

**REDWOOD EMPIRE MUNICIPAL
INSURANCE FUND
LIABILITY MEMORANDUM
OF COVERAGE
FOR FY 2016 - 2017**

**REDWOOD EMPIRE MUNICIPAL INSURANCE FUND
LIABILITY MEMORANDUM OF COVERAGE
DECLARATIONS**

Coverage Period: July 1, 2016 to June 30, 2017

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

COVERED PARTY	DEDUCTIBLE
R.E.M.I.F.	\$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	5,000
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

DECLARATIONS 2016-2017

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

DECLARATIONS 2016-2017

COVERED PARTY	DEDUCTIBLE
ROHNERT PARK CIVIC COMMISSION	\$ 5,000
ROHNERT PARK COMMUNITY SERVICES DISTRICT	5,000
CITY OF ROHNERT PARK GOLF COURSE CORPORATION	5,000
CITY OF ROHNERT PARK RECREATION CORPORATION	5,000
COMMUNITY DEVELOPMENT COMMISSION OF CITY OF ROHNERT PARK	5,000
ROHNERT PARK ASSOCIATION FOR THE ARTS	5,000
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

R.E.M.I.F.

**MEMORANDUM OF COVERAGE FOR
LIABILITY PROGRAM**

TABLE OF CONTENTS

SECTION I

COVERAGES B-8

SECTION II

DEFINITIONS B-9

SECTION III

DEFENSE AND SETTLEMENT.....B-16

SECTION IV

LIMIT OF COVERAGE B-16

SECTION V

COVERAGE PERIOD AND TERRITORYB-18

SECTION VI

EXCLUSIONS..... B-17

SECTION VII

CONDITIONS.....B-23

SECTION VIII

ENDORSEMENTS.....B-28

MEMORANDUM OF COVERAGE

FOR THE

REDWOOD EMPIRE MUNICIPAL INSURANCE FUND

(Hereinafter referred to as REMIF)

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

POOLED LIABILITY PROGRAM

PROGRAM YEAR: 2016 - 2017

Throughout this Memorandum, words and phrases that appear in quotation marks have special meaning. They are defined in Section II-Definitions. 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 REMIF 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 REMIF, acting through the Board of Directors in adopting this Memorandum. As REMIF 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 REMIF 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.

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

SECTION I – COVERAGES

REMIF 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” 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. REMIF 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,” 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 REMIF 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.

SECTION II – DEFINITIONS

1. “Aircraft” means a vehicle designed for the transport of persons or property principally in the air.
2. “Airport” means an area of land or water used or intended to be used for the landing and taking off of aircraft; including an appurtenant area used or intended to be used for “airport” buildings or other “airport” facilities or right of way; and “airport” buildings and facilities located in any of these areas. “Airport” includes a heliport.
3. “Automobile” means a land motor vehicle, trailer or semi-trailer.
4. “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.”
5. “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.”
6. “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.
7. “Covered indemnity contract” means that part of any contract or agreement pertaining to the “covered party’s” routine governmental operations; under which the “covered party” assumes the tort liability of another party to pay for “bodily injury” or “property damage” to a third person or organization. This definition applies only to liability that would be imposed by law in the absence of any contract or agreement arising out of an “occurrence” to which this memorandum applies.
8. “Covered party” means:
 - (a) The entity 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. Entity includes all departments and constituent agencies of the entity, except a hospital board or commission, regardless of how such body is denominated.

- (b) Persons who are past or present elected or appointed officials, “employees” or volunteers of the “covered party,” whether or not compensated, while acting 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 a joint powers authority, subject to the 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 REMIF than the obligation of the “covered party” contained in Government Code § 825-825.6 and 995-996.6

- (c) Any person or entity identified as a “covered party” holding a certificate of coverage duly issued by REMIF, 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.
- (d) Any officer, director or “employee” of the Redwood Empire Municipal Insurance Fund, while in the course and scope of his or her duties, with respect to “public officials errors and omissions” coverage.
- (e) With respect to any “automobile” owned or leased by the “covered party” (described in (a), (b), (c), or (d) above), or loaned or hired for use by or on behalf of the “covered party” (described in (a), (b), (c), or (d) above), 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, in (c) above coverage applies only to those activities described in the certificate of coverage.

This protection does not apply to:

- (1) Any person or organization, or any agent or “employee” thereof, operating an “automobile” sales agency, repair shop, service station, storage garage or public parking place, with respect to an “occurrence” arising out of the operation thereof;
- (2) The owner or any lessee, other than the “covered party,” of any “automobile” hired by or loaned to the “covered party” or to any agent or “employee” of such owner or lessee.

