message:** Ensure all members understand and embrace risk management and claims management and are active partners with CJPRMA		
PRIORITY ACTIONS	**ACTING PARTY**	**TIMELINE**
1. Develop and implement a claims management process that integrates clear accountability to ensure long-term sustainability of the program.	Staff/Claims Committee	May 2017
2. Create a framework to provide post-litigation debriefings based on best practices with executive staff members of agencies experiencing losses.	Staff/Claims Committee	February 2017
3. Institute an agency-wide "Litigation Panel" or recommended vendor list of attorneys with an incentive for members to use recommended vendors. Develop a litigation management policy based on best practices.	Staff/Claims Committee	July 2017
4. Create item specific ad-hoc committees of the Board of Directors for evaluation and creation of specific programs. Programs to include, but not be limited to, risk management, claims management and program development. • CJPRMA to fully staff committees. • Clearly establish goals, timelines and deliverables.	President	On-Going
5. Formalize and put the succession plan into practice to ensure CJPRMA's continuity.	General Manager/ Executive Committee	July 2017

STRATEGIC GOAL 4: Actively Market the Value of CJPRMA Both Externally and Internally Key Message: Build a "healthy" membership for long-term stability		
PRIORITY ACTIONS	**ACTING PARTY**	**TIMELINE**
1. Enhance the availability of CJPRMA benchmarking and industry tools via the website and other electronic media. • Educate TPAs and members on loss-coding methodologies.	Staff/ Claims Committee	January 2018
2. Provide enhanced data and risk-management-related materials to convey the importance of participating in pooling and the value of membership in CJPRMA. • Deliver detailed risk management loss information to membership directed at eliminating losses.	Staff/Executive Committee	March 2017
3. Create presentations on the value of CJPRMA and present them to all members' executive teams or elected bodies. Use success stories.	Staff	April 2017
4. Identify potential members from the public-sector marketplace and communicate the benefits of joining CJPRMA.	General Manager/ Executive Committee	On-Going
5. Create a Board of Directors Manual to be provided to every Director and Alternate. • Provide annual updates • Create an online version of the manual	Staff	May 2017

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CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: *7*	***TITLE:*** **REVIEW OF PROPOSED MEMORANDUM OF COVERAGE CHANGES FOR 2017-2018**
MEETING: *5/3/2017*	
GENERAL MANAGER:	

Recommended Actions:

None. Staff recommends the Executive Committee review the proposed modifications presented for the 2017-2018 CJPRMA Memorandum of Coverage (M.O.C.). The changes will be presented to the Board of Directors for their approval at the May 2017 Annual Meeting.

Strategic Direction:

This item addresses Strategic Goal 1, Employ Customizable Products and Services to be Competitive.

Item Explanation:

Staff consulted Board Counsel regarding the current Memorandum of Coverage and identified areas within the M.O.C. that require clarification. There are areas that have presented confusion to our members and have created coverage questions in reviewing claims submitted by members. The proposed changes are not intended to minimize or limit any coverage currently provided to the membership, but to clarify areas that are either out of date or present conflicts for the member. Mr. Conley is working with the general manager to finalize the list of items being recommended for inclusion in the 2017-2018 M.O.C.

Staff met with Dr. William Deeb, Broker at AON Risk Services, to review the current M.O.C. to identify and rectify coverage gaps with our current reinsurer Munich Re. Board Counsel and staff will be meeting with a coverage expert attorney provided by AON to evaluate M.O.C. language for the renewal.

Staff will provide a list of the proposed changes to the Executive Committee at the meeting. The members will be asked to provide questions, comments and input regarding the proposed changes. Staff will incorporate those comments from the Executive Committee and will present a final recommendation to the Board of Directors for their approval at the May Meeting.

The majority of the changes within the M.O.C. will have little or no effect on the participants in the liability program.

The general manager recommends the Executive Committee review and provide comments on the proposed M.O.C. modifications that will be provided to the committee at the meeting. The proposed changes if approved, will be included within the 2017-2018 CJPRMA Memorandum of Coverage.

Fiscal Impact:

1. None. The implementation of the modifications of the M.O.C. will not have an adverse fiscal impact on the program participants.

Exhibits:

1. 2016-2017 Memorandum of Coverage

2016-2017 Memorandum of Coverage

of the California Joint Powers Risk Management Authority

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CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

MEMORANDUM OF COVERAGE

PROGRAM YEAR: 2016-2017

This coverage document shall be in effect from July 1, 2016 through June 30, 2017.

In consideration of the payment of the deposit premium, the *Authority* agrees with the *covered parties* as follows:

SECTION I - COVERAGES

The *Authority* will pay up to the *limit of coverage* those sums for *ultimate net loss* in excess of the *retained limit* that the *covered parties* become legally obligated to pay as *damages* because of *bodily injury*, *property damage*, *personal injury*, *public officials errors and omissions* or *employment practices liability* as those terms are herein defined and to which this agreement applies, caused by an *occurrence* during the coverage period, except as otherwise excluded.

This Memorandum of Coverage does not provide insurance, but instead provides for pooled self-insurance. This Memorandum is a negotiated agreement among the *members* of the *Authority* and none of the parties to the Memorandum is entitled to rely on any contract interpretation principles that require interpretation of ambiguous language against the drafter of such agreement. This Memorandum shall be applied according to the principles of contract law, giving full effect to the intent of the *members* of the *Authority*, acting through the Board of Directors in adopting this Memorandum. As the *Authority* is not an insurer, it has no obligation to issue reservation of rights letters, nor does it have an obligation to provide "Cumis" counsel to a *covered party* in disputed coverage situations under California Civil Code section 2860. Finally, failure to provide notice to a *covered party* of any coverage dispute shall not operate to waive any of the provisions of this Memorandum.

SECTION II - DEFINITIONS

1) **Aircraft** means a vehicle designed for the transport of persons or property principally in the air.

2) **Airport** means an area of land or water used or intended to be used for the landing and taking off of *aircraft*; including an appurtenant area used or intended to be used for *airport* buildings or other *airport* facilities or right of way; and *airport* buildings and facilities located in any of these areas. "*Airport*" includes a heliport.

3) **Authority** shall mean the California Joint Powers Risk Management Authority created by the JPA Agreement.

4) **Automobile** means a land motor vehicle, trailer or semi-trailer.

5) **Bodily injury** means *bodily injury*, sickness, disease or emotional distress sustained by a person, including death resulting from any of these at any time. *Bodily injury* includes *damages* claimed by any person or organization for care, loss of services or death resulting at any time from the *bodily injury*.

6) **Care, Custody or Control Hazard** includes all *property damage* to: (1) property that the *covered party* rents or occupies; (2) premises the *covered party* sells, gives away or abandons, if the *property damage* arises out of any part of those premises; (3) property loaned to the *covered party*; and (4) personal property in the care, custody or control of the *covered party*.

7) **Covered Indemnity Contract** means that part of any contract or agreement pertaining to the *covered party's* routine governmental operations under which the *covered party* assumes the tort liability of another party to pay for *bodily injury* or *property damage* to a third person or organization. This definition applies only to liability that would be imposed by law in the absence of any contract or agreement, arising out of an *occurrence* to which this Agreement applies.

8) **Covered party** means:

   (a) A *member entity* of the California Joint Powers Risk Management Authority. This includes all entities named in its declarations page, including any and all commissions, agencies, districts, authorities, boards (including the governing board) or similar entities coming under the entity's direction or control, or for which the entity's board members sit as the governing body, except a hospital board or commission, regardless of how such body is denominated.

   (b) A member of a joint powers authority that is a *member entity* herein, which participates in said jpa's liability program. This includes all entities named in its declarations page, including any and all commissions, agencies, districts, authorities, boards (including the governing board) or similar entities coming under the entity's direction or control, or for which the entity's board members sit as the governing body, except a hospital board or commission, regardless of how such body is denominated.

   (c) Any person or entity identified as a *covered party* holding a certificate of coverage duly issued by the *Authority*, for *occurrences* during the coverage period identified in the certificate of coverage; if a particular activity is identified in the certificate of coverage, the person or entity is a *covered party* only for *occurrences* arising out of the described activity. *"Coverage will not be broader than what the Member Entity is required to provide by the contract or agreement."*

(d) Any person who is an official, *employee* or volunteer of a person or entity covered by (a), (b), or (c) herein, whether or not compensated, while acting in an official capacity for or on behalf of such person or entity, including while acting on any outside board at the direction of such person or entity, except a hospital board or commission, regardless of how such body is denominated. *Covered party* shall not include any person whose conduct is not within the course and scope of his or her employment or office with the *covered party* at the time of the act or acts that give rise to liability.

(e) With respect to any *automobile* owned or leased by a *covered party* (described in (a), (b) or (c) above), or loaned to or hired for use by or on behalf of the *covered party*, any person while using such *automobile*, and any person or organization legally responsible for the use thereof, provided the actual use is with the express permission of the *covered party*, but this protection does not apply to:

1) Any person or organization, or any agent or *employee* thereof, operating an *automobile* sales agency, repair shop, service station, storage garage or public parking place, with respect to an *occurrence* arising out of the operation thereof; or

2) The owner or any lessee, other than the *covered party*, of any *automobile* hired by or loaned to the *covered party* or to any agent or *employee* of such owner or lessee.

This agreement does not provide uninsured or underinsured motorist coverage.

(f) Notwithstanding sections (d) and (e) above, the defense and indemnity coverage afforded by this agreement to a past or present official, *employee* or volunteer of a *member entity* (described in (a) or (b) above) is not broader than the *member entity's* duty to defend and indemnify its official, *employee* or volunteer pursuant to California Government Code sections 815 to 815.3, 825 to 825.6, and 995 to 996.6, inclusive and any amendments thereof. If the *member entity* which employs the official, *employee* or volunteer is not obligated under the Government Code to provide a defense, or to provide indemnity, for a claim, or if said *member entity* refuses to provide such defense and/or indemnity to said official, *employee* or volunteer, then this agreement shall not provide for any such defense or indemnity coverage to said official, *employee* or volunteer. All immunities, defenses, rights and privileges afforded to a *member entity* under Government Code sections 815 to 815.3, 825 to 825.6, and 995 to 996.6, inclusive and any amendments thereof, shall be afforded to the *Authority* to bar any defense or indemnity coverage under this agreement to that *member entity's* official, *employee* or volunteer.

