CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

EXECUTIVE COMMITTEE MEETING
June 22, 2017 10:00 A.M.

Roseville Civic Center
First Floor Conference Room
311 Vernon Street
Roseville, CA 95678

(916) 774-5200

AGENDA

I. CALL TO ORDER: 10:00 A.M.

II. ROLL CALL

III. CLOSED SESSION

1. Government Code Section 54956.9 (a)

Conference with Legal Counsel – Litigation
Name of Case: Nguyen, Nhan v. City of Roseville
Court: Superior Court of the State of California, County of Placer
Case No.: SCV0038761

IV. ACTION ON CLOSED SESSION ITEMS

V. PRESENTATIONS

- None

VI. COMMUNICATIONS

1. Executive Committee Members
2. General Manager/Secretary
3. Next Scheduled Meetings: Board of Directors (08/17/17) CJPRMA
   Executive Committee (09/28/2017) TBD

VII. APPROVAL OF MINUTES

1. Minutes of the Executive Committee meeting held May 3, 2017 (Pages 3 - 10)

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. CONSENT CALENDAR

- None

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

X. ACTION *(A)* AND INFORMATION *(I)* CALENDAR

1. Business Calendar for 2017 ***(I)*** (Pages 11 - 13)
2. Discussion of a CJPRMA Claims Committee and new Board practices in developing loss mitigation plans ***(I)*** (Pages 14 - 15)
3. Development of Loss Allocation Policy for Annual Contributions ***(I)*** (Pages 16 – 20)
4. Status Update on the Development of CJPRMA Excess Workers' Compensation Program ***(I)*** (Pages 21 - 22)
5. Review of the Succession Plan for the Replacement of the Retiring General Manager ***(I)*** (Page 23)
6. Status Update on General Manager's Goals and Objectives 2016-2019 ***(I)*** (Pages 24 - 29)
7. Review of the CJPRMA Litigation Policy ***(I)*** (Pages 30 - 43)
8. Risk Management Issues ***(I)*** (Page 44)

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
May 3, 2017 9:30 A.M.

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

(916) 774-5200

MINUTES

I. CALL TO ORDER:

- President Hamilton called the meeting to order at 9:52 A.M.

II. ROLL CALL

PRESENT

1) Janet Hamilton, *Livermore*
2) Kim Greer, *Richmond*
3) David Rawe, *Roseville*
4) Roger Carroll, *SCORE*
5) Celeste Garrett, *Vacaville*

ABSENT

6) Jeff Tonks, *YCPARMIA*
7) Janice Magdich, *Lodi*

OTHERS PRESENT

8) Byrne Conley, *Gibbons & Conley*
9) David Clovis, *CJPRMA*
10) Saima Kumar, CJPRMA
11) Marcia Hart, *CJPRMA*

III. PRESENTATIONS

- None

IV. APPROVAL OF MINUTES

- A motion made by Director Rawe and seconded by Director Garrett to approve the minutes of January 19, 2017 Executive Committee meeting. Directors Hamilton, Greer, Carroll, voted for the approval of the minutes. Directors Magdich and Tonks were not present. Motion passes.

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) Roseville

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)*

The Business calendar was reviewed and it was determined that the Bi-annual election of the President and Vice-President would be moving to August. Directors Carroll and Magdich are approaching end of term June 30, 2017. Director Garrett will only be present until December 17, 2017.

2. Development of a CJPRMA Claims Committee and new Board practices in developing loss mitigation plans *(A)*

President Hamilton and the general manager met and discussed multiple options for implementing a claims committee. Their discussion included the potential positive impacts on litigation with the development of this committee. There are numerous options for implementing accountability and insuring that all members embrace active risk mitigation and efforts to reduce their exposures. These items were discussed:

1. Developing a claims committee with seasoned personnel committed to reviewing litigation and to participate in discussions that will result in minimizing the impacts of the claim, litigation and ultimately a settlement.
2. Utilizing 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. To 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. It was discussed that most of the Board Members are anxious to depart and prefer that closed sessions items be presented quickly, with minimal impacts on their time. The review of claims and the proposed settlement should have high visibility to the Board of Directors resulting in timely and reflective discussions.