This agreement does not provide uninsured or underinsured motorist coverage.

- (f) Notwithstanding sections (b), (d) or (e) above, the defense and indemnity coverage afforded by this agreement to a past or present official, “employee” or volunteer of a “member entity” (described in (a), (b) or (d) above) 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 REMIF to bar any defense or indemnity coverage under this agreement to that “member entity’s” official, “employee” or volunteer.
- (g) No person or entity is a “covered party” with respect to the conduct of any current or past partnership, joint venture or joint powers authority unless all members are “covered parties” under (a) or (b) herein in the Declarations. However, for any person: who is an official, “employee”, or volunteer of an entity covered by (a) or (b) herein; (2) who participates in the activities of any partnership, joint venture or joint powers authority (or any separate agency or entity created under any joint powers agreement by the named entity); and (3) who is acting for or on behalf of an entity covered by (a) or (b) herein at the time of the “occurrence,” then coverage is afforded by this agreement. Such coverage will be in excess of and shall not contribute with any collectible insurance or other coverage provided to the other joint powers authority, agency or entity.

9. “Dam” means:

- (a) 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.
- (b) 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.”
- (c) 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.” 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.”

10. “Damages” means compensation in money recovered by a party for loss or detriment it has suffered through the acts of a “covered party.” “Damages” 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” also include attorney fees not based on contract awarded against the “covered party”, interest on judgments, or costs for which the “covered party” is liable either by adjudication or by compromise with the written consent of REMIF, if the fees, interest or costs arise from an “occurrence” covered by this Memorandum.
11. “Deductible” means the amount specified in the applicable Declarations which the “covered party” must pay at the direction of REMIF to cover “defense costs” and/or to satisfy a settlement or judgment.
 - (a) For each “occurrence,” there shall be only one “deductible” per “covered party” regardless of the number of claimants.
 - (b) In the case where multiple “member entities” are involved in a single “occurrence,” there shall be a “deductible” for each involved “member entity.”
12. “Defense costs” means all fees and expenses incurred by REMIF on behalf of a “covered party,” caused by and relating to the adjustment, investigation, defense or litigation of a “claim” to which this memorandum applies, including defense attorney’s fees. “Defense costs” include the expenses of a claims administrator engaged by REMIF and court costs, which are specifically identifiable with a “claim” subject to this coverage. “Defense costs” shall not include the office expense of REMIF or any “covered party,” nor the salaries of “employees” or officials of REMIF 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 REMIF and any “covered party.”

13. “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.
14. “Employee” means a person whose labor or services is engaged and directed by a “covered party” described in definition 8 (a), (b), or (d). 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.”
15. “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.”
16. “Marina” means facilities which include floating docks, boat berthing spaces, marine fueling operations, marine repair facilities, storage facilities for boats and other related marine materials, and other related facilities in which berthing 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.
17. “Medical malpractice” means the rendering of or failure to render, during the coverage period, any of the following services:
 - (a) medical, surgical, dental, psychiatric, psychological counseling, x-ray or nursing service or treatment or the furnishing of food or beverages in connection therewith; or any services provided by a 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.

18. “Member entity” means a member or associate member that is a participant in the Redwood Empire Municipal Insurance Fund pooled liability program.
19. “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.
20. “Occurrence” means:
- (a) With respect to “bodily injury” or “property damage,” an accident, including continuous or repeated exposure to substantially the same generally harmful conditions which results in “bodily injury” or “property damage” neither expected nor intended from the standpoint of the “covered party.” “Property damage” that is loss of use of tangible property that is not physically injured shall be deemed to occur at the time of the “occurrence” that caused it.
 - (b) With respect to “personal injury” and “public officials errors and omissions” respectively: an offense described in the definition of those terms in this memorandum.
21. “Personal injury” means injury, other than “bodily injury,” arising out of one or more of the following offenses:
- (a) false arrest, detention or imprisonment, or malicious prosecution;
 - (b) wrongful entry into, or eviction of a person from a room, dwelling or premises that the person occupies;
 - (c) publication or utterance of material that slanders or libels a person or organization or disparages a person’s or organization’s goods, products or services, or oral or written publication of material that violates a person’s right of privacy;
 - (d) discrimination or violation of civil rights, however, there is no “personal injury” coverage for injuries claimed to have arisen out of a violation of civil rights when such injuries are asserted in conjunction with a claim for refund or restitution after taxes, fees or assessments or a claim arising out of or in connection with land use regulations, land use planning, the principles of eminent domain, condemnation proceedings or inverse condemnation by whatever name called;