(g) No person or entity is a *covered party* with respect to the conduct of any current or past partnership, joint venture or joint powers authority unless all members are *covered parties* under (a) or (b) herein. However, for any person (1) who is an official, *employee*, or volunteer of an entity covered by (a) or (b) herein, (2) who

participates in the activities of any partnership, joint venture or joint powers authority (or any separate agency or entity created under any joint powers agreement by the named entity), and (3) who is acting for or on behalf of an entity covered by (a) or (b) herein at the time of the *occurrence*, then coverage is afforded by this agreement. Such coverage will be in excess of and shall not contribute with any collectible insurance or other coverage provided to the other joint powers authority, agency or entity.

(9) **Dam** means any artificial barrier, together with appurtenant works, which does or may impound or divert water, and which either (a) is 25 feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, or from the lowest elevation of the outside limit of the barrier, if it is not across a stream, channel or watercourse, to the maximum possible water storage elevation; or (b) has an impounding capacity of 50 acre-feet or more.

Any such barrier which is not in excess of 6 feet in height, regardless of storage capacity, or which has a storage capacity not in excess of 15 acre-feet, regardless of height, shall not be considered a *dam*.

No obstruction in a canal used to raise or lower water therein or divert water therefrom, no levee, including but not limited to a levee on the bed of a natural lake the primary purpose of which levee is to control floodwater, no railroad fill or structure, and no road or highway fill or structure, no circular tank constructed of steel or concrete or both, no tank elevated above the ground, and no barrier which is not across a stream channel, watercourse, or natural drainage area and which has the principal purpose of impounding water for agricultural use shall be considered a dam.

No obstruction in the channel of a stream or watercourse which is 15 feet or less in height from the lowest elevation of the obstruction and which has the single purpose of spreading water within the bed of the stream or watercourse upstream from the construction for percolation underground shall be considered a *dam*.

The levee of an island adjacent to tidal waters in the Sacramento-San Joaquin Delta, as defined in California Water Code section 12220, even when used to impound water, shall not be considered a dam and the impoundment shall not be considered a reservoir if the maximum possible water storage elevation of the impounded water does not exceed four feet above mean seal level, as established by the United States Geological Survey 1929 datum.

No noncircular tank, constructed of steel or concrete, or both, that is constructed in a county of the third class by a public agency, under the supervision of a civil engineer registered in the state, that does not exceed 75 acre feet in capacity or 30 feet in height, and no barrier that is not across a stream channel, watercourse, or natural drainage area and that has the principal use as a sewage sludge drying facility shall be considered a *dam*.

Nor shall any impoundment constructed and utilized to hold treated water from a sewage treatment plant be considered a *dam*. Nor shall any wastewater treatment or storage pond exempted from state regulation and supervision by California Water Code section 6025.5 be considered a *dam*.

10) **Damages** means compensation in money recovered by a party for loss or detriment it has suffered through the acts of a *covered party*. *Damages* include (1) attorney fees not based on contract awarded against the *covered party*, (2) interest on judgments, or (3) costs, for which the *covered party* is liable either by adjudication or by compromise with the written consent of the *Authority*, if the fees, interest or costs arise from an *occurrence* to which this coverage applies. *Damages* also include reasonable attorney fees and necessary litigation expenses incurred by or for a party other than the *covered party*, which are assumed by the *covered party* in a *covered indemnity contract* where such attorney fees or costs are attributable to a claim for *damages* covered by this Memorandum.

Damages with respect to *employment practices liability* shall not include those sums owed by a *covered party* as contract *damages*, any wages, salary, or benefit owed for work actually performed, or (whether prospective or retrospective) resulting from promotion or reinstatement, or any *damages* owing under an express contract of employment or an express obligation to make severance payments in the event of termination of employment.

Damages with respect to *employment practices liability* also shall not include amounts awarded under a labor grievance or arbitration pursuant to a collective bargaining agreement, nor sums paid pursuant to any judgment or agreement, whether injunctive or otherwise, to undertake actions to correct past discriminatory or unlawful conduct or to establish practices or procedures designed to eliminate or prevent future discriminatory or other unlawful conduct, or any non-monetary relief.

11) **Defense costs** means all fees and expenses incurred by any *covered party*, caused by and relating to the adjustment, investigation, defense or litigation of a claim to which this coverage applies, including attorney fees. *Defense costs* shall include adjusting expenses of a third party claims administrator which are specifically identifiable with a claim subject to this coverage.

Defense costs shall not include:

(a) the office expenses, salaries of *employees* or officials, or expenses of the *covered party* or the *Authority*;

(b) any fee or expense relating to coverage issues or disputes between the *Authority* and any *covered party*; or

(c) attorney fees, interest on judgments, or costs awarded to a prevailing plaintiff against the *covered party*.

12) **Discrimination** means an act or failure to act with respect to any present or former *employee* or applicant for employment with regard to compensation, terms, conditions, privileges or opportunities of employment because of race, color, religion, age, sex, disability, pregnancy, national origin, sexual orientation, or other protected category or characteristic established pursuant to any applicable federal, state or local statute or ordinance.

13) **Employee** means a person whose labor or services is engaged and directed by a *covered party* described in definition 8 (a), (b) or (c) above. This includes part-time, seasonal, and temporary labor or services, as well as any person employed in a supervisory, managerial or confidential position. *Employee* shall not include an independent contractor, volunteer or agent, and shall not include any person performing work pursuant to a court order in lieu of a fine or jail sentence.

14) **Employment Practices Liability** means liability arising from *discrimination, sexual harassment,* and/or *wrongful termination* claimed by an *employee*, former *employee* or applicant for employment of a *covered party*.

15) **Limit of coverage** shall be the amount of coverage stated in the declaration page or certificate of coverage for each *covered party* per *occurrence*, subject to any lower sublimit stated in this Memorandum. For each *occurrence*, there shall be only one *limit of coverage* regardless of the number of claimants or *covered parties* against whom a claim is made. If the *covered parties* have different limits of coverage, the highest limit for any party found liable by a final judgment will apply.

16) **Marina** means facilities which include floating docks, boat berthing spaces, marine fueling operations, marine repair facilities, storage facilities for boats and other related marine materials, and other related facilities in which berthing spaces are leased or rented to members of the public for berthing of their private boats. *Marina* includes all of such facilities beyond locking gates, fences or barriers barring access to non-lessees and within waterways enclosed by any breakwater or similar structure, and any repair and storage facilities wherever located.

17) **Medical malpractice** means the rendering of or failure to render any of the following services:

(a) medical, surgical, dental, psychiatric, psychological counseling, x-ray or nursing service or treatment or the furnishing of food or beverages in connection therewith; or any services provided by a health care provider as defined in section 6146 (c), (2), (3) of the California Business and Professions Code.

(b) furnishing or dispensing of drugs or medical, dental or surgical supplies or appliances.

Medical malpractice does not include first aid administered by *employees*, nor does it include advice or services rendered by a 911 emergency dispatcher.

18) **Member Entity** means a signatory to the JPA Agreement creating the California Joint Powers Risk Management Authority.

19) **Nuclear material** means source material, special *nuclear material*, or byproduct material. "Source material", "special *nuclear material*", and "byproduct material" have the meanings given to them by the Atomic Energy Act of 1954 or in any law amendatory thereof.

20) **Occurrence** means:

(a) with respect to *bodily injury* or *property damage*: an accident, including continuous or repeated exposure to substantially the same generally harmful conditions, which results in *bodily injury* or *property damage* neither expected nor intended from the standpoint of the *covered party*. *Property damage* that is loss of use of tangible property that is not physically injured shall be deemed to occur at the time of the *occurrence* that caused it.

(b) with respect to *personal injury*, *public officials errors and omissions liability* and *employment practices liability*, respectively: an offense described in the definitions of those terms in this coverage agreement.

21) **Personal injury** means injury, other than *bodily injury*, arising out of one or more of the following offenses:

(a) false arrest, detention or imprisonment, or malicious prosecution;

(b) wrongful entry into, or eviction of a person from, a room, dwelling or premises that the person occupies;

(c) publication or utterance of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services, or oral or written publication of material that violates a person's right of privacy.

(d) *discrimination* or violation of civil rights.

(e) injury resulting from the use of reasonable force for the purpose of protecting persons or property.

22) **Pollutants** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, airborne particles or fibers, asbestos, lead and waste. Waste includes material to be recycled, reconditioned or reclaimed. The term *pollutants* as used herein does not mean potable water, agricultural water, water furnished to commercial users or water used for fire suppression.

23) **Property damage** means:

(a) physical injury to tangible property, including all resulting loss of use of that property; or

(b) loss of use of tangible property that is not physically injured or destroyed.

24) **Public officials errors and omissions** means any actual or alleged misstatement or misleading statement or act or omission by any *covered party* (individually or collectively) arising in the course and scope of their duties with the *covered party* or claimed against them solely by reason of their being or having been public officials or *employees*, and which results in damage neither expected nor intended from the standpoint of the *covered party*.

25) **Retained limit** means the amount, identified in the applicable declaration or certificate of coverage, of *ultimate net loss* which the *member entity* must incur or become liable for before the *Authority* is obligated to make any payment, subject to the following:

(a) For each *occurrence*, there shall be only one *retained limit* regardless of the number of claimants or *covered parties* against whom a claim is made. If the *covered parties* have different *retained limits*, the lowest *retained limit* of any party found liable will apply. Payment of the *retained limit* shall be apportioned among the *covered parties* in accordance with their proportionate shares of liability.

(b) If the payment is for a settlement, the *retained limit* shall be apportioned among the *covered parties*, in accordance with the respective parties' agreed upon or court-determined share of liability. In the event that the apportionment requires court determination, the *covered parties* will pay all costs of the California Joint Powers Risk Management Authority in seeking such determination, including its attorney's fees in proportion to the court's determination of liability.