4. To implement an agenda item at each Board of Directors meeting where a member that has experienced a loss and who has met the developed criteria, i.e. exceeded the members SIR by 150%, that member will 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 presentation will be considered as an educational tool and a lesson learned after the matter is fully resolved.
5. Staff will conduct post incident de-briefings with members and their assigned staff to discuss learning points from litigation and evaluate the policies and procedures that should be implemented to avoid similar occurrences.
6. Specific standards and policies will be developed so general manager can have 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.

Byrne Conley, Board Counsel suggested that discussion point #5 be moved before #4 as a natural progression in minimizing claims and prevention, and that this would be a Policy Committee. Mr. Conley also stated that, “a lesson learned for all members – a loss in ONE city could be a loss in ANY city.”

Director Garrett mentioned moving Closed Session to the beginning of a Board of Directors meeting will be great for Attorney availability, and that a de-briefing of the claim with the department heads like Police and Fire Chiefs would be beneficial.

This Claims Committee would be created by President Hamilton.

- A motion made by Director Carroll and seconded by Director Garrett to approve the development of a CJPRMA Claims Committee and developing new Board policies for loss mitigation. Directors Hamilton, Greer, Rawe, voted for the approval. Directors Magdich and Tonks were not present. Motion passes.

3. Development of Loss Allocation for Annual Contributions *(I)*

The general manager presented options to the Executive Committee for developing a methodology for implementing a loss allocation plan. Included would be the option of modifying the current practice of annual contributions based solely on exposure data.

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 losses 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.

As discussed at the January 2017 meeting, the general manager provided the following topics for discussion:

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, referring to a copy of the March 2008 agenda bill.

Although this agenda item was for information only, based on the data provided regarding member loss comparison to the Executive Committee concerns were raised regarding City of Vallejo losses and premium contributions. A discussion took place on how to evaluate members with high severity. The general manager had a solution for this; he provided a policy on annual member evaluation to the committee. It was determined that guidelines would be appropriate instead of a written policy. The following options were suggested for implementation effective July 1, 2017:

1. Increase member SIR
2. Increase premium contributions
3. Withhold redistribution
4. Voted out of the program
5. Option as is listed above (1-8 on this agenda bill #3)

Director Greer and Garrett both mentioned and agreed that cities will argue for the timing of this implementation for July 1, 2018 not July 1, 2017 for it will affect their budgets. The general manager will provide these options to the Board of Directors at the May meeting. It was then decided that cities with high severity should have their SIR evaluated, resulting in changing this to an action item and to recommend that options 1-5 should be presented to the Board of Directors for discussion and approval.

- The motion was made by Director Greer, and seconded by Director Rawe for staff to add an agenda item for a review of City of Vallejo's SIR at the next Board meeting. Staff may consider the proposed criteria for review of SIR's presented in the Executive Committee agenda packet, but a formal policy for when a SIR review will be conducted does not need to be adopted; instead the Board will review the matter based on the JPA Agreement and By-laws. Directors Carroll, Garrett, Rawe, Greer and Hamilton all approved. Directors Magdich and Tonks were not present. Motion passes unanimously.

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

The general manager discussed the succession plan for the future of CJPRMA and his upcoming retirement in October 2018. With the goal of minimizing impact to the members, the general manager researched numerous successions plans generated from many organizations, and he concluded that the plan created by North Bay Schools Insurance Group met the needs of CJPRMA. This plan suggests an assistant general manager be hired six months prior to the general manager's departure to work under his direction.

The history of past general managers were reviewed, the current general manager responsibilities were discussed, as well as the upcoming needs, growth, the complexity of the organization, and the overall transition.

