

**CITY OF CLOVERDALE
CITY COUNCIL
RESOLUTION NO. 051-2018**

**A RESOLUTION OF THE CLOVERDALE CITY COUNCIL APPROVING THE DELEGATION OF CLAIMS
ADMINISTRATION AND AUTHORIZING REDWOOD EMPIRE MUNICIPAL INSURANCE FUND "REMIF" AND THE
THIRD-PARTY ADMINISTRATOR ON BEHALF OF REMIF TO ACCEPT OR REJECT CLAIMS FILED AGAINST THE CITY**

WHEREAS, the City of Cloverdale ("City") is a member of the Redwood Empire Municipal Insurance Fund (hereinafter referred to as REMIF), a self-insured joint powers authority; and

WHEREAS, REMIF has a Memorandum of Liability Coverage that outlines the liability coverage provided to the City and is bound by the By-Laws that outline settlement authority; and

WHEREAS, REMIF provides the City's liability coverage, among other things, for those matters covered by the Memorandum of Liability; and

WHEREAS, REMIF works with a third-party administrator to administer the City's liability claims that fall under the Memorandum of Liability Coverage; and

WHEREAS, Government Code Section 912.6 states: In the case of a claim filed against a public entity, board may act on the claim in one of four ways: (1) If the Board finds the claim is not a proper charge against the public entity, it shall reject the claim; (2) If the Board finds the claim is a proper charge against the public entity and is for an amount justly due, it shall allow the claim; (3) If the Board finds the claim is a proper charge against the public entity but is for an amount greater than is justly due, it shall either reject the claim or allow it in the amount justly due and reject it as to the balance; or (4) If legal liability of the public entity or the amount justly due is disputed, the Board may reject the claim or may compromise the claim; and

WHEREAS, the City shall delegate and authorize REMIF and the third-party administrator on behalf of REMIF to respond to covered claims filed against the City of Cloverdale as outlined in Government Code section 912.6. The City will work closely with REMIF and the third-party administrator on behalf of REMIF to respond to covered claims. All decisions will be collaboratively discussed between the City and REMIF or the third-party administrator on behalf of REMIF. Final authority is outlined in the Memorandum of Liability Coverage, the bylaws and the JPA agreement with REMIF; and

WHEREAS, whenever it is necessary for the City to reject or provide another form of notice to a claimant for a covered claim, the City hereby delegates to REMIF or the third-party administrator on behalf of REMIF that authority, in collaboration with the City; and

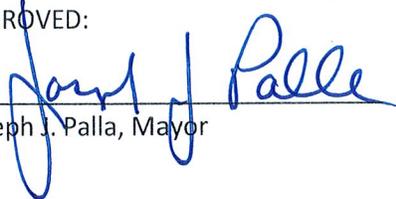
WHEREAS, the City will immediately (within 2 business days of claim filing) report every covered claim to REMIF and/or the third-party administrator on behalf of REMIF; the City will provide REMIF and the third-party administrator on behalf of REMIF any information/documentation that is needed immediately (in no case longer than 10 days of claim filing) to determine the appropriate claim response; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cloverdale that it does hereby delegate the authority of claims administration for covered claims and authorizes REMIF and the third-party administrator on behalf of REMIF to respond to covered claims on behalf of the City of Cloverdale.

It is hereby certified that the foregoing Resolution No. 051-2018 was duly introduced and duly adopted by the City Council at a regular meeting held on the 14th day of August 2018, by the following roll call vote: (Ayes- 5; Noes-0; Absent-0; Abstain- 0)

AYES: Councilmember Bagby, Vice Mayor Russell, Councilmember Brigham, Councilmember Wolter, and Mayor Palla
NOES: None
ABSENT: None
ABSTAIN: None

APPROVED:



Joseph J. Palla, Mayor

ATTESTED:



Linda Moore, Deputy City Clerk



**City Council/Successor Agency
Agenda Item Summary**

Agenda Item: 6
Meeting Date: August 14, 2018

Agenda Section	Staff Contact
Consent	Susie Holmes, Finance Manager

Agenda Item Title

Consideration and possible adoption of a Resolution No. 051-2018; approving the delegation of claims administration and authorizing Redwood Empire Municipal Insurance Fund "REMIF" and the third-party administrator on behalf of REMIF to accept or reject claims filed against the City.