(c) In the event that a structured settlement, whether purchased from or through a third party or paid directly by the *covered party* in installments, is utilized in the resolution of a claim or suit, only the present value of the agreed-upon payments (the present value cost of the structured settlement) shall be considered in determining satisfaction of the *covered party's retained limit*.

(d) The amount which the *covered party* must "incur or become liable for" so that the *retained limit* is satisfied and this coverage attaches may include sums paid on behalf of the *covered party* by:

1) A commercial insurance carrier because of a policy purchased by the *covered party*;

2) A commercial insurance carrier because of an additional insured endorsement issued to the *covered party*;

3) A self-insurance pooling joint powers authority which provides coverage to the *covered party*;

or

4) A party making payment because of a contractual indemnity agreement with the *covered party*.

In the event that one of the sources listed above provides indemnity coverage to the *covered party* and other defendant(s) in the claim or suit, only those sums paid on behalf of the *covered party* shall be used to satisfy the *retained limit*. If payment is for a settlement, payment will be allocated between the *covered party* and the other defendant(s) in accordance with their court-determined shares of liability, or in an allocation according to liability as agreed upon by the *covered party* and the *Authority*. In the event that the *covered party* and the *Authority* are unable to agree upon an allocation, the matter will be submitted binding arbitration for a determination of the respective shares of liability. This determination will be according to the procedures set forth in the California Code of Civil Procedure, each side to bear its own costs.

For any fireworks display or demonstration sponsored or controlled by the covered party, if the covered party has not secured an additional insured endorsement in its favor from the fireworks vendor's insurance or coverage provider with limits in an amount of at least $5 million dedicated, project specific aggregate limit, the Retained Limit will not be satisfied by any payment by the insurance or coverage provider for the vendor (see Definition 25(d)), and must instead be paid by the covered party; and the applicable Retained Limit will be increased by 50% (fifty percent) for any claim(s) arising out of the fireworks display or demonstration.

26) **Sexual harassment** means unwelcome sexual advances and/or requests for sexual favors and/or other verbal or physical conduct of a sexual nature that: (1) are made a condition of employment; and/or (2) are used as a basis for employment decisions; and/or (3) create a work environment that is intimidating, hostile or offensive, or interfere with performance.

27) **Ultimate net loss** means the total of all *defense costs* incurred by the *covered parties* and all *damages* for which the *covered parties* are liable either by adjudication or by compromise with the written consent of the *Authority*, arising from an *occurrence* to which this coverage applies. However, *ultimate net loss* does not include defense expenses incurred by the *Authority* after the *Authority* assumes control of the negotiation, investigation, defense, appeal or settlement of any claim or proceeding. *Ultimate net loss* also does not include attorneys fees or costs awarded to the prevailing party in a suit except where such attorneys fees or costs are attributable to a claim for compensatory damages covered by this Memorandum.

28) **Wrongful termination** means termination of an employment relationship in a manner which is against the law and wrongful or in breach of an implied agreement to continue employment.

SECTION III - DEFENSE AND SETTLEMENT

The *Authority* shall have no duty to assume charge of investigation or defense of any claim. However, the *Authority*, at its own expense, shall have the right to assume the control of the negotiation, investigation, defense, appeal or settlement of any claim which the *Authority* determines, in its sole discretion, to have a reasonable possibility of resulting in an *ultimate net loss* in excess of the applicable *retained limit*. The *covered party* shall fully cooperate in all matters pertaining to such claim or proceeding.

If the *Authority* assumes the control of the handling of a claim, the *covered parties* shall be obligated to pay at the direction of the *Authority* any sum necessary for the settlement of a claim, or to satisfy liability imposed by law, up to the applicable *retained limit*.

No claim shall be settled for an amount in excess of the *retained limit* without the prior written consent of the *Authority* and the *Authority* shall not be required to contribute to any settlement to which it has not consented.

SECTION IV - THE AUTHORITY'S LIMIT OF COVERAGE

The *limit of coverage* is the most the *Authority* will pay for *ultimate net loss* arising out of any *occurrence*, and the amount payable for *ultimate net loss* under this agreement shall be reduced by the amount of the *retained limit*. (For example, if the *covered party* has a $40,000,000 *limit of coverage* and a $500,000 *retained limit*, the *Authority* will pay not more than $39,500,000 after exhaustion of the *retained limit*.) For each *occurrence*, there shall be only one *limit of coverage* regardless of the number of claimants or *covered parties* against whom a claim is made. The *limit of coverage* for an additional *covered party* (including its officials, *employees* and volunteers) shall be the limit stated in its additional *covered party* certificate, regardless of the limit that applies to the *member entity*.

"For any person or entity that is a covered party under Definition 8(c), or 8(c) and (d), pursuant to a certificate of coverage duly issued by the Authority, the limit of coverage will be the lower of: (1) the Limit stated in the Declarations page for the Member Entity; (2) any limit stated in the Additional Covered Party certificate or (3) the amount required to be provided by contract or agreement with the Member Entity."

Where this Agreement, or an endorsement or declaration, lists a "sublimit," that sublimit operates as the *limit of coverage.* (For example, if the *covered party* has a $2,000,000 sublimit and a $1,000,000 *retained limit*, the *Authority* will pay not more than $1,000,000 after exhaustion of the *retained limit*.)

Should it appear to the Board of Directors that the total exposure for all claims in a program year may exceed a general aggregate limit for Pool D, the aggregate limit will be prorated between the *member entities*, on the basis of the *member entities'* respective premium contributions for the program year at issue. For purposes of determining whether the aggregate limit has been exhausted, the Board retains full discretion regarding placement of reserves, and payment of

claims in order to equitably allocate the general aggregate limit. Once the general aggregate limit for such claims occurring during a program year has been exhausted, the *Authority* will have no further obligation to pay for covered ultimate net loss for such claims within Pool D, but this will not limit coverage which may be available within Pools B or C.

EPL Sublimit

A sublimit applies to *employment practices liability*. For any *claims* arising out of *employment practices liability*, the *limit of coverage* will be $10,000,000 per *occurrence* all allegations by an *employee* or former *employee* or applicant for employment in the same *claim* shall be considered as one *occurrence* for the purpose of the *limit of coverage*. All *claims* by all *employees* or former *employees* or applicants for employment arising from the same act, policy, or course of conduct by a *covered party* shall be considered as one *occurrence* for the purpose of the *limit of coverage*. All *claims* which allege *employment practices liability* for *occurrences* extending to a duration of more than one coverage period shall be treated as a single *occurrence* arising during the first coverage period when the *occurrence* begins.

This sublimit for *employment practices liability* will further be subject to an annual aggregate limit, so that the $10,000,000 *limit of coverage* is the most the *Authority* will pay for all *ultimate net loss* arising out of *employment practices liability* for any *covered party* (inclusive of its *employees*, commissions, agencies, districts, authorities or boards), as defined in Section II(8)(a) or (b) for any coverage year.

Subsidence Sublimit

For *bodily injury*, *property damage* or *personal injury* arising out of the subsidence of land or earth, the sublimit will be $5,000,000 per *occurrence*.

Fungal Pathogens Sublimit/Aggregate Limit

A sublimit applies to any loss, cost or expense directly or indirectly arising out of or related to exposure to "fungal pathogens," whether or not there is another cause of loss that may have contributed concurrently or in any sequence to the loss. The sublimit will be $10,000,000 per occurrence, subject also to a $5,000,000 annual aggregate collectively in Pool D only, for all covered parties. The designated general aggregate limit of $5,000,000 is the most the *Authority* will pay from Pool D because of such claims for all *covered parties*, combined, in any *program year*.

"Fungal pathogens" as used herein, shall mean any fungus or mycota or any byproduct or type of infestation produced by such fungus or mycota, including, but not limited to, mold, mildew, mycotoxins, spores or any biogenic aerosols.

Sexual Abuse – Daycare Operations Sublimit/Aggregate Limit

A sublimit applies to "sexual abuse" arising out of daycare operations. The sublimit will be $10,000,000 per occurrence, subject also to a $5,000,000 annual aggregate collectively in Pool D only, for all covered parties. The designated general aggregate limit of $5,000,000 is the most the *Authority* will pay from Pool D because of such claims for all *covered parties*, combined, in any *program year*. All claims based on or arising out of "sexual abuse" as respects daycare operations by the covered party's employee and/or volunteer, or more than one of the covered party's employees and/or volunteers acting in concert, will be considered as arising out of one occurrence regardless of:

(1) the number of persons sexually abused;
(2) the number of locations where the sexual abuse occurred;
(3) the number of acts of sexual abuse; or
(4) the period of time over which the sexual abuse took place.

An occurrence which extends to a duration of more than one coverage period shall be treated as a single occurrence arising during the first coverage period when the occurrence began.

As used herein, "sexual abuse" means any actual or alleged criminal sexual conduct of a person or persons acting in concert, which causes physical and/or mental injuries. "Sexual abuse" includes sexual molestation, sexual assault, sexual exploitation or sexual injury.

Terrorism Sublimit/Aggregate Limit

A sublimit applies to any loss, cost or expense directly or indirectly arising out of any act or multiple, related acts of *terrorism*, regardless of any other cause or event contributing concurrently or in sequence to the loss. The sublimit will be $10,000,000 per occurrence, subject also to a $5,000,000 annual aggregate collectively in Pool D, only, for all covered parties. The designated general aggregate limit of $5,000,000 is the most the Authority will pay from Pool D because of such claims for all *covered parties*, combined, in any program year

As used in this sublimit, "terrorism" shall mean any activity that:

(1) is declared by any authorized governmental official to be or to involve "terrorism," terrorist activity or acts of terrorism; or,
(2) includes, involves or is associated with the use or threatened use of force, violence or harm to human life, tangible or intangible property, the environment, natural resources, or the infrastructure or includes, involves or is associated with, in whole or in part, the use or threatened use of, or release or threatened release of, any biological, chemical, radioactive or nuclear agents, materials, devices or weapons, and
(3) is intended, in whole or in part, to (i) intimidate, coerce, or frighten a civilian population; or (ii) disrupt or interfere with any segment of a local, national or global economy; or (iii) influence, disrupt or interfere with any government related operations, activities or policies; or (iv) promote, further or express opposition to any political, ideological, racial, ethnic, social or religious cause or objective.