The general manager recommended that the Executive Committee work closely with him and oversee the recruitment process. Alternative forms of recruitment would include a local search, statewide search and potentially a national recruitment. The approval of an additional agenda bill requesting the Executive Committee approve an updated job description/salary range for the Assistant General Manager position follows.

Director Greer suggested that the incumbent to be hired six to nine months versus only six months prior to the retirement. This would provide the incumbent time to acclimate 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.

- A motion made by Director Carroll and seconded by Director Greer to approve a nine-month acclimation period for the incumbent and the reviewed succession plan. Directors Hamilton, Garrett, Rawe, Carroll, Greer, voted for the approval. Directors Magdich and Tonks were not present. Motion passes.

5. Approve updated job description for Assistant General Manager *(A)*

The general manager recommended that the Executive Committee approve the updated job description of the assistant general manager as discussed in the agenda bill above, and the salary range. The funding for this position would be recommended during the budget approval process at the May Board of Directors meeting. Originally, the current transition plan would involve the hiring of the assistant general manager by April 1, 2018 and working with the general manager until his anticipated retirement in October 2018. Since the above motion was approved and passed, a nine-month transitional period with the incumbent, the start date would target February 1, 2018.

- A motion was made by Director Carroll and seconded by Director Greer to approve the updated assistant general manager job description and salary range. Directors Hamilton, Garrett, Rawe, Greer and Carroll voted for the approval. Directors Magdich and Tonks were not present. Motion passes.

6. Status Update on General Manager's Goals & Objectives 2016-2019 *(I)*

The Executive Committee was provided a copy of the General Manager's Goals & Objectives. The general manager discussed the upcoming annual meeting and training courses that will be offered to members.

- No action was required on this item

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

Staff consulted with Mr. Byrne Conley, Board Counsel and Dr. William Deeb from AON Services regarding the 2016 - 2017 Memorandum of Coverage (MOC) and identified areas within the MOC that have coverage gaps or require clarification. The MOC was also reviewed for areas that presented confusion to members or required clarification to the intent of the language. Staff also met with an AON coverage expert attorney to review the MOC. 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 reviewed with the Executive Committee the proposed MOC changes for 2017-2018 as listed below:

1. Definition of occurrences should be expanded to include "offenses". This is the current practice; this would clarify the definition.
2. Modify the language regarding coverage disputes to clarify the use of binding arbitration.
3. Pool D sub-limits definitions require expanded definition. Define aggregate limits for pool C for EPL, Subsidence, Fungal Pathogens, Sexual Abuse-Daycare, and Terrorism.
4. Subsidence definition.
5. Define claims arising out of FLSA allegations are excluded.
6. Clarify contractual obligations and exclusions.
7. Self-driving cars.
8. Modify the aircraft definition to specifically include drones.
9. Clarify exclusions regarding allegations of regulations relating to taxi cabs and rent control ordinances/regulations.
10. Class action lawsuits.
11. Define other insurance-and how that erodes SIR's.
12. Define Contractual Risk Transfer, adopt CJPRMA minimum limits, and provide co-insurance relief to members that utilize Risk Transfer.
13. Define criminal acts and exclude coverage for any employee convicted of a crime. The member would continue to be covered, but the employee convicted would not.
14. Implement a modified "Hammer Clause".
15. Modify the language regarding settlements completed without approval of CJPRMA to be binding and not optional.

16. Clarify the definition of Sewer-overflow.
17. Identify in the MOC that extent of coverage provided by a Cert of Coverage will not be broader than required by contract.
18. Exclude exposures of auto liability for employees operating personal vehicle unless minimum limits of $100/$300 are required by the city. In the event coverage is required and valid the proceeds would apply to the member SIR.
19. Implement arbitration clause for coverage disputes arguing multiple occurrences.
20. Identify coverage that may be excluded due to "intentional acts".
21. Add a Pool C annual aggregate per member for areas that contain Pool D limitations.

The proposed changes will be presented at the Board of Directors meeting in May 2017 for approval. If the proposed changes are approved, they will be included within the 2017-2018 CJPRMA Memorandum of Coverage.