- (e) injury resulting from the use of force for the purpose of protecting person or property.
22. “Pollutants” means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, airborne particles or fibers, asbestos, lead, and waste. Waste includes 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.
23. “Property damage” means:
- (a) physical injury to tangible property, including all resulting loss of use of that property; or
 - (b) loss of use of tangible property that was not physically injured or destroyed.
24. “Public officials errors and omissions” means any actual or alleged misstatement or misleading statement or act or omission by any “covered party” (individually or collectively) arising in the course and scope of their duties with the “covered party” or claimed against them solely by reason of their being or having been public officials or “employees”, and which results in “damages” neither expected nor intended from the standpoint of the “covered party.”
25. “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.
26. “Ultimate net loss” means “damages,” attorney fees and/or costs actually paid or payable in settlement or satisfaction of a “claim,” or as “defense costs,” for which the “covered party” is liable either by adjudication or by compromise, after making prior deduction for all recoveries and salvages and other collectible insurance. “Ultimate net loss” does not include attorney fees or costs awarded to the prevailing party in a suit except where such attorney fees or costs are attributable to a “claim” for “compensatory damages” covered by the Memorandum of Coverage. In the event several “covered parties” are involved in the loss, the “ultimate net loss” will be apportioned between the “covered parties” by dividing the loss by the number of entities involved, unless and until liability of the various “covered parties” is determined by arbitration of judgment, at which time the “ultimate net loss” will be apportioned by the relative liabilities of the “covered parties” but will not exceed the “limit of coverage” per “occurrence.”

27. "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

REMIF shall have the right to control the negotiation, investigation, defense, appeal or settlement of any "claim" or proceeding which, in the opinion of REMIF, is or may be covered by this memorandum. The "covered party" shall fully cooperate in all matters pertaining to such "claim" or proceeding. No "claim" shall be settled without the prior written consent of REMIF, and REMIF shall not be required to contribute to any settlement, to which it has not consented. If REMIF denies coverage for a "claim", the "covered party" may elect to litigate or settle the "claim" on its own behalf. In either event, however, the "covered party" shall be liable for the final amount of any judgment or settlement, including all related costs and fees in connection therewith, unless and until it has been determined by arbitration or final court judgment that REMIF has coverage for the "claim" under this Memorandum of Coverage.

SECTION IV - REMIF'S LIMIT OF LIABILITY COVERAGE

Regardless of the number of: (1) persons or entities covered under this agreement; (2) persons or organizations making "claims" or bringing suits; or (3) "claims" made or suits brought, the "limit of coverage" stated on the Declarations, or any sublimit contained in this memorandum is the most REMIF will pay for an "ultimate net loss" arising out of any one "occurrence." The "limit of coverage" for an additional "covered party" (including its officials, "employees" and volunteers) shall be the limit stated in its additional "covered party" certificate, regardless of the limit which applies to the "member entity."

The excess JPA, CJPRMA, has established sublimits for different types of occurrences. Please see Attachment "A".

SECTION V - COVERAGE PERIOD AND TERRITORY

This agreement applies to "bodily injury," "personal injury," "property damage" or "public officials errors and omissions," which occur anywhere in the world during the coverage period identified in the applicable Declaration or certificate of coverage.

SECTION VI - EXCLUSIONS

This agreement does not apply to:

1. "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 to 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. The excess JPA (CJPRMA) has a sublimit, see Attachment "A."
- (c) This exclusion does not apply to "claims" arising from the sudden and accidental discharge, dispersal, release, or escape of chlorine and other chemical (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. The excess JPA (CJPRMA) has a sublimit, see Attachment "A."
- (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. The excess JPA (CJPRMA) has a sublimit, see Attachment "A."
- (e) This exclusion does not apply to sudden and accidental discharge of "pollutants" occurring during the transportation or deposit of materials as part of garbage collection activities. However, the exclusion does apply after the "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," if such action is in response to a spill, release or other hazardous condition which was not from premises, equipment or locations under the control of a "covered party."