Airports, Pollution, and Property of a Covered Party Sublimits/Aggregate Limits

Exclusions 2 (Airports), 27 (Pollution) and 29 (Property of a Covered Party) contain additional sublimits/aggregate limits.

Pyrotechnics Display

For any fireworks display or demonstration sponsored or controlled by the covered party, if the covered party has not secured an additional insured endorsement in its favor from the fireworks vendor's insurance or coverage provider with limits in an amount of at least $5 million dedicated, project specific aggregate limit, the Retained Limit will not be satisfied by any payment by the insurance or coverage provider for the vendor (see Definition 25(d)), and must instead be paid by the covered party; and the applicable Retained Limit will be increased by 50% (fifty percent) for any claim(s) arising out of the fireworks display or demonstration.

SECTION V - COVERAGE PERIOD AND TERRITORY

This agreement applies to *bodily injury*, *personal injury*, *property damage*, *public officials errors and omissions* and *employment practices liability* which occurs anywhere in the world during the coverage period identified in the applicable declaration or certificate of coverage.

SECTION VI - EXCLUSIONS

(Captions provided for the exclusions are descriptive only and do not serve to either expand or limit coverage.)

This agreement does not apply to:

1) **Aircraft**

   Claims arising out of the ownership, operation, use, maintenance or entrustment to others of any *aircraft* by a *covered party*. "Ownership, operation, use or maintenance" as used herein does not include static displays of *aircraft* in a park or museum setting.

2) **Airports**

   Claims arising out of ownership, maintenance, management, supervision or the condition of any *airport*. However, this exclusion does not apply to *public officials errors and omissions* or *employment practices liability* coverage arising from the ownership, maintenance, management, supervision or the condition of any *airport*. Notwithstanding what is stated in the applicable declarations, *public officials errors and omissions* coverage described in this exception will be subject to a sublimit of $5,000,000.

3) **Airshows**

Claims arising out of any air show sponsored or controlled by the *covered party*.

4) **Bid Specifications/Cost Overruns**

(a) Claims arising out of estimates of probable cost or cost estimates being exceeded or faulty preparation of bid specifications or plans including architectural plans.

(b) Mechanic's lien claims, stop notice claims, change order claims, or similar claims by contractors for the value of services or materials provided; this exclusion extends to such claims however denominated, including claims of breach of oral or written contract, third-party beneficiary claims, quantum meruit claims, and/or open account claims.

5) **Contractual Obligations**

Claims arising out of:

(a) a failure to perform or breach of a contractual obligation; or

(b) *bodily injury* or *property damage* for which the *covered party* is obligated to pay *damages* by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for *damages*:

1) assumed in a contract or agreement that is a *covered indemnity contract*, provided the *bodily injury* or *property damage* occurs subsequent to the execution of the contract or agreement; or

2) that the *covered party* would have in the absence of the contract or agreement.

Notwithstanding this exclusion, the General Manager (or Board President or Vice President, in the absence of the General Manager) is granted authority to approve settlements involving promises to indemnify a co-defendant as part of the settlement. Any funds recovered from a co-defendant under such an agreement must be applied to *ultimate net loss* in addition to the *retained limit* before CJPRMA coverage is triggered.

6) **Damages Other Than Money**

Ultimate net loss arising out of relief, or redress, in any form other than money *damages*.

7) **Dams**

Claims arising out of partial or complete structural failure of a *dam* owned or operated by a *covered party*.

8) **Defamation**

Claims arising out of oral or written publication of material, if done by or at the direction of the *covered party* with knowledge of its falsity.

9) **Employment Liability**

Bodily injury to:

(a) an *employee* of the *covered party* arising out of and in the course of:

1) employment by the *covered party*; or

2) performing duties related to the conduct of the *covered party's* business.

(b) the spouse, child, unborn child or fetus, parent, brother or sister of the *employee* as a consequence of paragraph (a) above.

This exclusion applies to any obligation to share *damages* with or repay someone else who must pay *damages* because of the injury except under a *covered indemnity contract*.

This exclusion applies whether the *covered party* may be liable as an employer or in any other capacity.

10) **Employment Practices – Labor Disputes**

Under *employment practices liability*, to any potential or actual liability arising out of a lockout, strike, picket line, replacement or other similar action in connection with labor disputes or labor negotiations.

11) **Employment Practices – Workers' Adjustment and Retraining**

Under *employment practices liability*, to any liability arising out of the Workers' Adjustment and Retraining Notification Act, Public Law 100-379 (1988), or any amendment thereto, or any similar federal, state or local law.

12) **Elected Officials – Employees - Restitution**

Claims by any *covered party* against its own past or present elected or appointed officials, *employees* or volunteers, where such claim seeks *damages* or restitution payable to the *covered party*.

13) **Employee Benefit Plans**

Benefits payable under any *employee* benefit plan (whether the plan is voluntarily established by the *covered party* or mandated by statute) because of unlawful *discrimination*.

This exclusion applies whether the *covered party* may be liable as an employer or in any other capacity.

14) **Employment Benefits**

Any obligation under any workers' compensation, unemployment compensation or disability benefits law or any similar law.

This exclusion applies whether the *covered party* may be liable as an employer or in any other capacity.

15) **ERISA**

Claims arising out of the Employee Retirement Income Security Act of 1974 or any law amendatory thereof, or any similar law or liability arising out of fiduciary activities as respects *employee* benefits plans.

16) **Failure to Supply**

Claims arising out of the failure to supply or provide an adequate supply of gas, water, electricity, storm drainage or sewage capacity when such failure is a result of the inadequacy of the *covered party's* facilities to supply or produce sufficient gas, water, electricity, storm drainage or sewage capacity to meet the demand. This exclusion does not apply if the failure to supply results from direct and immediate accidental damage to tangible property owned or used by any *covered party* to procure, produce, process or transmit the gas, water, electricity, storm drainage or sewage.

17) **Fines, Penalties, Punitive Damages**

Fines, assessments, penalties, restitution, disgorgement, exemplary or punitive *damages*. This exclusion applies whether the fine, assessment, penalty, restitution, disgorgement, exemplary or punitive *damage* is awarded by a court or by an administrative or regulatory agency. "Restitution" and "disgorgement" as used herein refer to the order of a court or administrative agency for the return of a specific item of property or a specific sum of money, because such item of property or sum of money was not lawfully or rightfully acquired by the *covered party*.

18) **Firing Ranges**

Claims arising out of the private use of a firing range owned, operated or maintained by a *covered party* where such private use is sanctioned by the *covered party*, except where such use is by a covered individual as defined in definition (8) (d). This exclusion does not apply to such private use where all of the following conditions are met:

(a) A qualified range master is present at all times while the firing range is being utilized;

(b) The firing range is only provided for the additional use of law enforcement divisions of other public agencies, and police academies, herein defined as California P.O.S.T. (Peace Officers Standards & Training) Certified Basic Academies;

(c) Any agency using the firing range has provided an indemnification agreement which assumes full responsibility by the user agency for all liability arising out of their activities; and

(d) The user agency has provided liability coverage in an amount of not less than $1,000,000 and has also provided a certificate of coverage which names the CJPRMA member as an additional covered party.

19) **Hospitals**

Claims arising out of ownership, maintenance, management, supervision or the condition of any hospital.

20) **Intentional Conduct**

Claims for injury or *damages* caused by intentional conduct done by the *covered party* with willful and conscious disregard of the rights or safety of others, or with malice. However, where the *covered party* did not authorize, ratify, participate in, consent to, or have knowledge of such conduct by its past or present *employee*, elected or appointed official, or volunteer, and the claim against the *covered party* is based solely on its vicarious liability arising from its relationship with such *employee*, official or volunteer, this exclusion does not apply to said *covered party*.

21) **Jumping/Propelling Activities**

Claims arising out of bungee jumping or propelling activities sponsored, controlled or authorized by a *covered party*.

22) **Land Use**

Claims arising out of or in connection with land use regulation, land use planning, the principles of eminent domain, condemnation proceedings or inverse condemnation by whatever name called, and whether or not liability accrues directly against any *covered party* by virtue of any agreement entered into by or on behalf of any *covered party*.

23) **Marinas**

Claims arising out of:

(a) or connected with *property damage* to private vessels or craft while present at or in a *marina* owned, operated or controlled by a *covered party* whether or not the vessel or craft is docked, moored or underway; or

(b) *bodily injury* or *property damage* occurring on, in or about any boat owned or operated by the *covered party* (whether such vessel is being operated or has broken away from any dock or mooring) while present at or in a *marina* owned, operated or controlled by a *covered party*.

24) **Medical Malpractice**

Claims arising out of any professional *medical malpractice* (1) committed by a doctor, osteopath, chiropractor, dentist or veterinarian, or (2) committed by any health care provider (as defined in Business & Professions Code Section 6146(c) (2)) working for any hospital or hospital operated out-patient, in-patient or other clinic at the time of the *occurrence* giving rise to the loss. This exclusion shall not apply, however, to any injury arising out of emergency medical services rendered or which should have been rendered to any person or persons during the coverage period by any duly certified emergency medical technician, paramedic, or nurse who is employed by or acting on behalf of any *member entity* to provide such services, but is not employed at a hospital, clinic or nursing home facility.

25) **Multi Passenger Vehicles**

Claims arising out of the ownership, operation, maintenance or use of any vehicle (1) with over 30 passengers seats or carrying over 30 passengers and (2) which is owned, operated, maintained or used by any transit authority, transit system or public transportation system owned or operated by or on behalf of the *covered party*.

26) **Nuclear Material**

Claims arising out of the hazardous properties of *nuclear material*.

27) **Pollution**

Claims which would not have occurred in whole or in part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of *pollutants* at any time.