After Mr. Conley established the above proposed changes, Director Carroll asked why drones were included since they were equipment. David Clovis answered that drones are considered property and he is working with Munich to include in the MOC, or bring back as an endorsement. Byrne Conley stated that drones are considered 55 pounds or less.

- No action was required on this item.

8. Approval of CJPRMA Litigation Policies and Procedures *(A)*

The Executive Committee and general manager have discussed numerous alternatives for encouraging members to utilize best practices in the area of Litigation Management in the past. 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 has not been mandatory. One of the policies available for the members is called Model Policy on Litigation Policies and Procedures created in 2000.

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 recommended 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 was attached to this agenda bill and reviewed.

- A motion was made by Director Rawe and seconded by Director Carroll to adopt this Litigation policy and recommend this to the Board of Directors for approval at the May meeting. Directors Hamilton, Garrett, Rawe, Carroll and Greer voted for the approval. Directors Magdich and Tonks were not present. Motion passes.

9. 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 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

- The Executive Committee conferred with staff regarding litigated claims and provided direction.

XI. ADJOURNMENT

- A motion was made to adjourn the meeting at 1:30 p.m. Directors Carroll, Hamilton, Garrett, Greer, and Rawe voted to adjourn the meeting. Magdich and Tonks were not present. Motion passed.

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CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: 1	***TITLE:*** **BUSINESS CALENDAR FOR 2017**
MEETING: 6/22/17	
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 Review of Conflict of Interest Code (odd 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
- Bi-annual election of President and Vice President (even numbered years)
- Election of Executive Committee Members
- Bi-annual Appointment of Treasurer (even numbered years)
- Financial Audit in process
- Annual Review of Investment Policy
- 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 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:*** **DISCUSSION OF CJPRMA CLAIMS COMMITTEE AND NEW BOARD PRACTICES IN DEVELOPING LOSS MITIGATION PLANS**
MEETING: 6/22/2017	
GENERAL MANAGER:	

Recommended Actions:

None at this time. This item is presented as a discussion item only. The Executive Committee will review the President's recommendations for the Board Members and Alternates assigned to this committee.

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 Board of Directors approved the creation of a claims committee at the May Board Meeting. The Board also approved the concepts presented in the agenda bill that are provided within this packet. The Board requested that they be informed of all of the participants at the August Meeting. Once the committee is formally approved, the committee will prepare the mission of the committee and will define the roles and responsibilities of the participants. The committee will be charged with creating the schedule of the committee and developing an approach to provide feedback to the Board of Directors at their meetings.

The following recommendations were approved by the Board of Directors at the May meeting.

1. Develop a standing 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 where appropriate, an early settlement. The President will appoint five participants for the committee.
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 visibility to the Board of Directors and appropriate time and energy should be devoted to the discussions.

4. 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.
5. Require presentations by members in the event of losses that exceed a member's SIR by 150% or greater. The presentation would be provided upon the closure of the claim. The presentation would include but not be limited to the following: causation of the loss, lessons learned from the losses and mitigation efforts implemented by the member to minimize the opportunity for a future loss. This report would not occur until the matter was fully resolved.
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 will be discussed by the committee and will be included within the mission of the group. The committee will provide updated data to the Executive Committee to insure the methodology being considered by the committee is consistent with the intent of the Board.

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 POLICY FOR ANNUAL CONTRIBUTIONS**
MEETING: 6/22/2017	
GENERAL MANAGER:	

Recommended Actions:

None. This item is presented to the Executive Committee to develop options for Board consideration at the August Meeting.

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 provided input to staff for additional development of the loss numbers and to look at multiple time periods for the development of a policy. The loss history provided to the Executive Committee compared member's loss experience at five, ten, fifteen and twenty year increments. The purpose of the multiple time frames is to account for members that have an unfortunate loss in a specific period of time. In addition, loss data was reviewed and evaluated on how it impacts the current contributions defined by the annual actuarial evaluation. A copy of the member loss comparison for frequency and severity is attached to this agenda.