Summary

The City of Cloverdale is a member of the Redwood Empire Municipal Insurance Fund "REMIF", a self-insured joint powers authority established in 1976 to handle the insurance claims, benefit programs and risk management needs of fifteen (15) member cities.

REMIF has a Liability Memorandum of Coverage (Exhibit A) that outlines the liability coverage provided to the City and is bound by the By-Laws that outline settlement authority.

The City of Cloverdale has maintained a policy of bringing all claims acceptance and/or rejections to the City Council for authorization. Staff worked closely with REMIF and/or their Third-Party delegate to determine whether or not to accept or reject the claim, prior to bringing it forward to City Council for approval. In the past, Council has accepted the recommendation of REMIF based on their expertise.

At the June 21, 2018 REMIF Board Meeting, it was brought to the attention of the member cities that they could, individually by resolution, delegate the authority to REMIF and/or their third-party administrator to accept or reject the claims. This would reduce staff time spent responding to the claims and would improve the administrative process by removing the requirement that each claim determination be brought forward for Council approval.

Options

1. Adopt the Resolution approving the delegation of claims administration and authorizing REMIF and the third-party administrator on behalf of REMIF, to accept or reject claims filed against the City;
2. Not adopt the resolution and require staff to continue the administration tasks related to acceptance/rejection of claims and continue bringing claims forward for Council approval.

Budget/Financial Impact

No budget/fiscal impact, however there would be a reduction in staff involvement.

Subcommittee Recommendation

The Finance, Administration, Police Subcommittee discussed the engagement and recommended approval to delegate claims administration to REMIF and the third-party administration on behalf of REMIF to accept or reject claims filed against the City.

Recommended Council Action

Adopt the Resolution approving the delegation of claims administration and authorizing REMIF and the third-party administrator on behalf of REMIF to accept or reject claims filed against the City.

Attachments:

1. Resolution No. 051-2018, Approving the delegation of claims administration and authorizing Redwood Empire Municipal Insurance Fund "REMIF" and a third-party administrator on behalf of REMIF to accept or reject claims filed against the City.
2. Exhibit A – Memorandum of Coverage (MOC) Liability for Program Year 2018/19

cc:

**REDWOOD EMPIRE MUNICIPAL INSURANCE FUND
MEMORANDUM OF COVERAGE FOR LIABILITY PROGRAM
PROGRAM YEAR: 2018 - 2019**

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**REDWOOD EMPIRE MUNICIPAL INSURANCE FUND
MEMORANDUM OF COVERAGE FOR LIABILITY PROGRAM
PROGRAM YEAR: 2018 - 2019**

This coverage document shall be in effect from July 1, 2018 through June 30, 2019.

Throughout this Memorandum, words and phrases that appear in quotation marks have special meaning. They are defined in Section II-Definitions.

In consideration of the payment of the contribution deposit, the “authority” agrees with the “covered parties” as follows:

SECTION I – COVERAGES

The “authority” will pay up to the “limit of coverage” on behalf of the “covered party” for the “ultimate net loss” in excess of the “deductible” that the “covered party” shall become legally obligated to pay as “damages” because of “bodily injury,” “property damage,” “personal injury,” “employment practices liability” and/or “public officials errors and omissions” 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 amongst the “member entities” of the “authority” and none of the parties to the Memorandum is entitled to rely on any contract interpretation principles, which 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 “member entities” 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 Civil Code Section 2860. It is the policy of the “authority” to notify “covered parties” of any potential coverage dispute regarding a “claim.” However, failure to provide notice to a “covered party” of any coverage dispute shall not operate to waive any of the provisions of this Memorandum.

The “authority” shall have the right and duty to defend any suit against any “covered party” seeking “damages” on account of such “bodily injury,” “property damage,” “personal injury,” “employment practices liability” and/or “public officials errors and omissions,” even if any of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and settlement of any “claim” or suit as it deems expedient, but the “authority” shall not be obligated to pay any “claim” or judgment or to defend any suit after the applicable “limit of coverage” has been exhausted by payment of any combination of “defense costs,” judgments, or settlements.

The "authority" and its "members" are covered by excess coverage obtained from the California Joint Powers Risk Management Authority (“CJPRMA”). CJPRMA's coverage is described in the CJPRMA Liability MOC, and is subject to the limits, sublimits, exclusions and other provisions

included therein. (See attachment B.)