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

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

2. 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.
- 3. “Claims” by a potential, present or former “employee” arising out of employment-related practices, a violation of civil rights, practices, policies, acts or omissions, including hiring, termination, coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person. This exclusion extends to “claims” of the spouse, child, unborn child or fetus, parent, brother or sister of that person as a consequence of injury to the person at whom any of the employment-related practices, policies, acts or omissions described above are directed. This exclusion applies to “claims” of negligent supervision and/or “claims” of failure to prevent such employment-related practices, policies, acts or omissions.
- 4. “Claims” for “bodily injury” sustained by:

- (a) An “employee” or former “employee” or co-employee of the “covered party” arising out of and in the course of employment by the “covered party” or performing duties related to the conduct of the “covered party’s” business; or
- (b) The spouse, child, unborn child or fetus parent, brother or sister of that “employee” as a consequence of (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.”

- 5. Any obligation for which the “covered party” or any insurance company as its insurer may be held liable under any workers' compensation, unemployment compensation or disability benefits law or any similar law.
 - (a) These exclusions, 3, 4, and 5 apply whether the “covered party” may be liable as an employer or in any other capacity.
- 6. “Claims” arising out of ownership, maintenance, management, supervision, condition or operation of any hospital
- 7. “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” coverage arising from the ownership, maintenance, management, supervision or the condition of any airport. The excess JPA (CJPRMA) has a sublimit, for claims under this exclusion if coverage is provided for “public officials”, see Attachment “A.”

8. “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;
 - (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.”
9. “Claims” arising out of any professional “medical malpractice” committed by a doctor, osteopath, chiropractor, dentist or veterinarian, or committed by any health care provider (as defined in Business & Professions Code §6146(c)(2)) working for any hospital or hospital operated out-patient or other clinic at the time of the “occurrence” giving rise to the loss.
10. “Claims” arising out of partial or complete structural failure of a “dam.”
11. “Claims” for injury or “damages” caused by intentional conduct done by the “covered party” with willful and conscious disregard of the rights or safety of others, or with malice. However, where the “covered party” did not authorize, ratify, participate in, consent to, or have knowledge of such conduct by its past or present “employee”, elected or appointed official or volunteer and the “claim” against the “covered party” is based solely on its vicarious liability arising from its relationship with such “employee”, official or volunteer, this exclusion does not apply to said “covered party.”
12. “Claims” arising out of the hazardous properties of “nuclear material”.
13. “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.” This exclusion shall not apply to inverse condemnation liability arising from accidentally caused physical injury to or destruction of tangible property, including all resulting loss of use of such property, for which the “covered party” may be legally responsible.
14. “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.

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

The excess JPA (CJPRMA) has a sublimit for all claims that are exceptions to this exclusion, see Attachment "A."

15. "Claims" arising out of the ownership, operations, 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.
16. "Claims" arising out of the ownership, operation, maintenance or use of any vehicle:
(1) with over 30 passenger 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 "covered party."
17. "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.
18. "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, process or transmit the gas, water, electricity, storm drainage, or sewage.
19. "Claims" arising out of the ownership, operation, maintenance or use of any trampoline or other rebound tumbling device.
20. "Claims" arising out of a "covered party's" sponsored or controlled skateboard activities or facilities.
21. 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 "employee" or in any other capacity.
22. "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 (b). This exclusion does not apply to use by another public agency 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;
 - (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 entity" as an additional "covered party."
23. Refund or restitution of taxes, fees or assessments.
24. "Claims": arising out of any air show sponsored or controlled by the "covered party."
25. "Claims": (a) for refund, reimbursement or repayment of any monies to which a "covered party" was not legally entitled; or (b) arising out of the willful violation of a statute or ordinance committed by the "covered party" or with its consent.
26. "Claims" arising out of (a) estimates of probable cost or cost estimates being exceeded or faulty preparation of bid specifications or plans including architectural plans; or (b) mechanic's liens, 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.
27. "Claims" arising out of:
- (a) A failure to perform or breach of a contractual obligation.
 - (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.
28. "Claims" arising out of the "employee" Retirement Income Security Act of 1974 or any law amendatory thereof, or any similar law or liability arising out of fiduciary activities as respects "employee" benefits plans.