The data was presented to the Board of Directors at the May Meeting. One specific member was identified with an adverse loss history and a recommendation for a modification of self-insured retention was recommended to the Board. The Board declined to approve the recommendation and requested further review of a structured recommendation. This recommendation will be presented to the Board of Directors in August.

Staff is working with Mujtaba Datoo, AON Risk Services and our broker Dr. William Deeb to develop options for consideration by the Executive Committee. These recommendations will be provided at the meeting for further discussion.

The general manager prepared and presented a policy for consideration of the Executive Committee at their March meeting. This item is attached to this agenda bill for further development.

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.
9. Evaluate the redistribution philosophy and include loss history as a factor in determining redistributions.

Staff will present the Executive Committee with multiple options and alternatives for the development of a loss allocation formula for consideration. Staff will also provide the committee with additional financial data and an example of the impact of adopting one of the options.

Mujtaba Datoo and Billy Deeb will be in attendance at the meeting to provide insight to the committee to assist in the discussion. The general manager will be in attendance to describe the options available for the base criteria for an experience rating formula.

No formal action will be required at this meeting.

Fiscal Impact:

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

Exhibits:

1. Board Policy – Annual Member Evaluation
2. Member Loss History Comparison

CJPRMA
BOARD POLICY
Annual Member Evaluation

Purpose:

CJPRMA is dedicated to providing a comprehensive liability program to our members and to evaluate member's loss history to insure consistent, effective and affordable pricing. This policy will establish the guidelines for the annual review process and to identify thresholds whereby a member's participation in coverage pools will be evaluated.

Frequency:

Staff will prepare an annual report to the Executive Committee that will identify each member's loss history. The report will evaluate participating member's losses based upon experience for periods of 5, 10, 15 and 20 years of loss history. The members will be evaluated on their loss frequency, severity and percentage of participating within their program. The threshold for evaluation of a member's program will occur in the event the members frequency or severity percentage of losses are three times grater than their overall weighted participation in the program. As an example a member that their total payroll equals five percent (5%) of the total payroll of any given period, in the event that their severity of losses equal greater than 15%, they would be subject to the terms and conditions outlined within this policy.

Data:

Once a member has been identified with a loss history that exceeds 300% (3times their participation size), that members' data will be evaluated in coverage programs Pool B and Pool C. An actuarial evaluation may be performed to identify the impact of the specific member's losses to the overall program. The members' losses will be evaluated on an ongoing basis and the premise for the review will require that the member must have demonstrated an adverse impact on the overall program for a minimum of the 10-year loss history.

Actions:

When a member is identified under the process above, staff will determine the impact on both Pool B and Pool C arising out of their losses. Once determined, for member's participating in Pool B, and C, the following will occur.

A. A member that participates in both Pool B and C will have their Self Insured Retention increased for a period of three years. For members of Pool B the SIR will move to $1,000,000. For a member participating solely in Pool C, their SIR will increase to $2,500,000. There will be no reduction in the annual contribution for the member for a period of three years.

B. Once the preliminary three-year term has been completed, the member may petition the Board of Directors to return the member to their prior participation SIR. The Board of Directors will review the loss history of that member and they will consider the modification of the SIR based upon evidence of improvement in their respective loss history.
C. A member may request a one-year exception to the above requirement. This request must be made to the Board of Directors in writing and will require a 2/3 vote of the quorum of the Board of Directors at a meeting prior to the annual renewal.
D. Members that will be required to increase their SIR, may be excused from the six-month notice requirement for participating in the following program year. The notice of intent to withdraw must be submitted to CJPRMA in writing prior to the date of the last scheduled Board of Directors Meeting for that program year. Typically, this would be the May meeting of any program year.