SECTION II – DEFINITIONS

1. “Aircraft” means a vehicle designed for the transport of persons or property principally in the air. “Aircraft” also includes an unmanned Aerial Vehicle (UAV) or “drone” (including its aerial system or control device) that is not controlled directly by a person from within or on the aircraft.
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” means the Redwood Empire Municipal Insurance Fund 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. “Claim” means a “claim” for “damages,” filed pursuant to Government Code Section 901, et al. for “claims” against public entities. It also means any lawsuit, covered by this memorandum, filed in a Federal, State, Superior or Municipal Court. “Claim” does not mean any form of administrative or regulatory proceeding under federal, state, local law or any “member entity” due process, appeal, or similar administrative proceedings.
8. “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 memorandum applies. Routine governmental operations include the “Covered Party’s” lease of premises, easement or license agreement, use of facilities or equipment, mutual aid agreement, or other agreement approved by “authority” staff in advance of the loss.

9. “Covered party” means:

A “member city” of the “authority.” This includes entities named in the Declarations, including any and all commissions, agencies, authorities, districts, boards, (including the governing board) or similar entities coming under such 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.

Persons who are elected or appointed officials, “employees” or volunteers of the “covered party,” whether or not compensated, while acting in an official capacity for or on behalf of the “covered party,” including while acting on outside boards at the direction of the “covered party,” except a hospital board or commission, regardless of how such board is denominated, or any other joint powers authority, or any separate agency or entity created by the “authority” provisions of sub-paragraph (g). “Covered party” shall not include any person whose conduct was 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.

This definition is not intended to expand the definition of “employee” set forth in Government Code § 810.2. nor is it intended to provide any greater or different defense or indemnity obligation by the “authority” than the obligation of the “covered party” contained in Government Code § 825-825.6 and 995-996.6

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, nor for higher limits than required by the contract, nor broader than the coverage provided under this Memorandum.

Any officer, director or “employee” of the “authority,” while in the course and scope of his or her duties, with respect to “public officials errors and omissions” coverage.

With respect to any “automobile” owned or leased by the “covered party,” or loaned 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 its actual use is with the permission of the entity named in the Declarations. However, above coverage applies only to those activities described in the certificate of coverage. This protection does not apply to:

- a. 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;
- b. 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.

Notwithstanding sections above, the defense and indemnity coverage afforded by this agreement to a past or present official, "employee" or volunteer of a "member entity" is not broader than the "member entity's" duty to defend and indemnify its official, "employee" or volunteer pursuant to California Government Code §815 to §815.3, §825 to 825.6, inclusive, 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 California 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 California Government Code §815 to §815.3, §825 to §825.6, inclusive, 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.

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" herein. However, for any person: who is an official, "employee," or volunteer of an entity covered herein; 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 who is acting for or on behalf of an entity covered 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.

10. "Dam" means:

Any artificial barrier, together with appurtenant works, which does or may impound or divert water, and which either: (a) is twenty-five (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 fifty (50) acre feet or more.

Any such barrier which is not in excess of six (6) feet in height, regardless of storage capacity, or which has a storage capacity not in excess of fifteen (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 flood waters, no railroad fill or structure, and no road or highway fill or structure, no circular tank constructed of steel or concrete or of a combination thereof, no tank elevated above ground, no water or wastewater treatment facility, 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 or storm water detention or water recharging or

use as a sewage sludge drying facility shall be considered a “dam.”

In addition, no obstruction in the channel of a stream or watercourse which is fifteen (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.”

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 waste from a sewage treatment plant be considered a “dam.” Nor shall any wastewater or storage pond exempted from state regulation or supervision by Water Code §6025.5 be considered a “dam.”

11. “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 of costs arise from an “occurrence” to which this coverage applies.

“Damages” includes 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” 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.

12. “Deductible” means the amount specified in the applicable Declarations which the “covered party” must pay at the direction of the “authority” to cover “defense costs” and/or to satisfy a settlement or judgment.

For each “occurrence,” there shall be only one “deductible” per “covered party” regardless of the number of claimants.

In the case where multiple “member entities” are involved in a single “occurrence,” there shall be a “deductible” for each involved “member entity.”

13. “Defense costs” means all fees and expenses incurred by the “authority” by a “covered party,” caused by and relating to the adjustment, investigation, defense or litigation of a “claim” to which this memorandum applies, including attorney’s fees. “Defense costs” include the expenses of a claims administrator engaged by the “authority” and court costs, which are specifically identifiable with a “claim” subject to this coverage.