(a) This exclusion does not apply to fire fighting activities, including training burns, or intentional demolition or burns for the purpose of limiting a fire, or the discharge of *pollutants* for the purpose of controlling a fire; or to police use of mace, oleoresin capsicum (O.C.), pepper gas or tear gas; or to weed abatement or tree spraying.

(b) This exclusion does not apply to claims arising from sudden and accidental sewer backups. Notwithstanding what is stated in the applicable declarations, the *limit of coverage* for claims described in this exception will be subject to a sublimit of $5,000,000.

(c) This exclusion does not apply to claims arising from the sudden and accidental discharge, dispersal, release, or escape of chlorine and other chemicals (gas, liquid or

solid) which are being used or being prepared for use in fresh or wastewater treatment or in water used in swimming pools, wading pools or decorative fountains. Notwithstanding what is stated in the applicable declarations, the *limit of coverage* for claims described in this exception will be subject to a sublimit of $5,000,000.

(d) This exclusion does not apply to claims arising from materials being collected as part of any drop-off or curbside recycling program implemented and operated by the *covered party*; if the materials have not been stored by the *covered party* or *parties* for a continuous period exceeding ninety (90) days. Notwithstanding what is stated in the applicable declarations, the *limit of coverage* for claims described in this exception will be subject to a sublimit of $5,000,000.

(e) This exclusion does not apply to sudden and accidental discharges of *pollutants* occurring during the transportation or deposit of materials as part of garbage collection activities. However, the exclusion does apply after *pollutants* have been deposited at a landfill or garbage dump.

(f) This exclusion does not apply to *bodily injury* or *property damage* arising from activities of the *covered party* to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize *pollutants*, but this exception will not apply to *bodily injury* or *property damage* caused by *pollutants* on or arising from premises, equipment or locations under the control of the *covered party*.

(g) This exclusion does not apply to sudden and accidental discharges of *pollutants* from premises owned or controlled by a *Covered Party* as described in Definition 8(a) or (b) if the discharge is discovered within ten (10) days of the *occurrence* and reported to the *Authority* within thirty (30) days of discovery. Notwithstanding what is stated in the applicable declarations, the *limit of coverage* for claims described in this exception will be subject to a sublimit of $5,000,000.

As used in paragraphs (b), (c), (e) and (g) above, "sudden" means abrupt or immediate, and occurring within a period not exceeding twenty-four (24) hours; "accidental" means causing harm neither expected nor intended by a *covered party*.

Notwithstanding what is stated in the applicable declarations, any liability arising out of the actual, alleged or threatened exposure to asbestos or lead, which is covered by an exception within this exclusion, shall be subject to a sublimit of $5,000,000.

28) **Pollution Clean Up**

Any loss, cost or expense, including *defense costs*, arising out of any:

(a) request, demand or order that any *covered party* or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of *pollutants*; or

(b) claim or suit by or on behalf of a governmental authority for *damages* because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of *pollutants*.

29) **Property of a Covered Party**

Property damage to:

(a) property owned by the *covered party*;

(b) property rented to or leased to the *covered party* where it has assumed liability for damage to or destruction of such property, unless the *covered party* would have been liable in the absence of such assumption of liability; or

(c) *aircraft* or watercraft in the *covered party's* care, custody or control.

Notwithstanding what is stated in the applicable declarations, the *limit of coverage* for any *property damage* not excluded by the language of this exclusion, but which is described in the *care, custody or control hazard*, shall be subject to a general aggregate limit within Pool D only. The designated general aggregate limit of $5,000,000 is the most the *Authority* will pay from Pool D for all *ultimate net loss* described in the *care, custody or control hazard* for all *covered parties*, combined, in any program year.

30) **Public Officials Errors & Omissions – Fiduciary Liability**

Under *public officials errors and omissions* coverage, claims (including emotional distress claims) arising from the *covered party*'s activities in a fiduciary capacity including but not limited to those with respect to: (a) property, including related operations, in which the *covered party* is acting in a fiduciary or representative capacity; (b) a pension, welfare, profit sharing, mutual or investment trust fund or trust, benefit plan or similar activity in a fiduciary capacity; (c) the issuance, management of proceeds or repayment of bonds, notes or other debt instruments by any insured or any agent acting on behalf of such insured; or (d) the purchase, transfer or sale of any securities by any insured or agent acting on behalf of such insured.

31) **Public Officials Errors & Omissions – Bodily Injury or Property Damage**

Under *public officials errors and omissions* coverage, *bodily injury*, *personal injury*, or physical injury to tangible property, including all resulting loss of use of that property.

32) **Racing Contests**

Claims arising out of *automobile* or motorcycle drag racing, speed racing, or similar speed contests sponsored, controlled or participated in by a *covered party*.

33) **Reasonable Accommodation**

Any expense or cost incurred by a *covered party* arising from reasonable accommodation of any disabled person, including any *employee*.

34) **Refunds/Restitution**

Refund or restitution of taxes, fees or assessments.

35) **Reimbursement of Money**

Claims for refund, reimbursement or repayment of any monies to which a *covered party* was not legally entitled.

36) **Transit Authorities**

Claims arising out of the operation of vehicles by or on behalf of any transit authority, transit system, or public transportation system owned or operated by a *covered party*, unless the vehicles are owned or leased by the *covered party* and driven, maintained, and supervised by *employees* of the *covered party*. However, this exclusion does not apply to *public officials errors and omissions* coverage arising from the operation of any transit authority, transit system, or public transportation system.

37) **Tumbling Devices**

Claims arising out of the ownership, maintenance or use of any trampoline or any other rebound tumbling device.

38) **Uninsured/Underinsured Motorists**

Uninsured or underinsured motorist coverage.

39) **Watercraft**

For any motorized watercraft owned, operated, rented, or loaned to a *covered party*, to (1) *bodily injury* or *property damage* arising out of the use of watercraft unless such use is by an entity *employee* acting within the course and scope of employment; and (2) to watercraft being used to carry persons or property for a charge. Charge, as used herein, includes any payment or fee, including a donation. Use includes operation and loading or unloading. Use does not include static displays of watercraft.

40) **Willful Violation of Statute**

Claims arising out of the willful violation of a statute or ordinance committed by the *covered party* or with its consent.

SECTION VII - CONDITIONS

1) *Covered party*'s Duties in the Event of *Occurrence*, Claim or Suit

(a) The *covered party* shall notify the *Authority* within 30 days upon receipt of notice of a claim, or the setting of a reserve on any claim or suit including multiple claims or suits arising out of one *occurrence*, such claim or reserve amounting to fifty percent or more of the *retained limit*; Title 42 USC 1983 cases in which a complaint has been served and the plaintiff is represented by legal counsel or with reserves of twenty-five percent or more of the *retained limit*; or regardless of reserve, any claim involving:

1) one or more fatalities;
2) loss of a limb;
3) loss of use of any sensory organ;
4) quadriplegia or paraplegia;
5) third degree burns involving ten percent or more of the body;
6) serious facial disfigurement;
7) paralysis; or
8) closed head injuries.

Written notice containing particulars sufficient to identify the *covered party* and also reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the *covered party* and of available witnesses, shall be given by or for the *covered party* to the *Authority* or any of its authorized agents as soon as possible.

(b) The *covered party* shall notify the *Authority* within 30 days upon receipt of lawsuit containing allegations involving *employment practices liability.* Where any lawsuit is reported after the 30 day period as required by this provision, all *defense costs* incurred prior to the date of late reporting will not constitute covered *ultimate net loss* eroding the *self insurance retention.* The *covered parties* shall cooperate in an early review of *employment practices liability* claims or suits with counsel appointed by the *Authority* at the expense of the *Authority.*

(c) If claim is made or suit is brought against the *covered party* and such claim or suit falls within the description in paragraph (a) above, the *covered party* shall be obligated to forward to the *Authority* every demand, notice, summons or other process received by it or its representative.

(d) The *covered party* shall cooperate with the *Authority* and upon its request assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the *covered party* because of *bodily injury*, *personal injury*, *property damage* or *public officials errors and omissions* with respect to which coverage is afforded under this

Agreement; and the *covered party* shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.

(e) The *Authority* shall be entitled to complete access to the *covered party's* claim file, the defense attorney's complete file, and all investigation material and reports, including all evaluations and information on negotiations. The *covered party* shall be responsible to report on the progress of the litigation and any significant developments at least quarterly to the *Authority*, and to provide the *Authority* with simultaneous copies of all correspondence provided to the *covered party* by its defense attorneys and/or agents.

2) **Action Against Authority/Subrogation**

(a) No action shall lie against the *Authority* with respect to the coverages and related provisions defined in the Memorandum of Coverage (Memorandum) for the *Automobile*/General Liability Program unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of the Memorandum, nor until the amount of the *covered party's* obligation to pay shall have been finally determined either by judgment against the *covered party* after actual trial or by written agreement of the *covered party*, the claimant and the *Authority*. Any person or organization or the representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under said Memorandum to the extent of the coverage afforded by said Memorandum. No person or entity shall have any right under said Memorandum to join the *Authority* as a party to any action against the *covered party* to determine the *covered party's* liability, nor shall the *Authority* be impleaded by the *covered party* or its legal representative.

(b) The *Authority* shall be subrogated to the extent of any payment hereunder (including all *ultimate net loss* incurred) to all the *covered party's* rights of recovery thereof, and the *covered party* shall do nothing after loss to prejudice such right and shall do everything necessary to secure such right. Any amount so recovered shall be apportioned as follows:

1) The *Authority* shall be reimbursed first to the extent of its actual payment thereunder. If any balance then remains unpaid, it shall be applied to reimburse the *covered party*.

2) The expenses of all such recovery proceedings shall be apportioned in the ratio of respective recoveries. If there is no recovery in proceedings conducted by the *Authority*, it shall bear the expenses thereof.

3) **Bankruptcy or Insolvency**

Bankruptcy or insolvency of the *covered party* shall not relieve the *Authority* of any of its obligations hereunder.