Members	Member Size By Payroll	5 YEAR PY 12/13- 16/17 CJPRMA Net Incurred Total	5 YEAR PY 12/13- 16/17 Severity	5 YEAR PY 12/13- 16/17 Frequency	10 YEAR PY 07/08 - 16/17 CJPRMA Net Incurred Total	10 YEAR PY 07/08 - 16/17 Severity	10 YEAR PY 07/08 - 16/17 Frequency	15 YEAR PY 02/03 - 16/17 CJPRMA Net Incurred Total	15 YEAR PY 02/03 - 16/17 Severity	15 YEAR PY 02/03 - 16/17 Frequency	20 YEAR PY 96/97 - 16/17 CJPRMA Net Incurred Total	20 YEAR PY 96/97 - 16/17 Severity	20 YEAR PY 96/97 - 16/17 Frequency
Alameda	3%	$ 284,450	1%	5%	$ 284,450	1%	4%	$ 5,057,568	7%	3%	$ 5,059,768	6%	3%
Chico	2%	$ 678,200	2%	5%	$ 1,051,028	2%	4%	$ 1,051,028	1%	4%	$ 1,054,886	1%	4%
Fairfield	3%	$ 1,522,076	4%	6%	$ 2,033,868	4%	6%	$ 2,033,868	3%	5%	$ 2,038,174	2%	5%
Fremont	7%	$ 6,089,829	16%	3%	$ 6,823,941	13%	2%	$ 6,827,445	10%	2%	$ 6,831,275	8%	3%
Livermore	3%	$ 474	0%	5%	$ 4,279	0%	3%	$ 104,912	0%	2%	$ 105,949	0%	2%
Lodi	2%	$ 1,626,475	4%	3%	$ 1,626,525	3%	3%	$ 1,626,525	2%	3%	$ 1,717,171	2%	3%
NCCSIF	10%	$ 3,275,113	9%	13%	$ 7,951,654	16%	14%	$ 12,374,031	17%	13%	$ 13,519,978	16%	14%
Petaluma	2%	$ 1,511,000	4%	2%	$ 1,920,006	4%	3%	$ 1,920,006	3%	4%	$ 1,924,941	2%	4%
REMIF	6%	$ -	0%	1%	$ 5,718,668	11%	2%	$ 6,215,608	9%	4%	$ 7,696,740	9%	5%
Redding	4%	$ 661,762	2%	3%	$ 665,694	1%	3%	$ 669,612	1%	4%	$ 677,676	1%	5%
Richmond	6%	$ 1,752,789	5%	12%	$ 1,752,836	3%	9%	$ 1,752,836	2%	6%	$ 1,752,836	2%	5%
Roseville	7%	$ 713,763	2%	4%	$ 1,280,754	3%	5%	$ 1,284,347	2%	5%	$ 3,508,118	4%	4%
SCORE	1%	$ 31,490	0%	2%	$ 31,558	0%	3%	$ 31,558	0%	4%	$ 674,407	1%	4%
San Leandro	2%	$ -	0%	2%	$ 2,123	0%	4%	$ 2,123	0%	4%	$ 2,123	0%	3%
San Rafael	2%	$ 761,000	2%	2%	$ 761,413	1%	2%	$ 761,575	1%	2%	$ 771,741	1%	3%
Santa Rosa	7%	$ 161,667	0%	7%	$ 169,627	0%	9%	$ 1,311,846	2%	9%	$ 1,314,902	2%	7%
Stockton	7%	$ 4,049,897	11%	7%	$ 4,052,922	8%	8%	$ 5,302,877	7%	7%	$ 8,065,736	10%	8%
Sunnyvale	6%	$ 244,940	1%	2%	$ 265,313	1%	3%	$ 1,315,148	2%	3%	$ 3,646,438	4%	2%
Vacaville	3%	$ 959,258	3%	1%	$ 960,258	2%	2%	$ 2,250,065	3%	2%	$ 3,273,185	4%	2%
Vallejo	3%	$ 8,079,214	22%	12%	$ 8,081,287	16%	9%	$ 12,990,320	18%	10%	$ 14,063,725	17%	9%
YCPARMIA	13%	$ 5,083,444	14%	4%	$ 5,602,099	11%	3%	$ 6,101,296	9%	3%	$ 6,108,825	7%	4%
Total	100%	$ 37,486,840	100%	100%	$ 51,040,302	100%	100%	$ 70,984,592	100%	100%	$ 83,808,596	100%	100%
Contributions Paid		$ 1,402,503			$ 3,323,194			$ 5,659,645			$ 6,987,374		
Claims Paid in Excess of Contributions		$ 6,676,711			$ 4,758,093			$ 7,330,675			$ 7,076,351		