29. 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 referred 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."
30. "Ultimate net loss" arising out of relief, or redress, in any form other than money "damages."
31. "Claims" arising out of bungee jumping or propelling activities sponsored, controlled or authorized by a "covered party."
32. 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.
33. "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."
34. "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.
35. Any expense or cost incurred by a "covered party" arising from reasonable accommodation of any disabled person, including any "employee" due to any local, state, or federal law, court order, administrative order or agreement.
36. (1) "Bodily injury" or "property damage" arising out of the use of any motorized watercraft owned, operated, rented, leased, or loaned to a "covered party" unless such use is by an entity "employee" acting within the course and scope of employment; and (2) to motorized 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, loading and unloading. "Owned, operated, rented, leased, or loaned" as used herein, does not include static displays of watercraft in a park or museum setting.
37. "Claims" arising out of an automobile or motorcycle drag racing, speed racing, or similar speed contests sponsored, controlled or participated in by a "covered party."
38. 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.

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 REMIF, immediate written notice shall be given by the "covered party" to REMIF 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 REMIF every demand, notice or summons.
 - (c) The "covered party" shall cooperate with REMIF 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," "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 REMIF.
 - (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 REMIF shall be the sole responsibility of the "covered party," and REMIF shall have no obligation to pay said costs or to reimburse the "covered party" therefore.
2. Action Against REMIF/Subrogation:
 - (a) No action shall lie against REMIF 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 REMIF. 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 REMIF as a party to any action against the "covered party" to determine the "covered party's" liability, nor shall REMIF be impleaded by the "covered party" or its legal representative.

- (b) REMIF shall be subrogated to the extent of any payment hereunder 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) REMIF 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 REMIF, it shall bear the expenses thereof.

3. Bankruptcy or Insolvency:

Bankruptcy or insolvency of the "covered party" shall not relieve REMIF 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" and its sub-terms including entity, "covered individual" and "additional 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 REMIF'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 a 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 REMIF.

8. Changes:

Notice to any agent or knowledge possessed by any agent of REMIF or by any other person shall not effect 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. Arbitration:

This procedure is optional with the cities. If the city elects arbitration, these procedures will apply.

The following procedures shall be followed in resolving any dispute, "claim", or controversy arising out of or connected with the agreements set forth in the REMIF Memorandum of Coverage for the pooled liability program. Such disputes shall be resolved by either administrative proceedings or binding arbitration as provided herein. The "parties" in these proceedings shall be REMIF and the "covered party" named in the Declarations and hereinafter referred to as "party" or "parties."

(a) Administrative procedures for resolving disputes:

All disputes subject to the proceedings shall first be submitted to the chief executive officer to determine whether the dispute can be resolved by administrative proceedings without having to be submitted to binding arbitration.

A decision by the general manager can be appealed to the board of directors. Notice of such appeal shall be submitted in writing within thirty (30) calendar days from the date of the general manager's written notice of decision.

The appeal shall be considered by the board of directors within thirty (30) calendar days from the date of receipt of the written appeal. The chief executive officer and

the "covered party" will have the right to submit written materials and present oral argument to the board, subject to reasonable time restraints. The decision of the board of directors may be submitted to binding arbitration in accordance with the procedures set forth in Paragraph (b) below. Notice of the appeal for binding arbitration must be submitted within thirty (30) calendar days from the date of the noticed decision by the board of directors.

(b) Arbitration procedures for resolving disputes:

(1) Selection of arbitrators:

If an appeal of an administrative decision is submitted to arbitration, each "party" shall, within ten (10) calendar days, select one (1) arbitrator and submit his or her name in writing to the other "party". Within ten (10) calendar days after their selection, these two arbitrators shall select a third independent arbitrator. No arbitrator shall be employed or affiliated with REMIF, California Joint Powers Risk Management Authority or the "covered party." If the two "parties" cannot agree on the selection of the third arbitrator within ten (10) calendar days, either "party" may petition the Sonoma County Superior Court for the appointment of the third arbitrator pursuant to the provisions of Section 1281.6 of the California Code of Civil Procedure. The third arbitrator shall be an attorney and preside as the Chairperson of the arbitration panel.

The arbitration hearing shall commence within forty-five (45) calendar days from the date of the selection of the chairperson. Each "party" shall pay the cost of its selected arbitrator and one-half of the cost of the third selected arbitrator. In addition, each "party" shall be responsible for its own cost and expense of arbitration.

Except for notification of appointment and as provided in the California Code of Civil Procedure, there shall be no communication between the "parties" and the arbitrator(s) relating to the subject of the arbitration other than at oral hearings.

(c) Discovery:

The procedures set forth in California Code of Civil Procedure § 1283.05 relating to depositions and discovery shall apply to any arbitration pursuant to this Paragraph (b).

(d) Testimony under oath:

The testimony of witnesses shall be given under oath.