4) **Other Coverage**

If insurance or any other coverage with any insurer, joint powers authority or other source respectively is available to the *covered party* covering a loss also covered hereunder (whether on primary, excess or contingent basis), the coverage hereunder shall be in excess of, and shall not contribute with, such other insurance or coverage. This coverage shall be in excess of, and shall not contribute with, any insurance or coverage designed to cover the operator of an *automobile* or watercraft. This coverage shall be in excess of, and shall not contribute with, any insurance or coverage which names a *covered party* herein as an additional *covered party* or additional insured party, where coverage is extended to a loss also covered hereunder.

This "other coverage" paragraph shall not operate to increase the *covered party's retained limit* or the *Authority*'s *limit of coverage* under this Memorandum because of any coverage afforded to the *covered party* by the Employment Risk Management Authority.

5) **Severability of Interests**

The term *covered party* is used severally and not collectively, but the inclusion herein of more than one *covered party* shall not operate to increase the limits of the *Authority's* liability or the *retained limit* applicable per *occurrence*.

6) **Accumulation of Limits**

An *occurrence* which extends to a duration of more than one coverage period shall be treated as a single *occurrence* arising during the first coverage period when the *occurrence* begins.

7) **Termination**

This Agreement may be terminated at any time in accordance with the Bylaws of the *Authority.*

8) **Changes**

Notice to any agent or knowledge possessed by any agent of the *Authority* or by any other person shall not affect a waiver or a change in any part of this Memorandum of Coverage, nor shall the terms of this Memorandum of Coverage be waived or changed, except by endorsement issued to form a part of this Memorandum of Coverage.

9) **Reduction of Limits**

In the event of reduction or exhaustion of the *retained limit* applicable to the *covered party* by reason of losses paid thereunder, this coverage shall (a) in the event of reduction pay the excess of the reduced underlying *retained limit*, or (b) in the event of exhaustion continue in force as underlying coverage. In no event shall the coverage apply until the

retained limit is exhausted through the payment of *defense costs*, judgments and/or settlements to which the *Authority* has agreed.

10) **Coverage Disputes**

The General Manager shall make the initial determination whether to deny coverage on all or part of a claim, or to reserve the *Authority's* right to deny coverage on all or part of a claim, if a loss subsequently exceeds the *retained limit*.

A decision by the General Manager to deny coverage can be appealed to the Board of Directors. Notice of such appeal shall be submitted in writing within thirty (30) calendar days of the date of the General Manager's written notice of decision.

The appeal shall be considered by the Board of Directors at the next regular or special meeting following receipt of the written appeal; if the appeal is received too late for inclusion in the agenda packet, it can be postponed to the next following Board meeting. The General Manger and the *covered party* will have the right to submit written materials and present oral argument to the Board, subject to reasonable time constraints.

Within sixty (60) days following any denial of coverage by the Board, the *covered party* may request, in writing, that the *Authority* initiate a declaratory relief action in Superior Court for a determination of the coverage matter. The declaratory relief action shall be initiated in the County of the *Authority's* home office, unless the *Authority* and *covered party* agree on a different venue.

Any determination by the Executive Committee, and by the Board of Directors if the matter is appealed to the Board of Directors, whether a Covered Party has breached parts (1)(a) or (b) of these Conditions concerning notice of a claim, and any determination whether the *Authority* has been prejudiced by that breach, so that this coverage does not apply, comes within the sole discretion of the Executive Committee and Board of Directors, respectively. Such determinations shall be conclusive, final and binding and shall not be the subject of any further review, whether by declaratory relief action or otherwise.

Under no circumstances shall the Authority be liable for consequential damages, "bad faith" damages, or any sums beyond the amounts due under Section I – Coverages, plus interest at the same rate as the Authority earned on investments for the time period involved.

CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

PROGRAM YEAR 2016-2017

ENDORSEMENT NO. 1

Exclusions number 25 (Multi-Passenger Vehicles) and 36 (Transit Authorities), set forth in Section VI of the Memorandum of Coverage, are hereby modified by exempting therefrom the *member entity* listed below:

The school bus system operated by the Esparto Unified School District (YCPARMIA).

This endorsement is issued to:

1. **The Yolo County Public Agency Risk Management Insurance Authority (YCPARMIA)**

This endorsement forms a part of the Memorandum of Coverage for the program year indicated above.

Effective date: July 1, 2016

July 1, 2016
Date

David J. Gloria
General Manager

CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

PROGRAM YEAR 2016-2017

ENDORSEMENT NO. 2

Exclusion number 39 (Watercraft), set forth in Section VI of the Memorandum of Coverage, is hereby modified by exempting therefrom **The City of Lodi**, subject to the following conditions:

1) The exemption is applicable to the pontoon boats utilized for the City's camera safari tours.

2) Everyone on the boats is required to wear Coast Guard approved floatation devices.

3) A Coast Guard "Masters Limited" certification must be completed.

This endorsement is issued to: **The City of Lodi**

This endorsement forms a part of the Memorandum of Coverage for the program year indicated above.

Effective date: July 1, 2016

July 1, 2016
Date

David J. Gloria
General Manager

CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

PROGRAM YEAR 2016-2017

ENDORSEMENT NO. 3

With respect to any claims arising out of the ownership, maintenance, management, supervision or the condition of port facilities owned or controlled by the parties named below, there shall be no coverage in "Pool C" or "Pool D." Coverage in "Pool B" shall be excess of, and shall not contribute with, any insurance or coverage provided to the parties listed below by the insurer/coverage provider for any contractor (whether public or private) under contract to operate or service the port facilities. But coverage in "Pool B" shall not be excess of any insurance or coverage provided by or through the California Association of Port Authorities, the U.S. Ports & Terminal Operators Risk Purchasing Group, and shall instead apply (in excess of YCPARMIA's coverage) to satisfy part of the $1 million Self Insured Retention under CAPA coverage.

This endorsement is issued to: **The Yolo County Public Agency Risk Management Insurance Authority (YCPARMIA), and its member, the City of West Sacramento.**

This endorsement forms a part of the Memorandum of Coverage for the program year indicated above.

Effective date: July 1, 2016

July 1, 2016	David J. Gloria
Date	**General Manager**

CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

PROGRAM YEAR 2016-2017

ENDORSEMENT NO. 4

With respect to *bodily injury* or *property damage* arising out of, and caused by, a "Special Event," the *Retained Limit* stated in the Declarations Page is amended to $25,000.

For purposes of this Endorsement, "Special Event" means an event described below for which a third party ("Event Sponsor"), by written contract (including by permit agreement executed by the Event Sponsor), agrees to use facilities of the Covered Party for a specified period of time and activity, and agrees by the contract to indemnify and hold harmless the Covered Party from risk of loss arising from the event.

The indemnity and hold harmless agreement must provide that the Event Sponsor "agrees to indemnify and hold harmless [covered party] and its agents and employees from and against any injury, damage, claims, actions or suits arising out of the [Special Event], including those caused by negligence of the parties being indemnified and/or any dangerous condition of property of the parties being indemnified, and further agrees to defend and indemnify [covered party] from and against any injury, damage, claims, actions or suits arising out of or connected with the [special event]."

"Special event" includes:

1. Aerobics – Jazzercise demonstrations
2. Animal Acts/Shows (not Zoos or Circuses)
3. Antique Shows
4. Art Festivals
5. Art Shows
6. Auctions
7. Automobile Shows
8. Awards Presentations
9. Ballets
10. Banquets
11. Bazaars
12. Beauty Pageants
13. Bingo/Casino games
14. Block Parties, including those with Street Closures
15. Boat Shows

16. Body Building Contests
17. Business Meetings
18. Business Shows
19. Carnivals (not including mechanized rides)
20. Casino and Lounge Shows
21. Charity benefits, auctions and sales; fund raisers
22. Civic clubs and group meetings
23. Community Fairs
24. Concerts with total attendance of less than 1500
25. Consumer Shows
26. Conventions in Buildings
27. Craft Shows
28. Dance Shows/Recitals
29. Dances and Parties (except with Rap or Heavy Metal)
30. Debutante Balls
31. Dinner Theater
32. Dog Shows
33. Drill Team exhibitions
34. Educational exhibitions
35. Electronics Conventions
36. Ethnic Fairs or Celebrations
37. Evangelistic meetings
38. Expositions
39. Farmers' Markets
40. Fashion Shows
41. Fishing Shows or contests
42. Flea Markets
43. Flower Shows
44. Food concessions
45. Garden Shows
46. Graduations
47. Harvest Festivals
48. Holiday Shows
49. Home Shows
50. Horse Shows
51. Housing Shows
52. Instructional Classes
53. Job Fairs
54. Ladies Club events
55. Lectures
56. Livestock Shows
57. Luncheon Meetings
58. Mobile Home Shows
59. Musicals
60. Night Club Shows
61. Operas

62. Organized Sight Seeing Tours
63. Pageants
64. Parties with total attendance of less than 500
65. Picnics
66. Plays
67. Political Rallies
68. Proms
69. Quinceaneras
70. RV Shows
71. Religious Assemblies
72. Reunions
73. Rummage Sales
74. Scavenger Hunts
75. Scouting Jamborees
76. Seminars
77. Sidewalk Sales
78. Soap Box Derbies
79. Social Receptions or Gatherings
80. Speaking Engagements
81. Sporting events if non-professional, non-league, non-contact (bicycle races/rallies, equestrian events, golf, gymnastics, tennis, handball or racquetball, roller skating, handball, marathons, fun runs, 10K races, gymnastic competitions, ice skating shows, ski events)
82. Sporting events if non-professional, non-league, limited contact (baseball or softball, soccer, roller hockey, basketball)
83. Street Fairs
84. Swap Meets
85. Symphony Concerts
86. Teleconferences
87. Telethons
88. Theatrical Stage Performances
89. Trade Shows
90. Union Meetings
91. Vacation Shows
92. Voter Registration
93. Walk a Thons
94. Weddings and Receptions

"Special Event" <u>does not include</u>:

1. Aircraft/aviation events (static displays are not excluded)
2. All terrain boarding
3. Ballooning or balloon rides
4. Base jumping
5. Bouldering
6. Bungee Jumping

7. Carnival rides
8. Circuses
9. Concerts over 6 hours
10. Diving
11. Football (except passing camps with no contact drills)
12. Hang gliding/ parachuting/ parasailing
13. Jousting
14. Kayaking, rafting or canoeing in greater than Class 3 rapids
15. Lacrosse and Rugby
16. Mechanical amusement rides or services
17. Motorized sporting equipment including speed or demolition events
18. Mosh Pits
19. Mountain Biking
20. Parades
21. Power Boat Racing
22. Professional Sporting Activities: games, racing, or contest of a professional nature
23. Pyrotechnics or explosives
24. Rap or Heavy Metal concerts
25. Raves
26. Rock Climbing
27. Rodeo or Roping Events
28. Scuba Diving
29. Sporting events if part of a league
30. Sporting events if non-professional, full contact (football, ice hockey, rugby, boxing, wrestling, contact karate, contact martial arts)
31. Tractor or Truck Pulls
32. Trampolines
33. Zoos

Exclusion for participants. This endorsement does not apply to "bodily injury" or "property damage" to any person while practicing for or participating in any sports or athletic contest or exhibition, or while performing in any concert, show, or theatrical event.