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CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: 4	***TITLE:*** **STATUS UPDATE ON THE DEVELOPMENT OF CJPRMA EXCESS WORKERS' COMPENSATION PROGRAM**
MEETING: 6/22/2017	
GENERAL MANAGER:	

Recommended Actions:

None. Staff will provide a status update on the development of CJPRMA Excess Workers' Compensation Program.

Strategic Direction:

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

Item Explanation:

Staff has collected data provided by members describing the current structure of their respective excess workers' compensation coverage programs. This data has been provided to Dr. William Deeb, Aon Risk Service. Aon and staff are currently working towards developing a tentative structure for the CJPRMA Excess Workers' Compensation program. This data will be presented to the Executive Committee for discussion at the June Meeting. Once a structure is developed that meets the needs of the membership, this data will be presented to the market for evaluation of reinsurance alternatives. In the event the structure is acceptable to the membership and rates meet expectations, we envision implementing the program effective July 1, 2018.

The proposed structure will be presented to the Board of Directors at the August Meeting. This will provide current members with the opportunity to review the program prior to committing to participation. The vote in August will be directed at the overall structure and no commitment would be required until the vote to implement the program that will occur at the November Board Meeting.

Members are advised that there will be additional data gathering required as this process continues to move forward. When requesting additional data, we will make every effort to give the membership a minimum of one month to collect and report data.

Staff is working with Aon Broker Billy Deeb to develop the program structure. The first draft of the program structure and the resulting data gathering will be discussed at this meeting.

Once the program structure is developed, staff will utilize Aon Actuarial Services by Mr. Mujtaba Datoo, to create actuarial study based upon predictive modeling. Actuarial data will be used to finalize the primary rate and assist staff in contacting the market for potential reinsurers to complete a finalized product. When final rates and programs structure are developed, Staff will then propose to implement the program start date of July 1, 2018.

Dr. Deeb agreed that the underwriters would be fully supportive of the intended method moving forward. The underwriters would rely heavily on the actuarial assumptions created by CJPRMA in determining estimated contributions.

Dr. Deeb and staff will be present at the meeting to answer questions.

Fiscal Impact:

To Be Determined

Exhibits:

None

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CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: 5	***TITLE:*** **REVIEW OF THE SUCCESSION PLAN FOR THE REPLACEMENT OF THE RETIRING GENERAL MANAGER**
MEETING: 6/22/2017	
GENERAL MANAGER:	

Recommended Actions:

None at this time. This item will be placed on all future Executive Committee Agendas to continue the discussion of the forthcoming retirement of the general manager and the succession plan for his replacement.

Strategic Direction:

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

Item Explanation:

The Board of Directors approved the succession plan as presented by the Executive Committee for the replacement of the general manager at the May Meeting. The 2017-2018 budget was also approved to allow for the hiring of an Assistant General Manger in early 2018. This item will be a standing agenda bill for all future Executive Committee Meetings to continue the discussion and to review timelines and accomplishments. The general manager has set a retirement timeline of October 2018, with an actual date to be determined.

The general manager will be available to discuss the status of the proposed recruitment for an Assistant General Manager with estimated hiring in February 2018.

Fiscal Impact:

None at this time.

Exhibits:

None

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CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: 6	***TITLE:*** **STATUS UPDATE ON GENERAL MANAGER'S GOALS AND OBJECTIVES 2016-2019**
MEETING: *6/22/17*	
GENERAL MANAGER:	

Recommended Actions:

None at this time. This item is added to the agenda as a standing item that will be available for discussion at all scheduled Executive Committee Meetings.