(e) Length of hearing:

The panel will endeavor to confine the length of the hearing to two (2) days. A decision of the panel shall be reported in writing. The written decision of the panel shall be given to both "parties" within thirty (30) calendar days of the close of the hearing.

(f) Certified shorthand reporter:

Either "party" wishing a certified shorthand reporter record shall make arrangements directly with a certified shorthand reporter and notify the other "party" of such arrangements in advance of the hearing. The requesting "party" shall pay the cost of recording the hearing if no transcript is ordered. If a transcript is ordered, the cost of the transcript and of recording the hearing shall be prorated equally among the "parties" ordering copies.

(g) Funding of defense and payment of "claims" pending resolution of dispute:

During the course of the administrative and arbitration proceedings provided herein, the "covered party" will be responsible for all fees and expenses for investigation, defense or litigation of a "claim" or lawsuit. In the event the arbitration panel determines that a duty of defense applies, REMIF will reimburse the "covered party" for "defense costs" as defined in Section II-11

(h) Effect of arbitration decisions:

All decisions on appeals, whether by the board of directors (after the time to request arbitration has expired) or by an arbitration panel, shall be final and binding upon the "parties" and shall not be subject to any further appeal or court action, except as provided in the code of Civil Procedures Sections 1286.2 or 1286.4 (relating to fraud or corruption, etc.).

(i) General law applier:

Except as provided otherwise above, arbitration shall be conducted as provided in Title 9 of the Code of Civil Procedure (commencing with § 1280).

(j) Not applicable to California Joint Powers Risk Management Authority:

These arbitration provisions are intended to bind only REMIF and its members. They are not intended to be binding upon the California Joint Powers Risk Management Authority.

ENDORSEMENT NO. 1

EMPLOYMENT PRACTICES LIABILITY COVERAGE

Section I – Coverage:

REMIF will pay up to the “limit of coverage” those sums for “ultimate net loss” in excess of the “deductible” that the “covered parties” become legally obligated to pay as “damages” because of “employment practices liability” as that term is herein defined and to which this endorsement applies, caused by an “occurrence” during the coverage period, except as otherwise excluded. In addition to the definitions and exclusions included elsewhere in the Memorandum of Coverage, for purposes of this endorsement, the following definitions and exclusions apply.

Section II – Definitions:

Where a term defined below is also defined elsewhere in the Memorandum of Coverage, the definition of that term provided below shall replace such other definition for purposes of this endorsement, unless expressly provided otherwise herein. The following added definitions and amendments to existing definitions apply only with respect to “employment practices liability” coverage provided by this endorsement.

1. “Covered party” shall be defined as provided in the Memorandum of Coverage Section II 8 (a), (b), and (d), but shall not include any person who is not acting within the course and scope of his or her employment or office, or whose conduct is not within the course and scope of his or her employment or office by the “covered party” at the time of the act or acts alleged in a “claim.”
2. “Damages” shall be defined as provided in the Memorandum of Coverage but shall not include those sums owed by a “covered party” as contract “damages”, prospective benefits, 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” also shall not include amounts awarded under a labor or grievance 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.

3. “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.

4. "Employee" means a person whose labor or services is engaged and directed by a "covered party" described in definition 8 (a), (b), or (d). This includes part-time, seasonal, and temporary labor or services, as well as any person employed in a supervisory, managerial or confidential positions. "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."
5. "Employment practices liability" means liability arising from "discrimination," "sexual harassment", and/or "wrongful termination" against an "employee," former "employee" or applicant for employment of a "covered party."
6. "Occurrence" is defined in the Memorandum of Coverage in item 19 of Section II and further means, with respect to "employment practices liability" an offense described in the definitions of "discrimination", "sexual harassment", and/or "wrongful termination" as those terms are used in this agreement.
7. "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.
8. "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 – Exclusions:

All exclusions in the Memorandum of Coverage, except exclusion (3) apply to this endorsement. Additionally, this endorsement does not apply:

1. to any potential or actual liability for intentional conduct done with willful or conscious disregard of the rights or safety of others, or with malice, or conduct which is deemed to be fraudulent or a willful violation of law, either by statute, case law, or by the court in which the "claim" is pending. 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 on its vicarious liability arising from its relationship with such "employee" or official, this exclusion does not apply to said "covered party";
2. to any potential or actual liability arising from a "claim" or "claims" which are filed or certified as class actions in which "employee's" or other persons represent a class of "employee's" who are alleging similar or related "claims";
3. to any "damages" or "ultimate net loss" otherwise covered under the Memorandum of Coverage;

4. 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;
5. to any potential or actual liability arising out of the Workers' Adjustment or Retraining Notification Act, Public Law 100-379 (1988), or any amendment thereto, or any similar federal, state or local law; or
6. to any exposure or costs incurred by a "covered party" arising from reasonable accommodation to any disabled person, including any "employee."