“Defense costs” shall not include the office expenses of the “authority” or any “covered party,” nor the salaries of “employees” or officials of the “authority” or of any “covered party,” nor expenses of a claims administrator engaged by a “covered party.” “Defense costs” shall not include attorney fees, interest on judgments or costs awarded to a prevailing plaintiff against the “covered party” or any fee or expense of the “covered party” relating to coverage issues or disputes between the “authority” and any “covered party.”

14. “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.

15. “Employee” means a person whose labor or services is engaged and directed by a “covered party” described 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 of any “covered party” and shall not include any person performing work pursuant to a court order in lieu of a fine or jail sentence. “Employee” also shall not include a spouse, child, unborn child or fetus, parent, brother, sister, or other relative of the “employee.”

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

17. “Limit of coverage” means the amount of coverage stated in the Declarations or Certificate of Coverage for each “covered party,” per “occurrence,” subject to any sub-limit 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. In the event of 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,” 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” “limit of coverage.” If “covered parties” have different limits of coverage, the highest limit for any party found liable by

a final judgment will apply.

18. “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 places 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.

19. “Medical malpractice” means the rendering of or failure to render, during the coverage period, any of the following services: 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 healthcare provider as defined in § 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.

20. “Member entity” means a signatory to the JPA Agreement creating Redwood Empire Municipal Insurance Fund.

21. “Nuclear material” means source material, special nuclear material, or byproduct material. “Source material,” “special nuclear material,” and “byproduct material” have the meaning given to them by the Atomic Energy Act of 1954 or in any law amendatory thereof.

22. “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” and “employment practices liability” respectively: an offense described in the definition of those terms in this memorandum.

c. With respect to “employment practices liability,” an act or omission described in the definitions of “discrimination,” “sexual harassment,” and/or “wrongful termination.”

23. “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 force for the purpose of protecting person or property.

24. "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 materials 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, chemicals used for city sponsored weed abatement or tear gas used by city police personnel.

25. "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 was not physically injured or destroyed.

26. "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 "damages" neither expected nor intended from the standpoint of the "covered party."

27. "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 arbitration the covered parties will pay all costs of the "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 “deductible.” 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.

28. “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 interferes with performance.

29. “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 attorney’s fees or costs awarded to the prevailing party in a suit except where such attorney’s fees or costs are attributable to a claim for compensatory damages covered by this Memorandum.

30. "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 the right 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 liability to which this memorandum would apply. The "covered party" shall fully cooperate in all matters pertaining to such claim or proceeding.

If the "authority" controls 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 "deductible."

No claim shall be settled for an amount in excess of the "deductible" 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.

In the alternative, if a settlement demand acceptable to the "authority" is not acceptable to the "covered party," and the "authority" tenders to the "covered party" an amount equal to the difference between the remainder of the "deductible" and said settlement demand (or up to the applicable Limit of Coverage, whichever is less), then the "authority's" agreement to indemnify or to pay on behalf of the "covered party" for the "ultimate net loss" hereunder shall be discharged and terminated, and the "authority" shall have no further obligations with respect thereto.

SECTION IV - THE AUTHORITY'S LIMIT OF LIABILITY 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 "deductible." (For example, if the "covered party" has a \$500,000 "limit of coverage" and a \$25,000 "deductible," the "authority" will pay not more than \$475,000 after exhaustion of the "deductible.") 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 "authority" may advance the amount of the deductible on behalf of the "member" and the "member" will reimburse such advance upon demand by the "authority."

For any person or entity that is a "covered party," 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.

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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 occur anywhere in the world during the coverage period identified in the applicable declarations 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.

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 merit claims, and/or open account claims.

5. Contractual Obligations

Claims arising out of:

a. A failure to enter into a contract, or 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.

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; or any liability arising from the failure to pay wages earned by an “employee” of a “covered party,” including but not limited to any claim or suit brought under the overtime compensation or minimum wage provisions of the Fair Labor Standards Act, 29 U.S.C. 201 et seq., or any state or local law governing the payment of overtime compensation or minimum wage.; or to any potential or actual liability arising from a “claim” or “claims” which are filed or certified as class actions in which “employees” or other persons represent a class of “employees” who are alleging similar or related “claims”;

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 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 “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 or criminal 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.” Land use planning and land use regulation include the approval or disapproval of any land-use entitlement including but not limited to general plan amendments, zoning amendments, variances, permits, tract maps, development agreements, owner-participation agreements, or disposition-and-development agreements; the approval or disapproval of any rent control ordinance, outdoor advertising ordinance, or adult bookstore ordinance, taxi ordinance; or the approval or disapproval of the operation of a marijuana dispensary whether medical, recreational or otherwise, any ordinances governing that activity, and any and all enforcement efforts.