Strategic Direction:

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

Item Explanation:

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.

Discussions by the Executive Committee indicated that it was difficult and time consuming to recreate the goals and objectives on an annual basis. A multi-year approach on the goals will allow the organization to continue with a long-range approach to the operation of CJPRMA.

The Executive Committee adopted the current goals and objectives at the January Meeting. The Executive Committee directed staff to provide a copy of the adopted evaluation form at each meeting. The committee agreed that the evaluation form includes the goals and objectives that will be discussed at each meeting. The general manager will provide the committee with updates on accomplishments and the status of ongoing projects. was also determined that many of the current evaluation points within the evaluation tool are not necessary and carry excessive weight in the process.

A copy of the adopted GM Evaluation is attached to this agenda bill. This item is being provided as a discussion item only and the Executive Committee is not required to take any formal action.

The general manager will be present to discuss the status of the goals and objectives.

Fiscal Impact:

None

Exhibits:

1. 2016-2019 GM Evaluation form

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

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CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: 7	***TITLE:*** **REVIEW OF THE CJPRMA LITIGATION POLICY**
MEETING: 6/22/2017	
GENERAL MANAGER:	

Recommended Actions:

None at this time. The Board of Directors voted to recommend the Executive Committee review the Litigation Policy for approval as a member guideline.

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 Litigation Policy was presented to the Board of Directors for approval at the May Meeting. The Board voted to send this policy to the Executive Committee for further review. The Board stated that many of the items within the policy presented potential for improvement of litigation practices for the members. However, the Board expressed a concern that adopting the standards as a policy would create potential conflicts for the members. The Board then referred this item to the Executive Committee for further review and to develop as a guideline.

A copy of the agenda bill reviewed by the Board of Directors is attached to this agenda.

This policy was presented to the Executive Committee at their meeting on May 3rd. The Executive Committee approved the document with recommendations the Board of Directors approve as a required policy.

Staff will be available to discuss this recommended policy with the Executive Committee. Staff will provide this item to the Board of Directors for action at the August 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. Proposed CJPRMA Litigation Policy
2. Agenda Bill from May Board of Directors Meeting

Proposed

Litigation Policy

California Joint Powers

Risk Management Authority

3201 Doolan Road, Suite 285 Livermore, California 94551 Phone (925)837-0667

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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:

ARTICLE 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.

ARTICLE 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:

ARTICLE 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.

ARTICLE 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:

1) Facts

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

2) 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.

3) Damages

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

4) 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.

5) Legal Opinion

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

6) 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.

7) 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.

8) 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.

9) 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.

ARTICLE 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.

SECTION 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.

SECTION 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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 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.*

ARTICLE 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.

ARTICLE 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.

ARTRICLE 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: 6	***TITLE:*** **APPROVAL OF THE CJPRMA LITIGATION POLICY**
MEETING: 5/24 & 5/25/2017	
GENERAL MANAGER:	

Recommended Actions:

The general manager recommends the Board of Directors approval of the CJPRMA Litigation Policy.

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 discussed the importance of this policy during an Executive Committee meeting and stated 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 presented this policy with the current formatting modifications to the Executive Committee at their meeting on May 3, 2017. The Executive Committee voted to approve the policy and to recommend the Board of Directors adopt the policy at the May Board of Directors Meeting.

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. The policy will require that each member comply with this policy by January 1, 2018. A copy of the policy with revisions has been attached to this agenda bill.

Staff will be available to discuss this recommended policy with the Board of Directors.

The general manager recommends that the Board of Directors adopt the Litigation Policy and require all members to comply with all provisions of the policy by January 1, 2018.

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. Proposed CJPRMA Litigation Policy

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CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: 8	***TITLE:*** **RISK MANAGEMENT ISSUES**
MEETING: 6/22/2017	
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 have been reported at this time.

Fiscal Impact

None.

Exhibits:

None.