CJPRMA, in conjunction with its reinsurer, has a single occurrence annual aggregate sublimit for each REMIF "member entity" for Employment Practices Liability, see Attachment "A."

ENDORSEMENT NO. 2

Exclusion No. 20 set forth in the REMIF 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 REMIF)

1. 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”.
2. Design of the facility must be approved by the city in compliance with necessary government code sections to achieve design immunity. In addition, REMIF’s conditions for coverage must be reviewed and approved by the city.
3. There shall be a six foot fence surrounding the facility with sufficient area for a participant to safely perform maneuvers.
4. There shall be fixed and posted hours of operations.
5. 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..
6. A facility maintenance check shall be made on at least a daily basis to note and correct safety problems.
7. If in-line skaters are allowed to use the facility, rules and regulations of usage shall be posted for safety purposes.
8. The city police department will include the park on a daily routine patrol during the day, evening, weekend and holiday hours.
9. Food and drink is prohibited inside the fenced area.
10. No temporary or moveable obstacles or materials (i.e., ramps/jumps) are allowed into the fenced area.
11. Bicycling is prohibited within the skateboard facility.
12. 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.
13. If the facility is to be used after dark, it must be lighted according to current standards.
14. The facility shall be locked during hours of non-operation.
15. The city shall pass an ordinance in compliance with Health and Safety Code 115800 and establish and maintain provisions for its enforcement.
16. 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 REMIF)

1. 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.
2. Waivers shall be signed by the participants prior to use and, in the case of minors, signed by the parents.
3. 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.
4. A spectators area will be maintained that is fenced or some how barricaded from access to the mobile park.
5. Prior to usage of the facility, a maintenance check shall be conducted and all deficiencies corrected.
6. Design of the facility shall be approved by a licensed designer/architect with experience in skateboard park design.
7. Cities with skateboard facilities will be assessed a \$25,000 deductible for each occurrence.
8. 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 REMIF)

- (1) 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.
- (2) All participants involved in the event shall sign a waiver; and, in the case of minors, parents also sign the waiver.
- (3) The event shall be fully staffed by staff of the sponsor of the event.
- (4) All participants shall use self-procured safety equipment, none shall be supplied by the city.
- (5) There shall be a visitors/spectator area separate from the event area with appropriate fencing or barricades for safety.
- (6) A \$25,000 self-insured retention (deductible) shall apply to all claims/lawsuits resulting from skateboard sponsored events.

ATTACHMENT "A"

The excess joint powers authority, the California Joint Powers Risk Management Authority (authority) from time to time provides sublimits to cover items that might normally be excluded from coverage. The following states those sublimits for each coverage period:

SECTION IV – THE AUTHORITY’S LIMIT OF COVERAGE

The *limit of coverage* is the most the *Authority* will pay for *ultimate net loss* arising out of any *occurrence*, and the amount payable for *ultimate net loss* under this agreement shall be reduced by the amount of the *retained limit*. (For example, if the *covered party* has a \$25,000,000 *limit of coverage* and a \$500,000 *retained limit*, the *Authority* will pay not more than \$24,500,000 after exhaustion of the *retained limit*). For each *occurrence*, there shall be only one *limit of coverage* regardless of the number of claimants or covered parties against whom a claim is made. The *limit of coverage* for an additional *covered party* (including its officials, *employees* and volunteers) shall be the limit stated in its additional *covered party* certificate, regardless of the limit that applies to the *member entity*.

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

EPL Sublimit/Aggregate Limit

A sublimit applies to *employment practices liability*. For any claims arising out of *employment practices liability*, the *limit of coverage* will be \$5,000,000 per *occurrence*. All allegations by an employee or former *employee* or applicant for employment in the same claims shall be considered as one *occurrence* for the purpose of the *limit of coverage*. All *claims* by all *employees* or former *employees* or applicants for employment arising from the same act, policy, or course of conduct by a *covered party* shall be considered as one *occurrence* for the purpose of the *limit of coverage*. All *claims* which allege *employment practices liability* of *occurrences* extending to a duration of more than one coverage period shall be treated as a single occurrence arising during the first coverage period when the *occurrence* begins.