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

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.

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 firefighting 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 into a home or business, but this extension of coverage does not apply to backups, overflow or runoff into public waterways.

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.

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.

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” if the discharge is discovered within ten (10) days of the occurrence and reported to the “authority” within thirty (30) days of discovery.

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.”

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; or

c. Claim or suit brought under the Clean Water Act, including state or federal enforcement actions under 33 U.S. Code sections 1319, et seq.; citizen suits brought under sections 1365, et seq.; or state enforcement actions brought under the California Water Code sections 13385, et seq.; or claims or suits brought under any similar law relating to discharge permit violations.

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 as determined by the excess pool.

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. Skateparks

“Claims” arising out of a “covered party’s” sponsored or controlled skateboard activities or facilities, except where coverage is provided pursuant to the attached Endorsement.

37. 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.

38. Tumbling Devices

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

39. Uninsured/Underinsured Motorists

Uninsured or underinsured motorist coverage.

40. 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.

41. 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. In the event of an "occurrence" reasonably likely to involve the "covered party" or the “authority,” immediate written notice shall be given by the “covered party” to the “authority” 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 available witnesses.

b. If "claim" is made or suit is brought against the "covered party," the "covered party" shall be obligated to forward immediately to the "authority" every demand, notice, summons or other process received by it or its representatives.

c. The "covered party" shall cooperate with the "authority" and upon its request assist in making settlements, in the conduct of lawsuits 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. The "covered party" shall not, except at its own cost, make any payment, assume any obligation or incur any expense toward the defense and/or settlement of any "claim" or lawsuit without the permission of the "authority."

d. Any payments made or expenses incurred by the "covered party" in relation to the "claim" prior to giving notice of the "claim" or lawsuit to the "authority" shall be the sole responsibility of the "covered party," and the "authority" shall have no obligation to pay said costs or to reimburse the "covered party" therefore.

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 the 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 implicated 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 there under. 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 a primary, excess or contingent basis), the coverage hereunder shall be in excess of, and shall not contribute with, such other insurance or coverage, provided that this clause does not apply with respect to insurance purchased specifically to be in excess of the agreement and/or coverage provided by the California Joint Power Risk Management Authority. 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.

5. Severability of Interests:

The term "covered party" are 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" "limit of coverage." If more than one "member entity" is involved in a "claim" or "occurrence," each entity will be responsible for its full "deductible."

6. Accumulation of limits:

An "occurrence" with duration of more than one coverage period shall be treated as a single "occurrence" arising during the coverage period when the "occurrence" begins.

7. Termination:

This Memorandum may be terminated at any time in accordance with the By-Laws 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 written endorsement issued to form a part of this Memorandum of Coverage.

9. Reduction of Limits:

In the event of reduction or exhaustion of the “deductible” 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 “deductible,” or (b) in the event of exhaustion continue in force as underlying coverage. In no event shall the coverage apply until the “deductible” 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 “deductible.”

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.

[end]

ENDORSEMENT NO. 1

Exclusion set forth in the “authority” Liability Memorandum of Coverage is hereby modified by adding the language set forth herein.

Defense and indemnification for “damages” for an “occurrence” is provided under the attached conditions for Permanent Built-In Skateboard Parks/Facility, Mobile Skateboard Park Facilities and Non-City Sponsored Skateboard Events.

PERMANENT, BUILT-IN SKATEBOARD PARKS/FACILITY (Conditions for Coverage from the Authority)

Design of the facility shall be performed by a licensed designer/architect with experience in skateboard park design. The park shall not include deep vertical drops or half pikes; no obstacles, elements or components of this skating area shall have a vertical drop more than 36.”

Design of the facility must be approved by the city in compliance with necessary government code sections to achieve design immunity. In addition, the “authority’s” conditions for coverage must be reviewed and approved by the city.

There shall be a six foot fence surrounding the facility with sufficient area for a participant to safely perform maneuvers.