Exclusion for sale alcohol. This endorsement does not apply to "bodily injury" or "property damage" arising from or caused, in whole or in part, by the Covered Party or Event Sponsor furnishing alcoholic beverages for which consumers are specifically charged by a third party vendor or caterer.

This Endorsement does not apply to liability arising from *Public Officials Errors and Omissions*.

This Endorsement does not eliminate the operation of any Exclusion in the Memorandum of Coverage.

This endorsement does not provide drop down coverage or reduce the retained limit under the reinsurance program.

This Endorsement forms a part of the Memorandum of Coverage for the program year indicated above.

Effective date: July 1, 2016

July 1, 2016
Date

General Manager

CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

PROGRAM YEAR 2016-2017

ENDORSEMENT NO. 5

With respect to any claims arising out of the ownership, maintenance, management, supervision or the condition of port facilities owned or controlled by the party named below, there shall be no coverage.

This endorsement is issued to: **The City of Richmond**

This Endorsement forms a part of the Memorandum of Coverage for the program year indicated above.

Effective date: July 1, 2016

July 1, 2016
Date

David J. Gloria
General Manager

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CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: *8*	***TITLE:*** **APPROVAL OF CJPRMA LITIGATION POLICIES AND PROCEDURES**
MEETING: 5/3/2017	
GENERAL MANAGER:	

Recommended Actions:

The general manager recommends the Executive Committee approve and recommend to the Board of Directors the adoption of the CJPRMA Litigation Policies and Procedures.

Strategic Direction:

This item addresses Strategic Goal 1, Employ Customizable Products and Services to be Competitive and Strategic Goal 3, Foster Informed and Engaged Board Leadership.

Item Explanation:

The Executive Committee and general manager have discussed numerous alternatives for encouraging members to utilize best practices in the area of Litigation Management. The single greatest exposure to the CJPRMA Membership is the poor handling or lack of current standards in managing claims. CJPRMA adopted a number of Model Policies for the membership to use, but member utilization is not mandatory. One of the policies available for the members is called Model Policy on Litigation Policies and Procedures created in 2000.

Director Tonks advised the committee that his organization had adopted the Model Policy and YCPARMIA uses the policy as their designated Litigation Policy. Director Tonks stated this was a policy that was well written and includes language that should be included in every member's litigation policy.

Staff reviewed the policy and updated items to meet current standards. Staff recognizes the importance of consistent policy amongst our members. Adopting this policy for the entire membership will provide the claim auditors with a formal set of standards that will be incorporated into audit findings. The Auditor will provide an annual report to the Board of Directors with the compliance history for all members. Staff further recommends that the policy be reviewed by the Board of Directors annually to insure that best practices and industry standards are applied to all member litigation management programs. A copy of the policy with revisions has been attached to this agenda bill.

Staff will be available to discus this recommended policy with the Executive Committee.

The general manager recommends that the Executive Committee adopt this policy and recommend the Board of Directors adopt this policy at the May Meeting.

Fiscal Impact:

None at this time. It is anticipated that an overall reduction in cost of litigation may be obtained by implementing the required standards.

Exhibits:

1. CJPRMA Litigation Policies and Procedures for members

California Joint Powers Risk Management Authority

LITIGATION POLICIES AND PROCEDURES

PURPOSE OF POLICY

CJPRMA adopts policies and procedures to protect the organization and its members from adverse exposures during the litigation process. This policy has been approved by the Board of Directors to be a required policy for every CJPRMA Member. This policy will insure that all members are utilizing best practices for their management of litigation. Each member shall adopt this policy and will comply with the requirements. This policy will be reviewed by the Board of Directors annually to confirm the policy is providing a benefit to the membership. The annual claims audit will evaluate all members' compliance with this policy.

The following language shall be adopted by and complied with by every member:

I. OBJECTIVE

The City maintains a comprehensive litigation management program, the objective of which is to reduce litigation costs without sacrificing case results. The City has developed the following procedures to assist its claim personnel in the management of lawsuits as well as to efficiently supervise defense counsel. The City asks for your cooperation and enthusiasm in implementing the policies and procedures outlined herein.

II. ASSIGNMENT OF CASE

Assignments to defense counsel are typically made by the Risk Manager/City Representative. Cases are transmitted with a detailed assignment letter. The letter will indicate which people at the City are to be copied on status reports. Please be sure to copy the designated City contacts on all reports.

The Risk Manager/City Representative will comment in the assignment letter on the case objective for each file. For example, if the case is one of questionable liability and a relatively low level of gross exposure, it may be our desire to limit discovery and try the case. On the other hand, it may be the intention of the City to vigorously defend a low exposure case, which has greater political implications.

We will normally pay for one attorney to handle a case, i.e. one partner with the assistance at times of an associate; or in some cases, it may be appropriate to have an associate take full responsibility for a case. We will pay for only one attorney to accomplish any single task. For example, we will not pay for more than one attorney attending depositions, motions, court hearings or trial without prior approval. We encourage the use of paralegals; however, assignment of work to paralegals should not result in duplicated work by attorneys. Unauthorized or unapproved activity contrary to the above will not be paid.

The attorney handling the case or the activity being reported should be the one to prepare the status reports.

Defense counsel is asked to respond to an assignment, following the guidelines below:

III. ACKNOWLEDGEMENT OF CASE

An acknowledgement of assignment letter should be returned to the Risk Manager/City Representative within 7 days of receipt of assignment advising which attorney has been assigned to the case. Defense counsel is responsible for investigating and promptly disclosing any ethical or legal conflicts that would prevent counsel from representing any of the City defendants.

IV. PRELIMINARY LIABILITY REPORT

Within 90 days of receipt of assignment, the handling attorney must provide the Risk Manager/City Representative with a comprehensive first report. The City understands that the liability picture may develop as discovery is ongoing, but this does not excuse the responsibility of providing an early, objective analysis of the file, subject to later developments. An early analysis not only permits the City to set an accurate reserve level, but also permits the City to decide whether to actively litigate the case, try to settle the case, or limit discovery based upon the exposure. No payment of bills will occur until the Preliminary Report has been received.

The first report should contain the following captions:

(a) Facts

Defense counsel should give a brief synopsis of the facts giving rise to the lawsuit.

(b) Status of Pleadings

Briefly review the status of the complaint filed against the City. If the pleading can be challenged by demurrer or motion to dismiss, or if a motion for change of venue or removal to federal court are desirable, the pros and cons of such a response should be reviewed. Any recommendations for cross-complaints, including the issues of solvency or potential coverage of cross-defendants, should also be covered.

(c) Damages

Summarize and analyze plaintiff's injuries, damages and our exposures in the case.

(d) Liability Analysis & Plan of Action

Provide your initial impression of liability. This should be quantified by the use of percentages where possible. If you disagree with the liability assessment as reported by the Risk Manager/City Representative, please feel at ease to report

so, with your reasons why. If you believe it is a case of liability, efforts should focus on resolving the case without incurring unnecessary discovery costs. If facts are disputed and counsel cannot properly assess liability, a preliminary liability opinion should be provided outlining the questions that still need to be resolved before a true assessment can be made.

(e) Legal Opinion

Any pertinent cases on point, which will govern liability, should be briefly reviewed.

(f) Request for Additional Investigation

Any request for additional field investigation must be formally requested, including, if applicable, a recommendation for an investigator. Counsel is not authorized, without permission, to assign field investigation to associates, law clerks or paralegals; our staff is charged with the responsibility for the completion of field investigation. Let us know what additional work you need, and our staff will see if we can accomplish it first. Identify any tangible physical evidence the City needs to secure.

(g) Discovery Plan

Counsel should briefly analyze what discovery is anticipated to put the case into perspective for proper evaluation. List the person(s) you believe should be deposed or who are likely to be deposed by the adverse parties. If the case calls for early retention of experts, discuss that issue. Describe any other site investigation, witness interviews, or other investigation that is needed. Proposed discovery should be outlined and recommended in the report. Should the Risk Manager/City Representative have a particular objection to a suggested discovery item, he or she will so advise.

(h) Legal Budget

To assist the attorney in projecting anticipated legal costs, a "Legal Budget" must be completed. The CJPRMA Model Litigation Budget Form may be used by members and personalized for their agency. Attach the completed form to the Preliminary Liability Report. The form is used to set our legal cost reserve. Unanticipated litigation activity may give rise to an under-reserved legal budget. As soon as it is reasonably foreseeable that the file is under budgeted, an updated "Legal Budget" should be completed with counsel's recommendation for a budget increase. The Risk Manager/City Representative will closely monitor the basis for budget increases. If the "Legal Budget" has been exceeded, no further payments of fees can be paid until a revised budget is submitted. Significant deviations from the budget will be taken into account when evaluating defense counsel's performance.

(i) Remarks/Recommendations

Include comments/recommendations not previously mentioned. This would include discussion of any existing demand, or if a demand should be solicited, etc. since early exploration of such issues can simplify decisions regarding what discovery and expert witness costs should be undertaken. Include comments on the settlement status of the case, and the availability of ADR or arbitration.