This sublimit for *employment practices liability* will further be subject to an annual aggregate limit, so that the \$5,000,000 *limit of coverage* is the most the *Authority* will pay for all *ultimate net loss* arising out of *employment practices liability* for any *covered party* (inclusive of its *employees*, commissions, agencies, districts, authorities or boards), as defined in Section II(8)(a) or (b) for any coverage year.

Discrimination Class Action/Subsidence Sublimits

For *personal injury* claims arising from *discrimination*, the *limit of coverage* in any class action suit will be \$5,000,000 per *occurrence*. For *bodily injury*, *property damage* or *personal injury* arising out of the subsidence of land or earth, the sublimit will be \$5,000,000 per *occurrence*.

Fungal Pathogens Sublimit

A sublimit applies to any loss, cost or expense directly or indirectly arising out of or related to have exposure to “fungal pathogens,” whether or not there is another cause of loss that may have contributed concurrently or in any sequence to the loss. The sublimit will be \$10,000,000 per occurrence, subject also to a \$10,000,000 annual aggregate collectively for all covered parties.

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

Sexual Abuse – Daycare Operations Sublimit

A sublimit applies to “sexual abuse” arising out of daycare operations. The sublimit will be \$10,000,000 per occurrence, subject also to a \$10,000,000 annual aggregate collectively for all covered parties. All claims based on or arising out of “sexual abuse” as respects daycare operations by the covered party’s employee and/or volunteer, or more than one of the covered party’s employees and/or volunteers acting in concert, will be considered as arising out of one occurrence regardless of:

- (7) the number of persons sexually abused;
- (8) the number of locations where the sexual abuse occurred;
- (9) the number of acts of sexual abuse; or
- (10) the period of time over which the sexual abuse took place

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

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

Terrorism Sublimit

For any *ultimate net loss* arising directly or indirectly from any act or multiple, related acts of *terrorism*, regardless of any other cause or event contributing concurrently or in sequence to the loss, there will be a general aggregate limit within Pool D, only. The designated general aggregate limit of \$5,000,000 is the most the Authority will pay from Pool D because of such claims for all *covered parties*, combined, in any program year. Should it appear to the Board of Directors that the total exposure for all such claims in a program year may exceed this \$5,000,000 general aggregate limit, the aggregate limit will be prorated between the *member entities*, on the basis of the *member entities’* respective premium contributions for the program year at issue. For purposes of determining whether the aggregate limit has been exhausted, the Board retains full discretion regarding placement of reserves, and payment of claims in order to equitably allocated the general aggregate limit. Once the general aggregate limit for such claims occurring during a program year has been exhausted, the Authority will have no further obligation to pay for covered ultimate net loss for such claims within Pool D, but this will not limit coverage which may be available within Pools B or C.

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

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

Airport, Pollution, and Property of a Covered Party Sublimits

Exclusions 2 (Airports), 29 (Pollutions) and 31 (Property of a Covered Party) contain additional sublimits.

INSTRUCTIONS FOR HANDLING GENERAL AND AUTO LIABILITY CLAIMS

Immediately report all claims involving damage to property owned by a third party, bodily injury to a third party, or other loss or injury to a third party to the REMIF General Manager, Mark Ferguson at 707-938-2388 ext. 12. Do not delay claims for internal investigation or fact-finding reasons. The internal investigation or fact-finding process can proceed as the initial report of the claim is prepared and sent to REMIF.

All claims for bodily injury to a third party must be investigated by REMIF.

In the case of serious accidents involving bodily injury, sewer backups or substantial property damage, contact the investigators listed below. These investigators should be contacted immediately so that they can go out and begin the investigation while city staff is preparing the written accident report for submission to REMIF.

EUREKA/FORTUNA/ARCATA AREA:

CAL NORTH OF HUMBOLDT ADJUSTERS

326 I Street
PO Box 1
Eureka, CA 95502
(707) 443-5302

After Hours

Jim Filomeo (707) 445-1004
Cell (707) 502-0186
Home (707) 444-3489

Dale Walker (707) 442-2679
Cell (707) 499-5541

ALL OTHER CITIES:

CAL NORTH ADJUSTERS

122 Calistoga Rd., #246
Santa Rosa, CA 95402

After Hours

Ed Chasco (707) 548-2165 (cell)
Desk Line (707) 538-7017