There shall be fixed and posted hours of operations.

While using the facility, the participant must use personal safety equipment comprised of least head, knee, and elbow protection. The city shall not be the provider of such equipment.

A facility maintenance check shall be made on at least a daily basis to note and correct safety problems.

If in-line skaters are allowed to use the facility, rules and regulations of usage shall be posted for safety purposes.

The city police department will include the park on a daily routine patrol during the day, evening, weekend and holiday hours.

Food and drink is prohibited inside the fenced area.

No temporary or moveable obstacles or materials (i.e., ramps/jumps) are allowed into the fenced area.

Bicycling is prohibited within the skateboard facility.

Landscaping material must be of a non-shed variety (i.e. no sand, gravel, bark, etc.) and all bushes and trees should be such a distance from the facility as to not litter the facility with

debris.

If the facility is to be used after dark, it must be lighted according to current standards.

The facility shall be locked during hours of non-operation.

The city shall pass an ordinance in compliance with Health and Safety Code 115800 and establish and maintain provisions for its enforcement.

A \$25,000 self-insured retention (deductible) shall apply to all claims/lawsuits resulting from the use of a permanent, built-in park facility.

**MOBILE SKATEBOARD FACILITY
(Conditions for Coverage from the Authority)**

The facility shall be supervised by the city designated personnel who have been trained in the proper supervision of the facility including the proper usage of protective gear, recording and maintenance of waivers signed by participants and parents if the participant is a minor, and the availability of communication equipment in case of an emergency.

Waivers shall be signed by the participants prior to use and, in the case of minors, signed by the parents.

While using the facility, the participant must use personal safety equipment comprised of least head, knee, and elbow protection. The city shall not be a provider of the equipment.

A spectators' area will be maintained that is fenced or somehow barricaded from access to the mobile park.

Prior to usage of the facility, a maintenance check shall be conducted and all deficiencies corrected.

Design of the facility shall be approved by a licensed designer/architect with experience in skateboard park design.

Cities with skateboard facilities will be assessed a \$25,000 deductible for each occurrence.

The city shall pass an ordinance in compliance with Health and Safety Code 115800 and establish and maintain provisions for its enforcement

**NON-CITY SPONSORED SKATEBOARD EVENTS
(Conditions for Coverage from the Authority)**

In the case of non-city sponsored events, the city shall practice risk transference by having the non-city sponsor name the city as an additional insured on their liability policies.

All participants involved in the event shall sign a waiver; and, in the case of minors, parents also sign the waiver.

The event shall be fully staffed by staff of the sponsor of the event.

All participants shall use self-procured safety equipment, none shall be supplied by the city.

There shall be a visitors/spectator area separate from the event area with appropriate fencing or barricades for safety.

A \$25,000 self-insured retention (deductible) shall apply to all claims/lawsuits resulting from skateboard sponsored events.

ENDORSEMENT NO. 2

With respect to “bodily injury” or “property damage” arising out of, and caused by, a “Special Event,” the “deductible” stated in the Declarations Page is amended to \$5,000.

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” does not include:

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 excess program.

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

ENDORSEMENT NO. 3

Scheduled Unmanned Aerial Vehicle

For UAVs owned or operated by a “covered party” that are scheduled for coverage pursuant to this endorsement, Exclusion 1 (Aircraft) is deleted, for Bodily Injury and Property Damage coverage, only, but subject to the “deductible” and Limit of Coverage sublimit.

In order to be a scheduled UAV for purposes of this Endorsement, the Member must report to the “authority” the size, weight, type, manufacturer, and value of the UAV, and it must be endorsed for coverage. In the event of a loss involving a UAV not scheduled and endorsed for coverage, there will be no coverage under this Endorsement.

In order for coverage to apply, the Member operating the UAV must be operated by a remote pilot certified with a small UAS rating, pursuant to FAA regulations. Unlicensed operation of a UAV is not covered under this Endorsement.

This Endorsement forms a part of the Memorandum of Coverage for the Program Year indicated above.