Although the information required in this report is comprehensive in scope, it is our hope that the attorney's first report does not exceed 3-5 pages.

V. MANDATORY STATUS REPORTS

Status reports are mandatory every 90 days or as soon as possible following any significant event in the case. *Please report only on new developments since the last report. It is not necessary to rehash the case facts or repeat information previously reported*. The reporting diary can be extended if the Risk Manager/City Representative is notified of your intention to put the file on an extended diary.

A. STATUS REPORT

Status reports should include a periodic reevaluation of the litigation plan and should specifically address the following:

1) The ongoing strategy for defense or resolution of the case, including a factual analysis of developments related to liability and damages;
2) A description of planned discovery with a timetable for completion;
3) A brief synopsis of the discovery completed since the last report;
4) We don't want copies of all legal documents, but we do need copies of significant documents relating to liability and/or damages, including any amendments to the complaint; points and authorities on demurrers, motions to dismiss, or summary judgment motions; hospital discharge summaries; expert reports; mediation briefs; and similar significant motions and responses;
5) Court actions or calendar dates, including but not necessarily limited to: mandatory settlement conferences, trial setting conferences, arbitration and trial dates, hearings on discovery, etc.
6) Anticipated changes in the litigation budget;
7) New settlement demands or other material communications from plaintiff's counsel; and
8) A "to do" list of immediately upcoming tasks.

B. DEPOSITION REPORTS

Defense counsel is responsible to report, in writing, on the substance of all depositions taken in the case.

This need not be a lengthy, multi-page deposition summary, but should instead include a concise report of major events occurring at the deposition, an evaluation of the credibility and appearance of the witness, and an evaluation of the effect of the deposition testimony on the case. Except in extraordinary situations, the maximum allowable charge for summarizing a deposition will be limited to two hours.

The setting of a trial date, settlement conference date, hearing date on motion for summary judgment or similar dispositive motion must be reported, in writing, within one week of the time the date is established. Settlement demands and offers similarly must be reported, in writing, within one week of the time the offer is made or the demand is received.
Please flag reports at the top of the first page to note any items that are urgent or require an immediate reply. Similarly, if a trial or settlement conference date has been set, please note the upcoming dates in the caption of each status report.

VI. TRIAL / ARBITRATION REPORTS

No later than 60 days prior to trial (or binding arbitration), the defense trial attorney will provide a report, which shall include:

(a) An assessment of the City's liability;

(b) An assessment of plaintiff’s injuries or damages;

(c) An assessment of the legal defenses (and probability of prevailing);

(d) An assessment of the chances of prevailing at trial;

(e) The verdict value assuming full liability;

(f) An assessment of any other factors affecting the items above, including demeanor or credibility of important witnesses, evidentiary disputes, tendencies of local juries, the judge or opposing counsel, liability and solvency/coverage of co-defendants, or similar important issues;

(g) An appraisal of settlement value, considering verdict value and chances of prevailing;

(h) The status of settlement discussions;

(i) Estimated future fees and costs through trial (since last billing).

A daily oral report is expected during trial, unless the Risk Manager/City Representative is present. The Risk Manager/City Representative will keep the City's excess liability

pool advised of status, where applicable. Immediately following any trial/arbitration, a brief trial report should be sent to the Risk Manager/City Representative outlining the results.

VII. FINAL REPORTS

At the conclusion of the case, a brief report should be sent to the Risk Manager/City Representative. Original closing papers and final billing should be attached.

VIII. CJPRMA REPORTING REQUIREMENTS

The City participates in the California Joint Powers Risk Management Authority (CJPRMA), an excess liability self-insurance pool. A copy of CJPRMA's reporting requirements is attached to this policy. The Risk Manager/City Representative/City Representative will notify your office on those cases that have been reported to CJPRMA. In the event the case appears to meet the requirements and you are not aware whether it has been reported, call the Risk Manager/City Representative to ascertain its status. Once a case is reported to CJPRMA, defense counsel must ensure that additional copies of all status reports are forwarded to CJPRMA and the City's CJPRMA Board member (if not already copied) and that the reports comply with CJPRMA's case reporting requirements.

IX. SIGNIFICANT STRATEGY DECISIONS

A primary goal of these policies and procedures is to keep the City involved in litigation decisions. Defense counsel is urged to keep this in mind throughout the handling of the case. Many decisions are made routinely, such as sending out standard discovery requests or granting an extension of time to opposing counsel. Where multiple extensions are sought, however, the Risk Manager/City Representative should be consulted. Similarly, deciding on the order and timing of discovery to be taken and whether some discovery should be delayed pending settlement discussions are strategy decisions that should be discussed with the Risk Manager/City Representative. Selection of an arbitrator or mediator, or waiver of a jury trial, must be done in consultation with the Risk Manager/City Representative. Decisions such as filing indemnity cross complaints, conducting informal exchanges of discovery materials with co-defendants or the claimant, or sharing discovery costs with co-defendants, must also be made in consultation with the Risk Manager/City Representative.

X. DISCOVERY

In order to facilitate prompt discovery responses, please provide the maximum possible lead time for all papers, particularly answers to interrogatories. Unless directed otherwise, such discovery requests should be forwarded to the department or employee involved with a copy to the Risk Manager/City Representative so that the Risk Manager/City Representative can assure timely follow-up. Please review discovery requests in advance for objectionable items so that City staff does not spend unnecessary time preparing responses that will not be used.

XI. SETTLEMENT AUTHORITY

Defense counsel has no authority to settle cases without prior authorization, depending upon the amount involved, from the Risk Manager/City Representative, City Attorney or City Council. There are many cases that require that defense counsel handle negotiations directly. In all such circumstances it is mandatory that the Risk Manager/City Representative be kept fully apprised at each step of negotiations.

XII. EXTRAORDINARY EXPENSES

Experts, Investigative Services, Independent Medical Exams, Out-of-Area Travel - Prior approval must be obtained before incurring expenses in these areas. Before an expert is retained, assure he/she testifies well and will be available for trial. Provide the expert's curriculum vitae and discuss the pros and cons of the expert with the Risk Manager/City Representative. Have an estimated cost for the expert's services.

> *Careful consideration must be given to the value of any motion before it is filed, and proper authority must be obtained from the Risk Manager/City Representative. Except in unusual circumstances, time and effort should not be spent preparing, filing and arguing a motion unless the motion will significantly shorten or terminate the suit or gain a distinct advantage in the litigation.*

XIII. LEGAL RESEARCH (including time on Lexis and Westlaw)

As government defense attorneys, you are expected to have knowledge in the area of claim requirements, government immunities and tort defense. Therefore, we expect extended legal research billings to be limited to more complex issues.

If a legal research project is expected to exceed 4.0 hours, prior approval by the Risk Manager/City Representative is required. Include in the billing a description identifying the subject being researched. A copy of the work product from such activity should be forwarded to the Risk Manager/City Representative. Do not create a separate report simply to comply with this requirement; you may forward the handwritten notes or file memo so that the Risk Manager/City Representative can keep track of the research done.

The City will index research memos by issue. It is the intention of the Risk Manager/City Representative to share research projects between defense firms where similar issues recur.

XIV. LEGAL BILLINGS

Legal fees are to be submitted in the following format:

(a) Each legal activity must be separately dated and itemized, with a description of the work along with the initials of the attorney completing the work (no "block billing"; multiple daily descriptive explanations of activities with a single time entry are not acceptable).

(b) The amount of time to complete the task must be broken down into tenths of hours.

(c) The rates and hours charged by each attorney/paralegal working on the case must be summarized at the end of the bill to depict a cost per attorney.

(d) Interoffice conferencing among attorneys will not be compensable unless it is a necessary strategy meeting related to some significant legal event (such as an upcoming trial). We will not pay for duplicated entries for reviewing and analyzing documentation and legal research.

(e) General overhead and administrative costs (including secretarial time, word processing time) are included in the hourly rate and are not separately compensable.

(f) Time to "organize file" is a secretarial function and not compensable.

(g) Show actual charges or rates for cost charges (FAX, photocopy, out of area telephone, postage, etc.).

(h) Telephone calls should specify the participants and the subject matter discussed.

(i) Billings can be submitted monthly, but must be submitted at least quarterly unless no activity has occurred.

Bills from vendors or other contractors under $200 should typically be paid by the firm and included on the attorney's bill for reimbursement. Bills of $200 or over should be sent directly to the City for payment. Use of vendors or independent contractors must be previously approved.

Routine use of overnight mail or messenger service is strongly discouraged.

The Risk Manager/City Representative will review and approve all billings for payment. Any questions regarding charges will be directed to the managing attorney. Legal payments will not be remitted until any disputes on billings are resolved.

Unilateral fee rate increases by law firms will not be accepted. Any proposed fee increase must be approved by the City prior to implementation.

XV. REMARKS

Case reporting is given a high priority by the City and is a major consideration in evaluating defense counsel's performance. Our goal is that these litigation policies and procedures will result in a better organized and managed defense of the City. The completion of a "Legal Budget" will focus defense attorney and City staff on the cost of defense provided to the City and, we hope, will assure a sound defense with a reasonable litigation cost.

Your firm has been selected to defend the City because the high caliber of your work. The City is grateful for your efforts on its behalf, and hopes that the litigation policies and procedures outlined above will provide you with direction on what is expected in reporting and thereby improve our relationship, our mutual communication and your overall performance in handling litigation on behalf of the City.

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CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: *9*	***TITLE:*** **RISK MANAGEMENT ISSUES**
MEETING: *5/3/2017*	
GENERAL MANAGER:	

Recommended Actions:

None. This item is being provided for information only.

Strategic Direction:

Strategic Goal 3, Foster Informed and Engaged Board Leadership.

Item Explanation:

This item is reserved for the discussion of risk management issues that are of concern to the members and for the provision of status updates on the risk management program.

- No issues at have been requested to be discussed at this time.

Fiscal Impact

None

Exhibits:

None