ATTACHMENT A

**REDWOOD EMPIRE MUNICIPAL INSURANCE FUND
LIABILITY MEMORANDUM OF COVERAGE
DEDUCTIBLES FOR EACH MEMBER CITY/TOWN**

Coverage Period: July 1, 2018 to June 30, 2019

Limit of Coverage: \$500,000 each "OCCURRENCE"

COVERED PARTY	DEDUCTIBLE
REMIF	0
CITY OF ARCATA	5,000
CITY OF CLOVERDALE	5,000
CITY OF COTATI	5,000
CITY OF EUREKA	25,000
CITY OF FORT BRAGG	5,000
CITY OF FORTUNA	5,000
CITY OF HEALDSBURG	5,000
CITY OF LAKEPORT	10,000
CITY OF ROHNERT PARK	25,000
CITY OF SEBASTOPOL	5,000
CITY OF SONOMA	5,000
CITY OF ST. HELENA	10,000
CITY OF UKIAH	25,000
CITY OF WILLITS	5,000
TOWN OF WINDSOR	10,000
CITY OF ARCATA COMMUNITY DEVELOPMENT AGENCY	5,000

COVERED PARTY	DEDUCTIBLE
CITY OF CLOVERDALE COMMUNITY DEVELOPMENT AGENCY	5,000
CITY OF CLOVERDALE REDEVELOPMENT AGENCY	5,000
CITY OF COTATI REDEVELOPMENT AGENCY	5,000
COTATI FACILITIES FINANCING AUTHORITY	5,000
CITY OF COTATI INDUSTRIAL DEVELOPMENT AUTHORITY	5,000
CITY OF EUREKA REDEVELOPMENT AGENCY	25,000
CITY OF FORT BRAGG JOINT POWERS FINANCING AUTHORITY	5,000
CITY OF FORT BRAGG REDEVELOPMENT AGENCY	5,000
FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT	5,000
FORT BRAGG CAPITAL IMPROVEMENT AUTHORITY	5,000
FORTUNA PUBLIC IMPROVEMENT CORPORATION	5,000
FORTUNA REDEVELOPMENT AGENCY	5,000
FORTUNA PUBLIC FINANCING AUTHORITY added 1/94	5,000
HEALDSBURG COMMUNITY REDEVELOPMENT AGENCY	5,000
CITY OF HEALDSBURG INDUSTRIAL DEVELOPMENT AUTHORITY	5,000
HEALDSBURG PUBLIC IMPROVEMENT CORPORATION	5,000
HEALDSBURG DOWNTOWN PARKING AND BUSINESS IMPROVEMENT DIST. 6/94	5,000
CITY OF LAKEPORT MUNICIPAL SEWER DISTRICT #1	10,000
CITY OF LAKEPORT REDEVELOPMENT AGENCY	10,000

COVERED PARTY	DEDUCTIBLE
ROHNERT PARK CIVIC COMMISSION	25,000
ROHNERT PARK COMMUNITY SERVICES DISTRICT	25,000
CITY OF ROHNERT PARK GOLF COURSE CORPORATION	25,000
CITY OF ROHNERT PARK RECREATION CORPORATION	25,000
COMMUNITY DEVELOPMENT COMMISSION OF CITY OF ROHNERT PARK	25,000
ROHNERT PARK ASSOCIATION FOR THE ARTS	25,000
SEBASTOPOL INDUSTRIAL DEVELOPMENT AUTHORITY	5,000
SEBASTOPOL COMMUNITY DEVELOPMENT AGENCY	5,000
CITY OF SONOMA – SONOMA CREEK SENIOR HOUSING	5,000
SONOMA COMMUNITY DEVELOPMENT AGENCY added 7/1/94	5,000
CITY OF UKIAH REDEVELOPMENT AGENCY	25,000
CITY OF WILLITS PUBLIC FACILITIES CORPORATION	5,000
CITY OF WILLITS COMMUNITY DEVELOPMENT COMMISSION	5,000
CITY OF WILLITS INDUSTRIAL DEVELOPMENT AUTHORITY	5,000
TOWN OF WINDSOR/WINDSOR WATER DISTRICT	10,000
TOWN OF WINDSOR REDEVELOPMENT AGENCY	10,000

ATTACHMENT B

The excess pool, the California Joint Powers Risk Management Authority (“CJPRMA”) from time to time provides sublimits to cover items that might normally be excluded from coverage. All sublimits are outlined in the CJRPMA Memorandum of Coverage (“MOC”), attached hereto and fully incorporated herein. There are sublimits for (including but not limited to): EPL, discrimination class action/subsidence, fungal pathogens, sexual abuse – daycare operations, terrorism, airport, pollution, and property of a covered party.